

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

MICHAEL J. QUILLING, Receiver for	§	
Megafund Corporation and Stanley A.	§	
Leitner,	§	
Plaintiff,	§	
	§	Civil Action No. 3:06-CV-1088-L (BD)
v.	§	
	§	<b>ECF</b>
ALLAN CLARK, Individually and d/b/a	§	
FINANCIAL RISK SPECIALISTS,	§	<b>Referred to the U.S. Magistrate Judge</b>
	§	
Defendant.	§	

**PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

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

COMES NOW, Michael J. Quilling, as Receiver for Megafund Corporation and Stanley A. Leitner, (“Plaintiff” or “Receiver”) and files this his Motion for Summary Judgment against Defendant Allan Clark, individually and d/b/a Financial Risk Specialists, in accordance with Fed. R. Civ. P. 56, Local Rule 56.3, and this Court’s Standing Order of Reference [Dkt. No.8]. 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 Allan Clark, individually and d/b/a Financial Risk Specialists, (“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.

**II.  
SUMMARY JUDGMENT EVIDENCE**

Plaintiff's Motion for Summary Judgment is based upon the evidence listed below:

1. Declaration of Michael J. Quilling, Exhibit "A";
2. Summary of Megafund's Wells Fargo Account, Exhibit "A-1";
3. Defendant's Deposition, Exhibit "B";
4. Letter from Joseph E. Ashmore, March 3, 2006, Exhibit "C";
5. Letter from Defendant, April 12, 2006, Exhibit "D";
6. E-mail from Receiver's Counsel, May 3, 2006, Exhibit "E";
7. E-mail from Defendant, May 4, 2006, Exhibit "F".

Plaintiff also requests that this Court take judicial notice of the pleadings and other documents contained in this 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. Humphries*, Cause No. 3:06-CV-0299 (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 facts entitle him to the following as a matter of law:

- (1) a judgment declaring that Defendant received \$167,316.00 of investor funds that were fraudulently transferred from a *Ponzi* scheme or otherwise imposed with a constructive trust;
- (2) a judgment against Defendant for \$167,316.00 and order to disgorge the same; and

(3) a judgment awarding the Receiver his reasonable attorneys' fees, expenses, costs, pre- and 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.  
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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

On the 20<sup>th</sup> day of October, 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:

Allan Clark  
c/o Austin H. England  
Veon & England  
909 Lake Carolyn Parkway, Suite 150  
Irving, Texas 75039

/s/ Brent J. Rodine