

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

**GRANITE HOLDINGS, A California Trust,
A.C.T.S., LTD, ATLANTIC STAR
INVESTMENTS, LDC, BACHMAN
CAPITAL PARTNERS LIMITED,
BLUE ISLAND HOLDINGS, LTD.,
BOLTIC SERVICES, INC., CEMA
TRUST, a Missouri Trust, ARUN K.
DOSAJ, A.J. GLENN III, BO LINNE,
MORGAN, WEINSTEIN & CO., LIMITED,
PARAGON TRADING CORPORATION,
DONALD D. ROSE, SIERRA FINANCIAL
SERVICES, LLC, SOUTHEASTERN
OKLAHOMA INDIAN CREDIT
ASSOCIATION, JURGEN TAGERT-STAVENOW,
LEE I. TURNER and MENNO D. WAGLER,**

Plaintiff,

NO. 00-2098

v.

**DAVID JOHNSON, Individually and as Trustee
for Hammersmith Trust LLC,**

Defendant.

**MOTION FOR STAY, DEFENDANT'S REQUESTS FOR A TRANSFER,
AND RESPONSE TO RECEIVER'S MOTION TO INTERVENE**

Comes now the defendant, David Johnson, by and through counsel of record and moves the court to stay the show cause hearing on November 17, 2000, in the District Court in Texas and respectfully requests that this Court transfer this case to the

District Court for the Northern District of Texas. In support of this motion, the defendant will show as follows:

(1) The receiver for Hammersmith Trust, LLC, Michael J. Quilling, filed a motion to compel against David Johnson requesting a release of certain assets allegedly within the purview of the receiver's authority and within the jurisdiction of the receivership court. The motion to compel and show cause order is set for hearing on Friday, November 17, 2000.

(2) The District Court in the Northern District of Texas issued a show cause order on October 23, 2000. The show cause order expressly cites Mr. Johnson's "failure to comply with a court order dated July 23, 1999, requiring him to 'promptly deliver and surrender to the Temporary Receiver all Receivership assets in [his] possession or under [his] control . . . and [] promptly surrender all books and records of any kind pertaining or belonging to [Hammersmith Trust, LLC and Hammersmith Trust, Ltd.] which relate to Receivership Assets." (Show Cause Order, Exhibit # 1). The motion to compel and show cause order is set for hearing on Friday, November 17, 2000.

(3) The District Court in Western District of Tennessee had previously issued an injunction prohibiting Mr. Johnson from transferring assets that are at the subject matter of this lawsuit. Accordingly, the Orders of the various District Courts placed Mr.

Johnson in a "catch 22."

(4) The conflicting orders between the various District Courts resulted in the order to show cause set for hearing on November 17, 2000.

(5) Michael J. Quilling, as receiver for Hammersmith Trust, LLC, will apparently be requesting relief at the November 17, 2000, show cause hearing that will place David Johnson in violation of both this Court's previous order and the temporary injunction.

(6) Michael J. Quilling, as receiver for Hammersmith Trust, LLC, has filed a motion to intervene in this case. This motion specifically alleges that the receivership has an interest in properties and/or insurance coverage that is the subject matter of the lawsuit now pending before this Court. The motion to intervene expressly asserts as follows:

the Receiver has several legal claims against Johnson and/or the Law Firm arising out of their participation in the massive Ponzi scheme run by Gilliland and others, which legal claims inure to the benefit of all Hammersmith investors, including Plaintiffs.

Accordingly, the receiver is seeking to assert an interest and/or control over alleged receivership assets in the matter currently pending before this Court.

(7) The defendant would submit that the action in the District Court of the Western District of Tennessee should be consolidated with the receivership currently pending before the United States District Court in the Northern District of Texas. A consolidation of these matters would promote judicial economy, efficient and accurate resolution of the issues, proper distribution of assets, if any, and would circumvent future confusion resulting from competing and/or various jurisdictions.

(8) The plaintiffs' complaint alleges that Mr. Johnson was a part of a criminal enterprise comprised of Hammersmith Trust, LLC, Gilliland, and David Johnson. This alleged criminal enterprise is the subject matter of the receivership before the United States District Court in the Northern District of Texas.

(9) Pursuant to the allegations set forth in Mr. Quilling's motion to intervene and applicable case law, the receivership has exclusive jurisdiction over the matter now before this court. This Court's jurisdiction is divested by the jurisdiction of the receivership court which governs all claims and matters concerning the receivership and receivership assets.

WHEREFORE, PREMISES CONSIDERED, the defendant respectfully requests that this Court to:

(1) Transfer this matter and entire cause to the receivership court, the

District Court in the Northern District of Texas, and consolidate this matter with the receivership currently pending before that Court;

(2) Stay further action on the receiver's motion to compel currently pending in the District Court for the Northern District of Texas which would place David Johnson in direct violation of this Court's order; and

(3) Stay the hearing on the motion to compel set on November 17, 2000, until resolution of the defendant's motion to transfer and a resolution of the inconsistent orders that has resulted in the Order to Show Cause.

The requested consolidation would promote judicial economy, efficient and accurate resolution of the issues, proper distribution of receivership assets, if any, and would circumvent future confusion resulting from competing and/or various jurisdictions. The reasons for granting this Motion are more fully set forth in the Memorandum in Support being filed contemporaneously herewith.

Respectfully Submitted,

GLASSMAN, EDWARDS, WADE
& WYATT

BY: 

TIM EDWARDS #5353

BY: 

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CERTIFICATE OF SERVICE

I, R. Douglas Hanson, do hereby certify that a true and correct copy of the foregoing was properly served upon the following:

Mr. Bruce S. Kramer
and Mr. Steven L. Levy
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This the 14 day of Nov, 2000.

R Douglas Hanson

R. Douglas Hanson