

president of the Bank, Holcomb allowed Cord to get a loan, purchased certificates of deposits with the loan, then allowed another loan to Cord, based on the Cds. Holcomb traveled with Cord to Belize to purchase a bank. Holcomb's wife invested \$25,000.00 and was supposed to get back \$6,000,000.00 back within a year. Holcomb would tell potential investors that Cord was running a legitimate and sound investment program, even though Cord was bouncing checks at the Bank. The Receiver contends the Bank was negligent in its supervision of Holcomb. The Receiver contends that the Cds are assets of the receivership. In addition, the Receiver is suing for damages. The Defendants aided and abetted Cord in his illegal ponzi scheme.

b. Defendants' Contentions

The Defendants contend that they have the legal right to the \$1,000,000.00 in CD funds because of the Bank's security interest in the CD funds as collateral for approximately \$1,000,000.00 in loans the Bank made to Cord/Winterhawk which are in default, unpaid, and due. The Bank also has statutory, common law, and contractual rights of set-off in the CD funds for the defaulted loans. Defendants further contend that the Receiver has no standing to assert claims against the Defendants for the losses suffered by investors/creditors of the Receivership parties Robert Cord, Winterhawk, and Steve Roberts. The investors/creditors have asserted their own claims against the Bank and Holcomb in state court actions where they seek to recover their investment losses. In conclusion, the Defendants deny that they are liable under the causes of action asserted by the Receiver.

2. Any challenge to jurisdiction or venue.

No Parties challenge jurisdiction or venue.

3. Any pending or contemplated motions and proposed time limits for filing motions.

There are no pending motions. The Plaintiff and Defendant contemplates that they will file a Motion for Summary Judgment after discovery has been taken.

4. Any matters which require a conference with the Court.

No Parties require a conference with the Court at this time.

5. Likelihood that other parties will be joined.

No Parties believe any other parties will be joined at this time.

6. (a) Estimated time needed for discovery, with reasons,

Because of the complexity of this case, the Parties have suggested a discovery plan, pursuant to the Court's Order of June 26th, 2000.

(b) Contemplated discovery.

All parties believe that Interrogatories, Request for Production and Request for Admissions will be sent. In addition, depositions will be taken of the individuals involved in the transactions which formed the basis of this lawsuit.

7. Consent to U.S. Magistrate Judge.

The Parties do not agree to consent to a U.S. Magistrate Judge.

8. Prospects for Settlement.

The parties do not believe settlement will occur in this case.

9. Mediation prospects.

The parties do not believe mediation will be helpful in this case.

10. Any other relevant matters.

The Defendants request a six (6) hour limit on depositions. The Receiver opposes any limitations on depositions.

B. JOINT PROPOSED DISCOVERY PLAN:

- A. Pursuant to the Court's Order of June 26th, 2000, all Parties submit the following to the Court:

1. Pursuant to the Court's Order of June 26th, 2000, a meeting was held on July 14th, 2000 at the Houston Hobby Airport, Houston, Texas. The following attorneys/individuals attended:

- a. Andrew Trusevich
State Bar No. 00785119
Quilling Selander Cummiskey & Lownds
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
(214) 871-2100
(214) 871-2111 (fax)
- Attorneys for the Receiver
- b. Josh M McMorrow (Attorney for Billy Holcomb)
State Bar No. 24013147
Bracewell & Patterson, L.L.B.
711 Louisiana Street, Suite 2900
Houston, Texas 77002
(713) 223-2900
(713) 221-1212 (fax)
- c. Gregory M. Clark (Attorney for Texas Coastal Bank)
State Bar No. 04282350
Woodard, Hall & Primm, P.C.
7100 Chase Tower
600 Travis Street
Houston, Texas 77002
(713) 221-3800
(713) 224-3271 (fax)


2. Initial disclosures pursuant to Fed. R. Civ. P. 26(a) will not be made pursuant to the Court's Order of June 26th, 2000.
3. The Parties jointly proposed to the Court the following agreed discovery plan:
 - a. Discovery will be needed on the following subjects:
 1. The Receiver's allegations against the Defendants.
 2. The Defendants' affirmative defenses.
 3. The Receiver's investigation of the financial records and status of the defendant and the tracing of investors' funds.
 - b. All discovery will be commenced in time to be completed by January 15th, 2001.
 - c. All Parties will limit interrogatories pursuant to Fed. R. Civ. P. 33.
 - d. All Parties will limit request for admissions to a maximum number of 30.
 - e. Depositions will not be limited, but will be under the Fed. R. Civ. P.
 - f. Deposition Time Limits:
 1. Defendants request a time limit of six (6) hours per deposition. The Receiver opposes any time limits.
 - g. Experts will be designated by, and Reports from experts due:
 1. Designated by the Receiver — November 5th, 2000.
Reports due by — November 15th, 2000.
 2. Designated by the Defendants — December 5th, 2000.
Reports due by — December 15th, 2000.
 3. Rebuttal experts and reports due — December 31st, 2000.
 - h. Supplementation of all discovery will be made by January 15th, 2001.

4. Other Items

- a. Parties do not request a conference with the Court before entry of the scheduling order.
- b. Parties request a Pre-Trial Conference in March, 2001.
- c. The Receiver should be allowed until October 5th, 2000 to join additional parties and until October 15, 2000 to amend the pleadings.
- d. Defendants should be allowed until November 5th, 2000 to join additional parties and until November 15th, 2000 to amend pleadings.
- e. All potentially dispositive motions should be filed by February 15th, 2001.
- f. Settlement is unlikely, however, the parties will discuss settlement throughout the litigation process.
- g. Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from:
 1. Receiver — February 5th, 2001.
 2. Defendants — February 18th, 2001.
- h. Parties should have until March 5th, 2001 to list objections under Rule 26(a)(3) to the other parties' witness and exhibit lists, including Daubert challenges.
- i. The case should be ready for trial in April, 2001 and is expected to last two to three weeks.

DATE: July 24th 2000.

Respectfully submitted,

By: 
Andrew M. Trusevich S.B. #00785119

QUILLING, SELANDER, CUMMISKEY & LOWNDS, P.C.
2001 Bryan St., Suite 1800
Dallas, Texas 75201
(214) 871-2100
(214) 871-2111 (fax)

ATTORNEY FOR RECEIVER

By: _____
Josh M McMorrow
State Bar No. 24013147

Bracewell & Patterson, L.L.B.
711 Louisiana Street, Suite 2900
Houston, Texas 77002
(713) 223-2900
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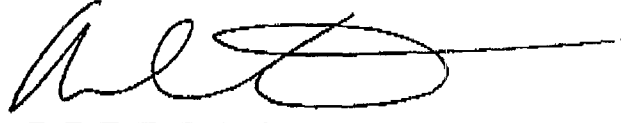
ATTORNEY FOR BILLY HOLCOMB

By: _____
Gregory M. Clark
State Bar No. 04282350

Woodard, Hall & Primm, P.C.
7100 Chase Tower
600 Travis
Houston, Texas 77002
(713) 221-3800
(713) 224-3271 (fax)

ATTORNEY FOR TEXAS COASTAL BANK

Respectfully submitted,

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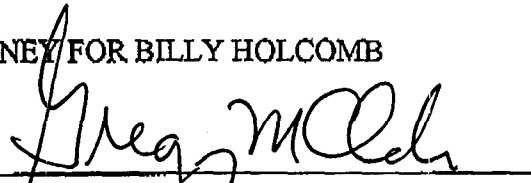
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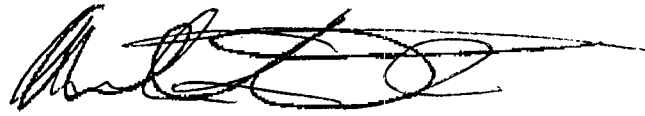
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State Bar No. 04282350

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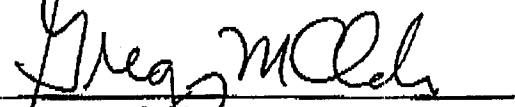
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Houston, Texas 77002
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