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

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

MOTION FOR LEAVE TO FILE: SECOND MOTION TO SUPPLEMENT RECORD WITH NEWLY DISCOVERED EVIDENCE

TO THE HONORABLE JUDGE ROYAL FURGESON:

COMES NOW JEFF BARON, and moves this Court to grant leave to file the following motion to supplement the record with the evidence attached as Exhibit A:

A. WHAT THIS EVIDENCE PROVES

EXHIBIT A - THE RECEIVER'S EMAIL

This email:

(1) Establishes that the receiver is not an impartial and indifferent person. The email proves the receiver is clearly an advocate and not acting with impartiality, and has therefore breached their duty as receiver and their assessment is invalid because it is an assessment of an advocate. *See Texas American Bancshares, Inc. v. Clarke*, 740 F.Supp. 1243, 1253

(N.D.Tex.1990) (receiver "owes a duty of strict impartiality").

(2) The email also establishes that receiver's assessment has not been reasonable, nor unbiased. For example:

a. The email proves that to the receiver's assessment, evidence that Mr. Lyon's billing rate was $40.00 per hour is "not evidence" and does change the receiver's assessment nor (to the receiver's mind) controvert Mr. Lyon's claim for payment at the rate of $300.00. The fact that Mr. Lyon was paid at $40.00 per hour, and the evidence proves he was billing at that rate, to the receiver is "no evidence".

Notably, the evidence the receiver views (and argues) as "no evidence" clearly and unambiguously establishes that even after September 2010, Lyon was clearly charging $40.00 per hour, not the $300.00 he is now claiming. In this evidence Mr. Lyon, in his own words, states that his rate is $40 per hour. He notes that allows 'more bang for the buck'. Yet, to the receiver's view, this is not evidence which controverts Mr. Lyon's 'claim' that his rate was $300.00 per hour, and is therefore due over $75,000.00.

b. The receiver views the proof that after the global settlement was reached Taylor made no claim to any additional 'contingency' fee due, and instead stated expressly **"We'll probably have a very small bill that will go out at the first of September, but that should be the last one"** as "no evidence" to controvert Taylor's current claim that he has a near $80,000.00 past due fee.

B. WHY THE EVIDENCE WAS NOT RAISED EARLIER

This material was in the exclusive possession of the receiver.

C. RELIEF REQUESTED

Jeff Baron requests the Court to consider this evidence with respect to the Court's consideration of the receiver's motions.

Jointly and in the alternative Jeff Baron requests this Court to remove the receiver as biased, and if a receiver is to be appointed, appoint an unbiased and impartial receiver who is not an active advocate against Jeff.

Respectfully submitted,

/s/ Gary N. Schepps

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COURT ORDERED TRIAL
COUNSEL FOR JEFF BARON

CERTIFICATE OF SERVICE

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

CERTIFIED BY: /s/ Gary N. Schepps
Gary N. Schepps

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

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

DECLARATION OF GARY SCHEPPS

1. My name is Gary Schepps. I am counsel for defendant Jeff Baron in the above entitled and numbered cause. I am competent to make this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct. I have personal knowledge of the stated facts, which I learned of by experiencing them.

2. The attached Exhibit is a true and correct copy of email I received from the receiver.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 5rd day of May, 2011, in Dallas, Texas.

/s/ Gary N. Scheps
Gary N. Schepps

From: LOH, PETER <ploh@gardere.com>
To: "'Furgeson_Orders@txnd.uscourts.gov'" <Furgeson_Orders@txnd.uscourts.gov>
Date: Wednesday, May 4, 2011, 12:58:58 PM
Subject: 3:09-cv-0988 re document 514 "Findings of Fact, Conclusions of Law, and Order on Assessment and Disbursement of Former Attorney Claims [Corrected Version]" filed by the Receiver

Dear Judge Furgeson:

I am attaching a Word version of the Receiver's *Findings of Fact, Conclusions of Law, and Order on Assessment and Disbursement of Former Attorney Claims [Corrected Version]*. This version supplants and replaces two previous versions of the same document found at Docket Nos. 509 and 513.

In the version found at Docket No. 509, there is an inadvertent error in Paragraph 27 (an incorrect statement that no declaration was attached to Jeff Baron's *Motion for Leave to File: Motion to Supplement Record with Newly Discovery Evidence*). The correction eliminates the highlighted language below in paragraph 27.

27. Five days after the Hearing, on May 3, 2011, Baron filed a document entitled *Motion for Leave to Supplement Record with Newly Discovered Evidence.* ("Supplement to the Record") Docket No. 507.] The Court grants the motion for leave and permits the record to be includes no evidence to controvert the Admitted Evidence since it, too, lacks any declarations or any other type of evidence.

In the version found at Docket No. 513, the Receiver corrected the inadvertent error in Paragraph 27 described above but failed to change the title to note "CORRECTED VERSION" and did not provide an explanatory footnote like the one found at footnote 1 in the present (corrected) version attached.
The Receiver apologizes for this inconvenience.

Thank you.

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Exhibit A