

COPY

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

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS	
<b>FILED</b>	
JAN - 3 2001	
§	CLERK, U.S. DISTRICT COURT
§	By _____
§	Deputy

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

FUNDING RESOURCE GROUP, a/k/a FRG Trust, et al.

Defendants,

and

HOWE FINANCIAL TRUST, et al.

Defendants Solely for Purposes  
Of Equitable Relief.

Civil Action No.  
3-98-CV2689-X M

**DEFENDANT PARR'S EMERGENCY MOTION TO  
RESTRAIN PLAINTIFF FROM ILLEGALLY CONFISCATING  
PROPERTY OR, IN THE ALTERNATIVE, TO MODIFY INJUNCTION**

COMES NOW, Defendant Raymond Parr ("Parr") by and through his undersigned attorneys and files this Emergency Motion to Restrain the Plaintiff, Securities and Exchange Commission, ("SEC" or "Government") from violating his rights under the Texas and United States Constitutions, and from attempting to confiscate his property, and interfere with his business, in violation of said Constitutions and federal common law. In the alternative, Parr seeks an Order modifying the Preliminary Injunction to direct the SEC to cease interfering with his efforts to obtain current income or for such other relief consistent with this Motion.

The actions of the SEC in this case, which have effected the confiscation of Parr's property, are unauthorized based on the fact that the SEC has delegated all responsibility relating to collecting

funds and otherwise overseeing receivership matters in this case to the court-appointed Receiver, Michael Quilling ("Quilling"). Quilling has been working on this matter for over two years and has been paid in excess of \$1,000,000.00 for his services. The fact that the SEC would now "re-enter" the process in the manner in which it now has is inappropriate and lacks cause, reason, and legal justification.

## I.

### BACKGROUND

The Court is familiar with the background of this action, which was filed in 1998 by the SEC against a litany of individuals alleging their participation in different schemes to fool investors into believing that extravagant returns could be obtained on their investments. Defendant Parr has appeared through counsel and asserts his innocence in connection with the alleged scheme. At the outset of the litigation, the Honorable Sidney Fitzwater, sitting on an *ad hoc* basis issued a TRO, and appointed Michael Quilling as the Temporary Receiver. This action came via Order dated November 13, 1998. Thereafter, the matter was considered by the Judge to which it was originally signed, the Honorable Joe Kendall, who issued a Preliminary Injunction on January 11, 1999. The case has also been considered in part by Judges Joe Fish and Barbara Lynn.

## II.

### DISCUSSION

Either before or after the initiation of the lawsuit by the SEC, the United States Department of Justice undertook a criminal investigation. Upon information and belief, this investigation has led to the indictment and conviction of Defendants Robert Cord and Steven C. Roberts in the Southern District of Texas. Parr has received a "target letter" from the Department and has

attempted to obtain the release of funds to pay legal fees pursuant to the Sixth Amendment and the dictates of *Dixon v. FSLIC*, 835 F.2d 554 (5<sup>th</sup> Cir. 1987).

At the time the action was brought, Defendant Raymond Parr was an insurance agent living in Jasper, Texas. He has been married to Madelyn Parr for 33 years. Because of the blast of negative publicity associated with this case, his insurance business disintegrated and he has since sought other employment. As is common in the insurance industry, however, Parr is contractually entitled to receive certain compensation based on insurance policy renewals and premiums paid therefor on an ongoing basis. In December 2000, the SEC improperly and, indeed, illegally undertook to interfere with Parr's relationship with said insurance companies by forwarding to them letters demanding that they cease paying any benefits to Parr and begin paying said benefits to the Receiver. Examples of these letters are attached to the Memorandum in Support of this Motion as Exhibit "A." Then, on December 22, 2000, the SEC sent a letter to Parr's current employer, Lawrence Marshall Chevrolet, Houston, Texas, insisting that it too send **all** of Parr's current earnings to the Receiver, Michael Quilling in Dallas, Texas. This effectively garnishes **100%** of Parr's wages in violation of Art. 16, Sec. 28 of the Texas Constitution and the Due Process Clause of the Fifth Amendment of the United States Constitution. In the interim, the Receiver, improperly placed a *lis pendens* on Parr's homestead in Jasper, Texas, which he had listed for sale. On December 28, 2000, the SEC threatened to have the United States Marshal seize the Parr automobiles! All of these actions have resulted in great harm to Parr, and an inability to retain any income whatsoever.

The urgency of the need for judicial intervention in this unlawful taking by the Government cannot be overestimated. The Government, without a judgment against Parr, is in the process of confiscating assets wholly unrelated to anything claimed in the Complaint filed herewith.

## ***INSURANCE BUSINESS***

Parr has been involved in the insurance industry since approximately May 1968. During the course of his business, he has written policies for clients which were placed with various companies. The Government has written letters to some forty-four (44) insurance companies admonishing them not to pay premiums which are owed to Mr. Parr. These companies include: (1) New Era Life Insurance Company of the Midwest, Houston, Texas; (2) New Life Insurance Company, Houston, Texas; (3) American Fidelity Assurance Company, Oklahoma City, Oklahoma; (4) Heritage Life Insurance Company, Trevese, Pennsylvania; (5) John Alden Life Insurance Company, Milwaukee, Wisconsin; (6) Foremost Insurance Company, Grand Rapids, Michigan; (7) Fidelity and Guaranty Life Insurance Company, Baltimore, Maryland; (8) Celtic Insurance Company, Chicago, Illinois; (9) Combined Insurance Company of America, Chicago, Illinois; (10) Continental Life Insurance Company, Carmel, Indiana; (11) Colonial Mutual Insurance Company, San Antonio, Texas; (12) Columbia Life Insurance Company, San Antonio, Texas; (13) Golden Rule Insurance Company, Lawrenceville, Illinois; (14) Combined Underwriters Life Insurance Co., Tyler, Texas; (15) Houston National Life Insurance Company, Miami, Florida; (16) General American Life Insurance Company, St. Louis, Missouri; (17) Freedom Life Insurance Company of America, Ft. Worth, Texas; (18) Foremost County Mutual Insurance Company, Caledonia, Michigan; (19) Consec Life Insurance Company of Texas, Carmel, Indiana; (20) Presidential Life Insurance Company, Dallas, Texas; (21) The Mega Life and Health Insurance Company, Dallas, Texas; (22) Benefit Life Insurance Company, Richardson, Texas; (23) American Insurance Company of Texas, Ft. Worth, Texas 76102; (24) American Chambers Life Insurance Company, Columbus, Ohio 43223; (25) American Bankers Insurance Company of Florida, Miami Florida; (26) Presidential Life Insurance Company, Dallas,

Texas; (27) Pioneer Life Insurance Company, Carmel, Indiana; (28) North American Insurance Company, Phoenix, Arizona; (29) Progressive County Mutual Insurance Company; (30) Provident American Insurance Company, Dallas, Texas; (31) Reliance Standard Life Insurance Company, Philadelphia, Pennsylvania; (32) Reliance Standard Life Insurance Company of Texas, Philadelphia, Pennsylvania; (33) Southern County Mutual Insurance Company, Dallas, Texas; (34) Southwest Service Life Insurance Company, Ft. Worth, Texas; (35) State and County Mutual Fire Insurance Company, Ft. Worth, Texas; (36) Surety Life Insurance Company, Lincoln, Nebraska; (37) Transamerica Life Insurance and Annuity Company, Los Angeles, California; (38) Unicare Life and Health Insurance Company, Los Angeles, California; (39) The Universe Life Insurance Company, Lewiston, Idaho; (40) Windsor Life Insurance Company, Dallas, Texas 75219; (41) American Pioneer Life Insurance Company, Orlando, Florida; (42) Philadelphia American Life Insurance Company, Houston, Texas; (43) Pan-American Life Insurance Company, New Orleans, Louisiana; and (44) Old American County Mutual Fire Insurance Company, Dallas, Texas.

These are companies to which the Government addressed letters demanding that the payments to Parr cease. The effect of severing Parr's income stream for his past work is potentially catastrophic to his welfare. Moreover, Texas being a community property state, one-half of all of these earnings is the property of his wife, to whom he has been married since 1967.

#### ***GARNISHMENT OF WAGES***

As stated, on December 22, 2000, the SEC took the unheard of step of attempting to "garnish" 100% of Parr's earnings from his automobile sales job in Houston by forwarding a letter to his employer, attached to the Memorandum as Exhibit "B." As indicated in the accompanying Memorandum, the notion that the Government could simply confiscate an individual's property and

totally eliminate an income stream in the manner in which it has undertaken is utterly unheard of and without precedent of which we are aware. Indeed, there appears to be no other instance of a similar action being taken against a Defendant in this case and the rationale of the Government for abusing Parr and his wife in this manner is unfathomable.

### ***COMMUNITY PROPERTY***

Parr has been married to Madeline Parr for thirty-three (33) years. Any current income he derives belongs to Mrs. Parr pursuant to her Texas community property rights. The absolutely egregious nature of the Government's confiscatory actions are further highlighted by their effect on Mrs. Parr. She is a non-party to this action and should not be adversely affected by any SEC post-judgment activities, much less pre-judgment activities.

### **III.**

### **CONCLUSION**

WHEREFORE, for all the reasons stated herein and in the accompanying Brief in Support, Defendant Parr urges the Court to enter an Order which enjoins the SEC from interfering with Parr's prior or current business relationships, including an injunction against any attempt to garnish or otherwise confiscate insurance premium income from any of the aforementioned companies, or any other companies about which the SEC becomes aware, and further enjoins the SEC from interfering with Parr's right to earn income from his current employer, Lawrence Marshall Chevrolet, or any future employer. Parr also seeks an Order shortening the Plaintiff's time to respond to this Motion to two (2) days.

Because of the necessity of bringing this Motion and litigating this issue, Parr has incurred very substantial legal fees, which would be unnecessary but for the lawless conduct of the

Government. Therefore, Parr prays that the Court's Order include a provision sanctioning the SEC for interfering with Parr's business relationships in the manner in which it has undertaken, and awarding attorneys' fees in an amount to be determined by the Court as reasonable and necessary.

Parr further prays that the Court's Order include a provision sanctioning the SEC for engaging in unlawful and illegal conduct which it has undertaken in an amount to be determined by the Court, but in no event less than \$10,000.00.

Respectfully submitted,

**SHEINFELD, MALEY & KAY, P.C.**

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By: 

S. Cass Weiland

State Bar No. 21081300

**ATTORNEYS FOR DEFENDANT PARR**

**CERTIFICATE OF CONFERENCE**

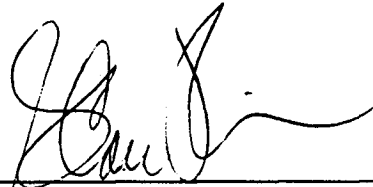
This is to certify that I have conferred with counsel for the SEC and have been informed that counsel believes his actions are lawful or otherwise appropriate.

  
S. Cass Weiland

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Defendant Raymond G. Parr's Emergency Motion to Restrain Plaintiff From Illegally Confiscating Property or, In the Alternative, To Modify Injunction was forwarded by certified mail, return-receipt requested, this 31<sup>st</sup> day of January, 2001, to the following counsel for Plaintiff. By Motion filed contemporaneously, Parr is seeking an Order pursuant to Rule 5(b) Fed.R.Civ.P., relieving him of the necessity of serving the multitudinous Defendants in this case.

Robert A. Brunig  
Securities & Exchange Commission  
Fort Worth District Office  
801 Cherry Street, Suite 1900  
Fort Worth, Texas 76102



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S. Cass Weiland