

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-0355-L (BD)
	§	
v.	§	ECF
	§	
MI-TY PRODUCTIONS, INC.,	§	Referred to the U.S. Magistrate Judge
	§	
Defendant.	§	

MOTION FOR TURNOVER ORDER AND BRIEF IN SUPPORT

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 motion for entry of a Turnover Order and, in support of such, the Receiver would respectfully show the Court as follows:

1. This Motion is supported by the Affidavit of Michael J. Quilling, Receiver (“Receiver’s Affidavit”), which is attached and fully incorporated for all purposes as Exhibit “A”.
2. 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. *Receiver’s Affidavit*, Exhibit “A” at ¶2. In connection therewith, the SEC sought to have a Receiver appointed for the defendants and relief defendant in that case. *Id.* The Court appointed Michael J. Quilling as Receiver on July 5, 2005, and he has since continued to function in that capacity. *Id.*; *Order Appointing Temporary Receiver* (“Order Appointing Receiver”) [Dkt. No. 9] (3:05-CV-1328).

3. 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).

4. 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”). *Receiver’s Affidavit*, Exhibit “A” at ¶ 4. Receivership records show that Megafund paid Defendant that amount to shoot, edit, and market the Film. *Id.* 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 still being held by the Defendant and various other production studios in California. *Id.* These items were purchased with the \$967,500.00 from Megafund and are, therefore, the proceeds of money fraudulently transferred out of a *Ponzi* scheme. *Id.*

5. After service upon Defendant’s registered agent went unanswered, this Court awarded the Receiver a Default Judgment for \$967,500.00 plus costs, fees, and pre- and post-judgment interest. *Order of Final Default Judgment* [Dkt. No. 14].

6. The Receiver was recently contacted by third parties interested in purchasing the Film in its current form for post-production work, marketing, and distribution. *Receiver’s Affidavit*, Exhibit “A” at ¶ 5. The Receiver wishes to take advantage of this opportunity by seizing the master negatives, digital data masters, mini DV copies, digi beta copies, audio, video, sound, and other

elements created or intended for producing the Film. *Id.* at ¶ 6. Seizing these items will benefit the Receivership Estate by: (1) protecting its interest in these items as proceeds from the funds of defrauded Megafund investors; (2) preventing unauthorized production of the Film by third parties; and (3) giving the Receivership Estate additional security and leverage in negotiating their sale. *Id.* The Receiver anticipates that any sale proceeds would be credited towards the judgment against Defendant. *Id.*

7. The Receiver, therefore, seeks a Turnover Order directing the Defendant and all other parties to surrender the items listed above as proceeds traceable to the Receivership Estate. This kind of equitable relief is clearly within the “broad powers and wide discretion” that this Court exercises in equitable receivership proceedings. *SEC v. Basic Energy & Affiliated Resources, Inc.*, 273 F.3d 657, 668 (6th Cir. 2001). In fact, the Court’s discretion includes the authority to use abbreviated, summary processes that do not have to comply with the Federal Rules of Civil Procedure. *Id.*; *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). In this case, however, even the Federal Rules of Civil Procedure contemplate such post-judgment proceedings when necessary to enforce a judgment. *See* Fed. R. Civ. P. 69(a) (permitting “proceedings supplementary to and in aid of a judgment”); *Gagan v. Monroe*, 269 F.3d 871, 873 (7th Cir. 2001) (“Federal Rule of Civil Procedure 69(a) allows a judgment creditor . . . to return to the district court where the judgment was entered and seek the district court’s assistance in enforcing the judgment”).

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully requests that this Court enter a Turnover Order directing MI-TY Productions and all other parties to surrender to the Receiver the master negatives, digital data masters, mini DV copies, digi beta copies, audio, video, sound, and other elements created or intended for producing the film *Steppin: The Movie*, and for

such other and further relief, general or special, at law or in equity, to which the Receiver is justly entitled.

Respectfully submitted,

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

By: /s/ Brent J. Rodine

Michael J. Quilling
State Bar No. 16432300
Email: mquilling@qsclpc.com
D. Dee Raibourn, III
State Bar No. 24009495
Email: draibourn@qsclpc.com
Brent J. Rodine
State Bar No. 24048770
Email: brodine@qsclpc.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on September 15, 2006, a true and correct copy of the foregoing document was sent by first class mail, with full and proper postage prepaid thereon, to:

MI-TY Productions, Inc.
c/o CSC - Lawyers Incorporating Service
2730 Gateway Oaks Drive, Suite 100
Sacramento, California 95833

/s/ Brent J. Rodine

CERTIFICATE OF CONFERENCE

The undersigned counsel was unable to confer with Defendant as required by Local Civil Rule 7.1 because (1) Defendant has not entered an appearance in this case and (2) Stanley A. Leitner has been unable to provide the Receiver with Defendant's current contact information.

/s/ Brent J. Rodine