UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

MONEY MANAGERS, INC.,

Debtor.

CASE NO. 98-23907

In re:

FIRST AMERICAN RELIANCE, INC.,

Debtor.

CASE NO. 98-23906

DECISION & ORDER

In re:

WEALTH & SECURITY PLANNING, INC.,

Debtor.

CASE NO. 98-24100

DOUGLAS J. LUSTIG, as Trustee,

Plaintiff,

V.

CHASE MANHATTAN BANK, N.A.,

Defendants.

AP No. 00-2243

BACKGROUND

In August 1998, Samuel A. Yacono ("Yacono"), under investigation by the United States Securities and Exchange Commission (the "Commission"), committed suicide. Prior to his

death, Yacono was the sole and/or controlling shareholder of a number of corporations (the "Yacono Controlled Entities"), including American Freedom Securities, Inc. ("American Freedom"), Bloch Industries, Inc. ("Bloch"), First American Reliance, Inc. ("First American"), Money Managers, Inc. ("Money Managers"), Quaker Maid/Bloch Industries, Inc. ("Quaker Maid"), The Schoolhouse Group of Companies, Inc. ("Schoolhouse"), Unified Commercial Capital, Inc. ("Unified Commercial") and Wealth & Security Planning, Inc. ("Wealth & Security").

On October 6, 1998, the Commission commenced an injunctive action (the "Civil Injunctive Action") in the United States District Court for the Western District of New York (the "District Court") against American Freedom, First American, Money Managers and Unified Commercial (the "Yacono Defendant Companies"). The Action requested, along with other relief, that the District Court impose a constructive trust on the proceeds (the "Insurance Proceeds") of five (5) insurance policies on the life of Yacono (the "Yacono Policies") and that the Proceeds be paid over for distribution to the defrauded investors in the Yacono Defendant Companies, rather than to the named beneficiaries of the Policies (the "Beneficiaries"). In

the Action, the Commission asserted that Yacono and the Yacono Controlled Entities had been engaged in a "Ponzi" scheme. However, no evidentiary hearing or trial has been conducted by the District Court or this Court to determine whether Yacono and the Yacono Controlled Entities were in fact engaged in a "Ponzi" scheme.[1]

In connection with the Civil Injunctive Action, the District Court appointed a temporary receiver (the "Receiver") for the Yacono Controlled Entities who was directed to file Chapter 7 bankruptcy cases for each of the companies. After Chapter 7 cases were filed by American Freedom on October 16, 1998, Bloch on November 19, 1998, First American on October 16, 1998, Money Managers on October 16, 1998, Quaker Maid on October 23, 1998, Schoolhouse on November 19, 1998, Unified Commercial on October 16, 1998 and Wealth & Security on October 30, 1998, Douglas J. Lustig, Esq. (the "Trustee") was appointed as the Chapter 7 Trustee in each of the bankruptcy cases.

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[1] A "Ponzi" scheme, as that term is generally used, refers to an investment scheme in which returns to investors are not financed through the success of the underlying business venture, but are taken from principal sums of newly attracted investments. Typically, investors are promised large returns for their investments. Initial investors are actually paid the promised returns, which attracts additional investors. *Merrill v. Abbott (In re Indep. Clearing House Co.*, 41 B.R. 985, 994 n. 12 (Bankr. D.Utah. 1984) (citation omitted).

On October 13, 2000, the Trustee commenced an Adversary Proceeding against Chase Manhattan Bank, N.A. ("Chase"). The Complaint in the Adversary Proceeding alleged that: (1) as part of his fraudulent scheme, Yacono solicited retirement funds and savings for reinvestment from unsuspecting investors, and initially deposited those funds into escrow accounts maintained at Chase in the names of both First American and Money Managers; (2) in order to make it seem to the investors and regulators that the funds he obtained from the unsuspecting investors were being properly reinvested, Yacono made it appear that the funds were being transferred to Wealth & Security,[2] when in fact he was converting them to his own personal use; (3) the success of Yacono's fraudulent scheme required at least the tacit complicity of Chase, which ignored ordinary banking rules and precautions in connection with the checking accounts maintained with it in the names of Yacono, First American, Money Managers and Wealth & Security; and (4) specifically, Chase allowed Yacono to deposit directly into his personal checking account

[2] The Trustee has never fully informed the Court about the nature of the businesses that First American, Money Managers and Wealth & Security purported to conduct.

funds drawn by checks on the Chase accounts of First American and Money Managers that were payable to Wealth & Security, even though the checks bore unauthorized, missing or otherwise improper endorsements.

The Complaint also alleged that: (1) between February 16, 1995 and September 16, 1996, there were four checks in the aggregate amount of $125,000.00 drawn on the First American checking account, each made payable to Wealth & Security, that were deposited directly into Yacono's personal checking account (account number 004611877) by reason of a stamped endorsement which read "Pay to the order of Chase Manhattan Bank, N.A./For Deposit Only/004611877"; (2) between May 3, 1994 and May 1, 1996, there were twenty-five checks in the aggregate amount of $1,453,571.28 drawn on the Money Managers checking account, each made payable to Wealth & Security, that were deposited directly into Yacono's personal checking account, each of which either: (a) lacked any endorsement; (b) was endorsed by Yacono in his individual capacity; or (c) was endorsed "For Deposit Only," "For Deposit Only/004611877" or "Pay to the order of Chase Manhattan Bank, N.A./For Deposit Only/004611877"; (3) Chase, in violation of its contractual agreements with First American and

Money Managers to pay checks as drawn or properly endorsed, allowed funds of First American and Money Managers that were supposed to be paid to Wealth & Security to be paid to Yacono personally; and (4) Chase should be required to repay the funds of First American, Money Managers and Wealth & Security that it improperly allowed to be paid over to Yacono.

The Complaint further alleged that: (1) the Money Managers checking account maintained at Chase was expressly designated as an escrow account, which put Chase on notice that the funds in the account were trust funds; (2) Chase was on notice that Yacono was misappropriating the trust funds of Money Managers; (3) Chase aided Yacono in his fraudulent scheme by allowing him to deposit the trust funds of Money Managers directly into his personal checking account even though the checks drawn on the Money Managers account that were payable to Wealth & Security bore unauthorized, missing or otherwise improper endorsements; and (4) Chase, by reason of its actions and omissions, acted in a grossly negligent, wanton and reckless manner, and did not exercise reasonable care or commercial good faith, so that it was liable to First American and Money Managers for their funds improperly paid out on the twenty-nine checks in questions.

In addition, the Complaint further alleged that: (1) from November 5, 1993 through September 19, 1996, Yacono, as an officer of Wealth & Security, delivered thirty-two checks to Chase that were made payable to Wealth & Security, which, by various unauthorized, missing or otherwise improper endorsements that Chase honored, were improperly paid into his personal checking account; and (2) since Chase failed to inquire into the authority of Yacono, as an officer of Wealth & Security, to make endorsements to his own order, Chase was liable to Wealth & Security for its funds that Chase improperly paid out on the thirty-two checks in question or converted to its own use.

On December 12, 2000, Chase filed a motion to dismiss the Trustee's Complaint (the "Motion to Dismiss") which asserted that: (1) the causes of action brought by the Trustee on behalf of First American and Money Managers, including his claims that Chase breached its contracts with First American and Money Managers by improperly paying out their funds to Yacono on checks made payable to Wealth & Security based upon missing, unauthorized or otherwise improper endorsements, were barred as untimely by the provisions of New York Uniform Commercial Code

(the "U.C.C.") Section 4-406(4);[3] (2) the Plaintiff's Complaint on behalf of First American and Money Managers failed to state a cause of action for aiding a fraud because, beyond the defense of failure to give notice pursuant to U.C.C. Section 4-406(4), the Complaint failed to assert that Chase: (a) had actual knowledge of the alleged fraud engaged in by Yacono and the Yacono Controlled Entities; or (b) affirmatively assisted Yacono in the alleged fraud; (3) the Trustee's Complaint failed to state a cause of action for gross negligence or lack of reasonable care and commercial good faith because, beyond the defense of failure to give notice pursuant to U.C.C. Section 4-406(4): (a) a depositor cannot maintain a cause of action in tort against its bank because of the bank-depositor contractual

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[3] U.C.C. Section 4-406(4) provides that:

> (4) Without regard to care or lack of care of either the customer or the bank a customer who does not within one year from the time the statement and items are made available to the customer (subsection (1)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

U.C.C. § 4-406(4) (2001).

relationship; and (b) the Complaint failed to assert that Chase had any actual knowledge of the alleged fraud or that it affirmatively assisted Yacono in connection with the fraud; (4) the Trustee's Complaint failed to state a cause of action for monies had and received, because it failed to assert that Chase obtained or retained any of the funds in question for its own use or benefit; (5) the Trustee's Complaint on behalf of Wealth & Security failed to state a cause of action for conversion because a depositor cannot maintain a cause of action against its bank for conversion; (6) First American and Money Managers received regular monthly checking account statements from Chase; and (7) the last checks of First American and Money Managers covered by the Trustee's Complaint and alleged to have been deposited into Yacono's personal checking account rather than into the checking account of Wealth & Security, even if they bore missing, unauthorized or otherwise improper endorsements, were deposited into his account on May 1, 1996 and September 19, 1996, respectively.[4]

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[4] Photocopies of these checks were included in the Motion to Dismiss. One was drawn on the account of First American, made payable to Wealth & Security, which appears to have been signed by Samuel Yacono. The other, drawn on the account of Money Managers, made payable to Wealth & Security, also appears

In Chase's Memorandum of Law, it was asserted that: (1) Yacono was an authorized signatory on the First American, Money Managers and Wealth & Security accounts, so that Chase was obligated to follow his payment instructions when negotiating checks drawn on any of those accounts and/or endorsed for deposit into those accounts, since he was authorized both to sign checks drawn on the accounts and to endorse checks made payable to First American, Money Managers and Wealth & Security; (2) the essence of the Trustee's allegations was that Chase failed to fulfill its contractual obligations to First American, Money Managers and Wealth & Security because it failed to identify and stop Yacono's fraudulent activity; (3) since neither First American, Money Managers nor the Trustee notified Chase of any alleged missing, unauthorized or improper endorsements within the three-year period provided for by U.C.C. Section 4-406(4), the Trustee was precluded from asserting any breach of contract claims against Chase; (4) as noted in *Billings v. East River Savings Bank*, 307 N.Y.S.2d 606, 607 (App.

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to have been signed by Samuel Yacono. This is consistent with the assertion by Chase that Yacono was the sole signatory on both the First American and Money Managers checking accounts.

Div. 1970), U.C.C. Section 4-406(4) creates a statutory condition precedent to liability by setting forth a prerequisite of notice which, unlike a statute of limitations, cannot be tolled; (5) as set forth in *New Gold Corp. v. Chemical Bank*, 674 N.Y.S.2d 41 (App. Div. 1998), a failure to comply with the requirements of U.C.C. Section 4-406(4) also constitutes a defense to common law causes of action for negligence; (6) notwithstanding the labeling of its checking account as an escrow account, the relationship between Chase and Money Managers was a general bank-depositor contractual relationship which did not make Chase a fiduciary; (7) notwithstanding the labeling of its checking account as an escrow account, the Money Managers checking account was treated by Money Managers, Yacono and Chase as an ordinary business account, and the Trustee, in his Complaint, has not asserted otherwise; (8) Yacono was the sole authorized signatory on the Money Managers and First American Chase checking accounts; (9) the Trustee's Complaint merely alleged Chase's tacit complicity, but failed to allege that any bank official actively participated in Yacono's alleged fraud, or had actual knowledge of the fraud; and (10) the Trustee's cause of action for the conversion of the funds of

Wealth & Security is barred by the applicable New York State three-year statute of limitations, which expired on September 19, 1999, prior to the filing of the Trustee's Adversary Proceeding on October 13, 2000.

The Trustee's Memorandum of Law asserted that: (1) by reason of Section 108(a) of the Bankruptcy Code,[5] since all of his alleged causes of action could have been commenced by the respective Yacono Controlled Entities on October 16, 1998, the filing of his Complaint on October 13, 2000, which was within two years of the Orders for Relief entered in their bankruptcy cases, was timely; (2) the Trustee had sufficiently pleaded a cause of action for participation in a diversion of trust funds with respect to the checks drawn on the Money Managers checking

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[5] Section 108(a) provides that:

> (a) If applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of -
>
> > (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or
> >
> > (2) two years after the order for relief.

11 U.S.C. § 108(a) (2000).

account, labeled as an escrow account, but directly deposited into the personal account of Yacono rather than in the account of the payee, Wealth & Security, citing *Bischoff v. Yorkville Bank*, 218 N.Y. 106, 112 (1916); (3) the Trustee had properly pleaded a cause of action for commercial bad faith, citing *Prudential-Bache Securities v. Citibank, N.A.,* 73 N.Y.2d 263 (1989), since he had alleged that, as in that case, the facts in this Adversary Proceeding demonstrated that there had been "an embezzlement scheme of massive dimension accomplished in part through a pattern of money-laundering conducted on a near-daily basis by a single individual, concentrated within a few months, at one bank branch," and further asserted that it was reasonable to infer that one of Chase's employees could have known about the scheme; (4) the Trustee had sufficiently pleaded causes of action for conversion and money had and received to the extent that Chase, as the depository bank, paid the checks made payable to Wealth & Security and restrictively endorsed with the words "For Deposit" or "For Deposit Only," into the personal account of Yacono, rather than into the account of the payee; and (5) the provisions of U.C.C. Section 4-406(4) did not apply to the

checks in question, because they contained no endorsement by the payee, Wealth & Security, citing *United States Small Business Admin. v. Citibank, N.A.*, 1997 WL 45514 (S.D.N.Y. Feb. 4, 1997), and further asserting that Chase's actions gave rise to a cause of action for breach of contract, citing *Tonelli v. Chase Manhattan Bank, N.A.*, 41 N.Y.2d 667 (1977) ("*Tonelli*").

DISCUSSION

I. MOTIONS TO DISMISS IN GENERAL

This Court, in considering motions to dismiss under Federal Rules of Bankruptcy Procedure 7012 ("Rule 7012") and Federal Rules of Civil Procedure 12(b)(6) for a failure to state a claim upon which relief can be granted, is aware that: (1) the purpose of such a motion is to test the legal sufficiency of a complaint; (2) the court should view the complaint in a light that accepts the truth of all material factual allegations and draw all reasonable inferences in favor of the plaintiff; (3) the complaint need only meet the liberal requirement of a short and plain statement of the claim that will give the defendant fair notice of what the plaintiff's claim is and the grounds

upon which it rests; and (4) nevertheless, the complaint should be well pleaded and it must contain more than mere conclusory statements that a plaintiff has a valid claim of some type and is thus deserving of relief. See *In re Johns Insulation, Inc.,* 221 B.R. 683, 687 (Bankr. E.D.N.Y. 1998) and the cases cited therein.

The Court is also aware that: (1) a motion to dismiss pursuant to Rule 7012 may not be granted unless it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief; and (2) the Bankruptcy Court is not entitled to consider matters outside the pleadings or to weigh evidence that might be presented at trial. See *In re Albion Disposal, Inc.*, 217 B.R. 394, 401 (W.D.N.Y. 1997) (“*Albion Disposal*”).

II. SUMMARY OF DECISION

In response to the substantial losses suffered by the many innocent investor victims of the alleged “Ponzi” scheme engaged in by Yacono and the Yacono Controlled Entities, the Trustee has left no stone unturned in an attempt to recover any and all available funds for the defrauded investors. As a result, he

has commenced numerous Adversary Proceedings in which he has asserted both traditional Trustee avoidance causes of action, as well as a variety of creative causes of action, some of which, unfortunately, were causes of action that were only maintainable by: (1) the individual defrauded investors who failed to pursue them; or (2) a legitimate business, unlike the Yacono Controlled Entities. In that spirit, the Trustee has commenced this Adversary Proceeding against Chase. However, for the reasons that will be discussed in this Decision & Order, based upon the facts and circumstances presented, specifically the absence of any damages or losses suffered by the Yacono Controlled Entities, which were nothing more than the alter egos and instrumentalities of Yacono, the Motion to Dismiss must be granted. The Trustee can prove no set of facts in support of his claims that would entitle him to relief.

III. DAMAGES

A. General

In all of the Yacono related matters that the Trustee has prosecuted before this Court and the District Court, he has consistently asserted that the Yacono Controlled Entities, including First American, Money Managers and Wealth & Security,

were not legitimate businesses, but were mere instrumentalities utilized by Yacono to perpetrate his fraudulent scheme.

Accepting that as true, even if Chase failed to follow the non-regulatory required practices and procedures imposed upon it as both the depository and payee bank in the transactions at issue, what damages or losses did the Yacono Controlled Entities, First American, Money Managers and Wealth & Security, suffer as a result of its failures?

Although the investor-creditors in First American and Money Managers, who had no contractual relationships with Chase, suffered substantial losses because of Yacono's fraudulent scheme, they were: (1) not in any way parties to the banking transactions that are the subject of this Adversary Proceeding; (2) not directly damaged by the transactions complained of; and (3) not indirectly damaged by the transactions complained of, unless Chase had a duty to protect the interests of the investor-creditors of First American and Money Managers and somehow stop Yacono's fraudulent scheme, which this Court does not believe that it did. The actions or omissions of Chase in connection with the transactions complained of were not the

proximate cause of the investor-creditor losses. Their losses resulted from trusting and turning over their funds to Yacono.

The checks drawn on the accounts of First American and Money Managers that were made payable to Wealth & Security are treated by the Trustee in his Complaint as if they were for legitimate purposes, issued for consideration and purportedly to purchase goods or services from or through Wealth & Security. However, as the Trustee has explained in his Complaint, the checks were drawn to Wealth & Security, an alter-ego and instrumentality of Yacono, only to create a partial paper trail to deceive any superficially inquiring investor-creditor or investigating regulatory authority. In fact, as further explained by the Trustee in his Complaint, it was always Yacono's intention, and therefore the intention of the Yacono Controlled Entities, including First American, Money Managers and Wealth & Security, which were nothing more than his alter egos and instrumentalities, to divert these funds of First American and Money Managers to his personal use. To accomplish this, Yacono

technically incorrectly, but, nevertheless, intentionally, endorsed the checks directly into his personal account.[6]

If First American and Money Managers had been legitimate businesses, rather than the alter egos and instrumentalities of Yacono carrying out his intentions, and they had delivered checks to Wealth & Security in connection with the purchase of goods or services from or through it, one of two situations would have arose: (1) they would have immediately become suspicious when their checks were cashed but they failed to receive any of the purchased goods or services from Wealth & Security; or (2) Wealth & Security would have complained to them because it had not received payment on any previously provided goods or services. At that point they, or Chase at their insistence, would have scrutinized their canceled checks, identified the diversion, and First American and Money Managers would have taken appropriate steps against both Yacono and possibly Chase. However, since First American and Money Managers were nothing more than the alter egos and

[6] Undoubtedly Yacono felt he needed to perpetuate the deception but he also needed the availability of funds before the additional time it would take to have the funds deposited into the Wealth & Security account, which he controlled, and then paid out by checks or transfers to him from that account.

instrumentalities of Yacono, and their checking accounts were no more than extensions of Yacono's personal checking account, these events never could have and never did take place. It was never intended by First American or Money Managers that these funds would ever actually be received and utilized by Wealth & Security, and Wealth & Security never intended to provide any goods or services in exchange for these particular funds. In fact, there never were any diversions. The funds went where Yacono always intended them to go, into his personal account.

In every case cited by the parties in their Memoranda, the plaintiff was a legitimate entity that was actually damaged by the alleged inappropriate conduct of the defendant financial institution, not an instrumentality in a fraudulent scheme. In every case cited by the parties, the intentions of the drawer-customer or payee-customer were not carried out because of the actions or omissions of the defendant financial institution. In this Adversary Proceeding, however, the intentions of the drawer-customer and the payee-customer, which were nothing more than the intentions of Yacono, were carried out, and Chase's actions and omissions were not the proximate cause of any

damages or losses. There were no damages or losses suffered by First American, Money Managers or Wealth & Security.

Notwithstanding its protestations, under applicable case law it appears that if: (1) First American and Money Managers had been legitimate business entities; and (2) the checks drawn to Wealth & Security were intended to transfer funds to it for consideration, Chase technically could be found to have converted the funds of First American and Money Managers, and breached its contracts with them, when, as the depository and payee bank, it paid the funds covered by the checks in question to Yacono's personal account, since the checks lacked the endorsement of the payee, "Wealth & Security." See *Tonelli* at 667, 671. However, as set forth above: (1) First American and Money Managers were not legitimate business entities; (2) Wealth & Security had not and did not intend to provide any consideration for the funds to either First American, Money Managers or their investor-creditors; and (3) First American, Money Managers and Wealth & Security did not suffer any damages or losses as a result of their funds being paid into Yacono's personal checking account as part of his fraudulent scheme.

B. Money Managers Escrow Account

In his Complaint, the Trustee has further asserted that Chase breached a fiduciary duty to Money Managers because it failed to insure that the checks written by Money Managers to Wealth & Security, but deposited by Yacono into his personal account, were being used for the purposes of the escrow indicated by the labeling of the Money Managers account as an escrow account. As the sole signatory on the Money Managers account, and the individual who opened the account, it is reasonable to conclude that Yacono labeled the account as an escrow account simply to provide a further diversion for the investor-creditors and the regulatory authorities in order to further his fraudulent scheme, since the Trustee, after years of investigations into the Yacono related matters conducted by the Commission and the Trustee's forensic accountants, has not asserted that there were valid and enforceable "Escrow Agreements," entered into between Money Managers and its investor-creditors, which might actually make the funds in the account "Escrow" or "Trust" funds. Simply labeling an account as an "Escrow Account," in the absence of any underlying escrow or trust agreements, does not change the character of the funds on deposit as general funds.

The Trustee has not asserted that Chase had a direct or indirect fiduciary duty to the investor-creditors in Money Managers, who were not parties to the contractual banking relationship between Chase and Money Managers, and who in no way could be found to be third party beneficiaries of the contracts entered into between Chase and Money Managers. Furthermore, on the facts and circumstances presented, the Court is not aware of any statutory or decisional law which would impose such a duty on Chase. Yacono may have had a duty to the investor-creditors, but Chase did not.

Once again, what damages or losses did Money Managers suffer from the actions or omissions of Chase, since it was never intended by Yacono or Money Managers that: (1) the funds in the Money Managers checking account were actually "Escrow" or "Trust" funds, or were to be treated as such;[7] (2) Wealth & Security would provide any consideration in the nature of goods or services to Money Managers for these checks made payable to

[7] In an unrelated adversary proceeding involving another of the Yacono Controlled Entities, Unified Commercial, there were "Escrow Agreements" between Unified Commercial and the investor-creditors. However, the provisions of the agreements specifically permitted Unified Commercial to use the funds for any purpose.

it; and (3) the funds covered by the checks made payable to Wealth & Security that are the subject of this Adversary Proceeding would ever actually be received and utilized by Wealth & Security?

The cases cited by the Trustee, including *Bischoff v. Yorkville Bank*, 218 N.Y. 106 (1916) ("*Bischoff*"), to support his position that Chase participated in Yacono's diversion of the "Trust" funds of Money Managers, all involve the payments of trust funds diverted by a legally recognizable fiduciary to the defendant financial institution in payment of a debt owed by the fiduciary in his individual capacity to the financial institution. It was the receipt of the funds for the direct benefit of the defendant financial institution that resulted in the Court's finding that the financial institution had a duty of inquiry to attempt to prevent any diversion. In this case, the Trustee does not allege that there was actual knowledge of the diversion or actual participation by an employee of Chase, and the mere fact that Chase could have reviewed the activity in Yacono's personal checking account because it was maintained at Chase, where the Money Managers Account was also maintained, is

not required under *Bischoff* and related decisions. After many years of investigation by the Trustee, his forensic accountants and his attorneys, as well as by the Commission, the Trustee is unable to assert that anyone at Chase actively participated in Yacono's fraudulent scheme or even had actual knowledge of it.

CONCLUSION

The Motion to Dismiss is granted. There is no set of facts the Trustee could prove that would entitle him to relief against Chase.

IT IS SO ORDERED.

_____/s/_____
HON. JOHN C. NINFO, II
CHIEF U.S. BANKRUPTCY JUDGE

Dated: June 8, 2001