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

MICHAEL J. QUILLING, Receiver for	§	
SARDAUKAR HOLDINGS, IBC and	§	
BRADLEY C. STARK,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 3:06-CV-0293-L (BD)
	§	
v.	§	ECF
	§	
3D MARKETING LLC,	§	Referred to U.S. Magistrate Judge
	§	
Defendant.	§	
v. 3D MARKETING LLC,	9 6 6 6 6 6 6 6 6	ECF

#### PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE JEFF A. KAPLAN, UNITED STATES MAGISTRATE JUDGE:

COMES NOW, Michael J. Quilling, as Receiver for Sardaukar Holdings IBC and Bradley C. Stark, ("Plaintiff" or "Receiver") and files this his Motion for Summary Judgment against Defendant 3D Marketing LLC in accordance with Fed. R. Civ. P. 56, Local Rule 56.3, and this Court's Standing Order of Reference [Dkt. No. 9]. In support of this motion, the Receiver has contemporaneously filed a separate brief under Local Rule 56.5 and would respectfully show the Court as follows:

### I. SUMMARY

The Receiver seeks summary judgment against 3D Marketing LLC ("Defendant") on his claims for fraudulent transfer and constructive trust and disgorgement. The Receiver has attached a supporting brief under Local Rule 56.3(b) that sets out the elements of each claim, the legal and factual bases for relief, and all citations to evidence in the appendix.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT - Page 1
L:\MJQ\MEGAFUND 911.0110\MJQ v. 3D Marketing LLC\Pleadings\Motion for Summary Judgment.wpd

# II. SUMMARY JUDGMENT EVIDENCE

This Motion for Summary Judgment is based upon the evidence listed below:

- 1. Declaration of Michael J. Quilling, Receiver, Exhibit "A"
- 2. Summary of Sardaukar's JPMorgan Account, Exhibit "A-1"
- 3. 3D Marketing Cashier's Check, Exhibit "B"
- 4. Brad Stark's Bank of America Account Statement, Exhibit "C"
- 5. 3D Marketing Check, Exhibit "D"
- 6. Sardaukar's Bank of America Account Statement, Exhibit "E"
- 7. Stock Certificate, Exhibit "F"
- 8. Sardaukar Wire Transfer, Exhibit "G"
- 9. Sardaukar Wire Transfer, Exhibit "H"
- 10. 3D Marketing Daily Account Report, Exhibit "I"
- 11. 3D Marketing Daily Account Report, Exhibit "J"
- 12. E-mail from Dean Steeves, Jan. 12, 2006, Exhibit "K"

Plaintiff also requests that this Court take judicial notice of the pleadings and other documents contained in the Court's file for this proceeding, *Securities and Exchange Commission v. Megafund et al.*, Cause No. 3:05-CV-1328 (N.D. Tex.), and *Quilling v. Tschebaum, et al.*, Civil Action No. 3:05-CV-1465 (N.D. Tex.).

## III. REQUESTED RELIEF

Under Rule 56 of the Federal Rules of Civil Procedure, the Receiver respectfully requests that this Court enter judgment in his favor and against the Defendant because the undisputed material

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT - Page 2

L:\MJQ\MEGAFUND 911.0110\MJQ v. 3D Marketing LLC\Pleadings\Motion for Summary Judgment.wpd

facts entitle him to the following as a matter of law:

- (1) a judgment declaring that Defendant received \$150,000.00 of investor funds that were fraudulently transferred from a *Ponzi* scheme or otherwise imposed with a constructive trust;
  - (2) a judgment against Defendant for \$150,000.00 and order to disgorge the same;
- (3) alternatively, a judgment against Defendant for \$50,000.00 and order to disgorge the same; and
- (4) a judgment awarding the Receiver his reasonable attorneys' fees, expenses, costs, preand post-judgment interest, and such other and further relief, general or special, at law or in equity, to which he is 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: /s/ Brent J. Rodine

Michael J. Quilling

State Bar No. 16432300

E-mail: mquilling@qsclpc.com

Brent J. Rodine

State Bar No. 24048770

E-mail: brodine@qsclpc.com

ATTORNEYS FOR PLAINTIFF

### **CERTIFICATE OF SERVICE**

On the 17th day of November, 2006 a true and correct copy of the above and foregoing was sent via first class mail, with full and proper postage prepaid thereon, to:

Stephen C. Schoettmer Thompson & Knight LLP 1700 Pacific Avenue, Suite 3300 Dallas, Texas 75201

/s/ Brent J. Rodine	