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Counsel for Jeffrey Baron

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

In re:	§	
	§	Case No. 09-34784-SGJ
ONDOVA LIMITED COMPANY,	§	(Chapter 11)
	§	Emergency Relief Requested
	§	
Debtor	§	

**JEFFREY BARON’S EMERGENCY MOTION FOR STAY PENDING APPEAL**

TO THE HONORABLE JUDGE OF SAID COURT:

Jeffrey Baron (“Baron”) Appellant, files this Motion for Stay Pending Appeal and would show this Court as follows:

1. On October 26, 2012 this Court entered its Order Granting Trustee’s Motion for An Order Approving Proposed Auction Procedures [Document No. 878] (the “Order”) which granted the Trustee authority to sell certain property which presumably include two portfolios of domain names from Novo Point, L.L.C. and Quantec, L.L.C. to obtain funds for the Estate.

2. Jeffrey Baron seeks a stay pending appeal before this court pursuant to Bankruptcy Rule 8005. The criteria for a stay pursuant to Rule 8005 are well established. The

Movant must show: (1) likelihood of success on the merits, (2) irreparable injury if the stay is not granted, (3) absence of substantial harm to the other parties from granting the stay and (4) service to the public interest from granting the stay. *Hunt v. Bankers Trust Co.*, 799 F. 2d 1060, 1067 (5<sup>th</sup> Cir. 1986). With regard to the likelihood of success prong, a movant should only have to present a substantial case on the merits. *S.C. of Okaloosa, Inc.*, 2006 U.S. Dist. LEXIS 57187 (W.D. La. 2006).

3. As this Motion is filed, Mr. Baron has not yet filed his statement of issues on appeal. Without limiting the issues to be presented on appeal, there are substantial legal questions presented including, but not limited to whether the Court has jurisdiction over the domain name or whether the pending appeal of the receivership orders to the Fifth Circuit Court of Appeals deprives this court of jurisdiction to sell the assets, whether the Bankruptcy Court has jurisdiction over non-debtor assets (i.e. the domain name portfolios), and whether the court erred in granting a sale of assets without taking any evidence on the need for the auction, the commercial reasonableness of the Stalking Horse bid of \$4.1 million, the need for a full valuation of the assets prior to the auction, the marketing plan and adequacy of notice to potentially qualified bidders in the domain name market, the limitations on type and format information provided to potential qualified bidders (excluding electronic information), the excessive escrow amount of \$500,000 required for a qualified bidder to be allowed inspection of a list of 153,000 domain names and then be required to conduct due diligence within the relatively brief time period allowed between access to the domain name list and the November 9, 2012 auction date, the severe loss that would be incurred if the domain name portfolios were sold in one “batch” versus sale as individual or smaller groups of domain names over a longer period

of time, there was no immediate need to sell the domain name portfolios, whether limitations on expedited discovery deprived Jeffrey Baron of due process, the Stalking Horse bidder is not a bona fide purchaser and has interfered with discovery in the instant case, and that the value of the portfolios would not decline if the auction were deferred to later date.

4. The Court has authorized the sale of an asset which does not belong to the Estate and is the property of a non-debtor.

5. **Likelihood of Success.** The Trustee did not present evidence at the hearing but simply relied on the argument of counsel. The Trustee and the Receiver acknowledge that the Novo Point and Quantec portfolios are property of the Receiver, not the Estate. The Trustee did not present evidence showing that it had a right to sell the property of a non-debtor, that such a sale should be conducted outside the ordinary course of business, or that there was a need to sell the entire group of more than 153,000 domain names this week for the Stalking Horse bid starting at \$4.1 million, rather than sell the domain names in three months, or over a period of an extended period of time to obtain the fair market value of the estate.

6. **Irreparable injury to Jeffrey Baron.** As demonstrated in the record of hearing before the Court, and Jeffrey Baron's objections to the Chapter 11 Plan and Motion to Strike or to Continue Auction (Document No. 895, filed under seal) Jeffrey Baron believes that the \$4.1 million Stalking bid grossly understates the value of the Novo Point and Quantec portfolios, that the value of the domain names will not decline over the short term period of six months or a year. Should the Trustee sell the domain names and it is later determined, as Mr. Baron alleges, that the Trustee cannot sell the property of a non-debtor, that the auction procedures limited and/or chilled the number of qualified bidders able to participate in the auction, and/or that the

conduct of the Stalking Horse bidder interfered and compromised the judicial process leading up to the auction, Mr. Baron will have no remedy for his loss. Mr. Baron can only be made whole through the rightful return of the domain names to Novo Point and Quantec.

7. **No substantial harm to interested parties.** For the same reasons as stated above, the attorneys and the Estate have little risk of actual loss. Because the domain names belong to Novo Point and Quantec, the Estate will have suffered no loss as it did not have any ownership rights in the first instance. Because the value of the domain names will not decline in the short term, no harm will occur to the Estate.

8. **Substantial national importance.** This is a case of substantial national importance. The court is attempting to seize and liquidate tens of millions of dollars in non-estate assets of a creditor without due process. The liquidation would substantially harm the creditors of Novo Point and Quantec who will be left without recourse, as well as the taxing authorities to whom two years past due taxes are due for both entities.

WHEREFORE, PREMISES CONSIDERED, Jeffrey Baron prays that this Court grant his Motion for Stay Pending Appeal and for such other and further relief to which it may show himself justly entitled. Request is respectfully made for a ruling on this motion by 9:00PM on November 6, 2012.

Dated: November 6, 2012

Very respectfully,

/s/ Stephen R. Cochell  
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**CERTIFICATE OF SERVICE**

This is to certify that, on November 6, 2012, a copy of the above was served on all counsel of record through the Court's ECF filing system.

/s/ Stephen R. Cochell  
Stephen R. Cochell