

Under the Uniform Fraudulent Transfer Act (“UFTA”) and supporting case law, there is nothing left for the Receiver to prove. Defendant’s motion simply offers immaterial testimony that does not raise an affirmative defense recognized by the UFTA.

3. The undisputed material facts also show that the \$150,000.00 can be traced directly to the commingled contributions of defrauded investors and not to a discrete deposit by the Defendant or LB Charitable Trust. [Case 3:06-cv-00293](#) [Document 33](#) [Filed 12/22/2006](#) [Page 2 of 4](#) Accordingly, those funds were at all times imposed with a constructive trust for the benefit of Sardaukar’s investors and are subject to disgorgement by the Receivership Estate.

4. This Response is based upon the following exhibits, which are already before the Court in the Appendix to Brief in Support of Plaintiff’s Motion for Summary Judgment [Dkt. No. 25]:

Exhibit “A” - Declaration of Michael J. Quilling, Receiver

Exhibit “A-1” - Summary of Sardaukar’s JPMorgan Account

Exhibit “B” - 3D Marketing Cashier’s Check

Exhibit “C” - Brad Stark’s Bank of America Account Statement

Exhibit “D” - 3D Marketing Check

Exhibit “E” - Sardaukar’s Bank of America Account Statement

Exhibit “F” - Stock Certificate

Exhibit “G” - Sardaukar Wire Transfer

Exhibit “H” - Sardaukar Wire Transfer

Exhibit “I” - 3D Marketing Daily Account Report

Exhibit “J” - 3D Marketing Daily Account Report

Exhibit “K” - E-mail from Dean Steeves, Jan. 12, 2006

5. The Receiver also addresses the three exhibits presented in Defendant’s Appendix in Support of its Motion for Summary Judgment [Dkt. No. 29]:

Exhibit “L” - Declaration of Dean Steeves

Exhibit “M” - Declaration of Tim Ortega

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Exhibit “N” - Plaintiff’s Discovery Responses, Oct. 2, 2006

6. Additionally, the Receiver submits one exhibit with this response:

Exhibit “O” - Sardaukar’s Bank of America Account Statements

7. The Receiver further 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.), *Quilling v. Tschebaum, et al.*, Civil Action No. 3:05-CV-1465 (N.D. Tex.), and *Quilling v. Schonsky*, Civil Action No. 3:05-CV-2122 (N.D. Tex.)

8. A separate Response Brief is filed contemporaneously herewith that sets out the Receiver’s factual and legal grounds for denying the Defendant’s Motion for Summary Judgment [Dkt. No. 27] and all relief requested therein. *See* Local Civil Rule 56.4.

Respectfully submitted,

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By: /s/ Brent J. Rodine

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On the 22nd day of December, 2006 a true and correct copy of this pleading was sent to the following through the Court's electronic filing system:

Stephen C. Schoettmer
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/s/ Brent J. Rodine