

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	§	

ORDER APPOINTING RECEIVER

The Court hereby appoints a receiver and imposes an ancillary relief to assist the receiver as follows:

APPOINTMENT OF RECEIVER

IT IS HEREBY ORDERED that Peter S. Vogel is appointed Receiver for Defendant Jeffrey Baron with the full power of an equity receiver. The Receiver shall be entitled to possession and control over all Receivership Assets, Receivership Parties and Receivership Documents as defined herein, and shall be entitled to exercise all powers granted herein.

RECEIVERSHIP PARTIES, ASSETS, AND RECORDS

IT IS FURTHER ORDERED that the Court hereby takes exclusive jurisdiction over, and grants the Receiver exclusive control over, any and all "Receivership Parties", which term shall include Jeffrey Baron and the following entities:

- Village Trust, a Cook Islands Trust
- Equity Trust Company IRA 19471
- Daystar Trust, a Texas Trust
- Belton Trust, a Texas Trust
- Novo Point, Inc., a USVI Corporation
- Iguana Consulting, Inc., a USVI Corporation
- 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

and any entity under the direct or indirect control of Jeffrey Baron, whether by virtue of ownership, beneficial interest, a position as officer, director, power of attorney or any other authority or right to act. The Court hereby enjoins any person from taking any action based upon any presently existing directive from any person other than the Receiver with regard to the affairs and business of the Receivership Parties, including but not limited to proceeding with the transfer of a portfolio of internet domain names ("Domain Names") for which Ondova Limited Company ("Ondova") acted as registrar. Specifically, but without limitation, VeriSign Inc and The Internet Corporation for Assigned Names and Numbers ("ICANN"), and any other entity connected to the transfer of the Domain Names, shall immediately cease such efforts and shall terminate any movement of the Domain Names.

IT IS FURTHER ORDERED that the Court hereby takes exclusive jurisdiction over, and grants the Receiver exclusive control over, any and all "Receivership Assets", which term shall include any and all legal or equitable interest in, right to, or claim to, any real or personal property (including "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes" (as these terms are defined in the Uniform Commercial Code)), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located, and further including any legal or equitable interest in any trusts, corporations, partnerships, or other legal entities of any nature, that are:

1. owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Receivership Party;
2. in the actual or constructive possession of any Receivership Party; or
3. in the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any

other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Receivership Party, including, but not limited to, any assets held by or for any Receivership Party in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside of the State of Texas.

IT IS FURTHER ORDERED that the Receiver shall be entitled to any document that any Receivership Party is entitled to possess as of the signing of this order ("Receivership Documents").

IT IS FURTHER ORDERED that all persons who receive actual notice of this Order by personal service or otherwise are hereby restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any Receivership Assets.

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Receivership Party, or subject to access by any Receivership Party or under any Receivership Party's control, without providing the Receiver prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section;

C. Cashing any checks or depositing any payments from customers or clients of a Receivership Party;

D. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Receivership Party; or

E. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Receivership Party or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Receivership Party.

F. The funds, property, and assets affected by this Order shall include both existing assets and assets acquired after the effective date of this Order.

IT IS FURTHER ORDERED that any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any Receivership Party, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Receivership Party, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the assets, funds, documents, or other property held by, or under its control:

1. on behalf of, or for the benefit of, any Receivership Party;
2. in any account maintained in the name of, or for the benefit of, or subject to withdrawal by, any Receivership Party; and
3. that are subject to access or use by, or under the signatory power of, any Receivership Party.

B. Deny any person other than the Receiver or his designee access to any safe deposit boxes or storage facilities that are either:

1. titled in the name, individually or jointly, of any Receivership Party; or
2. subject to access by any Receivership Party.

C. Provide the Receiver an immediate statement setting forth:

1. The identification number of each account or asset titled in the name, individually or jointly, of any Receivership Party, or held on behalf thereof, or for the benefit thereof, including all trust accounts managed on behalf of any Receivership Party or subject to any Receivership Party's control;
 2. The balance of each such account, or a description of the nature and value of such asset;
 3. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Receivership Party, whether in whole or in part; and
 4. If the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date.
- D. Immediately provide the Receiver with copies of all records or other documentation pertaining to each such account or asset, including, but not limited to, originals or copies of account applications, account statements, corporate resolutions, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and
- E. Immediately honor any requests by the Receiver with regard to transfers of assets to the Receiver or as the Receiver may direct.

DUTIES OF DEFENDANTS REGARDING ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that Defendants shall:

- A. Within three business days following service of this Order, take such steps as are necessary to turn over control to the Receiver and repatriate to the Northern District of Texas all Receivership Documents and Receivership Assets that are located outside of the Northern District of Texas and are held by or for the Receivership Parties or are under the Receivership Parties' direct or indirect control, jointly, severally, or individually;

B. Within three business days following service of this Order, provide Plaintiff and the Receiver with a full accounting of all Receivership Documents and Receivership Assets wherever located, whether such Documents or Assets held by or for any Receivership Party or are under any Receivership Party's direct or indirect control, jointly, severally, or individually, including the addresses and names of any foreign or domestic financial institution or other entity holding the Receivership Documents and Receivership Assets, along with the account numbers and balances; and

D. Immediately following service of this Order, provide Plaintiff and the Receiver access to Defendants' records and Documents held by Financial Institutions or other entities, wherever located.

POWERS AND DUTIES OF RECEIVER

IT IS FURTHER ORDERED that the Receiver shall immediately present a sworn statement that he will perform his duties faithfully and shall post a cash deposit or bond in the amount of \$1,000.

IT IS FURTHER ORDERED that in addition to all powers granted in equity to receivers, the Receiver shall immediately have the following express powers and duties:

A. To have immediate access to any business premises of the Receivership Party, and immediate access to any other location where the Receivership Party has conducted business and where property or business records are likely to be located.

B. To assume full control of the Receivership Party by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee or agent of the Receivership Party, including any Defendant, from control of, management of, or participation in, the affairs of the Receivership Party;

C. To take exclusive custody, control, and possession of all assets and documents of, or in the possession, custody or under the control of, the Receivership Party, wherever

situated, including without limitation all paper documents and all electronic data and devices that contain or store electronic data including but not limited to computers, laptops, data storage devices, back-up tapes, DVDs, CDs, and thumb drives and all other external storage devices and, as to equipment in the possession or under the control of the Receivership Parties, all PDAs, smart phones, cellular telephones, and similar devices issued or paid for by the Receivership Party.

D. To act on behalf of the Receivership Party and, subject to further order of the Court, to have the full power and authority to take all corporate actions, including but not limited to, the filing of a petition for bankruptcy as the authorized responsible person as to the Receivership Party, dissolution of the Receivership Party, and sale of the Receivership Party.

E. To divert mail.

F. To sue for, collect, receive, take in possession, hold, and manage all assets and documents of the Receivership Party and other persons or entities whose interests are now held by or under the direction, possession, custody or control of the Receivership Party.

G. To investigate, conserve, hold, and manage all Receivership Assets, and perform all acts necessary or advisable to preserve the value of those assets in an effort to prevent any irreparable loss, damage or injury to consumers or to creditors of the Receivership Party including, but not limited to, obtaining an accounting of the assets, and preventing transfer, withdrawal or misapplication of assets.

H. To enter into contracts and purchase insurance as advisable or necessary.

I. To prevent the inequitable distribution of assets and determine, adjust, and protect the interests of creditors who have transacted business with the Receivership Party.

J. To manage and administer the business of the Receivership Party until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which include retaining, hiring, or dismissing any employees, independent contractors, or agents.

K. To choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists (collectively, "Professionals"), as each Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order.

L. To make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order.

M. To institute, compromise, adjust, defend, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts that each Receiver deems necessary and advisable to preserve or recover the assets of the Receivership Party or that each Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including but not limited to, the filing of a petition for bankruptcy.

N. To conduct investigations and to issue subpoenas to obtain documents and records pertaining to, or in aid of, the receivership, and conduct discovery in this action on behalf of the receivership estate.

O. To consent to the dissolution of the receivership in the event that the Plaintiff may compromise the claim that gave rise to the appointment of the Receiver, provided, however, that no such dissolution shall occur without a motion by the Plaintiff and service provided by the Plaintiff upon all known creditors at least thirty days in advance of any such dissolution.

LIMITATION OF RECEIVER'S LIABILITY

IT IS FURTHER ORDERED that except for an act of gross negligence, the Receiver and the Professionals shall not be liable for any loss or damage incurred by any of the Receivership Parties, their officers, agents, servants, employees and attorneys or any other person, by reason of any act performed or omitted to be performed by the Receiver and the Professionals in connection with the discharge of his or her duties and responsibilities. Additionally, in the

event of a discharge of the Receiver either by dissolution of the receivership or order of this Court, the Receiver shall have no further duty whatsoever.

PROFESSIONAL FEES

IT IS FURTHER ORDERED that each Receiver and his professionals, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, which compensation shall be derived exclusively from the assets now held by, or in the possession or control of, or which may be received by the Receivership Party or which are otherwise recovered by the Receiver, against which the Receiver shall have a first and absolute administrative expense lien. The Receiver shall file with the Court and serve on the parties a fee application with regard to any compensation to be paid to professionals prior to the payment thereof.

COOPERATION WITH RECEIVER

IT IS FURTHER ORDERED that the Defendants and all other persons or entities served with a copy of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but not be limited to, providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic account, or digital file or telephonic data in any medium; turning over all accounts, files, and records including those in possession or control of attorneys or accountants; and advising all persons who owe money to the Receivership Party that all debts should be paid directly to the Receiver. Defendants are hereby temporarily restrained and enjoined from directly or indirectly:

- A. Transacting any of the business of the Receivership Party;

B. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of any documents of the Receivership Party including, but not limited to, books, records, accounts, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations, electronically-stored records, or any other papers of any kind or nature;

C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Party or the Receiver;

D. Drawing on any existing line of credit available to Receivership Party;

E. Excusing debts owed to the Receivership Party;

F. Failing to notify the Receiver of any asset, including accounts, of the Receivership Party held in any name other than the name of any of the Receivership Party, or by any person or entity other than the Receivership Party, or failing to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody or control of such assets;

G. Doing any act that would, or failing to do any act which failure would, interfere with the Receiver's taking custody, control, possession, or management of the assets or documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Party; or to refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any Order of this Court; and

H. Filing, or causing to be filed, any petition on behalf of the Receivership Party for relief under the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (2002), without prior permission from this Court.

IT IS FURTHER ORDERED that:

A. Immediately upon service of this Order upon them, or within such period as may be permitted by the Receiver, Defendants or any other person or entity shall transfer or deliver possession, custody, and control of the following to the Receiver:

1. All assets of the Receivership Party, including, without limitation, bank accounts, web sites, buildings or office space owned, leased, rented, or otherwise occupied by the Receivership Party;

2. All documents of the Receivership Party, including, but not limited to, books and records of accounts, legal files (whether held by Defendants or their counsel) all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents, and other papers;

3. All of the Receivership Party's accounting records, tax records, and tax returns controlled by, or in the possession of, any bookkeeper, accountant, enrolled agent, licensed tax preparer or certified public accountant;

4. All loan applications made by or on behalf of Receivership Party and supporting documents held by any type of lender including, but not limited to, banks, savings and loans, thrifts or credit unions;

5. All assets belonging to members of the public now held by the Receivership Party; and

6. All keys and codes necessary to gain or secure access to any assets or documents of the Receivership Party including, but not limited to, access to their business premises, means of communication, accounts, computer systems or other property;

B. In the event any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Paragraph, the Receiver may file ex parte an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, Writs of Possession or Sequestration or other equitable

writs requested by the Receivers. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the asset, document or other thing and to deliver it to the Receivers.

IT IS FURTHER ORDERED that, upon service of a copy of this Order, all banks, broker-dealers, savings and loans, escrow agents, title companies, leasing companies, landlords, ISOs, credit and debit card processing companies, insurance agents, insurance companies, commodity trading companies or any other person, including relatives, business associates or friends of the Defendants, or their subsidiaries or affiliates, holding assets of the Receivership Party or in trust for Receivership Party shall cooperate with all reasonable requests of each Receiver relating to implementation of this Order, including freezing and transferring funds at his or her direction and producing records related to the assets of the Receivership Party.

STAY OF ACTIONS

IT IS FURTHER ORDERED that:

A. Except by leave of this Court, during the pendency of the receivership ordered herein, all other persons and entities aside from the Receiver are hereby stayed from taking any action to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of, the Receivership Party, any of their partnerships, assets, documents, or the Receiver or the Receiver's duly authorized agents acting in their capacities as such, including, but not limited to, the following actions:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody or control of any asset;

attempting to foreclose, forfeit, alter or terminate any interest in any asset, whether such acts are part of a judicial proceeding or are acts of self-help or otherwise;

3. Executing, issuing, serving or causing the execution, issuance or service of, any legal process including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; and

4. Doing any act or thing whatsoever to interfere with the Receiver taking custody, control, possession, or management of the assets or documents subject to this receivership, or to harass or interfere with the Receiver in any way, or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Party;

B. This Order does not stay:

1. The commencement or continuation of a criminal action or proceeding;
and

2. Except as otherwise provided in this Order, all persons and entities in need of documentation from the Receiver shall in all instances first attempt to secure such information by submitting a formal written request to the Receiver, and, if such request has not been responded to within 30 days of receipt by the Receiver, any such person or entity may thereafter seek an Order of this Court with regard to the relief requested.

JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

SO ORDERED, this 24th day of November, 2010



JUDGE/PRESIDING

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

NETSPHERE, INC.,
MANILA INDUSTRIES, INC., and
MUNISH KRISHAN,
Plaintiffs.

v.

JEFFREY BARON, and
ONDOVA LIMITED COMPANY,
Defendants.

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Civil Action No. 3-09CV0988-F

CERTIFICATION OF NO TRANSCRIPT

CERTIFICATION OF NO TRANSCRIPT

This is to certify pursuant to Federal Rule of Appellate Procedure 10(b) that I have contact the court reporter supervisor and have been informed that there is no record of proceedings in this case on November 24, 2010. Accordingly, no transcript will be ordered.

Respectfully submitted,

/s/ Gary N. Schepps

Gary N. Schepps

State Bar No. 00791608

Drawer 670804

Dallas, Texas 75367

(214) 210-5940

(214) 347-4031 Facsimile

**APPELLATE COUNSEL FOR
JEFFREY BARON**

Exhibit B

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

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Lee J. Pannier, Esq.
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ATTORNEYS FOR DANIEL J. SHERMAN,
CHAPTER 11 TRUSTEE

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

NETSPHERE, INC., ET AL.,
PLAINTIFFS

v.

JEFFREY BARON, ET AL.,
DEFENDANTS.

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Case No. 3:09-CV-0988-F

**EMERGENCY MOTION OF TRUSTEE FOR
APPOINTMENT OF A RECEIVER OVER JEFFREY BARON**

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

COMES NOW Daniel J. Sherman (the "Trustee"), the duly-appointed Chapter 11 trustee of Ondova Limited Company ("Ondova"), and files his *Emergency Motion of Trustee for Appointment of a Receiver over Jeffrey Baron* (the "Motion"), respectfully stating as follows:

I. BACKGROUND

1. On October 13, 2010, the United States Bankruptcy Court for the Northern District of Texas (the "Bankruptcy Case") entered its *Report and Recommendation to District Court (Judge Royal Furgeson): That Peter Vogel, Special Master, Be Authorized and Directed to Mediate Attorneys Fees Issues* [Docket No. 484] (the "Bankruptcy Court's Report and Recommendation") in the bankruptcy case of Ondova, styled *In re Ondova Limited Company*, Case No. 09-34784 (the "Bankruptcy Case"). A copy of the Bankruptcy Court's Report and Recommendation is attached hereto as Exhibit "A." On the same day, the Bankruptcy Court

filed its Report and Recommendation with this Court. On October 19, 2010, this Court adopted the Bankruptcy Court's Report and Recommendation in its entirety.

2. The Bankruptcy Court's Report and Recommendation addressed Mr. Jeffrey Baron's continuing and disturbing pattern of hiring and firing attorneys. In the Bankruptcy Court's Report and Recommendation, the Bankruptcy Court stated that it would no longer tolerate such behavior and that it would not allow Mr. Jeffrey Baron ("Baron") to hire any additional lawyers. In fact, the Bankruptcy Court gave Baron two options: (1) retain Gary Lyons and Martin Thomas through the end of the Bankruptcy Case, or (2) proceed *pro se*. If Baron chose the latter opinion, the Bankruptcy Court advised Baron that it would recommend to this Court that it appoint a receiver over Mr. Baron and all of his assets.

II. RECENT DEVELOPMENTS

3. At a hearing on Wednesday, November 17, 2010, Martin Thomas advised the Bankruptcy Court that he was terminating his legal representation of Mr. Baron. Mr. Thomas advised the Bankruptcy Court that he had not been paid, that Mr. Baron had filed a grievance against him and that Mr. Baron had committed to attend the hearing on November 17, 2010 but failed to show up. The failure of Mr. Baron to show up on November 17, 2010 was disruptive for several reasons including that Mr. Baron was advised by Mr. Thomas that he needed to attend in order to raise objections to the Trustee's Motion for Authority to Reject Executory Contracts with The Internet Corporation for Assigned Names and Numbers ("ICANN") filed by the Trustee ("ICANN Motion") in the Bankruptcy Case, at Mr. Baron's request, on November 3, 2010. Mr. Thomas had advised Mr. Baron that he was withdrawing and would not make the objections Mr. Baron was requesting be made to the ICANN Motion. Mr. Thomas has recently advised the Trustee that he himself has had to engage counsel to handle matters with Mr. Baron.

4. Additionally, on November 19, 2010, one of Mr. Baron's other attorneys, Gary Lyon, advised the undersigned counsel for the Trustee that Baron has hired a new attorney to represent Baron in connection with matters pertaining to the Bankruptcy Case. That attorney is

Sydney Chisnen. This new attorney may have assisted Mr. Lyon in the pleading filed on November 19, 2010 entitled: Jeffrey Baron's Limited Objection to the Third Interim Fee Application of Munsch Hardt Kopf & Harr, P.C.

5. On November 22, 2010, the undersigned counsel received by email a copy of a lawsuit brought by a new attorney for Mr. Baron named Robert J. Garrey. A true and correct copy of Mr. Garrey's First Amended Petition filed in Collin County, Texas, 366th Judicial District Court is attached as Exhibit "B". Mr. Garrey's lawsuit raises serious allegations against Mr. Baron.

6. Finally, undersigned counsel has been contacted by two attorneys participating in the mediation efforts regarding unpaid attorney fees incurred by Baron. One attorney has advised that Baron and his legal team have failed to communicate with him regarding the mediation procedure. That particular attorney has also advised the Trustee that Stan Broome, an attorney who Baron hired to participate for Baron with respect to the attorney fee mediations, has resigned effective November 22, 2010. Mr. Broome has advised other parties that he has not been paid for his services. A copy of the motion filed by Mr. Broome to withdraw in the adversary proceeding is attached as Exhibit "C".

7. Another former Baron attorney, who is owed a smaller amount of attorney fees, has contacted counsel for the Trustee frustrated that Mr. Baron's attorneys are not being responsive to him in efforts in trying to settle the legal fee claim without participating in the mediation sessions with Peter Vogel. It is clear that Baron is not cooperating in the process outlined by this Court in its Order of October 13, 2010 regarding the mediation process. Attorneys who may otherwise seek to participate in the mediation process are reluctant to do so because they believe Mr. Baron will not fully cooperate, will delay mediation efforts by engaging new attorneys unfamiliar with the background of matters and will be generally uncooperative.

8. Mr. Baron is continuing to hire and fire attorneys. The Trustee believes that Mr. Baron has hired new attorneys who act as personal counsel to interfere with Mr. Martin and Mr.

Lyon who are Mr. Baron's attorneys in the Bankruptcy Case.

9. The Trustee believes that Baron's behavior will continue and will delay the wind down of the bankruptcy estate of Ondova and the Bankruptcy Case, which will, in turn, delay and, depending on the administrative costs of continuing to fight Baron and the Trusts, potentially reduce distributions to the Ondova's creditors

III. RELIEF REQUESTED

10. In accordance with the Bankruptcy Court's Report and Recommendation, the Trustee respectfully requests the appointment of a receiver over Jeffery Baron and all of his assets – including all the entities and trusts that he either controls or is a beneficiary of – pursuant to Rule 66 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 754 and 1692.

11. Admittedly, the appointment of a receiver is an extraordinary remedy. However, this Court has broad discretion to analyze the circumstances at hand and, if appropriate, to appoint a receiver even if there is no allegation of fraud. *See, e.g., Aviation Supply Corp. v. R.S.B.I. Aerospace, Inc.*, 999 F.2d 314, 317 (8th Cir. 1993) (court's decision to appoint a receiver is discretionary and does not require proof of fraud as support); *Citronelle-Mobile Gathering, Inc. v. Watkins*, 934 F.2d 1180, 1184 (11th Cir. 1991).

12. As set forth above, Baron has continually disregarded the Bankruptcy Court's warnings and orders and has continued to hire and fire lawyers at an alarming rate. Such actions have, and will continue, to frustrate the administration of the Bankruptcy Case and the bankruptcy estate of Ondova. Furthermore, Baron's actions will also continue to place Ondova's bankruptcy estate (and, thus, recoveries to its rightful creditors) at risk due to a continued stream of Baron's attorneys' making claims against Ondova and its bankruptcy estate.

13. Therefore, the appointment of a receiver is necessary under the circumstances in order to remove Baron from control of his assets and end his ability to further hire and fire a growing army of attorneys.

14. The Trustee recommends to this Court that Peter Vogel, currently the Special Master in this case, be appointed receiver in light of his involvement and experience in this case.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that the Court appoint a receiver over Baron and all of his assets, effective immediately.

Respectfully submitted this 24th day of November, 2010.

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Raymond J. Urbanik
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**ATTORNEYS FOR DANIEL J. SHERMAN,
CHAPTER 11 TRUSTEE**

CERTIFICATE OF SERVICE

I hereby certify that, on November 24, 2010, a true and correct copy of the foregoing document was sent to all parties requesting electronic service through the Court's ECF system as well as the following parties via e-mail:

Gary G. Lyon
P.O. Box 1227
Anna, TX 75409
glyon.attorney@gmail.com

Martin Thomas
P.O. Box 36528
Dallas, TX 75235
thomas12@swbell.net

/s/ Raymond J. Urbanik
Raymond J. Urbanik

EXHIBIT "A"

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

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

THE DATE OF ENTRY IS
ON THE COURT'S DOCKET
TAWANA C. MARSHALL, CLERK

IN RE:	§	
	§	
ONDOVA LIMITED COMPANY,	§	Case No. 09-34784-SGJ-11
DEBTOR.	§	
<hr/>		
	§	
NETSPHERE, INC., ET AL.,	§	
PLAINTIFFS,	§	
	§	
VS.	§	Civil Action No. 3-09CV0988-F
	§	
JEFFREY BARON, ET AL.,	§	
DEFENDANTS.	§	

REPORT AND RECOMMENDATION TO DISTRICT COURT
(JUDGE ROYAL FURGESON):
THAT PETER VOGEL, SPECIAL MASTER, BE
AUTHORIZED AND DIRECTED TO MEDIATE ATTORNEYS FEES ISSUES

The undersigned bankruptcy judge makes this Report and Recommendation to the Honorable Royal Furgeson, who presides over litigation related to the above-referenced bankruptcy case styled *Netsphere v. Baron*, Case # 3-09CV0988-F (the "District Court Litigation"). The purpose of this submission is: (a) to report the status of certain matters pending before the bankruptcy court, that are related to the District Court Litigation; and (b)

to recommend that His Honor appoint Peter Vogel, Special Master in the District Court Litigation, to mediate issues relative to attorneys fees that are further described below.

I. BACKGROUND.

The bankruptcy court has held four status conferences in recent weeks in connection with the above-referenced bankruptcy case (on September 15, 22, and 30, 2010 and October 8, 2010). The bankruptcy court has heard reports and evidence at each status conference regarding the extent to which the so-called "Global Settlement Agreement" has been consummated. The "Global Settlement Agreement" refers to the Mutual Settlement and Release Agreement approved by the bankruptcy court on July 28, 2010 [see Order at Docket No. 394]¹, involving, among other things: (a) dozens of parties, but primarily the Ondova bankruptcy estate (through Chapter 11 Trustee, Daniel Sherman), Jeffrey Baron, the Manilla/NetSphere parties, the Village Trust, the MMSK Trust, and various United States Virgin Island entities; (b) a split of a portfolio of internet domain names; (c) certain payments to the Ondova bankruptcy estate by Manilla/NetSphere and the Village Trust; (d) the settlement of more than a half-dozen lawsuits involving Ondova and/or Jeffrey Baron; and (e) a broad release of claims. While the bankruptcy court has heard positive statements

¹ All docket number references herein refer to the docket entry numbers on the PACER/ECF docket maintained in the *In re Ondova Limited Company* ("Ondova") bankruptcy case (Case No. 09-34784-sgj-11).

from the Chapter 11 Trustee indicating that there has been substantial consummation of the Global Settlement Agreement (*i.e.*, payment of more than one million dollars of settlement funds to the Ondova bankruptcy estate by Manilla/NetSphere; payment of certain additional settlement funds to the Ondova bankruptcy estate from the Village Trust; dismissals of all lawsuits except for the District Court Litigation;² appointment of a successor Trustee and Protector over the Village Trust; steps toward transferring the so-called "Odd Names Portfolio" portion of the internet domain names to a new Registrar away from Ondova), the bankruptcy court has had lingering concerns at each of the status conferences regarding Jeffrey Baron's commitment to completing his obligations under the Global Settlement Agreement, and possibly taking actions to frustrate the Global Settlement Agreement. Part of the bankruptcy court's concerns in this regard have been fueled by the fact that Jeffrey Baron has continued to hire and fire lawyers for himself and certain entities that are parties to the Global Settlement Agreement (*e.g.*, Quantec), and has instructed such lawyers to file pleadings—even after entry into the Global Settlement Agreement—

² The District Court Litigation, as well as the bankruptcy case of Ondova, remain open, so that there will be fora in which the parties can seek relief to enforce or interpret the Global Settlement Agreement. Additionally, there is remaining case administration needed in the Ondova bankruptcy case (namely, resolution and payment of claims—now that there are funds to pay creditors).

as though the matters resolved in the Global Settlement Agreement are far from over.

But the concern over the hiring-and-firing of lawyers is even more problematic than what the bankruptcy court mentions above. The bankruptcy court has had a growing concern that Jeffrey Baron's actions *may be exposing the Ondova bankruptcy estate to possible administrative expense claims* for amounts owed to attorneys that *Jeffrey Baron should pay or entities with which he is connected (Quantec, Village Trust, etc.) should rightfully pay*. To further explain, the court summarizes below some of what has occurred before and after the Global Settlement Agreement was reached.

II. THE CAVALCADE OF ATTORNEYS.

When Jeffrey Baron started hiring and firing lawyers shortly after the Global Settlement Agreement was reached, the bankruptcy court took judicial notice (at a September 15, 2010 status conference) that Jeffrey Baron and Ondova have had *dozens of sets of lawyers* in the past four years, since the litigation with Manilla/NetSphere and other parties commenced. At least the following lawyers have served as former counsel to Ondova and/or Jeffrey Baron in the litigation with Manilla/NetSphere that started in the state district court in Dallas County (before the next phase of litigation between the parties started in the District Court Litigation): (i) Mateer & Schaffer; (ii)

Carrington Coleman Sloman & Blumenthal; (iii) Bickel & Brewer; (iv) The Beckham Group; (v) The Aldous Law Firm; (vi) The Rasansky Law Firm; (vii) Fee Smith Sharp & Vitullo; and (viii) Friedman & Feiger.

Additionally, far more than a dozen attorneys' names were listed in Ondova's Bankruptcy Schedules (Schedule F—the list of pre-bankruptcy unsecured creditors of Ondova) as being owed significant sums of money by Ondova (not the least of which was the Carrington Coleman law firm, that filed a claim for \$224,233.27, and Bickel & Brewer which is scheduled as being owed \$42,500).

Fast forwarding to the post-bankruptcy time period, at least the following lawyers have become engaged by Jeff Baron or entities he directs (or is the ultimate owner/beneficiary of) *since* the Ondova bankruptcy case was filed: (i) Paul Keiffer (Wright, Ginsburg & Brusilow) for Ondova;³ (ii) Gerrit Pronske (Pronske & Patel) for Jeffrey Baron individually;⁴ (iii) Steven

³ Mr. Keiffer and his firm filed an application to be employed by Ondova on July 29, 2009 [Doc. No. 5], which application was granted by this court [Doc. No. 57]. Then, Mr. Keiffer moved to withdraw just a month-and-a-half later, on September 11, 2009 [Doc. No. 83], which the court granted on October 1, 2009 [Doc. No. 108].

⁴ Pronske & Patel moved to withdraw from representing Jeffrey Baron on September 7, 2010, after representing Mr. Baron for many months in the bankruptcy case [Doc. No. 419], citing nonpayment of more than \$200,000 of fees during the Ondova bankruptcy case, conflicts of interest—as Jeffrey Baron has now sued them—and also a concern that Jeffrey Baron may be engaging in fraudulent transfers. This request to withdraw was granted by the bankruptcy court [Doc. No. 449].

Jones for Jeffrey Baron individually;⁵ (iv) Gary Lyon for Jeffrey Baron individually;⁶ (v) Dean Ferguson for Jeffrey Baron individually;⁷ (vi) Martin Thomas for Jeffrey Baron individually;⁸ (vii) Stanley Broome for Jeffrey Baron individually;⁹ and (viii) James Eckles for Quantec.¹⁰ Several

⁵ Mr. Jones made a brief cameo appearance as criminal counsel to Mr. Baron during the Ondova bankruptcy case on September 11 and 28, 2009.

⁶ Attorney Gary Lyon, who has been representing Jeffrey Baron individually for many months in the bankruptcy court and District Court, recently requested to have attorney Martin Thomas substituted in his place or approved as co-counsel with him [see, e.g., Doc. No. 458]. For the first time, Mr. Lyon announced in September 2010 that he is only admitted to practice law in the State of Oklahoma, although admitted in the courts in the Northern District of Texas, and Mr. Lyon felt this was an ethical problem unless he associated with co-counsel (here, suggesting Martin Thomas).

⁷ Dean Ferguson appeared for Jeffrey Baron individually at one hearing in the Ondova bankruptcy case (on September 15, 2010) and said he had been representing Jeffrey Baron for some time in connection with out-of-court negotiations relating to the Ondova bankruptcy case, but he would not be seeking to go forward because of non-payment of fees.

⁸ Attorney Martin Thomas (who has newly filed a notice of appearance in the bankruptcy case) [Doc. No. 37, filed on September 14, 2010] seeks to be primary counsel now to Jeffrey Baron individually. The court signed an order on October 12, 2010 allowing Martin Thomas to represent Mr. Baron (with Gary Lyon) in the bankruptcy case.

⁹ Attorney Stanley Broome (who has newly sued Pronske & Patel for Jeffrey Baron in September 2010) has filed a notice of appearance for Jeffrey Baron in the bankruptcy case [Doc. No. 438, filed September 15, 2010].

¹⁰ Attorney James Eckles filed a notice of appearance for Quantec, LLC on September 21, 2010 [Doc. No. 450]. He has already filed a request that the court interpret part of the Global Settlement Agreement in a way that the court found unsupportable. His request was stricken. It appears to the bankruptcy court that Mr. Eckles is acting primarily for Mr. Baron, individually. He admitted that he had

lawyers have appeared for the Virgin Island entities of which Jeffrey Baron is the beneficiary including (i) Eric Taube (Hohmann, Taube & Summers), (ii) Hitchcock Everitt LLP, (iii) Craig Capua (West & Associates, LLP), and (iv) Shrurig Jete Becket Tackett.

Jeffrey Baron's habit of hiring and then firing lawyers, in many cases after they have incurred significant fees on his or Ondova's behalf (or on behalf of other entities he controls or is beneficiary of), has grown to a level that is more than a little disturbing. As the court noted in court on September 15, 2010, at the very least, it smacks of the possibility of violating Rule 11 (*i.e.*, it suggests a pattern of perhaps being motivated by an improper purpose, such as to harass, cause delay, or needlessly increase the cost of litigation for other parties). Still more troubling is the possibility to the court that Jeffrey Baron may be engaging in the crime of theft of services. See Texas Penal Code §§ 31.01(6) & 31.04 ("A person commits theft of service if, with intent to avoid payment for service that he knows is provided only for compensation: (1) he intentionally or knowingly secures performance of the service by deception, threat, or false token"; "services" includes "professional services"). This crime can be a misdemeanor or a felony—depending on the amount involved. If Jeffrey Baron is constantly engaging lawyers

represented Mr. Baron individually in another matter.

without ever intending to pay them the full amounts that they charge, and then terminating them when they demand payment, this court is troubled that there are possibly criminal implications for Jeffrey Baron.

The bankruptcy court has announced that it will not allow this pattern to occur any further in these proceedings, and Jeffrey Baron will not be allowed to hire any additional attorneys. Mr. Baron has been told that he can either retain Gary Lyon and Martin Thomas through the end of the bankruptcy case (which this court does not expect to last much longer) or he can proceed *pro se*. The bankruptcy court has further warned Mr. Baron that if he chooses to proceed *pro se* and does not cooperate in connection with final consummation of the Global Settlement Agreement, he can expect this court to recommend to His Honor that he appoint a receiver over Mr. Baron, pursuant to 28 U.S.C. §§ 754 & 1692, to seize Mr. Baron's assets and perform the obligations of Jeffrey Baron under the Global Settlement Agreement.¹¹

III. RECOMMENDATION.

As alluded to above, the bankruptcy court's concerns over the above hiring and firing of lawyers by Mr. Baron is multi-faceted (e.g., Rule 11 implications; frustration of the Global

¹¹ The bankruptcy court is concerned that it would not have the power to appoint a receiver over Mr. Baron, due to language in section 105(b) of the Bankruptcy Code.

Settlement Agreement; possible criminal theft of services, etc.). But, at this juncture, the bankruptcy court is perhaps most concerned about the risk that the bankruptcy estate has and will be exposed to administrative expense claims as a result of Mr. Baron's behavior (e.g., claims occurring during the post-bankruptcy time period, with regard to which payment may be sought from the Ondova bankruptcy estate, and which claims would "prime" pre-bankruptcy unsecured claims). For example, the Pronske & Patel law firm has taken the position that they are owed and have not been paid approximately \$200,000 incurred representing Mr. Baron. Pronske & Patel may seek a "substantial contribution" administrative expense claim against the Ondova bankruptcy estate (see 11 U.S.C. §503(b)(3)(D) & (4), which contemplate that an administrative expense claim may be allowed for a creditor or professional for a creditor who makes a "substantial contribution" in a case under chapter 9 or 11 of this title). Pronske & Patel have already filed a counterclaim against Mr. Baron in an adversary proceeding Mr. Baron has filed against them. Similarly, certain law firms who have represented the Virgin Island entities of which Jeffrey Baron is the beneficiary (specifically, Hohmann, Taube & Summers, Hitchcock Everitt LLP, West & Associates, LLP, and Shrurig Jete Becket Tackett) have filed a Motion for Allowance of Attorneys Fees Pursuant to the Supplemental Settlement Agreement in the Ondova

bankruptcy case [Doc. No. 452, on September 21, 2010], which represents that they have incurred approximately \$150,000 in fees, after the execution of the Global Settlement Agreement, as a result of status conferences and Show Cause hearings involving Mr. Baron and his entities and that there are specific provisions of certain settlement documents that may permit them to seek a court order allowing these to be paid. If the Ondova bankruptcy estate is imposed with administrative expense claims from these or other attorneys (the risk of which appears to be genuine), then it should be entitled to a claim for reimbursement against Mr. Baron or the entity that incurred the fees. It was because of this risk—and also because of the risk that the bankruptcy court believed it might ultimately find Jeffrey Baron in contempt of the bankruptcy court's order approving the Global Settlement Agreement—that the court ordered on September 16, 2010 [Doc. No. 441] that the Village Trust be instructed by Jeffrey Baron to immediately remit \$330,000 to the Ondova Bankruptcy Trustee as a "security deposit" against these risks. Bankruptcy Trustee Daniel Sherman currently holds this \$330,000 of funds, pending further orders of the court.

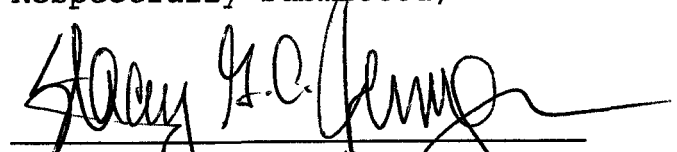
The bankruptcy court now recommends that His Honor appoint his Special Master, Peter Vogel, to conduct a global mediation among Daniel Sherman, Jeffrey Baron, and the various attorneys who may make a claim to this \$330,000 of funds or otherwise may

assert an administrative expense claim against the Ondova bankruptcy estate, in respect of attorneys fees they incurred postpetition for services provided to Jeffrey Baron or entities he controls or is the beneficiary of, and which services may have provided a substantial contribution to the estate. This court has subject matter jurisdiction to make this recommendation, as there could conceivably be an impact on the Ondova bankruptcy estate, if attorneys who represented Jeffrey Baron and his related entities go unpaid and make "substantial contribution" claims against the bankruptcy estate. The bankruptcy court believes that some of these "substantial contribution" claims could be meritorious.

The bankruptcy court has been informed that Mr. Vogel agrees to perform a mediation and that he and Bankruptcy Trustee Sherman are prepared to recommend a format and structure for the mediation and for the participants. The bankruptcy court would defer to Mr. Vogel, Mr. Sherman, and His Honor with regard to the details of the mediation.

Dated: October 12, 2010

Respectfully submitted,



Stacey G. C. Jernigan
United States Bankruptcy Judge

EXHIBIT "B"

CAUSE NO. 366-04714-2010

ROBERT J. GARREY,

IN THE DISTRICT COURT

Plaintiff

v.

COLLIN COUNTY, TEXAS

**JEFFREY HARBIN, JEFFREY
BARON, THE VILLAGE TRUST,
QUANTEC LLC, AND NOVO
POINT LLC,**

Defendants.

366 JUDICIAL DISTRICT

PLAINTIFF'S FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff files this lawsuit against Defendants Jeffrey Harbin, Jeffrey Baron, The Village Trust, Quantec LLC, Novo Point, LLC, as follows:

PARTIES

1. This lawsuit should be governed by Level II.
2. Plaintiff is a resident of Collin County Texas. Jurisdiction and venue are proper in the Court.
3. Defendant Harbin is a resident of Dallas County, Texas, and may be served where he is found or at his residence 6503 Camille Ave., Dallas, Texas 75252.
4. Defendant Baron is a resident of Dallas County, Texas, and may be served where he is found or at his residence 2200 E. Trinity Mills Road, Carrollton, Texas 75006.
5. Defendant The Village Trust, is a Cook Islands trust acting by and through its sole beneficiary, Baron. The "nominal" Trustee of the Trust is Mr. Brian Mason who is located at Asia Trust Ltd, Level 2, BCI House, P.O Box 822, Rarotonga, Cook Islands. Corporate

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DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY *Kellie*

formalities have been ignored such that service on Defendant Baron, the sole beneficiary of the trust and the person directing its activities, is sufficient to constitute service of citation on The Village Trust. In addition, the Trust has consented to jurisdiction of the State of Texas by participating in legal proceedings in Texas, maintaining an office in Texas, and allowing Baron to manipulate the form of the Trust as part of his scheme to defraud creditors of the bankruptcy of one of his companies, Ondova Limited.

6. Quantec LLC is one of the shell entities controlled by Baron and, upon information and belief, is used as a shell entity to hide assets from Baron's creditors and creditors of Baron's former company, Ondova Limited. Quantec LLC is managed by Defendant Harbin. Corporate formalities have been disregarded and Baron directs and controls the activities of Quantec by and through Harbin, such that service on Harbin, the "Managing Agent" of Quantec LLC is sufficient to constitute service of citation on Quantec LLC.

7. Novo Point LLC is one of the shell entities controlled by Baron and, upon information and belief, is used as a shell entity to hide assets from Baron's creditors and creditors of Baron's former company, Ondova Limited. Novo Point LLC is managed by Defendant Harbin. Corporate formalities have been disregarded and Baron directs and controls the activities of Novo Point LLC by and through Harbin, such that service on Harbin, the "Managing Agent" of Novo Point LLC is sufficient to constitute service of citation on Novo Point LLC.

FACTS

8. Defendant Baron is a liar, cheat and thief. For more than three years he has embarked upon a plan and scheme to use shell companies and The Village Trust to defraud creditors and to circumvent orders from federal District Court and Bankruptcy Court judges.

Specifically, Baron-through his shell companies Quantec LLC and Novo Point LLC and the Village Trust- and with the assistance of Harbin routinely hire attorneys to represent their illegal interests then promptly refuse to pay them for the services rendered. Baron has been noted as a vexatious litigant by more than one Court, he has been accused of seeking to defraud creditors in a pending bankruptcy and he has violated court orders restricting his further ability to hire more lawyers. At the present time more than 15 lawyers and law firms are seeking recovery of money, ordered to be set aside by court order, for legal services rendered to Baron and The Village Trust and other entities controlled by Baron.

9. Baron, acting on his own behalf and on behalf of the entities he controls, and Harbin as the "Managing Agent" for Quantec LLC, and Novo Point, LLC hired Plaintiff as General Counsel for a minimum 3 month engagement. Defendants made promises to Plaintiff that he would be paid, that sufficient cash resources existed for him to be paid and that the operation Baron was running was adequately funded and presented an ongoing, viable business opportunity. However, none of that was true. Moreover, Defendants concealed from Plaintiff the true objective of their enterprise which was to circumvent court orders, continue a pattern of theft of legal services, and seek to disregard and flaunt court orders from federal District Court and Bankruptcy Court Judges. Based upon the promises made and without the benefit of the information withheld from him, Plaintiff left his law firm position and began work for Defendants on November 1, 2010. Before doing so, Plaintiff negotiated and the parties agreed to an engagement agreement with a minimum three month term.

10. Immediately upon reporting to work on November 1, 2010, Defendants changed the scope of Plaintiff's assignments. Instead of performing services as General Counsel for Quantec and Novo Point, Plaintiff was instructed by Baron to violate court orders, engage in

numerous questionable, if not fraudulent, transactions, and specifically assist him as he sought to steal legal services from private attorneys working for him directly and for his shell companies. The primary objective of Baron's conspiracy was to leverage the stolen legal services from *current* attorneys to pay as little money as possible to *previous* attorneys who were making claims against him and his shell companies in related litigation.

11. The second, and perhaps more egregious objective of Baron's conspiracy was the fact that Baron, upon information and belief, operated his shell companies- with the assistance of Harbin- as a common enterprise; moving money from one entity to another and directing the activities of all of the entities solely for his personal best interests in an attempt to emerge with ample financial resources from the shell entities to reconstitute his bankrupt company, Ondova Limited.

12. Once Plaintiff started to work for Defendants, Harbin became unavailable to Plaintiff. Harbin refused to take Plaintiff's calls or respond to emails. Also, Harbin refused to formally sign the engagement agreement that had been negotiated and agreed to by all parties.

13. The first payment due Plaintiff was due on November 15, 2010, and Harbin refused to pay it. His refusal is without cause or justification. Defendants refused to pay Plaintiff because he was advocating for the payment of all attorneys rendering services to Defendants and he was not in favor of violating court orders and refused to do so. All conditions precedent to the payment obligation have been performed. Indeed, in hindsight it appears very clear that Baron and Harbin's actions were part of an overall plan and conspiracy to steal legal services, perpetrate a fraud on Plaintiff and on various courts, in addition to breaching the agreement with Plaintiff.

CAUSES OF ACTION

7. Defendants entered into an agreement with Plaintiff pursuant to which Plaintiff was to provide legal services as General Counsel for Defendants for a minimum 3 month period of time. Plaintiff started work on November 1, 2010. The first payment was due Plaintiff on or before November 15, 2010. Defendants failed to pay Plaintiff as required. Thus, Defendants have breached the engagement agreement by failing and refusing to pay Plaintiff the sums agreed upon despite Plaintiff's work for Defendant. In the alternative, Plaintiff has provided services to Defendants for which he has not been paid and recovery, via quantum meruit is appropriate.

8. Defendant Harbin, acting individually and on behalf of the entities he managed, and Baron, acting individually and on behalf of the entities he controlled: The Village Trust, Quantec LLC and Novo Point LLC, made numerous false and misleading statements intended to induce Plaintiff to leave his law firm position to take the position of General Counsel for Defendants' various companies. At the time Defendants made such representations, they knew or should have known such statements were false, that they had no intention of following through with any of them, including, but not limited to payment to Plaintiff for services provided. In fact, Defendants expressly concealed from Plaintiff their pattern and practice of regularly hiring attorneys, requiring them to perform a great deal of work in a short period of time, and refusing to pay for such services, or their plan to seek to circumvent federal court orders. ***Defendants regularly lie, cheat and steal professional services!*** Plaintiff has suffered actual and consequential damages as a result of Defendants' fraud.

9. Defendants' actions were carried out intentionally, with malice and a specific intent to deceive. As a result the imposition of punitive damages is warranted.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that this Court, after final trial award: actual damages for breach of contract, attorneys fees and court costs, all actual damages resulting from Defendants' fraud, and an appropriate sum for punitive damages to punish and deter Defendants from continuing their fraudulent practices. Total damages sought will be no less than \$1,000,000.00.

Respectfully submitted,

By: Robert J. Garrey

Robert J. Garrey, P.C.

State Bar No. 07703420

114 Salsbury Cir.

Murphy, Texas 75094

(214) 478 9625 (Telephone)

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EXHIBIT "C"

Stanley D. Broome
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214-574-7501 – Facsimile
Email: SBroome@Broomelegal.com

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

In re:	§	CASE NO. 09-34784-sgj-11
	§	Chapter 11
ONDOVA LIMITED COMPANY,	§	
	§	
Debtor.	§	CIVIL ACTION NO.
	§	
<hr/>		
JEFF BARON	§	ADV. NO. 10-03281-sgj
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
GERRIT PRONSKE, INDIVIDUALLY and PRONSKE & PATEL, P.C.	§	
	§	
Defendants.	§	

STANLEY D. BROOME’S MOTION TO WITHDRAW AS ATTORNEY OF RECORD

(FILED SUBJECT TO MOTION TO REMAND)

Stanley D. Broome asks this court to allow him to withdraw as attorney in charge for Plaintiff, Jeff Baron.

1. This motion is filed subject to the pending motion to remand and while the case is abated pending an agreed mediation.
2. Plaintiff is Jeff Baron. Defendant is Gerrit Pronske, Individually and Pronske & Patel, P.C.

3. Plaintiff sued Defendant in State Court for unconscionable fee, failure to agree upon the terms in advance, failure to properly handle the legal representation and full disgorgement of fees.

4. There is good cause for this court to grant the motion to withdraw because Plaintiff has not paid the movant's attorney's fees as agreed.

5. This case is currently abated pending a decision on the previously filed motion to remand and an agreed mediation. Jeff Baron and Defendant have agreed to mediate this dispute before an agreed mediator, Joyce Lindauer, on December 3, 2010. Ms. Lindauer's office information is 8140 Walnut Hill Lane, Suite 301, Dallas, TX 75231, telephone 972-503-4033 and facsimile 972-503-4034. Movant has made Jeff Baron and his new counsel, Sid Chesnin, aware of this date and served them with a copy of this pleading. There are no other pending deadlines.

6. Counsel for the Plaintiff has delivered a copy of this motion to Plaintiff Jeffrey Baron and his new counsel, Sid Chesnin, and has notified them in writing of the right to object to the motion.

7. Jeff Baron and his new counsel, Sid Chesnin, were provided a copy of this motion in advance and object to the motion.

CONCLUSION

8. Stanley D. Broome is requesting that this Court allow him to withdraw as attorney in record for Plaintiff due to the fact that the Plaintiff has failed to pay movant's legal fees in this matter. For this reason, Stanley D. Broome asks this court to grant his Motion to Withdraw as attorney in charge for Plaintiff.

Respectfully submitted,

BROOME LAW FIRM, PLLC

/s/ Stanley Broome

Stanley Broome

State Bar No. 24029457

Broome Law Firm, pllc

105 Decker Court, Suite 850

Las Colinas TX 75062

214-574-7500 Telephone

214-574-7501 Facsimile

Attorney for Plaintiff Jeff Baron

CERTIFICATE OF CONFERENCE

I hereby certify that counsel for the movant and Gerrit Pronske, counsel for the Defendants, conducted a conversation on November 17, 2010 and there is no objection to this Motion to Withdraw.

/s/ Stanley Broome

Stanley Broome

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Notice of Hearing was served on 23rd day of November 2010 on all counsel of record via the Court's ECF System and in the manner shown below:

VIA REGULAR MAIL AND ELECTRONIC MAIL

To: Gerrit Pronske
Pronske & Patel, P.C.
2200 Ross Avenue, Suite 5350
Dallas, Texas 75201

And by CM RRR and E-Mail to:

Jeff Baron (**CM RRR 7008 1140 0002 5072 1767**)
2828 Trinity Mills Road, Ste 130
Carrollton, TX 75006

Sid Chesnin (**CM RRR 7008 1140 0002 5072 1774**)
Attorney for Jeff Baron
4841 Tremont Street, Ste 9
Dallas, TX 75246

Joyce Lindauer (**CM RRR 7008 1140 0002 5072 1781**)
Mediator
8140 Walnut Hill Lane, Ste 301
Dallas, TX 75231

/s/ Stanley Broome
Stanley Broome

10:19 1 unsuccessful.

2 MR. JACKSON: For the record, I was not hired by
3 Mr. Baron. I was hired by Mr. Harbin, who wrote a check
4 as my retainer off his own personal account.

5 THE COURT: That's fine. I'm just explaining.

6 We have a settlement in this matter. So we're
7 just trying now to bring the loose ends together. I think
8 I have had sincere lawyers who have come in and tried to
9 represent Mr. Baron to the best of their ability. I don't
10 think any of them have lasted more than a couple of weeks.

11 MR. JACKSON: Yes, your Honor.

12 THE COURT: And so my goal is to get control of
13 the money to a certain level so that I can pay the lawyers
14 who have tried their best to help Mr. Baron. There may be
10:20 15 other things hanging out there that I don't know about
16 yet. Once I do that, I'm glad to end this receivership
17 and let Mr. Baron go on his way and so forth. And I'm
18 glad to have Mr. Baron have a good life. He's been a
19 frustration. But I don't hold him any ill will. So the
20 main thing I want the receiver to be able to do is
21 legitimately bring money into the receivership, collect
22 the money so that we can get all of these people who had
23 legitimate complaints, and if I need to, I will hear them
24 all. But I have sat here and watched them come into court
25 one after another after another. And I want to sit down

10:21 1 and get everybody paid, get all the loose ends of this
2 settlement finalized and everybody go about their
3 business. So if you are here to help cooperate in that
4 effort, I welcome you.

5 MR. JACKSON: Your Honor, if I may. I would
6 like the opportunity to craft an order with the receiver
7 that implements exactly what your goal is, that allows my
8 two clients to operate as ongoing businesses under his
9 supervision and be profitable with the issues that came up
10 all through this last week being addressed subject to
11 approval.

12 THE COURT: I have no objection to profit. I
13 stand four square for profit.

14 Now, Mr. Jackson, this is constructive. Let me
10:22 15 talk to Mr. Golden a minute and see if he feels like there
16 is some way we can work through this to achieve his
17 objectives while helping you achieve yours.

18 MR. JACKSON: To that extent, your Honor, I
19 don't think we need to go through the receiver's report as
20 to my clients. If it's Mr. Baron, that's fine.

21 THE COURT: Well, I have received the report. I
22 have read the report. And I realize you have been very
23 frustrated, Mr. Golden. I feel like you have been
24 bombarded with requests and so forth. My goal is to stop
25 that and sit down in an orderly way and get this matter

1 Manila Netsphere?

2 MR. URBANIK: That is correct.

3 THE COURT: 1 million 200 hundred --

4 MR. URBANIK: Fifty thousand dollars.

5 THE COURT: -- 50 thousand.

6 MR. TAUBE: Your Honor, if it'll help the Court, I
7 have the supplemental agreement with all the signatures, and I
8 am happy to deliver it to the counselor right now.

9 THE COURT: Okay. If you would.

10 MR. URBANIK: Mr. Lyon, this is all agreed to? Okay.

11 MR. LYON: (Inaudible.)

12 MR. URBANIK: Okay.

13 Your Honor, that's it. We -- the settlement payment is
14 the only remaining item because all signatures are in, all
15 documents have been signed, all exhibits, the Court order we
16 needed from Judge Furgeson. We are ready to dismiss all those
17 other lawsuits once we receive the Netsphere Manila payment.

18 There is a payment due from The Village Trust today of \$32,000
19 that I haven't seen evidence it's come in yet. The first
20 installment of the deferred payment is due from The Village
21 Trust.

22 THE COURT: The first installment of the \$600,000
23 deferred payment --

24 MR. URBANIK: There is a \$450,000 -- there is a
25 \$450,000 component that goes through Mr. Sherman. And Manila

1/4/2011 HEARING

k

LYON - DIRECT - BARRETT

33

09:52 1 A Ondova Limited Company.

2 Q So you weren't involved in Ondova?

3 A Yes, sir.

4 Q And in fact were you also -- Were you also
5 ordered at some point to attend a mediation subsequent to
6 that?

7 A I do not recall being ordered to attend a
8 mediation, no, sir.

9 Q You don't recall that?

10 A No, sir.

11 Q Did the settlement agreement, in fact, require
12 agreed orders of dismissal of the case be executed within
13 two days after the transfer date?

14 A Yes, sir.

09:53 15 Q And in fact, was that transfer date
16 approximately August 5th, 2010?

17 A I don't recall the date.

18 Q Okay. And to your knowledge, did Jeff Baron
19 comply with that?

20 A To my knowledge, he did.

21 Q And that was the only stipulation in the
22 settlement agreement that he complied with, correct?

23 A He also was required to sign as trustee of the
24 Day Star Trust which he was. We also negotiated a
25 settlement where he was to sign for the -- There is

No. 09-34784-sgj11

10/28/10 Bankruptcy Hearing

6

1 motion of VeriSign for an allowance of an administrative
2 expense claim or, in the alternative, to compel assumption or
3 rejection or relief from stay to terminate their agreement
4 with Ondova. We have set the trustee's motion for
5 determination of pricing with respect to domain name
6 registration agreement, and then we've got a continued setting
7 on the show cause matter that we've had set many times now
8 where we have expressed concerns about compliance with
9 obligations under the settlement agreement by Mr. Baron, is
10 there a hundred percent compliance or not, and what do we need
11 to do about it, if not.

12 So with that, Mr. Urbanik, can you start by reporting
13 where we are in the continuing saga of settlement agreement
14 implementation, as well as tell me where we are with the
15 VeriSign issue and transferring the domain names out of the
16 estate issue?

17 MR. URBANIK: Thank you, yes, Your Honor. Good
18 morning. The current status is that parties are all complying
19 with settlement agreement provisions in terms of payments and
20 other activities, so there has been no problem. Some payments
21 aren't yet due. Some payments aren't due yet from the
22 Netsphere/Manila parties. There are other parties that need
23 to come to the estate from the Village Trust, but they are
24 being sort of made a part of a separate agreement we're
25 working on to wind down Ondova's affairs. I have the docket

EXECUTION VERSION

EXHIBIT K

Form of Agreed Order of Dismissal/Joint Stipulation in the Dallas Federal Case

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

NETSPHERE, INC., et al.,	§	
	§	
Plaintiffs,	§	
	§	
	§	
	§	
vs.	§	CIVIL ACTION NO.
	§	3-09CV0988-F
JEFFREY BARON, et. al.,	§	
	§	
Defendants.	§	
	§	

STIPULATED DISMISSAL WITH PREJUDICE

Plaintiffs, Netsphere, Inc., Manila Industries, Inc. and Munish Krishan (collectively “Plaintiffs”), filed the Complaint in Civil No. 3-09-CV-0988-F against Defendants, Jeffrey Baron and Ondova Limited Company d/b/a Compana, LLC (collectively “Defendants”). Charla Aldous (“Aldous”) and Jeffrey Rasansky (“Rasansky”) have intervened in this matter and Quantec LLC (“Quantec”), Novo Point LLC (“Novo Point”), and Iguana Consulting LLC (“Iguana”) have sought to intervene (Aldous, Rasansky, Quantec, Novo Point, and Iguana are herein collectively referred to as the “Intervenors”). Plaintiffs have now agreed upon a resolution of this matter with Defendants and Intervenors prior to a trial on the merits. Plaintiffs, Defendants and Intervenors hereby agree and it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. This Court has jurisdiction over the parties and subject matter of this action.
2. Any and all claims and counter-claims that have been or could have been asserted by Plaintiffs, Defendants and Intervenors are dismissed with prejudice to the right of Plaintiffs,

EXECUTION VERSION

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.
5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

<p>Netsphere, Inc. Signed: _____ Name: _____ Title: _____ Date: _____, 2010</p>	<p>Manila Industries, Inc. Signed: _____ Name: _____ Title: _____ Date: _____, 2010</p>
	<p>_____ <u>Munish Krishan</u> Date: _____, 2010</p>
<p>_____ <u>Jeffrey Baron</u> Date: _____, 2010</p>	<p>Ondova Limited Company By: Daystar Trust, Managing Member Signed: _____ Name: _____ Title: _____ Date: _____, 2010</p>
<p>Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed: <u><i>Daniel J. Sherman</i></u> Name: <u>DANIEL J. SHERMAN</u> Title: <u>Ch 11 Trustee</u> Date: <u>8/13</u>, 2010</p>	<p>Quantec LLC Signed: _____ Name: _____ Title: _____ Date: _____, 2010</p>

EXECUTION VERSION

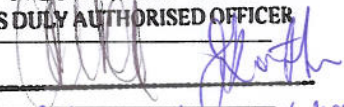
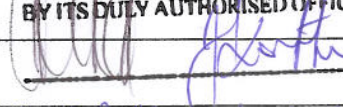
Defendants and Intervenor to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.
5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

<p>Netsphere, Inc.</p> <p>Signed: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2010</p>	<p>Manila Industries, Inc.</p> <p>Signed: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2010</p>
	<p>_____ <u>Munish Krishan</u></p> <p>Date: _____, 2010</p>
<p>_____ <u>Jeffrey Baron</u></p> <p>Date: _____, 2010</p>	<p>Ondova Limited Company By: Daystar Trust, Managing Member</p> <p>Signed: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2010</p>
<p>Ondova Chapter 11 Trustee By: Daniel J. Sherman</p> <p>Signed: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____, 2010</p>	<p>Quantec LLC</p> <p>Signed: <u>ATP NOMINEES LIMITED</u> <u>BY ITS DULY AUTHORISED OFFICER</u></p> <p>Name: <u>ANGELA POPE & JOSEFA ROTERA</u></p> <p>Title: _____</p> <p>Date: <u>9th July</u>, 2010</p>

EXECUTION VERSION

<p>Novo Point LLC ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER</p> <p>Signed: _____ </p> <p>Name: <u>ANGELA POPE & JORELYN KOTEKA</u></p> <p>Title: _____</p> <p>Date: <u>9th July</u>, 2010</p>	<p>Iguana Consulting LLC ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER</p> <p>Signed: _____ </p> <p>Name: <u>ANGELA POPE & JORELYN KOTEKA</u></p> <p>Title: _____</p> <p>Date: <u>9th July</u> 2010</p>
<p>_____ <u>Charla Aldous</u></p> <p>Date: _____, 2010</p>	<p>_____ <u>Jeffrey Rasansky</u></p> <p>Date: _____, 2010</p>

SO ORDERED:

Signed _____, 2010.

THE HONORABLE W. ROYAL FURGESON, JR.
U.S. DISTRICT COURT JUDGE

EXECUTION VERSION

10. **Abatement and Dismissal of Existing Cases.** The Parties acknowledge that the California Case is closed in that the dismissal was appealed but affirmed on June 3, 2009, by the appellate court via *Manila Industries Inc., et al. v. Ondova Limited Co. d/b/a Compana LLC, et al.*, No. 07-55232 (9th Cir. Ct. of Appeals), and any claims brought pursuant to such case are released pursuant to this Agreement and the terms herein. In such regard, each of the Parties agrees, within two (2) business days after the Transfer Date, to execute and deliver to Munsch Hardt Kopf & Harr, P.C., in escrow for filing, and it shall promptly file, Agreed Orders of Dismissal and/or Joint Stipulations of Dismissal with Prejudice in the Texas Case, VI Case, Phonecards.com Case and Dallas Federal Case in the exact form attached hereto as **Exhibits H, I, J and K**, respectively.
11. **Bankruptcy Court Approval.** This Agreement, and its validity, (i) is subject to the Bankruptcy Court's entry of the Final Settlement Order pursuant to Federal Rule of Bankruptcy Procedure 9019, and each of the Parties agrees to cooperate in obtaining the same through a motion seeking such approval; (ii) is subject to the delivery of the Cash Payment to the Chapter 11 Trustee on or before the Transfer Date (herein "Funding"); and (iii) notwithstanding anything to the contrary herein, shall not be binding on any of the Parties until the date of the Final Settlement Order and Funding. As used herein:
- A. "Final Settlement Order" shall mean an order approving this Agreement: (1) as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired, and as to which no appeal, petition for certiorari, stay or other proceeding for reargument or rehearing has been sought or ordered; (2) as to which a timely appeal, petition for certiorari, stay, reargument or rehearing thereof has been sought, but such request resulted in one of the following: (a) the request has been withdrawn, (b) the relief requested has been denied, or (c) the Bankruptcy Court's order shall have been otherwise affirmed by the highest court to which such order was appealed, or from which reargument or rehearing was sought, and no further timely request for appeal, reargument or rehearing may be made; or (3) which the Parties unanimously agree in writing, each in their own discretion, to rely upon following the Bankruptcy Court's entry of the order in question, notwithstanding any timely appeal, petition for certiorari, stay, reargument or rehearing sought with respect to such order by any third party.
- B. "Settlement Date" shall mean the day after the date on which the Bankruptcy Court's order approving this Agreement becomes a Final Settlement Order.
- C. Effectiveness. For avoidance of doubt, nothing whatsoever contained in this Agreement shall be binding on the Parties prior to the receipt by the Chapter 11 Trustee of the Cash Payment from Manila; and any provisions of this Agreement which are effective or occur prior to receipt of the Cash Payment are null and void if the Cash Payment is not received by the Chapter 11 Trustee.
12. **Intellectual Property.**
- A. The following shall be referred to as the "Netsphere Software": (a) domain names registered by Netsphere and/or Krishan and/or their privacy service that are not currently registered via Ondova, excluding the Remaining Allocated Names; (b) any search engine software developed in whole or in part by any of the Manila Parties or Manila Related Parties (hereinafter collectively referred to as the "Netsphere Parties"), including, but not limited to, the website, content and search engine software developed for *searchguide.com*, (herein, the "Search Engine Software"), (c) any software used to identify domain names to register developed in whole or in part by any of the Netsphere Parties (the "Registration

Exhibit F

From: GOLDEN, BARRY [mailto:bgolden@gardere.com]
Sent: Thursday, December 02, 2010 8:13 PM
To: 'jeffbaron1@gmail.com'
Cc: VOGEL, PETER; LOH, PETER
Subject: FW: Jeff Baron Receivership

Dear Mr. Baron,

As you know, I am counsel for the Receiver, Peter Vogel. The Receiver forwarded to me your e-mail below.

Judge Furgeson's Order Appointing Receiver ("Receiver Order") provides the Receiver with, among other things, the following powers and duties: (1) "exclusive control over, any and all 'Receivership Parties, which term shall include Jeffrey Baron," (2) "exclusive control over any and all 'Receivership Assets', which term shall include . . . accounts . . . and all cash" (the "Receiver Funds"), and (3) exclusive power "[t]o choose, engage, and employ attorneys . . . as . . . the Receiver deems necessary." The Receiver Order further provides that you "shall fully cooperate with and assist the . . . Receiver," and such assistance shall include "providing any information to the Receiver that the Receiver deems necessary."

Based on the powers and duties provided to the Receiver within the Receiver Order, the Receiver has retained me and others at my law firm to serve as counsel. Furthermore, based on the obligations imposed upon you under the Receiver Order, you—and that means you, personally, and not indirectly through any lawyer, agent, or any third party individual—shall cooperate and assist me and others at my law firm and provide us with information that we deem necessary to effectuate the Receiver Order.

The Receiver is furthermore instructing you as follows:

First, you are expressly prohibited from retaining any legal counsel. Should you retain any legal counsel, the Receiver may move the Court to find you in contempt of the Receiver Order.

Second, you are expressly prohibited from disbursing any Receiver Funds provided to you by the Receiver for anything other than the following daily-living expenses for yourself only: local transportation, meals, home utilities, medical care and medicine. Should you disburse any Receiver Funds provided to you by the Receiver (including, without limitation, the \$1,000 check enclosed in the letter I had delivered to you approximately two and a half hours ago) for anything other than the aforementioned daily-living expenses (including, without limitation, retaining an attorney), the Receiver may move the Court to find you in contempt of the Receiver Order. To be clear, you

shall not use any portion of the \$1,000 I sent you today to retain an attorney.

Should you have any questions, please do not hesitate to contact me.

Barry Golden
Counsel for the Receiver
214.999.4746

From: jeffbaron1@gmail.com [mailto:jeffbaron1@gmail.com]
Sent: Thursday, December 02, 2010 4:18 PM
To: VOGEL, PETER
Cc: LOH, PETER
Subject: RE: Jeff Baron Receivership

Dear Mr. Vogel,

Thank you for your email. I do want this account established, but now that I am without legal counsel, I am scared about what my rights and obligations are and how to communicate with you. I would like to renew my request for funds to hire counsel to advise on these issues and to communicate with you.

Thank you for your consideration.

Jeff

From: VOGEL, PETER [mailto:pvogel@gardere.com]
Sent: Thursday, December 02, 2010 1:20 PM
To: LOH, PETER; 'jeffbaron1@gmail.com'
Cc: GOLDEN, BARRY; BLAKLEY, JOHN DAVID
Subject: Re: Jeff Baron Receivership

Mr. Baron,

I'm in Comerica Bank at this moment & need this information as soon as possible so we can complete opening the account. We will bring you a signature card & checks this afternoon so the sooner we get this information the better.

Thank you.

Peter Vogel,
Receiver

From: LOH, PETER
To: 'jeffbaron1@gmail.com' <jeffbaron1@gmail.com>
Cc: VOGEL, PETER; GOLDEN, BARRY; LOH, PETER; BLAKLEY, JOHN DAVID
Sent: Thu Dec 02 13:14:38 2010
Subject: Jeff Baron Receivership

Mr. Baron: I am counsel for the Receiver, Peter Vogel, in this case. The Order

Appointing Receiver provides that “the Receiver shall immediately have the following express powers and duties . . . [t]o make payments and disbursements from the Receivership Estate that are necessary or advisable for carrying out the directions of, or authority granted by, this order.” To that end, the Receiver is establishing a bank account that he will fund so that you may have access to money. In order to give you signature authority on the account, we need certain personal information, i.e. birthdate, social security number, driver’s license number, address, and phone number.

Please note that the Receiver will determine the appropriate amounts to be disbursed into the account and in what time periods on a going forward basis. In fact, the amounts disbursed and time periods for disbursement may vary slightly or greatly. The Receiver is still making a determination in this regard and will likely require additional information from you and other parties which will be detailed at a later date.

Can you please call me at the number below or respond to this email with the information requested above? Thank you.

Peter L. Loh | Partner
Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000 | Dallas, TX 75201
214.999.4391 direct
214.729.9058 cell
214.999.3391 fax
[Gardere](#) | [Bio](#) | [vCard](#)



IRS CIRCULAR 230 DISCLOSURE:

This communication has not been prepared as a formal legal opinion within the procedures described in Treasury Department Circular 230. As a result, we are required by Treasury Regulations to advise you that for any significant Federal tax issue addressed herein, the advice in this communication (including any attachments) was not intended or written to be used, and it cannot be used by the taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer.

NOTICE BY GARDERE WYNNE SEWELL LLP

This message, as well as any attached document, contains information from the law firm of Gardere Wynne Sewell LLP that is confidential and/or privileged, or may contain attorney work product. The information is intended only for the use of the addressee named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this message or its attachments is strictly prohibited, and may be unlawful. If you have received this message in error, please delete all electronic copies of this message and its attachments, if any, destroy any hard copies you may have created, without disclosing the contents, and notify the sender immediately. Unintended transmission does not constitute waiver of the attorney-client privilege or any other privilege.

Unless expressly stated otherwise, nothing contained in this message should be construed as a digital or electronic signature, nor is it intended to reflect an intention to make an agreement by electronic means.

without ever intending to pay them the full amounts that they charge, and then terminating them when they demand payment, this court is troubled that there are possibly criminal implications for Jeffrey Baron.

The bankruptcy court has announced that it will not allow this pattern to occur any further in these proceedings, and Jeffrey Baron will not be allowed to hire any additional attorneys. Mr. Baron has been told that he can either retain Gary Lyon and Martin Thomas through the end of the bankruptcy case (which this court does not expect to last much longer) or he can proceed *pro se*. The bankruptcy court has further warned Mr. Baron that if he chooses to proceed *pro se* and does not cooperate in connection with final consummation of the Global Settlement Agreement, he can expect this court to recommend to His Honor that he appoint a receiver over Mr. Baron, pursuant to 28 U.S.C. §§ 754 & 1692, to seize Mr. Baron's assets and perform the obligations of Jeffrey Baron under the Global Settlement Agreement.¹¹

III. RECOMMENDATION.

As alluded to above, the bankruptcy court's concerns over the above hiring and firing of lawyers by Mr. Baron is multi-faceted (e.g., Rule 11 implications; frustration of the Global

¹¹ The bankruptcy court is concerned that it would not have the power to appoint a receiver over Mr. Baron, due to language in section 105(b) of the Bankruptcy Code.

DECLARATION OF JEFFREY BARON

1. My name is Jeffrey Baron. 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 knowledge of the stated facts which I learned as the result of witnessing the facts and events stated herein.

2. I had become concerned that the attorney for the Trustee in the Ondova bankruptcy, Mr. Urbanik, was charging grossly excessive fees. I asked my attorney to file an objection. I am the beneficial equity holder in Ondova, and was very concerned that Mr. Urbanik had taken advantage of his position and has essentially milked the company dry, claiming a total of about a million dollars in attorney's fees.

3. My assets along with the assets have been seized so that I will have no money and cannot hire attorneys to protect my interests and enforce my legal rights. I am not a judgment debtor. I am not in bankruptcy. I have not been indicted with any crime. I have not lost any trial. I am an American citizen.

4. I am physically suffering pain from losing control of my life's work and savings, and to be denied those rights and liberties that I took for granted as an American. My health is now very poor. I am having heart problems and have been referred to a cardiologist.

5. I am literally a prisoner to the receivership. I have had my property stripped from me and have in real terms lost my freedom. I have done nothing to entitle another to effectively imprison me and help themselves to my money. I am functionally isolated and trapped physically Dallas, and I am deprived of the ability to hire a law firm to help my solo-practitioner appellate counsel.

6. I feel constantly threatened with contempt and jail. I cannot live my life, have shortness of breath and get dizzy several times a day to the extent that I frequently lose my balance and cannot stand upright. I feel helpless.

7. It is painful to have lost control of my own property, my own secrets, my own private affairs. I feel distress at the loss of my control over my life and each new public disclosure of my private financial information.

8. The feeling of helplessness is hard to describe but so emotionally painful that it physically hurts. I am generally unable to sleep at night.

9. I cannot hire the lawyers needed to defend myself, while my adversaries have teams of lawyers—paid for with my own money— with a determined focus of attacking me and liquidating my property. I am watching my retirement IRA and the assets of companies that I have a beneficial interest in, and planned to rely on for the rest of my life, disappear with only a one thousand dollar receiver's bond to protect me.

10. I am not a drug dealer. I do not owe anybody any money for any outstanding judgments. I have not lost any jury trials. **I cannot understand how it is possible that all of my assets can be taken from me and liquidated without notice, without a hearing.**

11. The stress on me from being prohibited from retaining legal counsel to advise me and look after and protect my interests in the trial court is enormous. I am physically suffering from the stress of losing the freedom freely express myself and take out an advertisement in the newspaper to tell the world what has happened to me.

12. I see my health rapidly deteriorating as I am suffocating under the stress-- My blood glucose levels are still jumping and I am unable to control them. I am still suffering nausea. I had to suffer the embarrassment and humiliation of literally begging my doctor for insulin samples because my money and credit cards were seized. I am having problems with my ability to breathe, and I need medical attention. When I attempted to see the doctor I was told they have a policy not to accept patients without insurance.

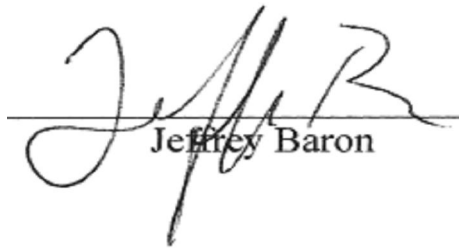
13. I desperately want good legal advice but with my money seized, I cannot hire one to give me good legal advice and defend me. Mr. Schepps has agreed to handle my appeal to the Court of Appeals, but has not agreed to give me general counsel or to represent me in dealing with the receiver or on other matters. I have no one with the time, experience, and ability to tell me what my rights or obligations are with respect to the receivership, and I have no one with the experience and availability to represent me in dealing with the receiver on a day to day basis.

14. The attorneys that had been representing me have told me they have been replaced or fired by the receiver. The receiver's attorney, Barry Golden, made clear that if I tried to hire an attorney or failed to comply with any request from the receiver that I could be held in contempt of court and go to jail.

15. Attached is a true and correct copy of a medical report about my condition, with private information redacted.

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

Signed this 16th day of February, 2011, in Dallas, Texas.



Jeffrey Baron

Trinity Marsh Medical Clinic



3355 Trinity Mills Suite 211
Dallas, TX 75287
Phone: (972) 862-8600
Fax: (972) 307-5963[-????-]
Contact Person: Angeline Fernandez
Contact Phone: 972-416-6360

Full Name: JEFFREY BARON
Date of Birth: [REDACTED]

[REDACTED]

[REDACTED]

Friday, December 3, 2010

REFERRAL TO:

Dr. [REDACTED]
Cardiology
[REDACTED] 000
Plano, TX 75093

[REDACTED]

Dear Dr. B [REDACTED]

I am referring JEFFREY BARON for:

- Palpitation (785.1) [REDACTED]

[REDACTED]
ekg though shows short pr syndrome. will get cardiology consult

Patient current meds:

1. PARoxetine HCl 10MG Tablet 1 Tablet PARoxetine HCl 10MG, 1 Tablet two times daily, #60, 30 days starting 12/03/2010, No Refill. Active.
2. Omeprazole 20MG Capsule DR 1 capsule(s) Omeprazole 20MG, 1 capsule(s) once daily, #30, 30 days starting 12/03/2010, Ref. x1. Active.
3. Atacand HCT 16-12.5MG Tablet 1 (one) Tablet Atacand HCT 16-12.5MG, 1 (one) Tablet daily, #60, 30 days starting 12/03/2010, Ref. x3. Active.
4. NovoLOG 100UNIT/ML Solution 400 unit(s) NovoLOG 100UNIT/ML, 400 unit(s) daily, 12 bottle(s), 30 days starting 11/19/2010, No Refill. Active.

5. [REDACTED]

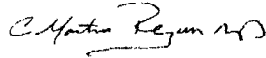
6. Lantus 100UNIT/ML Solution 200 unit(s) Lantus 100UNIT/ML, 200 unit(s) daily, 10 bottle(s), 30 days starting 10/04/2010, Ref. x6. Active.

7. [REDACTED]

Activ

1. Palpitation (785.1)
2. [REDACTED]
3. SYMPTOM, INSOMNIA NOS (780.52)
4. [REDACTED]
5. DM W/NEURO MNFST, [REDACTED], UNCONTROLLED (250.62)
6. [REDACTED]
7. [REDACTED]
8. Thrombocytopenia (289.9)
9. Immunoglobulin deficiency (279.03)
10. [REDACTED]
11. hx seizures
12. NAUSEA WITH VOMITING (787.01)
13. HYPOKALEMIA (276.8)
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]

Thanks for your participation in the care of JEFFREY BARON
Sincerely;



Dr. C. Martin Regan

PERTINENT LABS:

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**Manila Industries, Inc. and
Netsphere, Inc.,
Plaintiffs,**

v.

**Ondova Limited Company,
Defendant.**

§
§
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§
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§
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§

Case No. 3:09-CV-988-F

ORDER

On April 26, 2010, the Court held a hearing regarding Jeffrey T. Hall's Motion to Withdraw as Counsel for Defendant Jeffrey Baron. Mr. Gary Lyons made an appearance at that hearing as a potential replacement for Mr. Hall. However, the Court was informed that the issues between Mr. Hall and Mr. Baron were resolved and Mr. Hall would stay on as counsel for Mr. Baron. Mr. Hall withdrew his Motion to Withdraw.

It has come to the Court's attention that Mr. Lyons continues to play a role in this case. Accordingly, the Court notes for the record that Mr. Lyons is not counsel of record in this case. Moreover, the Court previously entered an Order on July 1, 2009, requiring Court approval before Defendant can employ new or additional counsel (*See* Docket No. 38).

Therefore, in the event that Mr. Lyons does not intend to seek approval to appear as counsel of record, no further action is required. If however, Mr. Lyons intends to seek leave to be named counsel of record in this case, the Court ORDERS Mr. Lyons to file a Motion to Approve Additional Counsel by **May 10, 2010**, wherein he demonstrates his ability to

appear in the Northern District of Texas and to adequately represent Mr. Baron. The Court will not rule on such a motion, if filed, absent a response from Mr. Hall.

Given that Mr. Lyons is not counsel of record in this case, the Court requests that Mr. Hall in his capacity as an officer of the Court provide Mr. Lyons with a copy of this Order.

Signed this 5th day of May, 2010.


Royal Furgeson

Senior United States District Judge

18:00 1

P R O C E E D I N G S :

2 THE COURT: Welcome. Would the Clerk please
3 call the case.

4 MR. FRYE: Netsphere, et al. versus Jeffrey
5 Baron, et al., Cause Number 3: 09-CV-988-F.

6 THE COURT: Good morning. Could I have
7 announcements for the plaintiffs?

8 MR. MACPETE: Yes, your Honor, John MacPete of
9 Locke Lord on behalf of the plaintiffs, and I have with me
10 my client, Munish Krishan.

11 THE COURT: Excellent, Mr. MacPete. Could I
12 have announcements for the defendants?

13 MR. KRAUSE: James Krause. And I have with me
14 my partner Ryan Lurich representing the Defendants Jeffrey
08:34 15 Baron and Ondova.

16 THE COURT: Excellent. I understood first
17 although we had the preliminary injunction resolved, there
18 was some issues still outstanding. So Mr. MacPete, tell
19 me what those issues are.

20 MR. MACPETE: I imagine the Court was curious
21 about why we needed to have this hearing.

22 THE COURT: You are correct; I'm curious.

23 MR. MACPETE: We basically have two problems.
24 We have a process problem and a practical problem. The
25 practical problem is that we have resolved the preliminary

08:35 1 injunction by an agreed order which I understand your
2 Honor signed last Friday. That preliminary injunction has
3 requirements for the defendants to do but also for the
4 plaintiffs. And primarily as relates to restoring those
5 deleted names that ultimately resulted in the TRO and then
6 I guess the preliminary injunction. In order to be able
7 to comply with the requirements that my clients have under
8 the preliminary injunction, there is discovery that this
9 Court ordered that we needed in order to perform our
10 duties which we have not gotten in violation of this
11 Court's orders. So my practical problem is I still have
12 stuff which I need from the defendants which they still
13 haven't turned over in order to comply with our
14 responsibilities.

08:36 15 And the first deadline for things we have to do
16 related to those deleted names is today at five o'clock,
17 and I am going to tell the Court what has happened so far
18 and what I'm still missing. That's the practical problem.

19 And then the process problem we have, your
20 Honor, is really with the rule of law. Because we have a
21 situation here where there has been a willful violation of
22 this Court's orders related to the TRO, related to the
23 discovery and even related to the preliminary injunction.
24 We think the Court ought to hear about that, and you can
25 decide whether you want to do something about it today or

08:37 1 a different day. But let me start out with my practical
2 problem because that's the first thing that obviously
3 needs attention.

4 What's happened since we were here last, your
5 Honor, is you may recall under the TRO proceeding that
6 Judge Lynn conducted the defendants asked for expedited
7 discovery in connection with the preliminary injunction,
8 and they asked for two things. They asked for the ability
9 to take the depositions of the parties on three days'
10 notice, and they asked for documents to be produced in
11 connection with those depositions on three days' notice.
12 And that was their request which Judge Lynn granted and
13 said, "It's mutual, Mr. MacPete is going to get your
14 clients just like you are going to get Mr. MacPete's
08:37 15 clients, and everybody turn over the documents." That's
16 where we with started with the discovery process. We sent
17 out deposition notices duces tecum for Mr. Baron and his
18 company Ondova, the registrar, and in response to those we
19 did not get all the documents, in fact most of the
20 documents that we were supposed to get. And you may
21 recall from the hearing that we had two Friday's ago, my
22 document requests were extreme rifle shot. I had 16
23 questions compared to 267 on the other side. So I was
24 specific about what I needed for that preliminary
25 injunction hearing. This is not a situation where I have

08:38 1 asked for the universe and they have had a difficult time
2 complying with the universe in three days' notice.

3 The next thing that happened is in part of that
4 TRO proceeding with Judge Lynn, she made clear based upon
5 the request from us that no documents the defendants
6 had but particularly no documents related to the who-is
7 were to be altered in any way. She was very clear. I
8 brought the transcript with me to refresh your
9 recollection. She said "I don't care whether it's
10 electronic, on paper, chiseled into a stone,
11 hieroglyphics, cave paintings, don't alter it." And then
12 your Honor signed the written order embodying that
13 prohibition on altering any of his documents, especially
14 the who-is information.

08:39 15 After the deposition duce tecums went out and we
16 didn't get the documents we were supposed to get including
17 the who-is information, we came down two Fridays ago and
18 asked the Court for help and said I need these who-is
19 documents and in particular the information because there
20 is a question about what is the agreement of the
21 information that's supposed to be split. I told you there
22 were two critical pieces of information: Who's the owner
23 or record title of the domain name, and the second was the
24 creation date. And we needed the registrant information
25 because there were three categories of names on his

08:40 1 registry, your Honor. There are about five hundred
2 third-party customers who are not part of the dispute
3 between the parties here before the Court, and their names
4 need to be excluded from what was going to be divided.
5 And then there are some names which were registered by the
6 defendant before he alleged there was any kind of a
7 business deal between the respective parties, and those
8 are also excluded from the settlement explicitly, and
9 the rest of the names are things that are supposed to be
10 split under the settlement agreement. And so I needed the
11 registrant agreement to weed out the third-party
12 customers, and I needed creation date information to weed
13 out the names which were rightfully just his.

14 At the Friday hearing, your Honor, you ordered
08:40 15 him to produce the who-is information for every single
16 domain name on his registrar. You ordered him to produce
17 it electronically and ordered him to produce it by this
18 past Tuesday at four o'clock, and this past Tuesday at
19 four o'clock I didn't get the who-is information. In
20 fact, sometime after five o'clock, I got a CD that was
21 produced by the counsel that are here in the courtroom.
22 Actually I got two CD's. One purports to have the who-is
23 information, and one of the CD's had a partial list of
24 domain names on his registrar, and the list purporting to
25 be the who-is information was basically a database file,

08:41 1 and it had forty fields, and in the fields are various
2 things like the expiration date of domain names, the
3 identity of the registrant, the address, telephone number
4 for the registrant, the administrative contact, things
5 like that. But interestingly enough, there was one field
6 that was missing, and that was the creation date. So the
7 minute I got that document and I opened it up, I knew that
8 I had a rat because that information if you go on his web
9 site -- And we're going to show your Honor at the
10 evidentiary portion that, you know, when you go on his
11 registrar web site you can put in any domain name
12 registered there and pull up the who-is information. And
13 the first piece of information on that document was the
14 creation date, but it was missing from all of the who-is
08:42 15 records that he produced, and that wasn't an accident,
16 your Honor, because he knew that was a critical piece of
17 information, and he had been working for weeks to try to
18 deny me access to that information.

19 Then in addition to those two CD's that I
20 mentioned to your Honor, I also got a box of documents,
21 and what that box of documents consisted of was about 985
22 pages of a paper delete list. And you may recall two
23 Fridays ago, you ordered him to produce a delete list
24 electronically because I told you that I can't do anything
25 with a telephone book size stack of paper that has domain

08:42 1 names on it that were deleted. And then there were some
2 documents that related to the underlying litigation that
3 weren't relevant, and there were some documents that
4 related to his VeriSign account and what the balance might
5 be over there.

6 That was Tuesday. So this last evening I sent
7 him the e-mail, and I listed specifically these are the
8 documents and other things which you have not produced
9 that you were ordered to produce, and you need to still
10 produce.

11 Wednesday afternoon, I finally got a delete list
12 electronically which was produced by one of the lawyers at
13 Friedman and Figer.

14 Thursday afternoon, I was told that the list I
08:43 15 had been given Wednesday afternoon was not complete, and
16 that came about when we were drafting the agreed
17 preliminary injunction, and there was a representation in
18 the original draft that said that list was everything that
19 he had deleted since the date of the settlement. And then
20 I was told, no, no, you can't have that representation in
21 there because it's not true.

22 And remember, your Honor, he was ordered to
23 produce the delete list electronically, and so then they
24 admitted, Well, we haven't produced a complete electronic
25 delete list. We then put in the preliminary injunction

08:44 1 that they would essentially supplement that with the
2 complete list under oath -- which had actually been
3 required by the TRO and again by your Honor in the order
4 of expedited discovery -- and they would turn that over to
5 me on Friday at noon. And so I did get that on Friday at
6 noon in compliance with the preliminary injunction, and
7 that list had 92 additional domain names that were not on
8 the list I got on Wednesday, and it purported to be under
9 oath because it came with an affidavit signed by
10 Mr. Baron. But that information was signed on information
11 and belief, your Honor, not his personal knowledge. So in
12 reality, I don't think I actually got something under oath
13 that I could do anything with.

14 Since Friday -- Also on Friday, I got a jump
08:44 15 drive -- one of those little portable hard drives that you
16 put in your computer, your Honor -- and that also had one
17 document on it. A document that had a partial list of
18 domain names on his registrar. I'm not really certain
19 what that was. But it wasn't any recognizable set of
20 domain names or delete list. But we did get that.

21 Since Friday we haven't gotten anything further.
22 One other thing, I got two e-mails from Mr. Krause on
23 Tuesday which had a pass code for the First Look
24 monetization company and a web link to get some kind of a
25 report from Park.com, but on Tuesday and since then I

08:45 1 haven't gotten any of the other log-ins and pass codes for
2 the monetization companies that have been making money off
3 these domain names, and I'm sure your Honor remembers two
4 Fridays ago that was specifically ordered in this
5 courtroom with Mr. Baron sitting here listening to that,
6 and I haven't gotten those pass codes. Since Friday I
7 haven't gotten anything else, and there was a subpoena
8 issued to Mr. Baron to appear here today and bring the
9 documents, including the documents I'm telling him I still
10 don't have and I need for compliance with our preliminary
11 injunction. And I was told by counsel this morning they
12 have not brought anything this morning that they have not
13 already produced. So he has not brought the other
14 documents that we know he has and he hasn't produced.

08:46 15 Why do we need these documents? What we're
16 required to do under the preliminary injunction by five
17 o'clock today, Paragraph 2, your Honor, is we have to come
18 up with a list of names that have to be undeleted or
19 restored. And you may recall there is potentially going
20 to be a \$40 fee which is imposed by VeriSign for every
21 domain name which is undeleted or restored. And under the
22 terms of the preliminary injunction which your Honor has
23 signed, if VeriSign decides to impose that fee, that fee
24 will be imposed on my clients. So it's actually very
25 important for my clients to be rifle shot, if you will,

08:47 1 your Honor, about what domain names need to be undeleted.
2 But potentially there is a huge fee going associated with
3 undeleting them.

4 In order to be able to do that, we need
5 basically three pieces of information: I need an accurate
6 list of what he deleted. And right now, I don't have any
7 confidence that I have an accurate list because I have
8 gotten at least two, not when they were ordered to be
9 produced, not really under oath, and they are different.
10 And so we shook the tree, and I got 92 more names added to
11 the list, and I don't know whether more shaking of the
12 tree would produce nothing or more names.

13 Let me tell you why the delete thing is
14 potentially a problem. This is a business model, if you
08:47 15 will, among registrars called drop-catching, and what this
16 is is a registrar can look at VeriSign, the industry
17 operator of .com and .net, and they can see what domain
18 names are in redemption. This is the period of time after
19 they have been deleted but before they get flushed out to
20 the public to be registered. And what these companies
21 will do is sort of line up to grab those domain names as
22 they come out. So at 12:01 on the day they come out,
23 boom, they are there to be registered before they go out
24 to the public. So the concern we have is if he is
25 deleting domain names what he may be doing is deleting

08:48 1 valuable domain names -- which is obviously contrary to
2 the representation he made to the Court. But he may be
3 deleting valuable domain names and hoping to drop-catch
4 them when they come out of the redemption grace period
5 thereby taking them out of the pile to be divided under
6 the settlement agreement. That's the concern. And that's
7 why we have to make sure we have an accurate delete list;
8 because if we don't know that's essentially going to drop
9 out to the public, he may be able to drop-catch it and get
10 a name worth millions of dollars. So that's the first
11 thing I need is an accurate delete list.

12 You say, Well, Mr. MacPete, maybe I can order
13 him to do it again, but I have already ordered him and
14 what more are you going to get? And what I would tell you
08:49 15 about that, your Honor, is one of the things we asked for
16 were the CSV text files that he sends every week to Iron
17 Mountain because under ICANN rules as an accredited
18 registrar for the internet he's required to escrow a copy
19 of his who-is database every week, and that is a
20 disaster-preparedness sort of thing. So if this is
21 industry got destroyed that information is kept somewhere
22 else. If I have those files, my people can back check the
23 delete list that he has given us by looking at what the
24 changes are in the who-is over the time in which he has
25 been sending those CSV text files to Iron Mountain. So he

08:50 1 hasn't produced those, and it's hamstrung my people from
2 being able to figure out whether we actually have an
3 accurate delete list.

4 THE COURT: What is the name of those?

5 MR. MACPETE: CSV text files. And they go to
6 Iron Mountain which is a third-party data escrow service.

7 The second thing that we need in order to comply
8 with our responsibilities under the preliminary injunction
9 is we need the reports that Mr. Baron used to decide what
10 domain names to delete. So in the TRO proceeding with
11 Judge Lynn, your Honor, his seventh lawyers -- not the
12 ones that are here -- told Judge Lynn he only deleted
13 domain names which were bad and didn't make very much
14 money. The limited records that my clients have been able
08:50 15 to access seem to suggest that's not accurate. But
16 obviously, if he was specifically picking which domain
17 names to get rid of because they were bad he has financial
18 reports or some kind of a recommendation from somebody
19 about what domain names to delete. And you ordered that
20 would be produced two Fridays ago, and I still don't have
21 it, and that is impeding my client's ability to analyze
22 whether or not a domain name should be undeleted or
23 restored.

24 And then finally, we need the statistics related
25 to the domain names which have been deleted -- what money

08:51 1 they made, how many people visited that web site while it
2 was being operated, how many people actually clicked on an
3 ad. Those are relevant piece of information in
4 determining whether a domain name is valuable. And your
5 Honor ordered two Fridays ago that he would produce all
6 the log-ins, pass codes and all the documents he has
7 related to the monetization of the domain names at his
8 registrar, and to date I have one. One log-in and
9 password for the company First Look. But we are aware
10 there are a whole bunch of other companies which monetized
11 on this portfolio -- Hit Farm, Domain Development
12 Corporation and a number of others -- none of which I have
13 pass codes for. None.

14 And Hit Farm, for instance, is the company that
08:52 15 has monetized the domain names that he has been the
16 registrar the longest during the litigation, and so
17 obviously that would be the most important one, and I
18 don't have a log-in or pass code for Hit Farm. I have
19 documents basically to prove up every one of these
20 different monetization companies has a log-in and pass
21 code, and we have printed those out and put them in the
22 record. So you don't have to take my word for it. Every
23 one of these things has a log-in and pass code, and he has
24 been running these things during the underlying litigation
25 after he hijacked them. I don't have those.

08:53 1 Now we're in a situation where I have until five
2 o'clock to figure out what's supposed to be undeleted or
3 restored, and I don't have any of the things he was
4 supposed to produce to me last Tuesday. So we're more
5 than a week out from when he was ordered to produce these
6 things, and I don't have it. Those are my practical
7 problems. That's the stuff I need. He was subpoenaed to
8 bring it with him to court this morning. He hasn't done
9 that. He was ordered over a week ago to turn it over to
10 my office primarily electronically, and he hasn't done
11 that, and of course, we obviously have the huge problem of
12 he has altered a document which he has produced in
13 litigation, and he altered that document in addition in
14 violation of a specific TRO prohibition from doing exactly
08:53 15 that, and no doubt that --

16 THE COURT: You know he has altered it because
17 the creation dates were missing?

18 MR. MACPETE: Yes. And what I will show your
19 Honor is the printout from his web site of what you get
20 when you put in a domain name registered at Ondova, and
21 you will see it has creation date information. And I will
22 also show your Honor -- And this is how I have absolute
23 certainty that it's an altered document. Not just because
24 the information is missing but in the preliminary
25 injunction it was ordered that Mr. Baron would image with

08:54 1 a forensic document imaging company, an unrelated third
2 party, all of his electronic documents, and that was
3 supposed to be done by Monday and turned over to me at
4 noon. So I got a DVD this Monday before noon, and it had
5 two files on it, and the two files on it were the altered
6 who-is document which was produced to me Tuesday after
7 five o'clock and the original. And what you can see, your
8 Honor, and we've got the computer set up to be able to
9 demonstrate this to you is in the unaltered document it
10 has 41 fields, and the 5th field is creation date, and the
11 6th date is the altered document. In the altered, it has
12 40 fields and the 5th field is creation date. So you can
13 see he deleted the 5th field with the creation date on the
14 document before he turned it over, and it's right there on
08:55 15 the DVD they turned over on Monday. He was ordered to
16 produce all the documents, and they weren't imaged.

17 The CSV documents I talked to you about today
18 and two Fridays ago weren't images. The images you get
19 when you go to his web site and you put in a domain name
20 and ask for the who-is information, not imaged. At this
21 point, I don't know who's responsible for that. But I
22 have incredibly willful violations of the TRO, of your
23 order on expedited discovery and now of the order in the
24 preliminary injunction to image all the who-is related
25 documents, and that's my process problem which we can talk

08:56 1 about second. But that's basically a summary of where I'm
2 at and what I need the Court's help with.

3 THE COURT: Your immediate need is to determine
4 how to undelete the names? Is that the word you are
5 using?

6 MR. MACPETE: Yes, undelete.

7 THE COURT: And how many names do we know of
8 have been deleted?

9 MR. MACPETE: I think the last list that he gave
10 us sort of under oath was 74,520. Around there.

11 THE COURT: 74, 520. So all of them at forty
12 dollars, that would be about --

13 MR. MACPETE: Almost three million dollars, your
14 Honor. That's a lot of money.

08:57 15 THE COURT: 2.8 million dollars, something like
16 that.

17 MR. MACPETE: So I really have two suggestions
18 basically about how we could proceed with the practical
19 problem. On the one hand, you could I guess try to order
20 him again to produce what he has been ordered to produce
21 and refused to do so.

22 THE COURT: By the way, do you have a handle on
23 the 74,000 deleted names? In other words, if you needed
24 to go and undelete those, you will know what the 74,000
25 names are?

08:57 1 MR. MACPETE: Yes, sir, we know what they are.

2 THE COURT: Okay. Go ahead.

3 MR. MACPETE: So there is two ways I think that
4 you could potentially deal with this. One would be to
5 essentially order him again to produce everything that he
6 was supposed to produce and I suppose extend our time to
7 provide this undelete list. And then you would have to
8 order VeriSign to extend what they call the redemption
9 grace period, the period of time before the name goes out
10 to the public which their in-house counsel has indicated
11 it's possible with a court order as long as it was a
12 limited period of time.

13 Or, you could essentially say, "You know what?
14 You had an opportunity to do this. You knew it was needed
08:58 15 for the preliminary injunction, and Now what I'm going to
16 do is order you to undelete all of those names at your
17 expense instead of Mr. MacPete's clients' expense." And
18 well, then he created the three million dollar for himself
19 by violating the Court's orders. Those are the two
20 suggestions I have at the moment to deal with my practical
21 problem.

22 THE COURT: Thank you, Mr. MacPete. Mr. Krause.

23 MR. KRAUSE: Your Honor, I haven't been before
24 the Court, but if it's necessary Mr. Lurich knows some of
25 the details if it's necessary for him also to address the

08:58 1 Court. Is that permissible?

2 THE COURT: That certainly is.

3 MR. KRAUSE: Your Honor, my firm was fully
4 retained on the afternoon that these documents had to be
5 produced.

6 We received a copy of the Court's order on
7 expedited discovery at 4:10, 10 minutes after the
8 deadline. I know you are familiar with Caleb Rawls. When
9 he saw the order, he knew we immediately had a problem
10 because there at the hearing the lawyers on our side came
11 away with a very different understanding of what had to be
12 produced than what ended up in the order. The order is
13 much more specific and requires additional copies of
14 several of the items. It also requires financials --
08:59 15 which we obtained the transcript yesterday. The Court
16 clearly ruled at the hearing no financials had to be
17 produced. We knew we had a problem. And I'm not
18 criticizing anyone for that. I'm just saying we
19 immediately knew we had a problem. That's why we worked
20 out the injunction. My client -- The idea that my client
21 would now have to pay the \$40 fee, we took the burden in
22 the mechanics of the preliminary injunction of all of
23 those deleted names. The domain names on the Manila list
24 have been split. We have done the coin flip. They are
25 analyzing how many of the deleted names showed up on their

09:00 1 list, and they get to pick -- and it's a random process --
2 from our list a deleted name. I mean a name off of our
3 list. The same number of deleted names that show up on
4 their list. We did that because there is potential of
5 this \$40 if somebody was ordered to do that. My client is
6 giving up what he thinks are valuable names in that
7 process to alleviate any harm to the plaintiffs.

8 At the end of the order, we have given them the
9 right if they want to have the deleted names, they can do
10 that. But they have already in the order been compensated
11 for the deleted names that show up on their list. My
12 client has a deadline at noon today under the order. I
13 asked Mr. MacPete on Friday to not have this hearing, and
14 I specifically asked him what is it you need today -- if
09:01 15 you think there are violations of an expedited discovery
16 order for depositions that were canceled because we had a
17 preliminary injunction. We really think that was mooted.
18 We understand the Court may be unhappy that his orders
19 weren't fully complied with, but we understood that was a
20 problem when we got in the case. That's why we twisted
21 our client's arm to work out that preliminary injunction.
22 We're hoping to help fix some of the problems that have
23 been apparent in this case thus far. But I asked Mr.
24 MacPete, What do you need today, thinking that these
25 discovery issues are moot. We have in the preliminary

09:02 1 injunction -- There is various forms of verification that
2 are required within the preliminary injunction order. And
3 this is the first time I'm hearing today that they need
4 that information to know what they might want to undelete.
5 We're happy to get them everything they need. But it
6 needs to be done in a way that we can comply with our
7 other obligations under this preliminary injunction. The
8 idea that we have altered that document, it's erroneous.
9 My client has a program that pulls in categories of
10 information that don't have the domain name. That's one
11 reason it's not on the version that gets sent to Iron
12 Mountain. The second document that was imaged, set up
13 specifically by us because we knew they wanted the
14 creation date. It's not been altered. It's just been
09:03 15 supplied in two separate files.

16 I would really like to get this case in a better
17 posture. My week and two days in the case have been -- I
18 feel like I have stepped into an ambush. But we're here
19 to comply with the preliminary injunction. I don't think
20 we have a problem extending their dates on the delete and
21 getting them what they want. We really didn't think we
22 were going to have a hearing today. We understood from
23 the -- We didn't get the transcript until yesterday. We
24 understood you were upset, and we didn't need to be told
25 that. We didn't need to be told that a federal judge gets

09:04 1 upset when discovery is not provided. We have tried to
2 fix that. That's what this agreed preliminary injunction
3 is, and we'll fix whatever needs to be fixed. But I want
4 the Court to understand that the reason we did this was to
5 avoid the need for the Court to rule on that \$40 fee and
6 the 74,000 domain names. We're already giving them domain
7 names for the ones on their list. We'll give them the
8 data. We're happy to extend their dates. If I had been
9 asked that before this hearing, I would have agreed to
10 that. Are there questions you have?

11 THE COURT: What do you understand is this grace
12 period before the deleted domain names go into the general
13 public, go to the general public?

14 MR. KRAUSE: My understanding is the standard
09:05 15 time is the 30 days. It runs on July 9th. My client has
16 no intention of picking up these deleted names. No
17 intention of doing that. Mr. MacPete believes VeriSign
18 will extend that with an order. We have no objection to
19 that. We're happy for the Court to order an extension of
20 that date. One of the problems we have had and one of the
21 reasons we filed a continuance was these dates in this
22 order we felt like -- and Mr. MacPete felt like for his
23 client -- that the sequence of dates had to work off that
24 delete date. So if the Court orders that date extended,
25 we're happy to give everybody a little time on all the

09:06 1 dates. My client has a deadline today at noon where he is
2 going through his three hundred some odd thousand domain
3 names and trying to protect the ten percent he gets to
4 protect before we do this random allocation to them off
5 our list for the deleted names. And really, I was going
6 to hope that we could either extend that or excuse him to
7 go finish that deadline. Or if the Court would entertain
8 extending that to the end of the day. It's a very
9 compressed -- My client has been working very hard to get
10 that list put together. And we have been pushing him to
11 get it accomplished, and that's what he intends to do, and
12 that's what we intend to have happened. I don't know if
13 we extend that last date if we could perhaps extend all of
14 them a few days. We're happy to give them much more time
09:07 15 on the deleted list than we get on our extension.

16 THE COURT: What about the log-in and pass
17 codes, for example to Hit Farm?

18 MR. LURICH: Good morning, my client produced
19 the pass codes and log-in for First Look and Park.com.
20 The other names that your Honor heard such as Hit Farm,
21 through litigation or cease and desist letters sent from
22 the plaintiffs, my client no longer has access to those
23 companies. So we don't have pass codes or log-in
24 information to give the plaintiffs. We are under the
25 understanding that plaintiffs have secured that

09:08 1 information through their either litigation with these
2 companies to block payments or cease and desist letters
3 which some of these third-party companies are voluntarily
4 complying with. We have given what we have control of.

5 THE COURT: So right now you have been shut out
6 of all but two?

7 MR. LURICH: That's correct. And we have
8 provided First Look and Park.com, the ones we have not
9 been shut out of.

10 THE COURT: Once Mr. MacPete gets the deleted
11 names, how is he to evaluate whether to undelete them?
12 What's your view on that?

13 MR. LURICH: Well, the information we use to
14 ascertain whether or not they were valuable to us was
09:09 15 through either First Look or Park.com. So they have
16 access to the information that we used to determine
17 whether or not they were valuable and worth deleting or
18 not deleting.

19 THE COURT: So the only deleted names that
20 happened were names with these two monetization firms,
21 that were monitored by these two firms.

22 MR. LURICH: Correct. Well, this is the array
23 of information we have utilized to make that decision,
24 just from First Look and Park.com.

25 THE COURT: You got information from them, and

09:10 1 that's the information your client used to determine
2 whether to delete or not?

3 MR. LURICH: Yes.

4 THE COURT: And they now have the pass codes or
5 log-ins, and they can go in there -- They have all the
6 deleted names right now, correct?

7 MR. LURICH: Correct.

8 THE COURT: So your view is they can go into
9 First Look and Park.com, check what kind of money is
10 flowing from a particular name and make their own
11 decision?

12 MR. LURICH: Correct. And in addition to that,
13 the First Look and Park.com will provide more recent
14 information. But prior to this litigation they would have
09:11 15 the historical information of how they utilized these
16 domain names as well. So they could make a historical
17 assessment based on information available to them as well
18 as utilize the First Look and Park.com information to gain
19 a more recent look at how these domain names were
20 performing.

21 THE COURT: Help me with this. You have a
22 domain name, and you want to have somebody collect the
23 money that comes from advertisements and so forth for a
24 specific name. Does the specific name get placed with a
25 specific monetization firm or does it get placed with a

09:11 1 bunch of monetization firms?

2 MR. LURICH: I don't know the answer to that,
3 your Honor. My belief is it's placed with several. But I
4 do not know the answer to that.

5 THE COURT: So it could be that they would have
6 to, for example, get access to Hit Farm which also might
7 have information about some of the deleted names. Is that
8 correct?

9 MR. LURICH: My understanding now is it's just
10 part of First Look for the monetization of these domain
11 names.

12 THE COURT: That's the only one that has them?

13 MR. LURICH: Yes, sir.

14 THE COURT: Okay. What else would you share
09:12 15 with me, Mr. Lurich?

16 MR. LURICH: Well, your Honor, Mr. MacPete
17 brought up the issue of the subpoena. And we filed a
18 motion to quash the subpoena for two reasons.
19 Essentially, one was because it was served for the purpose
20 of gaining testimony for a preliminary injunction hearing
21 which we mooted by entering into an agreed preliminary
22 injunction.

23 Second was the undue burden the subpoena imposed
24 upon my client in light of the fact that the agreed
25 preliminary injunction set a very specific time line that

09:13 1 my client is very diligently trying to comply with. And
2 so having to put down his efforts on complying with the
3 preliminary injunction, he would have to focus his efforts
4 on producing information under the subpoena, and those are
5 the grounds we filed and asserted in the motion to quash.
6 It then came to my attention yesterday afternoon speaking
7 with our predecessor counsel who were involved in the case
8 when the subpoena was actually served that the subpoena
9 was not personally served upon Mr. Baron, nor was the
10 witness fees and travel fees tendered as required by Rule
11 45 of the Federal Rules of Civil Procedure. So an
12 additional ground that we now assert to quash the subpoena
13 is it's not a validly issued subpoena in accordance with
14 the Rules, and that's why we didn't bring any documents
09:13 15 today under that subpoena.

16 THE COURT: Thank you, Mr. Lurich.

17 MR. KRAUSE: Your Honor may I.?

18 THE COURT: You can, Mr. Krause.

19 MR. KRAUSE: I was thinking about this case this
20 morning when I was jogging, and I know where this is
21 heading if we don't get a handle on the allegations -- I
22 kind of feel like I have been in a week of ambush. I
23 don't know if there is a way we can -- I'd like to extend
24 all the dates, extend their dates more, the deleted dates.
25 If we could have a call with your Honor each day on the

09:14 1 status until we finish the order, I'd like to head
2 problems off. I don't have the technical people at my
3 disposal that Mr. MacPete has. He has -- Most of these
4 people are programmers is what I understand. And I don't
5 know if your Honor would be willing to do that. We don't
6 want problems. We agreed to the injunction to avoid
7 problems. You are hearing allegations about a lot of
8 technical computer issues I never heard of before a week
9 ago. If a master could help us sort out some of those
10 issues and determine what really happened. I would ask
11 the Court consider that. I think just like these dates
12 are very hard on my client who basically runs his own
13 shop -- He has a few people to help him part time. He has
14 limited -- They have other jobs that he can do. I think
09:15 15 we're using dates and discovery issues to put a lot of
16 pressure on him so that he can't comply -- Mr. MacPete is
17 a great lawyer. I have been amazed at what I have seen so
18 far. But I want to level the playing field and make this
19 fair and have total disclosure that needs to be disclosed.
20 And if we could find a way to do that, I'd like to do it.

21 THE COURT: Thank you very much. Thank you, Mr.
22 Krause.

23 THE COURT: Mr. MacPete.

24 MR. MACPETE: A couple of things I would say,
25 your Honor. First of all, I disagree with Mr. Krause that

09:16 1 today is the first time he heard that I needed this
2 information. I sent them an e-mail on Tuesday night which
3 was extremely detailed about the information I needed, and
4 I was also extremely clear when we were negotiating the
5 preliminary injunction that while the preliminary
6 injunction hearing was going to be resolved by that and
7 the depo of Mr. Baron was going to be resolved by that,
8 the document issues were not going to be resolved by that,
9 and in fact, I think there is a footnote specifically in
10 the preliminary injunction that says something to that
11 effect. So I disagree with him that this is the first
12 time he has heard that I need those documents, and in
13 fact, I have an e-mail from him in which he assures me
14 that I would get all the documents, and I have not. So
09:17 15 it's not true that this is some sort of an ambush that he
16 didn't know what documents were needed and still didn't
17 know even after the preliminary injunction was entered.

18 And he said he would have agreed to extend the
19 dates if he had been asked. Well, in fact yesterday, your
20 Honor, consistent with what I know this Court wants, I
21 called Mr. Krause, and I made him an offer. This is
22 settlement so I won't get into the specifics. But I made
23 him an offer involving extending the dates under the
24 preliminary injunction, and that offer was not responded
25 to and thereby rejected. So it was not true that there

09:17 1 was no discussion between counsel. I don't want the Court
2 to have the impression that Mr. Krause has been ambushed
3 by me. That's not true. To the extent he feels ambushed
4 because he has gotten in the case at the last minute,
5 that's because he's the eighth set of lawyers. That's not
6 my problem. Ultimately, I believe it's Mr. Krause problem
7 because he agreed to get in and represent Mr. Baron under
8 those circumstances. I'm sorry he feels ambushed. But we
9 have had the problem of being whipsawed where we
10 continually have new counsel coming in and we don't know
11 what's going on. We have to rely on our client. That's
12 why we told you at the prior hearing we don't think the
13 lawyers are the problem, but the client is. And the
14 client is changing counsel in a way to manipulate the
09:18 15 system. The state judge pointed that out in one of the
16 hearings he had last month. So that's basically what I
17 would respond about whether there has been any kind of an
18 ambush associated with this.

19 He talked in the last about how his client is
20 being pressured because of these dates. And what I told
21 Mr. Krause about that when he originally asked me to move
22 this hearing was I need these documents and there is not a
23 great deal of sympathy on my side of the courtroom for his
24 problems of how he gets everything done. Because if he
25 had actually complied with this Court's order and produced

09:19 1 what he was supposed to produce last Tuesday at four
2 o'clock at my office, he wouldn't have the problem of
3 being squeezed between doing his duties to produce the
4 discovery the Court ordered and doing his duties to
5 perform under the preliminary injunction. He has created
6 that problem himself, and now he's here at the Court
7 saying, Sure, let's extend Mr. MacPete's dates and our
8 dates too. That's what he would like. More time to get
9 his stuff done. That's the game this client plays. He's
10 always looking to get more time, and he uses the changing
11 of counsel as one way to try to get more time. That's
12 what we have heard today. These lawyers are obviously in
13 a bad spot because they have stepped into the situation at
14 the end, and they are asking for help, and as I told them,
09:20 15 I will give them as much professional courtesy as I can,
16 but I can't give them extensions. And as you heard, we
17 have this extension with VeriSign which has enforced the
18 pace we have here.

19 Now getting down to sort of the detail of back
20 on what we needed. We did not get a log-in and pass code
21 for Park.com. That's flat out untrue. I have a copy of
22 the e-mail from Mr. Krause. I have a log-in and pass code
23 for First Look, but not Park.com.

24 THE COURT: Can we resolve this real quick? Can
25 somebody give me the log-in and pass code for Park.com

09:20 1 this very minute?

2 MR. KRAUSE: Your Honor, what I'm understanding
3 is the URL that was provided provides all of the
4 information. It doesn't require the pass code. You go to
5 that -- is that --

6 MR. LURICH: That's all we have.

7 MR. KRAUSE: That's all we have.

8 MR. MACPETE: Your Honor, may I approach?

9 THE COURT: You may.

10 MR. MACPETE: The home page for Park.com. User
11 name and password. There is absolutely a password. He's
12 got it, and he doesn't want to turn it over, and that's
13 why we're getting the URL link. I would suggest the fact
14 that he doesn't give us that where clearly he has it is
09:22 15 just another example of his willful refusal to follow this
16 Court's order on discovery.

17 THE COURT: Well, I don't know a lot about
18 computers and web pages and web sites and so forth. But I
19 do know that you normally can't just go to a web site and
20 especially one that has sensitive documents and
21 information on it and just get into all of that
22 information. I don't understand -- Is it the view of the
23 defendants that by just going in, they can access
24 everything on Park.com, all the sensitive information and
25 so forth by entering the web page? That what you are

09:23 1 telling me? If somebody is telling me that, they need to
2 tell me under oath.

3 MR. LURICH: Your Honor, Park.com is not my
4 client's company.

5 THE COURT: I understand, but I understand he
6 has had access.

7 MR. LURICH: Through this URL that the
8 controller of this web site gave my client. And that is
9 the access that my client has, and that's the access that
10 he turned over to the plaintiffs.

11 MR. MACPETE: Your Honor, I just find that
12 incredible. You can see there is clearly a user name in
13 the log-in, and the advertisements talk about how you can
14 log in and do all of these different kind of reports and
09:23 15 ask it to sort by number of clicks and things like that.
16 And so the idea he has some limited functionality with
17 them that nobody else has because everybody else has a
18 user name and password doesn't make sense to me.

19 THE COURT: I think we probably need to get
20 Mr. Baron here under oath, under penalty of perjury, to
21 testify. So bring him forward. So Mr. Baron this is
22 under penalty of perjury. Perjury can have criminal
23 implications. You can go to prison for perjury. Be
24 careful about what you are telling us here.

25 (Sworn)

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THE COURT: Okay. You are under oath, under penalty of perjury. Failure to testify truthfully can subject you to criminal penalties, to prison. You may question the witness.

MR. MACPETE: Thank you, your Honor.

JEFFREY BARON

DIRECT EXAMINATION

BY MR. MACPETE:

Q Mr. Baron, do you have a contract with Park.com?

A Yes, but it does not include these names.

Q But you have a contract with Park.com which includes names registered at Ondova, correct?

A Yes.

Q And you understood that the Court ordered that you were to produce all the log-ins and pass codes for all the names being monetized that are registered at Ondova?

A My understanding was that it was to include names that were in dispute that we were dealing with in this lawsuit.

MR. MACPETE: Approach, your Honor?

THE COURT: You may.

BY MR. MACPETE:

Q Take a look at Paragraph 2 on the order of expedited discovery. You will see Paragraph 2 says "Defendants shall provide the online log-in, slash access

09:26 1 codes, slash passwords for all monetization accounts for
2 any domain names registered at Ondova to the plaintiffs.
3 Do you see that?

4 A Yes, I see it.

5 Q And you see it's not limited to what you think
6 are the domain names are at issue, is it, sir?

7 A My understanding is this was entered after the
8 time that we were going to produce the documents which my
9 understanding was to include those four volumes that I
10 produced. My understanding was this was given after the
11 time we were supposed to get -- what my understanding was
12 about the last hearing that we had.

13 Q Take a look at Paragraph 6. It says all the
14 documents are supposed to be produced by Tuesday, June
09:27 15 23rd by 4:00 p.m. at my offices, correct?

16 A I see that here, but I was not given this until
17 after that time.

18 Q And that was over a week ago, wasn't it, sir?

19 A Yes, sir.

20 Q And so you had that order for a week, and you
21 understood you were supposed to turn in all the domain
22 names on your registrar for over a week, but you haven't
23 done it?

24 A I turned over what I understood we were supposed
25 to turn over.

09:27 1 MR. MACPETE: See, your Honor, this is precisely
2 the problem of he wants to decide what he thinks is
3 relevant.

4 THE COURT: Listen to the question, Mr. Baron.
5 Ask the question again.

6 BY MR. MACPETE:

7 Q You have known for over a week that you were
8 supposed to produce the log-ins and pass codes for all
9 monetization accounts for any domain name on your
10 registrar, didn't you?

11 THE COURT: You have either known it or not
12 known it.

13 THE WITNESS: Not the way that Mr. MacPete is
14 stating it.

09:28 15 BY MR. MACPETE:

16 Q Did you read this order, sir?

17 A I read it right before the time that we were in
18 the middle of preparing for the depositions and so forth.

19 Q And that was last week, wasn't it, Wednesday of
20 last week, correct?

21 A I am trying to remember the days. It's been a
22 very, very long week but I believe it was Wednesday a week
23 ago.

24 Q That you read this order?

25 A I believe so.

09:28 1 Q And there is no limitation in this order to
2 withhold monetization codes that you don't think are at
3 issue, correct?

4 A I complied with what I thought I was supposed to
5 comply with which was in cooperation with my attorneys. I
6 thought I was giving exactly what we needed to give. My
7 understanding is what the Judge had ordered at the hearing
8 was what we had produced before the deposition and that
9 this other information was what we were trying to get the
10 temporary injunction to alleviate.

11 MR. MACPETE: Your Honor, I am going to object
12 to unresponsive. My question was, was there anything in
13 the order that allowed him to limit what he was producing
14 to what he thought was at issue.

09:29 15 THE COURT: Mr. Baron, the reason this is in
16 writing is so that people could have no doubt about what
17 was required. So we talked about a lot of things at the
18 hearing, but I wanted an order that would leave no doubt
19 about what was required. And this order I had hoped would
20 leave no doubt. So you cannot decide after a judge signs
21 an order that that's not your understanding. You have to
22 read the order. Read it with your lawyers and you have to
23 comply with it. And it's clear to me that you have not
24 complied with it. Let me ask you a question. Have you
25 given to the other side the online log-ins, access codes

09:30 1 and passwords for Park.com

2 THE WITNESS: I gave them what I had which was a
3 cookie-based URL which provides them with all the
4 information they are seeking. That's the only information
5 I had for the log-ins.

6 THE COURT: Do we have a computer that we could
7 right now see if we can get in Park.com with the
8 information he has?

9 MR. MACPETE: Your Honor, I'll stipulate for the
10 record you can use the URL he's talking about, and it
11 gives you a printed report about what domain names are
12 doing. It doesn't have the full functionality that the
13 Park.com site has when you don't have the passwords. You
14 can't change the subsets around and that sort of thing.

09:31 15 It is a report. It has subset information but limited in
16 its utility.

17 BY MR. MACPETE:

18 Q The question we want to ask you is, do you have
19 a log-in or pass code for Park.com of any kind.

20 A The cookie-based URL that I gave to my attorneys
21 is what I had.

22 Q That's all you have?

23 A For this particular account -- I want to be
24 clear. You asked me for other accounts at Park.com that
25 didn't include the accounts in dispute. So for that I

09:32 1 believe I have a log-in, but not this stuff we're talking
2 about. It's not for the names, the disputed names.

3 THE COURT: Do you log in only for a particular
4 name? Do you log in and --

5 THE WITNESS: For these names, for this disputed
6 account names, I have never actually done a log in. I
7 have had the URL, but I have not logged in, as he is
8 talking about.

9 MR. MACPETE: Here's the problem, your Honor.
10 He's trying to segregate out. He says these are the names
11 I agree are at issue, and for those names I just have this
12 URL. But other names which are at my registrar which he
13 is ordered to produce the codes for, I don't think those
14 are at issue, and I have codes, but I'm not turning them
09:32 15 over. That's what we have just heard.

16 MR. KRAUSE: Your Honor, we're having some give
17 and take. May I make a statement?

18 THE COURT: Okay.

19 MR. KRAUSE: This was relevant before we did the
20 coin flip and the split that is now part of the
21 preliminary injunction. The names they obtained, it's my
22 understanding are accessible through this URL. The issues
23 for the TRO and in the depositions were if we were going
24 to fight over who was going to get which names. The issue
25 we have now is we didn't need the depositions to issue --

09:33 1 to dispute those issues. We agreed in the preliminary
2 injunction. We were going to use the two lists that
3 already existed. We have resolved most of those issues.
4 The deleted name information that they need to
5 determine -- And Mr. Baron, it's in this URL which you
6 have access for these names?

7 THE COURT: It's limited. I think Mr. Lurich or
8 you said they could get into these monetization firms and
9 they could look at historical documents. They could look
10 historical information, do everything they needed to do to
11 get the information to assess whether to undelete the
12 names.

13 MR. KRAUSE: I don't know that's what Mr. Lurich
14 said, but I think my point is the deleted names that they
09:34 15 need to be analyzing now whether they want them or not,
16 whatever information he has they get through the URL. The
17 pass codes that he's complaining about are for names that
18 are not in dispute at this time.

19 MR. MACPETE: That's not what your order said.
20 Your order said all names on his registrar, and all names
21 on the registrar are in dispute. May I approach?

22 THE COURT: You may.

23 MR. MACPETE: I want to make sure you have the
24 full information on this what I would call crawfishing.
25 This is from Mr. Vitullo the prior counsel. "For example,

09:35 1 I'm being told the Court did not order the production of
2 the log-in codes. I'm trying to reach James and Caleb to
3 verify." When I got this e-mail, those were the lawyers
4 here two Fridays ago. Obviously, they were not the ones
5 telling Mr. Vitullo that. Obviously, Mr. Vitullo is on
6 vacation. Who is he getting the information from? The
7 only other person that was in this courtroom is his client
8 Mr. Baron. So Mr. Baron after sitting here and listening
9 to your order -- explicitly log-in codes were supposed
10 to be provided -- was telling his lawyer, the one not
11 here, that was not ordered. Well, I have pass codes for
12 things that are not as issue, and I'm not going to produce
13 them, and we have him under oath, and he admitted he
14 didn't produce them. That's just with respect to part.

09:36 15 The representation was made to your Honor by
16 counsel that, Well, the only information that he's using
17 is the information for First Look and Park.com. And
18 that's just not true. The domain names -- Any domain name
19 at First Look has only been for about two or three months.
20 He took the names away from Hit Farm in violation of the
21 contract that they had with the USVI parties I think
22 sometime in March or early April of this year. And since
23 then he has moved some of the names to Park. And so when
24 they say you can get recent information, it's not most of
25 the information out there. Hit Farm has most of the

09:36 1 information out there, and he absolutely has access to the
2 information at Hit Farm because we heard that from
3 opposing counsel in the underlying litigation. He hasn't
4 produced that.

5 In addition, he has other names. One right now
6 on his registrar Funnygames.com which is currently being
7 monetized at Domain Name Development Corporation, and I
8 have that right here, your Honor.

9 THE COURT: So for example Hit Farm, right now
10 no one is able to determine what's happening as far as the
11 financial impact of these domain names with Hit Farm,
12 correct? So no one has access. You don't have access.
13 He doesn't have access. No one has access.

14 MR. MACPETE: The names aren't monetized at Hit
09:37 15 Farm right now, but they were most of the time during the
16 underlying information. So most of the monetization
17 information on the domain names on his registrar for the
18 last three years is going to be at Hit Farm, and he had
19 that information, and he had a log-in and pass code, and
20 he hasn't turned that over, and that's obviously the most
21 important information because it's the largest set of
22 data.

23 THE COURT: So his lawyer said for some reason
24 he let this lapse.

25 MR. MACPETE: Let me talk to that also, your

09:38 1 Honor. There was the suggestion that somehow the actions
2 of I and my client were responsible for denying him access
3 to these things. The only people we have sent cease and
4 desist letters to or sued are First Look and Park. We
5 haven't sent a cease and desist letter to Hit Farm or sued
6 them. So we have done nothing to interrupt any
7 relationship he may have with Hit Farm or Oversee or
8 Domain Name Development or any of these monetization
9 companies. So the idea that he's been locked out and
10 doesn't have something because of what we did is not true.
11 The only two we have done anything to interfere with him
12 is the two he says he has produced. May I approach again?

13 THE COURT: You may.

14 MR. KRAUSE: Your Honor, are we still having an
09:39 15 examination of Mr. Baron?

16 THE COURT: I don't think we're complete with
17 Mr. Baron yet.

18 MR. MACPETE: So let me tell you what you have
19 here. The first one is the who-is information. So if you
20 go to Mr. Baron's registrar and you want the who-is
21 information which is supposed to be public record from his
22 registrar, you will put in a name. See at the top it says
23 "Who-is look up, enter domain name." You can enter the
24 domain name now and hit "find now" and you ultimately get
25 to this page that your Honor is looking at. And this page

09:40 1 is the who-is information for Funnygames.com you can see
2 this is a name which is registered at Ondova. So this is
3 one he's got currently, right now, on his registrar, and
4 this demonstrates that.

5 The next one that you would be looking at, your
6 Honor, is this one which is actually the code that's
7 associated with the web site that appears if you go to
8 Funnygames.com and what the code indicates is that the web
9 site is being provided by Domain Name Development
10 Corporation.

11 This is a picture of the actual web site that
12 comes up when you put Funnygames.com in, and this is a
13 Domain Name Development Corporation web site. And lastly,
14 what your Honor has is the page for Domain Name
09:41 15 Development Corporation, and if you will notice at the top
16 it says "user name" and "password."

17 BY MR. MACPETE:

18 Q So Mr. Baron, can you confirm for the Court that
19 Funnygames.com is a name registered at Ondova?

20 MR. LURICH: Your Honor, may he have access to
21 the documents that Mr. MacPete has provided to everybody
22 but the witness?

23 THE COURT: He may.

24 A From this printout, it appears that.

25 BY MR. MACPETE:

09:42 1 Q And that's a name you currently have parked at
2 Domain Name Development Corporation, don't you?

3 A I don't know.

4 Q You don't know?

5 A No.

6 Q Do you have an account with Domain Name
7 Development Corporation?

8 A I believe Ondova has an account with Domain Name
9 Development Corporation.

10 Q And you have a user name and password, correct?

11 A I believe there is a password for Domain Name
12 Development. I haven't been on that for a long, long
13 time, but I believe so.

14 Q And we go back to the order on expedited
09:42 15 discovery you were ordered to produce all the log-ins and
16 pass codes for all the names on your registrar and that
17 would include Funnygames, doesn't it?

18 A Again, now I read exactly what this is, I
19 believe it does. But at the time I didn't believe it
20 included this information. I believe that it only
21 included that the domain names in dispute.

22 Q And that's because you believe that
23 Funnygames.com is not a name in dispute, correct?

24 A I don't know that's exactly the reason for that,
25 no. But I didn't think -- I didn't think the names that

09:43 1 were at this Domain Name Development company were part of
2 the names we were talking about in this lawsuit.

3 Q In other words, you are saying that it's your
4 belief that Funnygames.com is not at issue in this
5 lawsuit, correct?

6 A I can't say exactly about that name, but I
7 believe that's the case. I can't tell something about one
8 particular name when we're talking about 650,000 names
9 registered at our registrar.

10 Q This is a special name, isn't it, Mr. Baron?
11 This one and Funnyvideos.com. You know the names, don't
12 you? They make a lot of money?

13 A I see the names, but I don't want to make a
14 comment about one name when we're talking about 650,000.

09:44 15 Q These make a lot of money?

16 A I'm not positive.

17 THE COURT: You have no knowledge that these
18 names make money?

19 THE WITNESS: I believe they do. I don't know
20 how much.

21 BY MR. MACPETE:

22 Q Isn't it true the annual revenue for those is in
23 excess of \$250,000 a year?

24 A I don't know. But if I had to guess, I would
25 say no, but I don't know.

09:44 1 Q Is it higher or lower than that number, sir?

2 A I don't know, but I would think it's lower.

3 Q How much lower?

4 A I don't know.

5 Q And Funnyvideos and Funnygames.com, those were
6 names originally being monetized at Hit Farm, correct?

7 A I don't know.

8 Q You don't know?

9 A I just don't know.

10 Q If you don't know, Mr. Baron, who would know?

11 A If I had time to go and look at the accounts and
12 so forth, I could probably figure it out if I had enough
13 time. But I don't know just sitting here off the top of
14 my head.

09:45 15 Q But you would be the only person that would know
16 because you have been the only person in control of the
17 domain names during the underlying litigation pending;
18 isn't that right, sir?

19 A No, that's not true.

20 Q Who else at your registrar had control of these
21 domain names? Is there anybody?

22 A At our registrar, no. But I mean at the
23 companies that were controlling the monetization and
24 domain names and so forth, they would have information as
25 well. But from a registrar's perspective, we would be the

09:45 1 only company from a registrar's perspective.

2 Q And you moved these around, haven't you?

3 A (No response)

4 Q You moved them from Hit Farm to First Look?

5 A I can't say with certainty. Just on
6 recollection, I don't know.

7 Q And then you moved some of the names from First
8 Look to Park, didn't you?

9 A From a registrar's perspective I believe we
10 changed the name servers but I can't tell you which ones
11 exactly. But sure, some have been changed to a different
12 monetization company.

13 Q And in fact, you are the one who has been doing
14 it each time they have been moved to a different
09:46 15 monetization company?

16 A Our company has. I haven't been the physical
17 person.

18 Q You are the only person at your company, aren't
19 you, sir?

20 A I'm the only employee, but there are contractors
21 and people that do other things.

22 THE COURT: So these people are acting on their
23 own. You don't have any control over them. They were
24 just over there moving things around?

25 THE WITNESS: No. There is control, but I

09:46 1 haven't physically been the one.

2 THE COURT: I realize.

3 This is great testimony. You are supposed to
4 know everything about your company, and you register the
5 names, and you know nothing. Why should I allow you to
6 continue to run the companies? Why don't I put a receiver
7 in your place to take control of all of these matters and
8 run your company for you since you don't seem to
9 understand how it runs or who runs it or what's being done
10 with it?

11 THE WITNESS: I think it's just regarding
12 particular domain names and what's happened with them.
13 It's difficult to come off the top of my head and explain
14 what's happened to any particular name.

09:47 15 THE COURT: What about putting someone in
16 control of your companies? Putting a receiver in control
17 so that I can know that things are being done correctly?

18 THE WITNESS: I prefer that I continue to be
19 able to run the company. But what you decide to do is
20 what you decide to do.

21 MR. KRAUSE: Your Honor, may I address the
22 Court? I have proposed a discovery master to help
23 alleviate some of these issues. I'm not aware of any
24 basis to appoint a receiver for these companies. There is
25 no one making an application for that.

09:47 1 THE COURT: There is not yet. It could be
2 suggested. I have a sense that no matter how many courts
3 are asked to issue how many orders, nothing happens. And
4 nothing is going to happen. And Mr. Baron is going to
5 continue to do what he wants to do. And I don't know what
6 the net worth of either Mr. Baron or Ondova are. I guess
7 I better ask for that information. What is your net
8 worth?

9 THE WITNESS: I don't know exactly, but I would
10 say that, you know, based on the liabilities and assets
11 it's over a million. I just don't know.

12 BY MR. MACPETE:

13 Q Mr. Baron, isn't it true that during the course
14 of the underlying litigation you were paid over 5.6
09:48 15 million dollars on the monetization of the domain names?

16 A I think some of the money you were talking about
17 went to Ondova, and obviously it was expensed. Some went
18 to the trust. But that aggregate amount was not all to me
19 that you are talking about.

20 Q Because you are distinguishing between you and
21 your trusts and your companies, correct?

22 A Sure, there is a difference, yes.

23 MR. MACPETE: Just so your Honor sees that we're
24 crawfishing here about what his real net worth is because
25 he has foreign trusts in the Cook Islands and other places

09:49 1 like that overseas and different things. He has a trust
2 here in the United States. So we're not dealing with an
3 unsophisticated person here with no means.

4 THE COURT: What is your view about appointing a
5 receiver to take over these companies?

6 MR. MACPETE: I think it's probably needed
7 because he purports not to have a handle of what's going
8 on at his company. I'll be honest. I don't believe him.
9 Not for a minute. I believe on a random domain names if I
10 pick one at random he might not know that name. But I
11 don't believe he doesn't know about Funnygames and
12 Funnyvideos. They were an issue in the underlying
13 litigation, and they make great money. And with respect
14 to everything being moved, he's the one running this for
09:50 15 over three years. So I don't believe him. So to the
16 extent that's what we're dealing with, that he's going to
17 sit in that chair and say flat out, I don't know, I don't
18 remember -- My only concern about it is delay. We're on
19 the cusp of at least having the domain names or most of
20 the domain names that are supposed to be my clients'
21 business, from which we have been divorced for three
22 years, come back, and I would hate to say he wins. His
23 whole thing is delay. While he has his finger on the
24 button, he's able to exert pressure and cause damage to my
25 clients. And the one thing we want most in the world is

09:51 1 to get our business back from under the finger on the
2 nuclear button.

3 THE COURT: How do you think that's best done?

4 MR. MACPETE: I have heard from Mr. Krause that
5 he's going to insure that those portions of the
6 preliminary injunction get complied with, and maybe, as I
7 naively told the court two Fridays ago, that I thought he
8 would obey a federal court order -- I guess I still have
9 some belief he's going to do what he needs to do. I
10 suppose if he doesn't, we'll be back dealing with that.
11 I'm hopeful that your Honor is going to take up the
12 process issue today and do something about the willful
13 violations of your order that maybe in the future we could
14 have more confidence he's going to obey.

09:52 15 THE COURT: Well, as far as the willful
16 violations of my order, I need a motion, and I don't have
17 a motion on that. But I am terribly concerned. That's
18 the reason I didn't continue the hearing. I'm very
19 concerned that no matter what I do, Mr. Baron is not going
20 to pay attention.

21 MR. KRAUSE: Can I address the Court on two
22 points?

23 THE COURT: Yes.

24 MR. KRAUSE: We do need a motion. I think we
25 could have been better prepared today if we had a motion.

09:52 1 I have to address one point because I think it's impugning
2 my integrity. There was a discussion about extensions
3 yesterday. The price for that extension was almost
4 \$30,000. My client would not do that. I'd like to know
5 these Funnynames -- We have had testimony about this. Is
6 this a deleted name, one of the names you need to evaluate
7 to determine whether or not you want to restore it?

8 MR. MACPETE: No. The Funnyvideos and games are
9 not names which were deleted. We're using them to
10 exemplify for the Court that he has log-ins and pass codes
11 for names at his registrar which he has not turned over.

12 MR. KRAUSE: Those issues have passed with the
13 entry of the preliminary injunction. We split the names.
14 Friday in an e-mail -- I don't have it with me. I'll
09:53 15 provide it to the Court today. I said, "John, why do we
16 have to have this hearing? We'll get you whatever
17 discovery you need. But give us until after we comply
18 with the order. What do you need now?" That's what I
19 said and "We will work to make sure this order is complied
20 with." I can't do it myself.

21 THE COURT: I actually feel that you will if you
22 are here at the next hearing.

23 MR. KRAUSE: Yes.

24 THE COURT: And the problem is --

25 MR. KRAUSE: Sort of a receiver, why don't we

09:54 1 set up a conference call with the Court every day and head
2 these issues off. I want to head these issues off. I
3 still feel like I'm in ambush mode.

4 THE COURT: What I think you are in is you're in
5 catch-up mode, and I do appreciate that problem. You may
6 step down, Mr. Baron, for right now.

7 MR. MACPETE: Your Honor, I have his e-mail if
8 you would like to look at it.

9 THE COURT: Let me tell you what I think we need
10 to do. The reason I had this hearing is that I am very
11 uncertain that I am going to get done what needs to get
12 done in this case, and I think there have been too many
13 judges that have said somebody else has jurisdiction or
14 control. I have the jurisdiction of the parties. They
09:55 15 are in my court.

16 First of all, I need to make sure that you stay
17 in the case. I don't want a ninth set of lawyers in the
18 case. I need money put in your trust account by
19 Mr. Baron. And I'll tell you how much money I need in
20 your trust account. I need \$50,000 in your trust account,
21 and that is nonrefundable. That's nonrefundable. When
22 that runs out, I need another \$50,000 in your trust
23 account, and again that's nonrefundable. And I need that
24 done, and I need an order, and Mr. Krause, you prepare a
25 very short order for me that it is ordered that the

09:56 1 defendant put \$50,000 into the trust account -- Give me
2 your name again.

3 MR. KRAUSE: Friedman and Figer.

4 THE COURT: Friedman and Figer. And it's
5 nonrefundable, and of course, your hourly rates are to be
6 applied against that fund, and when that account is
7 diminished by your rate, another \$50,000 is to go in, and
8 when that is diminished, another fifty thousand must go in
9 until the matter is resolved. I don't want anymore
10 lawyers in this case, and I do think it's instructive that
11 you worked out the preliminary injunction. I do feel that
12 shows I've got lawyers who at least understand the
13 problems. But that \$50,000 needs to go into your account
14 on July 6th. It needs to be replenished and always
09:57 15 nonrefundable.

16 By the way, you are not getting out of this
17 case. So I don't want to see any motion to withdraw. And
18 I am going to keep that trust account of yours replenished
19 until we get this done. So I need that order. You can
20 just put it on -- put that motion and order on CM/ECF, and
21 I'll sign it. It ought to be done this afternoon or in
22 the morning.

23 Also, I need the preliminary injunction to be
24 amended to give more time -- And by the way, you are
25 reaching the end of my patience here. Because I may put a

09:58 1 million dollars into Mr. MacPete's trust account very
2 shortly if this doesn't start working out. And if I don't
3 get the million dollars, then I can figure out where to go
4 from there. But I need this worked out, and my patience
5 is almost over. I've got these parties in front of me,
6 and if I have to I will take all of their money. I just
7 want you to know that. Every last dime. And you can't
8 hide money in the foreign accounts forever. And so I just
9 want you to know we need this resolved, resolved fairly,
10 so I don't have to start putting money into Mr. MacPete's
11 trust account.

12 But I will tell you that we're going to set fair
13 deadlines, and every time a deadline is missed, \$50,000
14 goes into Mr. MacPete's trust account. Every time it's
09:59 15 dismissed. A day later it goes in his trust account, and
16 it will keep going in and keep going in until this matter
17 is resolved. And that's nonrefundable. I will consider
18 that failure to abide by my orders contempt, and I will
19 have the parties in front of me, and I will tell you I'm
20 putting that money in deposit into Mr. MacPete's trust
21 account until I decide what the contempt requirement will
22 be. And I think I probably have five million dollars to
23 work with. So I will keep at it.

24 Now I want to be sure you understand what all
25 the triggers are here. So I want to find legitimate time

10:00 1 tables to work with here. I'm not going to cut Mr.
2 Baron's head off if he really wants to cooperate. We're
3 going to use reasonable time limits. And by the way, you
4 are going to amend the injunction order, Mr. MacPete, and
5 it's going to be in there that every time a deadline is
6 dismissed \$50,000 is to be deposited in Locke Lord's trust
7 account until I consider what the final amount of the
8 contempt will be.

9 MR. MACPETE: To clarify so I understand what
10 I'm putting in there, for instance if documents were
11 ordered last Tuesday at four o'clock, just as an example,
12 we don't get documents on Tuesday, it's \$50,000 on
13 Wednesday. If we don't get documents on Wednesday, it's
14 \$50,000 on Thursday?

10:01 15 THE COURT: Yes, \$50,000 every time he doesn't
16 comply. And if he doesn't put the \$50,000 in, we'll come
17 into court. I want you to file a motion for contempt, and
18 we'll talk about civil contempt. But I have not only
19 powers of dollars, I have powers of jail, detention. And
20 so you know, I just want -- I want everybody to get this
21 done. I don't want Mr. Baron to have to pay \$50,000
22 anywhere. He is going to have to pay it to you, Mr.
23 Krause, but I don't want him to have to put any money
24 anywhere. I want it over and done. And I am going to
25 monitor it. If people say "I don't want to do it," that's

10:02 1 fine. It just costs money. It's going to cost a lot of
2 money before we're over.

3 MR. MACPETE: Back to my practical problem, your
4 Honor, you said we want to modify the dates in the
5 preliminary injunction. What I had talked to Mr. Krause
6 yesterday was extending the deadlines by essentially a
7 week.

8 THE COURT: Well, let me tell you. You tell me
9 realistically what you can get done here and what time.
10 But it's all the pass codes, all the access codes, all the
11 log-ins of every monetization firm that has ever been
12 dealt with. I don't care if it involves any of these
13 domain names. I don't care. It's every pass code, log-in
14 that he has ever dealt with anywhere, any time. Period.
10:03 15 And I don't care what domain names it includes. Even if
16 it doesn't include Mr. MacPete's names, he's still got to
17 do them. That's where we are on that. I don't want it to
18 be those domain names or these domain names. It's
19 everything.

20 Now, Mr. Krause tell me -- You know, I'm asking
21 you to give me something that's reasonable but not three
22 weeks from now.

23 MR. KRAUSE: I think if we extend the deleted --
24 John, how long can we order to extend that period of time
25 on VeriSign?

10:04 1 MR. MACPETE: They said it was a short period of
2 time. We talked about moving deadlines from today to
3 Monday of next week.

4 THE COURT: Back to that question, VeriSign.
5 How long can I extend them? I don't want to just keep --
6 Every time I have to put another \$50,000 in your account.
7 I don't want to put another order to VeriSign. So do you
8 have another thirty days?

9 MR. MACPETE: I think that's way too long, and I
10 didn't get a specific number of days out of the VeriSign
11 counsel, but my understanding was it could be extended a
12 few days, not another couple of weeks or thirty days. So
13 I think what we were proposing to do is move the VeriSign
14 deadline from July 7th to July 13th. I mentioned that to
10:04 15 the VeriSign in-house counsel, and he didn't seem to think
16 that was problematic. At least he didn't scream and
17 holler. And that would be okay and that would resulted in
18 the deadlines due today for Mr. Krause's client, and my
19 clients would be extended to next Monday.

20 MR. KRAUSE: I would propose that all the
21 deadlines get moved a like period. That's not a full
22 week. It's basically five days, and if we have the
23 VeriSign date out thereafter, that --

24 THE COURT: I'm not sure I understand what you
25 are saying.

10:05 1 MR. KRAUSE: I propose we move all the dates a
2 week.

3 THE COURT: In other words, your date to comply,
4 his date, they all move back?

5 MR. MACPETE: Your Honor, I don't agree with
6 that -- Let's go over what the dates are -- because what
7 he's worried about or what he's been saying he's worried
8 about is his ability to develop what we're calling the
9 protected names list. He gets to pick ten percent of the
10 names in his pile and say these are protected and they
11 can't be subject to this random grab, if you will, under
12 the preliminary injunction order. And that's what he's
13 been having trouble getting done, and that's what we're
14 talking about extending to next Monday. But there are
10:06 15 other deadlines in the preliminary injunction. For
16 instance, the distribution of money from some of the third
17 party monetization companies, those are different
18 deadlines. There is a deadline for Mr. Baron to account
19 for monetization revenues he has received after the
20 settlement agreement. There is no reason for those
21 deadlines to be changed by what we're talking about here
22 today.

23 THE COURT: When are those deadlines?

24 MR. MACPETE: The Hit Farm money was supposed to
25 be distributed fifty-fifty this Monday. There was a

10:06 1 wrinkle with respect to that because it turns out that Hit
2 Farm took the money and paid it into the registry of the
3 state court. Mr. Krause and I are currently trying to
4 negotiate how we're going to deal with that problem, and
5 essentially what it boils down to is there is a claim by
6 Hit Farm's counsel for their attorneys' fees, and we're
7 having a discussion about how that issue is going to be
8 dealt with because normally under Texas law if you're the
9 unsuccessful client and the interpleader you are
10 responsible for the fees. So I have asked Mr. Krause to
11 agree that when that money is distributed the attorneys'
12 fees would be paid to Mr. Cantner by Ondova.

13 THE COURT: How much are the fees?

14 MR. MACPETE: \$17,536.

10:07 15 THE COURT: How much money is in the registry?

16 MR. MACPETE: \$500,00.

17 THE COURT: Get the money out of the registry
18 and pay the fees. I'll figure out eventually who has to
19 pay the fees. I will figure out who pays.

20 MR. KRAUSE: Your Honor, I don't really care
21 about the orders to the nonparties. Those are not the
22 dates. But given the penalties that apply, we have a
23 deadline I think Friday to point their 300,000 names.
24 Just the volume is significant. That's why we're asking
25 to move all the deadlines a week.

10:08 1 MR. MACPETE: That's the one deadline we
2 absolutely do not want moved, and that's because that's
3 actually getting the ability to control our domain names
4 and to have the monetization revenue start to come to my
5 clients. That is a critical deadline. And not
6 withstanding the fact that we're talking about 300,000
7 names, when Mr. Baron hijacked the portfolio back in 2006
8 he took all 700,000 names we had at that time, and in 24
9 hours took them down and sent them somewhere else. So
10 he's absolutely capable of doing this in a very quick turn
11 around when he wants to. He doesn't want to give up
12 control of our names, and this is more of the delay we
13 have been experiencing all along. That's absolutely a
14 deadline my clients don't want moved, and it's not fair
10:09 15 that we would be punished essentially because he has
16 failed to comply with Court orders and created this
17 problem. But then my clients are going to be punished
18 because it's further delay on them getting control of
19 their names back.

20 THE COURT: Okay. I will micromanage this.
21 Let's go down the dates starting from the beginning.

22 MR. MACPETE: Today at noon Mr. Baron is ordered
23 to provide the list of protected names. That gets moved I
24 would propose to next Monday, July 6 at noon.

25 THE COURT: Okay. What's your response to that?

10:09 1 MR. KRAUSE: We would like until Wednesday on
2 that if we can have it.

3 THE COURT: This is going to be easy. I am
4 going to make it July 7 at noon.

5 MR. LURICH: Your Honor, may I ask for one
6 clarification? This ten percent thing, Mr. Krause
7 explained to the Court this process that we're doing to
8 compensate the plaintiffs for any deleted names that came
9 off their list, and the process that we agreed to was my
10 client would get to designate ten percent of his names
11 that are protected. In other words, that won't be picked
12 by the plaintiffs. And so because of the difficulty in
13 compiling this information, if he doesn't comply it only
14 hurts him. So if he doesn't give them ten percent
10:10 15 protected names by July 7 -- he only gives them nine
16 percent -- that shouldn't count as a missed deadline
17 because he's already penalizing himself ten percent of the
18 names.

19 MR. MACPETE: I agree. If he gives us something
20 less than ten percent, that's obviously his call.

21 THE COURT: That's fine. July 7 at noon and
22 that will not be part of the \$50,000 into the trust
23 account at Mr. MacPete's firm.

24 MR. MACPETE: The next deadline, your Honor, is
25 today at 5:00 p.m. which is for my clients to provide the

10:11 1 restore list. That's the list of names which should be
2 undeleted.

3 THE COURT: Okay.

4 MR. MACPETE: And I would propose consistent
5 with the way this was scheduled before that you would move
6 that to July 7th at 5:00 p.m.

7 THE COURT: Any response from you, Mr. Krause?
8 By the way, are you telling me in a very few
9 days both sides will split \$500,000 less \$17,500?

10 MR. MACPETE: Yes, sir.

11 THE COURT: All of that money -- I am going to
12 change my order. All of that money goes into your trust
13 account, \$250,000 or whatever. It all goes in your trust
14 account, Mr. Krause.

10:12 15 MR. MACPETE: You mean all of his half?

16 THE COURT: Less the attorneys' fees. And that
17 all goes into your trust account. That is a nonrefundable
18 fee. That \$240,000 is a nonrefundable fee. So if Mr.
19 Baron wants to fire you, you just made \$240,000. But if
20 this matter is successfully concluded, then you take
21 your -- By the way, you bill against that every month.
22 You bill against that every month and take money out every
23 month, and if this matter is successfully concluded, then
24 Mr. Baron gets what's left. So that should be an order
25 you prepare. E-mail it to Mr. MacPete and make sure he

10:13 1 doesn't have a problem with it. And then put it often
2 CM/ECF, and I'll sign it. Tell us the case number and
3 what's there and be specific about it. All that money
4 then goes into the trust account of your firm, Mr. Krause,
5 and if Mr. Baron wishes to hire another lawyer, that's a
6 nonrefundable fee. You get the whole thing. If the
7 matter is successfully concluded in this Court, he is
8 returned whatever is left after you bill against it every
9 month, and hopefully, that will only be a month or month
10 and a half.

11 MR. KRAUSE: That's in lieu of the \$50,000.

12 THE COURT: That's in lieu of the \$50,000.

13 MR. MACPETE: Okay. Your Honor, Paragraph 5K
14 was the deadline for my clients to provide the restore
10:14 15 list which would be July 7th at 5:00 p.m.

16 THE COURT: That's the restore list?

17 MR. MACPETE: That's correct, your Honor. The
18 next decline is this Thursday at 3:00 p.m. for the parties
19 to present the VeriSign order to the state court. I think
20 we have been working on that cooperatively, and it's going
21 to happen early.

22 THE COURT: That won't be changed. Mr. Krause,
23 you agree you can get that done?

24 MR. KRAUSE: Yes, that's fine.

25 THE COURT: The next one after that would be

10:15 1 this coming Thursday at 5:00 p.m. And this is where my
2 clients will be identifying the name servers to which our
3 domain names are to be appointed by the registrar Ondova,
4 and we would keep that deadline the same because we want
5 to keep the next deadline which is he has to point to our
6 names by next Friday.

7 THE COURT: These are the 300,000 names?

8 MR. MACPETE: That's correct.

9 THE COURT: Mr. Krause.

10 MR. KRAUSE: I think those are the ones we
11 really would like at least a little time on.

12 THE COURT: I'll give you the weekend. July
13 6th. Was it 5:00 p.m., Mr. MacPete?

14 MR. MACPETE: Yes, sir, your Honor.

10:16 15 THE COURT: 5:00 p.m.

16 MR. MACPETE: So I guess on that one, your
17 Honor, we would have until Friday the 3rd then to provide
18 the list of what he's supposed to have pointed out?

19 THE COURT: Yes.

20 MR. LURICH: Did we change the name?

21 THE COURT: No. I changed the name. They are
22 to give you the 300,000 names by July 6.

23 MR. MACPETE: We have to tell them where they
24 are supposed to go.

25 THE COURT: In other words, he's the one that

10:16 1 sends them out, not you.

2 MR. MACPETE: We give him a list, and then he
3 has to change the address.

4 THE COURT: You give him the list on July 3.

5 MR. MACPETE: Thank you.

6 THE COURT: You'll use that list when you have
7 your list on July 6.

8 MR. LURICH: Since July 3rd is a holiday, may we
9 have it on July 2?

10 THE COURT: July 3rd is a federal holiday.

11 MR. MACPETE: We're going to be working on that
12 day, and now he's trying to limit our time basically to
13 get the list done.

14 THE COURT: July 3 is fine. Somebody has to
10:17 15 stay at the office on Friday. Will that be you, Mr.
16 Krause?

17 MR. KRAUSE: Probably, your Honor.

18 THE COURT: I figured it would be you. Just a
19 guess.

20 MR. MACPETE: The next deadline is currently set
21 for this Thursday at 5:00 p.m., and we would provide the
22 deletion number and the list of Ondova deleted names.
23 This is something that keys off his protected name date,
24 and so if his protected name date is moving to July 7th,
25 this date ought to move to July 8.

10:17 1 THE COURT: Okay. July 8.

2 MR. MACPETE: In addition, there are two other
3 deadlines currently set for Thursday related to that same
4 randomization process. So they should move to July 8.

5 THE COURT: They will.

6 MR. MACPETE: Then the next deadline we have
7 would be for next Tuesday, July 7 at 5:00. The defendants
8 and VeriSign would restore the undelete names. Given that
9 we're not going to provide a restore list until July 7,
10 the natural movement for that date would be July 15th, and
11 I think that's probably fine with VeriSign.

12 THE COURT: Okay. We'll do July 15.

13 THE COURT: Mr. Lurich.

14 MR. LURICH: This is the deadline that has been
10:18 15 some concern for my client, trepidation for my client.
16 When we entered the order, Mr. MacPete assured us he would
17 lend us his employees, the programmers to assist in this
18 process. The way I understand is VeriSign makes this
19 restore process very cumbersome in order to dissuade
20 people from deleting names and going back and restoring
21 them. We spoke to Mr. MacPete about getting VeriSign to
22 ease that process, but we have no assurance they are going
23 to do that, and it's largely a manual process of preparing
24 reports for each individual name that needs to be
25 restored. So if VeriSign is going to extend the deadline,

10:19 1 we would like a little more time to complete this process
2 because this potentially is a monumental task.

3 MR. MACPETE: We're extending VeriSign out about
4 as far as we can. I have told them my people will assist.
5 I don't know that we can effectively assist because we're
6 not familiar with his systems. But I said whatever help
7 we can provide we will be willing to provide, and part of
8 the reason my two clients are still here is I have held
9 them here in Dallas to provide that assistance. At some
10 point they need to go home. They have been here two weeks
11 as a result of this preliminary injunction and things, and
12 it's obviously very expensive and disruptive of their
13 lives. Mr. Baron lives here, and my clients live in
14 California.

10:20 15 THE COURT: I understand.

16 MR. MACPETE: But we said we would help them the
17 best we can. And I understood from one of the counsel
18 that they thought this process may be automated by a
19 fairly easy program being written. And I have some
20 talented programmers. So I'm hopeful that we can work
21 together in that process.

22 THE COURT: Well, let's work together. It
23 doesn't do anybody any good not to get this thing done.
24 By the way, no money is -- None of that \$240,000 is to be
25 given back to Mr. Baron until further order of the Court

10:21 1 because if there is substantial programming assistance
2 needed, the cost of that I will have to consider. But
3 let's work together.

4 MR. MACPETE: We didn't ask them for any
5 compensation for that. We want to get this done in the
6 spirit of cooperation and without asking for a charge.

7 THE COURT: I want to get this done.

8 MR. MACPETE: The last two deadlines, your
9 Honor.

10 MR. LURICH: What did we decide about that
11 deadline?

12 THE COURT: We're going to keep it.

13 MR. LURICH: The 15th?

14 THE COURT: Yes, so everybody gets to work.

10:21 15 MR. MACPETE: The last two deadlines are
16 currently scheduled for this Wednesday, and what they are
17 is the parties are supposed to jointly direct all of the
18 third-party monetization companies who may be currently
19 getting money or holding money related to these domain
20 names to essentially pay that money out fifty percent to
21 each of the parties.

22 THE COURT: That should not be --

23 MR. MACPETE: There is no reason to delay that.
24 That's probably an e-mail or letter.

25 THE COURT: All the money that would go to Mr.

10:22 1 Baron goes into his law firm's trust account, and that
2 again will be a part of a nonrefundable fee, Mr. Krause,
3 if you get fired. So whatever that money is, it all goes
4 into your trust account. If it's a million dollars -- I
5 would hope it's a bunch of money -- you hold it in your
6 trust account, and it is again a nonrefundable fee or to
7 be used in other ways that the Court directs.

8 MR. KRAUSE: What I'm understanding is we may
9 have to pay some renewal fees, and I guess we just let the
10 Court know.

11 THE COURT: Correct. Your request to call me
12 every day is fine. Coordinate it with Mr. Frye. But
13 we're not calling to change dates. We're calling to make
14 sure that I understand the problems. So do you understand
10:23 15 all the money that comes to Mr. Baron from all the
16 monetization firms goes into your trust account to be held
17 either as your nonrefundable fee or as the Court directs?
18 And what can be taken out of that, out of your trust
19 account, can be your monthly legal fees. But that's all
20 that can be taken out of that account.

21 MR. MACPETE: The last deadline which hasn't
22 passed yet, your Honor, is also for this Wednesday, and
23 this is the defendant to provide an accounting of any of
24 the monetization revenues which they have received after
25 the settlement because those monies are all supposed to be

10:23 1 split fifty-fifty, and there is a accounting true up, if
2 you will, at the preliminary injunction. I don't see any
3 reason why that should be extended either. He knows what
4 he has gotten. It should be fairly easy to admit what he
5 has gotten.

6 THE COURT: Mr. Krause.

7 MR. KRAUSE: Because of the other deadlines, to
8 push that.

9 THE COURT: What is that deadline date?

10 MR. KRAUSE: I think it's the 8th.

11 THE COURT: You are going to get that
12 information, but I am going to make that July 13th. That
13 way everybody can keep working over the weekend.

14 MR. MACPETE: Thank you, your Honor. Now, with
10:24 15 respect to other things which have passed, if you will,
16 two things. There was an order in the preliminary
17 injunction that all the who-is related documents would be
18 imaged by this third-party imaging company. That didn't
19 happen. What we got were two documents. But I don't have
20 any of the CSV files that went to Iron Mountain. None of
21 those were imagined. None of the images we showed you of
22 the specific page for Funnygames, we don't have any of
23 that. So basically everything that was supposed to be
24 imaged was not, and I think we need a new date about that.

25 MR. LURICH: Your Honor, the order says create

10:25 1 an image of records and documents related to who-is
2 information. As I understand what the plaintiffs are
3 complaining about is historical information wasn't
4 provided, and I don't know whether it's been explained or
5 not, but it took me several days to figure out this who-is
6 information is a living thing. It's updated and changes,
7 and we have orders in place to make sure that doesn't
8 happen. But when we talked about this issue, it was we
9 need a snapshot of what this information is right now, and
10 that's what we agreed to image.

11 THE COURT: Has that been done?

12 MR. LURICH: This information, this Budgetnames,
13 what this is, is a display on a monitor, and it comes up
14 just like this. This isn't a computer forensic image like
10:26 15 we talked about doing. You hit print screen and print
16 this out. This is publicly available to anybody who wants
17 to access this information. Mr. MacPete can do this
18 today. What we provided him was the source information
19 for this data, and we gave it to him in two forms, and the
20 reason was you have heard a lot of talk about that there
21 was this origination date missing from the information.
22 Well, the way my client uses the who-is information and
23 the who-is information that my client sends to Iron
24 Mountain in accordance with its obligation doesn't include
25 the creation date or origin date. That's the way we

10:26 1 imaged the file, the way it is. That's the way we use it,
2 and that's the way it's set up for us to access. We knew
3 from speaking with Mr. MacPete they wanted this origin
4 date. So my client had another program implemented that
5 included the origination date, and we provided that
6 information. A third-party company, Protegra, undertook
7 this and did it. So now they are saying we want
8 historical information, but that's not what was ordered.
9 I understand they want it. That's something different.

10 MR. MACPETE: Your Honor, may I approach?

11 THE COURT: Well, talk to me. At some point you
12 guys get beyond my meager capacity to understand.

13 MR. MACPETE: What I wanted to give you, your
14 Honor, is a copy of the preliminary injunction because I
10:27 15 disagree with Mr. Lurich about what was actually ordered.

16 THE COURT: Okay.

17 MR. MACPETE: Turn to the top of Page 3, your
18 Honor. Actually the bottom of Page 2 and top of Page 3.
19 It says "Defendant shall engage a third-party service to
20 create an image of all the defendants' documents and
21 records relating to who-is information or any domain names
22 that have been registered at Ondova."

23 THE COURT: The bottom of Page 2 has a Paragraph
24 2, correct.

25 MR. MACPETE: Correct, your Honor. Very last

10:28 1 line.

2 THE COURT: Okay.

3 MR. MACPETE: "Defendant shall engage a third"
4 -- and Page 3, "third party service to create an image of
5 all the defendant's documents and records relating to
6 who-is information or any domain names that have been
7 registered at Ondova." It wasn't limited to this one
8 file. It's clear it's supposed to be all the documents
9 that relate to who-is. That includes the CSV text files.

10 THE COURT: If he's got them, he needs to give
11 them to the third-party imaging service, right.

12 MR. MACPETE: And the document that comes up
13 when you go to his web site, that's obviously a file. It
14 exists electronically, and it should have been imaged.

10:29 15 None of it has. So we haven't had full compliance with
16 this particular order. He has given us some, what he
17 wanted to give us, and not the other stuff, and I need the
18 historic text files. Remember, I said I needed three
19 things. The way to check if what he has provided is
20 accurate is to look at the historic snapshot as they went
21 out to the escrow companies, and my people can look at
22 that and figure out how many he deleted.

23 THE COURT: And that information is where?

24 MR. MACPETE: Electronically on his server
25 because he sends it every week to Iron Mountain.

10:30 1 THE COURT: As another opportunity, can we pull
2 everything off his servers.

3 MR. MACPETE: I was going to suggest that, your
4 Honor, because since we're having such a problem with what
5 he wants to produce -- I'm not saying it's the lawyers.
6 He interprets the law as he wants to and that sort of
7 thing. I think we ought to image his computers and
8 servers and that way we don't have anymore monkey business
9 because it's all there and can't be deleted.

10 MR. LURICH: We can gift him the historic data
11 sent to Iron Mountain. That's not what I understood we
12 were asking for. With respect to this document, this
13 isn't information maintained in this form. I understood
14 Mr. MacPete was able to print this off the computer. They
10:30 15 have hit print screen and got this off. But my client
16 doesn't maintain information like this. My client
17 maintains the source information which we imaged and
18 provided.

19 THE COURT: I have had so many hearings lately
20 where we put things in a confidentiality order. Do we
21 have one in this case?

22 MR. MACPETE: Yes, sir.

23 THE COURT: You're going to image his servers,
24 the entire servers, whatever it is, and that way I don't
25 have to worry about arguing about it.

10:31 1 MR. MACPETE: And that includes the computers as
2 well as the servers?

3 THE COURT: Whatever it is.

4 MR. KRAUSE: I understand doing that to preserve
5 the record, but that will have a lot of personal
6 information, personal financial information. What are we
7 doing with all of that?

8 THE COURT: Well, I will just tell you, this is
9 what they at the FBI and DEA when they are going to have
10 their wire taps. They minimize. So you are going to
11 minimize all personal information. If the FBI and DEA can
12 do it, you can do it. Any personal information gets
13 minimized which means it's blocked out. So if you see
14 something that looks personal, you block it out. But I
10:32 15 can't keep doing this. It gets way too complicated. If
16 you want me to, I can get a third party.

17 MR. KRAUSE: Who's doing the minimizing?

18 THE COURT: Be Mr. MacPete's people. If you
19 want me to, I can have somebody else.

20 MR. KRAUSE: I think at this point we would
21 rather foot the bill for a third party to do that, a
22 master or somebody.

23 THE COURT: Okay. You guys choose within the
24 next 48 hours. By noon -- say 4:00 on the 3rd all of Mr.
25 Baron and his company's servers and computers will be

10:33 1 imaged, and you guys choose the third party to do it, and
2 then Mr. MacPete -- Yes.

3 MR. LURICH: The servers are remote servers.
4 They are not local, and I understand they are in more than
5 one place. So I think we probably would request of the
6 court to have this by at least Monday. I don't know that
7 we can coordinate all of those separate imagings.

8 THE COURT: Okay. 4:00 Monday the 6th. You
9 guys agree today to a third party to do all of this, and
10 Mr. MacPete will have access, and the third party can
11 minimize personal information.

12 MR. MACPETE: And that's at his cost.

13 THE COURT: His cost. The law firm will be
14 getting money that they can pay out of their funds and
10:34 15 make sure it gets done, and they will be putting money in
16 their trust account, and that goes against that. That way
17 I don't have any problem. I don't have any problem with
18 \$50,000. You've got everything. So you guys choose who's
19 going to be the third party. I wouldn't know. And if you
20 can't choose, talk to me.

21 MR. MACPETE: The last thing I need, your Honor,
22 remember we started with basically three things. I need
23 the CSV text files, the reports he relied on when he was
24 deciding what to delete, and I need the log-in codes, and
25 if I could have a specific date in time when I'm supposed

10:34 1 to get that, and obviously it needs to be fairly quickly
2 because, remember, you only moved my deadline to Monday.

3 THE COURT: July 3 you get all the log-in codes.
4 I don't care what domain names are going to what
5 monetization companies, you just get them out.

6 MR. MACPETE: Can I have on July 3 the CSV text
7 files and the reports he relied on in deciding what to
8 delete? Those are the three pieces of information my
9 people need to --

10 MR. KRAUSE: The text file is part of this
11 global imaging.

12 THE COURT: Okay, you will get those on the 6th.

13 MR. MACPETE: I am going to get those literally
14 an hour before I'm supposed to have my list.

10:35 15 THE COURT: Explain that to me again.

16 MR. MACPETE: We need the CSV text files to
17 figure out whether we have a delete list, and under your
18 Honor's current order on the image --

19 THE COURT: Request I move some other deadlines
20 then? You know, I can't work miracles. I am dealing with
21 people that need some time, and if I am going to remote
22 servers, I have to take time.

23 MR. MACPETE: I don't need an image. These are
24 electronic files. He ought to be able to go and download
25 them on a CD right away.

10:36 1 THE COURT: Every time you tell me that, it
2 doesn't work. You tell me that he doesn't give it to you.
3 So I'm telling you, you are telling me it should be easy
4 to do. The next thing is he doesn't know where it is. He
5 can't image it, can't find it.

6 MR. MACPETE: Can we actually see what he has to
7 say about that, your Honor? I'm willing to hear if
8 somehow we're all wrong about how easy it ought to be for
9 him to download that on a CD.

10 MR. LURICH: A suggestion, your Honor. We
11 provide these text files that have been sent to Iron
12 Mountain weekly, and with respect to the imaging, have the
13 imaging as a fail safe. Let's complete it. Give the
14 people more time to do it and they keep it. I don't want
10:37 15 it, and I don't want Mr. MacPete to have it unless there
16 is an issue of what's been produced, and then your Honor
17 can order that third-party company release that
18 information. But we'll get it done, but let's keep it
19 protected because I don't know what's on it.

20 THE COURT: Okay. We're all agreed, nothing,
21 absolutely nothing is going to be deleted from the servers
22 and the computers. Sip, zero, nothing is going to be
23 done. No confusion. Nothing deleted. No personal
24 information. No nothing. Have we reached an agreement on
25 this then that he's going to give you the stuff on the

10:37 1 3rd? He'll give you on the 3rd and if you think it's
2 incomplete you can check it with what you get on the 6th.

3 MR. MACPETE: I'm okay with them taking longer
4 to get the things imaged as long as I get the things I
5 need on the 3rd. I don't agree I shouldn't get the image,
6 but if they need more time.

7 THE COURT: I have given them to the 6th.

8 MR. MACPETE: So the three things I'm getting on
9 the 3rd, I want absolute clarity: All the log-in codes
10 and passwords for all the companies at any time. Text
11 files he sent to Iron Mountain, historic ones. So that I
12 can backtrack his delete list. And all the reports or
13 recommendations or whatever he used to decide what domain
14 names to delete. And I'm getting all of that by July 3rd
10:38 15 at noon?

16 MR. KRAUSE: I guess the issue we may need to
17 clarify is the log-in codes we don't have. I don't know
18 how we're going to get those.

19 THE COURT: Why do you not have them?

20 MR. KRAUSE: They are names that other companies
21 were monetizing on our registrar that we don't have
22 control of, and I don't know if we can come up with a list
23 of those and figure out what everybody can do to get
24 those.

25 MR. MACPETE: I got a list of companies, your

10:40 1 Honor, that have monetized on the domain names that are at
2 issue here, and I can read that list into the record right
3 now. I'm not sure that's everything, but you know,
4 obviously he hasn't produced everything. So what I'm
5 worried about -- What I hear Mr. Krause saying is there
6 are these 500 third-party customers and maybe they have
7 their named parked somewhere and he doesn't have access to
8 them. Obviously, I don't think it's reasonable for them
9 to demand that information from third parties. That's not
10 what I'm looking for, but I'm worried it's going to be
11 used as an excuse to hide information he doesn't want
12 produced. So let me tell you the companies that have
13 monetized on our names, the ones at issue here:
14 Above.com, Domainsponsor, eNom, Fabulous.com, Hitfarm,
10:41 15 Name Drive. And obviously, we have already talked about
16 Park.com.

17 THE COURT: What was the third one?

18 MR. MACPETE: eNom.

19 THE COURT: E-n-o-m?

20 MR. MACPETE: Yes.

21 THE COURT: Okay. Mr. Krause, those need to be
22 produced, the passwords and so forth, pass codes, by noon
23 on the 3rd or a detailed explanation needs to be given as
24 to why they can't be produced.

25 MR. KRAUSE: Okay. I think we were hoping to

10:42 1 5:00. If we could have 5:00.

2 MR. MACPETE: 5:00 is fine and my clients
3 identified one further company. Sedo.

4 THE COURT: Okay. So you guys have to draft me
5 an amended preliminary injunction with these new dates,
6 and you are going to have to put in there the \$50,000
7 penalty per day.

8 MR. MACPETE: We will do that and file the
9 motion your Honor requested with respect to the previous
10 violations.

11 THE COURT: You may file that. I will hold that
12 in abeyance. If you can get this whole thing settled, I
13 will figure out where to go from there. But I want it
14 resolved. You owe me an order, Mr. Krause, on all the
10:43 15 money from all the monetization firms going into your
16 account. The money will go for your fees but will not be
17 distributed otherwise, except by order of the Court. And
18 if for any reason you are fired or released, then I will
19 determine where that money goes, but it will be -- it will
20 be the case that most of it will be a nonrefundable fee.

21 THE COURT: Do you wish to speak, Mr. Lurich?

22 MR. LURICH: Yes, your Honor, one last thing.
23 We have talked a lot about the documents that plaintiffs
24 need from the defendants. The order on expedited
25 discovery didn't address documents coming from plaintiffs

10:44 1 to defendants, and in reviewing the transcript I
2 understand the plaintiffs were agreeing to produce a bunch
3 of documents that haven't been produced. So we need all
4 of that information as well so that we can all get on the
5 same --

6 MR. MACPETE: No problem giving it to them.

7 THE COURT: I've looked at the matters you
8 presented to me in camera. Those are not going to be
9 produced. Mr. Frye has them, and they will be returned to
10 you. I have looked at them, and I don't find them to be
11 appropriate or relevant for production in this case.

12 MR. LURICH: Can we get a date certain that
13 plaintiffs will produce their information?

14 THE COURT: Mr. MacPete.

10:44 15 MR. MACPETE: I'm happy to do it by Friday at
16 5:00.

17 THE COURT: 5:00 the 3rd. Okay. Now, I want
18 this transcript ordered and paid for by the defendants.
19 So we will have that available for us, but it will also be
20 supplemented by the orders I sign. And if there is any
21 disagreement between what we have said here today and what
22 the order says, we'll go by the written order, but you
23 will have the transcript that the good court reporter will
24 have available for you. But this will be at the expense
25 of the defendant, not the plaintiff.

10:45 1 Now, my goal here is to get this over. You
2 know, it's just been going on way too long and in way too
3 many courts. So my goal is to get it over. The
4 plaintiffs have their share of the domain names and
5 Mr. Baron keep his share of domain names and you all go
6 about your life. And that's my goal. There should be no
7 reason why that can't be done. No reason whatsoever.
8 Then Mr. Baron is out from under my jurisdiction, and he
9 can go do his business how he wishes, and the plaintiffs
10 can do their business as they wish. But I'm deadly
11 serious. If we don't get it done, it's going to cost I
12 think Mr. Baron lots and lots and lots of money, and I do
13 think that I'm dealing with about five million dollars
14 here, and I think that would be an appropriate starting
10:47 15 point for a contempt if this thing doesn't get done. And
16 so you know if we don't want to get it done, then it will
17 cost lots of money. If we do get it done, you all can go
18 about your business, and Mr. Baron can keep his money, and
19 the plaintiffs can keep their money, and people can go
20 have a good life. But to leave this thing pending in five
21 jurisdictions with lawyers running around trying to do
22 things, you know, every day is just not going to work. So
23 you all just need to be rid of each other, and it needs to
24 be over, and you need to go and have a good life. You are
25 not going to have a good 4th; it's clear. But your

10:48 1 Independence Day for both sides could be coming shortly,
2 and you will be independent of me.

3 MR. MACPETE: Your Honor, we appreciate the
4 Court's help in essentially effectuating the split of
5 these two parties. I would not want to mislead the Court
6 that we have other causes of action because we have been
7 damaged by the defendant's failure to comply with the
8 settlement agreement. So I don't think the case ends when
9 we get the split, but that obviously goes a long way
10 towards getting what we need done.

11 THE COURT: Let me tell you, the other cases are
12 residing in other courts, and I may let other courts
13 handle the damages issues. I am going to get this done.
14 I am going to get the parties separated and on about their
10:48 15 lives, and you guys can litigate the rest of your lives if
16 you wish to. And we have a fine state judge in Judge
17 Hoffman sitting over there on top of this case.

18 MR. MACPETE: The underlying cases have been
19 settled. So the damages on the breach come out of the
20 settlement in this court. There are other issues, but
21 obviously the big one you have identified is, first, we
22 need to get separated, and we can figure out what happens
23 after the smoke clears.

24 THE COURT: You know, at some point you don't
25 want to be crazy about the litigation. At some point I

10:49 1 would think the parties would want to sit down and talk
2 about not only how to resolve the split, the divorce, but
3 how to resolve the rest of their issues.

4 MR. MACPETE: And we're willing to do that, your
5 Honor.

6 THE COURT: In fact, I may send you to a
7 mediator if you don't do it.

8 MR. MACPETE: That would be great, your Honor.
9 Last thing is with respect to extension of the redemption
10 grace period to VeriSign, we would ask the Court if I
11 could submit a separate order just about that subject so
12 that we can give it to VeriSign and say here is the order.

13 THE COURT: You may. Run it by Mr. Krause and
14 Mr. Lurich.

10:50 15 MR. MACPETE: I will do that. We appreciate
16 your time.

17 THE COURT: This ought to be in the essentials
18 fairly simple to do, and let's get it done, and if you
19 want to talk about damages, you are going to have to
20 mediate this case for about ten weeks before you come back
21 to me, just to let you know that.

22 MR. MACPETE: We have a lot of experience with
23 mediating for longer than that with the defendants. But
24 we didn't ultimately get a deal. So anyway, thank you.

25 THE COURT: Mr. Lurich.

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MR. LURICH: Thank you, Judge.

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C E R T I F I C A T I O N

I, Cassidi L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing pages 1 through 88 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

s/Cassidi L. Casey

CASSIDI L. CASEY
UNITED STATES DISTRICT REPORTER
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION
CSR NUMBER 1703

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08/04/2009	50	APPLICATION for an Order of Reference to the Bankruptcy Court filed by Ondova Limited Company. (Keiffer, E) Modified on 8/6/2009 (skt). Modified on 8/20/2009 (svc). (Entered: 08/04/2009)
07/30/2009	49	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Craig A. Capua. (Capua, Craig) (Entered: 07/30/2009)
07/28/2009		Minute Entry for proceedings held before Judge Royal Furgeson: Status Conference held on 07/28/2009. Attorney Appearances: Plaintiff - John MacPete; Defense - Ryan Lurich/James Krause. (Court Reporter Cass Casey.) Time in Court: 50 minutes. NO PDF ATTACHED - THIS IS A VIRTUAL MINUTE ENTRY. (kkf) (Entered: 07/28/2009)
07/27/2009	48	SUGGESTION OF BANKRUPTCY <i>AND NOTICE OF STAY</i> filed by Ondova Limited Company (Keiffer, E) Modified on 7/28/2009 (tln). (Entered: 07/27/2009)
07/24/2009	47	RESPONSE filed by Netsphere Inc, Manila Industries Inc, Munish Krishan re 46 MOTION to Continue <i>Hearing on Plaintiffs' Motion on Defendants' Contempt of Court</i> (MacPete, John) (Entered: 07/24/2009)
07/24/2009	46	MOTION to Continue <i>Hearing on Plaintiffs' Motion on Defendants' Contempt of Court</i> filed by Jeffrey Baron, Ondova Limited Company with Brief/Memorandum in Support. (Lurich, Ryan) (Entered: 07/24/2009)
07/22/2009	45	Motion for Leave to File Intervention and to Authorize Discovery and Brief in Support against all defendants filed by Craig A. Capua. (Attachments: # 1 Exhibit Verification of Adrian Taylor) (Capua, Craig) Modified on 7/24/2009 (jrb). (Entered: 07/22/2009)
07/22/2009	44	Notice of Correction of Signature Omission, correcting signature omission in 41 Motion for Sanctions filed by Netsphere Inc. (MacPete, John) (Entered: 07/22/2009)
07/21/2009	43	MOTION to Expedite <i>Discovery Regarding Anticipated Motion for Leave to Intervene</i> filed by Netsphere Inc, Manila Industries Inc, Munish Krishan with Brief/Memorandum in Support. (Attachments: # 1 Appendix, # 2 Appendix Part II) (MacPete, John) (Entered: 07/21/2009)
07/21/2009	42	Appendix in Support filed by Netsphere Inc re 41 MOTION on Defendant's Contempt of Court. (Mueller, Jason) Modified on 7/22/2009 (lmp). (Entered: 07/21/2009)
07/21/2009	41	MOTION on Defendant's Contempt of Court filed by Netsphere Inc with Brief/Memorandum in Support. (Mueller, Jason) Modified on 7/22/2009 (lmp). (Entered: 07/21/2009)
07/17/2009	40	ANSWER to 1 Complaint with Jury Demand filed by Jeffrey

Exhibit K

		Baron, Ondova Limited Company, COUNTERCLAIM against Netsphere Inc, Manila Industries Inc, Munish Krishan filed by Jeffrey Baron, Ondova Limited Company (Lurich, Ryan) (Entered: 07/17/2009)
07/16/2009	39	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference Proceedings held on 7-9-09 before Judge Furgeson. Court Reporter/Transcriber Cass Casey, Telephone number 214-354-3139. Parties are notified of their duty to review the transcript. A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a Redaction Request - Transcript must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. The clerk will mail a copy of this notice to parties not electronically noticed. Redaction Request due 8/6/2009. Redacted Transcript Deadline set for 8/17/2009. Release of Transcript Restriction set for 10/14/2009. (clc) (Additional attachment(s) added on 7/20/2009: # 1 Main Document) (axm). Modified pdf on 7/20/2009 (axm). (Entered: 07/16/2009)
07/16/2009	38	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference Proceedings held on 7-1-09 before Judge Furgeson. Court Reporter/Transcriber Cass Casey, Telephone number 214-354-3139. Parties are notified of their duty to review the transcript. A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a Redaction Request - Transcript must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. The clerk will mail a copy of this notice to parties not electronically noticed. Redaction Request due 8/6/2009. Redacted Transcript Deadline set for 8/17/2009. Release of Transcript Restriction set for 10/14/2009. (clc) (Additional attachment(s) added on 7/20/2009: # 1 Main Document) (axm). Modified pdf on 7/20/2009 (axm). (Entered: 07/16/2009)
07/14/2009		Minute Entry for proceedings held before Judge Royal Furgeson: Motion hearing held on 07/09/2009 re 32 Motion to Intervene filed by Jeffrey H. Rasansky, Charla Aldous. Court grants Motion to Intervene. Charla Aldous to prepare order to this effect and submit to the Court. Attorney Appearances: Plaintiff - John MacPete; Defense - James Krause; Ryan Lurich. (Court Reporter Cass Casey.) Time in Court: 1 hour 47 minutes. NO PDF ATTACHED - THIS IS A VIRTUAL MINUTE ENTRY. (kkf) (Entered: 07/14/2009)
07/09/2009	37	ORDER APPOINTING Special Master. Peter S Vogel appointed. [see Order for specifics]. (Ordered by Judge Royal Furgeson on 7/9/2009) (caw) (Entered: 07/10/2009)

07/07/2009	36	ORDER denying 27 Motion to Dismiss or Alternatively Stay Plaintiffs' Claims. (see order) (Ordered by Judge Royal Furgeson on 7/7/2009) (axm) (Entered: 07/08/2009)
07/07/2009	35	ORDER denying 27 Motion to Dismiss or Alternatively Stay Plaintiffs' Claims; denying 29 Motion to File Documents Under Seal. (Ordered by Judge Royal Furgeson on 7/7/2009) (axm) (Entered: 07/08/2009)
07/07/2009	32	MOTION and Notice for Intervention and Brief in Support filed by Charla Aldous, Jeffrey H Rasansky. Party Charla Aldous and Jeffrey Rasansky added. (Wolf, Robert) Modified on 7/8/2009 (jyg). (Entered: 07/07/2009)
07/06/2009	34	ORDER EXTENDING REDEMPTION GRACE PERIOD: (see order) (Ordered by Judge Royal Furgeson on 07/06/09) (Imp) (Entered: 07/08/2009)
07/06/2009	33	ORDER denying 23 Motion to Quash Subpoena Duces Tecum. (Ordered by Judge Royal Furgeson on 07/06/09) (Imp) (Entered: 07/08/2009)
07/06/2009	31	ORDER SEALING PRELIMINARY INJUNCTION. See order for other specifics. (Ordered by Judge Royal Furgeson on 7/6/09) (jrb) (Entered: 07/07/2009)
07/06/2009	30	AMENDMENT TO PRELIMINARY INJUNCTION. See order for specifics. (Ordered by Judge Royal Furgeson on 7/6/09) (jrb) (Entered: 07/07/2009)
07/06/2009		MOTION to Stay filed by Jeffrey Baron, Ondova Limited Company (see #27 for image) (svc) (Entered: 07/07/2009)
07/06/2009	28	Appendix in Support filed by Jeffrey Baron, Ondova Limited Company re 27 MOTION to Dismiss <i>or Alternatively Stay Plaintiffs' Claims</i> (Boisvert, Carter) (Entered: 07/06/2009)
07/06/2009	27	MOTION to Dismiss <i>or Alternatively Stay Plaintiffs' Claims</i> filed by Jeffrey Baron, Ondova Limited Company with Brief/Memorandum in Support. (Boisvert, Carter) (Entered: 07/06/2009)
07/01/2009		Minute Entry for proceedings held before Judge Royal Furgeson: Status Conference held on 07/01/2009. Attorney Appearances: Plaintiff - John MacPete; Defense - Ryan Lurich/James Krause. (Court Reporter Cass Casey.) Time in Court: 2hrs 20 minutes. NO PDF ATTACHED - THIS IS A VIRTUAL MINUTE ENTRY. (kkf) (Entered: 07/02/2009)
06/30/2009	26	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference Proceedings held on 6-19-09 before Judge Furgeson. Court Reporter/Transcriber Cass Casey, Telephone number 214-354-3139. Parties are notified of their duty to review the transcript.

A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a [Redaction Request - Transcript](#) must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. The clerk will mail a copy of this notice to parties not electronically noticed. Redaction Request due 7/21/2009. Redacted Transcript Deadline set for 7/31/2009. Release of Transcript Restriction set for 9/28/2009. (clc) (Entered: 06/30/2009)

08:13 1 approved big legal fees for the receiver and the
2 receiver's attorneys. It looked like to me that there was
3 so much going on that those legal fees were justified.
4 I'm approving fees for Mr. Cox and Mr. Jackson. Looks
5 like to me those fees are justified. But we got to get
6 together to figure out how we can do a better job there.
7 I am going to approve fees for Mr. Thomas, who has been
8 very patient here. I am going to try to get to the bottom
9 of the fees for the lawyers who have been left or shut out
10 in the cold here.

11 But there is going to be nothing left. I mean
12 it doesn't take -- doesn't take a rocket scientist to
13 understand that there is going to be nothing left for
14 Mr. Baron. In my order where I approved the
08:14 15 receivership, I said I had never seen anyone work at such
16 cross purposes to their own best interest. I have never
17 had a vexatious litigant like Mr. Baron.

18 And you know, if the vexatiousness was gaining
19 Mr. Baron some advantage -- And of course it did from
20 time to time. It delayed hearings and caused matters to
21 be cancelled. There were all kinds of short-term benefits
22 that Mr. Baron received from the vexatious conduct of
23 hiring and firing and hiring and firing lawyers, but in
24 the broader picture, I think from what I heard from the
25 testimony on the witness stand there are good lawyers

08:15 1 representing Mr. Baron who will kept saying "This doesn't
2 make sense, don't do this. We have to do it this way."
3 Lawyers over and over and over telling Mr. Baron, you
4 know, you can't do this, can't hide money. Lawyers trying
5 to do their job as lawyers. And over and over again,
6 apparently, Mr. Baron finally just got tired of hearing
7 what he considered to be bad news and fired the lawyers
8 again. You know, people giving bad news I guess are
9 subject to being fired. But what I have never understood
10 in this case -- and I probably will never understand -- is
11 why Mr. Baron does what he does in ways that are so
12 detrimental to his own self interest because what
13 Mr. Baron is about to do here -- whether there is a
14 receiver or not. Say you win and there is no receiver.
08:16 15 It doesn't make any difference. This is going on and on
16 and on until Mr. Baron has nothing. I mean actually
17 everything is depleted. I gather that Mr. Baron is worth
18 lots of money. But it may be that we sell all the domain
19 names. We may sell all of his stock. We may cash in all
20 of his CD's, and we may seize all of his bank accounts.
21 And even if there is no receiver, some judgment creditor
22 is going to do that. It's all gone. And it may be that I
23 don't understand the mind set, and it may be that
24 Mr. Baron is going to say there is nobody anywhere in the
25 universe that's going to tell me what to do. And he can

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

NETSPHERE, INC.,	§	
MANILA INDUSTRIES., INC., AND	§	
MUNISH KRISHAN	§	
	§	
PLAINTIFFS,	§	
	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
	§	
JEFFREY BARON AND	§	
ONDOVA LIMITED COMPANY,	§	
	§	
DEFENDANTS.	§	

THE RECEIVER’S OMNIBUS MOTION TO PERMIT CASHING OUT OF STOCKS AND IRA’S

Soon, the Receiver will be recommending to the Court disbursements for unpaid-attorney claims including claims from attorneys who worked for Jeffrey Baron individually. To fund the attorney claims, the Receiver has accessed some of Mr. Baron’s cash. Unfortunately, this is likely only a small fraction of Mr. Baron’s total cash, the remainder of which resides in the Cook Islands. Thus far, Mr. Baron has blocked the Receiver from accessing these offshore funds.

With respect to the cash that the Receiver has collected, it will simply not be enough to satisfy the claims from attorneys for unpaid fees. Since Mr. Baron does not appear willing to allow the Receiver access to the cash in the Cook Islands, the Receiver may need to cash out certain of Mr. Baron’s stocks and other investments held in his individual retirement accounts (“IRAs”) and use those amounts to fund the payment to attorneys. So, the Receiver seeks an order specifically permitting the Receiver to cash out the stocks and IRAs should he deem that necessary for the settlement of unpaid-attorney claims.

Exhibit M

A. The Receiver understands his instructions from the Court.

As the Court is aware, Mr. Baron engaged a huge number of lawyers, accepted their services, and then failed to pay them (the “Attorney Claims”). The Court has asked the Receiver to assist the Court in (1) accessing cash from the Receivership Assets to pay the Attorney Claims, (2) collecting information relating to the Attorney Claims (*e.g.*, identifying the claimants, the amounts being claimed, the propriety of the Attorney Claims, etc.), and ultimately, (3) disbursing the cash to pay the Attorney Claims.

B. The Receiver projects that the Attorney Claims will be high.

Through investigation, document review, and interviews, the Receiver identified those attorneys who might maintain Attorney Claims against Mr. Baron, personally—as opposed to claims solely against one of his companies (“Potential Claimants”). On January 28, 2011, the Receiver reported on this work through his *Notice of the Receiver’s Progress Towards Resolving Attorney Claims* and Supporting Appendix. [Docket Nos. 254 and 255.] In this report, the Receiver noted that in January 2011, the Receiver transmitted a letter to each of the Potential Claimants for which the Receiver has contact information (“Potential Claimant Letter”). The Potential Claimant Letter provides that each of the Potential Claimants must submit to the Receiver a sworn declaration (a form of which the Receiver prepared to speed along the process and create some uniformity):

- Attaching a copy of all engagement agreements relating to the Attorney Claim;
- Attaching a copy of all invoices relating to the Attorney Claim; and
- Containing a host of relevant information, including, among other things, the client(s) the attorney represented and the amount of the unpaid fees.

So far, the Receiver has received a number of declarations and is expecting to receive more.¹ Based on the declarations, as well as the Receiver’s additional investigation, document review, and interviews, the Receiver projects that the Attorney Claims against Mr. Baron, individually could be more than \$1.8 million. Here is a summary.

Actual Claimant (by Declaration) or Potential Claimant (by Receiver Investigation)	Total Amount Claimed (by Declaration) or Estimated (by Receiver Estimation)	Supported by Declaration
Garrey, Robert (Robert J. Garrey, P.C.)	\$1,000,000.00	Have not yet received
Pronske, Gerrit (Pronske & Patel)	\$241,172.70	Have not yet received
Rasansky, Jeffrey H. and Charla G. Aldous	\$200,000.00 ²	Received [Exhibit A, Appx. 2-5.]
Taylor, Mark (Powers Taylor)	\$78,058.50	Received [Exhibit C, Appx. 10-15.]
Coale, David (Carrington Coleman)	\$70,000.00	Have not yet received
Bickel, John	\$40,000.00	Have not yet received
Friedman, Larry (Friedman & Feiger)	\$40,000.00	Have not yet received
Nelson, Michael	\$31,085.81	Received [Exhibit J, Appx. 40-43.]
Broome, Stanley (Broome Law Firm)	\$28,373.46	Received [Exhibit L, Appx. 47-51.]
Randy Schaffer	\$27,000.00	Have not yet received
Vitullo, Anthony “Louie”	\$22,988.60	Have not yet received
Ferguson, Dean	\$20,000.00	Have not yet received
Pacione, David L.	\$10,018.30	Received [Exhibit D, Appx. 16-19.]
Motley, Christy (Nace & Motley)	\$10,000.00	Have not yet received

¹ Attached to its *Appendix in Support of The Receiver’s Omnibus Motion to Permit Cashing Out of Individual Retirement Accounts* are copies of the declarations the Receiver has received. The Receiver is filing the Appendix contemporaneously herewith and under seal.

² Jeffrey H. Rasansky’s declaration, sent on behalf of both Mr. Rasansky and Charla G. Aldous, states in relevant part, “pursuant to the [Mutual Settlement and Release Agreement entered into on July 2, 2010 in this matter] . . . Rasansky and Aldous agreed that they shall collectively receive \$200,000 covering all attorneys’ fees and expenses incurred, and that amount represents the ‘Attorney Claim’ in this case.” [Exhibit A, Appx. 4.]

Actual Claimant (by Declaration) or Potential Claimant (by Receiver Investigation)	Total Amount Claimed (by Declaration) or Estimated (by Receiver Estimation)	Supported by Declaration
Shaver, Steven R. (Shaver & Ash)	\$6,500.00	Received [Exhibit B, Appx. 6-9.]
Hall, Jeffrey	\$5,000.00	Have not yet received
Jones, Steven	\$5,000.00	Have not yet received
Lyon, Gary	\$3,500.00	Have not yet received
TOTAL	\$1,838,697.37³	

Notably, the Receiver has yet to investigate fully and determine the merits of the Attorney Claims. Nevertheless, in the event the Receiver determines the Attorney Claims should be paid fully, he is requesting the Court’s permission to have the ability to use funds in the stocks and IRAs as sources to satisfy them.

C. The cash collected by the Receiver will be insufficient to fund all of the Attorney Claims.

1. The Receiver has accessed cash from Mr. Baron’s domestic accounts.

Through investigation, document review, and interviews, the Receiver identified and accessed cash from Mr. Baron’s various cash accounts, checking accounts, CDs, and money-market accounts. Per Court Orders, the Receiver disbursed some of this cash already. [Docket Nos. 275-76, 278-79 284, 294-95.] At present, the remaining cash totals \$680,355.82. Here are the details.

³ Some of these claims might require payment from Quantec, LLC and Novo Point, LLC. Conversely, these amounts do not include claims that the Receiver believes will likely require payment from Quantec, LLC and Novo Point, LLC, including approximately \$175,000 in claims as follows: (a) Schurig Jetel Beckett Tackett (\$116,046.31 by declaration) [Exhibit H, Appx. 32-36], (b) West & Associates, LLP (\$41,143.50 by declaration) [Exhibit G, Appx. 29-31], (c) Hitchcock Evert LLP (\$10,201.69 by declaration) [Exhibit I, Appx. 37-39], (d) Sid Chesnin (\$4,952.60 by declaration) [Exhibit F, Appx. 23-28], (e) James Eckels (\$4,112.50 by declaration) [Exhibit K, Appx. 44-46], (f) Josh Cox (\$625 by declaration) [Exhibit E, Appx. 20-22], and (g) Eric Taube (no declaration or estimation yet).

Amount in Account in Receivership Account at Comerica Bank	Original Account Type	Original Account Name	Original Institution Holding Account
\$335,016.59	Cash	Jeffrey Baron	TD Ameritrade
\$156,974.52	Money Market	Jeff D. Baron	Las Colinas Federal Credit Union
\$139,180.53	Money Market	Jeffrey D. Baron	Capital One Bank
\$32,940.94	Funds from Netphere Settlement ⁴	N/A	N/A
\$7,179.71	Checking	Jeffrey D. Baron	Woodforest National Bank
\$4,899.94	Prime Money Market	Jeffrey D. Baron	American Century Investments
\$4,021.75	Savings	Jeffrey D. Baron	Capital One Bank
\$141.84	Checking	Jeffrey D. Baron	Capital One Bank
\$680,355.82	TOTAL		

2. The Receiver has not accessed cash from Mr. Baron's Cook Islands accounts.

Through investigation, document review, and interviews, the Receiver learned that Mr. Baron maintains cash in the Cook Islands through trust accounts to which Mr. Baron is the sole beneficiary. The accounts are managed by the Southpac Trust, which refuses to permit the Receiver access to the accounts. Specifically, the General Counsel of the Southpac Trust, Ms. Tine Faasili Ponia, advised the Receiver that, in her opinion:

The order appointing the receiver is enforceable in the jurisdiction of the United States and not outside of it. As a matter of international law, the order may be enforceable in the Cook Islands but not without the Trust first having the opportunity to be heard in the proceeding. The Trust wasn't heard as it wasn't a party to the proceeding.

⁴ These funds were not residing in any account accessed by the Receiver. Rather, these funds came into the Receiver's possession from the Netsphere settlement and the Receiver deposited them into an account in his name.

And, of course, Mr. Baron, himself, is refusing to comply with the Receiver Order and allow the Receiver access to these funds.

D. The cash collected by the Receiver will be insufficient to fund all of the Attorney Claims.

The Receiver anticipates that the Attorney Claims, which are estimated to be as much as approximately \$1.8 million, will greatly exceed the amount of the collected cash. Indeed, the Receiver estimates that it will soon be filing an additional fee application thereby requesting Orders from the Court to disburse approximately \$200,000 in cash.⁵ Thus, the Receiver will likely be facing the possibility of paying up to \$1.8 million in Attorney Claims with cash of approximately \$480,000.

Thus, in order to make the necessary disbursements to the attorneys for the Attorney Claims, the Receiver will need more cash. Since Mr. Baron will not cooperate in allowing the Receiver to access the cash in the Cook Islands, the Receiver needs to find cash elsewhere—and specifically, through the stocks and IRAs.

Through this motion, the Receiver seeks an omnibus order from the Court permitting the Receiver to utilize the option of selling Jeff Baron's stocks and cashing out Jeff Baron's IRAs to the extent needed to pay the Attorney Claims. The stocks and IRAs to which the Receiver asks for the option of cashing out include, but are not limited to, the following:

⁵ The upcoming fee applications for the Receiver and Gardere will cover work they performed in January 2011. Thus, those fee applications will not include the significant amount of work the Receiver and his counsel recently performed responding to Mr. Baron's multi-faceted emergency motions. [Docket Nos. 264, 269, 298, 299, 301-303, and 306-307.] The February fee applications will, of course, include those amounts.

Amount Receiver Believes to Be in Account	Type of Account	Account Name	Institution
\$842,251.69	Roth IRA	Jeffrey Baron	Equity Trust Co.
\$429,958.49	Stock	Jeffrey Baron	TD Ameritrade
\$319,680.00	IRA (cash/stock)	Jeff Baron	Delaware Charter Guarantee & Trust d/b/a Principal Trust Co.
\$126,856.50	Roth IRA	Equity Trust Co. Cust IRA of Jeffrey Baron	Mid-Ohio Securities Corp.
\$49,374.72	Roth IRA	Jeff Baron	Sterling Trust Co.
\$40,786.66	IRA	Jeffrey D. Baron	The Vanguard Group
\$3,629.15	Roth Conversion IRA	The Bank of New York Mellon Cust f/b/o Jeffrey D. Baron	Dreyfus Investments

Assuming the Court grants this motion, the Receiver will retain Receivership Professionals with substantial investment and tax experience before cashing out any of the stocks or IRAs for the purposes of selecting which specific stocks to sell and/or IRAs to cash out, minimizing tax penalties, and reserving necessary amounts for IRS payments. The Receiver will ask these Professionals to prepare a memorandum summarizing their analyses with recommendations.

Respectfully submitted,

/s/ Barry M. Golden

Barry M. Golden

Texas State Bar No. 24002149

Peter L. Loh

Texas Bar Card No. 24036982

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**ATTORNEYS FOR THE RECEIVER,
PETER S. VOGEL**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on February 9, 2011.

/s/ Peter L. Loh

Peter L. Loh

CERTIFICATE OF CONFERENCE

The undersigned certifies he attempted to confer via e-mail on February 9, 2011, with regard to the foregoing motion with all counsel of record in this matter. All counsel of record except for Gary Schepps, counsel for Jeffrey Baron, either did not respond to the attempt to confer or did not provide an official position either way. Mr. Schepps sent an e-mail stating, "Mr. Loh, isn't the Roth IRA exempt from execution?"

/s/ Peter L. Loh

Peter L. Loh

10:03 1

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

4	NETSPHERE, ET AL.	(Number 3: 09-CV-0988-F
	Plaintiff,	(
		(
5	vs.	(
		(
6	JEFFREY BARON, ET AL.	(
	Defendant.	(December 17, 2010

10:03 8

Emergency Motion to Stay
Before the Honorable Royal Furgeson

A P P E A R A N C E S:

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Exhibit N

CASSIDI L. CASEY, CSR, 214-354-3139
UNITED STATES DISTRICT COURT

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P R O C E E D I N G S :

THE COURT: Will the clerk call the case.

MR. FRYE: 3:09-CV-988 Netsphere, Inc., versus
Jeff Baron, et al.

THE COURT: All right. I think I would consider
the movant in this matter to be Mr. Baron and Quantec.
Could I have announcements?

MR. SCHEPPS: I'm counsel for Mr. Baron.

MR. BARRETT: I'm working with Mr. Schepps.

MR. COX: Joshua Cox for Novo Point and Quantec.

THE COURT: Yes, sir.

MR. JACKSON: Tom Jackson also for Quantec and
Novo Point LLC.

THE COURT: Okay, Mr. Jackson.

Could I have announcements for the trustee?

MR. ROOSIEN: Dennis Roossien for the trustee,
Munsch Hardt. My partners, Mr. Ray Urbanik and
Mr. Richard Hunt, are present also.

THE COURT: Spell your last name.

MR. ROOSIEN: R-o-o-s-s-i-e-n.

THE COURT: And who is with you again?

MR. ROOSIEN: Ray Urbanik and Richard Hunt.

THE COURT: And you are here for Mr. Sherman?

MR. ROOSIEN: Yes, sir.

THE COURT: And for the receiver?

10:05 1 MR. GOLDEN: Barry Golden, counsel for the
2 receiver, Mr. Sherman, along with Mr. Vogel and my
3 cocounsel also from Gardere Wynne, Peter Loh, L-o-h.

4 THE COURT: Okay. Yes, sir.

5 MR. MACPETE: John MacPete, your Honor, on
6 behalf of the plaintiffs.

7 THE COURT: Mr. MacPete, do you have any role to
8 play in this particular hearing that you know of?

9 MR. MACPETE: I may have some comments on the
10 arguments of counsel, particularly on the vexatious
11 litigation, your Honor, but I'm not the main player.

12 THE COURT: We have other people here. I don't
13 know if you are here for parties or who you are here for.
14 Anybody want to make an announcements?

10:06 15 MR. PURI: Ravi Puri on behalf of the plaintiff
16 parties.

17 MR. FERGUSON: I'm a former attorney for
18 Mr. Baron.

19 THE COURT: I'm glad you are here. Thank you,
20 Mr. Ferguson.

21 MR. CHESNIN: Sidney Chesnin, attorney for
22 Mr. Baron. I was requested to provide an affidavit which
23 I have done.

24 MR. LYON: Gary Lyon, I'm the last attorney of
25 record for Mr. Baron.

10:07 1

THE COURT: Say that again.

2

MR. LYON: I'm the last attorney of record for

3

Mr. Baron.

4

THE COURT: You no longer represent Mr. Baron?

5

MR. LYON: I have been informed by him that I'm

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not retained anymore. But I have not had any direction

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from the receiver.

8

THE COURT: Thank you.

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MR. ECHOLS: Former counsel for Quantec LLC.

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THE COURT: Thank you, Mr. Echols. Anyone else?

11

Thank you very much.

12

All right. Perhaps what we ought to do first is

13

deal with the Quantec problem. Mr. Golden, do you have

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other suggestions?

10:07 15

MR. GOLDEN: Yes, I would like to make a

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suggestion. I think what might flow the smoothest is if

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we began with the receiver report as to what's been going

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on since the time the receiver order has been issued, and

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after that I think -- and that's going to lead to me

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requesting the Court to enter an order to help the

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receiver do his job. After that I think it might make

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some sense to deal with the Quantec emergency motion that

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was filed yesterday which the receiver agrees is something

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that needs to be treated on an expedited basis.

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And finally, I believe that Mr. Baron's motion

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to abate should be heard. That's going to be an evidentiary hearing, I understand, and that's going to take the most time.

THE COURT: That will get us to Quantec and Novo Point, so I'll be glad to get your report.

MR. JACKSON: Your Honor, as the attorney for Novo Point, I'd like to object to the report to the extent it relies upon hearsay and conjecture. I would like to make that objection for the record.

THE COURT: Thank you very much. It's overruled.

MR. GOLDEN: Your Honor, the reason that the receiver needs to make a report to begin with is to let you know that Mr. Baron is doing everything in his power to obstruct the receiver from doing each and every part of his job. I don't know if your Honor has had a chance to read our report that we filed late Wednesday night.

THE COURT: I have read it.

MR. GOLDEN: So I won't go over that level of detail with your Honor. I'll just give you a very general overview and offer a proposed order, and my thought is that we could walk through the order, and I can explain why it is the receiver is requesting each prong of it.

THE COURT: Okay.

MR. GOLDEN: The general gist is this.

10:10 1 Mr. Baron, despite the instructions from bankruptcy court
2 and this Court, continues to hire lawyers over and over
3 and over. The last count that we have -- I know that Gary
4 Lyon said that he was the last attorney of record. In the
5 report that the bankruptcy court issued, the bankruptcy
6 court said the final lawyers shall be Thomas Martin and
7 Gary Lyon. Now, since that time there have been at least
8 four other lawyers that have appeared: Sid Chesnin, who
9 has introduced himself; Gary Schepps; Tom Jackson; and
10 Josh Cox, all of whom either represent Mr. Baron
11 individually or one of Mr. Baron's companies. And what
12 these lawyers have done is try to do anything they
13 possibly can to stop the receiver from having any access
14 to funds, any access to present bank accounts now.

10:11 15 MR. JACKSON: Your Honor, I object to the broad
16 basis in which he is grouping all the lawyers. If he
17 would like to specifically name each lawyer and what they
18 have done, that would be acceptable. But this broad brush
19 is objectionable.

20 THE COURT: Well, I take it you will specify the
21 activities of the lawyers individually.

22 MR. GOLDEN: Well, your Honor, we list those on
23 Pages 3 through 10 of our report and reply brief and go
24 into each and every detail there. So if Mr. Jackson would
25 like me to read everything he has done to obstruct the

10:11 1 receiver from doing his job, we will certainly do that.
2 Suffice it to say, through the conduct of these attorneys,
3 individually or collectively, we have no access to the
4 accounts. We can't pay any money. Or I'll say in the
5 passive voice so nobody feels like they are being accused,
6 there is no revenue flowing in from Hitfarm or any of the
7 other monetizers. They have been able to block that.
8 They are trying to stop the receiver from having any
9 access to funds whatsoever.

10 THE COURT: Well, since Mr. Jackson has raised
11 an objection tell me what you see his particular role to
12 be.

13 MR. GOLDEN: Mr. Jackson is the attorney for
14 Quantec and Novo Point LLC. Here is the loop hole that he
10:12 15 is attempting to exploit. Because the receiver order
16 states that receiver parties shall include Jeff Baron and
17 the following entities and goes on to say any entity under
18 the direct or indirect control of Mr. Baron, he's claiming
19 that the judge did not intend to include Quantec, Novo
20 Point, Iguana LLC.

21 THE COURT: What do you understand to be the
22 ownership of those companies?

23 MR. GOLDEN: We understand Mr. Baron includes
24 those companies. And the receiver order includes Novo
25 Point, Inc., and Quantec, Inc., and it's our understanding

10:13 1 the reason they were included was simply out of clerical
2 error. If your Honor wants we can with the trustee's
3 assistance start putting on evidence to show Mr. Baron's
4 control over Quantec and Novo Point LLC. But we don't
5 believe that motion has been tee'd up. What has been
6 tee'd up is a motion to clarify what the Court intended by
7 this order. And this order includes Village Trust,
8 includes Baron, includes various other LLC's, and it says
9 in any entity under the direct or indirect control of
10 Jeffrey Baron whether by ownership, beneficial interest,
11 etcetera, etcetera. Well, the beneficial interest, for
12 example, is Novo Point and Quantec LLC, they take their
13 money and shoot it out to a trust in the Cook Islands, and
14 Mr. Baron is the beneficiary of that trust. So as this is
10:14 15 defined in the receiver order, there is no doubt that
16 Quantec and Novo Point LLC should be receiver parties. So
17 what Mr. Jackson has done is said "I don't know, the Court
18 hasn't ruled on that. I am going to grant myself the
19 order right now and say they are not bound by anything.
20 And anymore monies that Quantec and Novo Point LLC"
21 control -- which happen to be the vast majority, as we're
22 learning of the receiver assets -- "I'm not going to let
23 you get access to."

24 MR. JACKSON: I object to Mr. Golden
25 characterizing my activities in this case without any

10:14 1 evidence other than my correspondence and conversations
2 with Mr. Loh. I contacted Mr. Loh last Friday two days
3 after I was hired and sent correspondence to that effect
4 saying "We want to cooperate with the receiver. Here are
5 the bills we want to have paid." By this time, he had
6 served my client with a subpoena to appear at the bank on
7 Monday morning giving us six hours of business time to
8 deal with this issue. I filed an objection saying it's
9 unreasonable. But I also offered to freeze the accounts
10 and let us sit and reason together to get some of these
11 bills paid.

12 THE COURT: I granted your motion and froze the
13 accounts based upon your representations. So the accounts
14 have been frozen, correct?

10:15 15 MR. JACKSON: Correct. And we're here to
16 cooperate with the receiver. Now, this attempt by
17 Mr. Golden to make us alter egos of Mr. Baron simply
18 because he is the beneficiary of the trust that owns my
19 clients I understand what is afoot here. But to try to
20 mischaracterize my activities in this case in the last
21 eight days, I object to that.

22 THE COURT: While you are standing --

23 MR. JACKSON: And also the receiver's report
24 stands for itself. He doesn't need to be adding his
25 personal characterizations of what he has written in the

10:16 1 report.

2 MR. GOLDEN: He just said because the report --
3 He wanted me to explain it out loud.

4 THE COURT: I know. That's fine. I know
5 everybody has read the initial stages of this and are
6 concerned about how we're proceeding.

7 While you are standing, Mr. Jackson, is it your
8 view that the receiver has no authority under its order as
9 to Quantec and Novo Point? Is this your view?

10 MR. JACKSON: As of today? No, sir, I'm not
11 saying that.

12 THE COURT: What are you saying?

13 MR. JACKSON: What I'm saying is the
14 receivership requirements under federal law is that the
10:17 15 receivership should be the least intrusive to the
16 potential rights of innocent third parties. The heavy
17 handedness and broad brush approach that has been taken by
18 the Gardere firm in this matter is what I have been
19 attempting to hold back so that we can protect --

20 MR. GOLDEN: Your Honor, I would object to the
21 characterization.

22 THE COURT: Wait a minute. It's not helpful for
23 people to disparage each other. That's not helpful. None
24 of you come in front of me with black hats. So if I find
25 it's necessary to disparage counsel, I will be the one

10:17 1 doing it. But I'm not here to disparage today. I'm here
2 today to get my hands around this and so --

3 MR. JACKSON: I will stipulate that Mr. Baron is
4 the beneficiary of the trust that owns the stock and the
5 companies I represent, the membership interests in the
6 LLC's I represent. I will also represent to the Court
7 that he is not the trustee of that trust.

8 THE COURT: Well, let me make sure I understand
9 what your objective here is, Mr. Jackson. What is your
10 objective?

11 MR. JACKSON: My objective is to keep those two
12 companies operating as ongoing businesses with oversight
13 of the receiver with the least intrusive oversight we
14 could with the least expenses to my client in terms of
10:18 15 receivership fees and at the same time being subject to
16 the receiver's overview and oversight.

17 THE COURT: Well, we may be able to get there.
18 Let me tell you what my goal is. I think I have five
19 hundred, six hundred thousand dollars of legal fees that
20 Mr. Baron has run up. I have all of these lawyers in my
21 court. They have filed lawsuits all over the place. I
22 tried at one point -- Without trying to put Mr. Baron in
23 jail, I tried to stop this serial acquisition of counsel.
24 Apparently, the bankruptcy judge has tried to stop this
25 serial acquisition of counsel. You know, we have been

10:19 1 unsuccessful.

2 MR. JACKSON: For the record, I was not hired by
3 Mr. Baron. I was hired by Mr. Harbin, who wrote a check
4 as my retainer off his own personal account.

5 THE COURT: That's fine. I'm just explaining.

6 We have a settlement in this matter. So we're
7 just trying now to bring the loose ends together. I think
8 I have had sincere lawyers who have come in and tried to
9 represent Mr. Baron to the best of their ability. I don't
10 think any of them have lasted more than a couple of weeks.

11 MR. JACKSON: Yes, your Honor.

12 THE COURT: And so my goal is to get control of
13 the money to a certain level so that I can pay the lawyers
14 who have tried their best to help Mr. Baron. There may be
10:20 15 other things hanging out there that I don't know about
16 yet. Once I do that, I'm glad to end this receivership
17 and let Mr. Baron go on his way and so forth. And I'm
18 glad to have Mr. Baron have a good life. He's been a
19 frustration. But I don't hold him any ill will. So the
20 main thing I want the receiver to be able to do is
21 legitimately bring money into the receivership, collect
22 the money so that we can get all of these people who had
23 legitimate complaints, and if I need to, I will hear them
24 all. But I have sat here and watched them come into court
25 one after another after another. And I want to sit down

10:21 1 and get everybody paid, get all the loose ends of this
2 settlement finalized and everybody go about their
3 business. So if you are here to help cooperate in that
4 effort, I welcome you.

5 MR. JACKSON: Your Honor, if I may. I would
6 like the opportunity to craft an order with the receiver
7 that implements exactly what your goal is, that allows my
8 two clients to operate as ongoing businesses under his
9 supervision and be profitable with the issues that came up
10 all through this last week being addressed subject to
11 approval.

12 THE COURT: I have no objection to profit. I
13 stand four square for profit.

14 Now, Mr. Jackson, this is constructive. Let me
10:22 15 talk to Mr. Golden a minute and see if he feels like there
16 is some way we can work through this to achieve his
17 objectives while helping you achieve yours.

18 MR. JACKSON: To that extent, your Honor, I
19 don't think we need to go through the receiver's report as
20 to my clients. If it's Mr. Baron, that's fine.

21 THE COURT: Well, I have received the report. I
22 have read the report. And I realize you have been very
23 frustrated, Mr. Golden. I feel like you have been
24 bombarded with requests and so forth. My goal is to stop
25 that and sit down in an orderly way and get this matter

10:23 1 resolved. I will tell you, I understand Mr. Baron needs
2 living expenses. I don't mind trying to work that out so
3 that Mr. Baron can have living expenses so he's not
4 destitute, living under a bridge or something. I mean all
5 of these things it seems to me if we can calm down can be
6 worked out. And I'm not accusing anybody of anything.
7 I'm just saying this is an example of what's happened in
8 this case from the very beginning. I have only been in
9 this business forty some odd years. I must admit I have
10 never seen a case like this. I have never seen a client
11 go through so many lawyers. I mean just day after day.
12 It's been amazing. I will tell -- For example, we have
13 the lawyers here for Mr. Baron, Mr. Schepps -- Am I
14 pronouncing that correctly?

10:24 15 MR. SCHEPPS: Yes, sir.

16 THE COURT: Thank you. Mr. Schepps and Mr.
17 Barrett, my goal is to get you paid, too. I'm not saying
18 you are going to come ahead of anybody else, but I want to
19 get everybody paid.

20 Now understanding my goals, Mr. Golden, and
21 trying to put aside the enormous frustration that you and
22 Mr. Loh and Mr. Vogel have had apparently in the last ten
23 or fifteen days, is there anything about what Mr. Jackson
24 says where we can find common ground? Just asking.

25 MR. GOLDEN: Absolutely. The purpose of giving

10:25 1 the report is to lay the predicate for this order that we
2 have. I don't normally submit court's orders that are
3 over seven pages long full of this level of detail. But
4 because of the conduct that's occurred in the last couple
5 of weeks and what the receiver perceives to be
6 noncompliance with the receiver, we're seeking
7 clarification to get real specifics about what it is that
8 people should and should not be doing. I think what might
9 make sense is if I were to approach the Court with a copy
10 of our proposed order and then give one to Mr. Jackson as
11 well, and we can talk about all it is that we think we
12 need.

13 THE COURT: Well, let me say, what I think needs
14 to be done here before we go over this order is I do think
10:26 15 if you all can do this in a civil and professional way,
16 that you and Mr. Jackson and Mr. Cox need to sit down and
17 see if you can craft an order that meets the requirements
18 of both sides. I do hear Mr. Jackson saying he's not here
19 to try to in the end blow a hole through the
20 receivership's duties. I have no objection to Quantec and
21 Novo Point continuing to operate. I am concerned -- As
22 talented as Mr. Vogel is, I'm concerned that it may be a
23 bridge too far for him to operate Quantec and Novo Point.
24 My goal is to get some money into the receiver account
25 quickly so that we can shut the receiver down. I can have

10:27 1 the lawyers come in who are owed money. I can get them
2 all paid in a fair way. I'm not talking about a premium.
3 But in a fair way. Close the receiver down, let the
4 settlement get stamped over and then we all go about our
5 business. That would be my goal. What would be your
6 concern about sitting down and talking to Mr. Jackson for
7 a couple of hours?

8 MR. GOLDEN: First of all, I think it can't be
9 just Mr. Jackson because he doesn't purport to speak for
10 Mr. Baron.

11 THE COURT: No, no, but as I understand it,
12 Mr. Jackson is now speaking -- He's not speaking for
13 Mr. Baron.

14 MR. GOLDEN: Well, some of this order addresses
10:28 15 Mr. Baron personally.

16 THE COURT: Well, we'll deal with Mr. Baron in a
17 minute. Mr. Baron has counsel here, and if we have to, I
18 can have separate orders, an order on Quantec and Novo
19 Point and then have an order on Mr. Baron.

20 MR. JACKSON: That's what we're here for, your
21 Honor.

22 THE COURT: Am I not seeing something that I
23 need to understand here?

24 MR. GOLDEN: Well, I guess my hesitation is the
25 thought of sort of an abstract of sitting down for a

10:28 1 couple of hours. I don't know how long it's going to be
2 before we actually get a court order and have access to
3 money to pay debts that are coming due.

4 THE COURT: Well, first of all, one thing I know
5 we have a problem with, I understand your emergency that
6 there are domain names -- Was it you, Mr. Cox?

7 MR. COX: Yes, sir.

8 THE COURT: You need to get rid of the domain
9 names.

10 MR. COX: That's the position of our client.

11 THE COURT: Again, Mr. Vogel is a very
12 knowledgeable guy about this stuff, and it seems to me you
13 can sit down and figure out how to get that done.

14 MR. GOLDEN: There is a problem there, too. We
10:29 15 have the Quantec lawyers saying this is how it should be
16 done, and then we've got the Baron lawyers saying it
17 should be done the exact opposite way.

18 Let me finish, please.

19 And the receiver is understanding that Mr. Baron
20 is controlling both paths and is claiming gross misconduct
21 if we take either path.

22 THE COURT: My view is -- I have Mr. Cox and
23 Mr. Jackson here saying Mr. Baron has nothing to do with
24 the operation or conduct of Novo Point and Quantec. So I
25 can solve that problem. I will say these are the people

10:30 1 you negotiate with. These are the people that have say
2 so. Mr. Baron has no say so. Mr. Baron -- You know, I am
3 going to tell -- I am going to deal with Mr. Baron. If I
4 need to, I will put an injunction on Mr. Baron, and that
5 injunction will go to his agents, his lawyers, and you
6 know, it's an order of the Court enforceable by contempt.
7 So if Mr. Baron continues to think that he can interfere
8 with Mr. Jackson and Mr. Cox in their representation, that
9 will not be allowed.

10 MR. GOLDEN: I have a proposed order that I can
11 share with Mr. Jackson and Mr. Cox, and I think they will
12 be on board. So I think all we need probably is fifteen
13 minutes in the hall on domain names to reach closure on
14 that.

10:30 15 THE COURT: I'll give you that time in a minute.
16 Okay. I'm separating Mr. Baron. Because I do not
17 understand that Mr. Baron is giving instructions to
18 Mr. Cox or Mr. Jackson. I understand they are working
19 separately, and so as far as I'm concerned, if Mr. Baron
20 is the beneficiary of the trust, if he has a problem he
21 goes to the trust. He doesn't have standing to represent
22 the trust or represent these companies. If he has a
23 problem, he goes to the trust, and the trust works them
24 out. I will say with this receiver I'm still willing to
25 consider, you know, using funds that the receiver is able

10:31 1 to accumulate to pay some monthly support allowance for
2 Mr. Baron. I'm not taking that out of consideration.

3 MR. JACKSON: And we would like to sit down with
4 the receiver and submit a proposed budget as to my two
5 companies.

6 THE COURT: Fine.

7 MR. JACKSON: If he has other sources out there,
8 I have nothing to do with those.

9 THE COURT: My view is we're going to work it
10 out with you guys. We, all of us together. But you
11 know -- I want this to be a cooperative venture. These
12 people are acting under the orders of the Court, and if we
13 can get these orders clarified so that you can operate the
14 way you want to, Mr. Jackson, you and Mr. Cox, and your
10:32 15 client and the receiver can receive funds, used to pay
16 lawyers, then we will be fine. And so I see you guys as
17 the not difficult part of this puzzle. That was my hope.

18 MR. GOLDEN: I guess the first thing, your
19 Honor, is we need to get clarification that Quantec and
20 Novo Point are, in fact, receiver parties as set forth in
21 the receiver order.

22 THE COURT: They are going to be receiver
23 parties.

24 MR. GOLDEN: We need a written order because my
25 clients requires that.

10:33 1 THE COURT: Mr. Cox and Mr. Jackson have shown
2 good faith by freezing accounts. My view is they have
3 shown good faith. They are going to be covered by the
4 receiver order in a way that it's drafted so that they can
5 operate fairly and prudently while you are able to monitor
6 and receive reports and so forth and receive the funds
7 that are appropriate for the receiver. Are we on the same
8 wavelength?

9 MR. GOLDEN: Well, the devil is in the details.

10 THE COURT: Well, if I have to draft sentence by
11 sentence, I will. If you guys can't sit down and get an
12 order to me, I'll bring you in and sit down in my chambers
13 and draft an order.

14 MR. GOLDEN: Would it make sense to take a short
10:34 15 recess and let us talk about this?

16 THE COURT: Well, I don't know how much time you
17 have had, but what we'll do is you and Mr. Loh and
18 Mr. Vogel sit down and talk to Mr. Jackson and Mr. Cox for
19 a few minutes. I'm not suggesting that it's a requirement
20 that you come up with an order right now, but if you are
21 able to agree not only in principle but to the basic
22 details, then I think we will have made progress.

23 THE COURT: By the way, to let you know, I have
24 an appointment. I have to leave at 11:30, but I have
25 tried to have the afternoon available. So we will do the

10:34 1 best we can. It's good to see everyone. We will be in
2 recess for a while.

3 (Recess)

4 THE COURT: Thank you. Please be seated. Okay.
5 So I have been notified that maybe the Quantec and Novo
6 Point matters can be satisfactorily resolved. Is that
7 correct as far as you know, Mr. Loh?

8 MR. LOH: Yes, as far as I know. I just popped
9 my head in, and they were busily writing out an order for
10 the Court. So I think they were making significant
11 process. So we can move on to other things before the
12 Court.

13 THE COURT: That would be fine. What would be
14 your suggestion as to how to proceed?

11:08 15 MR. ROOSSIEN: Your Honor. We're prepared to
16 address Mr. Baron's motion.

17 Mr. Schepps, are you prepared to go forward?

18 MR. SCHEPPS: Yes, sir.

19 THE COURT: Do you wish to make some statement
20 in opening?

21 MR. SCHEPPS: Yes, I would.

22 THE COURT: Okay. I'll be glad to hear from
23 you.

24 MR. SCHEPPS: Your Honor, I'm here as an officer
25 of the Court of Appeals. I will ask the Court am I in any

11:09 1 danger of sanction or contempt in representing Mr. Baron.

2 THE COURT: No. There is probably nothing the
3 mighty American armed forces can do to keep Mr. Baron from
4 hiring lawyers. So you are not under any threat of
5 sanction from me. My only goal is to eventually get you
6 paid for your good services.

7 MR. SCHEPPS: Thank you, your Honor. I'm not
8 exactly sure that's within the purview of the Court to pay
9 lawyers. My understanding is if somebody has a claim -- a
10 lawyer has a claim against somebody in Mr. Baron's
11 position, they can submit it to the jury, and they can
12 hear both sides, and the jury can make a determination as
13 to whether the attorney is entitled to compensation or
14 not, is my understanding.

11:10 15 THE COURT: Okay. Well, thank you for that.

16 MR. SCHEPPS: I'm not a hundred percent sure
17 that's within the jurisdiction of this Court.

18 THE COURT: Well, I appreciate your explanation.

19 MR. SCHEPPS: Thank you, your Honor.

20 Your Honor, we're here. As you know, we filed a
21 motion, a notice of interlocutory appeal, to appeal the
22 entry of the receiver order to the Court of Appeals, and
23 we have also made a motion in the Court of Appeals to
24 vacate the receivership order, but they won't take any
25 action until this Court makes a ruling on whether the

11:11 1 receivership order is going to be vacated or stayed in
2 accordance with our request. And that's what we're here
3 on today is to request the Court to vacate or in the
4 alternative to stay the order pending the appeal of this
5 case in the Fifth Circuit.

6 THE COURT: Okay. Glad to have you here.

7 MR. SCHEPPS: Thank you very much, your Honor.
8 It's an honor to be here.

9 THE COURT: My pleasure.

10 Mr. Barrett, is there anything you would like to
11 say?

12 MR. BARRETT: No, sir, your Honor. But I would
13 call the first witness in the case. Mr. Ray Urbanik.

14 MR. ROOSSIEN: Your Honor, there have been a
11:12 15 number of attacks directed at Mr. Urbanik, and I think in
16 view of that and in view of the effort to make this rather
17 a personal matter complaining about Mr. Urbanik, it would
18 be helpful to know the purpose for which he's being
19 called. I have some doubts about whether there is a
20 legitimate reason to put him before the Court.

21 MR. BARRETT: Your Honor, Mr. Urbanik -- They
22 have asked for many findings in their order denying the
23 motion to vacate or stay. And I would like to cross
24 examine Mr. Urbanik as to his personal knowledge of
25 matters that are contained within the order denying the

11:13 1 motion to vacate or stay.

2 MR. ROOSSIEN: Well, your Honor, I wouldn't want
3 to limit them if there is any evidence that they feel is
4 solely in the control of Mr. Urbanik, but simply to
5 explore collectively what he might or might not know about
6 the case is not something they need to be doing.

7 THE COURT: Well, of course, calling Mr. Urbanik
8 is somewhat unusual. It's not beyond the pale, but let me
9 see are there any -- Besides lawyers are there any other
10 fact witnesses that are available? In other words, it may
11 be that Mr. Urbanik needs to testify. But I would
12 normally have him testify only under necessity, and so if
13 there are other people that could be called as witnesses,
14 I would want to start with them and leave him for the
11:14 15 last.

16 MR. BARRETT: Yes, sir, your Honor, I can call
17 Corky Sherman as well, the trustee in this matter. But
18 it's our position that Mr. Urbanik potentially or actually
19 in fact caused the receivership to be put in place as a
20 punitive measure because our client questioned his gross
21 attorneys' fees which in fact --

22 THE COURT: In the bankruptcy court?

23 MR. BARRETT: In the bankruptcy court, that's
24 correct, your Honor. So we would like to question him
25 about that matter as well.

11:14 1 THE COURT: Well, did I miss something here?
2 Were Mr. Urbanik's fees related to Ondova?

3 MR. BARRETT: Well, they were, your Honor. My
4 understanding of the case is that Ondova had approximately
5 five hundred thousand dollars in claims, approximately.
6 And the fees billed for that case totaled approximately a
7 million dollars, if I'm not mistaken.

8 THE COURT: Well, the reason I need to make sure
9 I'm understanding this, the reason I'm asking, is why
10 would Mr. Urbanik want to create a receivership for
11 Mr. Baron since Mr. Urbanik's fees would be out of the
12 bankruptcy court and out of the Ondova entity?

13 MR. BARRETT: Well, because -- my client had the
14 audacity to challenge his fees to begin with, and it was I
11:16 15 think two days later that the receivership was put in
16 place.

17 THE COURT: The thing I'm trying to understand,
18 whatever happened in bankruptcy happened in bankruptcy,
19 and whatever Mr. Baron did in bankruptcy, he did in
20 bankruptcy. What I'm not understanding is -- Mr. Urbanik
21 was not going to look to Mr. Baron to pay his fees. He
22 was going to look to Ondova in bankruptcy

23 MR. BARRETT: That's correct, but certainly
24 Mr. Baron had a concern that a million dollars was being
25 paid out. It would have been cheaper to pay off the

11:16 1 claims.

2 THE COURT: Well, of course, my view is it would
3 have been cheaper a long time ago to solve this case and
4 not hire a bunch of lawyers. That thought just occurred
5 to me during this process. Let me just explain. My view
6 here is the problem with the settlement that occurred in
7 bankruptcy court and I understand has been put to bed --
8 the problem with that settlement and with what has
9 happened in my Court is that -- because of all these
10 outstanding legal fee issues that occurred, mostly during
11 my watch here in this case, it jeopardized the overall
12 settlement that Mr. Baron and Ondova and everybody else
13 was involved in. So I didn't -- My understanding is that
14 the reason for everything being done here was to protect
11:18 15 the settlement, not to increase Mr. Urbanik's fees in the
16 bankruptcy court, and so I have been at great pains to
17 understand why everything was happening in this case
18 because so much of what happened was completely
19 inexplicable. But lawyers were parading through my Court
20 for Mr. Baron at an alarming rate, and I think
21 conscientiously trying to get a base line so that he could
22 resolve his contentious issues and move on with his life.
23 So they came in to do that. And now we have a settlement
24 through Judge Jurnigan that her offices has thoughtfully
25 engendered. But that settlement, as I say, seems to be

11:19 1 jeopardized because of the actions of Mr. Baron in
2 accruing so many outstanding debts to lawyers. To protect
3 my jurisdiction, to protect the sanctity of the
4 settlement, I have stepped forward at the request of the
5 trustee who's trying to do his best to protect the
6 settlement to set up this receiver on a very short time
7 basis. I'm not here to set this receiver in place for the
8 next fifteen years. These lawyers have come in my Court.
9 I certainly have jurisdiction over the issues that have
10 been raised in my Court and can deal with them, protect
11 the settlement and, as I say, protect my jurisdiction and
12 Judge Jurnigan, whose jurisdiction is my jurisdiction, to
13 get this done. So I'm just having a difficult time
14 understanding why Mr. Urbanik's motive in asking for the
11:21 15 receivership or Mr. Sherman's motive in asking for the
16 receivership has anything to do with Mr. Urbanik's fees
17 because I'm not paying his fees, and it's not in my Court.

18 MR. BARRETT: May I respond briefly, your Honor?

19 THE COURT: Sure.

20 MR. BARRETT: There is no question that my
21 client has had too many lawyers. I concede that fact.

22 THE COURT: May I make one prediction? You are
23 not the last.

24 MR. BARRETT: I hope we are. We doubt it.

25 THE COURT: You do not know how much I hope.

11:21 1 You have no earthly idea.

2 MR. BARRETT: Well, we're certainly willing to
3 hang in there if our client permits.

4 THE COURT: That being said.

5 MR. BARRETT: Often times when there is large
6 amounts of money at stake or available, lawyers get
7 somewhat greedy, and I think this is an example of that
8 sort of a case. The individuals who have knowledge of the
9 outstanding attorneys' fees in this case will know and do
10 know that large amounts of money were paid to those
11 lawyers. In some cases millions of dollars, Judge. And
12 in other cases, hundreds of thousands of dollars. And
13 then those lawyers sent more bills to my client to the
14 effect of another hundred or fifty thousand here or
11:22 15 whatever. And in some instances he certainly may have
16 felt he didn't owe that last bill, so to speak.

17 THE COURT: By the way, I'm not taking for
18 granted that the lawyers can send me a bill and I'm paying
19 the money. Whatever is left goes back to Mr. Baron. And
20 let me mention. See, one of the things -- You are a good
21 lawyer, and Mr. Schepps is a good lawyer, and one of the
22 problems that lawyers have is getting up to speed. You
23 are asked to come into a case. I was a lawyer for
24 twenty-four years. And you are trying conscientiously to
25 represent your client, and there is a great -- I don't

11:23 1 know how much. But normally a lot of money is spent
2 getting up to speed. If it had only been one or two
3 lawyers that have gone through this process, I would think
4 maybe I have greedy lawyers or bad lawyers or whatever.
5 But when you get up to fifteen to twenty lawyers over a
6 very short period of time, you got to think that maybe
7 Mr. Baron had something to do about this. It may have
8 been his inability to listen to good advice, for example.
9 Sometimes clients don't like to hear difficult advice.
10 And so my guess -- It's only a guess. My guess was that
11 he was searching for a lawyer who had the silver bullet
12 and could tell him what he wanted to hear and make
13 everything disappear. And the lawyers that came through
14 my Court seem to be good professionals who seem to have a
11:24 15 strong sense of their professional obligations to their
16 client, not to be just yes men.

17 MR. BARRETT: There is no question. I have
18 reviewed the transcripts, and I'm familiar with some of
19 the lawyers, and I know them well, and they are first rate
20 attorneys, your Honor. But I will say that the nature of
21 this business is there are cash crunches periodically
22 where my client doesn't have money all of a sudden. It's
23 a cyclical business. Where he goes from having money to
24 not having money. In fact, my client lives in a very
25 modest house. He drives a car that's probably worth

11:25 1 fifteen hundred dollars despite the fact there is millions
2 of dollars out there in assets. He barely lives -- It's a
3 modest existence, and it's because his money is invested
4 in these businesses, and there is always a cash crunch,
5 and every time there was a cash crunch I think lawyers
6 would withdraw. And I really believe that much of this is
7 attributed to that, although I certainly defer to the
8 Court's explanation as well.

9 THE COURT: Well, as I say, it's inexplicable.
10 The lawyers didn't seem to be getting off the case due to
11 the fact that they couldn't be paid in the next thirty
12 days. But there is another hearing we'll have to
13 investigate that.

14 MR. BARRETT: May I approach the Court?

11:26 15 THE COURT: Yes, sir.

16 MR. BARRETT: We have an interesting argument in
17 this case, and the argument is essentially if the lawyers
18 had been all paid it would essentially be no different
19 than if the client had paid them and asked for
20 reimbursement, if that makes sense to the Court. If I
21 could defer to Mr. Schepps.

22 THE COURT: You may.

23 MR. SCHEPPS: Thank you, your Honor. It's one
24 of the -- I guess the main reason in Mr. Urbanik's motion
25 on behalf of Mr. Sherman was that a growing army of

11:27 1 lawyers were submitting fee applications in the bankruptcy
2 court, and that was putting the bankruptcy settlement at
3 peril, and they were claiming that Mr. Baron had not paid
4 these attorneys, and so they were seeking compensation
5 from the bankruptcy court on the grounds that they
6 benefited the bankruptcy estate under 503(b). But if Mr.
7 Baron had paid the attorneys, then he could have applied
8 to the bankruptcy to seek compensation himself because he
9 benefited the estate by him paying the lawyers personally.
10 So Mr. Urbanik's argument in his motion for application
11 for a receiver being appointed is totally fallacious
12 because the same claims that were filed by the lawyers for
13 payment could have been filed by Mr. Baron for payment.
14 So there is a zero net effect on the bankruptcy estate.

11:28 15 THE COURT: That's your argument.

16 MR. SCHEPPS: Yes, sir.

17 THE COURT: I appreciate that very much.

18 MR. SCHEPPS: And that's what is in our trial
19 brief.

20 THE COURT: You are just giving it to me right
21 now, correct?

22 MR. SCHEPPS: Yes, your Honor.

23 THE COURT: Well, let me say. We have all got
24 busy schedules. I told you at 11:30 I have a commitment.
25 It's 11:25. Why don't we do this. We're going to have to

11:29 1 take a break. Maybe I can be back here at 1:45. That
2 would be my goal, and we'll work this afternoon to see how
3 far we can get along. But I am going to -- I appreciate
4 Mr. Barrett and Mr. Schepps your thoughtful presentation.
5 Mr. Roossien -- What nationality is that?

6 MR. ROOSSIEN: Dutch.

7 THE COURT: And Flemish is the language of the
8 Dutch?

9 MR. ROOSSIEN: It's the French version of a very
10 old Dutch name.

11 THE COURT: Why don't you plan to address me
12 when we come back. I'll hear Mr. Schepps and Mr. Barrett,
13 and then you can address me.

14 MR. ROOSSIEN: We stand on our papers. We filed
11:30 15 a brief. I have four witnesses. And they will all be
16 short. We can commence with Mr. Sherman.

17 THE COURT: Well, why don't you lawyers consult
18 and maybe when I come back at 1:45 hopefully, we will have
19 a better understanding. Everyone have a good lunch and
20 I'll see you back at 1:45.

21 (Recess)

22 THE COURT: Thank you.

23 MR. VOGEL: Your Honor, let me report that I
24 think we have worked out an agreement on the proposed
25 order, and we're finishing that language right now. So

14:10 1 hopefully we will present it here shortly.

2 THE COURT: But no agreement reached with regard
3 to Mr. Baron? You are talking about the agreement --
4 Novo Point and Quantec. I think we can go forward with
5 Mr. Baron's matter. Is there anything else, Mr. Barrett
6 or Mr. Schepps, that you wanted to say before we turn this
7 over to Mr. Roossien?

8 MR. SCHEPPS: Yes, your Honor, as the Court
9 knows, we have this on appeal to the Fifth Circuit. This
10 receivership order was entered without any notice to
11 Mr. Baron or any of his attorneys. It's not supported by
12 an affidavit or declaration. There is no findings in the
13 order to support any of the relief ordered in the order.
14 And we believe for those reasons that we have a likelihood
14:11 15 of success on appeal. Furthermore, the bankruptcy trustee
16 lacks standing to have applied for the order in the first
17 place because he's not a judgment creditor and has no
18 ownership interest in any of Mr. Baron's property. And
19 therefore he lacks standing. And to enter a receivership
20 order for the purpose of stripping a person of assets so
21 he can't hire attorneys is not one of the three reasons
22 recognized by the Fifth Circuit for the implementation of
23 a receivership scheme. And there is only three grounds
24 that the Fifth Circuit has recognized on the appointment
25 of a receiver in a case, and that is anyone showing an

14:12 1 interest in certain property. And Mr. Sherman doesn't
2 have interest in any of Mr. Baron's property. A receiver
3 can be appointed to preserve property. And that wasn't
4 the purpose of this receivership, to preserve property.
5 And a receivership can be established as a remedy for a
6 judgment creditor who has had an execution returned
7 unsatisfied. And none of those grounds are present in
8 this case. And for a receivership to be established in
9 this matter, under a Fifth Circuit case, Tucker versus
10 Baker, 214 F 2nd 627 at 631, two things have to exist:
11 there has to be a claim to assets seized by somebody, and
12 there has to be a further disposition. And none of those
13 two elements are present, your Honor. And a receivership
14 is only auxiliary or to some other relief ordered in a
14:13 15 case. And it's not proper to have a receivership for the
16 sake of a receivership unless it's for an ancillary
17 purpose. And that seems to be the issue here, that this
18 receivership was ordered for a receivership in and of
19 itself. And we're asking the Court to vacate the
20 receivership because we're asking the Fifth Circuit for
21 the same thing and presenting it to the Court today to ask
22 for the same relief we're asking the Fifth Circuit. And
23 if the Court is not inclined to vacate the receivership,
24 we're asking the Court to stay the receivership pending
25 our appeal on the legality and Constitutionality of the

14:14 1 order while it's on appeal. And that's why we're here
2 today.

3 THE COURT: Thank you very much.

4 Okay. Mr. Roossien. And you might address
5 these issues, lack of findings in support of the
6 receivership, the allegations like a finding in support of
7 the receivership, lack of standing because the three Fifth
8 Circuit -- according to counsel, the three Fifth Circuit
9 issues or requirements or grounds for receivership have
10 not been met. None of the three. So you might address
11 those.

12 By the way, has this been thoroughly briefed on
13 your side up until now in your opinion? Citation to legal
14 authority and so forth?

14:15 15 MR. SCHEPPS: Yes, your Honor.

16 THE COURT: And what brief is that?

17 MR. SCHEPPS: We've got a scaled down brief
18 that's been on file in your Court, and we have a full
19 blown brief on file with the Fifth Circuit which we have
20 attached as an exhibit to one of our filings in the
21 District Court. It's thoroughly briefed with pinpoint
22 citations to every issue.

23 THE COURT: Thank you so much.

24 MR. SCHEPPS: Thank you.

25 THE COURT: Yes, sir.

14:16 1 MR. ROOSIEN: Thank you, your Honor. The use
2 of an ex parte proceeding to initiate a receivership is
3 very common. And the procedure, at least in my
4 experience, with that vehicle is to have a hearing like
5 this and to give full opportunity to be heard, to provide
6 full due process, and I believe that's exactly what has
7 been occurring and is occurring here today. We have
8 presented to the Court for its consideration proposed
9 Findings of Fact and Conclusions of Law that we believe
10 are fully supported by the record that existed at the time
11 the receiver was appointed. I believe the Court was very
12 well familiar with the proceedings. We have made an
13 effort to organize that a little bit in the attachments
14 that we presented with our response. I have here a
14:16 15 printed out copy of the exhibits that we attached which
16 were fairly voluminous, but they were all things taken
17 from public record, and we would ask -- and I'll ask in a
18 moment -- for the Court to take judicial notice of the
19 majority of those exhibits.

20 THE COURT: Excuse me. Yes, sir.

21 MR. SCHEPPS: We object to this because he's
22 trying to fix up his receivership order after it was
23 entered, and there is not any precedent for that.

24 THE COURT: Well, I appreciate your objection.
25 I am going to let him have his say as he let you have your

14:17 1 say.

2 MR. SCHEPPS: Are you going to rule on our
3 objection?

4 THE COURT: I'll overrule it at this time.

5 MR. SCHEPPS: Thank you.

6 THE COURT: You are welcome.

7 MR. ROOSIEN: And then your Honor, with regard
8 to the record that was before the Court at the time the
9 order was entered, we have pulled together our Exhibits 2
10 through 41 which were things in the record and I know were
11 in the mind of the court, and those items we have
12 organized.

13 And then with regard to standing, the Court has
14 already made quite a number of comments this far in the
14:18 15 proceedings with regard to standing. I think the Court
16 appreciates the problems that the trustee was having and
17 the function of a trustee in the judicial process which is
18 what we're dealing with here, and we had a trustee
19 obviously who was both an officer of the Court and a party
20 who was assigned certain duties that he couldn't perform.
21 And so in those situations I believe bringing the matter
22 to the Court's attention was appropriate. Particularly
23 since the idea of a receiver was something that Judge
24 Jurnigan mentioned in a September 15 status conference in
25 the bankruptcy court, hitting upon that as something that

14:18 1 might be the only solution here. And then --

2 THE COURT: Recall for me what Judge Jurnigan
3 said was the only solution.

4 MR. ROOSSIEN: The appointment of a receiver for
5 Mr. Baron.

6 THE COURT: The solution to what problems?

7 MR. ROOSSIEN: The solution really to the
8 problem of the abuse of process that she was witnessing.
9 The law that we have presented is that a vexatious
10 litigant -- And I believe the record makes clear that's
11 what we're dealing with with Mr. Baron. He is someone who
12 fits all the elements that we have laid out in our brief
13 as far as being a vexatious litigant. The Court has to
14 take appropriate steps to address that conduct, and we
14:19 15 have identified two situations in particular where
16 receivers can address the situation like what's presented
17 before the Court. One of them is what I would refer to as
18 an enforcement receiver, someone who addresses the need to
19 carry out the orders of the Court. And in this case the
20 orders of the Court are to stop being a vexatious litigant
21 particularly with not just -- We have talked about as far
22 as the progression of changing counsel, but in addition a
23 number of other things where the Court has tried to impose
24 lesser sanctions such as entering orders directing
25 Mr. Baron, issuing certain sanctions, trying to use

14:20 1 mediation as a tool and trying to even set aside a pile of
2 money as a tool. None of those things worked. The Court
3 has been presented with someone who has demonstrated that
4 he will violate the Court's order no matter what it is.
5 The Court has authority to use a receiver in that
6 situation, and the most direct precedence of those where
7 in order to protect against violations of federal law
8 there have been a number of receivers put in place to stop
9 that sort of conduct.

10 In addition, the Court does not have to issue an
11 order that has details that cover every circumstance when
12 is management is what is required. So if the Court wants
13 to address an issue in the school system or an issue with
14 a public agency or if the Court needs to address an issue
14:21 15 where there has been a pattern of conduct that needs to be
16 changed around, using a receiver is historically done and
17 perfectly appropriate. So the cases that have been cited
18 the other way really deal with situations where the issue
19 is only insolvency. And certainly receivers can be used
20 for insolvency. And certainly there are certain elements
21 of asset gathering that are present here. But the use of
22 a receiver is not limited to that, and we have gone in our
23 brief to track back the use of receivers in English law
24 and the rights the Court inherited to appoint receivers
25 through the Constitution, as the Court did. So we believe

14:21 1 the use of a receiver here is appropriate. We believe
2 there was an accurate record. We are prepared to add any
3 additional records as may be appropriate and necessary to
4 provide a complete record understanding up to the Fifth
5 Circuit as to what happened, and we believe the ruling of
6 the Fifth Circuit on the motion in light of the Court's
7 findings and conclusions so that they can consider the
8 matter fully.

9 THE COURT: This is just a practical question.
10 Has the receiver collected any funds at all in this
11 situation to date?

12 MR. ROOSIEN: I do not want to tell the Court
13 that I don't know for certain, and it is my understanding
14 that it has not been significant, your Honor.

14:22 15 THE COURT: Mr. Loh.

16 MR. LOH: I would be happy to speak to that,
17 your Honor.

18 THE COURT: If you would.

19 MR. LOH: We have taken control of approximately
20 fourteen thousand dollars, and part of the objective in
21 the report that we filed was to alert the Court to our
22 efforts in this record to get our arms around all the
23 assets, but that is the sum total that we have actually
24 literally put our hands on.

25 THE COURT: In regard to the discussions going

14:22 1 on between Quantec and Novo Point, is there an effort
2 working with them to have more monies promptly put into
3 the receivership account?

4 MR. LOH: Yes, from what I understand now there
5 are two bank accounts, one in Quantec and one in Novo
6 Point. Those bank accounts together have approximately
7 two hundred fourteen thousand dollars from the internet
8 domain name monetizers. According to the agreement we
9 reached this morning, those will be put in the pot, so to
10 speak, and then from what we understand there are
11 significant amounts of money that exist in Mr. Baron's
12 name individually with bank accounts both domestically and
13 overseas, and we have not been able to get at those.

14 THE COURT: Okay. Thank you very much.

14:24 15 MR. ROOSIEN: And your Honor, we do have some
16 evidence with regard to the scope of the claims. Our
17 Exhibits 14 and 15 in particular list the claims, and the
18 claims that are outside of the bankruptcy, Baron's
19 personal claims, we're showing at about a million seven,
20 your Honor.

21 THE COURT: Against Mr. Baron?

22 MR. ROOSIEN: Yes, sir.

23 THE COURT: What's the nature of those?

24 MR. ROOSIEN: Attorney fee claims.

25 THE COURT: I guess I'm not up to date on the

14:24 1 total sum of the attorney fee claims.

2 MR. ROOSSIEN: Well, when you go back you find a
3 lot of things. I'm not sure either side is going to argue
4 that there is actually insolvency, but from the record
5 before the court, that would be the conclusion.

6 THE COURT: Okay. Is your proof just that if
7 all of these attorneys' fees are collected, the million
8 seven, that would create an insolvency on Mr. Baron's
9 part?

10 MR. ROOSSIEN: I believe the record may come in
11 that way, your Honor. And we have some testimony from
12 Mr. Sherman as to the reason why this is a problem, was a
13 problem for him. And getting specific on the claims in
14 the bankruptcy and looking at those two exhibits, we also
14:25 15 are prepared to put on evidence, if need be, that
16 mediation was unsuccessful and not really an option here.
17 We're also prepared to put on evidence -- although at this
18 point there is quite a lot of evidence on the subject --
19 of whether or not a fine would be an alternative sanction
20 that would be remotely available to the Court, and we also
21 have a couple of lawyers who can give the Court some
22 specifics on what's up and what's behind this.

23 Now, we are perfectly prepared for the Court to
24 limit the nature of our presentation to satisfy the Court
25 or to listen to all of this. Collectively I have four

14:26 1 witnesses that I could make available for the Court, and
2 I'm not sure we will have time for all of them, quite
3 frankly, but I would be happy to make this as short as
4 possible to fit it in the time we have.

5 THE COURT: Okay. We'll do the best we can.
6 Are we ready to proceed?

7 MR. SCHEPPS: We're ready to proceed. I would
8 like to make a couple of quick points before we call our
9 first witness.

10 THE COURT: These are separate and apart from
11 the points already made?

12 MR. SCHEPPS: Separate and apart from the points
13 already made. Thank you. If I may.

14 As the Court knows, the Court entered this
14:26 15 receivership order in order to prevent Mr. Baron from
16 using money to hire attorneys, and the Supreme Court has
17 outlined the golden rule of equity, and the golden rule of
18 equity, your Honor, is that the least --

19 THE COURT: Exactly what page in the order do
20 you refer to? Where it states --

21 MR. SCHEPPS: It's in the motion, Number 13.

22 THE COURT: Where in the order?

23 MR. SCHEPPS: That he can't hire attorneys?

24 It's all through the order. His assets have been stripped
25 so that he can't hire attorneys.

14:27 1 THE COURT: It's all through the order saying
2 specifically Mr. Baron can't hire any attorneys?

3 MR. SCHEPPS: Yes, sir. He can't have any money
4 to hire attorneys.

5 THE COURT: We are passing in the night. The
6 order says he cannot hire attorneys?

7 MR. SCHEPPS: I believe it does.

8 THE COURT: Okay. Show it to me.

9 MR. SCHEPPS: Your Honor, that was the grounds
10 that the motion was made on, is to strip his money so that
11 he couldn't hire attorneys.

12 THE COURT: The order you told me says he can't
13 hire attorneys.

14 MR. SCHEPPS: Okay.

14:28 15 THE COURT: I'm just asking you. You made the
16 argument.

17 MR. SCHEPPS: Well, if he doesn't have any
18 money, he can't hire any attorneys.

19 THE COURT: Well, he has the prospect of lots of
20 money.

21 MR. SCHEPPS: Well, that's a different issue.

22 THE COURT: Well, it may be. But lawyers take
23 lots of cases on the prospect of something happening.
24 Have you ever seen a contingency fee?

25 MR. SCHEPPS: Yes, sir. I just wanted to point

14:28 1 out that the Court didn't impose a lesser sanction before
2 the receivership.

3 THE COURT: What would be your idea of a lesser
4 sanction?

5 MR. SCHEPPS: An injunction. The Court could
6 have enjoined him from hiring an attorney.

7 THE COURT: I appreciate that.

8 MR. GOLDEN: Your Honor, in fact, your Honor has
9 issued such an order and whether you styled that
10 injunction or not, you did order that he could not have
11 anymore attorneys without your permission, and he violated
12 that order, and Judge Jurnigan issued a similar order in
13 the bankruptcy court, and he violated that as well. So on
14 the issue of sanctions, your Honor has plenty of record
14:29 15 before you and Judge Jurnigan -- which you pointed out
16 earlier you are supervising as a representative of the
17 District Court -- where the lesser sanction was tried and
18 has been unsuccessful.

19 THE COURT: Anything else?

20 MR. SCHEPPS: Thank you, your Honor.

21 THE COURT: Now, it's clear we're not going to
22 finish today. It's my view that we probably are going to
23 need a full and complete hearing here. So if we can't
24 finish here today that means the receivership stays in
25 place until I finish my opportunity to hear from everybody

14:30 1 and go from there. So tell me how many witnesses you plan
2 to call.

3 MR. BARRETT: I believe we will have three
4 witnesses.

5 THE COURT: Who are those?

6 MR. BARRETT: Mr. Urbanik, I believe that we
7 will have Mr. Sherman, and I believe that we will have
8 Mr. Baron.

9 THE COURT: Well, Mr. Urbanik, I have inherent
10 authority to conduct the trial in accordance with what I
11 think is an appropriate order of proof. Mr. Urbanik is
12 not going to testify until I have heard from everybody
13 else, and after I have heard from everybody else, both
14 sides, I will hear from everybody else. So apparently,
14:30 15 Mr. Sherman, you are up first. Before you are sworn in,
16 Mr. Sherman, this is a very difficult time of the year.
17 I'm not going to be able probably to hear all of this case
18 today. And the next two weeks are probably not possible
19 for a hearing. But what I would plan to do -- And maybe
20 you can address this for me right now, Mr. Barrett. There
21 has been some comment in the briefing that Mr. Baron needs
22 funds for living expenses. I can't recall if you outlined
23 the amount of funds he needed

24 MR. BARRETT: I did not, your Honor.

25 THE COURT: Can you share that with me right

14:31 1 now?

2 MR. BARRETT: May I have one moment?

3 THE COURT: You may. Sure.

4 MR. VOGEL: Your Honor, if I may address an
5 issue on that to try and respond.

6 THE COURT: Okay.

7 MR. VOGEL: We were advised -- I'm not trying to
8 cut him off approximately, but we were advised that
9 Mr. Baron needed approximately thirty-six hundred dollars
10 a month. And since the receivership order we have given
11 him the thirty-six hundred dollars, and Mr. Sherman has
12 paid some health insurance, and the receivership has said
13 it would assume the responsibility. So at least as of
14 today we have conveyed that many funds to Mr. Baron just
14:32 15 on the request.

16 MR. BARRETT: We would just ask that be
17 increased to four thousand dollars a month. My client's
18 living expenses have increased a little bit.

19 THE COURT: I can handle that. When was the
20 thirty-six hundred dollar payment made?

21 MR. VOGEL: Your Honor, I'm not trying to argue
22 anything here. So I wrote a check out of my own pocket
23 for a thousand dollars and gave it to Mr. Baron I think on
24 December 1st or 2nd, and then last week we gave him
25 another twenty-six hundred on the funds we got from

14:33 1 Netsphere. So we could write a check today.

2 THE COURT: And the first of the month you could
3 write a check for four thousand?

4 MR. VOGEL: Yes, sir.

5 THE COURT: Have you reimbursed yourself?

6 MR. VOGEL: No, sir.

7 THE COURT: I'm giving you an order to reimburse
8 yourself. So if you will deliver to counsel for Mr. Baron
9 a check for four hundred dollars

10 MR. VOGEL: We can do that on Monday.

11 THE COURT: First thing Monday. And at the end
12 of the month -- I guess the 31st is a Friday. On the
13 31st, if you will extend another four thousand dollars.
14 Thank you. So we'll get that straightened away so I can
14:33 15 keep Mr. Baron in shape.

16 By the way, I don't have any intention of
17 denying you your legal fees. I don't want you to
18 understand that at all. I simply need to get a grip on
19 where we are here. But I'm sure you are keeping your
20 time. And I'm sure Mr. Schepps is keeping his time. And
21 my view is whatever your attorney's fees are, they will be
22 paid in due course.

23 MR. SCHEPPS: One question, your Honor?

24 THE COURT: Sure.

25 MR. SCHEPPS: We're going to need a transcript

14:34 1 of these proceedings.

2 THE COURT: Going on right here?

3 MR. SCHEPPS: For the Fifth Circuit. And
4 Mr. Baron doesn't have the funds to pay for it with, and
5 we would ask the Court to order the receiver or the
6 trustee to pay for the transcript that we're going to need
7 on appeal.

8 THE COURT: Sure. That will be done. We got to
9 get the receiver adequate funds to get that done, and the
10 court reporter will work with you. But you will have
11 adequate funds for the filing fee to the Fifth Circuit and
12 for the transcript.

13 MR. SCHEPPS: Thank you very much, your Honor.

14 THE COURT: And of course, my view is we're
14:35 15 going to have to be back here -- By the way, I think I
16 have a bunch of lawyers in the courtroom who are here to
17 testify.

18 MR. BARRETT: Would you prefer that I question
19 those lawyers first?

20 THE COURT: It doesn't make me any difference.
21 I don't have any desire about the order of proof. I'm
22 just telling everybody that I probably only have another
23 hour. As soon as that is finished, we will continue the
24 hearing until January, the first Monday in January,
25 whatever that is. I have a bench trial on the 3rd. So

14:36 1 we'll continue this matter until the 4th and go from
2 there. The only thing I wanted to mention to you,
3 Mr. Barrett -- We'll have a full set of hearings, and I
4 will enter my order in regard to your motion to stay or
5 quash or whatever. After that is over, we'll get you the
6 transcript, and you guys can go to the Fifth Circuit. In
7 the meantime, we will make sure that Mr. Baron's living
8 expenses are covered as he has requested. And then before
9 we finish -- Let's just all talk a minute. Would it make
10 more sense at this point to simply stop here and start the
11 testimony on Tuesday the 4th? Would that make more sense?
12 It would also give the parties a chance to talk a little
13 bit about where you are.

14 MR. BARRETT: I think so, Judge. Otherwise, I
14:37 15 am going to get the testimony of certainly one witness,
16 and then we'll have a big break, and then we'll come back,
17 and I won't really remember exactly the order in which I
18 questioned this gentlemen, and it's going to be a little
19 convoluted.

20 THE COURT: Since we're not going to finish
21 today, what does counsel for the trustee -- What's your
22 thought on that?

23 MR. ROOSIEN: Your Honor, I only have one
24 witness who's not here in Dallas. That's Mr. Dean
25 Ferguson. He's here and came up from Houston. I don't

14:37 1 know his availability on the 4th or whether he would be
2 inconvenienced.

3 MR. FERGUSON: I can be here, your Honor.
4 That's not a problem.

5 MR. ROOSIEN: I didn't want to throw him under
6 the bus without his permission.

7 THE COURT: I appreciate your courtesy. Thank
8 you very much. That's very kind of you. So I think under
9 that situation you can stand down.

10 MR. VOGEL: Your Honor, Mr. Loh went to review
11 that proposed order so hopefully before you recess he will
12 be here.

13 THE COURT: Well, I'll be here for the next
14 hour. Now, there is something in the pleadings that talk
14:38 15 about the receiver trying to field questions, inquiries
16 and so forth from Mr. Baron's counsel. I realize you have
17 lots of questions. I think what we need to do right now,
18 however -- They are under the orders of the Court. They
19 have to file reports. They have to keep the accounting in
20 a straight and thoughtful way. So my view is for the next
21 two weeks, if you have questions, Mr. Barrett, you can
22 talk to the receiver or talk to the trustee's lawyers.
23 But I think -- I just want you to know right now there is
24 not going to be funds for your fees.

25 MR. BARRETT: No problem.

14:39 1 THE COURT: So I want Mr. Baron to have his
2 living expenses paid, and I appreciate the trustee working
3 to make sure his health insurance is paid. That's
4 progress. So we'll get all of that done. You are going
5 to get a full accounting, and really we'll probably set up
6 and we'll probably do that -- I'll talk to the receiver
7 about this -- probably do it on a monthly basis. I think
8 it's better to do it on a monthly basis, and as those
9 accounting tabulations are given to you, if you have
10 questions, we'll have a hearing right here and work
11 through it. My goal is hopefully by mid-January I can
12 rule on your orders, and you can take your appeal to
13 the -- If you need to, you can take your appeal to the
14 Fifth Circuit, and maybe I will grant your motion, and you
14:40 15 won't have to appeal. I just don't know at this point.
16 But you can take your appeal to the Fifth Circuit, if
17 necessary, if you are unsatisfied with my rulings here,
18 and then we can go from there. So we're talking about
19 actually hopefully within less than a month getting all of
20 this wrapped up and getting an opinion, an order out, and
21 both sides I guess can have at it if they are unsatisfied,
22 dissatisfied.

23 MR. BARRETT: Yes, sir.

24 THE COURT: So given where we are, is there
25 anything else anyone wishes to bring up? You rose for

14:41 1 Netsphere -- Well, let me hear from you since you have
2 done us the courtesy of being here from Houston.

3 MR. FERGUSON: Dean Ferguson. The only thing I
4 would request, there has been a good deal of confusion on
5 my part and a lot of people's part in determining who to
6 talk to as representatives. I think the receiver may have
7 been complaining that multiple people are purporting to
8 represent Mr. Baron or one of the entities asked
9 repetitive or sometimes contradictory questions. In
10 attempting to deal with my claim, I have been looking for
11 one person to deal with, and I have had four or five
12 different people that I send something to and I hear not
13 me, I'm just the appellant counsel or something like that.

14 Could we have a mandate or stipulation as to who the
14:42 15 counsel for Novo Point is and who the counsel is for
16 Mr. Baron? Some sort of a contact list so that we will
17 know who we're dealing with.

18 THE COURT: That's a perfect question and
19 perfect request. My view is let's see if we can't settle
20 this right now. Representing Quantec and Novo Point I
21 understand to be Mr. Cox and Mr. Jackson. So I understand
22 they don't represent Mr. Baron. They don't ask questions
23 for Mr. Baron. They don't have anything to do with
24 Mr. Baron.

25 MR. VOGEL: Your Honor, during the discussion

14:43 1 trying to work out the agreed order, that's the
2 representations they have made to receiver's counsel.

3 THE COURT: So we're clear there. If Mr. Baron
4 has questions, those questions can either come from -- and
5 not both -- from either Mr. Barrett or Mr. Schepps,
6 correct?

7 MR. SCHEPPS: Correct.

8 THE COURT: No one else represents Mr. Baron but
9 the two of you.

10 MR. BARRETT: That's correct.

11 THE COURT: I have my fingers crossed.

12 MR. VOGEL: Well, Mr. Schepps at least has
13 contacted the receiver and receiver's counsel, and I think
14 there has been a dialogue. As a matter of fact, I think
14:43 15 some of that has been presented to you. We tried to do
16 that with Mr. Ferguson as well.

17 MR. SCHEPPS: Your Honor, I wanted to clarify.
18 I'm Mr. Baron's counsel for the very narrow issue of the
19 receivership order on appeal.

20 THE COURT: So Mr. Barrett.

21 MR. SCHEPPS: Mr. Barrett works for me, and he's
22 only on that issue. So if there is any other issues for
23 Mr. Baron other than the validity of the receivership
24 order, I don't represent him for that. I'm not his
25 general counsel for all matters. Just on the very limited

14:44 1 and narrow scope of the receivership.

2 THE COURT: So you don't have much need in
3 dealing with the receiver, except in preparing for trial
4 next month, correct? We're giving him his living expenses
5 and so forth and so on.

6 MR. BARRETT: Right now that's correct, your
7 Honor.

8 THE COURT: Well, that raises a good question.
9 In regard to the general representation of Mr. Baron in
10 this courtroom, who would that be?

11 MR. SCHEPPS: I don't believe he has a general
12 representative.

13 MR. LYON: Your Honor, of record I'm the last
14 counsel this Court approved in place of Mr. Hall. But
14:45 15 since the receiver has been appointed I'm not one to take
16 any position contrary to the direction of the receiver
17 because of the nature of the order. And at this time it's
18 not Mr. Baron's wish that I continue in that position. So
19 I'm here to ask guidance from this Court what this Court
20 wishes me to do as I have not been paid either. And so
21 I'm seeking what this Court wants me to do. If the Court
22 wants me to stay in this position, I will start
23 communicating with Mr. Baron, but again, it's Mr. Baron's
24 call on this one.

25 THE COURT: This has been one of the problems in

14:45 1 this case. I have tried to keep Mr. Baron in good
2 representation, but it's been unsuccessful. So I'm not
3 going to ask you to do an unnecessary thing which is to
4 try to continue to represent someone who has given you
5 notice that he wants to terminate the representation. I
6 guess the only thing I will tell everybody -- My view is
7 this is the only matter before the Court right now as far
8 as I'm concerned, this receivership issue, the motion to
9 quash, stay, whatever. I don't see any other matters
10 coming before me until after this is resolved. I do
11 understand the limited nature, Mr. Schepps, of the
12 representation you and Mr. Barrett bring for Mr. Baron.
13 And I'm certainly not trying to expand that
14 representation.

14:46 15 MR. SCHEPPS: Yes, but the attorney for the
16 receiver had asked me to be involved in a more expansive
17 way. And I said I can do that, but I need to be hired for
18 that, and I would need a retainer for that. That was in
19 our correspondence to the attorney for the receiver.

20 THE COURT: Does Mr. Baron have a desire that
21 you be hired for a more expansive role in this Court or do
22 you know?

23 MR. SCHEPPS: He has never mentioned it to me.

24 THE COURT: Check with him and check about what
25 your retainer requirements are in that regard and just

14:47 1 file an advisory with the Court, and I will take it up.

2 MR. SCHEPPS: Thank you very much.

3 MR. LYON: One other matter. Since I have
4 signed the exhibit that actually dismisses this action
5 with the settlement agreement and I filed a motion to
6 withdraw, I want to make sure that exhibit once this Court
7 winds this up -- if I'm no longer counsel if somebody
8 would be able to sign the exhibit that was entered into
9 the bankruptcy court. I want to keep that procedurally
10 correct.

11 THE COURT: Well, as I say, my goal -- I may not
12 achieve my goal, but to protect the settlement in what
13 turns out to be a case of incredibly difficult litigation
14 and to protect the outstanding work of Judge Jurnigan, I
14:48 15 would like you to stay in this case for that purpose, and
16 my goal would be that your staying here would be that you
17 will be paid for your services.

18 MR. LYON: I will be honored to go ahead and
19 accommodate the Court for that. Thank you. May I be
20 excused?

21 THE COURT: You may.

22 MR. SCHEPPS: Your Honor, there may be one or
23 issue.

24 THE COURT: Be glad to hear from you.

25 MR. SCHEPPS: Mr. Baron would like to know if he

14:49 1 can get approval to assert his claims and defend himself
2 in bankruptcy court. He has some pending claims that he
3 has made.

4 THE COURT: Who represents him in bankruptcy
5 court?

6 MR. SCHEPPS: I don't know. I believe
7 Mr. Thomas may have represented Mr. Baron at one time.
8 But I think Mr. Thomas has withdrawn from bankruptcy
9 court, and so there is nobody there in bankruptcy to
10 process his claims or defend against claims, and that
11 seems to be the key issue and, I'm not so sure that the
12 receiver who has asserted he holds all of Mr. Baron's
13 rights has been involved in that.

14 MR. THOMAS: Martin Thomas. I'm counsel of
14:49 15 record in the bankruptcy court. I have not filed a motion
16 to withdraw. I have stated that I intended to. Frankly,
17 on the very day that the receivership order was entered, I
18 was very close to an agreement with Mr. Baron to have me
19 continued. Judge Jurnigan has made it clear that nobody
20 that's of record for Mr. Baron in the bankruptcy court is
21 getting out in the short term. Now, Mr. Broom, who
22 represents Mr. Baron in an adversary in the bankruptcy
23 court, has a motion pending, and she will consider that
24 frankly I believe based on what happens with your order.
25 If the receiver has all the authority for Mr. Baron, then

14:50 1 there is no role for anybody to perform in the bankruptcy
2 court, and that's the position that everybody has taken
3 since the receivership order was entered.

4 THE COURT: Of course, I don't know what's
5 pending in bankruptcy. I don't know what claims Mr. Baron
6 has. I don't know what claims he's asserting. I'm sure
7 you do. What would be your view about the best way to
8 handle the matter in bankruptcy court if you continue with
9 counsel in that situation? What's your view of how that
10 should be handled? Do you have a view?

11 MR. THOMAS: In listening to your Honor's
12 discussion before the lunch break about your intention for
13 the receivership order to -- if I understood it -- to
14 control the attorney's fees and have monies available, if
14:51 15 appropriate, to pay those fees, I'm not sure how that
16 should impact Mr. Baron's rights in the bankruptcy court.
17 Now, Judge Jurnigan has stated an opinion -- and I believe
18 it's included in the referral to your Honor -- that
19 Mr. Baron's continuous changing of attorneys has acted to
20 disrupt the bankruptcy process. And it would seem that
21 with your goal of just the funds being available to pay
22 the attorneys that Mr. Baron ought to be able to have his
23 counsel assert his own rights in the bankruptcy court.
24 I'm not completely sure that I'm happy to be that person.
25 And I hope that -- I'm the cheapest lawyer in town, and I

14:52 1 hope my fee gets paid if I go back there. Mr. Sherman and
2 I have had a number of conversations. In a lot of ways
3 there is not a lot still to be done in the bankruptcy.
4 Mr. Baron may not agree with that. I haven't talked to
5 him in the recent past. But it makes sense to me that he
6 be able to have counsel of his choice that he reaches an
7 agreement with in the bankruptcy court. Judge Jurnigan
8 said it took some effort to get me in the bankruptcy
9 court, and when she did she said you are here, and there
10 will be no more. She expressly said there will be no
11 more. Whether that ought to be changed now or -- I'm not
12 trying to talk to you about what she should do -- but
13 whether that should be changed, if Mr. Baron has a
14 preference for somebody else, I'm certainly happy to get
14:53 15 out of the way. Assuming Mr. Baron and I can finish the
16 agreement that we were on the precipice of in November,
17 I'm happy to go forward.

18 THE COURT: Well, stay right here. My goal --
19 Frankly, I don't want to penetrate into the bankruptcy
20 court and what the great Judge Jurnigan is doing. So
21 actually I would rather you stay in the bankruptcy court.
22 I would rather you assert whatever needs to be asserted if
23 anything does need to be asserted. That would be sort of
24 my goal, and I would not want the receivership order to
25 prevent you from representing Mr. Baron in the court so

14:53 1 long as it's appropriate with the settlement that's been
2 reached and so forth. So let me hear from Mr. Urbanik.
3 Don't leave. Stay around. And you know, I'm not going to
4 cut anybody off. Yes, sir.

5 MR. URBANIK: Ray Urbanik for Daniel Sherman,
6 bankruptcy trustee. Between now and January 4, there is
7 no hearing in the bankruptcy case. It sounds like a lot
8 of lawyers don't know whether they are on board or for
9 what purpose. It may be that they can meet with Mr. Baron
10 and file a report prior to January 4 indicating what they
11 worked out. Judge Jurnigan does not want any new
12 attorneys for Mr. Baron in the bankruptcy case because of
13 the delay and expense. So the solution may be possibly to
14 have these attorneys meet with Mr. Baron and file a report
14:54 15 with you prior to the January 4th hearing as to what they
16 have worked out. It was our understanding that Mr. Vogel
17 stepped into Mr. Baron's shoes for that purpose. In some
18 ways having another lawyer for Mr. Baron, in addition to
19 Mr. Sherman, sort of defeats part of the receivership.

20 THE COURT: That's a helpful suggestion. Thank
21 you.

22 MR. MACPETE: Picking up on Mr. Urbanik's point,
23 one of the bases on which the trustee brought this motion
24 was because of the vexatious litigation prior to the
25 bankruptcy in this Court and continuing in the bankruptcy.

14:55 1 So allowing him to have separate counsel as opposed to
2 Mr. Vogel acting as his counsel allows him to continue in
3 vexatious litigation conduct which in part is the basis
4 the court ordered the receivership in the first place.

5 I would point out to the Court Mr. Vogel has a
6 fiduciary duty to handle Mr. Baron's affairs as the
7 receiver, to do that properly and use his good business
8 judgment. So Mr. Baron is not really being prejudiced by
9 having Mr. Vogel essentially step in and be the party for
10 Mr. Baron in the bankruptcy. So I don't think there is
11 any need for him to have separate counsel, and it's that
12 separate counsel is in part of the problem that the Court
13 is trying to address. Further to that point, I thought
14 you made a good point this morning when you said "Judge
14:56 15 Jurnigan's jurisdiction is my jurisdiction." So picking
16 up on that theme, your case is both my original case
17 before you as well as the bankruptcy court before Judge
18 Jurnigan, and you have to look at what are the claims and
19 the conduct occurring in Judge Jurnigan's court in part as
20 the basis for what the Court is doing with the
21 receivership order. And so I would just have basically
22 three points about the support for the receivership order.

23 If you look at the case law which the trustee's
24 lawyers cited to your Honor in their brief, there are
25 essentially three lines of case law that would support the

14:57 1 appointment of a receiver. In summary, they are vexatious
2 litigation conduct where no lesser sanction basically is
3 available to the Court to stop the vexatious conduct. And
4 here, as we talked about earlier, your Honor, you have
5 issued an order or an injunction to Mr. Baron to not hire
6 additional counsel to cause delay and confusion in the
7 case, and Judge Jurnigan has done that, and he has ignored
8 both of those orders. So the vexatious litigation conduct
9 has continued. It has cost my client probably more than
10 4.1 million dollars in attorneys' fees, and so there has
11 been real damage to the other parties in this case,
12 including the Ondova estate.

13 And on the standing point that was made earlier,
14 I would just remind the Court that Mr. Sherman is the
14:57 15 Chapter 11 trustee for Ondova, and Ondova is a party to my
16 original party to my case. So I think on the question of
17 whether or not the trustee has standing, it's absolutely
18 clear they are here before the Court. They are a party in
19 that original case and they definitely would have
20 standing.

21 In addition on that particular
22 standing point, the Chapter 11 trustee has claims against
23 Mr. Baron for this substantial contribution. So it's a
24 little bit circular, but if I can walk your Honor through
25 it. If a substantial contribution claim has been made,

14:58 1 for instance, there is an adversary proceedings by Mr.
2 Pronske, who is the bankruptcy lawyer for Mr. Baron who
3 achieved the settlement. He has a substantial claim
4 against the estate. To the extent the estate has to pay
5 that substantial contribution claim, they have an
6 indemnity claim back against Mr. Baron, and that's a claim
7 as the supervisor for the bankruptcy court your Honor has
8 jurisdiction. There is also part of Mr. Pronske's
9 adversary proceeding claims against Jeff Baron directly.
10 So when your Honor was considering doing the receivership
11 order on an ex parte basis, one of the conditions the
12 trustee indicated was that Mr. Baron was in the process
13 admittedly of moving assets outside the United States to
14 the Cook Islands where they would not be in the
14:59 15 jurisdiction of Court. This Court has jurisdiction over
16 Mr. Pronske's adversary proceedings which has claims
17 against Mr. Baron, and your Honor has interest in
18 preserving assets subject to your jurisdiction that could
19 ultimately satisfy a judgment in that case. And that's
20 what was going on here. Assets moving out of your
21 jurisdiction where if Judge Jurnigan entered an order or
22 you entered an order saying Mr. Pronske should be paid two
23 thousand dollars or whatever it may be, you would have no
24 way to enforce that because the assets would be in the
25 Cook Islands with whom we have no treaties, and the case

14:59 1 law is clear that your Honor absolutely has the ability to
2 make sure that assets can not be moved out of your
3 jurisdiction. Point number one.

4 Point 2, cases were cited to your Honor about
5 how the Court can appoint a receiver to stop an ongoing
6 fraud. And some of the testimony that your Honor is going
7 to hear on January 4 is Mr. Baron has this practice of
8 serially hiring and firing of lawyers. He would bring a
9 lawyer in and get them to work for free as long as they
10 are willing to do that, and when they protest he brings in
11 a new lawyer. And thereby continuing a Ponzi scheme and
12 getting free legal services --

13 MR. SCHEPPS: We object to that. There is no
14 evidence of that before the court. That's inflammatory.

15:00 15 THE COURT: Well, I have read some of Judge
16 Jurnigan's orders and transcripts. Judge Jurnigan has
17 said that she had a deep concern that what was happening
18 here was theft of services. And that's in her record.
19 The way Mr. Baron was hiring and firing lawyers, leaving
20 amounts of legal fees unpaid, she felt based upon the
21 record before her it amounted to a criminal violation of
22 theft of services. Now, I am going to hear all of this
23 later. And I understand you have your objection. It's
24 going to be the facts that I am going to have to hear, not
25 the argument but I'm glad to hear you state what you have

15:01 1 to state.

2 MR. MACPETE: Thank you, your Honor. On that
3 second line of authority, you don't have to decide that
4 Mr. Baron was defrauding all of these attorneys. What you
5 need in the record on January 4th, if it's not already in
6 from the pleadings and the other things that the trustee
7 has asked you to take judicial notice of, is to figure out
8 whether or not you have a prima facie case that's been
9 made of a fraud so that this Court can then appoint a
10 receiver to stop any ongoing fraudulent activity. That
11 would be a second independent basis on which this Court
12 can support the receivership order.

13 And then the third independent basis is the case
14 law that Mr. Roossien talked about where the Court can
15:02 15 appoint a receiver to insure compliance with its orders,
16 and because of Mr. Baron's repeated practice of ignoring
17 this Court's orders, ignoring this Court's warnings -- And
18 I'm sure I don't have to remind you, your Honor, about the
19 hearing that we had where you told him "I have the Army
20 and Navy and Air Force and Marines behind me to enforce my
21 orders, and I can fine you a million dollars and put you
22 in jail." Yet, none of those warnings or threats have had
23 any effect on the vexatious conduct. Basically there are
24 three orders that Mr. Baron is currently violating that
25 this Court can appoint a receiver to make sure its orders

15:02 1 are complied with. That's the order from you and Judge
2 Jurnigan to not hire additional counsel as well as the
3 mediation order that your Honor issued in this case with
4 originally Mr. Vogel as the mediator. Mr. Vogel obviously
5 is going to be able to report to this Court whether or not
6 Mr. Baron was actually complying with that order. It's my
7 belief the testimony is going to show that he was not
8 complying with that order and he was having a mediation on
9 all of these attorneys' fees impossible. And so this
10 Court can appoint Mr. Vogel as the receiver in essence to
11 make sure that a mediation of those attorneys' fees claims
12 can occur. Those are three independent bases that would
13 support the order you have done on the factual record you
14 have that you either know personally or can take judicial
15:03 15 notice of before the bankruptcy court. And so I think the
16 action you took on Thanksgiving Day is fully supportable
17 and will be supported on the record on appeal.

18 THE COURT: Mr. Urbanik, I think your idea is
19 the right idea. Mr. Thomas, I appreciate your courtesy in
20 being here. I know you are in an awkward situation. I do
21 think it would be helpful -- since nothing is going to
22 happen in the bankruptcy between now and the 4th. We
23 don't have to worry about claims being asserted or
24 anything else happening. As an officer of the Court, I
25 would request that you talk to Mr. Baron and clarify what

15:04 1 is your role in the bankruptcy and then prepare a short
2 report and file it in this case.

3 MR. THOMAS: Be happy to.

4 THE COURT: I would appreciate that. Thank you
5 so much, Mr. Thomas. Thank you all of you for these
6 helpful presentations.

7 Okay. Is there any hanging problem here?

8 Mr. Loh, how are we doing on the other matter?

9 MR. LOH: Your Honor, I apologize for the in and
10 out.

11 THE COURT: I was glad for you and Mr. Cox --

12 MR. LOH: We're doing our own version of shuttle
13 diplomacy here. And I think we're ready to announce an
14 agreement on two separate orders.

15:05 15 THE COURT: Let me ask, Mr. Cox and Mr. Jackson,
16 are one of you representing Quantec and the other
17 representing Novo Point or are you both representing both?

18 MR. JACKSON: Both.

19 MR. LOH: May I approach, your Honor? I'll give
20 you proposed copies of those.

21 THE COURT: Certainly proceed. Tell me what the
22 gist of this is.

23 MR. COX: The gist is we have orders resolving
24 our motion to clarify as well as the emergency motion to
25 compel the release of domain names.

15:05 1 MR. LOH: Essentially in this order, the order
2 requiring renewal of money for domain names, Mr. Cox says
3 that speaks to his emergency motion. There are domain
4 names that are due to be renewed at a significant expense
5 to Quantec and Novo Point. However, these domain names
6 don't make any money for the entities. So we have reached
7 an agreement, an order allowing the receiver to make this
8 determination as to which domain names objectively do not
9 make any money. There is a complicated analysis that we
10 undertook, and the order allows the receiver to order the
11 nonrenewal or allow these domain names to expire.

12 THE COURT: I understand time is of the essence
13 on these matters. Everybody is convinced that these
14 decisions can be made in a timely basis so that
15:06 15 unnecessary expense is not incurred. Is that correct?

16 MR. LOH: Yes. And secondly, your Honor, the
17 more substantive order, order granting the receiver's
18 motion to clarify the receiver's order with respect to
19 Novo Point and Quantec, as Mr. Cox spoke to that,
20 clarifies and delineates and articulates what the duties
21 are -- or the responsibilities are of the receiver over
22 these two entities and affirms that these two entities,
23 Novo Point LLC and Quantec LLC, are indeed receiver
24 parties under the order and lays out some specific
25 requirements as to how the current manager, Mr. Jeff

15:07 1 Harbin, of these two entities is to report to the receiver
2 and his duties and obligations and so forth and so on. So
3 it lays all of that out and puts it to rest.

4 MR. COX: Your Honor, in the interest of this
5 brevity in this order, I would like to inform the Court
6 that it's our intent to work with the receiver to develop
7 outside of this agreement more specific management duties
8 and things of that nature. We didn't want to put those in
9 the order simply for brevity's sake, but that's something
10 we're going to be working out on a going forward basis.

11 THE COURT: Good, I am proud of you guys. We
12 moved the ball forward. That's good. That's excellent.

13 Now, there was a request by Mr. Ferguson just a
14 few minutes ago that we be very clear about who's
15:08 15 representing you. So for purposes of my case and the
16 purposes of the receiver, the receiver is to understand
17 that Mr. Schepps and Mr. Barrett represent Mr. Baron. And
18 so for the next thirty days there is no one checking with
19 the receiver's counsel involving issues with Mr. Baron,
20 except Mr. Schepps and Mr. Barrett

21 MR. BARRETT: Understood, your Honor.

22 MR. SCHEPPS: Yes, sir.

23 THE COURT: So that's clarified. As far as
24 Quantec and Novo Point are concerned, Mr. Cox and
25 Mr. Jackson, you are the representative of those

15:09 1 companies, and so the receiver will assume that you are
2 going to be representing them and them alone and any
3 communications you have relate to them, not to any other
4 party.

5 MR. JACKSON: Correct.

6 MR. COX: Yes, your Honor.

7 MR. LOH: For the time being. In the sense that
8 we have already discussed what their possible role may be
9 going forward, but we can't make any promises to that
10 effect right now.

11 THE COURT: Well, my goal is in thirty days we
12 have a lot of this straightened away. But this has been
13 helpful that this agreement has been reached.

14 MR. LOH: One more thing on housekeeping. With
15:09 15 regard to the order -- we did this over lunch -- there are
16 a couple of typos that we corrected, and counsel for the
17 parties merely corrected in the order and initialed. So
18 those are the extraneous markings that you may see in a
19 few different places. We apologize for any inconvenience,
20 but this was a rush job to a certain extent.

21 THE COURT: I'm impressed you got that far.

22 MR. JACKSON: Your Honor, in that regard, if I
23 may for the record. We were under time restraints, and we
24 got it done. That's the important thing. But there is a
25 memorandum of understanding as to how this is going

15:10 1 forward with management and decision making primarily
2 because we want to minimize receiver fees and fees from
3 the receiver's attorney that eventually will be a fee app
4 to our two clients.

5 THE COURT: All the Court can ask is that
6 lawyers work in a professional, civil way as officers of
7 the Court in goodwill. And I think that's what you are
8 doing. And so I'm very grateful to you for that.

9 That's all that can be done. What I would like
10 to do for the hearing on the 4th is -- I do have a lot of
11 lawyers in the courtroom and I'm glad to hear from all the
12 lawyers who should testify in this case.

13 MR. JACKSON: May Quantec and Novo Point be
14 excused?

15:11 15 THE COURT: Yes. Let me read this order real
16 quick, and I'll excuse you.

17 MR. JACKSON: Don't hold everybody else up for
18 us. Finish with everybody else and then -- Just excused
19 from the 4th.

20 THE COURT: Absolutely. You will be excused
21 from the 4th. What I would like the lawyers to do in good
22 faith and good will is line up the witness list, who Mr.
23 Baron wants to call and who Mr. Sherman wants to call, and
24 line up all of these people and especially as a courtesy
25 to Mr. Ferguson and give him notice of when you think they

15:12 1 might be needed. So some would say they have already lost
2 a lot of money in this case. So I would like to show them
3 the courtesy of not having to stay for the whole hearing,
4 and we can line them up in a way that would be courteous
5 to them and to their time. You don't anticipate any
6 problem with that, Mr. Roossien, do you?

7 MR. ROOSSIEN: No, sir.

8 THE COURT: Mr. Loh?

9 MR. LOH: Not at all.

10 THE COURT: And Mr. Barrett and Mr. Schepps?

11 MR. SCHEPPS: No, sir.

12 THE COURT: Besides these two orders, is there
13 any other loose ends?

14 MR. LOH: One order that I would like to
15:13 15 present, if I could approach.

16 THE COURT: Sure.

17 MR. LOH: It goes a long the same lines, your
18 Honor, with our motion to clarify, and this order, your
19 Honor, deals specifically with Mr. Baron personally and
20 the information and the records that we have found to date
21 in the three weeks that the receivership order has been in
22 effect. And this order deals with bank accounts and --
23 specifically with bank accounts, both domestic and abroad
24 in the Cook Islands, that we believe exist, and we would
25 like an order entered directing Mr. Baron to direct those

15:13 1 financial institutions, whether they were here or abroad,
2 to bring those monies into the control of the receiver so
3 we know exactly what we're talking about dollar-wise. We
4 believe that's necessary for the receiver to do his job,
5 to get our arms around exactly what there is. The Court
6 heard testimony about these various different claims and
7 stuff that have to be settled one way or the other, and so
8 we have to know how much money is available to settle
9 those claims and try to make everybody have a just
10 resolution to all of this. That's what this order
11 specifically goes towards. This is what I presented to
12 the Court. I'm happy to answer whatever questions there
13 are, and I'm sure counsel will have comments, but that's
14 all we have.

15:14 15 THE COURT: Counsel for Mr. Baron had an
16 opportunity to see this order or read it?

17 MR. SCHEPPS: No.

18 THE COURT: Although I don't have staff over the
19 holidays, I will be here over the holidays. So what I
20 would request that you do, Mr. Schepps, is I would
21 request -- Today is Friday the 17th. I would request that
22 you file with me by the 23rd, and if you will file with me
23 your response to this.

24 MR. SCHEPPS: Thank you, your Honor. One other
25 quick housekeeping matter.

15:15 1 THE COURT: Okay.

2 MR. SCHEPPS: Counsel for the receiver sent me a
3 series of e-mails saying that they've got approximately
4 six boxes of documents that were turned over to the
5 receiver by Mr. Baron's former counsel and that we can
6 come down and look at it, copy, whatever we want to. And
7 counsel mentioned that in a couple of e-mails. And we
8 said we don't have the money to pay for it. We would like
9 the receiver to pay for it.

10 THE COURT: Pay for the copies?

11 MR. SCHEPPS: For copies. And so the receiver
12 said he's not paying for it. So we decided to pay for it,
13 and I sent over the copy service yesterday to Mr. Vogel's
14 office to see Mr. Golden because Mr. Golden is the one
15:16 15 that invited me to come down and copy them. And he was
16 told we couldn't see them and we couldn't take them for
17 copying and he would have to get authorization because it
18 was basically above his pay grade. We would like the
19 Court to order Mr. Golden to turn over those documents
20 that were seized by Mr. Baron's former counsel to the copy
21 service.

22 MR. LOH: We're happy to have them come and pick
23 up the copy. Our concern was we wanted them released to a
24 copy service that we were comfortable with. We went to
25 great pains to gather up these documents, as I'm sure you

15:17 1 can appreciate. And we didn't want just any person
2 because the only record that we have --

3 THE COURT: Well, let me do this. You can
4 choose the copy service, but given that, you have to pay
5 for the copies at this time. If the copies are ten or
6 twenty million dollars, we have a problem.

7 MR. LOH: Probably a couple of thousand dollars.

8 THE COURT: Well, hopefully given this agreement
9 that you have with the people at Quantec and Novo Point,
10 you are going to have the funds to do that.

11 MR. JACKSON: Your Honor, again, part of the
12 agreement is Quantec and Novo Point's money is Quantec and
13 Novo Point's money to be used for their purposes and their
14 purposes only, and our point in that agreement is they are
15:17 15 separate and distinct from any of these other problems
16 involving Mr. Baron. So our funds are to be used for the
17 business purposes of Quantec and Novo Point only.

18 THE COURT: I appreciate that clarification. I
19 didn't realize that. Well, we're running out of money.
20 Let's do this.

21 MR. LOH: To some extent, I would take issue
22 with that from a technical standpoint. But Quantec and
23 Novo Point are the only two entities now that have any
24 money.

25 THE COURT: Let's don't bust up this agreement

15:18 1 you just worked four hours on. Did you disagree with the
2 copy service that Mr. Schepps had selected? Was that the
3 problem?

4 MR. LOH: It's not that I disagreed. Our firm
5 has a preferred copy service. I know this gentlemen
6 personally. I know what I give to him I am going to get
7 back. That's my preference.

8 THE COURT: Well, I will allow you to do that,
9 and your firm for right now is going to have to pay for
10 that. Okay? I don't see any other way to do it.

11 MR. LOH: Fine.

12 THE COURT: The goal is to get as many funds as
13 possible into this account. But we're working the best we
14 can.

15:19 15 MR. SCHEPPS: I just want to add, we sent a well
16 respected national copy service to the office.

17 THE COURT: I'm not -- I understand. But if
18 they want to do it, they can pay for it.

19 MR. SCHEPPS: And we would request that they be
20 copied into the PDF format.

21 THE COURT: Mr. Loh, did you hear that? They
22 want it copied in the PDF format.

23 MR. LOH: Okay.

24 MR. SCHEPPS: We don't want paper copies.

25 MR. LOH: That adds extra expense.

15:19 1 MR. SCHEPPS: I'll just coordinate with Mr. Loh.

2 THE COURT: Coordinate. See what you can do.

3 MR. LOH: I'm happy to work with them.

4 THE COURT: Let's work together.

5 MR. LOH: One other question. On the order that
6 you were going to allow them to respond to by the 23rd,
7 that hasn't been filed. Would you like me to file that
8 with the ECF as a proposed order for the record?

9 THE COURT: Yes, do a cover sheet saying it's a
10 proposed order.

11 MR. LOH: Just so you have it on the docket.

12 THE COURT: Yes. Let me say -- It is
13 interesting. Mr. MacPete in many ways articulated my
14 understanding of the beginning basis for the receivership
15:20 15 order and what he assumes I will hear as a further basis
16 for the receivership order. So I think what Mr. MacPete
17 has given us on the record is something that both sides
18 should pay attention to. I think it turned out to be
19 helpful. I don't need anyone else to stay here other than
20 trustee's counsel, counsel for receiver and Quantec and
21 Novo Point, unless anyone else wants to bring anything to
22 my attention. Everyone else can be excused. We'll start
23 at nine o'clock on Tuesday. I'm not trying to prevent any
24 lawyers who have an interest in this case from not being
25 here. But my goal would be that you might have other

15:21 1 things to do, too.

2 MR. LOH: Those other two orders haven't been
3 filed. Would you like that, too?

4 THE COURT: Sure. I am going to read it and
5 sign it here.

6 MR. LOH: And the renewal of the domain names,
7 that's the second one.

8 MR. SCHEPPS: My client reports to me there may
9 be pending objections in the bankruptcy court at this
10 time. Can we ask that Mr. Thomas report to us whether
11 there is any such proceedings in the bankruptcy court in
12 the next couple of weeks?

13 THE COURT: Coordinate a meeting between
14 Mr. Baron and Mr. Thomas so that Mr. Thomas can bring you
15:22 15 up on everything.

16 MR. URBANIK: The pending motion have been moved
17 to January 25th. The hearing on the 4th is now a status
18 conference on 25th. There is nothing that anyone needs to
19 reply to.

20 MR. THOMAS: I think the order is being drafted,
21 but I think Mr. Urbanik correctly recited the Judge's
22 ruling.

23 Okay. I'm looking at the order requiring
24 nonrenewal of money-losing domain names. As I understand
25 the paragraph on the second page, we're talking about

15:24 1 Mr. Baron's view that there was no legitimate, lawful
2 basis to liquidate the domain names. The order says the
3 Court disagrees with Mr. Baron: There is a legitimate and
4 lawful reason to liquidate the domain names. There exist
5 thousands of domain names whose cost of upkeep and
6 maintenance for the past year, parenthetically, including
7 for example but not with limitation annual registrar
8 renewal fees, close parenthetical, exceed those monies
9 generated by the domain names for the past year. The
10 Court hereby orders that the receiver identify the
11 money-losing domain names and instruct the registrar not
12 to renew them.

13 MR. JACKSON: And as a point of clarification,
14 under the other order that you have and the management
15:25 15 regime that we have in place, what we'll try to do is have
16 the management regime identify those for the receiver so
17 we don't incur fees for each and every domain name and
18 then that recommendation being made to the receiver
19 subject to his approval and then we can delete.

20 MR. LOH: I think that process has basically
21 already occurred. We have identified these domain names
22 that do not generate enough revenue to justify their
23 existence.

24 MR. JACKSON: The clarification is the words to
25 the order specifically order the receiver to make the

15:26 1 determination, but the determination is made through the
2 management that's in place.

3 MR. LOH: We don't have any quarrel with that.

4 THE COURT: I am going to sign this 12-17-2010.
5 So I am going to sign that order. Mr. Frye.

6 Now as I understand it -- Let me make sure I
7 understand this correctly. Novo Point and Quantec are
8 companies owned by a trust.

9 MR. COX: That's correct.

10 MR. JACKSON: That's correct.

11 THE COURT: And Mr. Harbin, is the trustee?

12 MR. COX: Your Honor, he was named the manager
13 of the limited liability companies.

14 THE COURT: He's the manager of limited
15 liability companies.

16 MR. LOH: By the trust.

17 THE COURT: Now, there is language in here that
18 the receiver can fire him. Did I read that correctly?

19 MR. LOH: I think that's right under certain
20 circumstances.

21 THE COURT: Let me say my view is if there is a
22 desire to fire Mr. Harbin, that probably ought to be
23 something that the receiver takes up with me.

24 MR. JACKSON: We would agree with that.

25 THE COURT: Just so we don't have any sort of

15:31 1 loose ends out there. It seems to me so far Mr. Harbin
2 has certainly acted in good faith, and so if there is a
3 disagreement between the receiver and Mr. Harbin, I think
4 we can come in and talk about it.

5 I have signed this order as well.

6 MR. JACKSON: Thank you, your Honor. May we be
7 excused?

8 THE COURT: Yes, you may be excused.

9 MR. VOGEL: I'm not trying to be a trouble maker
10 here, but I have an arbitration hearing January 4th in
11 Chicago. I'm not trying to change anybody else's
12 schedule. I'm prepared to deal with the Triple A on that
13 separately. But I'm wondering if it's possible to have
14 this hearing on the 5th of January.

15:32 15 THE COURT: Would you do everything you could to
16 change that?

17 MR. VOGEL: Yes, your Honor.

18 THE COURT: I appreciate that very much.

19 Mr. Vogel, I know you have a very busy schedule,
20 and I appreciate that. You have always tried to
21 accommodate everyone with your schedule. But you have a
22 lot going on.

23 MR. VOGEL: I don't really want to be in Chicago
24 in January at all, your Honor.

25 THE COURT: I understand. Tell them if they

15:32 1 don't see that as something they can accommodate you on
2 would you ask them to call me.

3 MR. VOGEL: Yes, your Honor.

4 THE COURT: I appreciate that. I really feel
5 like this has been a constructive day. It did turn out to
6 be 3:30 anyway, didn't it. I hope I haven't ruined
7 people's holidays, but there is a lot of work to be done
8 between now and the 4th, and I look forward to seeing
9 everybody here to do it. I know in some ways,
10 Mr. MacPete, you don't have a dog in this fight, but maybe
11 you do have a dog in this fight because you continue to be
12 concerned about the viability of the settlement if this
13 unravels.

14 MR. MACPETE: That's correct. My clients think
15:33 15 the receiver is very much necessary to insure the
16 enforcement of the settlement and the compliance of
17 Mr. Baron in those things in which he is in breach.

18 THE COURT: Well, you are welcome here for the
19 duration. Everybody else have a nice holiday. We're in
20 recess.

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C E R T I F I C A T I O N

I, Cassidi L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing Pages 1 through 85 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

s/Cassidi L. Casey

CASSIDI L. CASEY
UNITED STATES DISTRICT REPORTER
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION
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Hearing held 1/4/11

21

09:33 1 THE COURT: You can. You know, I have only been
2 a lawyer for forty plus years. I've been in lots of
3 lawsuits. I have never seen a situation where lawyers
4 come in limiting their appearance in forever. Forty years
5 I have never seen this.

6 MR. BARRETT: Well, I'm only appearing here for
7 appellate purposes.

8 THE COURT: If you are only here appearing for
9 appellate purposes, you have nothing to do at all.

10 MR. BARRETT: Well, your Honor has said we will
11 be working for free in this case.

12 THE COURT: Well, my goal has been to set up
13 this receivership because I think your client, Mr. Baron,
14 has completely abused my Court, the bankruptcy court and a
09:34 15 couple of dozen lawyers and abused the legal process, and
16 so I have been trying to figure out a way that I could
17 remedy this terrible problem. And so I've got again
18 lawyers coming before me who haven't been paid. I
19 understand that.

20 MR. BARRETT: And your Honor, respectfully, I
21 believe the evidence that I have spent a week and a half
22 on would show differently than what you have formed an
23 opinion on.

24 THE COURT: Let me tell you, I didn't form an
25 opinion. It's fact. It has been in my Court. I have

Exhibit O

CASSIDI L. CASEY, CSR, 214-354-3139
UNITED STATES DISTRICT COURT

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
FEB - 3 2011
CLERK, U.S. DISTRICT COURT
By *M.T.*
Deputy 2:43 p.m.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA §
INDUSTRIES, INC., AND MUNISH §
KRISHAN, §
Plaintiffs, §
v. §
JEFFREY BARON AND ONDOVA §
LIMITED COMPANY, §
Defendants. §

Case No. 3:09-CV-988-F

**ORDER DENYING EMERGENCY MOTION TO VACATE ORDER
APPOINTING RECEIVER AND IN THE ALTERNATIVE, MOTION FOR STAY
PENDING APPEAL**

BEFORE THE COURT is Defendant Jeffrey Baron's Motion to Vacate Order Appointing Receiver and in the Alternative, Motion for Stay Pending Appeal (Docket No. 137), filed on December 3, 2010 (hereinafter, Jeffrey Baron will be referred to as "Baron"). Defendant's Motion for Emergency Consideration was granted and a hearing was held in this matter on December 17, 2010. After hearing initial arguments from the parties, the Court continued the hearing to January 4, 2011 to give full evidentiary consideration to the receivership issue. After considering the numerous filings on this issue, the arguments of the parties and the evidence present at the hearing, the Court DENIES Defendant's Motion to Vacate Order Appointing Receiver and in the Alternative, Motion for

Exhibit P

Stay Pending Appeal (Docket No. 137) and continues the Receivership in full force and effect, as set forth hereafter.

CASE SUMMARY

Baron has been a vexatious litigant in a series of lawsuits, including the instant action and a related bankruptcy action. To bring an end to his vexatiousness, which was jeopardizing the Court's ability to protect its own orders and jeopardizing an agreed-upon global settlement of all litigation, the Court granted an emergency motion to create a receivership over Baron's assets. Based upon the Court's knowledge of Baron's conduct during the pendency of this action and the bankruptcy action, the Court had ample reason to act preemptively. The Court then held an evidentiary hearing as soon as possible thereafter to consider whether the receivership should be dissolved or continued. The hearing clearly established the need for the receivership to remain in place, and this Order accordingly so holds.

BACKGROUND

This case arose out of a business venture between Baron and Mr. Munish Krishan ("Krishan") involving the ownership of hundreds of thousands of domain names and generating millions of dollars of income yearly. "In the Internet, a domain is a place you can visit with your browser—i.e. a World Wide Web site. . . . the domain name is the address that gets you there, and consists of a hierarchical sequence of names (labels) separated by periods (dots)." Harry Newton, *Newton's Telecom Dictionary* 390 (Flatiron Publishing 2009). After

the venture disintegrated, Baron and Krishan began suing each other. The dispute between Baron and Krishan generated at least seven lawsuits in Texas, California, and the Virgin Islands. Baron operates many of his business activities off shore, in jurisdictions outside the reach of United States Courts.

On April 26, 2009, after years of litigation and four mediation attempts, Baron, Krishan and the other parties involved reached a global settlement and signed a Memorandum of Understanding (“MOU”) in connection with a state action in Dallas, Texas. Within a few weeks after the MOU was signed, Baron and the company through which he primarily did business, Ondova Limited Company (“Ondova”), allegedly breached the MOU. On May 28, 2009, this lawsuit was filed by Krishan and his companies Netsphere Inc. and Manila Industries Inc. to enforce the MOU.

On June 26, 2009, the Court entered a preliminary injunction in an effort to maintain the status quo under the MOU. *See* Docket No. 22. On July 1, 2009, the Court held a hearing in this case to address issue of non-compliance with the preliminary injunction. The preliminary injunction was amended on July 6, 2009, to include penalties of \$50,000 per day for any violation. The Court held another hearing in this case on July 9, 2009, to discuss issues regarding the preliminary injunction. At both hearings, the Court expressed deep concern with the multitude of lawyers who kept appearing in the case to represent Baron. In an effort to end the turmoil created by the revolving door of attorneys, the Court ordered that Baron’s fourth set of lawyers, Friedman & Feiger, would continue to represent Baron

throughout the remainder of the case and set aside funds to pay the firm's fees. The Court also ordered that Baron was not to hire or fire any more attorneys without first seeking leave of the Court.¹ Despite the Court order, Baron continued to retain and terminate attorneys, without leave of Court.

On July 21, 2009, Plaintiffs filed a Motion for Contempt, seeking relief in connection with Baron's and Ondova's alleged violations of the terms of the Preliminary Injunction Order and for violation of Federal Rule of Civil Procedure 13 by refusing to act in good faith with respect to discovery matters. *See* Docket No. 41. A hearing on this motion was set for July 28, 2009. The Court also intended to raise at the hearing the issue of the revolving door problem created by Baron's hiring and firing of additional lawyers. *See* Docket No. 46 (Defendant's Motion to Continue Hearing states that hearing was set for July 28, 2009). The day before the contempt hearing was to take place, on July 27, 2009, Baron placed Ondova in bankruptcy by filing a Chapter 11 proceeding here in the Northern District of Texas. *See* Docket No. 48 (Suggestion of Bankruptcy and Notice of Stay). Ultimately, because of Baron's disregard for his duties to the bankruptcy estate and other misconduct identified by the Bankruptcy Court, the Bankruptcy Court appointed a Chapter 11 Trustee of Ondova on September 11, 2009.

Eventually, a global settlement agreement was reached in the Bankruptcy Court as to

¹ Friedman & Feiger filed its Motion to Withdraw as counsel for Baron on January 26, 2010 citing an irreconcilable conflict of interest. *See* Docket No. 81.

all litigation. Baron signed the agreement. Thereafter, however, Baron continued to hire new lawyers and took actions placing the settlement in jeopardy. In addition, because of Baron's continued excessive hiring and firing of lawyers and his refusal to pay many of his lawyers, claims for legal fees began to arise in the bankruptcy proceedings, further jeopardizing the settlement that Baron himself had approved. In an effort to resolve these claims, the Bankruptcy Court recommended that this Court appoint a mediator to conduct a mediation among the Bankruptcy Trustee, Baron, and the various attorneys who were making claims for reimbursement against the Ondova bankruptcy estate. *See* Docket No. 118.

The Court adopted the Bankruptcy Court's recommendation and ordered Peter Vogel to mediate all claims for legal fees against Baron. *See* Docket Nos. 119, 120, and 122. However, this attempt to resolve the claims for fees failed because Baron again fired his counsel. Faced with the potential of an inexhaustible number of Baron lawyers and Baron claims, the Bankruptcy Court *sua sponte* identified the remedy of a receiver for Baron.

On November 24, 2010, the duly-appointed Chapter 11 Trustee of Ondova, Daniel J. Sherman ("Trustee"), filed an Emergency Motion for Appointment of a Receiver over Baron. *See* Docket No. 123. The Trustee cited Baron's failure to cooperate in the process outlined in the Court's October 13, 2010 Order to mediate the claims against Baron for legal fees and Baron's continuous hiring and firing of attorneys as reasons why the emergency appointment of a receiver was necessary. The Trustee explained that Baron had continued to hire and fire attorneys in violation of this Court's Order and that his actions, if continued, would frustrate

the administration of the bankruptcy case and place the Ondova bankruptcy estate at risk due to a continued stream of Baron's attorneys making claims against the estate. Because of the Court's experience with this case and the Court's thorough knowledge of Baron's conduct as a vexatious litigant, the Court granted the emergency motion, based on concerns that Baron was jeopardizing the global settlement reached in the bankruptcy action. The Court was also concerned that Baron's offshore operations placed many of his assets outside the Court's jurisdiction.

Although the initial receivership order was entered without notice to Baron, the Court intended to hold a hearing on this matter as soon as possible to fully consider presentations by both parties regarding the necessity of continuing the appointment of a receiver for Baron. After a full evidentiary hearing, the Court affirms that the appointment of a receiver for Baron was and continues to be necessary and is the least restrictive means available to control the proceedings before the Court. Therefore, Baron's Motion to Vacate Order Appointing Receiver and in the Alternative, Motion for Stay Pending Appeal is DENIED.

DISCUSSION

The Court has an inherent power to control the proceedings before it and "to manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases." *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995) (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)); *F.D.I.C. v. Maxxam, Inc.*, 523 F.3d 566, 584 (5th Cir. 2008) (recognizing the district court's inherent power to control the proceedings before it).

Because of the Court's experience with Baron and this litigation, the Court initially agreed with the Trustee that an emergency order placing Baron in receivership was the most restrained way to protect the jurisdiction not only of this Court but also of the Bankruptcy Court over on-going proceedings. After hearing from Baron's witnesses on January 4, 2011, which included several attorneys who had previously worked for Baron, a mental health professional, and Baron himself, it is clear to the Court that the appointment of a receiver for Baron continues to be necessary to serve the interests of justice. Accordingly, the Court makes the following findings of fact and conclusions of law in support of its decision to continue the receivership and to deny Baron's Emergency Motion to Vacate or Stay the Order Appointing Receiver.

A. Baron has Hired and Fired Counsel in Bad Faith as a Means of Delaying Court Proceedings

Throughout this dispute, Baron has retained nineteen different law firms to represent him or his company Ondova. *See* Docket No. 170, Exhibit 1 (a list of firms that have been hired to represent Baron in this and related cases); *see also* Docket No. 118 (Judge Jernigan's Report and Recommendation listing all the attorneys involved in this case). The following is a detailed account of how Baron has delayed and obstructed Court proceedings by his actions in hiring and firing attorneys. There has been no good cause for him to do so.

The first attorneys to make an appearance in this Court on behalf of Baron were Anthony L. Vitullo of the firm Fee, Smith, Sharp & Vitullo, LLP; James Bell of Bell & Weinstein; and Caleb Rawls of the Law Offices of Caleb Rawls. These attorneys made an

appearance on behalf of Baron and Ondova during a telephone conference on June 12, 2009. *See* Docket No. 10 (Sealed Minute Entry); Docket No. 12 (Sealed Transcript of TRO telephone conference). On June 22, 2009, all three attorneys that represented Baron and Ondova filed a Motion to Withdraw as Counsels of Record because of “un-resolvable conflicts” with Baron. *See* Docket No. 15.

On June 23, 2009, Mr. Lawrence J. Friedman, Mr. James Robert Krause, Mr. Ernest W. Leonard, and Mr. Ryan K. Lurich of the firm Friedman & Feiger, L.L.P. filed a notice of appearance on behalf of Baron and Ondova. *See* Docket No. 18. At the hearing held in this matter on July 1, 2009, the Court noted that this was the ninth set of lawyers to work for Baron during the pendency of all of his litigation and ordered that money be put in a trust account for these particular attorneys in an attempt to ensure that they would be paid and would remain for the duration as Baron’s counsel. *See* Docket No. 38 at 54 (Transcript from July 1, 2009 hearing). The Court also made it clear at this hearing that Baron was not to hire or fire any attorneys without leave of the Court.

The Court was scheduled to hear arguments on Plaintiff’s Motions for Contempt on July 28, 2009; however, at this hearing the Court learned that Ondova had suddenly filed bankruptcy the night before. Therefore, the automatic stay prevented the Court from ruling on this issue and from *sua sponte* addressing the issue that Baron continued to retain counsel without leave of court. On July 28, the Court was made aware that it was not the Friedman & Feiger counsel who made the decision to file bankruptcy but that it was another attorney

who had been advising Baron, Mr. Jay Kline, who initiated the bankruptcy filing with the help of another attorney not of record, Mr. Paul Keiffer of Wright Ginsberg Brusilo P.C. *See* Docket No. 52 at 12 (Transcript of July 28, 2009 hearing). The Court expressed concern as to why Mr. Kline was making decisions for Baron and Ondova without contacting the Friedman & Feiger counsel of record. *Id.* at 20. Attorneys from Friedman and Feiger stated that it was their opinion that the bankruptcy filing, done without their knowledge, was not in their clients' best interest. *Id.* at 13. The Court reiterated that all issues concerning this litigation would be directed to the Friedman & Feiger counsel, not Mr. Kline. *Id.* at 21-22. At the January 4, 2011 hearing the Court took notice of the Bankruptcy Court's finding that the bankruptcy action was filed for the improper purpose of avoiding the contempt hearing before this Court. *See* Docket No. 233 at 62.

As stated above, the initial bankruptcy filing was done by Mr. Keiffer of Wright Ginsberg Brusilow P.C. on July 27, 2009. However, on September 1, 2009, Wright Ginsberg Brusilo, P.C. filed a Motion to Continue the hearing on Debtor's Assertion of No Perfected Lien on Debtor's Pre-Petition Cash Collateral and a Motion for Setting and Request for Emergency Hearing on Debtor's Emergency Motion for Continuance, which was set to be heard at 9:30 a.m. that morning. *See* Bankruptcy Docket Nos. 54, 55. In said Motions, Counsel explained that he had received an email from Baron at 6:20 a.m. that morning stating that he was "hereby terminated, effective immediately from any and all representative capacities for Ondova Limited Company in the above referenced matter . . . I ask you to file

a Motion to Continue the hearing on the cash collateral scheduled for tomorrow and present the motion to the court in the morning.” *See* Bankruptcy Docket No. 54 at 2-3.

On September 2, 2009, the Bankruptcy Court entered an Order to Show Cause why a Chapter 11 Trustee should not be appointed. *See* Bankruptcy Docket at 56. One of the Bankruptcy Court’s concerns was the Debtor’s history of “playing ‘musical lawyers’” and its September 1, 2009 attempt to fire bankruptcy counsel and delay a hearing set for the same day. *Id.* at 3-4. Wright Ginsburg Brusilow, P.C. was ultimately allowed to withdraw as Counsel for Debtor on October 1, 2009, and the Bankruptcy Court appointed a Trustee to oversee the bankruptcy estate. *See* Bankruptcy Docket No. 108.

On October 17, 2009, Baron filed a Notice of and Motion to Approve Additional Counsel in this Court. *See* Docket No. 69. In this Notice, he requested that the Court approve the hiring of Mr. Jeffrey T. Hall as additional civil counsel to assist Friedman & Feiger, L.L.P and Mr. Stephen Jones as criminal counsel for Baron. There was no objection to his hiring these additional attorneys. On January 26, 2010, Friedman & Feiger, LLP filed their Motion to Withdraw as Counsel citing an “irreconcilable conflict of interest” between themselves and Baron. *See* Docket No. 81. The Court granted this Motion. *See* Docket No. 83.

On February 19, 2010, the Court ordered all parties to participate in a settlement conference or mediation. *See* Docket No. 91. After working for several months on resolving this case, Mr. Hall filed his Motion to Withdraw as Attorney for Baron on April 19, 2010.

See Docket No. 101. Mr. Hall states in his Motion that “Baron has refused to fulfill his financial obligations to the lawyer; and, the continued representation of Baron in this matter will impose an unreasonable financial burden on the lawyer.” *Id.* at 2. Mr. Hall withdrew his initial Motion to Withdraw and agreed to continue to represent Baron in the settlement discussion.

However, shortly after Mr. Hall agreed to continue representing Baron, the Court received reports that another attorney not of record, Mr. Gary Lyon, was representing Baron at settlement discussions and delaying that process. Accordingly, the Court issued an order reminding the parties of the Court’s previous order requiring Court approval of any new or additional counsel for Baron and ordering Mr. Lyon to file a Motion to Approve Additional Counsel if he intended to represent Baron. *See* Docket No. 105. No such motion was filed.

On August 20, 2010, Mr. Hall filed a Joint Motion to Withdraw as Attorney for Baron requesting that Mr. Gary Lyons be substituted as counsel of record. *See* Docket No. 113. Mr. Lyons filed his Notice of Appearance on August 26, 2010. *See* Docket No. 114. Mr. Lyons testified at the January 4, 2011 hearing that he actively represented Baron from April 25, 2010, until October 2010. *See* Docket No. 233 at 37-38. The Court granted Mr. Lyon’s oral motion to withdraw at the January 4, 2011 hearing. A written order was entered on January 7, 2011. *See* Docket No. 219.

It is clear that Baron’s hiring of new counsel was used repeatedly as a tactic to delay and obstruct the progress of the proceedings. It is also clear that Baron would fire his

counsel anytime there was an important hearing or the case was nearing settlement, again for purposes of delay and obstruction. While any individual change of counsel would be unexceptional, the changes in this and other lawsuits taken together demonstrate a vexatious and bad faith use of lawyers by Baron that exceeds anything that this Court has ever observed. And it began from the very outset of this case.

B. Baron's Vexatious Litigation Tactics Have Increased the Cost of this Litigation for All Parties

Baron's vexatious litigation tactics described above have not only prevented the fair and efficient administration of the bankruptcy estate and delayed the progress of this case, but those tactics have been used to harass the other parties and significantly increase the cost of this litigation. Baron's vexatious litigation tactics have caused the Plaintiff, the Chapter 11 Trustee, and even his own counsel to incur significantly more in attorneys' fees and expenses than was reasonably necessary to participate in this case and the bankruptcy case. When Baron was asked at the January 4, 2011 hearing whether he purposely engaged in conduct that was designed to increase the cost of litigation for Plaintiffs and the Chapter 11 Trustee, he invoked his Fifth Amendment right not to incriminate himself. *See* Docket No. 233 at 234. The Court draws a negative inference from Baron's invocation of the Fifth Amendment, as it is allowed to do in civil proceedings. *See Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976) (holding that Fifth Amendment "does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them").

Accordingly, the Court finds that the appointment of a receiver over Baron is necessary to stop his vexatious litigation tactics from further increasing the cost of this litigation and from unnecessarily hindering the administration of the bankruptcy estate. If the Court were to allow such unnecessary costs to continue it would only serve to deprive Plaintiffs of their right to unimpaired access to the federal courts and to an efficient adjudication of the claims asserted.

C. Baron's Practice of Hiring and Firing Attorneys Exposed the Ondova Bankruptcy Estate to Significant Expense

On October 13, 2010, Bankruptcy Judge Jernigan filed a Report and Recommendation suggesting that Peter Vogel be authorized and directed to mediate attorneys fees issues. *See* Docket No. 118. Judge Jernigan's report noted that the "Global Settlement Agreement" had been substantially consummated, but that the Court had lingering concerns. Specifically, the Bankruptcy Court was concerned that Baron's hiring-and-firing of lawyers "may be exposing the Ondova bankruptcy estate to possible administrative expense claims for amounts owed to attorneys that Jeffrey Baron should pay or entities with which he is connected (Quantec, Village Trust, etc.) should rightfully pay." *Id.* at 4. Judge Jernigan provided this Court with a detailed account of "the cavalcade of attorneys" associated with this case. *See id.* at 4-7. Many of these attorneys are not mentioned in this Order because they did not appear as counsel of record in this or the Bankruptcy Court, but were retained by Baron without Court approval. This list thoroughly details all of the attorneys who have and may have claims on the Ondova bankruptcy estate and the amounts of their claims. *Id.*

After reviewing this list of potential claims, it was clear to the Court that if Baron was allowed to continue his current practice of disregarding court orders and hiring additional counsel, the Ondova bankruptcy estate would be exposed to an endless stream of claims. At the same time, a settlement agreement that took months of careful negotiation and that Baron signed would be nullified, to the great harm of countless parties, who other than Baron worked in good faith to resolve difficult issues.

D. Baron has Repeatedly Ignored Court Orders

This Court ordered Baron on several occasions not to hire additional counsel without Court approval. However, as explained above and evidenced by the record, Baron repeatedly ignored this Court's order. Additionally, Judge Jernigan also prohibited Baron from hiring attorneys without Court permission. Judge Jernigan explained in her report that Baron had been given the option of retaining Mr. Lyon and Mr. Martin Thomas through the end of the bankruptcy or he could proceed *pro se*, but that if he chose to proceed *pro se* and did not cooperate in connection with final consummation of the global settlement agreement, the Bankruptcy Court would recommend the appointment of a receiver to seize Baron's assets and perform his obligations under the Global Settlement Agreement. Docket No. 118. at 9.

In the Trustee's Emergency Motion for Appointment of Receiver, he informed the Court that Baron had once again disregarded both Courts' orders against hiring new counsel and hired a new attorney, Mr. Sydney Chisen, to represent him in the bankruptcy case. Baron did not receive permission from this Court or the Bankruptcy Court to retain Mr. Chisen.

Additionally, the Trustee informed the Court that Mr. Thomas was terminating his legal representation of Baron because he had not been paid and Baron had filed a grievance against him. The Trustee also informed the Court that Baron had been advised that his appearance at a November 17, 2010 Bankruptcy Court hearing was essential, but that Baron had failed to appear.

In his Emergency Motion, the Trustee also provided the Court with a copy of a petition filed in state court by another attorney formerly retained by Baron, Mr. Robert J. Garrey, who is suing Baron and his companies for theft of services, fraud and breach of contract. In the Trustee's motion, he informed the Court that another attorney, Mr. Stan Broome, who was hired by Baron to represent him in the Court-ordered mediation regarding unpaid attorney's fees, had filed a Motion to Withdraw because he had not been paid. The Court learned that another attorney participating in the Court-ordered mediation efforts regarding unpaid attorney's fees contacted the Trustee because Baron and his legal team had failed to communicate with him regarding the mediation procedure. This information was consistent with the information garnered by the Court during its history with Baron in the litigation, leaving it clear that Baron continued to ignore this Court's orders and the orders of the Bankruptcy Court to stop hiring counsel and to cooperate with the ordered mediation, continuing to obstruct all ongoing court proceedings.

After hearing the testimony at the January 4, 2011 hearing, the Court found that Baron had and has no intention of complying with the settlement agreement that he has signed.

See Docket No. 233 at 207. Accordingly, it is clear that nothing short of appointing a receiver to control his assets would stop his obstruction of this case and the bankruptcy proceedings. No evidence was presented at the hearings held on this matter to suggest that Baron had some legitimate reason to violate this Court's or the Bankruptcy Court's orders. In fact, when Baron was asked whether he purposefully violated the orders of this Court and the Orders of the Bankruptcy Court, Baron invoked his Fifth Amendment right not to incriminate himself. *Id.* at 234. The Court draws a negative inference from Baron's invocation of the Fifth Amendment, as it is allowed to do in civil proceedings. *See Baxter*, 425 U.S. at 318.

Accordingly, the Court finds that there is clear and convincing evidence of Baron's contempt of Court. *See United States v. City of Jackson*, 359 F.3d 727, 731 (5th Cir. 2004) (holding that civil contempt requires "clear and convincing evidence that (1) a court order was in effect, (2) the order required specified conduct by the respondent, and (3) the respondent failed to comply with the court's order"). Therefore, it is in the Court's discretion to employ judicial sanctions "for either or both of two purposes; to coerce the defendant into compliance with the court's order, and to compensate the complainant for losses sustained." *United States v. United Mine Workers of America*, 330 U.S. 258, 303-304 (U.S. 1947). As such, it would have been well within the Court's discretion to issue monetary sanctions against Baron for all the money his vexatious tactics have cost the other parties in this case. *See id.* ("Where compensation is intended, a fine is imposed, payable to the complainant.").

Additionally, the Court could have held Baron in jail until he complied with the Court's Orders. *See id.* (“[W]here the purpose is to make the defendant comply, the court’s discretion is otherwise exercised. It must then consider the character and magnitude of the harm threatened by continued contumacy, and the probable effectiveness of any suggested sanction in bringing about the result desired.”). However, after considering the character and magnitude of the harm threatened by Baron’s continued contumacy, the Court is of the opinion that the appointment of a receiver over Baron is the most effective and least restrictive means to ensure his compliance with Court orders.

E. Baron Repeatedly Hired Attorneys in Bad Faith Without the Intention of Paying Them

Mr. Lyon, Mr. Dean Ferguson, and Mr. Gerrit Pronske all formerly represented Baron and all testified at the January 4, 2011 hearing. Mr. Lyon testified that he had settled a portion of his attorney’s fees with Baron “based upon facts that Baron gave that I have since found out were not true.” Docket No. 233 at 37. Mr. Lyon testified that he had witnessed Baron promising to pay attorneys their fees, but that he had not in fact paid those attorneys. *Id.* at 60-61. When asked if he had made any conclusions, based upon the representations that were being made by Baron and by his subsequent conduct, about whether he actually intended to perform those promises, Mr. Lyon concluded “[t]hat Jeff hires people, hired me, for the purpose of getting as much work out of me as possible and paying me as little as possible and preferably nothing.” *Id.* at 61.

Mr. Ferguson was asked about his participation in the court-ordered mediation and

he testified as follows:

[I]t became clear to me in trying to reach out to Jeff that no mediation was going to succeed if Jeff was involved in it. In Jeff's view the attorneys were entitled to zero. Irrespective of the fact that he acknowledged the work was done, that he had agreed to the amount that I had done and agreed that I did good work for him. He felt that I should be paid zero, and that seemed to be from the experience with Mr. Pronske and the other attorneys I was aware of his modus operandi. He felt whoever his former attorneys were, they were not entitled to anything.

Id. at 81-82. Mr. Ferguson also testified that, in retrospect, Baron was a vexatious litigant.

Id. at 95. Mr. Ferguson also testified that, by the end of his representation of Baron it appeared that Baron would hire a lawyer and get them to work as long as he could for little or no money and then when payment was demanded he would replace that lawyer with another one and do the same thing over again. *Id.* at 98. Finally, Mr. Ferguson testified that it was his opinion that when Baron promised to pay him for his services he did not intend to pay. *Id.* at 100. Mr. Pronske gave the following testimony about Baron's pattern of not paying attorneys:

[F]rom what I know about his situation with not paying numerous other attorneys is that there is a pattern of using attorneys until a bill is submitted and then not paying that bill and getting as much out of that attorney as he can and then finding a problem with what they have done with the intention to not pay that attorney.

Id. at 188.

When Baron was questioned about whether he defrauded particular lawyers and whether he engaged in a pattern and practice of such fraud, Baron invoked his Fifth Amendment right not to incriminate himself. *Id.* at 232. The Court draws a negative

inference from Baron's invocation of the Fifth Amendment as it is allowed to do in civil proceedings. *See Baxter*, 425 U.S. at 318. Therefore, based on the record, including the testimony of Baron's former attorneys at the January 4, 2011 hearing, the Court finds that Baron has engaged in a consistent pattern and practice during this federal litigation of defrauding his own counsel by making promises to pay them for their services which he did not intend to perform at the time he made those promises and which promises were reasonably relied upon by said counsel to their detriment. Accordingly, because of this practice the Court is of the opinion that the appointment of a receiver is necessary.

F. The Appointment of a Receiver is Necessary to Stop Baron from Attempting to Transfer Funds Outside the Jurisdiction of the United States

At the January 4, 2011 hearing, Mr. Pronske testified that he knew Baron "was going to be moving money offshore for the sole purpose of the Courts of United States not having jurisdiction over that money. And that was the reason that Baron filed a lawsuit against me, a restraining order, preventing me from saying that in Judge [Jernigan's] court, and later Judge [Jernigan] ordered me to testify what I knew about that which I did." *See* Docket No. 233 at 157. After hearing the testimony from Mr. Baron's attorneys, combined with all of the Court's experience with Baron, the Court finds that Baron utilizes numerous companies and trusts as part of his ongoing attempts to put assets beyond the reach of the courts of the United States, contrary to the advise of his counsel, and without observing the proper separation between himself and those entities. Because there is an adversary proceeding

currently pending between Mr. Pronske's firm and Baron in the Bankruptcy Court, in which the Mr. Pronske's firm is seeking recovery of attorneys' fees from Baron, the Court has a direct interest in maintaining its jurisdiction over Baron's assets and any of his alter ego companies or trusts for the purpose of being able to afford complete relief on the claim of Mr. Pronske's firm. Additionally, the Court has a direct interest in maintaining its jurisdiction over Baron's assets for the purpose of being able to afford complete relief on any substantial contribution claims by the Chapter 11 Trustee for indemnity against Baron. Because all prior attempts to stop Baron's bad faith and vexatious behavior have failed, the Court finds that appointing a Receiver over Baron's assets is the only way to ensure that the Court maintains jurisdiction over Baron's assets so that justice is done in this case.

G. Baron has Not Met the Standard for Stay Pending his Appeal of the Court's Order Appointing a Receiver

"[F]our factors must be considered in determining whether appellants have shown sufficient reason for granting the extraordinary remedy of stay pending appeal." *Belcher v. Birmingham Trust Nat. Bank*, 395 F.2d 685, 686 (5th Cir. 1968). The first factor is a strong showing that they are likely to succeed on the merits of the appeal; the second factor is whether movants have shown that unless a stay is granted they will suffer irreparable injury; the third factor is whether a stay would substantially harm other parties to the litigation; and the fourth factor is whether a stay is in the public's interest. *Id.* As stated above, the Court has inherent authority to control the proceedings before it and do what is necessary to enforce its own orders. Because of Baron's consistent disregard for this Court's orders, the Court is

of the opinion that appointing a receiver over Baron's assets is the least restrictive way to administer justice in this case. Therefore, the Court finds that Baron is not likely to succeed on the merits of his appeal.

Furthermore, the Court finds that the order appointing a receiver is doing no irreparable harm to Baron. The Receiver has been ordered to pay all of Baron's living expenses, including health expenses. Additionally, the Receiver has been responsive to all of Baron's financial needs. The Court is of the opinion that if the stay is granted there would be substantial harm to all of the other parties to this litigation. As Baron's past behavior indicates, if Baron is allowed to control his assets he will use them to ensure that this dispute and all ancillary disputes will never be resolved. Finally, the Receivership is in the public's best interest because it greatly benefits the public when a Court is allowed to take the most restrained path to ensure that its orders are followed and the justice can be administered.

Accordingly, the Court finds that Baron has not met his burden to show that the Court should stay the Receivership pending his appeal to the Fifth Circuit.


CONCLUSION

In conclusion, Baron's behavior in all of these proceedings has not only been vexatious and contumacious and harmful to all other parties, but it has also been harmful to him. It is inexplicable why a litigant would take actions which, in the end, are so clearly against his own self interest. That being said, the only conclusion this Court can reach is that Baron will never conform to Court orders and, without a receivership, will forever thwart the

proper administration of justice. Therefore, for the reasons stated above, Defendant Jeffrey Baron's Motion to Vacate Order Appointing Receiver and in the Alternative, Motion for Stay Pending Appeal is DENIED. After due hearing, the Court is of the opinion that the Receivership, as originally set forth, must continue in full force and effect until further order of the Court.

It is so ORDERED.

SIGNED this 31st day of February, 2011.



Royal Furgeson
Senior United States District Judge