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IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS (DALLAS)

)	Case No. 09-34784-sgj11
In re)	
)	
ONDOVA LIMITED COMPANY,)	Dallas, Texas
)	October 8, 2010
Debtor.)	10:42 a.m.
)	
)	

TRANSCRIPT OF STATUS CONFERENCE

RE: MOTION TO COMPROMISE CONTROVERSY W/JEFF BARON,

SHOW CAUSE ORDER (JEFFREY BARON),

AND MOTION TO WITHDRAW AS ATTORNEY

BEFORE THE HONORABLE STACEY G. JERNIGAN,

UNITED STATES BANKRUPTCY JUDGE

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1 DALLAS, TEXAS - OCTOBER 8, 2010 - 10:42 A.M.

2 THE COURT: All right, now we'll begin the Ondova
3 setting, case number 09-34784. Let's get appearances on the
4 record, please. First from the ones in the courtroom.

5 MR. URBANIK: Good morning, Your Honor. Ray Urbanik
6 from Munsch, Hardt on behalf of the Chapter 11 Trustee, Daniel
7 J. Sherman.

8 THE COURT: Thank you.

9 MR. ECKELS: Your Honor, good morning. James Eckels
10 for Quantec.

11 THE COURT: Good morning.

12 MR. LYON: Good morning, Your Honor. Gary Lyon
13 appearing for Jeffrey Baron.

14 THE COURT: Okay, good morning.

15 MS. PETEREIT: Good morning, Your Honor. Rebecca
16 Petereit and Eric Schnabel appearing on behalf of VeriSign.

17 THE COURT: Good morning.

18 MR. SCHNABEL: Good morning, Your Honor.

19 THE COURT: Okay.

20 MR. MACPETE: Good afternoon, Your Honor. John
21 MacPete and Melissa Hayward on behalf of the Netsphere
22 parties.

23 THE COURT: Good morning.

24 MS. PATEL: Good morning, Your Honor. Rakhee Patel
25 on behalf of Pronske & Patel, P.C.

1 THE COURT: Okay.

2 MR. VOGEL: Good morning, Judge. Peter Vogel,
3 special master for Judge Royal Furgeson.

4 THE COURT: Good morning.

5 All right.

6 MR. TAUBE: Your Honor, this is Eric Taube. I'm on
7 the phone on behalf of myself and my firm.

8 THE COURT: All right, good morning. Anyone else on
9 the phone want to make an appearance? Hello?

10 MR. PURI: Hello?

11 THE COURT: Yes, was that Mr. Puri?

12 MR. PURI: Yes, yes, Your Honor. Thank you.

13 THE COURT: Okay. All right. I bet you know what
14 question I'm about to ask, but let me first make clear for the
15 record why we are here, and I'm going to recap, Mr. Urbanik,
16 where I think we were after the September 30th hearing we had
17 in these matters. We had a global settlement agreement
18 entered into by the estate and Jeff Baron, Manila/Netsphere,
19 Village Trust, and many, many other entities; I believe it was
20 July 28th that the Court signed the order or thereabouts. The
21 Court has had status conferences on September 15th, 2010,
22 September 22nd, and September 30th, and now today to hear
23 reports from the trustee and other parties as to where things
24 have stood on consummation of the global settlement because
25 there were many, many events that needed to occur under the

1 settlement, in addition to the flow of funds, payment of
2 funds.

3 We have not just another status conference set today
4 to hear if things have been completed under the global
5 settlement implementation, but we also have a continuing
6 setting on a show cause order this Court issued as to Jeff
7 Baron. The Court issued the show cause order on September
8 17th, 2010 as to Jeff Baron because of concerns that he might
9 not be fulfilling his obligations under the settlement
10 agreement, or he might otherwise be frustrating other parties'
11 efforts to consummate the settlement agreement. And it would
12 be, potentially, contempt of court if he was interfering the
13 settlement agreement or not fulfilling his obligations under
14 the settlement agreement since the settlement agreement had
15 been approved by a court order. It would, in this Court's
16 view, be a violation of one of the orders of this Court.

17 So we have the show cause hearing, today, the
18 continued setting on the show cause matter; pursuant to the
19 show cause, I ordered Jeff Baron's appearance and also ordered
20 his counsel, Gary Lyon's, appearance. So we're going to hear
21 about where Mr. Baron might be in a minute, I suppose.

22 The third matter we have this morning is the motion
23 to withdraw as attorney filed by Mr. Taube and his firm,
24 wanting a court order blessing their withdrawal from the
25 representation of their clients, Quantec and Novo Point, in

1 this matter.

2 All right, recapping where the Court understood
3 things to stand after September 30th -- bless you -- the Court
4 heard a report on September 30th that the trustee, Mr.
5 Urbanik's client Mr. Sherman, had received 1,250,000 dollars
6 from the Manila/Netsphere parties on or about Monday September
7 27th. So that was very good news.

8 Second, the Court heard that Trustee Sherman has been
9 in the process of dismissing all of the various litigation
10 that was to be dismissed under the settlement agreement. I
11 think just about all that had been dismissed except the Judge
12 Furgeson action which there was the need to keep it open.
13 There was the perceived need to keep it open a bit long.

14 Third, we heard that Adrian Taylor had resigned as
15 trustee over the Village Trust, and I believe it was Brian
16 Mason was the new trustee with some Southpac entity as the
17 protector.

18 Fourth, the trustee reported that he was working on
19 coordinating future payments with Village Trust. And I think
20 he was coordinating, he said, with Mr. Eckels and a Joshua Cox
21 and was also coordinating on other go-forward operational
22 issues.

23 Fifth, there was a very important discussion of the
24 fact that Ondova was still a registrar but wanted to be out of
25 the business of being a registrar by the end of October, and

1 we heard that the parties were working on transferring
2 approximately 230,000 or so domain names that Ondova
3 registrars on behalf of Quantec, Novo Point, and other Village
4 Trust entities over to a new entity as registrar, called
5 Fabulous, an Australian entity, I think it was.

6 We heard a discussion that Quantec would be prepaying
7 the entire month of October for the registrar fees so that
8 Ondova could pay up with VeriSign, and hopefully we would have
9 a break-off date on October 31st.

10 I have a funds sheet up here that the trustee handed
11 me, showing what funds the bankruptcy trustee was holding and
12 what it owed to various parties.

13 And last but not least, we had a discussion of how
14 there would be a 50,000 dollar transfer fee owed to VeriSign
15 in connection with the transfer of the 230,000 domain names in
16 bulk, as opposed to if they were transferred manually, which
17 would take weeks. And there was some discussion that Village
18 Trust, or Quantec, or Jeff Baron did not want to pay for this
19 or pay for it right away, and it was pointed out that the
20 trustee was holding 208,000 dollars of funds owed to Village
21 Trust that could perhaps easily be used for the transfer fee.

22 So that is a recap of what I think we covered. I'm
23 sure Mr. Urbanik will correct me if I am not remembering
24 something correctly. I have as open issues for today, first,
25 there was some wind-down agreement that Mr. Urbanik thought

1 that the trustee and Quantec or Village Trust would be well-
2 served to have in place.

3 Second, I'm not sure we were at a closure on the
4 50,000 dollar transfer fee issue and it being paid from the
5 208,000 the trustee is holding. But I'm not sure we had
6 completely had, let's say, a meeting of the minds that that
7 was going to happen that way.

8 Third, we do have this open issue of the trustee
9 holding the 330,000 of Village Trust funds that I ordered to
10 be transferred to Trustee Sherman as -- and I want to be clear
11 about this -- as security for this bankruptcy estate, the
12 Ondova bankruptcy estate, for possible civil contempt of
13 court, that is, contempt of the Court's order approving the
14 settlement agreement that I was concerned I might ultimately
15 find was being committed, as to the Village Trust or its
16 entities such as Quantec, or as to Jeff Baron, the beneficiary
17 of the Village Trust. This Court has been very, very
18 concerned at what looked like efforts to frustrate the
19 settlement agreement or even worse, more overt acts to perhaps
20 wiggle out of it altogether. So that fund was security in the
21 event that I heard enough evidence ultimately to convince me
22 that contempt of court had occurred.

23 Now, we also have -- the Court has grave concern that
24 there's been this parade of attorneys not getting paid by Jeff
25 Baron and there being improper purposes behind that on his

1 part. Certainly Rule 11 has been a concern of the Court,
2 vexatious litigation has been a concern of the Court. But
3 even, I threw out there, criminal theft of services at some
4 point has to become a concern. Dozens of lawyers.

5 So what I threw out there at the last hearing was
6 that I was going to make a report and recommendation to Judge
7 Furgeson that Mr. Vogel, his special master, be appointed by
8 him as mediator. Because what the trustee was anticipating
9 was, certain of these lawyers might have a Section 503
10 substantial contribution to the estate claim for their efforts
11 in getting the global settlement agreement past the goal line.
12 And so that would be a reason to have a bankruptcy tie to all
13 of this. And I will tell you, I plan on doing that. I have
14 not gotten it out. I hope to get that report and
15 recommendation out this afternoon to Judge Furgeson. We have
16 just been tied up in court many hours this week.

17 I also have one other thing. Mr. Thomas has filed a
18 motion to reconsider an order I had issued that Jeffrey Baron
19 personally should have no more attorneys appear for him in
20 this matter. And I am going to allow Mr. Thomas to be
21 involved, but no one else, and Mr. Lyon is not off the hook.
22 So for the very, very, very small amount of activity that I
23 would anticipate will be occurring to get this bankruptcy case
24 to closure, I would allow Mr. Thomas to step in on that, even
25 though I've not signed his order yet.

1 All right. Well, that was a little longwinded of me,
2 perhaps. With that, Mr. Urbanik, I'd like you to address the
3 Court; correct me if I'm remembering anything wrong about
4 where things stand; update me on anything new; and we'll go
5 from there.

6 MR. URBANIK: Good morning. Thank you, Your Honor.
7 Well, in fact, that was a very thorough recap of all the
8 different matters that are swirling around in Ondova. And I
9 only have one minor suggested change. And that is that the
10 sheet we gave you last week was only a recap of the Poker Star
11 escrow. It wasn't --

12 THE COURT: Okay.

13 MR. URBANIK: -- of all the funds in the estate.

14 THE COURT: Okay.

15 MR. URBANIK: Mr. Sherman is holding more funds.
16 Those were some funds we received from Manila and Netsphere
17 pursuant to the settlement agreement. And that little sheet
18 simply showed how some funds were -- some monies were setoff
19 and then we were going to use some of those funds to pay
20 VeriSign. So other than that correction, your recap is
21 thorough and covers, I think, everything just pending in the
22 courts.

23 THE COURT: Not to get you off track, but where's Mr.
24 Baron, do you know?

25 MR. URBANIK: He is here. He was here.

1 THE COURT: Oh, I'm sorry. You were kind of hidden
2 back there. Okay. Thank you.

3 MR. URBANIK: Well, Your Honor, since we were here
4 last Thursday, September 30th, the trustee has been focusing
5 on I would say operational and wind-down issues. But do
6 want -- I'm going to address all the things that are pending
7 as best as I can that impact the estate.

8 But we -- since the 30th, the wind-down and movement
9 of those domain names has been our -- that transition has been
10 our biggest focus. There are a number of pending pleadings
11 that are out there; motions folks have filed -- VeriSign
12 motion, a motion Mr. Lyon filed. And I'll come back to those.

13 But just to talk about the Ondova estate and
14 operations. Since the -- I would say that during the hearing,
15 I don't think people had fully understood or mapped out how
16 you move these many domain names and do it under the
17 cooperation and auspices of VeriSign and ICANN. So that's
18 what we needed to sort of educate ourselves about. And it's a
19 cooperative process.

20 We do have a business manager, Mr. Nelson. He has
21 been sort of taking the lead and working with the new
22 registrar, Fabulous.com, and with VeriSign and ICANN, on how
23 to do this, how to move these Internet domain names. And I've
24 been really monitoring that. I've been on a few phone calls.
25 Mr. Nelson has really taken the laboring oar on that

1 transition of these domain names.

2 Before I get into that, though, I will say this on
3 the settlement. Again, it has been consummated. We did file
4 dismissals of three litigation matters. The funds were
5 received. Since receiving the funds, Mr. Sherman was able to
6 pay the September and October VeriSign invoices. Since
7 receiving the funds, Mr. Baron -- Mr. Sherman was able to get
8 Munsch Hardt caught up. We had not been paid for quite a few
9 months. So we've now been caught up through the end of
10 August. And the settlement has been consummated.

11 On the settlement, Mr. MacPete called me Wednesday
12 evening on some issues regarding signatures and whether
13 parties have signed the right version. And since Wednesday
14 evening, I've not been able to communicate with my colleague,
15 M'Lou Bell, about that issue on the signatures and whether
16 people signed the right versions.

17 I do know that they were very detail oriented in
18 making sure people either signed the right version or had slip
19 pages so they knew where changes had been made. That
20 settlement agreement was sort of a nightmare to get finalized
21 and signed by all the fifty-five parties or so. So I know Mr.
22 MacPete has concerns. He may talk about those in a few
23 minutes. But we will look into that. We'll address it.
24 We'll answer his questions, satisfy his concerns and resolve
25 it. I just haven't had time since he first called me

1 Wednesday at 5 about that issue. But we will make sure that's
2 addressed.

3 THE COURT: Okay.

4 MR. URBANIK: I don't really have much else on the
5 settlement agreement itself. I know that Manila Netsphere is
6 making their Poker Star payment early, you know, today, and we
7 do need to visit with the trusts about some settlement monies
8 coming in. But really our big focus since last Thursday has
9 been this wind-down.

10 Since that time, as I said before, Mr. Nelson's been
11 working on it. I've had calls with VeriSign and ICANN. So
12 you have Ondova, the trust, VeriSign, ICANN and Fabulous, all
13 really in daily communication about how to move this number of
14 domain names. It is complex. I'd like -- I want to report to
15 the Court that everyone is cooperating. It is a cooperative
16 process. And I can report that Quantec and Novo Point, they
17 are working with us well in this effort.

18 Our goal is to get these names moved by the end of
19 October, come hell or high water. We -- this business has got
20 to be wound down by then. So that is where a lot of our time
21 and effort is focused. And we've got VeriSign paid, as I
22 mentioned at the beginning, so that at this point, there's no
23 risk that the estate will have a Section 503(b) claim come
24 in -- administrative claim. And also, we're also looking at
25 the fact that we don't want to have any exposure for the very

1 large November bill.

2 So right now, it is a big push to get all these names
3 moved in the immediate future. That is what we're working on
4 the most.

5 With respect to the Ondova bankruptcy case, again, I
6 think our goal is to get this transition under control and
7 then we are happy to sit down with Mr. Baron's attorneys,
8 whatever the right people are, and have, you know, a
9 discussion. And if there's a compelling reason to consider a
10 Chapter 11, we'll hear them out. But Mr. Sherman's strong,
11 strong preference is to convert this case to a 7 and pay the
12 claims based on the funds we have and to do that, you know,
13 late -- in early November.

14 But we'll meet with them. We'll sit down and discuss
15 what their issues are regarding a possible 11. That would be,
16 I think, expensive to do. It would delay things. But we will
17 hear them out. We don't want to just not meet. But the
18 strong inclination is to convert the case.

19 Your Honor, one of the things that's there that, you
20 know, maybe does not merit as much estate time is the attorney
21 fee issue that has been raised by the Court and by all the
22 lawyers who have sued Mr. Baron. We have not spent as much
23 time on that, although Mr. Sherman and I have both talked with
24 Mr. Vogel about the situation, about these law firm claims.
25 We keep kind of getting dragged into it in some ways.

1 What we did, Your Honor, is we prepared some
2 procedures, some suggested procedures for Mr. Vogel to use if
3 he is going to be mediator to address the legal fee issues.
4 He can tweak them, work on them, present them to Judge
5 Furgeson, whatever makes sense. We have been in constant, you
6 know, sort of communication with him. He's still willing to
7 take on that role. It's just a matter of sort of mapping out
8 what are the procedures for him doing it, who's all involved,
9 who's not, how are these attorneys going to be paid, how is
10 Mr. Vogel going to be paid. So we'll continue to work with
11 him, you know, as much as needed, to assist in that issue --
12 in that transition.

13 Your Honor, there are pending pleadings. And I don't
14 know whether the Court -- if anyone's sort of prepared or
15 ready to take them up today. I think what we might need to do
16 is maybe just have one status conference or hearing where we
17 sort of have a pretrial about the Baron's pleading regarding
18 the show cause order. Mr. Taube's motion on payment of fees.
19 There's a VeriSign motion out there pending regarding the
20 executory contract. There's the motion for determination of
21 pricing of the domain name contract. So there -- and those
22 matters, Judge, I'm not sure we need to get into today.

23 We're working just as much as we can to get the
24 transition done. And, you know, many of these things may go
25 by the wayside if we're able to get that transition worked

1 through.

2 THE COURT: Well, I -- the only thing we have set
3 besides a status conference today is the show cause -- the
4 continued show cause hearing.

5 MR. URBANIK: Right.

6 THE COURT: We have Mr. Taube's motion to withdraw.
7 As to the VeriSign executory contract motion, it is set
8 October 28th.

9 MR. URBANIK: Right, that's set later. Yes.

10 THE COURT: And it's kind of perfect timing, because
11 we'll be at the end of October --

12 MR. URBANIK: Yes.

13 THE COURT: -- and we'll know where we are on the
14 transition.

15 You said something about a Jeff Baron pleading
16 regarding the show cause. I don't know if I --

17 MR. URBANIK: The September 30th motion filed by Mr.
18 Lyon. I wasn't even aware it was filed until I got back from
19 court that day. But there was a -- I could tell you the
20 docket number on that one. Docket 463. And maybe the
21 Court -- it might be something you mentioned in your
22 introduction -- which is the objection of Jeff Baron on why he
23 should not be held in contempt -- 463. You may have -- this
24 might have been one you mentioned when you were going through
25 your list at the beginning.

1 THE COURT: Laura, should I have that in my pile?

2 THE CLERK: No, you don't have it.

3 THE COURT: Okay. Is that -- can you hand me that
4 copy?

5 MR. URBANIK: Yes, of course.

6 MS. HAYWARD: Your honor, I think it might have just
7 incorporated -- mostly incorporated the objections or attached
8 to the notice of appearance that was filed by Mr. Thomas. It
9 was an exhibit that was attached to that that laid out
10 assorted objections.

11 THE COURT: Okay. Thank you. All right. We'll --

12 MR. URBANIK: That's our -- that's the trustee's
13 update as of right now, Your Honor. The -- we're going to
14 continue to work with these parties on these issues and try
15 to, you know, get this transition worked through consensually,
16 cooperatively.

17 I do not have a new letter agreement with the Quantec
18 and Novo Point folks, primarily because we needed to
19 understand better if these --

20 THE COURT: You're talking about the so-called wind-
21 down agreement?

22 MR. URBANIK: -- the wind-down agreement. We needed
23 to understand, can we get these names moved. There are some
24 VeriSign and ICANN periods for moving names. I think one
25 company has like this thirty-day period to move names. The

1 other one has a fifteen-day period. We are trying to work
2 with both companies to streamline that, since this is a
3 registrar-to-registrar move with one -- essentially one
4 client, and we're not dealing with the public.

5 We're going to work with VeriSign and ICANN to
6 streamline and efficiently move the names and not have too
7 many credits, debits, refunds. Just, how can we move the
8 names working with those two companies and efficiently get
9 them all moved without a whole lot of accounting nightmare.

10 So my team, we -- essentially, Mr. Nelson -- let's
11 get all the facts down on how to move them. Let's work with
12 VeriSign and ICANN on how they get moved to make sure it's
13 doable by the end of October. And then once that's all
14 understood really well by everybody and we know who's paying
15 what -- who's paying the fifty, who's not paying the fifty,
16 who's getting a refund, then I can be better prepared to say,
17 okay, we've got it mapped out; we know how these names are
18 getting moved, and it's going to happen on this weekend; here
19 are the other fine points of our agreement, and we're done.

20 But until that sort of research is finished, that's
21 why we've been holding off on doing sort of the final wind-
22 down on the movement of the names.

23 THE COURT: Okay. Help me better understand, I mean,
24 really why this is so complicated? Because eight days --
25 maybe Mr. Schnabel can do it -- but eight days ago, we were

1 pretty adamant this was going to happen by the end of October,
2 and now I'm hearing a little bit of equivocation on, you know,
3 we want it to, but it's complicated. We're trying to make it
4 happen.

5 MR. URBANIK: I think these -- there are some --
6 what's happened is we've looked at the rules on moving some
7 domain names, and they have some, you know, provisions in them
8 that maybe we weren't aware of. But I think both companies
9 are going to work with us to achieve that. I don't think I'm
10 going to -- I'm not expecting any delays or hindrances from
11 ICANN or VeriSign to move the names. I don't think we all
12 kind of knew the mechanism very well when we were here
13 September 30th.

14 Now we've learned a lot more about how this is done.
15 So our goal was to get it done, not have any delays. Mr.
16 Schnabel is here today from VeriSign.

17 THE COURT: Well, but do we have Plan B yet, if it
18 can't happen?

19 MR. URBANIK: We don't have a Plan B. I mean, if --

20 THE COURT: And that's not spelled out in the
21 settlement agreement?

22 MR. URBANIK: I think our Plan B right now,
23 informally, off the record is, if these aren't moved by the
24 end of October, we're going send a letter to VeriSign saying
25 we're closing -- you know, we aren't renewing the names. I

1 mean, we don't want to do any damage to the value, but we
2 would have to work that out. Right now, it's getting it moved
3 by October at all costs. If we can't --

4 THE COURT: Okay. But, again, I just want to nail
5 down the settlement agreement on this.

6 MR. URBANIK: Yes.

7 THE COURT: The settlement agreement didn't give a
8 drop-dead date per se.

9 MR. URBANIK: No.

10 THE COURT: What it did contemplate was there would
11 be a pricing agreement for what price Ondova charged as
12 registrar, so long as it had to stay in place as registrar.

13 MR. URBANIK: That's correct.

14 THE COURT: And if you all couldn't agree on the
15 pricing, then the Court would determine the pricing.

16 MR. URBANIK: That is correct.

17 THE COURT: So is that, in fact, really Plan B?

18 MR. URBANIK: It's in the settlement agreement and is
19 sort of an option for us. I think we're trying to be as
20 efficient as we can in preserving the estate assets and not
21 having to stay open. But that would be one approach, would be
22 to continue Ondova as a registrar and charge them that price.

23 I'm concerned about getting the payments from them.
24 We don't have the same trustee as we did before. So all our
25 efforts are focused on the October 30th deadline. But we

1 probably need to start evaluating what happens if they can't.
2 So far we've not heard any reason these can't be moved by the
3 30th.

4 THE COURT: Okay.

5 MR. URBANIK: But a Plan B, Judge, is a good idea for
6 us to --

7 THE COURT: Well, you know, I don't know. Again, we
8 have the VeriSign motion set on the 28th.

9 MR. URBANIK: Yes.

10 THE COURT: So maybe that's -- I mean, I don't know
11 what obligation the trustee has if October 28th comes along
12 and the names aren't transferred with regard to opposing that.
13 Again, is the settlement agreement -- does it address that?

14 MR. URBANIK: It does not. I mean, Your Honor, if
15 we -- I think the sequence would be, if we became aware that
16 that deadline was not going to be met, we would likely send a
17 demand letter to the trust saying these names don't seem like
18 they're getting moved; we've got to pay VeriSign a large check
19 in early November; are you going to send us the funds so we
20 can in turn pay them. And if they wrote back that they
21 couldn't, then we may end up having sort of a rush conversion
22 where there's a little bit of just shutting down the estate.

23 THE COURT: Okay.

24 MR. URBANIK: They would need to pay us so we could
25 pay VeriSign.

1 THE COURT: I think Mr. Sherman was wanting to add
2 something.

3 MR. URBANIK: Sure.

4 MR. SHERMAN: The settlement agreement didn't really
5 contemplate this end game here, so. But it seems to me that
6 it's a fairly simple deal here. We've got the lawyers here in
7 the room. They can all come on the record and tell us what
8 their understanding of it is.

9 Bottom line is, there is absolutely no trust between
10 me, Mr. Baron and his new trustee. So it's no offense
11 intended to Mr. Eckels or to Mr. Thomas. But without any
12 trust on that deal, I don't want to be playing a game where
13 they say we're going to get all this done, and twenty-four,
14 forty-eight hours intervenes; it doesn't happen; now I've got
15 Mr. Schnabel here presenting me with a 300,000 dollar admin
16 claim on November the 1st. I mean, we have --

17 THE COURT: And is that likely what --

18 MR. SHERMAN: No, I don't know that that's --

19 THE COURT: -- the fee would be?

20 MR. SHERMAN: -- likely. I mean, I talked to Mr.
21 Schnabel and he can explain this. VeriSign is -- they're
22 going to cooperate. They're ready to do it. ICANN apparently
23 is -- must be somewhere higher on the food chain in this deal,
24 and they require a fifteen-day demand or request, if I
25 understood that correctly. Eric can come up here and correct

1 me.

2 They have, in the past, waived that in certain
3 situations. I can't imagine why this wouldn't qualify as one
4 of those. And I don't think he thinks that it won't either.
5 But they haven't given anything yet in writing that says you
6 make the demand to us on Monday, October the 11th, and we will
7 have it -- we will agree everything can happen by the 29th or
8 something like that. I don't know that.

9 But what I'd like to know, though, from Quantec and
10 Novo Point, is that if for some reason or another this
11 thing -- we trip and stumble into November 1st and November
12 2nd, that they're going to pay that or prepay it.

13 Now, they're whining and crying about being out of
14 cash. And if that's the case, then I'd just as soon trot down
15 here and say you've been carrying my motion to convert, upload
16 the order, let's convert this to a 7, because I don't care
17 anymore about their problems.

18 And so that's the end game at this point. I mean,
19 when we were negotiating the settlement, I never realized that
20 the last two or three steps in this dance would come down to
21 this. We didn't choreograph those last two or three steps.
22 But it's going to be a game of --

23 THE COURT: Okay. Well, I am going to ask other
24 parties their view of the world on the settlement agreement
25 terms. Am I hearing that your view of the world is, if we get

1 to the end of October and they have not funded the money --

2 MR. SHERMAN: Right.

3 THE COURT: -- for the estate to pay VeriSign --

4 MR. SHERMAN: Right.

5 THE COURT: -- the November fee, that the trustee

6 could simply consent to the termination of the VeriSign

7 executory contract and --

8 MR. SHERMAN: We're converting to a 7. We're done.

9 THE COURT: -- convert to a 7 --

10 MR. SHERMAN: -- we're doing nothing.

11 THE COURT: -- let whatever happens --

12 MR. SHERMAN: Yeah, whatever happens happens.

13 THE COURT: -- to the names. There's no any --

14 MR. SHERMAN: They -- you know, I suppose it's
15 possible, though as I stand here right now I don't know what
16 it is, that they could give us sufficiently adequate assurance
17 that they had the money and it was --

18 THE COURT: I think that --

19 MR. SHERMAN: -- coming.

20 THE COURT: -- 330 that the trustee's holding, that's
21 what their thought is.

22 MR. SHERMAN: Okay. Well, I hadn't thought about
23 that.

24 THE COURT: They don't want it to go to the lawyers.

25 MR. SHERMAN: Okay. Something like that.

1 THE COURT: Has that occurred to you?

2 MR. SHERMAN: No, I --

3 THE COURT: Okay.

4 MR. SHERMAN: -- I had that out of my mind --

5 THE COURT: Okay.

6 MR. SHERMAN: -- in thinking that that was -- had
7 been set aside for something else. But if it was available
8 for that, that would take some of the pressure off, for sure.

9 THE COURT: No, that's not what I -- well, anyway.
10 We'll see.

11 MR. SHERMAN: All right.

12 THE COURT: I'm just suspecting that's where -- we'll
13 hear from them, though. Okay.

14 Mr. Schnabel?

15 MR. SCHNABEL: Good morning, Your Honor. For the
16 record, Eric Lopez Schnabel of Dorsey & Witney on behalf of
17 VeriSign. Your Honor, let me start off, I think, by trying to
18 explain a couple of process things in terms of transfers.

19 THE COURT: Good.

20 MR. SCHNABEL: So we can be clear. You know, at the
21 last hearing, where I appeared telephonically, I wasn't
22 exactly sure what they wanted to do, what the registrant,
23 Quantec, wanted to do. And there were a variety of
24 hypotheticals which could all be handled in a different way.

25 But I think it's pretty clear now, and I think

1 everyone agrees that this is a bulk transfer scenario in terms
2 of getting these names out. And in a bulk transfer scenario,
3 that does require ICANN approval. And that's a thirty-day
4 process. But I did have a call with ICANN and their counsel,
5 and they have, in the past, and could here, waive that thirty-
6 day requirement and give approval for the transfer earlier if
7 the circumstances are appropriate.

8 So as Mr. Urbanik and Sherman had, I believe, stated,
9 this would seem like one of those situations, given where this
10 registrar is and what's happening in its bankruptcy case.

11 That approval process starts off with a letter
12 request by the current or the losing registrar, which is
13 Ondova the estate, so the Chapter 11 trustee sending it to
14 ICANN saying we're converting at the end of the month, or
15 we're shutting this down at the end of the month. We're in
16 bankruptcy. I'm the authorized representative pursuant to
17 court order, blah, blah, blah. And we need to transfer all
18 these names on an expedited basis, and we are transferring
19 to -- if there is one, which actually helps the process -- and
20 here do have one -- we have a gaining registrar that's been
21 identified, Fabulous.com.

22 Both my client and ICANN know who Fabulous.com is.
23 So that's a good thing. It's not an unknown entity. And then
24 ICANN can go through whatever their approval process is and
25 make a determination whether to give that on a more expedited

1 basis and waive this thirty-day requirement.

2 While that process is going on, Your Honor, they can
3 work on the other things. You don't have to wait for them to
4 say okay before you can work on the other things. And the
5 other things, which is a technical term -- the other things
6 are -- a joke -- the other things are basically a lot of just
7 logistics between the losing registrar, Ondova the estate, and
8 the gaining registrar, Fabulous.com.

9 There's customer information that has to be
10 transferred which is also held in escrow by ICANN. In this
11 scenario, I believe there's only one customer. So that's
12 actually a very simple process. Again, another reason why
13 this approval process might be able to be expedited. There's
14 notice that to all the registrees have to go out. VeriSign is
15 a registree. But there's only two names -- types of names in
16 this estate. There's the dot.com and the dot.net. That's
17 both VeriSign, so that's very simple. We already know about
18 this and we're already aware, obviously, of the situation.
19 There's not a dot.de or a dot.uk which would bring in other
20 parties like VeriSign, who who knows what their processes are.

21 And then there's just, you know, regular logistical
22 handoff. You know, there's an operational basis here, and
23 Fabulous.com has to have everything ready so they know what's
24 up for renewals in November and they can be ready to do that
25 and things like that.

1 Once this logistical stuff is all sorted away -- and
2 there are some forms that can be filled out or -- you know,
3 they just have to kind of agree and set that up -- they can
4 come to VeriSign. And if ICANN has given the approval, they
5 can say we're ready to go, and Fabulous.com, the gaining
6 registrar, is ready to take the stuff, and everyone says it's
7 all green-lit, we're process-wise ready, then VeriSign
8 actually has to change things in terms of the recordkeeping,
9 if you will. And that we can do in a matter of days, once
10 they are actually ready to initiate the transfer.

11 So, it seems like all this can happen in that way --
12 within this timeframe. And frankly, I don't think it's that
13 complicated. And they can do it. But both ICANN and VeriSign
14 are kind of dependent on the trustee and Fabulous.com to react
15 to all this and to get it done.

16 Like I said, ICANN needs that letter to start its
17 process, and it needs it to come from the current registrar;
18 not a registrant, not the beneficiary, if you will, and so
19 forth.

20 In terms of fees, because there was some discussion
21 about that, the only -- there's obviously renewal fees. So
22 whoever -- whether the names stay here or get picked up,
23 somebody has to pay or risk deletion of a significant amount
24 of names that are up for renewal in November. And there's
25 also December. This gets into kind of the big peak of these

1 230,000 dollar names. There's over 310,000 or so dollars
2 worth of renewals in November. There's 300,000 in December.
3 But that's just -- whoever gets that has to deal with that
4 issue.

5 The only other real fee is this 50,000 dollar bulk
6 transfer fee, and it applies to names -- over 50,000 names.
7 And here there's two types of names: there's the dot.com and
8 the dot.net. I'm told that the dot.net names are a really de
9 minimis amount of the 230,000. I had heard once maybe only a
10 couple hundred or a couple thousand. But in any event, it's
11 less than 50,000. So then there's only one 50,000 dollar fee
12 here, not two, because the dot.nets are below 50,000 names,
13 and there's no charge in a bulk -- ICANN-approved bulk
14 transfer process.

15 So that's the 50,000 dollar fee. That fee is
16 actually paid by the gaining registrar. So that would be
17 Fabulous.com. So it would not be paid by the losing
18 registrar, the estate.

19 Although I haven't confirmed this, but obviously, you
20 know, Mr. Urbanik and Mr. Sherman's representations are worth
21 the amount that they say they've wired to us, we have been
22 paid or are in the process of receiving the wire that fully
23 pays our September invoice and has paid us for what will be
24 our October charges that some have yet to fully accrue. And
25 to the extent these names are transferred before the end of

1 October or right at the end, and there's some money left over,
2 so that we are not owed any money by the estate, we will --
3 the document says issue a credit, but we would actually
4 convert that to an actual check and return money to the
5 estate.

6 So if we're overpaid, we will return the check. If
7 we're not overpaid, we'll have a claim. But as of right now,
8 through October, we don't think that there is any claim; that
9 we have received funds that will pay us in full.

10 So the one other piece I wanted to say before I
11 talked about Plan B, unless Your Honor has questions about
12 this part, is that there is also an issue for VeriSign in
13 terms of timing here as well. If we receive the notification
14 that the failing registrar is going to cease operation by X
15 date and that the transfer is supposed to happen, and then it
16 doesn't happen -- because, again, this is something that's
17 effectuated between the registrars -- there comes a period of
18 time -- and it's thirty days or even if it's within days, it's
19 a longer period -- in which we will start refusing to auto-
20 renew. We will start to -- the names will be at risk, because
21 we can't look to the old registrar, and no one's actually
22 picked up responsibility for it. So there is an actual time
23 concern on our part as well.

24 But I don't think that will come into play if we're
25 all moving in the month of October. That would all happen

1 before our concern on timing would become an issue.

2 And just as a general statement in terms of the
3 transfer, you know, I don't represent ICANN but I do represent
4 VeriSign, but I do know that both entities -- you know, we
5 are -- again, this is a registrar-to-registrar largely driven
6 process. But we are completely -- my client is ready to do
7 what it can to help this. We want to facilitate this. We're
8 not in any way trying to be a roadblock to it. And I think
9 ICANN, as they have their rules, but they have waived this
10 thirty-day period before, and they're -- I had a call with
11 them with their counsel and businesspeople, and they are --
12 they have watched this case, but they were also more aware --
13 I brought them up to speed in terms of some of the dynamics of
14 what happened at the last hearing and so forth.

15 So I think, as long as the estate and Fabulous.com
16 can do what they're supposed to do, VeriSign, and I believe
17 ICANN, can react to facilitate that, not to be a roadblock to
18 it.

19 In terms of Plan B, you know, we have our motion
20 which I think we filed in May. And as Your Honor is well
21 aware, through -- because of some of the pressure you were
22 able to put on through some of these hearings since May and
23 the cooperation of the trustee, we've been caught up out of
24 almost a million dollar hole we were in back this spring.

25 But the issues for us going forward, if we're getting

1 into November, is -- especially hearing the trustee's
2 comments -- you know, if they don't have any confidence of
3 where their money is coming from to pay us, then obviously we
4 don't have a lot of confidence in terms of how we're going to
5 prevent to having a claim.

6 So we don't want to get into the situation of, you
7 know, now that we've finally gotten ourselves paid up and
8 we're no longer a problem for the estate, if you will, from an
9 admin expense claim perspective, we don't want to be put back
10 into that situation. But I think we won't, as long as the
11 parties can do what they're supposed to do so that we can
12 react promptly.

13 THE COURT: Okay. Thank you.

14 MR. SCHNABEL: Thank you, Your Honor.

15 THE COURT: All right. So we're keeping that setting
16 on October 28th.

17 Before I hear from others, Mr. Urbanik, let me ask
18 you -- I mean, there's not been a letter request from Ondova
19 to ICANN obviously, regarding the transfer?

20 MR. URBANIK: Not yet. Just -- we're getting -- as
21 we've learned how this works, we're going to prepare that and
22 send it early next week. I don't think we even knew about
23 that letter requirement until yesterday. And so, you know,
24 this has been a learning process. I've been on the phone with
25 Mr. Schnabel all week. I've tried to reach ICANN yesterday,

1 but we just never connected. They're in California.

2 But we're going to get this done. If they need a
3 letter, it will be sent out Monday, so.

4 THE COURT: Okay.

5 MR. URBANIK: Today.

6 THE COURT: All right. Who do you deal with at
7 Fabulous?

8 MR. URBANIK: Mike Robertson. He's in Brisbane,
9 Australia.

10 THE COURT: Is he an in-house lawyer there or an
11 outside lawyer or not a lawyer?

12 MR. URBANIK: I think he's one of the principals of
13 the business, and he's been our principal contact. And I've
14 had several calls with him. Mr. Nelson's had calls with him
15 almost every night this week. So they appear to be ready to
16 take on this portfolio. They have the means to accept all
17 these domain names. And we've not had any hiccups with them.

18 You know, again, this is sort of a learning process
19 for them too. So they've also been talking to VeriSign. But
20 nothing so far has gotten us any concern or leads us to any
21 concern about Fabulous.com.

22 THE COURT: Okay. All right. Mr. Schnabel is
23 getting up again.

24 MR. SCHNABEL: Thank you, Your Honor. I did want to
25 add two things that I forgot to mention. First of all, I have

1 received some communications from Quantec and others regarding
2 different ways of doing this, and I think that caused a lot of
3 confusion. And so the one thing I did want to say on the
4 record is, you know, when you -- VeriSign has a helpdesk.
5 That's an 800 number that you can call and ask them questions.
6 If you're asking the wrong questions, you're not going to get
7 the right answer to the situation.

8 So I just wanted to put parties on notice that you
9 just can't call the helpdesk and think you've found a new way
10 to do this. You know, the bulk transfer, which is a term of
11 art in these documents, is the way to get this done. And the
12 procedures for that are pretty clear in the documentation of
13 VeriSign and ICANN, and they should just follow that. So I
14 think they're all there on that, but I just wanted to set that
15 out for the record.

16 The other thing I just wanted to say, Your Honor, is
17 we haven't agreed -- as you can imagine, given our motion --
18 we haven't agreed to waive anything that we're owed to under
19 the applicable agreement. So I did want to state that that
20 Quantec motion that Your Honor struck, the paragraph 23
21 representation in terms of what counsel to VeriSign had said
22 it might be willing to waive, it's not accurate. We haven't
23 agreed to waive any fees. We don't agree to waive fees. We
24 treat all of our registrars the same, and the charges are what
25 they are. And people have to pay them. And that's how we

1 operate.

2 THE COURT: Okay.

3 MR. SCHNABEL: Thank you, Your Honor.

4 THE COURT: Thank you. All right. Before I ask to
5 hear from the Quantec and Baron parties, Mr. MacPete, are you
6 good? Are you clients good right now?

7 MR. MACPETE: I have some materials, Your Honor, with
8 respect to the order to show cause. And I do have the concern
9 about the signatures, which I'm prepared to talk to the Court
10 about if you want to hear about that right now. And I'd be
11 happy to answer any of the Court's questions about what I
12 think the settlement agreement provides with respect to this
13 transfer issue. I think that's all up to the Court.

14 THE COURT: Okay. So materials concerning the show
15 cause matter?

16 MR. MACPETE: I have two continuing breaches from Mr.
17 Baron. So we're going to be asking the Court to sanction Mr.
18 Baron for failing to consummate the settlement agreement on at
19 least two bases. And I'm prepared to put evidence on to
20 support Your Honor's show cause order on those two points.

21 THE COURT: Okay. Mr. Urbanik, do you know what this
22 is about?

23 MR. URBANIK: No, Your Honor. I do not. And we're
24 focusing so much on the operations, I've not spent as much
25 time with Manila Netsphere people on that issue. I'm aware of

1 the signature issue and the document issue, which we're going
2 to work cooperatively, but I don't know much about the Baron
3 defaults. I do not.

4 THE COURT: All right. Mr. MacPete, I'm going to ask
5 you to come to the podium and very briefly present your
6 issues, okay, and we'll figure out from an evidentiary
7 standpoint where we may or may not go. But just kind of
8 outline your issues for me.

9 MR. MACPETE: Thank you, Your Honor. The first issue
10 I have, I'm going to just talk about the signature issue. So
11 Mr. Urbanik is correct, and I called him on Wednesday, because
12 I was trying to get the final-final version of the settlement
13 agreement, if you will, with all the exhibits, with all the
14 signatures and the orders, et cetera.

15 And when I started to put it together, I realized
16 that there was a problem. Ms. Bell, with Mr. Urbanik's
17 office, essentially was sort of the hub, if you will, of
18 various versions going out and signatures coming in and that
19 sort of thing. So I called her and I said basically, I have
20 something that Mr. Urbanik sent me, I have what I think is the
21 final settlement agreement, can you send me what you think is
22 the final. And she's kind of been the repository.

23 So she sent me what she thought was the final
24 version. What she says is the final version is the document
25 which has a document number on it of 2767771_1, and the _1, I

1 guess is a version number. The final version that was sent
2 out prior to the hearing in the version, if you will, that was
3 submitted to this Court for the approval of the 9019 hearing,
4 is document number 2609061_21. So it was the twenty-first
5 version of the settlement agreements that had been negotiated
6 for months and months.

7 You may remember, Your Honor, at the 9019 hearing,
8 there were certain agreements that were read into the record.
9 And so subsequent to that hearing, another version -- another
10 execution version was sent out to some people for them to sign
11 with those changes that were read into the record. So that's
12 how we ended up with essentially two different versions.

13 The problem as I identified it on Wednesday is, about
14 half of the signatures that I have on the "final version" from
15 Ms. Bell, are on document number 2767771_1, and half of them
16 are on document number 2609061_21, including my client's
17 signatures are on the version 21.

18 Now, ultimately, I would hope this isn't going to be
19 a problem. But what I don't want is a situation where we have
20 to come back here later at some point and we get an argument
21 from Mr. Baron, as I'm sure you could anticipate, Your Honor,
22 that well, there's not really a settlement agreement because
23 half of the people signed one version and half of the people
24 signed another version that has material changes in it, and so
25 there was no meeting of the minds. And I want to cut off that

1 argument before it ever becomes relevant, if you will.

2 Now, I've talked with Mr. Eckels about -- because all
3 the Quantec and the trust-related signatures are on the wrong
4 version just like my clients. So my clients, that's easy.
5 I'm just going to ask them to sign the correct version and
6 we'll fix that problem. The trusts, obviously, are gone, if
7 you will -- the previously constituted trust. Mr. Taylor and
8 Mr. Taube and Mr. Capula (ph.) and Ms. Schurig are all gone.
9 So getting them to re-sign is not really an effective
10 possibility, now.

11 So what I talked with Mr. Eckels about was whether or
12 not we could get an e-mail from -- I guess Mr. Capula is the
13 one who provided the signatures -- that could be appended to
14 the settlement agreement, that says the signature pages on
15 document 2609061 version 21 are intended to be used for the
16 agreement at 2767771_1. That'll solve that problem.

17 However, there are also four individuals who are not
18 represented by counsel: Byron Dean; Bud Branstetter (ph.);
19 Ron Sheridan; and Nina Devassal (ph.), who all signed on the
20 wrong version as well. Mr. Capula secured those signatures.
21 I think we need to get new signatures on the correct version
22 so nobody comes back and says they didn't actually sign what's
23 the "final version".

24 So that's the signature issue, which I just want to
25 anticipate a future problem if we ever have to enforce this,

1 with somebody saying well, you haven't actually got a fully
2 executed settlement agreement. So that's that issue. I'm
3 working cooperatively with Mr. Eckels and Mr. Urbanik on that.
4 We need to figure out what to do about the four individuals.

5 THE COURT: Okay.

6 MR. MACPETE: With respect to Your Honor's show cause
7 order, I have two issues, basically. And you heard about one
8 of them last week on the 30th. And that had to do with these
9 USVI tax returns.

10 So under paragraph 20 of the settlement agreement,
11 which was an extensively negotiated provision on taxes, and
12 unfortunately, Mr. Pronske had to go to Houston this morning,
13 so he's not here. But he had actually offered to testify for
14 me with respect to all of the time that went into negotiating
15 these provisions. Each and every word in paragraph 20 was
16 extensively negotiated. And paragraph (b) basically says that
17 the unanimous consent of NewCo LLC, which is an entity
18 controlled by my client, set up pursuant to the settlement
19 agreement, is required for any discussion with the U.S. Virgin
20 Islands Bureau of Internal Revenue.

21 And the reason for that provision is because Ms.
22 Schurig, on behalf of Mr. Baron, had tax positions which my
23 client violently disagreed with, and did not want discussed
24 with the USVIR with respect to entities that we had an
25 ownership interest in. So it was specifically negotiated that

1 unanimous consent was required.

2 About three weeks ago, on September 15th, Ms. Schurig
3 contacted me right before we had a hearing with this Court on
4 that day, with proposed tax returns to file for those three
5 U.S. Virgin Islands C-corporations that my clients own half of
6 and said they needed to be filed today. So I literally got it
7 hours before she wanted to send them out.

8 My partner, Mr. Hinderliter, who is a tax partner at
9 Locke, actually looked at the returns and sent her a message
10 back that said, technically they're due today, but no fine
11 would actually be imposed for the next sixty days. So we have
12 actual time to discuss this, and we do not authorize you to
13 serve those tax returns -- communicate with the BIR.

14 Notwithstanding that instruction from our side, Ms.
15 Schurig went ahead and filed them with the U.S. Virgin Islands
16 BIR, and also checked the box on those tax returns indicating
17 that she is the paid preparer, who would be the person that
18 they would contact to discuss those returns. Again, something
19 which we didn't consent to and we would not have consented to,
20 because we don't want her talking to the USBIR, because we
21 don't agree with her positions.

22 So that is the first violation of the settlement
23 agreement that has occurred. And her indication when asked
24 why did you go ahead and file these, was she was required to
25 do so by Mr. Baron in the supplemental agreement. I don't

1 find anything in the supplemental agreement that required her
2 to file tax returns on behalf of the U.S. Virgin Island C-
3 corps. And we didn't agree to that. So that's the first
4 issue.

5 The second issue is under paragraph 13(b). And in
6 13(b) -- this has to do with the Phone Card settlement. And
7 the Phone Card settlement basically ended up with that
8 particular domain name, phonecards.com, being jointly owned by
9 my client and Mr. Baron through is self-directed IRA at Equity
10 Trust.

11 As of the 9019 filing date, all revenues from that
12 domain name are supposed to be split fifty-fifty, and the
13 money is supposed to be paid to us by the 5th day of the
14 month. Under the date operation, if you will, payments were
15 supposed to start on September 5th. And that September 5th
16 payment was supposed to pay for July -- from July 2nd all the
17 way through the end of July, and also for August. We got a
18 payment on September 5th for August. We did not receive a
19 payment for July.

20 When that happened, I contacted Mr. Lyon and I said,
21 there's been a breach of the settlement agreement. I don't
22 want to make a big deal out of it, maybe it was an oversight.
23 Why don't you see if you can fix it? He said he would look
24 into it and try to get it fixed before the 9/30 settlement
25 status conference. Okay? It didn't happen. He didn't get it

1 fixed by then. He was still working on it.

2 I talked to him after that hearing, and I said okay,
3 I didn't raise it with the Court because you told me you're
4 going to try to get this fixed, but you need to get it fixed
5 before next Friday or I'm going to have to raise it in
6 conjunction with the Court's show cause order. So I gave him
7 another week. And unfortunately, he hasn't been able to fix
8 it.

9 Now, the key point on all of this, Your Honor --
10 we're talking about 1,100 dollars, so it's not a lot money,
11 but there is a requirement in the settlement agreement that if
12 the company who is monetizing the domain name does not pay the
13 money directly to my client, then it remains the obligation of
14 Mr. Baron and his IRA to pay that money directly. And they
15 haven't done that, even though they've been put on notice.

16 Now, what Mr. Lyon is likely to tell you is well,
17 Equity Trust is difficult to deal with. What you need to know
18 about Equity Trust is it's a self-directed IRA company. So
19 basically they don't do anything, they're completely passive.
20 They do whatever Mr. Baron tells them to do, whatever he sends
21 them the document, and sign, giving them directions. So,
22 basically, there is an intermediary through which Mr. Baron
23 has to work, but it is completely at Mr. Baron's control as to
24 what that IRA does. And they have not paid that money. And
25 so, again, they have not timely consummated.

1 Now, by contrast, I would point out, and you heard
2 Mr. Urbanik say this, Your Honor. My clients have paid early.
3 We paid the 1.25 million early, we paid --

4 THE COURT: Right.

5 MR. MACPETE: -- we paid the Poker Star money to
6 Quantec earlier this week.

7 THE COURT: Right.

8 MR. MACPETE: And we paid the Chapter 11 trustee
9 their Poker Star money earlier this week.

10 I'm not saying Mr. Baron need to pay early, but he's
11 now more than two weeks behind and I have no idea when I'm
12 going to get that money.

13 THE COURT: Okay.

14 MR. MACPETE: And I think my client's perspective on
15 your show cause order is that lots of courts have threatened
16 Mr. Baron, Your Honor. And to be honest with you, he's
17 managed to escape with no court every having sanctioned him
18 for any of his behavior. And I think for this settlement
19 agreement to go forward I think this Court has indicated a
20 willingness to actually back up the threats that you've made
21 to Mr. Baron with action. And action is all he understands.
22 He's very clever about ignoring what courts say and just
23 watching what they do. Most other courts have not ever
24 actually sanctioned him. They've just threatened and he
25 doesn't react to that.

1 So my clients would like the settlement to go
2 through, we'd like it to work. And we think the way to do
3 that is for this Court to show Mr. Baron that you are serious
4 about he will obey this settlement agreement. And right now
5 it's not happening. There may be small issues, but I think
6 now is the time to make the point so we don't have big issues
7 later.

8 THE COURT: All right, thank you.

9 MR. MACPETE: Thank you, Your Honor.

10 THE COURT: All right, Mr. Eckels, let me hear from
11 you next on -- I want to hear, obviously, first and foremost,
12 about the transfer issues.

13 MR. ECKELS: Thank you, Your Honor. James Eckels for
14 Quantec.

15 Your Honor, as the other counsel have advised, the
16 domain registrant is really the party that has the least
17 involvement in effectuating the transfer. The important
18 parties are the losing registrar, are the gaining registrar,
19 VeriSign and ICANN. So I have been and I am continuing to be
20 ready, willing and able to help facilitate whatever is needed
21 from the registrant to effect the transfer.

22 Wednesday, Mr. Nelson, myself, Mr. Robertson have a
23 teleconference. Last night Mr. Nelson spoke with Mr.
24 Robertson, I spoke with Mr. Robertson. As Mr. Urbanik has
25 told you we're working cooperatively and we will continue to

1 do so. But our concern, if there is any, is simply that the
2 November registration fees that are due, and that other
3 counsel and the trustee, himself, have told you they want
4 prepaid in the event these are not transferred, is largely out
5 of my control. The transfer, itself, is out of my control.

6 You've already asked Mr. Urbanik about the -- really
7 the key piece of information that needs to be sent from the
8 losing registrar; Ondova to VeriSign. That hasn't been done.
9 And I think my concern is that even if I, as the domain
10 registrant, representing the domain registry, do everything
11 that the domain registrant is supposed to do, it is possible
12 that Ondova may not do everything they're supposed to do.

13 I actually have a bulk transfer checklist that I'd
14 like to share with the Court that identifies all of the things
15 that the losing registrar and the gaining registrar are
16 supposed to do. I think it encapsulates, really, all of those
17 supporting documents that Mr. Schnabel mentioned, and all of
18 the other things. So with your permission, I'd like to
19 present that to you.

20 THE COURT: Okay. Do you have copies for the other
21 people?

22 MR. ECKELS: Your Honor, I do. I do, indeed.

23 THE COURT: Okay. You may approach.

24 Who prepared this?

25 MR. ECKELS: This is from VeriSign. This was sent

1 from VeriSign to the gaining registrar.

2 THE COURT: Okay.

3 MR. ECKELS: As you look at the checklist, there are
4 a number of things that both -- like I said, the gaining
5 registrar and the losing registrar have to do. The domain
6 registrant merely sends a transfer request, that's our
7 obligation. The rest of it is up to the gaining and losing
8 registrar and VeriSign.

9 So, again, conceptually, and as has been demonstrated
10 thus far --

11 THE COURT: First, has your client submitted the
12 transfer request?

13 MR. ECKELS: Yes, Your Honor. But I'm willing to
14 submit an official quote transfer request. I've done so
15 through e-mails. We've done through a number of discussions,
16 dialogues that we want everything transferred.

17 THE COURT: Okay. I -- that was a complicated
18 answer. Has the transfer request they need to get the process
19 going been sent?

20 MR. ECKELS: I believe --

21 THE COURT: By the registrant?

22 MR. ECKELS: I believe it has. That's what has
23 initiated everything.

24 THE COURT: You don't know for sure?

25 MR. ECKELS: There's not an official transfer request

1 form that I've sent. But through a number of e-mails and
2 correspondence and discussions with Mr. Urbanik, Mr. Nelson,
3 Mr. Cox and myself. We have expressed that all of the names
4 need to be transferred.

5 THE COURT: Mr. Schnabel, can you address is that
6 good enough? A bunch of e-mails and other communications
7 expressing the desire to transfer, or is there a magic form
8 that needs to be submitted?

9 MR. SCHNABEL: Your Honor, I don't believe there's a
10 magic form. This document, is obviously probably something
11 off of one of our websites in terms of what to do. It seems
12 to say that a regi -- you know, there's two ways, right, for
13 qualifying event, and that the registrant has to request in
14 writing that a move happen. But then it says responsibility
15 gaining registrar, not registrant.

16 I mean, because I think the gaining registrar which
17 is going to be -- which in this scenario is Avis.com (ph.),
18 then has to go to the losing registrar, which is Ondova, and
19 say hey, okay, I've just been told by somebody that they want
20 to send this stuff to me, okay. And they say okay.

21 I don't think there's magic forms in this part.

22 THE COURT: Okay.

23 MR. SCHNABEL: I kind of think that's probably
24 already happened informally.

25 THE COURT: Okay.

1 MR. SCHNABEL: And I don't think it's a VeriSign --

2 THE COURT: Yeah.

3 MR. SCHNABEL: I don't think this is a VeriSign
4 notice.

5 THE COURT: Okay. It just sounded like Mr. Eckels
6 was saying there was a form from the registrant that needed to
7 be sent to start the process. And --

8 MR. SCHNABEL: I don't think --

9 THE COURT: -- you're kind of disagreeing with that.

10 MR. SCHNABEL: Yeah, I don't think there's a specific
11 form --

12 THE COURT: Okay.

13 MR. SCHNABEL: -- that the registrant --

14 THE COURT: Okay.

15 MR. SCHNABEL: -- has to do.

16 THE COURT: Okay. All right. So the gist, you're
17 saying that your client is cooperating with the gaining and
18 losing registrar and intends to cooperate to make this happen
19 by the end of the month.

20 MR. ECKELS: Yes, Your Honor.

21 THE COURT: Any qualms, any concerns, reservations
22 that it's not going to happen by the end of the month?

23 MR. ECKELS: No, as long as the parties do everything
24 they need to do.

25 THE COURT: Okay. What is your view of the

1 settlement agreement if it doesn't happen by the end of the
2 month.

3 MR. ECKELS: Your Honor, as has also been expressed
4 by the counsel, plan B really hasn't been on the radar. But
5 having heard what I've heard thus far, I'm prepared to go back
6 to my client and discuss that very issue with them. And work
7 again cooperatively with Mr. Urbanik and whoever else I need
8 to work with to make sure that there is a plan B set up, and
9 that it's carried out.

10 THE COURT: Okay. Are -- I need more clarity than
11 that, as far as the payment of the November fees. Is your
12 client prepared to get those prepaid before November 1st hit
13 so that the trustee can pay VeriSign, if these names are still
14 with Ondova as the registrar.

15 MR. ECKELS: I will certainly make that request of
16 the trust.

17 THE COURT: I need to know today. We've had days and
18 days to think about this.

19 MR. ECKELS: Your Honor, I haven't put in a request
20 for the November fees. But I will do so if they are needed.
21 If they are not transferred to Fabulous, who is going to pay
22 them to VeriSign if they are transferred.

23 The only reason that those fees would have to be paid
24 to Ondova, who would pay them to VeriSign, is if they're not
25 transferred.

1 THE COURT: Exactly.

2 MR. ECKELS: And I have not asked the trust are you
3 going to send the check, because that hasn't been needed to be
4 asked. I will definitely --

5 THE COURT: Of course it's been needed to be asked.

6 MR. ECKELS: I will defin --

7 THE COURT: It's the question not just of the hour,
8 but it was the question on September 30th.

9 MR. ECKELS: Nothing has been expressed to me from
10 the trust that they will resist a request. They have
11 responded to each of the requests thus far for renewal fees.
12 And I will make the request for the November fees.

13 THE COURT: All right. Well, here's the scenario.
14 We get here on October 28th on the VeriSign motion, and the
15 transfer is not complete, and it's not going to happen by the
16 end of the month, the Court grants the motion. This is a
17 hypothetical, The Court grants the motion, allows the
18 termination of the agreements between Ondova and VeriSign and
19 allows the trustee to walk away from responsibility as a
20 registrar.

21 MR. ECKELS: Uh-huh.

22 THE COURT: What is your position?

23 MR. ECKELS: Before that occurs I will already know
24 that that is what is going to happen and will have, therefore,
25 already addressed that with the trust. We need to pay these

1 fees.

2 Ondova, are you willing to continue to be registrar
3 in November. They say yes, then I will submit a fee request
4 from the trust to pay Ondova, so that they can pay those fees.

5 THE COURT: Okay.

6 MR. ECKELS: It's not going to happen blindly, in
7 other words. I'm not going to be oh, man, the 28th is here
8 and I don't know the answer. I will know the answer well
9 before then because we're continuing to work cooperatively.
10 And we will know from a timing standpoint are we going to get
11 these transferred before that.

12 THE COURT: Okay. Because you say that seems like
13 the likely scenario here. That if the names are not
14 transferred and the money has not been received by Ondova from
15 the registrant to pay November fees to VeriSign, I just let
16 the agreements terminate and let the estate walk at that
17 point.

18 MR. ECKELS: I heard Mr. Sherman say that very thing,
19 Your Honor.

20 THE COURT: And do I hear that you don't think the
21 settlement agreement addresses this?

22 MR. ECKELS: I don't believe it does. I don't
23 believe it contemplates an endgame beyond that.

24 THE COURT: Okay.

25 MR. ECKELS: But I do want to just underscore that I

1 believe Mr. Schnabel said that the November fees normally
2 wouldn't even be billed until the end of November. But to
3 prepay them, they would have to be prepaid by November 1st, it
4 sounds like. So if that is still the scenario I go back again
5 to the point that we will know before the 28th, well before
6 the 28th, whether that is even on the radar. And, if so, I
7 will do everything that is necessary to make sure that funds
8 for renewal fees are paid.

9 THE COURT: Okay. Otherwise, the names fall out of
10 the estate, and fall into wherever they fall.

11 MR. ECKELS: Yes, Your Honor.

12 THE COURT: All right. Mr. Thomas, I saw you getting
13 up, do you want to speak for your client now?

14 MR. THOMAS: Your Honor, thank you. Martin Thomas on
15 behalf of the -- of Mr. Baron. And just to be clear, I didn't
16 announce earlier when everybody else did because I wasn't sure
17 you were going to allow me to appear.

18 THE COURT: Okay.

19 MR. THOMAS: So that's what happened.

20 And what I was talking to Mr. Urbanik about is there
21 is some money that he's holding that should be transferred to
22 the trust, and hasn't been yet. And it's not as much as I
23 thought. And I was hoping that would be his potential answer
24 for this problem.

25 In terms of what happens at the end of October if

1 it's not done, Mr. Urbanik and I have talked and are intending
2 to meet hopefully next Tuesday. Mr. Sherman and I have
3 exchanged some comments and voicemails about the end result.
4 And I think a lot of this issue can be dealt with in that
5 scenario. I understand that Mr. Sherman believes that there's
6 sufficient money in the estate right now to pay virtually all
7 unobjected claims. And I can't -- I haven't got those
8 details.

9 The question then becomes how do we do that in terms
10 of a -- and I've always said an agreed Chapter 11 plan,
11 because this case is not going to survive a cramdown attempt
12 of any kind and we won't be suggesting that.

13 But I think for the -- I've asked Mr. Sherman for
14 those numbers, and hopefully by Tuesday he'll have those and
15 we can start looking. Obviously, if there's an administrative
16 claim that a -- that would occur on November 1st, the estate
17 won't let that happen. And we understand that and we have to
18 deal with that.

19 Everything that I've been told, and I've talked to
20 Mr. Eckels a number of times, and Mr. Baron a number of times,
21 is that the full intention and virtual -- I mean, it's our
22 intention that the names be transferred by the end of this
23 month. And I've heard no reason that they won't be. I heard
24 what you heard today in terms of some of the detail, but I'm
25 still hoping that that will get worked out. But we're

1 certainly working with Mr. Urbanik, Mr. Sherman, Mr. Eckels
2 and everybody to try and do that, or address it as part of an
3 endgame. And that may mean -- we're like sort of saying that
4 we think a conversion is appropriate yet, but it may be, I
5 don't know.

6 In terms of the show cause issues, if you want me to
7 start addressing those just a little bit.

8 THE COURT: If you would, uh-huh.

9 MR. THOMAS: And I was little unclear from Mr.
10 MacPete about the signatures, it's the first time I've heard
11 that, I don't know what that means to anything. Obviously, it
12 would appear that everybody needed to sign the same document
13 and I don't know the significance to that. But happy to
14 pursue that immediately.

15 Mr. Baron had no knowledge of that. What he heard in
16 the courtroom there either. I asked him and we'll certainly
17 try and figure out what happened, and if it means anything at
18 all.

19 On the tax returns, first of all, the only obligation
20 ordered by the Court of all the parties was that they execute
21 the document. On the tax returns there's contractual
22 obligation, it's not something that's required of the Court's
23 order to be done. And, frankly, I don't know the answer to
24 that. Ms. Schurig was dealing with that. It was not on
25 behalf of Mr. Baron, that is a trust issue and I think that

1 has to be dealt with. But, again, in the courtroom today was
2 the first I heard that mentioned as a violation.

3 I did hear last week that there was some problem with
4 the tax return, but I didn't understand it. There was an
5 accusation that Mr. Baron would be potentially in contempt of
6 court over that. So that has to be pursued.

7 On the phone cards, Mr. Lyon has been dealing with
8 that, and I'll let him address everybody's he talked to, and
9 what not. But what he's told me this morning is that is an
10 accounting, it does appear to be simply an 1,100 dollar issue.
11 And, again, it would be a contractual obligation not of Mr.
12 Baron, but of his IRA. And not something that -- in Mr.
13 Baron's opinion, would -- is ordered by the Court to occur.
14 But we're expecting it to occur. And for an 1,100 dollar
15 issue I'm hoping that Mr. Lyon doesn't have to talk to it very
16 much more, or that Mr. MacPete has to read anymore documents
17 or take the Court's time.

18 And if you'd like Mr. Lyon could address exactly what
19 he's done on that issue.

20 THE COURT: Okay, I would like that. Mr. Lyon, if
21 you can come up here? Mr. MacPete, while he's coming up here,
22 you talked about payments being due on the 5th of the month.
23 I assume the payment that was due on October 5th, I guess for
24 September, was made.

25 MR. MACPETE: That's correct, Your Honor.

1 THE COURT: It was made, okay. Thank you.

2 MR. MACPETE: And I don't know whether that was made
3 or not. Mr. Puri is on the phone and he may have the answer
4 to that question.

5 THE COURT: Mr. Puri.

6 MR. PURI: The October 5th payment was made.

7 THE COURT: Okay, it was made, he said. All right,
8 Mr. Lyon, what do you know about this?

9 MR. LYON: Your Honor, on this one, once I was
10 informed by -- I'm Gary Lyon appearing for Jeff Baron.

11 Once I was informed Mr. MacPete of the issue I've
12 been trying to get contact with SpeedyPin.com. And when you
13 call them -- the only number we have is their webpage. But I
14 have finally talked to their accounting department. They do
15 have now a copy of the settlement agreement. And they're just
16 basically doing the accounting to make sure what happened to
17 the money and then to get it to the right people.

18 The difficulty was on July 2nd we had the 9019
19 motion. We did not confirm the case, as this Court knows,
20 until the order until July 28th. That was their concern.
21 They didn't know what date. So as I informed them yesterday,
22 again, that you guys need to give us an accounting, and you
23 need to get the money properly -- get July payment, the one-
24 half of the revenue, to CC.com (ph.).

25 And at that point they're just going to do it. I

1 said you don't need to call me anymore, just do it and get a
2 payment to them of one-half of the revenue for July run, it's
3 supposed to go to CC.com. They just paid it all to Equity
4 Trust because they did not understand the settlement
5 agreement. Once I've explained it to them, they're now good,
6 they're going to go ahead and do it. There may be a refund
7 that they're -- they asked me which way I would like to do it.
8 Do they want to give me a credit and debit it out of equity
9 trust for September -- I mean, for November. Or do they want
10 to just go ahead and do a reversing entry to Equity Trust, get
11 the money back from Equity Trust and then pay it to CC. I
12 said whatever way it works best for you guys. They're due the
13 money, go ahead and get it to them.

14 So I actually stipulate the amount of money, whatever
15 it is, that would be owed, that's not a problem.

16 So I'm working on trying to get that solved. So that
17 is not a big issue, and that's why we're addressing it.

18 THE COURT: Okay.

19 MR. LYON: It's just an accounting issue. Because
20 there's an IRA and there's form you got to fill them to make
21 money back out of an IRA, and things like that as well.

22 THE COURT: All right. So your all going to get that
23 fixed.

24 MR. LYON: Absolutely.

25 THE COURT: Promptly. Okay. Do you have anything to

1 say about the tax return issue?

2 MR. LYON: The tax returns, Your Honor, as I
3 understand and I have not talked to Ms. Schurig. This was
4 filed at her direction and in her --

5 THE COURT: Okay. Okay.

6 MR. LYON: So I have nothing to know. So I apologize
7 I don't have anymore information from that. So, you know, we
8 can address it with Ms. Schurig, and I will be glad to take
9 that up or we can take it with the new accountant from the
10 information he has, I think Mr. Harbin. I'll do whatever
11 this --

12 THE COURT: Okay.

13 MR. LYON: -- Court wants me to do.

14 THE COURT: Okay. What is your client's position on
15 the October 31st drop-dead date, as far as just the settlement
16 agreement. Address it, and what -- yes or no. And then what
17 type of position would your client take if we show up here on
18 October 28th, the transfer hadn't happened.

19 MR. LYON: Could I answer the first question.

20 THE COURT: Well, we're in --

21 MR. LYON: No, Your Honor, we do not believe that
22 settlement agreement --

23 THE COURT: Okay.

24 MR. LYON: -- anticipated it. But, again, we're
25 cooperating fully and we'll make sure whatever request we'll

1 support it. If Quantec needs us to do a request to the trust
2 to pay those fees, we'll do so. So there's no problem there,
3 we're going to cooperate fully with the Court.

4 THE COURT: Okay. Because that -- that's the
5 scenario I'm envisioning.

6 MR. LYON: Right.

7 THE COURT: If we don't have the names transferred or
8 in a position to be definitely transferred to Fabulous by the
9 end of October, and we show up here on the October 28th
10 Verizon setting --

11 MR. LYON: Exactly, Your Honor. And that's why I've
12 also --

13 THE COURT: And you will have it all ready --

14 MR. LYON: Yes.

15 THE COURT: -- you know, wired the money for Ondova
16 to wire the money to VeriSign, I'm just going to grant the
17 motion.

18 MR. LYON: Right.

19 THE COURT: Let it terminate.

20 MR. LYON: Let it terminate.

21 THE COURT: And --

22 MR. LYON: And they go out into that big pool of
23 reserve and there's additional fees charged, if you want to
24 pull them back in. So he understands that position and that's
25 why we've worked really close with the trust, worked really

1 close with the bankruptcy trustee, giving them full
2 information on the new trustee, new protectors, so they have
3 all that as well. And we just got yesterday, finally got all
4 the bank accounts start to be transferred, so there's not
5 going to be an issue, none, whatsoever.

6 THE COURT: Okay. What about on the signatures
7 with --

8 MR. LYON: Signatures, we are. We signed the correct
9 version. So we're not even going to oppose that, it's not an
10 issue. And I -- I'm a little offended that I would be told
11 that Jeff's going to oppose it. We want the right signatures
12 as well. So if we're going to have a signing party up here on
13 Monday, everybody sign the right one, I don't care, we're
14 willing to do that.

15 THE COURT: I'm not using my courtroom to host it.

16 MR. LYON: I'm just saying, Your Honor, we're willing
17 to cooperate. Whatever signatures we need to do, we're
18 willing to get them.

19 THE COURT: Okay. Very good. All right, Mr. Taube,
20 you want to say anything about any of this, in particular, the
21 tax return issue? Do you have anything to say on that?

22 MR. TAUBE: Your Honor, I really don't. I knew that
23 this issue was going on, but I don't know the circumstances
24 under which it was filed or not. I have -- I do have a little
25 information in terms of the signatures, Your Honor.

1 THE COURT: Okay.

2 MR. TAUBE: That the Court may recall that there were
3 various versions of the settlement agreement as Mr. MacPete
4 has described that were being promulgated over a period of
5 time. And it did continue to -- it continued to evolve.

6 Part of the problem is, of course, that Mr. Capua, in
7 trying to obtain some of the signatures we were dealing with
8 people who were out of the country, et cetera, et cetera. So
9 it was my understanding that there was a communication sent by
10 Mr. Capua which affirmed that the signatures that are on the
11 prior form were effective and could be utilized with respect
12 to the final version of the settlement.

13 So I think, as Mr. MacPete may have suggested, it's a
14 nonissue. Because I don't think there's any contemplation
15 that the signatures were ineffective in any way, and they were
16 effectively slip-sheeted into the final version.

17 THE COURT: Okay. All right, you have a motion to
18 withdraw on file.

19 MR. TAUBE: I do, Your Honor.

20 THE COURT: It appears you complied with our local
21 rules in that regard, we don't have any opposition. Is there
22 anyone who wanted to speak with regard to that motion to
23 withdraw?

24 All right. Well, your motion to withdraw will be
25 granted, Mr. Taube.

1 MR. TAUBE: Thank you, Your Honor. And if I might
2 mention, from time to time, the Court may recall that Mr.
3 Capua for West & Associates also appeared. And if the Court
4 will permit, I would like to provide that order for Mr. Capua
5 as well, and I'll provide the Court a revised order.

6 THE COURT: Okay, that's fine.

7 MR. TAUBE: Thank you, Your Honor.

8 THE COURT: That's fine. All right. Yes?

9 MR. SCHNABEL: For the record, Eric Lopez Schnabel on
10 behalf of VeriSign.

11 Your Honor, I just wanted to comment on one thing Mr.
12 Eckels said, just in case it's not clear.

13 Our motion that we filed, which included part of the
14 relief caused lift stay to terminate the agreement is a
15 breaches. You know, there's a security deposit requirement
16 under our contract. And we don't have a security deposit at
17 this point in time. And part of that is to prevent us from
18 actually extending any credit to a registrar. So we kind of
19 have, you know -- we bill in arrears due at the end of the
20 month, but we have a security deposit to cover us for that
21 period, basically.

22 And so given what the trustee's comments were to the
23 Court, I think it's -- and what the Court's comments today
24 are, is it's absolutely clear -- it should be clear to Mr.
25 Eckels and his client that there is -- it doesn't sound like

1 there's any way any of this could go forward into November,
2 unless there is a prepayment or some payment which would
3 actually secure on the obligations that would be owed to
4 VeriSign that would accrue and be due in November. And that's
5 over 300,000 dollars.

6 So I just -- he said something about, you know, if
7 he's informed that that's the case later on. I think you
8 should be on notice that is the case right now. So if the
9 names aren't transferred, you know, we're going to want some
10 sort of security to make sure we don't have a claim. And I
11 think the trustee is in line with us on that.

12 So it sounds like there will either be a termination
13 or there will be a requirement for security. So I don't think
14 he needs to know anything more than what he knows today, is
15 that that's going to be a requirement if there's anyway this
16 is going to past October.

17 THE COURT: Okay. Well, the court does not intend to
18 allow any risk prospect of administrative expense claim being
19 asserted by VeriSign without there being funds submitted by
20 the registrant to cover that.

21 We talked at the very beginning, Mr. Urbanik, about
22 how much funds the trustee is holding. You clarified that the
23 little hand up you gave me at the last hearing was only Poker
24 Star money. Why don't you give me a report just so I'm clear
25 about what he's holding and let's clarify the component.

1 MR. URBANIK: Why don't I do that.

2 THE COURT: Okay.

3 MR. URBANIK: I've got about a million-three in the
4 bank right now.

5 THE COURT: Okay.

6 MR. URBANIK: And that's the net of the VeriSign
7 payments for September and October. I've also got the other
8 330 sitting in there in a separate account as well. And I may
9 be receiving, I think today, the Poker Star payment as well as
10 it looks like River Cruise has said they're getting back on
11 stream. Although, I didn't -- when I left this morning, I
12 hadn't received any wire notices yet that it had come in. But
13 roughly about a million-three sitting in there right now.

14 THE COURT: I don't want to go too far down this
15 trail but Mr. Thomas had made a comment that there was enough
16 money to pay all unobjected to claims in the estate but that
17 begs the question of what is the universe of what he considers
18 objected to claims.

19 MR. SHERMAN: Well, yes. I mean --

20 THE COURT: I guess the thirty or so lawyers --

21 MR. SHERMAN: -- there's more than that. There's
22 more than a million three in claims filed. Some of them,
23 obviously, are going to be withdrawn or dealt with; Quantec,
24 Novo Point, filed some claims.

25 Mr. Thomas, although he and I didn't get a chance to

1 speak, we do leave each other long e-mail -- voicemails and he
2 says that Mr. Baron has identified at least four claims which
3 I believe are probably attorneys' fees claims that he believes
4 need to be objected to. I'm kind of at the point now where,
5 you know, any lawyer that worked for Baron that has a
6 presumption that they did good work and need to be paid, and
7 it may be a rebuttable presumption but I begin with that
8 presumption. So, we haven't had a chance to talk about that
9 yet.

10 If those fees were allowed, Grupo's filed a claim for
11 600,000 dollars, I have looked at that and, you know, as it's
12 filed right now it really says we may have a claim and so
13 we're going to file this just to hold our place. That would
14 be just be objectionable just on those grounds alone. I don't
15 know if they're going to be able to amend it and bootstrap up
16 from there or not, but that's a 600,000 dollar claim.

17 You know, University of Texas is locked in solid at
18 about 270. Razansky, all this, is locked in solid at 200. I
19 should have brought the claims register with me. But there's
20 prob -- I mean my guesstimation right now, we're going to be
21 looking at somewhere in the neighborhood of 750, 800,000 in
22 claims that will probably be allowed and we'll see what
23 happens with Grupo.

24 THE COURT: And at this point, you haven't had any of
25 these lawyers file substantial contribution claims --

1 MR. SHERMAN: No, no.

2 THE COURT: -- that any of the Jeff Baron --

3 MR. SHERMAN: They've told me about them.

4 THE COURT: -- Village Trust lawyers.

5 MR. SHERMAN: No. They've told me I haven't -- no, I
6 haven't had a chance to deal with those yet. But I've had
7 conversations with Mr. Pronske about it and, you know, I
8 would, if called to the stand, testify that when he was paying
9 attention he made a -- he made a significant contribution, he
10 did.

11 THE COURT: Okay.

12 MR. SHERMAN: It's good when he's focused. And he
13 did a lot on this particular deal.

14 THE COURT: And I guess I should make the
15 clarification point once again on the record about, you know,
16 the original purpose of that 330 was really, again to be
17 security against a potential civil contempt finding that I was
18 afraid I was going to get to and then there'd be no reachable
19 money.

20 MR. SHERMAN: I thought it was for attorneys' fees.
21 But I -- I just thought --

22 THE COURT: Well, but no, I'm not finished. I'm
23 going down that trail, now.

24 MR. SHERMAN: Okay.

25 THE COURT: But it's gotten more complicated and now

1 it's kind of extended to the attorney fee issue because we've
2 got a prospect of substantial contribution claims --

3 MR. SHERMAN: Yes.

4 THE COURT: -- you made against the estate, i.e., the
5 estate and its creditors benefitted from the efforts of these
6 lawyers from Baron or Village Trust and I think the estate
7 would have a claim for contribution and reimbursement back
8 against the Village Trust and Baron if that happened. So,
9 that is the jurisdictional hook, if you will, to recommend to
10 Judge Furgeson that he appoint Mr. Vogel to just nip all this
11 in the bud before we have contested hearings on all this.

12 MR. SHERMAN: Splendid idea.

13 THE COURT: There is no way I think it's the right
14 result for that money, that 330, to be packed into to pay for
15 fees that the registrar would have to pay to VeriSign if
16 Ondova is still the registrar in November.

17 I've heard from every fee party that the settlement
18 agreement doesn't address this scenario if we don't have a
19 break-off on October 31st. So, again, I'm just trying to make
20 as clear as I can to people that if we hit October 28th or
21 hear from VeriSign motion we're not ready to transfer those
22 names out of the estate, I see it as poof, they're gone,
23 they're out of the estate.

24 MR. SHERMAN: I agree. And I think because you've
25 said that they will be very motivated to get this done.

1 THE COURT: Okay. All right. Well, it sounds like
2 this is what we need to do.

3 First, Mr. Baron, I'm not going to call you to the
4 stand but I do want you to stand in place and raise your right
5 hand.

6 Do you swear that the statement made by your counsel
7 today, Mr. Thomas, Mr. Lyon, were true and correct and are the
8 same as you would have testified if asked these questions that
9 they were asked? Do you swear to that?

10 MR. BARON: Yes, everything that I have personal
11 knowledge of.

12 THE COURT: Yes or no.

13 MR. BARON: Some of the things I didn't have personal
14 knowledge about that they talked about at the time.

15 THE COURT: Okay. Well, come forward then. Just
16 come to the podium. Mr. Thomas, you can come up here.

17 MR. THOMAS: Your Honor, I think he's --

18 THE COURT: Wait, let me just --

19 (Witness sworn)

20 MR. BARON: Yes.

21 THE COURT: Okay. Take a seat. I want him to
22 clarify what he doesn't have personal knowledge of --

23 MR. THOMAS: Yes, Your Honor.

24 THE COURT: -- and what he might disagree with. So,
25 you can take it.

1 MR. THOMAS: Yes, Your Honor.

2 DIRECT EXAMINATION BY

3 MR. THOMAS:

4 Q. Mr. Baron, you heard the judge, would you clarify for her
5 what you do not have personal knowledge of that you heard Mr.
6 Lyon or myself speak about today.

7 A. I just remember some conversations regarding Ms. Schurig,
8 regarding some conversations with Speedy Pin, conversations
9 with the trustee, I believe. I just haven't -- and part of --
10 or party to those. So, those are the ones that I'm
11 remembering that --

12 Q. And those are things that Mr. Lyon spoke about. Is that
13 correct?

14 A. I believe that's right. I'm trying to remember, yeah.

15 Q. Everything else that you heard Mr. Lyon and myself say to
16 the Court today is in your personal knowledge and you would
17 give the same testimony?

18 A. Best I can remember that's -- everything else was --

19 Q. Did you hear anything else that you did not agree with?

20 A. Nothing I didn't agree with.

21 MR. THOMAS: Does that solve it, Your Honor?

22 THE COURT: That's fine. All right. Thank you, Mr.
23 Baron.

24 That's all we're going to do today as far as the show
25 cause matters. While I certainly, Mr. MacPete, take very

1 seriously your concerns, I don't think it makes sense to use
2 court time today to delve any further into this. It hopefully
3 is going to be the case that when we show up on the 28th, I'm
4 going to continue this show cause hearing, by the way, to
5 October 28th at the same setting we have the VeriSign matter.

6 Laura, can you tell us -- can you look up what time
7 we have the VeriSign sitting or maybe Mr. Schnabel knows. I
8 don't know if it's 9:30 --

9 MR. SCHNABEL: 10:30, Your Honor.

10 THE COURT: It's 10:30?

11 MR. SCHNABEL: Oh, sorry. It's 9:30.

12 THE COURT: Okay. 9:30 Central Time. We were going
13 to continue the show cause hearing. And Mr. MacPete and
14 everyone concerned we'll delve more into any potential
15 noncompliance issues that we have allegedly with regard to the
16 settlement agreement at that time. But I just don't think the
17 best use of court time today is to probe into that any more
18 since hopefully the 1,100s will be paid by then and -- and
19 we'll just see what new developments, if any, we have to
20 report on the tax return issues.

21 I'm going to say the signature issue is a nonissue as
22 far as this Court is concerned. We had a settlement
23 agreement. We nailed that down like never in the history of
24 my career has that ever been nailed down in a court with
25 regard to a settlement agreement. We all had concerns many

1 times over will lead to closure on that settlement agreement.
2 We've got pages and pages of transcripts we can look to if
3 anyone tries to ever suggest we didn't have a meeting of the
4 mind. But it's a nonissue. It's an irritating issue, it's an
5 annoyance, it's an issue we'd rather not have but it's a
6 nonissue. We'll get the housekeeping matter cleared up and to
7 the extent needed to make everyone feel comfortable but we
8 don't have an issue there.

9 So, we're going to continue -- hang on -- I'll get to
10 that in a minute -- we're going to continue the show cause
11 hearing. It will be a continuing order that we'll issue in
12 that regard making clear that Mr. Baron is to show up on
13 October 28th as well as his counsel and be prepared to give
14 testimony to the extent needed with regard to performance
15 under the settlement agreement of the obligations. I'm also
16 going to set these motions Mr. Lyon, I think, filed on behalf
17 of Mr. Baron to seal various transcripts that have been
18 lingering out there. I'm just going to set that at -- on the
19 28th as an add-on issue. I don't like motions to seal and I
20 have sealed a few things in this case but I'm just -- I don't
21 know, I think we're overflowing maybe privacy concerns but
22 I'll let you argue those motions on the 28th so I can finally
23 have resolution of those.

24 So, we're going to come here for -- continuing show
25 cause and find out what's going to happen to the names on the

1 28th. But I think we're crystal clear that absent the
2 prepayment by the registrant to the estate so that the estate
3 can pay VeriSign. The names aren't going to stay in the
4 estate past October 31st and it's not going to be anybody's
5 breach of the settlement agreement if the names drop out of
6 the estate on October 31st.

7 I'm going to finally get the report recommendation to
8 Judge Furgeson regarding the mediation. I'm going to finally
9 sign Mr. Thomas' order. I'm going to do this order setting
10 status conference. Is there any other housekeeping matter,
11 Mr. Urbanik or anyone else? You're going to get that letter
12 out Monday?

13 MR. URBANIK: Yes, Your Honor. We'll probably send
14 it today.

15 There are a few other pending motions. There's a
16 motion for Mr. Taube. We have that motion regarding domain
17 name pricing. So, I don't -- right now, I think they're
18 all --

19 THE COURT: Which motion of Mr. Taube?

20 MR. URBANIK: I think -- Mr. Taube filed a motion to
21 modify the settlement agreement to pay some fees.

22 MR. TAUBE: Your Honor, if I could. It's not a
23 modification. It's a motion pursuant to the terms of the
24 supplemental agreement to allow additional fees to free firms.

25 THE COURT: Okay.

1 MR. TAUBE: And I'm happy, Your Honor, to include
2 that as part of whatever the Court is going to do with respect
3 to the fees --

4 THE COURT: The mediation.

5 MR. TAUBE: -- and the issue of the fees, Your Honor.
6 Obviously, we would to the -- it could be considered a
7 substantial contribution motion, Your Honor.

8 THE COURT: Right.

9 MR. TAUBE: There is a provision in the supplemental
10 agreement that says that fees are limited unless ordered by
11 the Court.

12 THE COURT: Okay. So, that would be encompassed by
13 the mediation.

14 MR. URBANIK: Yes, Judge.

15 THE COURT: Okay.

16 MR. URBANIK: And there's our domain name pricing
17 which may end up being withdrawn if everything is resolved and
18 settled with the transition of the names.

19 What I would like to do on behalf of the trustee is
20 our office review every pending motion out there regarding
21 sealing documents, some show cause motions, and if -- if
22 there's -- after discussions with Mr. Sherman, if we need --
23 if we feel that the estate needs to have a voice with the
24 trustee we will reply to those before the 28th. There seem to
25 be about four or five sort of dangling motions out there, so,

1 we'll examine all those and if the trustee has a position
2 we'll file responses before October 28th.

3 THE COURT: Okay. The pricing agreement motion,
4 should be go ahead and perhaps set that for hearing on the
5 28th?

6 MR. URBANIK: Yes, Judge.

7 THE COURT: Because that could be one scenario that
8 the trustee agrees to keep the names --

9 MR. URBANIK: If they -- yes --

10 THE COURT: -- to the estate.

11 MR. URBANIK: -- if they find us, we would stay open
12 but we would need their payment to stay open so we could set
13 that for the 28th.

14 THE COURT: Okay. All right. We will do that.

15 MR. URBANIK: But all these other things regarding
16 sealing or show cause, if Mr. Sherman feels we need to reply
17 we'll kind of review all those and get something on file if we
18 have a position.

19 THE COURT: Okay. All right. Very good.

20 MR. URBANIK: Also, on their settlement agreement,
21 Judge, Mr. Taube is right. When the document was revised, we
22 would use slip sheets and all those people that signed a
23 different version received the changes in e-mails and I would
24 get dozens of e-mails from Ms. Bell about modifications that
25 were made during that final two weeks. So, we think it's a

1 nonissue too but what I was advising the Court yesterday was I
2 didn't have time yet to kind of track it down and make sure I
3 could say that with confidence. But we did our best job to
4 make sure if somebody signed a different version, they'd
5 gotten the changed pages. And, you know, until I confirmed
6 with Ms. Bell, I'm still not a hundred percent certain but
7 that's what we did to make sure no one signed the wrong
8 document.

9 THE COURT: Thank you. Mr. Vogel? You're still
10 ready, willing and able to do the mediation?

11 MR. VOGEL: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. VOGEL: As I told you in the last hearing and I
14 conveyed that message to Judge Furgeson as well.

15 THE COURT: Okay. Very good. All right. Anything
16 else?

17 MR. MACPETE: Your Honor, I just had one
18 clarification. You said that Mr. Baron was ordered to appear
19 with counsel and be prepared to give testimony about
20 performance under the settlement agreement. And as we heard,
21 a lot of the issues that I raised today about the performance
22 under the settlement agreement, Mr. Baron has said, "Well, I
23 don't have to perform, I don't think I need that. So, is the
24 Court ordering him to actually avail himself of the
25 information that's available to him so he's actually able to

1 testify to something other than just I don't know?

2 THE COURT: Okay. We're just continuing the show
3 cause hearing. He will be ordered to testify as deemed
4 appropriate if necessary depending on where we are on final
5 consummation and where we are on alleged breaches, okay. So,
6 if we have to delve into things and he gives evasive answers,
7 that in and of itself may be contempt of court if I don't
8 think he's being forthcoming with the Court, okay? So, this
9 issue is still out there, okay.

10 MR. ECKELS: Your Honor, very briefly, I'm sorry.
11 James Eckels for Quantec. Mr. Taube just made a request that
12 he be included within that mediation, Mr. Vogel's mediation of
13 the attorneys' fees issues. I'm wondering if because he's so
14 differently situated in that he did not represent Mr. Baron as
15 did the rest of the attorneys that are going to go to that
16 mediation, if Mr. Taube's issue actually should be separated
17 from those others?

18 THE COURT: It's not separate at all. It's not
19 separate at all in the Court's view. Either way, it's a
20 potential substantial contribution to the estate.

21 MR. ECKELS: Understood, Your Honor

22 THE COURT: Okay?

23 MR. ECKELS: I'm looking for clarification. Thank
24 you.

25 THE COURT: Thank you. We stand adjourned.

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THE CLERK: All rise.

(Whereupon these proceedings concluded at 12:27 PM)

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

I, Dena Page, the court-approved transcriber, do hereby certify the foregoing is a true and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



December 10, 2010

DENA PAGE

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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,)
) Dallas, Texas
Debtor.) November 14, 2011
)
) CONFIRMATION HEARING
)
) Excerpt: Daniel Sherman
) Testimony

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE.

APPEARANCES:

For Jeffrey Baron: Stephen Rudolph Cochell
THE COCHELL LAW FIRM
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(713) 980-8796

For Peter S. Vogel,
Receiver: Jeffrey R. Fine
Christopher Kratovil
DYKEMA GOSSETT, PLLC
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(214) 462-6455

For Daniel J. Sherman,
Chapter 11 Trustee: Raymond J. Urbanik
MUNSCH, HARDT, KOPF & HARR P.C.
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Dallas, TX 75201-6659
(214) 855-7590

For the U.S. Trustee: Lisa Laura Lambert
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1100 Commerce Street, Room 976
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For Manila Industries,
Inc. and Netsphere, Inc.: John W. MacPete
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24 Proceedings recorded by digital sound recording;
25 transcript produced by transcription service.

1 BY MR. MACPETE:

2 Q Isn't it true that Mr. Baron didn't actually owe any
3 performance under the global settlement agreement directly to
4 the Chapter 11 Trustee?

5 A Maybe not.

6 Q In fact, isn't it true that the payments that were being
7 made to the Chapter 11 Trustee were essentially being made by
8 my client, Netsphere?

9 A True.

10 Q The bottom line is Mr. Baron hasn't breached any obligation
11 to the Chapter 11 Trustee under the global settlement agreement
12 because he didn't have any. Isn't that right?

13 A Maybe not.

14 Q Thank you.

15 MR. MACPETE: I have nothing further.

16 THE COURT: All right.

17 MR. MACPETE: Oh, wait. Actually, I need to move this
18 into evidence as Netsphere Exhibit 1.

19 THE COURT: I assume no one has any objection?

20 MR. URBANIK: No objection.

21 MR. KRATOVIL: None, Your Honor.

22 THE COURT: N-1 is admitted.

23 (Netsphere's Exhibit 1 is received into evidence.)

24 THE COURT: All right. Mr. Cochell?

25 MR. COCHELL: May I have a brief break, Your Honor?

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

Royal Ferguson
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,)	
)	
vs.)	Civil Action No. 3-09CV0988-F
)	
JEFFREY BARON, and)	
ONDOVA LIMITED COMPANY,)	
Defendants.)	

**NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

Notice is hereby given that JEFFREY BARON, defendant in the above-named case hereby appeals to the United States Court of Appeals for the Fifth Circuit from the District Court’s Order Appointing Receiver signed on November 24, 2010 [Docket #124, and Docket #130, Entered 11/30/2010].

This appeal is taken pursuant to 28 U.S.C. §1292(a)(2).

The parties to the order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

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Appellee: Defendant ONDOVA LIMITED COMPANY

c/o DANIEL J. SHERMAN, Trustee

Represented by: Raymond J. Urbanik
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Dated: December 2, 2010.

Respectfully submitted,

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**APPELLATE COUNSEL
FOR JEFFREY BARON**

CERTIFICATE OF SERVICE

This is to certify that this was served on all parties who receive notification through the Court's electronic filing system and including:

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