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ATTORNEY FOR JEFFREY BARON

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

In re: §
§
ONDOVA LIMITED COMPANY §
§
§ **CASE NO. 09-34784-SGJ-11**
§ **Chapter 11**
Debtor. §

**MOTION TO WITHDRAW AS COUNSEL AND
FOR CONTINUANCE OF HEARINGS ON FEES**

Stephen R. Cochell, hereby moves to withdraw as counsel for Jeffrey Baron and for continuance of hearings on fees, and in support, states:

1. On November 24, 2010 the Chapter 11 trustee proceeded in a secret, *ex parte* hearing to obtain an *ex parte* order that seized all of Mr. Baron's assets including future income and wages, for the express purpose of preventing Mr. Baron from being able to hire paid counsel to represent him in these, and all other court proceedings.
2. The Fifth Circuit has heard argument on the matter and is preparing a ruling as to the propriety, legality and constitutionality of the seizure order secured by the chapter 11 trustee.

3. The Fifth Circuit has advised this Honorable Court and the District Court that no significant distribution of any receivership asset should be made prior to the ruling of the Fifth Circuit and that no sale of any assets subject to the receivership shall be made prior to the decision of the Fifth Circuit as to the appeals (and mandamus) now pending before it.
4. So long as Mr. Baron is prohibited from earning income and hiring counsel of his choice to represent him, he is wholly dependent upon the rulings of the District Court as to the extent of his representation before this Court.
5. The undersigned sought, and was granted, *an appointment* to represent Mr. Baron for a very limited purpose-- "TO OPPOSE CREATION OF [THE] LIQUIDATING TRUST". [Dist. Dkts. 1056 ¶ 2, 1066 ¶ 1].
6. The undersigned later sought, but was not granted, an appointment to represent Mr. Baron for the purpose of objecting to fee applications made by the chapter 11 trustee and his receiver. [Dist. Dkt. 1087].
7. On September 28, 2012, counsel entered an appearance for Mr. Baron in this proceeding for the limited purpose of representing Mr. Baron on the Chapter 11 Liquidating Trust Plan. An Expedited Discovery Scheduling Order was entered by the Court. [Dkt. 858]. That discovery has been complete.
8. Counsel filed objections to the Chapter 11 Plan and filed several motions seeking continuance and discovery based on failure to produce court-ordered documents, investigated issues relating to the Receiver's

exclusion of bidders to the auction, and filed Objections to the Bankruptcy Court's Order Confirming Chapter 11 Plan. All of Mr. Baron's motions have been denied and the plan has been approved by this Court. Counsel completed his limited representation in this Court pursuant to his appointment.

GOOD CAUSE EXISTS FOR WITHDRAWAL AS COUNSEL

9. It is clear that where, as here, counsel was appointed for a specific purpose and that purpose has been accomplished, withdrawal should be allowed. Counsel was not appointed to represent Mr. Baron on fee issues, and would have submitted a dramatically different budget and request for retainer if advised that he could not enter an appearance in the bankruptcy court. [Dist. Dkt. 1087]. Unlike the large law firms representing the Receiver and the Trustee, counsel is a solo practitioner who cannot advance attorney's fees and expert fees in this case.
10. Without prior funding and authority, Counsel cannot hire the necessary co-counsel and experts required to represent Mr. Baron with respect to opposing prospective fee applications that have no bearing on approval of the liquidating trust, which has, at this point already been approved by this Court.
11. Counsel for Baron requests the Court grant a continuance for Mr. Baron to seek appointment of counsel by the District Court to represent him on matters concerning approval of the attorney's fees. Because the Fifth Circuit has stayed this Court's sale of the assets of the Receivership as a

basis for resolving this bankruptcy, these proceedings are subject to the ruling of the Fifth Circuit as to the receivership obtained by the Chapter 11 trustee.

12. Further, a ruling by the Fifth Circuit that the Chapter 11's obtaining seizure of Mr. Baron's assets in order to prevent him from hiring legal counsel was unlawful, unconstitutional, or otherwise improper under the law will have a substantial impact on this Court's consideration of the Trustee's fee requests, especially with respect to massive efforts to impose the receivership and defend the receivership on appeal. Clearly, this Court would not reward the Trustee's counsel for a massive fee generation exercise in an effort to impose an unconstitutional, unlawful, or otherwise improper seizure of assets in order to prevent a litigant from freely hiring legal counsel to oppose the trustee's fee applications. Accordingly, hearing on further matters in this case, specifically including further fee applications, should be held until *after* the Fifth Circuit enters its ruling on the pending appeals.

CONCLUSION

WHEREFORE, Stephen R. Cochell moves to withdraw as counsel for Jeffrey Baron. Mr. Baron requests that Mr. Baron be allowed a continuance to allow Judge Furgeson to appoint counsel to represent Mr. Baron with respect to opposing the attorney's fee applications.

Very respectfully,

/s/ Stephen R. Cochell
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CERTIFICATE OF SERVICE

This is to certify that, on December 11, 2012, a copy of this Motion was served on all counsel through the Court's ECF system.

/s/ Stephen R. Cochell
Stephen R. Cochell

CERTIFICATE OF CONFERENCE

This is to certify that, on December 10, 2012, counsel conferred with counsel for the Trustee by email regarding his questions about the motion, but did not receive a response. Counsel called Mr. Hunt and left a message with him and with his secretary indicating that counsel would file the motion if he did not receive a response. Counsel further conferred with Lisa Lambert, Assistant United States Trustee, who requested counsel defer filing the motion to allow her the opportunity to confer with counsel for the Trustee and Receiver. On December 11, 2012, at about 5:00 p.m., counsel conferred with the Trustee, the Receiver and Ms. Lambert in an attempt to obtain a voluntary continuance of the matter pending this Court's review of the withdrawal issue, but the Trustee opposed continuance of the fee motion.

/s/ Stephen R. Cochell
Stephen R. Cochell

CERTIFICATE OF COMPLIANCE

This is to certify that counsel has complied with the Court's directive that motions be supported by evidence. Based on the order, counsel does not believe that an affidavit of Mr. Baron is required, as the issues set out above are legal in nature, factual averments are not within his personal knowledge, and the averments are supported by either pleadings of record. Counsel has discussed this motion with Mr. Baron, who does not object to withdrawal of counsel.

/s/ Stephen R. Cochell
Stephen R. Cochell

/s/ Jeffrey Baron
Jeffrey Baron

CERTIFICATE OF JEFFREY BARON

This is to certify that I have reviewed the above and foregoing Motion of Counsel to Withdraw as Counsel and for Continuance, and believe that the Motion is supported by the recitations set out in the motion. I consent to the withdrawal of Mr. Cochell because he has completed the work in the bankruptcy court that he agreed to undertake. However, I do not consent not to be represented by an attorney of my choice and I request the release of funds (as, at the chapter 11 trustee's secret *ex parte* request seeking to prevent me from hiring legal counsel to oppose the trustee's fees, I have been prohibited from engaging in any commercial transactions and all my assets and future wages and income have been seized) to enable my retaining counsel of choice to represent me in any further matters that may arise in this case. My address is: P.O. Box 111501, Carrollton, Texas 75011.

/s/ Jeffrey Baron
Jeffrey Baron