

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

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:05-CV-1328-L
	§	
MEGAFUND CORPORATION, et al.,	§	
	§	
Defendants.	§	

ORDER OF CONTEMPT

Before the court is the Receiver’s Motion for Show Cause Order (Jimmy C. Heard and Chrystler, Inc.), filed March 16, 2007. United States Magistrate Judge Jeff Kaplan entered his findings and recommendation on the motion on July 18, 2007. The magistrate judge recommended the court grant the motion, adjudge Jimmy C. Heard (“Heard”) and Chrystler, Inc. (Chrystler”) in civil contempt, and incarcerate Heard until he and Chrystler turn over the sum of \$107,392.61 to the Receiver.

The magistrate judge scheduled a contempt hearing for July 13, 2007 at 9:00 a.m. The magistrate judge directed Heard to attend the hearing in person and show cause why he and Chrystler should not be held in civil contempt for violating the Amended Order Appointing Temporary Receiver by failing to return \$107,392.61 in receivership assets to the Receiver. The magistrate judge found that Heard evaded personal service of the order, but that he received actual notice of the hearing on July 11, 2007. Specifically, the magistrate judge found that Heard was contacted by telephone by a private investigator. The investigator, in a sworn affidavit, stated that Heard identified himself and acknowledged that the Receiver was trying to serve him with legal

papers, but that he stated that he “was not going to be found nor would be served.” Martintelli Aff. ¶¶ 3-5. During this phone conversation, the investigator read the entire show cause order to Heard over the phone. *Id.* ¶ 6. Heard failed to appear at the July 13, 2007 show cause hearing, and the magistrate judge subsequently recommended that Chrystler and Heard be held in civil contempt.

Two documents were filed in response to the magistrate judge’s findings and recommendations, and the court construes these documents as objections. Before reaching the merits of the objections, the court notes first that these documents refer to “Jimmy-Chrystal :Heard, a Real Party in Interest and authorized representative for JIMMY CRYSTAL HEARD, who is neutral to the public, who is unschooled in law” Aff. in Support of Failure to Show Cause (Aug. 3, 2007) (doc. 336). The “Letter Rogatory” filed on August 3, 2007 was signed by “//ss// Jimmy-Chrystal: Heard Reserving Rights.” Letter Rogatory (Aug. 3, 2007) (doc. 337). Regardless of the moniker used or adopted by Mr. Heard, the court considers “Jimmy C. Heard,” “Jimmy Chrystal Heard,” “Jimmy-Chrystal :Heard” and “Jimmy-Chrystal: Heard” to be one and the same person, and the court will act accordingly. Moreover, law enforcement personnel who may enforce this order understand that these various monikers or aliases refer to one and the same person. The court also notes that the two affidavits filed on August 3, 2007 were not signed under penalty of perjury, but that the signatory stated: “on my own unlimited commercial liability, do declare and say that I have read the above ‘declaration’ and do know the contents to be true, correct and complete, and not misleading, the truth, the whole truth, and nothing but the truth.” Aff. in Support of Failure to Show Cause, 6.

These documents raise three objections to the magistrate judge’s findings and recommendations. First, Heard objects that he never received notice of the show cause order and

was never served. Second, he objects that he and Chrystler do not possess any funds attributable to Sardaukar. Finally, he claims that he had no knowledge of any Ponzi scheme. The court **overrules** the objections. As to the first objection, the court determines that Heard had actual notice of the show cause hearing and that the Receiver's failure to serve him was caused by Heard's stated intent to evade service. Heard's second objection is rebutted by the documents attached to his affidavit, which show that Sardaukar funds were sent to Chrystler's account at First Port City Bank. Finally, the third objection is overruled because the Receiver's order did not distinguish between those holding Sardaukar investor funds with knowledge of any Ponzi scheme and those without. The Receiver has made a showing that Heard and Chrystler held Sardaukar funds in constructive trust, and therefore they are required to comply with the court's order appointing the Receiver. Any other objections made by Heard in his filings are overruled as well, for not having any legal basis.

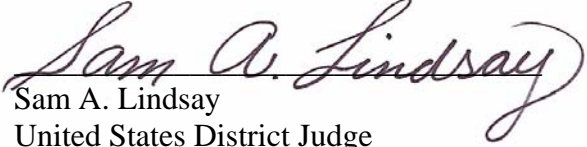
The court has reviewed the magistrate judge's finding and recommendation, objections and filings by Heard, record, and applicable law, and finds that the magistrate judge's findings are correct. They are therefore **accepted** as those of the court. Accordingly, the court **grants** the Receiver's Motion for Show Cause Order and **adjudges** Chrystler, Inc. and Jimmy C. Heard in civil contempt of this court for failing to comply with the July 19, 2005 Amended Order Appointing Temporary Receiver, which requires all persons with notice of the order to "promptly deliver to the Receiver all Receivership Assets in the possession or under the control of anyone or more of them."

In light of its finding of contempt, the court orders and directs the United States Marshal to take Jimmy C. Heard into custody and hold him at the nearest detention facility to the Dallas Division of the United States District Court for the Northern District of Texas. Jimmy C. Heard shall be held at such facility until such time as he and Chrystler turn over

the sum of \$107,392.61 to the Receiver. Chrystler and Heard may purge themselves of contempt by complying with the court's July 19, 2005 Amended Order Appointing Temporary Receiver.

The clerk of the court is **directed** to mail a copy of this order to Jimmy C. Heard at his last known address by priority mail, and by certified mail, return receipt requested. The clerk of the court is also **directed** to note on the docket the address to which notification was mailed.

It is so ordered this 20th day of September, 2007.


Sam A. Lindsay
United States District Judge