



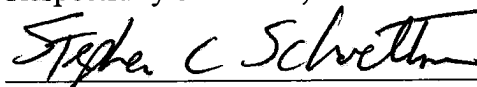
3. It is not controverted that plaintiff has designated no expert nor offered any opinion regarding a *Ponzi* scheme.

4. Through its Answer, Defendant made clear that it was not stipulating to plaintiff's allegation in that regard as an agreed fact. It is a contested fact, both in the answer and in the Rule 56 pleadings.

5. With regard to Paragraph C at page 6 of the Court's opinion, wherein the opinion makes reference to the loan received by 3-D Marketing, LLC from LB Charitable Trust, that fact has been proved as a matter of law by more than one witness (including a disinterested witness) and it has not been controverted by Plaintiff. In fact, Plaintiff's own exhibit provide a ledger with accounting entries consistent with a \$75,000 loan from LB Charitable Trust to 3-D Marketing, LLC. Defendant requests that the Court revise its Recommendation to note this fact as established by the respective Rule 56 evidence.

6. Defendant further urges that the Court has not considered the matters set forth in Defendant's Rule 56 Motion and that there is no legal basis for barring 3-D Marketing, LLC from receiving back a portion of the money that it invested with Sardaukar Holdings/Bradley Stark, prior to the time when any investments were challenged by the SEC or the Receiver.

Respectfully submitted,




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ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that on 14th day of February, 2007, a true and correct copy of the foregoing Defendant's Objections to Findings and Recommendation of the United States Magistrate Judge was served on counsel for Plaintiff by e-filing.

  
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Stephen C. Schoettmer