

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

ORIGINAL

MICHAEL J. QUILLING, Receiver for Megafund Corporation and Stanley A. Leitner,

Plaintiff,

v.

ALLAN CLARK, Individually and d/b/a FINANCIAL RISK SPECIALISTS,

Defendant.

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306 - CV1088 - 1A

CIVIL ACTION NO.

1577

(JURY TRIAL DEMANDED)

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Michael J. Quilling, in his capacity as Receiver for Megafund Corporation and Stanley A. Leitner ("Receiver"), and files this his Complaint against Allan Clark, individually and d/b/a Financial Risk Specialists and in support of such would respectfully show unto the Court as follows:

Parties

1. Michael J. Quilling is the Receiver for Megafund Corporation, Stanley A. Leitner, and other associated parties in an action pending before the United States District Court for the Northern District of Texas, Dallas Division, the Honorable Sam A. Lindsay presiding.

2. Defendant Allan Clark, individually and d/b/a Financial Risk Specialists, is an individual residing in Texas who may receive service of process at 5215 North O'Connor Boulevard, Suite 200, Irving, Texas, 75039. Mr. Clark holds himself out as President of Financial Risk Specialists, although the Receiver has yet to identify that as a registered business entity.

### **Jurisdiction and Venue**

3. This Court has jurisdiction over the subject matter of this action because the underlying transactions involve Receivership Assets as described in the Court's Order Appointing Receiver. That Order states that all disputes relating to Receivership Assets must be filed in this Court. In addition, this Court has subject matter jurisdiction, in personam jurisdiction, and in rem jurisdiction under 28 U.S.C. § 754, § 1692, and Fed. R. Civ. P. 4(k)(1)(D).

4. Venue for this action is proper in the Northern District of Texas because: (1) this action is ancillary to the SEC Proceedings pending in this District; (2) the Receiver was appointed in this District; and (3) this action involves Receivership Assets within the meaning of the Order Appointing the Receiver, requiring that all such disputes be filed here.

### **Appointment of Receiver**

5. On July 1, 2005 the Securities and Exchange Commission ("SEC") filed an action against numerous individuals and entities accused of defrauding millions of dollars from investors. That case is pending before the United States District Court for the Northern District of Texas as *Securities and Exchange Commission v. Megafund Corporation, et al.*, Cause No. 3:05-CV-1328-L. In connection with that case, the SEC sought to have a Receiver appointed for the defendants and relief defendant. By Order dated July 5, 2005 the Court appointed Michael J. Quilling as Receiver for Megafund Corporation, Stanley A. Leitner, and others and he has since continued to function in that capacity.

6. The Receiver now brings this action against the Defendant to recover investor funds fraudulently transferred out of the Megafund Corporation Receivership Estate.

**Background Facts**

7. Stanley A. Leitner (“Leitner”) operated a *Ponzi* scheme and fraudulent investment program through an entity under his direction and control called Megafund Corporation (“Megafund”). Investors sent money to Megafund’s accounts at Wells Fargo Bank and SouthTrust Bank, believing Leitner would oversee their investments. Leitner assured contributors that their funds would be sent to a “Trader” to execute various trades on their behalf and that the principal investments were never at risk. As Megafund received contributions, however, Leitner fraudulently diverted large amounts as *Ponzi* payments to previous investors and for other expenses not related to an investment program.

8. Allan Clark, individually and d/b/a Financial Risk Specialists (“Defendant”) is one of Leitner’s associates who benefitted from the Megafund investment program. In March 2005, Leitner sent two wires totaling \$167,316.00 of investor funds to Defendant through the Joseph E. Ashmore, Jr. Trustee Account. Mr. Ashmore, a local attorney, then forwarded those funds to the Defendant. Bank records indicate the Defendant was not a Megafund investor and that neither Megafund nor its investors received any benefit or consideration in exchange for that transfer.

9. These payments clearly constitute assets fraudulently transferred out of the Megafund Receivership Estate. Accordingly, Defendant has no legitimate claim to them and must surrender those assets, their proceeds, or equivalent value to the Receivership Estate.

**COUNT ONE**  
**Constructive Trust & Disgorgement**

10. The Receiver incorporates paragraphs 1 through 9 as if fully set forth herein.

11. In his capacity, the Receiver has a claim and interest in funds belonging to the Megafund Receivership Estate, along with any transfers, benefits, proceeds, or their equivalent value

that can be traced to those funds. Defendant received funds that clearly constitute and are directly traceable to contributions of defrauded Megafund investors. As such, they are impressed with a constructive trust and constitute Receivership Assets. Defendant should be required to disgorge his ill-gotten gains.

12. Pursuant to principles of equity, the Receiver seeks the imposition of a constructive trust upon all funds received by the Defendant and any property purchased, directly or indirectly, with those funds. The Receiver seeks disgorgement of all such assets or, alternatively, a money judgment in an amount equal to the funds received.

**COUNT TWO**  
**Fraudulent Transfer**

13. The Receiver incorporates paragraphs 1 through 12 as if fully set forth herein.

14. The Megafund investment program was a *Ponzi* scheme. Consequently, all funds and benefits that Defendant received from Megafund, directly or through the Joseph E. Ashmore, Jr. Trustee Account, constitute fraudulent transfers as a matter of law. The Receiver is entitled to recover those assets or their proceeds from Defendant or, alternatively, a money judgment in the amount of funds received.

**COUNT THREE**  
**Fees, Expenses, Costs and Interest**

15. The Receiver incorporates paragraphs 1 through 14 as if fully set forth herein.

16. As a direct result of the Defendant's conduct, as alleged above, it has been necessary for the Receiver to file this action. The Receiver sues for all costs, expenses, attorneys' fees and pre- and post-judgment interest to which he is entitled under the law or at equity.

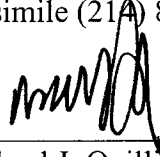
WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final trial hereof the Court enter judgment in favor of the Receiver and against Defendant for \$167,316.00, and for

pre- and post-judgment interest, attorneys' fees, costs of court, and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

QUILLING SELANDER CUMMISKEY & LOWNDS, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
Telephone (214) 871-2100  
Facsimile (214) 871-2111

By:



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ATTORNEYS FOR RECEIVER

JS 44 (Rev 11/04)

**RECEIVED**  
 JUN 20 2006  
 CLERK U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF TEXAS

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

**I. (a) PLAINTIFFS** NORTHERN DISTRICT OF TEXAS  
 Michael J. Quilling, Receiver for Megafund Corporation and Stanley A. Leitner

**DEFENDANTS**  
 Allan Clark, Individually and d/b/a Financial Risk Specialists

**(b) County of Residence of First Listed Plaintiff** Dallas  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**County of Residence of First Listed Defendant** \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
 Quilling Selander Cummiskey & Lownds, P.C., 2001 Bryan Street, Suite 1800, Dallas, Texas 75201, (214) 871-2100

**Attorneys (If Known)**  
**306 - CV1088 - K**

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify) \_\_\_\_\_

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

**VI. CAUSE OF ACTION** Brief description of cause Constructive trust and fraudulent transfer

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$** 168,000.00

**CHECK YES only if demanded in complaint**

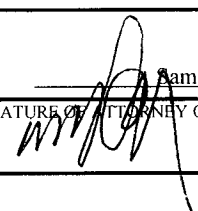
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions)

**JUDGE** Sam A. Lindsay

**DOCKET NUMBER** 3:05-CV-1328-L

**DATE** 6/20/06

**SIGNATURE OF ATTORNEY OF RECORD** 

**FOR OFFICE USE ONLY**

**RECEIPT #** \_\_\_\_\_ **AMOUNT** \_\_\_\_\_ **APPLYING IFP** \_\_\_\_\_ **JUDGE** \_\_\_\_\_ **MAG JUDGE** \_\_\_\_\_