

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 Lynn presiding.

2. Jerrold L. Gunn is an individual resident of Canada and may be served with process at 938 Borebank Street, Winnipeg, Manitoba, Canada R3N 1G6.

3. Jerrold L. Gunn, L.L.B. is a professional corporation through which Jerrold Gunn practices law and may be served with process at 938 Borebank Street, Winnipeg, Manitoba, Canada R3N 1G6.

Jurisdiction and Venue

4. 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).

5. 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

6. 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., 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* (the "SEC" Proceedings"), 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.

7. 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.

8. 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. The documents which reflect the programs were drafted by Defendant, Jerrold L. Gunn ("Gunn").

9. As part of his overall scheme, Gilliland engaged Bridgeport Alliance, LLC ("Bridgeport") to screen potential "lenders," which in essence required that Bridgeport make sure they had money, would not ask questions and were not really government agencies posing as investors. Bridgeport, in turn, engaged various entities and individuals to act as agents and/or brokers. These agents/brokers would locate and solicit potential investors, sell them on the "program" being offered by Hammersmith and Microfund and then submit the potential lender/investor to Bridgeport for screening and approval. Once the potential lender/investor was approved, a Loan Agreement would be signed with Hammersmith and/or Microfund and then funds would be wired to an account designated by Gilliland. Each lender/investor would also sign a Client Agreement with Bridgeport. These documents were also drafted by Gunn.

10. 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.

11. Gunn claims to be a retired yet licensed lawyer in Canada. He does not claim to be licensed to practice in any state in the United States. However, in connection with his role with Hammersmith, Microfund, Bridgeport and those entities and persons acting in concert with them, Gunn regularly engaged in the unauthorized practice of law in the United States. In fact, Gunn was company counsel to each of the entities, drafted their contracts, negotiated changes to the contracts and regularly gave advice regarding legal affairs.

12. Gunn either knew or should have known that the Hammersmith and Microfund programs were completely fraudulent. As the drafter of the documents and as an experienced lawyer, he knew that the promissory notes he prepared, having an interest rate of 480% interest and higher were blatantly illegal and were completely nonsensical. He knew that one could not simultaneously pledge funds in an account and purchase a treasury bill with them at the same time. Instead, only one conclusion is possible, Gunn was the legal architect of the program, structured its framework and operations and actively assisted and perpetuated the entire fraudulent scheme. In addition, Gunn knew or should have known that Gilliland was diverting investor funds for improper purposes. Gunn actively assisted Gilliland in these efforts by giving advice as to how to structure entities, establishing the entities and agreeing to serve as Trustee.

13. Gunn was paid handsomely for his assistance. Between April 1997 and May 1999, Gunn was paid over \$250,000.00 by Hammersmith, Microfund and other entities owned and/or controlled by Gilliland. In each instance, the monies were wired to Gunn's account #75023822 at Merrill Lynch. Such funds constitute Receivership assets and are directly traceable to investors which Gunn helped defraud. On November 29, 1999 the Receiver filed an Emergency Ex Parte Application to Freeze Account in the SEC Proceedings by virtue of which he asked the Court to freeze the account. By Order dated November 29, 1999 entered in the SEC Proceedings, the Court froze the account and it remains frozen as of this date.

COUNT ONE-NEGLIGENCE

14. Paragraphs 1-13 are incorporated herein by reference for all purposes.

15. Gunn, acting as the attorney for Hammersmith, Microfund and Gilliland owed a duty of care to each of them to fully and properly perform his services and to properly investigate and advise each of them as to matters entrusted to him.

16. The forgoing acts and omissions of Gunn constitutes negligence as to his duties as an attorney. In the course of performing the acts and failing to perform the acts described above, Gunn failed to adhere to the standards of care of a reasonable and prudent attorney.

17. As a direct and proximate cause of the negligence of Gunn, Hammersmith, Microfund and the investor groups have been damaged in an amount equal at least to the amount of the principal and interest which Hammersmith failed to pay under the loans, for which amount the Plaintiff hereby sues.

COUNT TWO-AIDING AND ABETTING CORPORATE WASTE

18. Paragraphs 1-13 are incorporated herein by reference for all purposes.

19. The monies paid by the investor groups to Hammersmith and Microfund to make the loans constituted corporate assets of Hammersmith and Microfund. The management of

Hammersmith and Microfund in place before the appointment of the Receiver wasted the assets by diverting them for improper purposes. Gunn substantially assisted prior management of Hammersmith and Microfund in connection with the wasting of the assets thereby aiding and abetting Hammersmith and Microfund in the wasting of the assets.

20. As a result of the conduct of Gunn in aiding and abetting such corporate waste, Hammersmith and Microfund and the investor groups have been damaged in an amount equal to at least the amount of the principal and interest which Hammersmith failed to pay under the loans, for which amount the Plaintiff hereby sues.

COUNT THREE - CONSTRUCTIVE TRUST & DISGORGEMENT

21. Paragraphs 1-13 are incorporated herein by reference for all purposes.

22. The funds paid to Gunn 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. Gunn should be required to disgorge his ill-gotten gains.

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

COUNT FOUR - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

24. Paragraphs 1-13 are incorporated herein by reference for all purposes.

25. Hammersmith, Microfund, Bridgeport and Gilliland owed fiduciary duties to each of the lenders/investors to properly represent the programs, make full and complete disclosure of all material facts and to handle and invest the money properly.

26. Hammersmith, Microfund, Bridgeport and Gilliland breached their fiduciary duties to the lenders/ investors. By preparing documents, giving legal advice and otherwise assisting

Hammersmith, Microfund, Bridgeport and Gilliland, Gunn aided and abetted the breaches of fiduciary duty.

27. As a result of the aiding and abetting conduct of Gunn, the lenders/investors, Hammersmith and Microfund were damaged for which damages the Receiver hereby sues.

COUNT FIVE-MONEY HAD AND RECEIVED

28. Paragraphs 1-13 are incorporated herein by reference for all purposes.

29. The above-described facts demonstrate that the Defendants held money which in equity and good conscience belonged to the corporation and investors. This money rightfully belongs to the corporation and to the investors and for the Defendants to continue to possess the money or continue to maintain the benefit of the money received would constitute unjust enrichment. The Defendants are liable under the theory of money had and received.

COUNT SIX -FEES, EXPENSES, COSTS AND INTEREST

30. Paragraphs 1-13 are incorporated herein by reference for all purposes.

31. As a direct result of Gunn's misconduct, as alleged herein above, it has been necessary for the Receiver to file this action. Such action necessarily requires the expenditure of litigation costs and expenses, and the hiring of attorneys. Equity requires that Gunn 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 hereby sues for all costs, expenses, attorneys' fees, and pre-judgment and post-judgment interest to which he is entitled under law or at equity.

JURY DEMAND

32. Receiver hereby requests a trial by jury.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final trial of this matter that he recover judgment against the Defendants, in accordance with the foregoing, and for

such other and further relief, general or special, at law or in equity, to which he may show himself
justly entitled.

Respectfully submitted,

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

2001 Bryan Street, Suite 1800

Dallas, Texas 75201

(214) 871-2100 (Telephone)

(214) 871-2111 (Facsimile)

By: _____

Michael J. Quilling

State Bar No. 16432300

Andrew M. Truesvich

State Bar No. 00785119

D. Dee Raibourn, III

State Bar No. 24009495

ATTORNEYS FOR RECEIVER