

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,	§	
	§	
v.	§	CIVIL ACTION NO. 3:06-CV-0355-L
	§	
MI-TY PRODUCTIONS, INC.,	§	
	§	
Defendant.	§	ECF

**SECOND MOTION FOR AUTHORITY TO
ENTER INTO CONTRACT SATISFYING JUDGMENT**

TO THE HONORABLE JEFF KAPLAN, UNITED STATES MAGISTRATE JUDGE:

COMES NOW, Michael J. Quilling, in his capacity as Receiver for Megafund Corporation and Stanley A. Leitner, (“Plaintiff” or “Receiver”) and files this his Second Motion for Authority to Enter into Contract Satisfying Judgment. In support of this motion, the Receiver would respectfully show the Court as follows:

1. On July 1, 2005 the Securities and Exchange Commission (“SEC”) initiated *SEC v. Megafund Corporation, et al.*, Civil Action No. 3:05-CV-1328-L and sought to have a receiver appointed for the defendants and relief defendant in that case. The Court appointed Michael J. Quilling as Receiver on July 5, 2005, and he has since continued to function in that capacity. *Order Appointing Temporary Receiver* (“Order Appointing Receiver”) [Dkt. No. 9] (3:05-CV-1328).

2. The Order Appointing Receiver expressly authorized the Receiver to file lawsuits as necessary to collect or reclaim assets on behalf of the receivership estate:

The Receiver is hereby authorized to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection of the Receivership Assets or proceeds therefrom, and to institute, prosecute, compromise or adjust such actions or proceedings in state or federal court as may in his judgment be necessary or proper for the collection, preservation and maintenance of the Receivership Assets.

Order Appointing Receiver [Dkt. No. 9] at ¶ 12 (3:05-CV-1328).

3. The Receiver commenced this lawsuit against MI-TY Productions (“Defendant”) to recover \$967,500.00, or its equivalent value, that Megafund paid as underwriting producer for the film *Steppin: The Movie* (the “Film”). Receivership records show that Megafund paid Defendant that amount to shoot, edit, and market the Film. Defendant, however, never completed the Film and the master negatives, digital data masters, mini DV copies, digi beta copies, audio, video, sound, and other elements are currently being held by the Receiver in a film storage unit in California. Since those items were purchased with the \$967,500.00 from Megafund, the Receiver contends that they are proceeds of money fraudulently transferred out of a Ponzi scheme and constitute assets of the receivership estate. *See Order* [Dkt. No. 20].

4. On June 5, 2006, this Court awarded the Receiver a Default Judgment against Defendant for \$967,500.00 plus costs, fees, and pre- and post-judgment interest. *Order of Final Default Judgment* [Dkt. No. 14]. On November 3, 2006, this Court entered a turnover order giving the Receiver possession of all known elements of the Film. *Order* [Dkt. No. 20].

5. In October, 2006, the Receiver entered into a Letter of Intent (“LOI”) with Soul to Sole Ventures, Inc. (“STS”) to sell Megafund’s interest in the Film for \$350,000.00. *Letter of Intent* [Dkt. No. 18] at Exhibit “A”. That agreement was expressly conditioned on STS exerting its “best efforts” to obtain the financing needed to purchase and complete production of the Film. *Id.* at ¶ 1.

6. Although the Receiver waited a full year for STS to fulfill its obligations under the LOI, STS was unable to secure the financing needed under the agreement. Accordingly, on September 26, 2007, counsel for the Receiver spoke with a representative of STS and it was determined that the LOI was no longer binding on the parties and the Receiver was free to entertain other purchase offers.

7. Since terminating the LOI, two different parties have expressed an interest in purchasing the Film. The Receiver has advised both parties that he is working diligently to close the Megafund receivership estate and, therefore, will not consider any offers conditioned on the buyer's ability to obtain financing. Instead, all parties understand that the Receiver will only seriously consider an offer once funds are tendered in full to the Receiver or an escrow agent.

8. In response, the following two offers were submitted to the Receiver:

(a) Clifford Clements has offered to purchase the Film for \$50,000.00 and, in support of his offer, has tendered those funds in full to the Receiver.

(b) STS has offered to purchase the Film for \$60,000.00 but has not tendered those funds to the Receiver. Instead, STS' offer states that "the parties will agree to a mutually acceptable escrow agreement where the funds will be placed in escrow with the Receiver pending receipt of the appropriate approval of the Federal Court."

9. At this time, the Receiver believes that the receivership estate's best interests are served by accepting Clifford Clements' offer to purchase the Film. Mr. Clements is the only party to tender his payment to the Receiver in full as requested. The Receiver, therefore, believes that his proposal presents the best, most expedient option for liquidating these assets and realizing a

recovery in satisfaction of the judgment entered in this case.

10. The Receiver has informed STS that the Court will likely set a 20-day period for it to respond to this motion, should STS choose to tender the full \$60,000.00 to the Receiver during that time.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that the Court enter an order authorizing him to (1) enter into a contract with Clifford Clements regarding the sale of all the Receiver's interests in *Steppin: The Movie* and (2) credit all amounts received from that sale against the default judgment amount entered in this case. The Receiver also requests such other and further relief, general or special, at law or in equity, to which he may show himself justly entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

The Receiver was unable to confer with Defendant as required by Local Civil Rule 7.1 because Defendant has not entered an appearance in this case and Stanley A. Leitner was unable to provide its current contact information.

/s/ Brent J. Rodine

CERTIFICATE OF SERVICE

The undersigned has served a true and correct copy of this document by first class mail, postage prepaid, to the following interested parties:

Cliff Clements
c/o Steven R. Shaver
Friedman & Feiger, LLP
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Dallas, TX 75254

Kevin S. Wiley, Sr.
Texas Sole to Soul Ventures, LLC
1113 Ashington Place
DeSoto, Texas 75115

/s/ Brent J. Rodine