

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

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
MAY 15 2001  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_  
Deputy

Michael J. Quilling, Receiver for  
Hammersmith Trust, LLC,  
Hammersmith Trust, Ltd.,  
Microfund, LLC, and Bridgeport  
Alliance, LLC

Plaintiff

Civil Action No. 3:00-CV-1405-M

vs.

Adam Shaw, Thomas R. Smith,  
Linda J. Smith, Michael Klein,  
Leon Hurst, Summit Marketing, Inc.,  
Bancorp Mortgage, Inc., Caton &  
Associates, Inc., Simplified  
Communications, Inc., Chatham  
International, Inc., Thomas McCrimmon  
United Holdings Corp., Greg Skibbee,  
Rick Shirrell, Jeffrey A. Matz,  
Christopher J. Carlson, Murray  
Stucker and Larry K. Lewis.

Defendants

(Jury Trial Demanded)

**MOTION TO IMPOSE AND COMPEL PAYMENT OF COSTS INCURRED TO  
EFFECT SERVICE OF PROCESS, COMBINED WITH BRIEF IN SUPPORT**

**TO THE HONORABLE JEFF KAPLAN, UNITED STATES MAGISTRATE JUDGE:**

COMES NOW, Michael J. Quilling, in his capacity as Receiver (the "Plaintiff"), and files this Motion to Impose and Compel Payment of Costs Incurred to Effect Service of Process, Combined with Brief in Support, and in support of such would respectfully show unto the Court as follows:

**MOTION TO IMPOSE AND COMPEL PAYMENT OF COSTS INCURRED TO  
EFFECT SERVICE OF PROCESS, COMBINED WITH BRIEF IN SUPPORT - Page 1**

1. The Plaintiff commenced this lawsuit on June 28, 2000. As provided in Fed. R. Civ. P. 4(d), the Plaintiff mailed notices and requests for waiver of service to all defendants. Each of the defendants listed below failed and refused to return the waivers, despite repeated requests by the Plaintiff. Ultimately, the Plaintiff was able to get those defendants served either personally or through alternate methods of service approved by the Court. Each of the Defendants listed below has filed an answer in this case.

2. "If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure is shown." Fed. R. Civ. P. 4(d). Each of the defendants listed below is a resident of the United States and each was served in the United States, either personally or through an alternate method authorized by this Court. The Plaintiff is a resident of the United States.

3. Each of the defendants listed below intentionally and without good cause refused to waive service of process in this case. Their refusal to waive service caused the receivership estate to incur fees and expenses and delayed the resolution of this case. The Plaintiff had to file three motions to extend the deadline to effect service, investigate public records to try to find other locations to serve the defendants, file motions to authorize alternate methods of service, and hire process servers to get these defendants served.

4. Several of the defendants even had counsel who communicated with the Plaintiff about this lawsuit but refused to accept service. The Plaintiff sent a letters to all of the attorneys involved asking that they get their clients to waive service and warning them that the Plaintiff would

seek to recover all costs incurred to effect service if they failed to execute and return the waivers. Copies of those letters are attached hereto as Exhibit "A" and are fully incorporated herein.

5. Following is a list of the particular defendants at issue, along with the amount of fees and expenses incurred to serve them and a brief description of the steps necessary to serve them.

Leon Hurst

An attorney named Speros Homer contacted the Plaintiff to discuss the lawsuit on behalf of Mr. Hurst, but he refused to accept service of process for Mr. Hurst. The Plaintiff mailed requests for waivers to Mr. Hurst at his last known addresses and to Mr. Homer to forward to Mr. Hurst. Mr. Speros' correspondence acknowledged that Mr. Hurst knew about the lawsuit, but Mr. Hurst never executed a waiver. The Plaintiff investigated public records to locate possible alternate addresses for Mr. Hurst. The Plaintiff hired private process servers to serve Mr. Hurst personally, but they were unsuccessful despite diligent efforts. The Plaintiff had to file a motion to authorize an alternate method of service, which this Court granted. Mr. Hurst was finally served in accordance with this Court's order authorizing alternate method of service, and he has since answered through another attorney and asserted a counterclaim against the Plaintiff.

The Plaintiff requests that the Court impose costs of \$2,179.00 against Mr. Hurst, which is comprised of the following amounts:

|          |  |
|----------|--|
| \$250.00 | pro rata share of fees to prepare motions for extension of time to serve defendants  |
| \$350.00 | pro rata share of fees to prepare this motion  |
| \$625.00 | fees and expenses to investigate public records to locate possible alternate addresses   |
| \$340.00 | fees to communicate with Speros Homer regarding waiver of citation and service of process and to coordinate efforts of private process servers |
| \$260.00 | fees to prepare motion for alternate method of service   |
| \$354.00 | expenses paid to private process servers   |

Greg Skibbee and United Holdings Corp.

An attorney named Clifford B. Singer contacted the Plaintiff's and stated that he represented Mr. Skibbee and United Holdings in connection with the lawsuit. The Plaintiff's counsel asked Mr. Singer to have Skibbee and United Holdings execute the waivers of service. Mr. Singer responded with a letter saying that Skibbee and United Holdings would not waive service in the case. The Plaintiff investigated public records to locate possible alternate addresses for Mr. Skibbee and United Holdings. The Plaintiff hired private process servers to serve Mr. Skibbee and United Holdings personally, but they were unsuccessful despite diligent efforts. The Plaintiff had to file a motion to authorize an alternate method of service, which this Court granted. Mr. Skibbee and United Holdings were finally served in accordance with this Court's order authorizing alternate method of service, and they have since filed and answer through another attorney.

The Plaintiff requests that the Court impose costs of \$1,565.00 jointly and severally against Mr. Skibbee and United Holdings, which are comprised of the following amounts:

|          |   |
|----------|---|
| \$250.00 | pro rata share of fees to prepare motions for extension of time to serve defendants   |
| \$350.00 | pro rata share of fees to prepare this motion   |
| \$295.00 | fees and expenses to investigate public records to locate possible alternate addresses  |
| \$155.00 | fees to communicate with Clifford Singer regarding waiver of citation and service of process and to coordinate efforts of private process servers |
| \$260.00 | fees to prepare motion for alternate method of service  |
| \$255.00 | expenses paid to private process servers (\$127.50 each for Skibbee and United Holdings)  |

Thomas McCrimmon and Chatham International, Inc.

An attorney named Richmond Odom contacted the Plaintiff to discuss the lawsuit on behalf of Mr. McCrimmon and Chatham Int'l, but he refused to accept service of process for them. The Plaintiff mailed requests for waivers to McCrimmon and Chatham Int'l at McCrimmon's last known addresses and to Mr. Singer to forward to Mr. Skibbee. Mr. Singer's correspondence acknowledged that Mr. McCrimmon knew about the lawsuit, but Mr. McCrimmon never executed a waiver for himself or for Chatham Int'l. The Plaintiff

investigated public records to locate possible alternate addresses for Mr. McCrimmon and Chatham. The Plaintiff hired private process servers to serve Mr. McCrimmon and Chatham Int'l personally, but they were unsuccessful despite diligent efforts. McCrimmon and Chatham were finally served personally by a U.S. Customs agent during the federal criminal trial against McCrimmon and others in Pensacola, Florida. McCrimmon has since filed an answer *pro se* along with a "cross claim" against the Plaintiff. McCrimmon also purported to file an answer and "cross claim" on behalf of Chatham Int'l, but the Court entered an order striking the pleading on behalf of Chatham Int'l.

The Plaintiff requests that the Court impose costs of \$1,495.00 jointly and severally against Mr. McCrimmon and Chatham Int'l, which are comprised of the following amounts:

|          |   |
|----------|---|
| \$250.00 | pro rata share of fees to prepare motions for extension of time to serve defendants   |
| \$350.00 | pro rata share of fees to prepare this motion   |
| \$245.00 | fees and expenses to investigate public records to locate possible alternate addresses  |
| \$135.00 | fees to communicate with Richmond Odom regarding waiver of citation and service of process and to coordinate efforts of private process servers |
| \$260.00 | fees to prepare motion for alternate method of service  |
| \$255.00 | expenses paid to private process servers (\$127.50 for McCrimmon and \$127.50 for Chatham Int'l)  |

#### Jeffrey Matz

The Plaintiff mailed a request for waiver to Mr. Matz at his last known addresses. The Plaintiff investigated public records to locate possible alternate addresses for Mr. Matz. The Plaintiff hired a private process server to serve Mr. Matz personally, but he was unsuccessful despite diligent efforts. Matz was finally served by a U.S. Customs agent during the federal criminal trial against him and others in Pensacola, Florida. Matz has since filed an answer *pro se*.

The Plaintiff requests that the Court impose costs of \$1,267.50 against Mr. Matz, which is comprised of the following amounts:

\$250.00 pro rata share of fees to prepare motions for extension of time to serve defendants

\$350.00 pro rata share of fees to prepare this motion

\$390.00 fees and expenses to investigate public records to locate possible alternate addresses

\$277.50 expenses paid to private process servers

6. The Plaintiff requests that the Court enter an order imposing costs in the amounts stated above against the defendants listed above pursuant to Fed. R. Civ. P. 4(d) and compelling those defendants to pay those amounts to the Plaintiff within ten (10) days of entry of that order.

**WHEREFORE, PREMISES CONSIDERED,** the Plaintiff requests that the Court enter an order (a) imposing costs against each of the defendants listed above in the amount stated and compelling them to pay those amounts to the Plaintiff within ten (10) days of entry of the order and (b) granting the Plaintiff such other and further relief, at law or in equity, to which he may be justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
(214) 871-2100 (Telephone)  
(214) 871-2111 (Facsimile)


By: 

Kenneth A. Hill  
State Bar No. 09646950

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF CONFERENCE**

I hereby certify that I conferred with counsel for Leon Hurst, Greg Skibbee, and United Holdings Corp., and they oppose the relief requested herein. I further certify that I attempted to confer with Thomas McCrimmon (pro se), Chatham International, Inc. (not represented by counsel), and Jeffrey Matz (pro se), but I was not able to reach them.

  
Kenneth A. Hill

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of May, 2001, a true and correct copy of the foregoing document was served via first class mail on the following:

Robert B. Brunig  
Securities & Exchange Commission  
801 Cherry Street, 19th Floor  
Fort Worth, Texas 76102

Amy D. Reilly  
Geary, Porter & Donovan, P.C.  
One Bent Tree Tower  
16475 Dallas Parkway, Suite 500  
Addison, Texas 75001-6837

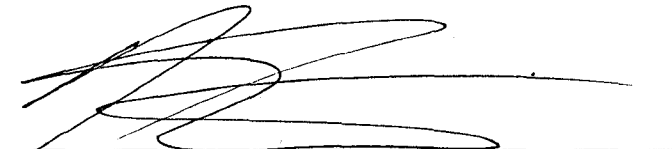
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Kenneth A. Hill