

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.	§	

**REPLY TO DEFENDANT’S OBJECTIONS REGARDING
 THE FINDINGS AND RECOMMENDATION
OF 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 Reply to Defendant’s Objections Regarding the Findings and Recommendation of the United States Magistrate Judge. The Receiver would respectfully show the Court as follows:

1. While Defendant insists that it is registered in the State of Nevada as 3-D Marketing, LLC, the Secretary of State’s records do not recognize an entity under that name. Instead, entity no. LLC755-1997, which lists Dean Steeves as its manager, is registered under the name 3D Marketing, LLC. True and correct copies of reports generated from the Nevada Secretary of State’s website are attached as Exhibit “A” and fully incorporated for all purposes. However, since Defendant apparently does business as 3-D Marketing, LLC, the Receiver does not object to this Court noting that fact in its final judgment. *See Defendant’s Objections to Findings and Recommendation* [Dkt. No. 38] at ¶ 1.

2. Defendant is mistaken when it says that a *Ponzi* scheme can only be proven by expert testimony. *Id.* at ¶ 2. Defendant offers no case law to support that claim and wholly ignores the Receiver's citations to District Court opinions making that very determination without expert testimony.

3. While Defendant maintains that the *Ponzi* scheme's existence is a "contested fact," Defendant has never offered any factual evidence actually contesting that point. *Id.* at ¶ 3. The Receiver respectfully agrees with this Court that the *Ponzi* scheme's existence is self-evident from the records before the Court. *See Findings and Recommendation* [Dkt. No. 37] at 5.

4. This Court should not revise its Findings and Recommendation to note the loan agreement between Defendant and LB Charitable Trust. This purported agreement is not material to the Receiver's cause of action and is not a recognized defense under the UFTA. Accordingly, the Receiver submits that any agreement or obligation between Defendant and LB Charitable Trust is immaterial and more appropriately litigated in another case.

5. Similarly, this Court should not revise its Findings and Recommendation to note the legal right of Defendant to "receiv[e] back a portion of the money that it invested with Sardaukar." That legal conclusion is immaterial to claims arising under the UFTA and was not fully briefed by the parties. Furthermore, the contention itself is not clearly supported by the material facts. Receivership Records show that, in the past, Defendant transferred funds to Brad Stark's accounts at Bank of America, where they were applied towards various expenditures unrelated to any legitimate investment. *See Appendix to Plaintiff's Summary Judgment Brief* [Dkt. No. 25-5, 25-7] (App. at 25-34, 38-39). In this case, however, the Receiver has sued to recover \$150,000.00 of

investor funds that were commingled in Sardaukar's JP Morgan Chase account. *Id.* [Dkt. No. 25-3] (App. at 14, 16).

For these reasons, the Receiver respectfully requests that the Court overrule Defendant's objections and enter final judgment consistent with the United States Magistrate Judge's Findings and Recommendation.

Respectfully submitted,
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On the 20th day of February, 2007 a true and correct copy of this pleading was sent via the Court's electronic filing system.

 /s/ Brent J. Rodine