


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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**  
FEB 12 2007  
CLERK, U.S. DISTRICT COURT  
By  Deputy

**MICHAEL J. QUILLNG, Receiver for  
SARDAUKAR HOLDINGS, IBC and  
BRADLEY C. STARK**

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**Plaintiff,**

**Civil Action No. 3:05-CV-2122-BH(H)**

v.

**ECF**

**JEFFREY MARC SCHONSKY**

**Defendant.**

**DEFENDANT'S MOTION TO VACATE FINAL JUDGMENT  
FOR SUMMARY JUDGMENT**

TO THE HONORABLE IRMA CARRILLO RAMIREZ, UNITED STATES MAGISTRATE  
JUDGE:

1. This is Defendant's motion respectfully requesting that the Final Judgment ordered against me on the 19<sup>th</sup> day of December 2006 be vacated and set aside pursuant to FRCP §60(b). As demonstrated by the facts below, there is good cause for my late Response to Plaintiff's Reply Brief in Support of His Motion For Summary Judgment. I had no notice of the pending motion, and for this reason I ask that you find a good cause for setting aside the Final Judgment against me, and allow me the chance to proceed and settle this matter, if possible.
2. I am a *Pro Se* defendant in this case, as I am no longer able to afford the cost of hiring an attorney to protect my interests in this case. My income is limited and I am obligated to support my ailing father who is an amputee, mostly blind, and in need of dialysis on regular basis as a result of chronic kidney failure. He is 61 years old and I am all he has. The news of

this judgment has been devastating. From about December 2004, until just recently, I have been unemployed. As such my finances have been very limited and I relied on financial support and loans from family members and friends.

3. I was not in receipt of Plaintiff's motion and his supporting documents until December 22, 2006. On same date, I received Plaintiff Brief, as well as Your Honor's Memorandum Order and Opinion, and Final Judgment, via regular First Class U.S. Mail Service.
4. Upon receipt of said papers, I immediately prepared my Reply to Plaintiff's Reply Brief, and served the same via First Class Mail on the Plaintiff and the Clerk on December 26, 2006.

#### Factual Background

5. In early November 2005, I received the Summons and Compliant commencing this action. I was surprised to learn that the funds I received as a gift from, Mr. Brad Stark, were ill gains of a Ponzi Scheme which allegedly defrauded innocent investors.
6. I had no knowledge of the source of the funds given to me. My impression was that he was a successful businessman. My association with Mr. Stark was limited to entering his stock trades which were all management approved. Mr. Stark was not solicited by me and he opened an account in my department with the approval of management. I had never met or spoken to him prior. We developed a friendship, but I was totally unaware and had no knowledge of Mr. Starks outside business dealings.
7. Over time, Mr. Stark befriended me, and became familiar with my financial obligations, which included supporting and caring for my father. Since we developed a rapport, he gifted me a watch for Christmas and laptop weeks later, knowing I didn't have a computer. On or about February 2005, he presented me with a check in the sum of \$175,000. Before accepting any of these gifts, including the monetary gift, I asked him several times whether

he was certain he wanted to give me such gifts, as it seemed to be very generous. His reply to me every time was that the prior fiscal year was an extremely prosperous year for him, and that he was more than glad that he met me. He considered me a friend, as he explained he didn't have many close relationships. For that, he wanted to thank me personally by helping ease the financial difficulties I was facing. I was cautious but felt his reasons were sincere and I was in no position to refuse any help. For the time being, I would be able to focus my attention on finding my father a kidney donor. I had no reason to doubt him. However, if I knew the source of the funds or even suspected foul play, I would have turned them down instantaneously. I didn't have any idea of this foul play and now I have a huge price to pay.

8. Upon receiving the Summons and Complaint, I filed a timely Answer, which I served on the Plaintiff via Certified Mail/Return Receipt Requested, and facsimile on November 17, 2005. I then received correspondence from the Plaintiff dated December 1, 2005, and December 13, 2005, informing me of an Order to file Joint Status Report in this action (Order was dated December 12, 2005).
9. Through out the pendency of this action I tried to communicate with the Plaintiff and resolve this matter. As I was unrepresented by counsel, my attempted communications with Plaintiff yielded no substantive results as my phone calls went unanswered.
10. On about December 22, 2006 I was able to collect some funds and hire the services of Wick Phillips, LLC as my counsel for this action. After speaking with counsel, I was lead to believe that he is able to bring about a speedy resolution of this matter by negotiating and settling this matter. However, this was not the case as it turned out. After being retained, it seemed as if counsel was unable to advance with the possibility of settlement, and after being

informed of my inability to pay for counsel's services which didn't consist of much communication with Plaintiff, counsel asked to withdraw from representing me in June 2006.

11. While retained, I provided counsel with affidavits to be transmitted to Plaintiff as part of my efforts to dispose of this action. Counsel was aware of my financial hardship and obligations, and led me to believe that he was in on-going and fruitful communication with the Plaintiff for resolving this matter. However, now, I believe, that my affidavits and communications were not forwarded to Plaintiff by my counsel.
12. In August 2, 2006, all that I received a letter from counsel stating they are withdrawing from the case and that I am entitled to a refund of \$384.95. On August 7<sup>th</sup>, 2006, I received another letter from counsel stating that I owed them \$384.95 because there was a "bookkeeping" error. I don't believe my interests were ahead of theirs. However, I did refund them the check, as they requested, and never heard from them again.
13. The next communication regarding this action which I received was from Plaintiff, on December 22, 2006, which included:
  - a. Magistrate Irma Carrillo Ramirez' Order dated 7<sup>th</sup> day of September 2006, setting the times for submissions on Plaintiff's motion for Summary Judgment, referring to *Plaintiff's Motion fro Summary Judgment and Appendix in Support*, filed September 6, 2006;
  - b. Plaintiff's Reply Brief in Support of His motion for Summary Judgment, identifying December 15, 2006 as date of service of process;
  - c. Order of Magistrate Irma Carrillo Ramirez dating 6<sup>th</sup> day of December 2006, docketing Defendant's correspondence filed on September 25, 2006;
  - d. Memorandum Opinion and Order of Magistrate Irma Carrillo Ramirez dated the 19<sup>th</sup> day of December 2006; and
  - e. Final Judgment against Defendant in the amount of \$189,915.05 by Magistrate Irma Carrillo Ramirez dated the 19<sup>th</sup> day of December 2006.
14. Over the past two years, as I was unemployed, I used the funds received as a gift from Mr. Stark to sustain myself and my ailing father. I have indicated to Plaintiff that I am willing to give the watch as part of a possible settlement. I am no longer in possession of the laptop as


it was no longer operable and irreparable by the manufacturer as its motherboard and operating system malfunctioned. The manufacturer can verify this. I am able to pay partial value of the laptop as part of a possible settlement as my finances allow me. If Plaintiff agrees, I also willing to provide limited sworn financial statements and affidavits as to how I used the funds I received as a gift to sustain myself and my father, as I have been unemployed and dedicating my time to care for him and establishing the kidney campaign that still exists. Please note I am an only child as my father is as well. He is unmarried and I am his only relative. This devastating judgment can, and will destroy any hope I have of continuing to assist my father and search for a viable kidney donor.

15. As stated before, I had no knowledge of the source of the funds and gifts Mr. Stark gave me. I had no knowledge of his involvement or part-taking in the Ponzi scheme.

Prayer Sought

16. As demonstrated by the foregoing facts, Defendant had no notice – either constructive or actual - of the pending Motion for Summary Judgment, as well as the Memorandum Opinion and Order and Final Judgment resulting from Plaintiff's Motion until December 22, 2006.
17. Defendant respectfully requests that the Court set aside the Final Judgment remembered against Defendant as a good cause for doing so has been demonstrated.

Respectfully Submitted

  
\_\_\_\_\_  
Jeffery Marc Schonsky  
*Pro Se Defendant*

Certificate of Service

On February \_\_\_\_\_, 2007, a copy of the above was sent via First Class Mail U.S. Postal Service to:

Michael J. Quilling  
Quilling Selander Cumiskey  
2001 Bryan Street, Suite 1800  
Dallas, TX 75201



August 2, 2006

VIA U.S. MAIL

Jeffrey Schonsky  
65-20 Booth Street, Apartment 3-L  
Rego Park, New York 11374

Re: *Quilling v. Schonsky*, Cause No. 3:05-CV-2122-H, in the U.S. District  
Court for the Northern District of Texas, Dallas Division

Dear Mr. Schonsky:

Enclosed please find a copy of the final invoice for our representation of you in the above-referenced cause, along with a copy of the Order granting our Motion to Withdraw and a check reflecting the remainder of your retainer balance. Please call if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Elizabeth Hosea'.

Elizabeth Hosea

Enclosure



August 7, 2006

VIA U.S. MAIL

Jeffrey Schonsky  
65-20 Booth Street, Apt. 3-L  
Rego Park, New York 11374

RE: Wick Phillips, LLP

Dear Mr. Schonsky:

Due to a bookkeeping error, a check was incorrectly issued to you for \$384.95. As you can see from the invoice enclosed with the check, another copy of which is enclosed, there was a balance forward on your account of \$407.77, and the balance in your trust account should have been applied towards that outstanding balance. Therefore, we request that you return the check to us in the enclosed, postage paid envelope. Because the total outstanding charges of \$657.77 (for July and the balance forward) total more than the amount left in your retainer, no retainer remains to be refunded. Thank you for your cooperation; please call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Elizabeth Hosea'.

Elizabeth Hosea

Enclosure



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

MICHAEL J. QUILLING, Receiver for  
SARDAUKAR HOLDINGS, IBC and  
BRADLEY C. STARK

Plaintiff,

v.

JEFFREY MARC SCHONSKY

Defendant.

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Civil Action No. 3:05-CV-2122-BH (H)

Consent Case

FINAL JUDGMENT

This Judgment is issued pursuant to FED. R. CIV. P. 58(a).

It is ORDERED, ADJUDGED, and DECREED that *Plaintiff's Motion for Summary Judgment* is **GRANTED**. A judgment in the amount of \$187,915.05, with pre- and post-judgment interest, is hereby **ORDERED** against Defendant.

It is further ORDERED, ADJUDGED, and DECREED that the Clerk shall transmit a true copy of this judgment to the parties.

SO ORDERED, this 19th day of December 2006.

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT**

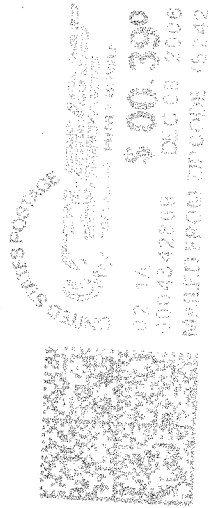
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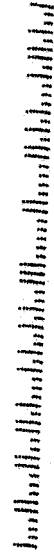
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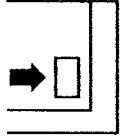
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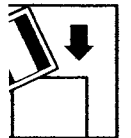
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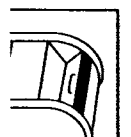
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