

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
IN THE HOUSTON DIVISION

DEC 31 1998 JT

Michael N. Milby, Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALL MONIES AND CERTIFICATES
OF DEPOSIT LOCATED AT TEXAS
COASTAL BANK, PASADENA, TEXAS
ON DEPOSIT IN ACCOUNT NOS.
11957 (WINTERHAWK WEST INDIES,
LTD.), 219923 (ROBERT CORD), 20003568
(WINTERHAWK WEST INDIES, LTD.),
20003631 (WINTERHAWK WEST INDIES,
LTD.), 20003680 (WINTERHAWK WEST
INDIES, LTD.), 20003687 (WINTERHAWK
WEST INDIES, LTD.), 20003690
(WINTERHAWK WEST INDIES, LTD.),
012427 (SABER INDUSTRIES, LTD.), ET AL

Defendants.

CIVIL ACTION NO. H-97-2625
(Consolidated)

**RECEIVER'S MOTION TO ORDER TURNOVER OR, IN THE
ALTERNATIVE, TO DISMISS AND/OR TRANSFER FORFEITURE PROCEEDINGS**

TO THE HONORABLE LEE H. ROSENTHAL,
UNITED STATES DISTRICT JUDGE:

COMES NOW, Michael J. Quilling ("Receiver") and files this his Motion to Order Turnover or, in the Alternative, to Dismiss and/or Transfer Forfeiture Proceedings, and in support of such would respectfully show unto the Court as follows:

1. On November 13, 1998, the United States Securities and Exchange Commission ("SEC") initiated Civil Action No. 3-98CV2689-X in the United States District Court for the Northern District of Texas, Dallas Division, styled *Securities and Exchange Commission vs. Funding Resource Group a/k/a FRG Trust, Quentin Hix, Gene Coulter, Steven C. Roberts, MVP Network,*

Inc., a Texas corporation a/k/a MVP Network (Trust), FMCI Trust, Funders Marketing Company, Inc., a Texas corporation, Raymond G. Parr, Willard Vearl Smith, Earl D. McKinney, Fortune Investments, Ltd., a Nevada corporation, Robert Cord a/k/a Robert F. Schoonover, Jr., Winterhawk West Indies, Inc., IGW Trust, Carolyn Don Hicks, and Carl LaDane Weaver, and Howe Financial Trust, an Indiana corporation, Treds Financial Trust, and Mary Ann Bauce (the “SEC Receivership Action”), pursuant to which the SEC sought and obtained a receiver to be appointed against all the named Defendants and Equity Relief Defendants.

2. On November 13, 1998, the Court in the SEC Receivership Action issued its Order Appointing Temporary Receiver, a true and correct copy of which is attached hereto as Exhibit “A” and incorporated herein by reference for all purposes (“Receivership Order”). Pursuant to the terms of the Receivership Order, Michael J. Quilling was appointed Receiver and continues to function in that capacity with respect to each of the Defendants and Equity Relief Defendants named in the SEC Receivership Action.

3. On November 13, 1998, the Court in the SEC Receivership Action also issued its Order Freezing Assets, a copy of which is attached hereto as Exhibit “B” and is incorporated herein by reference for all purposes (the “Freeze Order”).

4. Paragraph B of the Receivership Order requires that “the Temporary Receiver shall take custody, possession or control of any and all assets, monies, securities and properties, real and personal, tangible and intangible, of whatever kind and description, and wherever situated, belonging to FRG, Hix, Coulter, Roberts, MVP, FMCI, Funders Marketing, Parr, Smith, McKinney, Fortune, Cord, Winterhawk, ICW, Hicks, Weaver, Howe and Treds (hereinafter referred to as “Receivership Assets”), as well as any documents relating to the Receivership Assets.”

5. Each and every asset which is the subject of these forfeiture proceedings constitute Receivership Assets, and the Receiver is required to take possession, custody and control of them. Subsequent to his appointment, the Receiver has advised the claimants in these proceedings of his desire to take possession, custody and control of the assets and has not been able to reach agreement with the various claimants. Accordingly, the Receiver requests this Court issue an order requiring that all persons or entities in possession of the assets which are the subject of these forfeiture proceedings be immediately turned over to the Receiver for further disposition consistent with the Receivership Order.

6. The Receiver respectfully submits that as a result of the SEC Receivership Action and the issuance of the Receivership Order and the Freeze Order that these proceedings are no longer necessary and in the interests of judicial economy and the equitable factors set forth below should be dismissed and/or the proceedings transferred to the Northern District of Texas for consolidation into the pending SEC Receivership Action.

7. Although there is certainly no question that Robert Cord is a criminal and that his assets and those of Winterhawk ought to be forfeited and liquidated for the benefit of the victims of his schemes, this forfeiture proceeding has evolved into an attempt by several claimants (and there are hundreds more of them) to disproportionately cause repayment of monies to themselves to the detriment of the other defrauded victims which the SEC Receivership Action is designed to protect. It is simply not equitable to allow a few creditors to obtain the benefit of seized assets in these proceedings to the exclusion of all the other legitimate creditors/victims of Cord and Winterhawk.


8. The Receiver contemplates that as he obtains and liquidates assets which are not the subject of these proceedings but which are nonetheless Receivership Assets, the size of the money pool will increase beyond that which might be realized as a result of these proceedings alone.

Likewise, the claimants in these proceedings will receive a lesser share than they might otherwise receive if they are the only beneficiaries of liquidation of the assets which are the subject of these proceedings. However, equity mandates that all creditors share equally in any pool of assets created by all or a portion of the Receivership Assets being liquidated. The SEC Receivership Action presents an existing and convenient vehicle by which to marshal those assets and accomplish an equitable distribution to all victims. The SEC Receivership Action also will allow the presiding court to avoid transfers, subordinate claims, deny claims and otherwise deal with the equities of the overall situation. On the other hand, however, these proceedings do not allow a vehicle by which other creditor/victim claims can be handled. Instead, the proceedings constitute, at best, an invitation for several hundred creditors to begin filing claims so as to receive a portion of any assets liquidated as a result of these proceedings. Judicial economy interests indicate that only one proceeding is required and that the most efficient way to handle these matters is through the SEC Receivership Action.

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully prays that upon final hearing and consideration of this Motion that the Court order all parties and entities in possession of Receivership Assets which are the subject of these proceedings to turn them over to the possession and control of the Receiver or, in the alternative, that these proceedings be dismissed or in the further alternative that they be transferred to the Northern District for consolidation into the pending SEC Receivership Action and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

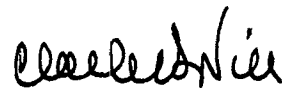
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By: 
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ATTORNEYS FOR RECEIVER

CERTIFICATE OF CONFERENCE

On one or more occasions prior to the filing of this Motion, counsel for the Receiver discussed the contents of this Motion with various counsel of record and no agreement could be reached. Therefore, it is presented to the Court for determination.


Clark B. Will

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of December, 1998, a true and correct copy of the foregoing document was served via certified mail, return receipt requested on the following parties:

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