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.	§	

APPELLANTS' JOINT MOTION FOR LEAVE AND SUR-REPLY TO RECEIVER'S MOTION FOR REIMBURSEMENT OF ADDITIONAL PERSONAL FUNDS [DOC#221]

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

COMES NOW, Appellant, defendant Jeffrey Baron and Appellants NovoPoint, LLC and Quantec, LLC and make this joint motion for leave and sur-reply to Receiver's Motion for Receiver's Motion for Reimbursement of Additional Personal Funds [Doc#221]. Movants request the Court to allow the filing of this sur-reply.

1. In his reply [Doc#262] the receiver has made a new accusation and accused Mr. Baron of "Fraud on the Court". Leave to file a sur-reply is appropriate in such a circumstance.

2. The context of the receiver's sharp accusation is that the Appellants raised to this Court's attention that **the *receiver's counsel* redacted the key portion of the law in their briefing to this Court that 28 U.S.C. 2041 applies only to "Moneys Paid into Court."**

3. Clearly, the 'quote' offered by the receiver to this Court in the receiver's briefing is materially misleading. If Mr. Baron's counsel had tried to 'play' this Court as the receiver's counsel has, it is clear this Court would impose very severe sanctions.

4. Where the receiver has taken action that would clearly be sanctioned if some attorney had done that on behalf of Mr. Baron, Mr. Baron requests that the Court not give succor to the receiver's attempt to escape its actions by accusing Mr. Baron of wrongdoing.

7. It wasn't Mr. Baron who redacted key portions of a quoted law to change its meaning. It was the receiver's counsel. Yet, as is consistent with the posturing of this case before this Honorable Court, it is Mr. Baron who is accused of "fraud on the court".

8. The receiver's motion subject of this sur-reply sought $900 for opening nine separate bank accounts. A short and simple response was filed, adopting the discussion of the law and controlling legal precedent previously briefed relevant to the issues. One issue involves the requirement that money turned over to officers

of the court—pursuant to the controlling precedent cited by Mr. Baron[1] a receiver is an officer of the court— be deposited in US Treasury accounts.

9. Obviously, if the funds are properly deposited in US Treasury accounts, re-payment of nine $100 payments by the receiver to open nine non-Treasury accounts is not necessary nor appropriate. Accordingly, noting the receiver's redaction of the law in the argument incorporated by reference is directly relevant to the response.

10. Similarly, as briefed in the previously filed argument which was incorporated and referenced in Appellant's response, the district court has been divested of jurisdiction over the receivership order, pending appeal, and modification of the status quo by disbursement of receivership assets to the receiver is not allowed pursuant to controlling precedent of the United States Supreme Court and Fifth Circuit Court of Appeals.

11. Much of the receiver's justification for this Court's acting with judicial disregard for the clear and controlling precedent is that controlling precedent is old (and implicitly, so is our constitution) and quite a bit has also occurred since the cases were decided (and implicitly, since the constitution was written).

[1] The Receiver's cite in its response is not exactly correct, as briefed by Mr. Baron, the receiver is an *officer*, not an 'office' of the court.

12. **Judicial disregard for the constitution and long established legal principles and controlling precedent has been expressly discredited and rejected by the United States Supreme Court.** *E.g., Harrington v. Richter*, 2011 WL 148587, Supreme Court 2011. Even if controlling precedent and the constitution are 'old' and pre-date airplane flight, they **must** still be honored by this Court. That is the basis of our constitutional legal system.

13. The 'old' cases cited by counsel for the Appellants, were cited as long-standing, established, and controlling precedent that a receiver is an officer of the court that appoints him. The holding is clear in the cases cited, and the law is long established. *Great Western Mining & Mfg. Co. v. Harris*, 198 U.S. 561, 574 (1905); *United States v. Pollard*, 115 F.2d 134 (5th Cir. 1940).

CONCLUSION

Clearly, Mr. Baron did not engage in 'fraud on the court'. Just as clearly counsel for the receiver redacted the relevant provision of the law in 'quoting' the law to this Court. When such redaction was raised to the attention of this Court, the fallback position which seems to have great traction in these proceedings was once again played: 'Mr. Baron. Fraud on the Court.'

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

CERTIFICATE OF CONFERENCE

This is to certify that the undersigned has conferred with counsel for the receiver, and they oppose the relief requested.

/s/ Gary N. Schepps
Gary N. Schepps