

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)

ECF

Consent Case

**PLAINTIFF’S RESPONSE BRIEF REGARDING DEFENDANT’S
MOTION TO VACATE FINAL SUMMARY JUDGMENT**

TO THE HONORABLE IRMA C. RAMIREZ, UNITED STATES MAGISTRATE JUDGE:

COMES NOW Michael J. Quilling, as Receiver for Sardaukar Holdings IBC and Bradley C. Stark, (“Plaintiff” or “Receiver”) and files his Response Brief Regarding Defendant’s Motion to Vacate Final Summary Judgment and would respectfully show the Court as follows:

1. On February 12, 2007, the Defendant filed his Motion to Vacate Final Judgment [Dkt. No. 28] on the grounds that he had “no notice” that Receiver’s Motion for Summary Judgment was pending against him. *Id.* at ¶ 1. Defendant states that he did not receive any Court Orders, pleadings, or other correspondence regarding this action between August 7, 2006 and December 22, 2006. *Id.* at ¶¶ 12-13. Pleadings on file with this Court, however, show that the Receiver’s motion and the Court’s Scheduling Order were sent to the address that Defendant provided in his Answer. *See Motion for Summary Judgment* [Dkt. No. 14] at 13; *Notice of Scheduling Order*, Sept. 7, 2006, Exhibit “A” at 1-2 (stating that the Court Clerk mailed a copy to Defendant). Defendant also filed

a timely Response [Dkt. No. 17] to the Receiver's motion, which incorporated a copy of the summary judgment briefing schedule. *Defendant's Response* [Dkt. No. 17] at 3. Therefore, Defendant clearly had notice of the motion pending against him and cannot show "extraordinary circumstances" justifying relief under Fed. R. Civ. P. 60(b)(6). *U.S. v. Orleans Parish Sch. Bd.*, 397 F.3d 334, 337 (5th Cir. 2005).

2. Defendant's motion also appeals to the Receiver to settle this case. *Motion to Vacate Final Judgment* [Dkt. No. 28] at ¶ 14. The Receiver has always made clear his intention to settle this case if Defendant would (1) surrender the Rolex watch and laptop purchased with Sardaukar funds,¹ (2) provide a sworn financial statement showing his current assets, income, and liabilities, and (3) provide the bank records showing how Defendant spent Sardaukar's \$175,000.00. *See, e.g., Plaintiff's Reply Brief* [Dkt. No. 19] at ¶¶ 1-2. In his most recent pleading, however, Defendant states that he is only willing to provide "limited" sworn financial statements and his own testimony to explain how he spent the \$175,000.00. *Motion to Vacate Final Judgment* [Dkt. No. 28] at ¶ 14. Defendant's persistent refusal to produce bank records is suspicious and suggests that he may be lying about hidden assets. The Receiver will, therefore, continue to insist on seeing the underlying account statements from Defendant's bank before settling this case.

3. In short, Defendant's Motion to Vacate Final Judgment is without any basis in law or fact and should be denied. The Court properly entered summary judgment in this case, as demonstrated by the Defendant's most recent admission that he received funds from a *Ponzi* scheme. *See Id.* at ¶ 5. Defendant appears unlikely to prevail on appeal and there is no reason to vacate the Court's judgment at this point.

¹ If Defendant truly discarded the laptop because it was "no longer operable," then the Receiver would have to settle for the Rolex watch, sworn financial statements, and supporting bank records. *See Motion to Vacate Final Judgment* [Dkt. No. 28] at ¶ 14.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On February 14, 2007 a true and correct copy of the above and foregoing was sent via first class mail, with full and proper postage prepaid thereon, to:

Jeffrey Marc Schonsky
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 /s/ Michael J. Quilling

Michael J. Quilling