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ATTORNEY FOR JEFFREY BARON

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

**IN RE:**

**JEFFREY BARON,  
  
DEBTOR.**

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**Bankruptcy Case No. 12-37921**

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**JEFFREY BARON,  
  
    *Movant,***

**vs.**

**GERRIT PRONSKE, et al.,  
  
    *Respondents.***

**MOTION FOR EMERGENCY HEARING ON MOTION TO STAY  
ORDER FOR RELIEF IN INVOLUNTARY CASE PENDING APPEAL  
AND APPOINTMENT OF INTERIM TRUSTEE**

COMES NOW Jeffrey Baron (“Baron”) and files this Motion for an Emergency Hearing (the “Emergency Hearing Motion”) on the Motion to Stay (the “Stay Motion”) the Order for Relief in Involuntary Case (NDTX Bankr. Case No. 12-37921-sgj7 Dkt (“Bankr. Dkt.”) 240). In support hereof, Baron would respectfully show as follows:

1. On December 18, 2012 (the “Petition Date”), several parties (“Petitioning Creditors”) filed an involuntary chapter 7 bankruptcy petition (the “Involuntary Petition”)

against Baron in this Bankruptcy Court. (Bankr. Dkt. 1.)

2. This involuntary proceeding was filed approximately two hours after the Fifth Circuit Court of Appeals (the “Fifth Circuit”) entered an order (the “Reversal Order”) on the same date: (a) reversing an earlier order appointing a receiver (the “Receiver”) over all of Mr. Baron’s personal assets (the “Receivership Order”), previously entered by the United States District Court for the Northern District of Texas (the “District Court”) on November 10, 2010, in a separate lawsuit styled *Netsphere, Inc. v. Baron*, 703 F.3d 296 (5<sup>th</sup> Cir 2012) (the “Lawsuit”) and (b) instructing the District Court to wind down the receivership estate and direct the receiver, after satisfaction of certain expenses incurred by the receiver, to expeditiously return the property held and managed by the receiver (the “Receivership Property”) to Baron. *See Netsphere, Inc.*, 703 F.3d at 313. This never happened. In point of fact, it has been 8 months since the Reversal Order and the Receiver is still in possession of the Receivership Property, including property that is exempt from the bankruptcy estate. (*See* Bankr. Dkt. Nos. 239 and 240.)

3. On June 26, 2013, after an evidentiary hearing where Baron was represented by an attorney with a limited engagement agreement, the Bankruptcy Court entered the Order for Relief which effectively terminated Baron’s legal representation when it adjudicated the involuntary chapter 7 proceeding against Baron as appropriate and subjected Baron to such proceedings. (*See* Bankr. Dkt. Nos. 239, 240, 241 and 243.)

4. The Receiver is now seeking direction from the Bankruptcy Court to turn over all the property in his possession to a chapter 7 trustee (the “Trustee”), despite the Fifth Circuit’s clear direction to turn over property to Baron. The Receiver is even seeking direction from the Bankruptcy Court, without ever filing an adversary proceeding, to turn over property that does

not belong to Baron and therefore never entered into the bankruptcy estate. All of these efforts are transparent and aimed solely at contravening the Reversal Order and making sure that Baron has absolutely no funds in which to hire counsel to represent him in any proceeding, including this involuntary case, the Lawsuit and the appeal of the Order for Relief, as discussed below.

5. On July 8, 2013, Baron filed a Notice of Appeal, commencing the appeal of the Order of Relief, pursuant to 28 U.S.C. § 158(a). (Bankr. Dkt. 253.) Baron currently has two other requests for interlocutory appeals pending before the District Court for Northern District of Texas regarding the Bankruptcy Court's prior orders ruling that (a) the Petitioning Creditors—nonjudgment creditors—had standing to initiate the involuntary bankruptcy, and (b) the bankruptcy court had jurisdiction to adjudicate the involuntary case. (Bankr. Dkt. Nos. 111, Case No. 3:13-cv-01745, and Docket 112, Case No. 3:13-cv-01746.) Baron expects to consolidate all of the appeals in the District Court.

6. On July 14, 2013, Baron filed the Stay Motion, seeking a stay of the Order of Relief. (Bankr. Dkt. 287.) In the Stay Motion, Baron informed the Court that, ever since the commencement of this involuntary case (Petition Date), he has not been able to hire competent bankruptcy counsel to adequately represent him because his money and assets are in the possession of the Receiver and the least expensive quote he received was \$250,000 for bankruptcy counsel. *Id.* The Stay Motion reveals that Baron will be substantially prejudiced if he is forced to proceed with the involuntary proceeding, including the appeal of the Order of Relief, without competent counsel. There are serious due process concerns, because Baron has been stripped of his property without due process of law, and the bankruptcy Court appears positioned to disallow Baron to access his property to hire an attorney while it approves attorney fees to his adversaries in violation of his equal protection rights. Indeed, the Petitioning Creditors have

turned due process on its head by (a) using Baron's assets to prosecute unliquidated claims in the Lawsuit and in this involuntary case against him and (b) leaving Baron without means to adequately defend himself.

7. On July 15, 2013, one of the Petitioning Creditors, without any authority from Baron and after Baron requested the Bankruptcy Court allow him funds to hire a bankruptcy attorney (Bankr. Dkt. 288), filed what appeared to be bankruptcy schedules and statement of financial affairs for Baron, purporting to adequately represent Baron's property interests. (Bankr. Dkt. 289.) Whatever these schedules or statements reflect, they were not authorized, prepared or signed by Baron.

8. On July 15, 2013, in front of the Receiver, the Trustee, the Petitioning Creditors and a crowd full of other attorneys that are seeking to strip Baron of every last penny to his name (including his 401k), Baron appeared without any counsel at a status hearing before the Bankruptcy Court. He told the Bankruptcy Court that he has been unable to find bankruptcy counsel because most counsel would require a substantial retainer in a complicated case such as the instant case. Baron also informed the Bankruptcy Court that, because of lack of counsel, accountants and other professionals (which he cannot hire) and because the Receiver is in possession of his records, he was unable to complete the 7 day deadlines under the Order for Relief, including filing bankruptcy schedules and statement of financial affairs, which could easily (a) prejudice Baron's property rights and (b) subject Baron to criminal sanctions, if improperly prepared. (See, e.g., Bankr. Dkt. 288.)

9. Interestingly and likely because of the fact that she had not had a full opportunity to consider the arguments in the Stay Motion, at the July 15, 2013 status conference, the

Bankruptcy Court told Baron, on the record, that he did not need counsel to represent him in this involuntary case because it was a civil matter and there are plenty of chapter 7 cases where no counsel is present. The Bankruptcy Court further stated that she planned to proceed “full steam ahead” with the involuntary case, including the adjudication of property interests and any related title 18 criminal proceedings, whether or not Baron was represented.

10. As previously mentioned in the Stay Motion, the right to hire competent professionals has been a great necessity, as demonstrated by the fact that the appointed receiver—which the Fifth Circuit Court of Appeals determined was wrongfully appointed—and his professionals have accrued approximately \$5.2 million in counsel fees during the receivership while paying alleged creditors nothing. Moreover, the strategy employed by the Petitioning Creditors—nonjudgment creditors—to freeze all of Baron’s assets and use it against him in civil and potentially criminal proceedings, directly flies in the face of the letter and spirit of the Fifth Circuit’s determination in the Reversal Order.

29. **Each day that Baron remains in bankruptcy is a day that Baron’s Fifth and Fourteenth amendment rights to liberty and property are being violated.** Before the Order of Relief becomes effective, a higher court should evaluate whether the Petitioning Creditors’ strategy in the Lawsuit and this involuntary case, and other orders entered by this Court, effectively deprive Baron of his constitutional due process rights. Accordingly, in accordance with the Local Rules for the Bankruptcy Court for the Northern District of Texas, Baron requests an emergency hearing on the Stay Motion **within 7 days of filing this Emergency Hearing Motion.** Any notice of the hearing will be given instantly to the US Trustee, the Receiver, the Trustee, the Petitioning Creditors, and any other party in interest.

WHEREFORE, PREMISES CONSIDERED, Baron requests an emergency hearing on the Stay Motion within 7 days and any further relief to which he may be entitled to under the law and equity.

Dated: July 19, 2013

Very respectfully,

The Cochell Law Firm, P.C.

By: /s/ Stephen R. Cochell  
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#### **CERTIFICATE OF SERVICE**

On this date, I electronically submitted the foregoing document with the Bankruptcy Clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties who receive notification through the electronic filing system.

/s/ Stephen R. Cochell  
Stephen R. Cochell