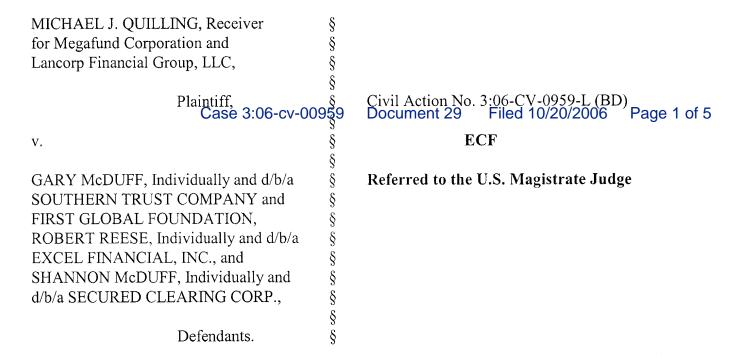
IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION



PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

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

COMES NOW, Michael J. Quilling, as Receiver for Megafund Corporation and Lancorp Financial Group, LLC, ("Plaintiff" or "Receiver") and files this his Motion for Partial Summary Judgment against Defendant Gary McDuff, individually and d/b/a Southern Trust Company and First Global Foundation in accordance with Fed. R. Civ. P. 56, Local Rule 56.3, and this Court's Standing Order of Reference [Dkt. No. 5]. 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 Gary McDuff, individually and d/b/a Southern Trust Company and First Global Foundation, ("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) the asses and herelooses of backgrient 29 defensed the legation facture 2 of 5 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. Summary of Megafund's SouthTrust Account(Exhibit A-2)
- 4. Diagram Depicting Flow of Funds (Exhibit A-3)
- 5. Summary of Lancorp's Bank of America Account (Exhibit A-4)
- 6. Summary of First Global Foundation's CCI Account (Exhibit A-5)
- 7. Summary of Robert Reese's CCI Account (Exhibit A-6)
- 8. Summary of Secured Clearing's CCI Account (Exhibit A-7)
- 9. Summary of MexBank's CCI Account (Exhibit A-8)
- 10. Summary of Gary McDuff's CCI Account (Exhibit A-9)
- 11. Megafund Promotional Material (Exhibit B)
- 12. Letter from Gary McDuff (Exhibit C)
- 13. Deposition of Gary Lancaster Exhibit D)

- 14. Note from Gary McDuff (Exhibit E)
- 15. E-mail from Gary McDuff (Exhibit F)
- 16. Funds Transfer Request (Exhibit G)
- 17. E-mail from Sean Shiff (Exhibit H)
- 18. Funds Transfer Request Form (Exhibit I)

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- 19. Fax from Gary McDuff to Megafund (Exhibit J)
- 20. Affidavit of Process Server (Exhibit K)
- 21. Title Report on 1318 Minchen Drive (Exhibit L)

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 \$304,272.58 of investor funds that were fraudulently transferred from a *Ponzi* scheme or otherwise imposed with a constructive trust;
 - (2) a judgment against Defendant for \$304,272.58 and order to disgorge the same;
- (3) a judgment declaring that Defendant used investor funds, or proceeds therefrom, to purchase the residence at 1318 Minchen Drive in Deer Park, Texas;

- (4) an order awarding the residence at 1318 Minchen Drive in Deer Park, Texas to the Receiver as proceeds from investor funds fraudulently transferred out of a *Ponzi* scheme or otherwise imposed with a constructive trust;
- (5) an order that any recovery from Robert Reese, Shannon McDuff, or the sale of the residence at 1318 Minchen Drive shall be credited against the Defendant's judgment debt; and

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 (6) 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. 2001 Bryan Street, Suite 1800 Dallas, Texas 75201-4240 (214) 871-2100 (Telephone) (214) 871-2111 (Facsimile)

By: /s/ Michael J. Quilling

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On the 20th 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:

Gary McDuff 1314 Minchen Drive Deer Park, Texas 77536

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