

U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
FILED
 OCT 1 2008
 CLERK, U.S. DISTRICT COURT
 By _____

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

MICHAEL J. QUILLING, Receiver for
 MVP NETWORK, INC.

Plaintiff,

v.

AIREY HOLDING, INC.

Defendant.

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CIVIL ACTION NO. _____

3-00CV2236-H

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Michael J. Quilling, in his capacity as Receiver for MVP Network, Inc. and files this his Complaint against Airey Holding, Inc. and in support of such would show unto the Court as follows:

PARTIES

1. Michael J. Quilling is the Receiver appointed for MVP Network, Inc. in Civil Action No. 3:98-CV-2689-M, styled *Securities and Exchange Commission v. Funding Resource Group, Quentin Hix, Gene Coulter, Steven C. Roberts, MVP Network, Inc., FMCI Trust, Funders Marketing Company, Inc., Raymond G. Parr, Willard Vearl Smith, Earl D. McKinney, Fortune Investments, Ltd., Robert Cord, Winterhawk West Indies, Inc., IGW Trust, Carolyn Don Hicks and Carl LaDane Weaver; and Howe Financial Trust, Treds Financial Trust, Mary Ann Bauce, Hammersmith Trust, L.L.C., Hammersmith Trust, Ltd., Bridgeport Alliance, L.L.C., Landfair Custodial Services, Inc., Microfund, L.L.C., American Pacific Bank & Trust, Inc., Eurofund Investment Inc., B. David Gilliland, and Melody Rose*, pending before the United States District Court for the Northern District of Texas, Dallas Division, the Honorable Barbara Lynn presiding.

2. Airey Holding, Inc. is believed to be a corporation organized under the laws of the Republic of Panama with offices in Monaco and London and which regularly conducts business in the United States.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action because the actions stated herein constitute Receivership Assets within the meaning of the Order Appointing the Receiver. The Order Appointing the Receiver expressly states that all actions to determine disputes relating to Receivership Assets shall be filed in this Court. In addition, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 754, 1692, and Fed. R. Civ. P. 4(k)(1)(D).

4. Venue for this action is proper in the Northern District of Texas because: (1) the SEC Proceedings referenced below is pending in this District and this action is ancillary to it; (2) the Receiver was appointed in this District; and (3) this action involves Receivership Assets within the meaning of the Order Appointing the Receiver. The Order Appointing the Receiver expressly states that all actions to determine disputes relating to Receivership Assets shall be filed in this Court.

BACKGROUND FACTS

5. On November 13, 1998, the United States Securities and Exchange Commission (“SEC”) instituted Civil Action 3:98-CV-2689-M, styled *Securities and Exchange Commission v. Funding Resource Group, Quentin Hix, Gene Coulter, Steven C. Roberts, MVP Network, Inc., FMCI Trust, Funders Marketing Company, Inc., Raymond G. Parr, Willard Vearyl Smith, Earl D. McKinney, Fortune Investments; Ltd., Robert Cord, Winterhawk West Indies, Inc., IGW Trust, Carolyn Don Hicks and Carl LaDane Weaver; and Howe Financial Trust and Treds Financial Trust* (the “SEC Action”), pursuant to which the SEC alleged various counts of securities fraud by a

number of individuals and entities and, in connection therewith, sought the appointment of a receiver.

6. On November 13, 1998, in the SEC Action, the Court appointed Michael J. Quilling as the Receiver as to all named Defendants and Equity Relief Defendants. One of the Defendants to whom the receivership applies is MVP Network, Inc.

7. MVP Network, Inc. is also known as MVP Network Trust and was, in essence, an entity which gathered and received funds from investors for pooling into supposed high yield trading programs.

8. On or about August 27, 1997 MVP Network, Inc. entered into a written contract with Airey Holding, Inc. ("Defendant") entitled "Commercial Full Recourse Contract for High Yield Capital Enhancement Investment Program" (the "Contract"), whereby Airey Holding, Inc. agreed, among other things, to proceed "with a leveraged investment trading in good sound diversified portfolio of top grade securities, letters of guarantee, letters of credit, along with other responsible and creditable financial market investments and/or debt obligations guaranteed by the top commercial issuing banks European/International banks classified as the top twenty-five (25) world banks"

9. Subsequent to its execution of the Contract, on August 29, 1997, MVP Network, Inc. wire transferred \$300,000.00 to for alleged investment into a high yield program. Thereafter, on October 20, 1997, MVP Network, Inc. transferred an additional \$100,000.00 to the Defendant for investment into a high yield program. Each wire transfer was deposited into account number UN 3576306 with Paine Webber in the name of the Defendant reference MVP Network.

10. Subsequent to the deposits into the Paine Webber account, the Defendant churned the account with very basic common stock purchases and sales and did nothing to otherwise invest the money in a high yield investment program or otherwise attempt to comply with the requirements of

the Contract. Instead, the Defendant systematically diverted the funds to its own benefit thereby ultimately leaving the account with a nominal or negative balance. Not one cent was ever returned to MVP Network, Inc. with respect to the alleged trading program.

11. The Receiver, on behalf of MVP Network, Inc. has made written demand upon the Defendant to pay the Receiver all amounts paid to the Defendant, but the Defendant has failed and refused and continues to fail and refuse to pay such amounts to the Receiver. Accordingly, the Receiver has found it necessary to employ attorneys to represent the Receiver in these proceedings.

Count One — Breach of Contract

12. The Receiver incorporates paragraphs 1 through 11 set forth above as if set forth verbatim hereat.

13. The conduct of the Defendant constitutes a breach of the Contract. As a result of such breach of contract, MVP Network, Inc. has been damaged in an amount equal to at least the amount of all monies invested by MVP Network under the Contract, for which amounts the Receiver hereby sues.

14. As a result of such breach of the Contract, the Receiver also seeks recovery of attorneys' fees, costs of court, and pre- and post-judgment interest at the highest rate allowed by law.

Count Two — Unjust Enrichment

15. The Receiver incorporates paragraphs 1 through 11 set forth above as if set forth verbatim hereat.

16. By virtue of the Defendants' conduct, MVP Network, Inc. received nothing for the money which it submitted to the Defendant. The Defendants' continued retention of the money would constitute unjust enrichment and, therefore, in equity and good conscience the Defendant should be required to repay the money to the Receiver.

17. In connection with bringing this cause of action, the Receiver seeks recovery of his attorneys' fees, costs of court, and pre- and post-judgment interest at the highest rate allowed by law.

Count Three — Fraud

18. The Receiver incorporates paragraphs 1 through 11 set forth above as if set forth verbatim hereat.

19. The conduct of the Defendant constitutes fraud. The Defendant represented to MVP Network, Inc. that it would use the money for a high yield investment, but instead the Defendant did nothing more than steal the money. Based upon the representation made, MVP Network, Inc. sent Defendant the money and has been damaged thereby in an amount equal to at least the amounts sent by MVP Network, Inc. to the Defendant, for which amount the Receiver hereby sues.

20. The conduct of the Defendant was accomplished willfully and with intent to damage MVP Network, Inc. and in such a manner so as to justify the imposition of punitive damages for which the Receiver hereby sues.

21. In connection with this action, the Receiver seeks to recover attorneys' fees, costs of court, and pre- and post-judgment interest at the highest rate allowed by law.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final trial of this matter that he recover judgment against the Defendant in accordance with the foregoing, and for such other and further relief, general or special, at law or in equity, to which he may show himself justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY,
& LOWNDS, P.C.

2001 Bryan Street, Suite 1800

Dallas, Texas 75201-4240

(214) 871-2100 (Telephone)

(214) 871-2111 (Facsimile)

By: _____


Michael J. Quilling

State Bar No. 16432300

ATTORNEYS FOR RECEIVER

ORIGINAL

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

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
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OCT 12 2000

CLERK, U.S. DISTRICT COURT
By _____ Deputy

MICHAEL J. QUILLING, Receiver
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Plaintiff

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AIREY HOLDING, INC.
Defendant

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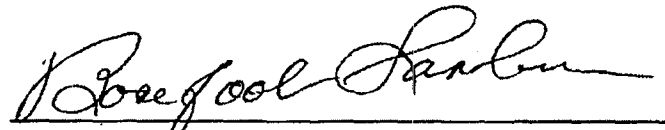
Civil No. 3:00-CV-2236-H

ORDER OF TRANSFER

This case is **TRANSFERRED** to the docket of Honorable Barbara M.G. Lynn before whom a related case is pending, viz., Civil Action No. 3:98-CV-2689-M, and all pleadings filed hereafter in said cause shall reflect the docket number as Civil Action No. 3:00-CV-2236-M.

SO ORDERED.

DATED: October 12, 2000



**BAREFOOT SANDERS, SENIOR JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

ENTERED ON DOCKET

OCT 13 2000

U S DISTRICT CLERK'S OFFICE

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