

2. In the Order for Relief Appeal, this Court entered an order on February 3, 2014, denying the Motion for Stay Pending Appeal filed by the Petitioning Creditors. ECF Document 62.

3. No Motion for Stay Pending Appeal has been filed in the Fifth Circuit, and there is no stay pending appeal in effect at this time regarding the Court's Amended Memorandum Opinion.

4. In Case No. 3:09-cv-00988-L (the "Netsphere District Court Case"), this Court entered an Order on January 6, 2014, directing the Receiver to take necessary steps to wind down and terminate the Receivership created in this case and return all Receivership assets to Jeffrey Baron ("Baron") or the entities from which the assets were received by March 7, 2014. ECF Document 1351.

5. On January 24, 2014, the Receiver filed a Preliminary Status Report and Request for Scheduling Conference (the "Receiver Report"). ECF Document 1352.

6. On February 4, 2014, this Court directed Jeffrey Baron to file a response to the Receiver Report on or before February 11, 2014. Mr. Baron timely filed his response. ECF Document 1356.

7. Novo Point, LLC and Quantec, LLC (the "LLCs") filed a response to the Receiver Report on February 3, 2014, and then filed a reply on November 18, 2014 (the "LLCs Reply"). ECF Document 1360.

8. On February 14, 2014, the Receiver filed a Corrected Reply Concerning Responses of Jeffrey Baron, Novo Point, which Mr. Baron did file.

9. This Rejoinder responds to the Vogel Reply and the LLCs Reply, and will dispel any questions regarding the issues raised in said replies regarding the disposition of the LLCs and their assets.

II.

BACKGROUND

1. On November 24, 2010, the District Court in the captioned case entered an order establishing a receivership over the assets of Jeffrey Baron (“Baron”) (the “Receivership Order”), and appointed Peter S. Vogel as the receiver (the “Receiver”).

2. Pursuant to the Receivership Order and subsequent orders of the District Court, Peter S. Vogel, as a receiver, took control over and possession of the personal assets of Baron, including his assets exempt under Texas law (the “Baron Personal Assets”).

3. Pursuant to the Receivership Order and subsequent orders of the District Court, Peter S. Vogel, as a receiver, took control over and possession of numerous entities (the “Entities”), including, but not limited to, the following:

Village Trust, a Cook Islands Trust
Novo Point, LLC (“Novo Point”), a Cook Islands LLC
Quantec, LLC (“Quantec”), a Cook Islands LLC
Equity Trust Company IRA19471
Daystar Trust, a Texas Trust
Belton Trust, a Texas Trust
Novo Point, Inc., a USVI Corporation
Iguana Consulting, Inc, a USVI Corporation
Diamond Key, LLC
Quasar Services, LLC
Javelina, LLC
HCB, LLC, a Delaware LLC
HCB, LLC, a Virgin Islands LLC
Realty Investment Management, LLC, a US Virgin Islands LLC
Blue Horizon LLC
Simple Solutions, LLC
Asiatrust Limited
Southpac Trust Limited

Stowe Protectors, Ltd.
Royal Gable 3129 Trust
CDM Services, LLC
Quantec, Inc., a USVI Corporation
Shiloh, LLC, a Delaware Limited Liability Company
Novquant, LLC, a Delaware Limited Liability Company
Manassas, LLC, a Texas Limited Liability Company
Domain Jamboree, LLC, a Wyoming Limited Liability Company
ID Genesis, LLC, a Utah Limited Liability Company
Domain Jamboree, LLC.

The Baron Personal Assets, the Entities and the assets of the Entities shall hereinafter be referred to as the “Receivership Assets”.

4. On December 18, 2012, the Fifth Circuit Court of Appeals in a case styled *Netsphere, Inc. v. Baron*, 703 F.3d 296 (5th Cir. 2012) (the “Fifth Circuit Decision”), vacated the Receivership, specifically ruling:

“The judgment appointing the receiver is REVERSED with directions to vacate the receivership and discharge the receiver, his attorneys and employees, and to charge against the cash in the receivership fund the remaining receivership fees in accordance with this opinion.”

5. The Fifth Circuit issued a Mandate to the District Court in the captioned case on April 19, 2013.

6. The Receiver Report, at page 4, indicates that prior to this Court’s dismissal of the Baron involuntary bankruptcy case,¹ the Receiver gave authority to access Baron’s IRA accounts to the interim Baron Bankruptcy Trustee, Mr. John Litzler, and that Baron’s IRA accounts can be turned over to Baron by Litzler. Mr. Baron can find nothing in the record that authorized the Receiver to give such access or authority to Mr. Litzler.

III.

THERE ARE NO ALLEGED DISPUTES

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7. The Court should keep in mind that there is no controversy as to the proper disposition of Jeffrey Baron's personal assets. Such assets should be returned to Mr. Baron.

8. As to the LLCs, the Receiver has admitted the following in his Initial Report:

"The Novo Point and Quantec entities are LLCs ultimately owned and controlled by the Village Trust. In the trust deed establishing the Village Trust it is incontrovertible that Mr. Baron is identified as both the settlor and the beneficiary of the Village Trust."

See Footnote 2 on page 2 of the Receiver's Initial Report, ECF Document 1352.

9. Thus, by virtue of the Receiver's own admission, the following matters are uncontroverted: (a) Jeffrey Baron owns his personal assets and to the extent they are in the possession of the Receiver or the Bankruptcy Trustee, they can and should be returned to Mr. Baron by March 7, 2014, or earlier, and the Bankruptcy Trustee and Receiver should quitclaim any interest they may have in such assets to Mr. Baron; (b) the assets, including cash, owned by the LLCs and the other Entities are owned by the LLCs and such Entities, and the Receiver and Trustee simply need to quitclaim any interest they have in and to such assets; (c) the LLCs are owned by Village Trust, and any interest held by the Receiver in and to the LLCs simply need to be quitclaimed to the Village Trust, by and through its duly appointed trustee, RPV Limited.

10. As the Court can see from the Assignments and Resolutions attached hereto as **Exhibit "1"**, RPV Limited is the current trustee of the Village Trust (the "Village Trust Trustee"), and is the sole member of the LLCs. Lisa Katz does not have any authority to act on behalf of either of the LLCs, and the LLC's current counsel, Christopher Payne, has been directed by the Village Trust Trustee to withdraw the Reply filed at ECF Document 1390. There are no corporate documents to the contrary.

IV.

**THIS COURT LACKS SUBJECT MATTER
JURISDICTION TO RESOLVE THE ALLEGED DISPUTES**

11. “Federal courts are courts of limited jurisdiction; without jurisdiction conferred by statute, they lack the power to adjudicate claims.” *In re FEMA Trailer Formaldehyde Products Liability Litigation*, 668 F.3d 281, 286 (5th Cir. 2012) (citing *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). The Fifth Circuit in *Netsphere, Inc. v. Baron* 703 F.3d 296, 313-14 (5th Cir. 2012) held that the District Court neither had the jurisdiction to appoint the Receiver in this case, nor the authority to do so, and then vacated the receivership order.²

12. In the *Netshpere v. Baron* case, the Fifth Circuit repeatedly held that the District Court lacked jurisdiction over Mr. Baron’s personal assets and the assets of Novo Point LLC and Quantec, LLC. Here are a few of the references to the Fifth Circuit’s clear and unequivocal statements:

“equity does not allow a receivership to be imposed over property that was not the subject of the underlying dispute.” *Id.*, at 306.

“Here, the only assets that were the subject matter of the dispute were the domain names that were to be transferred under the settlement agreement. They were transferred.” *Id.*

“A court lacks jurisdiction to impose a receivership over property that is not the subject of an underlying claim or controversy.” *Id.*, at 310 (citing *Cochrane v. W.F. Potts Son & Co.*, 47 F.2d 1026, 1029 (5th Cir.1931)).

“A court has undeniable authority to control its docket but not through creating a receivership over assets, including personal assets, that were not the subject of the litigation.” *Id.* at 311.

² “We conclude that the receivership improperly targeted assets outside the scope of litigation to pay claims of Baron's former attorneys and control Baron's litigation tactics. This was an improper use of the receivership remedy. The order appointing a receiver is vacated.” *Netsphere, Inc.*, 703 F.3d at 311.

“The receivership ordered in this case encompassed all of Baron's personal property, none of which was sought in the Netsphere lawsuit or the Ondova bankruptcy other than as a possible fund for paying the unsecured claims of Baron's current and former attorneys that had not been reduced to judgment. The receivership also included business entities owned or controlled by Baron, including Novo Point, LLC and Quantec, LLC. Although Novo Point and Quantec were listed as parties on the global settlement agreement, they were never named parties in the *Netsphere* lawsuit or the Ondova bankruptcy. We conclude the district court could not impose a receivership over Baron's personal property and the assets held by Novo Point and Quantec. *Id.*”

13. Thus, even if there was a dispute regarding the disposition of the LLCs, this Court does not have jurisdiction over such disputes.

V.

THE COURT SHOULD “STOP THE BLEEDING” - FEES AND EXPENSES INCURRED BY THE RECEIVER AFTER THE FIFTH CIRCUIT’S DECISION IN DECEMBER 2012

14. Moreover, the Court would be doing the Receiver a favor by not engaging in the resolution of these disputes. The Fifth Circuit held in the *Netsphere v Baron* case as follows:

“We also conclude that everything subject to the receivership other than cash currently in the receivership, which Baron asserts in a November 26, 2012 motion amounts to \$1.6 million, should be expeditiously released to Baron under a schedule to be determined by the district court for winding up the receivership. The new determination by the district court of reasonable fees and expenses to be paid to the receiver, should the amount be set at more than has already been paid, may be paid from the \$1.6 million. To the extent the cash on hand is insufficient to satisfy fully what is determined to be the reasonable charges by the receiver and his attorneys, those charges will go unpaid. No further sales of domain names or other assets are authorized.”

Netsphere v. Baron, 703 F.3d at 313–14. From a review of the transcript, it appears that the Receiver and his professionals have already received more than the \$1,600,000 that was on hand as of November 26, 2012, and any additional fees and expenses must go unpaid as mandated by the Fifth Circuit.

VI.

**THE WIND DOWN OF THIS VACATED RECEIVERSHIP
SHOULD NOT BE DELAYED, AND THE RECEIVERSHIP ASSETS
CAN AND SHOULD BE RETURNED NO LATER THAN MARCH 7, 2014.**

15. The Court's order closing out the Receivership should include the following:
- a. The Order Appointing Receiver (ECF Documents 124 & 130), the Order Granting the Receiver's Second Motion to Clarify the Receiver Order (ECF Document 150), the Order Granting the Receiver's Motion to Clarify the Receiver Order With Respect to Novo Point, LLC and Quantec, LLC (ECF Document 176), Order Granting the Receiver's Third Motion to Clarify the Receiver Order (ECF Document 272), Order Granting the Receiver's Fourth Motion to Clarify the Receiver Order (ECF Document 287), Order Granting the Receiver's Motion for Order Confirming Appointment of Damon Nelson as Interim Manager of the LLCs (ECF Document 362) and the Order Granting the Receiver's Motion to Appoint Damon Nelson (ECF Document 473) should be vacated.
 - b. On or before March 7, 2014, the Receiver and the Bankruptcy Trustee should be directed to take all steps necessary to unfreeze Jeffrey Baron's exempt property IRA and other retirement accounts, including, but not limited to, sending letters, with copies to Baron, to any and all account holders of such accounts notifying them that neither the Receiver nor the Bankruptcy Trustee claims an interest in such accounts or in Jeffrey Baron's assets, exempt or otherwise.
 - c. On or before March 7, 2014, the Receiver should be directed to appear with Baron at banks where the bank accounts in the name of Jeffrey Baron exist to remove the Receiver as a signatory on such accounts and direct the bank to make Jeff Baron the sole signer on such accounts.
 - d. On or before March 7, 2014, the Receiver and the Bankruptcy Trustee should be directed to appear with Baron at banks where the Receivership accounts or Bankruptcy Trustee's Chapter 7 accounts exist containing funds belonging to Jeffrey Baron to close such Receivership accounts and Trustee accounts and deliver to Mr. Baron cashier's checks for the amount in such accounts.
 - e. On or before March 7, 2014, the Receiver and any of his agents who are signatories on the LLCs bank accounts (including Damon Nelson) should be directed to appear with an agent duly appointed by the RPV Limited to remove as signatories the Receiver or any of his agents (including Damon Nelson) on such accounts and to direct the bank to make such duly appointed agent the sole signer on such accounts.
 - f. On or before March 7, 2014, the Receiver and any of his agents who are signatories on an Entity's (other than the LLs') bank accounts (including Damon Nelson) should be directed to appear with the duly appointed agent for such

Entity to remove as signatories the Receiver or any of his agents (including Damon Nelson) on such accounts and to direct the bank to make the such Entity's duly authorized agent the sole signer on such accounts.

- g. On or before March 7, 2014, the Receiver should be directed to execute the attached quit claim deed (**Exhibit "2"**);
- h. On or before March 7, 2014, the Bankruptcy Trustee should be directed to execute the attached quit claim deed (**Exhibit "3"**) with respect to the Personal Assets of Jeffrey Baron;
- i. On or before March 7, 2014, the Receiver and the Bankruptcy Trustee should be directed to deliver all other Receivership Assets in their possession or control to their respective owners.
- j. On or before March 7, 2014, the Receiver should be directed to deliver the following documents to the duly appointed agent for the LLCs or the duly appointed agent for each of the other Entities as the case may be:
 - (1) all books and records, including, but not limited to, resolutions, regulations, minutes, and organizational documents, or any amendments thereof, of each Entity, including the LLCs;
 - (2) all other executed agreements, executed documents or executed instruments between any of the Entities or the Receiver or Damon Nelson, or any agent or attorney for any of them, on the one hand, and any third parties;
 - (3) all documents concerning asset and domain name sales of any of the Entities, including the LLCs;
 - (4) all documents concerning any transactions of the Entities, including the LLCs;
 - (5) all documents and electronic files and any related software concerning financial or accounting records related to any of the Entities, including the LLCs, including, but not limited to, all bank account statements;
 - (6) all documents concerning complaints (including UDRP disputes) concerning the LLCs;
 - (7) all paper and electronic copies of all correspondence, email and memoranda concerning any of the Entities, including the LLCs, regardless of whether any privileges are claimed by the Receiver or any agent or attorney for the Receiver;

- (8) the logins and passwords to all accounts, including but not limited to servers and email accounts, associated with the LLCs
 - (9) all electronic data associated with **the LLCs including data stored on remote servers.**
 - (10) All other assets, tangible or intangible, associated with the LLCs.
- k. On or before March 7, 2014, the Receiver should be directed to deliver the following to Jeffrey Baron or his duly appointed counsel:
- (1) all bank Statements for all Receivership bank accounts from inception to date;
 - (2) copies of any quickbook files or any other financial accounting software files (including the software programs purchased with Receivership funds) containing the books and records of the Receiver from inception to date, including those for Entities;
 - (3) all paper and electronic copies of all correspondence, email and memoranda concerning or related to the receivership to Baron, regardless of whether any privileges are claimed by the Receiver or any agent or attorney for the Receiver.
 - (4) a list of all physical assets held by the Receiver, including computers, software, peripherals, etc.;
 - (5) to the extent not covered above, every single asset, of whatever kind or nature, ever received or acquired by, in the possession of, or subject to the control of, the Receiver;
 - (6) all of the documents (in paper or electronic form) accumulated by the Receiver and/or his agents or attorneys during the Receivership, including correspondence or emails sent and received, in the possession of the Receiver or any of his agents or attorneys or subject to their control.
- l. To the extent the Receiver or any agent or attorney claims a privilege, on or before March 7, 2014, the Receiver should be directed to deliver to Baron a privilege log reflecting all correspondence, memoranda, emails, faxes, etc. as to which the Receiver does claim a privilege. The Receiver shall also provide a list of professionals or other agents of the Receiver who might retain any of the above documents.

- m. On or before March 7, 2014, the Bankruptcy Trustee, or any of his agents or attorneys, should be directed to deliver to Baron all of the documents (paper or in electronic form) accumulated by the Bankruptcy Trustee and/or any of his agents or attorneys, during his tenure as the interim or permanent Trustee in Baron's chapter 7 case, including emails sent and received, in their possession or subject to their control. To the extent the Bankruptcy Trustee or any agent or attorney claims a privilege, the Bankruptcy Trustee should be directed to, on or before March 7, 2014, deliver to Baron a privilege log reflecting all correspondence, memoranda, emails, faxes, etc. as to which the Bankruptcy Trustee does claim a privilege. In addition, the Bankruptcy Trustee shall deliver to Baron a list of professionals or other agents of the Receiver who might retain any of the above documents.
- n. The Receiver and the Bankruptcy Trustee should be directed to turn over such documents in an orderly fashion (boxes to be numbered and a summary document to be prepared identifying the numbered boxes and a description of the contents within each box).
- o. On or before March 7, 2014, as to any operating entities, the Receiver should be directed to prepare turnover memoranda indicating present status of each such entity, any upcoming events, payments required, and any other pressing issues of which the Receiver or his agents are aware.
- p. All persons or entities that have been paid in this proceeding to provide services to the Receiver or the Entities, including but not limited to accounting firms, domain monetizers and advisors shall fully cooperate with Mr. Baron and the duly appointed agents of the Entities to facilitate transition of assets, records and information.
- q. Because the Receiver has failed to respond to any UDRP disputes and, pursuant to his report, has reportedly allowed over 800 disputes to accumulate over the past three years, it is estimated that a minimum of 12 months will be required for a staff of three attorneys, working solely on UDRP claim responses, to handle the backload of 800 claims resulting from the Receiver's failure to prepare such responses to any of the claims over the past three years. Accordingly, the Court should enjoin any UDRP claims from being asserted against the LLCs for a period of twelve months.

WHEREFORE, Jeffrey Baron would pray for entry of an order winding down the Baron Receivership that is consistent with the above.

Dated: February 24, 2014

Respectfully submitted,

/s/ Stephen R. Cochell
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via ECF on all parties receiving ECF Notices in the above-captioned case on February 24, 2014.

/s/ Stephen R. Cochell