

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

SECURITIES AND EXCHANGE	§	
COMMISSION	§	
	§	
Plaintiff,	§	
	§	NO. 3-05-CV-1328-L
VS.	§	
	§	
MEGAFUND CORPORATION, ET AL.	§	
	§	
Defendants.	§	

SHOW CAUSE ORDER

Michael J. Quilling, as Receiver for Sardaukar Holdings, IBC ("Sardaukar") and related entities, seeks an order requiring Bradley C. Stark, Pamela C. Stark, Hans Tschebaum, and Michael Tschebaum, collectively referred to as "Respondents," to show cause why they should not be held in contempt of court for violating two orders issued on July 5, 2005. One order provides, in pertinent part:

All persons, including [Brad Stark] and [Pamela Stark], and their officers, agents, servants, employees, brokers, facilitators, attorneys, and all persons in active concert or participation with them who receive actual notice of this Amended Order by personal service or otherwise . . . *shall promptly deliver to the Receiver all Receivership Assets in the possession or under the control of any one or more of them and shall promptly surrender all Receivership Records.*

* * * *

All persons, including [Brad Stark] and [Pamela Stark], and their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, *are enjoined from in any way interfering with the operation of the Receivership or in any way disturbing the Receivership Assets and Receivership Records.*

Order App. Temp. Rec., 7/5/05 at 2-3, ¶¶ I(3) & (5) (emphases added). The second order, which requires the Starks to preserve and account for receivership assets, provides:

[Brad Stark] and [Pamela Stark] shall immediately repatriate all funds and assets obtained, directly or indirectly, from the activities described in the Commission's Complaint, or from one another, that are now located outside the jurisdiction of this Court. *Such funds shall be immediately transferred or paid to the Court-Appointed Temporary Receiver.* Furthermore, with respect to any other asset owned by the Defendants that is now located outside the jurisdiction of this Court, including, specifically, any monies, securities, real property, or other assets, the Defendants *shall immediately identify to the Court-Appointed Temporary Receiver the location of such asset, the price paid or consideration given, and the date upon which it was purchased and/or received.*

* * * *

[Brad Stark] and [Pamela Stark] *shall make an interim accounting, under oath, within ten days of the issuance of this Order . . . , detailing by amount, date, method and location of transfer, payee and payor, purpose of payment or transfer . . . (c) all of their current assets wherever they may be located and by whomever they are being held, and their current liabilities; and (d) all accounts with any financial or brokerage institution maintained for [Brad Stark] or [Pamela Stark] at any point during the period from June 1, 2004 to the present.*

Ex Parte TRO, 7/5/05 at 6-7, ¶¶ VI & VIII (emphases added). According to the Receiver, the Starks and the Tschebaums violated these orders as follows:

1. Between October 2004 and May 2005, Brad Stark wired \$1,002,237.00 from a Sardaukar account at JP Morgan Chase Bank, Acct. No. 469-5027377-65, to Palace Investments, Inc. ("Palace"), an entity owned and controlled by Michael Tschebaum. The funds were wired to Palace accounts at Charles Schwab, Acct. Nos. xxx-0595 and xxx-8058.

2. On July 5, 2005, the same day Sardaukar went into receivership and the court orders were entered, Brad Stark wired \$100,000.00 of Sardaukar funds to Derek Smith a/k/a Derek Schenk.

Those funds were deposited into an account at Astoria Federal Savings Bank, Acct. No. xxxxxx3659.

3. On July 11, 2005, Smith wired \$100,000.00 to the Palace accounts at Charles Schwab.

4. On July 15, 2005, Michael Tschebaum and Palace sent \$103,696.00 from the Charles Schwab accounts to Brad Stark who, in turn, deposited the funds into an account at Provident Savings Bank, Acct. No. 4111100. On or about December 19, 2005, Brad Stark terminated that account and rolled the balance over to another account at Provident Savings Bank, Acct. No. 4179990.

5. Between July 15, 2005 and January 2006, Brad Stark transferred \$17,500.00 of these funds to his wife, Pam Stark. The funds were deposited into an account at Provident Savings Bank, Account No. 4110722.

6. The Starks continued to make personal expenditures from these accounts until the Receiver had them frozen in April 2006.

In addition to these alleged violations, the Receiver accuses Brad Stark and the Tschebaums of submitting and relying on perjured testimony and forged account records in a related lawsuit, *Quilling v. Tschebaum*, No. 3-05-CV-1465-L. In a sworn declaration offered by the Tschebaums in opposition to the Receiver's application for preliminary injunction, Brad Stark represented, *inter alia*, that: (1) Sardaukar opened separate accounts at Man Financial Corp. ("Man Financial") for each of its investors; (2) no investor funds were commingled; and (3) funds from one investor were not used to pay returns to another investor. However, bank records conclusively prove that investor funds were commingled and used for distribution to all investors, which makes Stark's sworn testimony untrue. Moreover, Man Financial has confirmed that the account name, account number,

and transaction statements contained in "Daily Commodity Statements" attached to Stark's declaration were not issued by Man Financial or its affiliate, ManPro Futures, as represented by Stark. The Receiver therefore believes that Brad Stark and the Tschebaums have perpetrated a fraud on the court.

Finally, the Receiver states that neither Brad Stark nor Pamela Stark have made an accounting, under oath, of their current assets and liabilities as required by the court. In addition, although Brad Stark has been enjoined from interfering with the operation of the receivership, the Receiver alleges that Stark continues to obstruct these proceedings by communicating with investors, intimating that the Receiver and the Court are responsible for delaying payments, and asking investors not to submit claim forms or otherwise cooperate with the Receiver.

A show cause hearing is set for **June 2, 2006 at 10:00 a.m.** before U.S. Magistrate Judge Jeff Kaplan, 1100 Commerce Street, 16th Floor, Dallas, Texas.¹ Bradley C. Stark, Pamela C. Stark, Hans Tschebaum, and Michael Tschebaum are ordered to attend this hearing *in person*, then and there to show cause why they should not be held in contempt of court and sanctioned for violating the court orders issued on July 5, 2005 and interfering with the operation of the receivership. A written response to the motion is neither required nor desired. Respondents will be given an opportunity to present any evidence and argument at the show cause hearing.

The district clerk shall serve a copy of this show cause order on respondents at the following addresses by regular mail and e-mail:

¹ This hearing will be held in conjunction with the preliminary injunction hearing in *Quilling v. Tschebaum*, No. 3-05-CV-1465-L.

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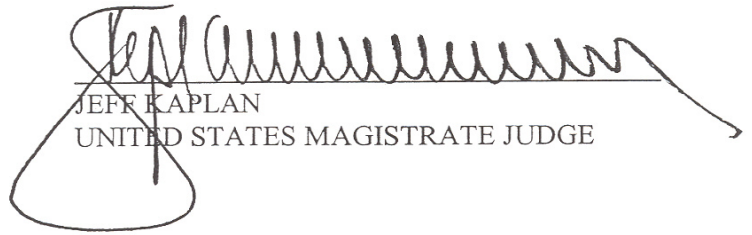
Bruce W. Claycombe, Esq.
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The Receiver is directed to attempt personal service of this show cause order on all respondents. The court will not hold respondents in contempt unless they are personally served with a copy of this show cause order or the Receiver can establish that they had actual notice of the hearing. Proof of service must be filed with the district clerk before any relief is granted.

Bradley C. Stark, Pamela C. Stark, Hans Tschebaum, and Michael Tschebaum are warned that their failure to attend this show cause hearing in person may result in the imposition of additional sanctions, including an order striking their pleadings and entering a judgment by default. In addition, the court may issue a bench warrant directing the United States Marshal to effect the arrest of any respondent who fails to appear and to keep him or her in custody until brought before the court.

SO ORDERED.

DATED: May 22, 2006.



JEFF KAPLAN
UNITED STATES MAGISTRATE JUDGE