



*Winterhawk West Indies, Inc.; IGW Trust; Carolyn Don Hicks; and Carl LaDane Weaver, Defendants, and Howe Financial Trust, an Indiana corporation; Treds Financial Trust; Mary Ann Bauce, Hammersmith Trust, L.L.C., a Tennessee limited liability company; Hammersmith Trust, Ltd., an Irish Corporation; Bridgeport Alliance, L.L.C., a Nevada limited liability company; Landfair Custodial Services, Inc., a Tennessee corporation; Microfund, L.L.C., a Nevada limited liability company; American Pacific Bank & Trust, Inc., an Antiguan corporation; Eurofund Investment Inc., a Tennessee corporation; B. David Gilliland; and Melody Rose, Defendants Solely for Purposes of Equitable Relief, pending before the United States District Court for the Northern District of Texas, Dallas Division, the Honorable Barbara M.G. Lynn presiding.*

2. Melody Wolcott Gilliland, Defendant, is an individual resident and citizen of the State of Michigan and may be served with process at 1236 Runaway Bay, Apartment 3A, Lansing, Michigan 48917.

### **Jurisdiction and Venue**

3. This Court has jurisdiction over the subject matter of this action because the actions stated herein constitute Receivership Assets within the meaning of the Order Appointing the Receiver. The Order Appointing the Receiver expressly states that all actions to determine disputes relating to Receivership Assets shall be filed in this Court. In addition, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 754, 1692, and Fed. R. Civ. P. 4(k)(1)(D).

4. Venue for this action is proper in the Northern District of Texas because: (1) the SEC Proceedings referenced below is pending in this District and this action is ancillary to it; (2) the Receiver was appointed in this District; and (3) this action involves Receivership Assets within the meaning of the Order Appointing the Receiver. The Order Appointing the Receiver expressly states that all actions to determine disputes relating to Receivership Assets shall be filed in this Court.

### Background Facts

5. On November 13, 1998 the Securities and Exchange Commission (“SEC”) initiated Case No. 3:98-CV-2689-M styled *Securities and Exchange Commission v. 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, Defendants, and Howe Financial Trust, an Indiana corporation; Treds Financial Trust; Mary Ann Bauce, Hammersmith Trust, L.L.C., a Tennessee limited liability company; Hammersmith Trust, Ltd., and Irish Corporation; Bridgeport Alliance, L.L.C., a Nevada limited liability company; Landfair Custodial Services, Inc., a Tennessee corporation; Microfund, L.L.C., a Nevada limited liability company; American Pacific Bank & Trust, Inc., an Antigua corporation; Eurofund Investment Inc., a Tennessee corporation; B. David Gilliland; and Melody Rose, Defendants Solely for Purposes of Equitable Relief*, Defendants and in connection therewith sought the appointment of a Receiver as to the Defendants and Equity Relief Defendants. By Order dated November 13, 1998, entered in the SEC Proceedings, Michael J. Quilling was appointed as the Receiver and has continued to function in that capacity since that time.

6. By subsequent Order dated July 22, 1999, entered in the SEC Proceedings, the receivership was expanded to include a number of additional individuals and entities, including Hammersmith Trust, LLC (both the Tennessee and the Nevis West Indies), Hammersmith Trust, Ltd. (all of the Hammersmith entities are collectively referred to as “Hammersmith”), Microfund, LLC (“Microfund”) and B. David Gilliland (“Gilliland”). By virtue of the same Order, Michael J.

Quilling was appointed as the Receiver for each of the additional individuals and entities and he continues to function in that capacity since that time.

7. Hammersmith and Microfund are entities which operated huge international Ponzi schemes under the direction and control of Gilliland. In particular, the scam required investors (called "lenders") to "loan" funds to Hammersmith which loans would be repaid by virtue of monthly interest payments at a rate of 480% percent per annum (and higher) for twelve months and a repayment of all principal in month thirteen. The "loans" were supposedly secured by an assignment of a deposit account containing the investor's money and by a United States Treasury Bill for the same amount. The Microfund "program" differed in some respects but the intentions were the same - promise huge returns based upon non-existent trading programs and then steal the money.

8. The programs offered by Hammersmith and Microfund were completely fraudulent. The lender/investor funds did not remain in segregated deposit accounts. There were no treasury bills which secured each loan/investment. There was no trading program. There was no generation of any income by either Hammersmith or Microfund which could be used to pay the fantastic returns promised to lenders/investors. Instead, as funds were received, Gilliland caused Hammersmith and Microfund to systematically divert the funds to make Ponzi payments to prior investors and support the lavish lifestyle and spending of Gilliland, including transfers of substantial amounts of money to Defendant.

9. In connection with perpetrating the fraudulent scheme, Gilliland created Covent Garden, LLC ("Covent"), a Nevada Limited Liability Corporation. Gilliland has admitted that Covent was the alter ego of Gilliland and was used to funnel money from the defrauded

lenders/investors to support his lavish lifestyle, including the substantial monies given to the Defendant.

10. The Defendant in this action is the ex-wife of Gilliland and received substantial amounts of money directly traceable to the defrauded lenders/investors of Hammersmith and Microfund. Defendant gave no benefit in exchange for the payments that she received. Based upon records currently available to the Receiver, the total amount paid to the Defendant was in excess of \$263, 190.00

### **COUNT ONE**

#### **Constructive Trust & Disgorgement**

11. The Receiver incorporates paragraphs 1 through 11 set forth above as if set forth verbatim hereat.

12. The funds paid to the Defendant constitute and are directly traceable to the funds of the defrauded lenders/investors. As such, they are impressed with a constructive trust and constitute Receivership Assets. The Defendant should be required to disgorge her ill-gotten gains.

13. Pursuant to principles of equity, the Receiver seeks the imposition of a constructive trust upon all funds paid to the Defendant and a judgment requiring disgorgement of all amounts received. To the extent the Defendant is unable to disgorge the funds received, the Receiver seeks a money judgment against her in an amount equal to the funds received.

### **COUNT TWO**

#### **Fraudulent Transfer**

14. The Receiver incorporates paragraphs 1 through 12 set forth above as if set forth verbatim hereat.

15. The Hammersmith and Microfund programs were Ponzi schemes. Consequently, all funds the Defendant received from those entities constitute fraudulent transfers. The Receiver is

entitled to recover all such funds from the Defendant as fraudulent transfers, for which amounts the Receiver hereby sues.

### **COUNT THREE**

#### **Fees, Expenses, Cost and Interest**

16. The Receiver incorporates paragraphs 1 through 14 set forth above as if set forth verbatim hereat.

17. As a direct result of the Defendant's conduct, as alleged above, it has been necessary for the Receiver to file this action. Such action necessarily requires that the Defendant be required to pay the costs of this action, as well as pre-judgment and post-judgment interest on all sums recovered, at the highest lawful rate. The Receiver sues for all costs, expenses, attorneys' fees and pre-judgment and post-judgment interest to which he is entitled under the law or at equity.

#### **JURY DEMAND**

18. The Receiver respectfully requests that this case be tried before a jury.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final trial hereof that the Court enter judgment in favor of the Receiver against the Defendant in an amount equal to the amount of investor funds received by her, plus pre-and post-judgment interest, attorney fees and costs of court 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,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.

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