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ORIGINAL

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

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY 23 2007
CLERK, U.S. DISTRICT COURT
By
Deputy

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

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Plaintiff,

v.

ALLAN CLARK and FINANCIAL RISK
SPECIALISTS, INC.

Defendant.

CIVIL ACTION NO. _____

3-07CV0926-P

DSO 11659

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Michael J. Quilling, as Receiver for Megafund Corporation and Stanley A. Leitner, (“Plaintiff” or “Receiver”) and files this his Complaint against Defendants Allan Clark and Financial Risk Specialists, Inc. and 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 is an individual residing in Texas who has agreed to accept service through his legal counsel at 909 Lake Carolyn Parkway, Suite 150, in Irving, Texas.

3. Defendant Financial Risk Specialists, Inc. is a Delaware corporation that has agreed to accept service through its legal counsel at 909 Lake Carolyn Parkway, Suite 150, in Irving, Texas.

Jurisdiction and Venue

4. This Court has jurisdiction over the subject matter of this action because the Promissory Note at issue is a Receivership Asset 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).

5. 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) the Order Appointing Receiver requires that all disputes involving Receivership Assets be filed here.

Background Facts

6. 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 this Court as *Securities and Exchange Commission v. Megafund Corporation, et al.*, Cause No. 3:05-CV-1328-L (N.D. Tex.). 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 ("Megafund"), Stanley A. Leitner, and others and he has since continued to function in that capacity.

7. On June 20, 2006, the Receiver filed suit against the Defendants in *Michael J. Quilling v. Allan Clark, Individually and d/b/a Financial Risk Specialists*, Cause No. 3:06-CV-1088 (N.D. Tex.). The Complaint alleged that Defendants received fraudulent transfers totaling at least \$167,316.00 from Megafund. *Complaint* [Dkt. No. 1] (3:06-CV-1088).

8. On January 8, 2007, counsel for the Receiver and the Respondents attended a status conference before this Court to discuss the likelihood of settlement. *See Order* [Dkt. No. 28] (3:06-CV-1088). At that meeting, the Respondents agreed to pay the Receiver \$160,000.00 for full and final settlement of his claims and to execute a Promissory Note memorializing the Receivership Estate's right to payment.

9. The parties then executed a Settlement Agreement on January 16, 2007, that incorporated a Promissory Note for the Receivership Estate's benefit. Among other things, the Settlement Agreement and Promissory Note provided as follows: (1) that the Receivership Estate was entitled to collect \$160,000.00 from the Defendants, jointly and severally; (2) that the amount was due in eight monthly installments of at least \$20,000.00 each; and (3) that the first installment was due on January 15, 2007, with the other installments due on the fifteenth day of each succeeding month. The Promissory Note also contained the following acceleration clause:

Upon default, any unpaid principal balance becomes due immediately with interest accruing thereon at the highest lawful rate. At that time, Payee may file suit to recover any amounts owing under this note and the Payors expressly agree to pay all reasonable attorneys fees and costs incurred as a result.

A redacted copy of that Promissory Note is attached as Exhibit "A" and fully incorporated for all purposes. For purposes of collecting on the Promissory Note, the Defendants stated that all mail should be sent to: Austin H. England, Veon & England, 909 Lake Carolyn Parkway, Suite 150, Irving, TX 75039.

10. After executing the Settlement Agreement and Promissory Note, the Receiver dismissed his claims against the Defendants on January 16, 2007. *Plaintiff's Notice of Settlement Agreement and Dismissal of All Claims* [Dkt. No. 29] (3:06-CV-1088).

11. The Defendants paid the first \$20,000.00 installment on January 20, 2007, but failed to make any monthly payments for February, March, April, and May. Counsel for the Receiver and the Defendants have had numerous conversations in an attempt to resolve this matter without success. On May 4, 2007, the Receiver sent Defendants a demand letter instructing them that the past due amounts are Receivership Assets to be surrendered under the Order Appointing Receiver. Although the Receiver's letter included a copy of that order, Defendants have not surrendered those assets or otherwise responded. The Receiver, therefore, files this action to recover \$140,000.00 from the Defendants according to the express terms of the Settlement Agreement, the Promissory Note, and the Order Appointing Receiver.

COUNT ONE
Breach of Contract

12. The Receiver incorporates paragraphs 1 through 11 as if set forth herein.

13. The Settlement Agreement and Promissory Note each constitute a valid and enforceable contract between the parties. The Receiver performed all of his obligations under those contracts by dismissing his claims in *Michael J. Quilling v. Allan Clark, Individually and d/b/a Financial Risk Specialists*, Cause No. 3:06-CV-1088 (N.D. Tex.). Defendants were then obligated to make eight monthly payments of \$20,000.00 each to the Receiver beginning in January 2007. While Defendants made their first payment on time, they have breached the Settlement Agreement and Promissory Note by defaulting on their payments for February, March, April, and May. As a result, the Receivership Estate has suffered damages and is now entitled to collect the full \$140,000.00 obligation from Defendants, jointly and severally.

COUNT TWO
Declaratory Judgment and Disgorgement

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

15. The Order Appointing Receiver requires all persons with actual notice to promptly deliver any Receivership Assets in their possession or control to the Receiver. Defendants' obligation under the Settlement Agreement and Promissory Note constitutes a Receivership Asset that must be surrendered to the Receiver. The Defendants have actual notice of the Order Appointing Receiver, which was sent to their legal counsel on May 4, 2007. This Court ought to declare Defendants' obligation a Receivership Asset under Fed. R. Civ. P. 57 and 28 U.S.C. §2201 and order that Defendants promptly disgorge \$140,000.00 to the Receivership Estate.

COUNT THREE
Fees, Expenses, Costs and Interest

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

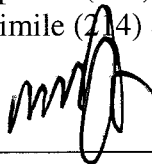
17. As a direct result of the Defendants' conduct, as alleged above, it has been necessary for the Receiver to file this action. The Receiver sues for all costs, expenses, attorneys' fees and pre- and post-judgment interest to which he is entitled under the Settlement Agreement, Promissory Note, and applicable law.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final trial hereof the Court enter judgment for the Receiver in the amount of \$140,000.00 and that it order Defendants to disgorge that amount to the Receiver within 30 days. The Receiver also asks that this Court award him pre- and post-judgment interest, attorneys' fees, costs of court, and 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: _____


Michael J. Quilling ✓
State Bar No. 16432300 ✓
Email: mquilling@qsclpc.com
Brent J. Rodine ✓
State Bar No. 24048770 ✓
Email: brodine@qsclpc.com

ATTORNEYS FOR RECEIVER

Exhibit "A"

PROMISSORY NOTE

Payors: Allan Clark, a Texas resident
and Financial Risk Specialists, Inc., a Delaware Corporation

Payors' Mailing Address: c/o Austin H. England, Veon & England
909 Lake Carolyn Parkway, Suite 150, Irving, Texas 75039

Payee: Michael J. Quilling, Receiver for Megafund Corporation and Stanley A. Leitner

Principal Amount: One-Hundred Sixty Thousand Dollars (\$160,000.00)

Instructions for Payment:

Payments made by mail are considered tendered when they arrive in the Payee's offices at 2001 Bryan Street, Suite 1800, Dallas, Texas 75201.

Payments made by wire transfer are considered tendered when they arrive in the Payee's account at Comerica Bank in Dallas, Texas (acct. no. [REDACTED] ABA no. [REDACTED]).

Terms of Payment:

This Promissory Note entitles the Payee to collect One-Hundred Sixty Thousand Dollars (\$160,000.00) jointly and severally from the Payors. That amount is due in eight (8) monthly installments of at least Twenty Thousand Dollars (\$20,000.00) and until the entire Principal Amount is paid.

The first installment is due on January 15, 2007. Thereafter, installments are due on the fifteenth (15th) day of each succeeding month.

If for any reason the Payors fail to duly pay an installment on the fifteenth (15th) day of the month, they shall have until the twentieth (20th) day of that month as a grace period to tender payment.


Default:

The Payors shall be deemed in default if they fail to tender payment for a monthly installment by the twentieth (20th) day of that month. Upon default, any unpaid principal balance becomes due immediately with interest accruing thereon at the highest lawful rate. At that time, Payee may file suit to recover any amounts owing under this note and the Payors expressly agree to pay all reasonable attorneys fees and costs incurred as a result.

Assignment:

The Payors may not assign their rights or obligations under this Promissory Note without the Payee's prior written consent.

EFFECTIVE THIS 15th DAY OF JANUARY, 2007.

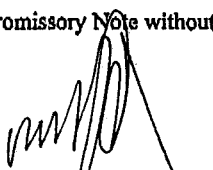


Allan Clark



By: Allan Clark

President of Financial Risk Specialists, Inc.



Michael J. Quilling, Receiver for
Megafund Corporation and Stanley A. Leitner

JS 44 (Rev. 10/06)

CIVIL COVER SHEET

3-07CV0926-P

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.)

RECEIVED
MAY 23 2007
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
MAY 23 2007

I. (a) PLAINTIFFS
Michael J. Quilling, Receiver for Megafund Corporation and Stanley A. Leitner

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

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

DEFENDANTS
Allan Clark and Financial Risk Specialists, Inc.

County of Residence of First Listed Defendant _____

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

Attorneys (If Known) _____

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

1 U.S. Government Plaintiff

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

2 U.S. Government Defendant

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)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 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 checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <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	PERSONAL INJURY <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 PERSONAL PROPERTY <input 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	<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	<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
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	PROPERTY RIGHTS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<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	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <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"/> 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 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
				SOCIAL SECURITY
				<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))
				FEDERAL TAX SUITS
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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

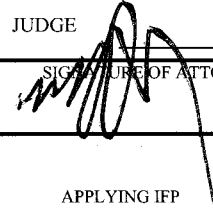
7 Appeal to District Judge from Magistrate Judgment

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: Ancillary case to SEC Receivership

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) PENDING OR CLOSED (See instructions): JUDGE Lindsay DOCKET NUMBER 3:05 - CV-1328; 3:06-CV-1088

DATE 05/23/07 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____