

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC.,	§	Civil Action No. 3-09CV0988-F
MANILA INDUSTRIES, INC., and	§	
MUNISH KRISHAN,	§	
Plaintiffs.	§	
	§	
v.	§	
	§	
JEFFREY BARON, and	§	
ONDOVA LIMITED COMPANY,	§	
Defendants.	§	

APPELLANT’S LIMITED OBJECTION TO THE RECEIVER’S FIRST APPLICATION FOR REIMBURSEMENT OF FEES INCURRED BY RECEIVERSHIP PROFESSIONAL JOSHUA COX [DOC#190]

TO THE HONORABLE ROYAL FURGESON, U.S. DISTRICT JUDGE:

COMES NOW, Appellant Jeffrey Baron and makes this limited objection to the Receiver's First Application For Reimbursement Of Fees Incurred By Receivership Professional Joshua Cox [Doc#190].

1. Mr. Baron has appealed the order appointing the receiver [Doc #136].
2. The filing of a notice of appeal is an event of jurisdictional significance— it confers jurisdiction on the Court of Appeals and divests the district court of its control. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). The divesture of jurisdiction of the trial court involves those aspects of the case appealed. *Id.*

3. **The powers of the district court over the matter appealed from, pending appeal are limited to maintaining the status quo** and do not to extend to the point that the district court can divest the Court of Appeals from jurisdiction while the issue is before the Court of Appeals on appeal. *Coastal Corp. v. Texas Eastern Corp.*, 869 F.2d 817, 820 (5th Cir. 1989).

4. Accordingly, pending appeal the district court is without jurisdiction to dispose of any of Mr. Baron's assets which were seized by the receiver. *See e.g., Taylor v. Sterrett*, 640 F.2d 663, 668 (5th Cir. 1981) (“[T]he District Court was divested of jurisdiction only as to matters relating to the April 27 and May 12 orders and subsequent orders and, for that reason, fees cannot be recovered for work relating to these orders”); *Dayton Indep. School Dist. v. US Mineral Prods. Co.*, 906 F.2d 1059, 1063 (5th Cir. 1990) (“A district court does not have the power to ‘alter the status of the case as it rests before the Court of Appeals’.”).

5. Further, Mr. Baron has no responsibility for the liabilities or administrative fees or costs relating to any other receivership entity. Mr. Baron's assets cannot be used to pay the expenses of another party that was placed into receivership. Moreover, the scope of the receivership extends to Mr. Baron's exempt property, and distribution of such exempt property would be unlawful.

6. ***To the extent that the requested fees are bona fide expenses incurred by the LLC entities in the ordinary course of their business activities, (and so long as the***

LLC entities are paying the bill), the Court clearly has jurisdiction to ensure the ongoing operation of the LLC entities– as that is the status quo. Accordingly, no objection is made to that portion of the requested fees which are bona fide expenses incurred by the LLC entities in the ordinary course of business and to be paid for by those entities.

Respectfully submitted,

/s/ Gary N. Schepps
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CERTIFICATE OF SERVICE

This is to certify that this was served on all parties who receive notification through the Court's electronic filing system.

/s/ Gary N. Schepps
Gary N. Schepps