

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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MICHAEL J. QUILLING, Receiver for §
Hammersmith Trust, L.L.C., Hammersmith §
Trust, Ltd., Microfund, L.L.C. and B. §
David Gilliland §

Plaintiff, §

v. §

Civil Action No. 1:00CV826
Hon. Gordon J. Quist

THE WOLCOTT LIFETIME TRUST, §
JACK W. HIGGINS, TRUSTEE, §
MELODY WOLCOTT GILLILAND, §
JEFFREY D. SAXON, JR., §
OPTION ONE MORTGAGE §
CORPORATION, NORWEST BANK §
MINNESOTA, n/k/a WELLS FARGO §
BANK MINNESOTA and NORTHPOINTE §
BANK, §

Defendants. §

(EXPEDITED CONSIDERATION REQUESTED)

**PLAINTIFF'S MOTION FOR SHOW CAUSE HEARING TO HOLD
DEFENDANT, JEFFREY D. SAXON, IN CONTEMPT FOR
FAILURE TO COMPLY WITH COURT ORDER**

TO THE HONORABLE GORDON J. QUIST:

COMES NOW, Plaintiff, Michael J. Quilling, in his capacity as Receiver for Hammersmith Trust, L.L.C., Hammersmith Trust, Ltd., Microfund, L.L.C. and B. David Gilliland (the "Receiver"), and files this his Motion For Show Cause Hearing To Hold Defendant, Jeffrey D. Saxon ("Saxon"), In Contempt For Failure To Comply With Court Order, and in support thereof would respectfully show unto the Court as follows:

SMITH, HAUGHEY, RICE & ROEGGE, A Professional Corporation

1. This motion is supported by the Declaration of Arthur F. Selander which is attached hereto as Exhibit 1 (the "Selander Declaration").

2. On November 29, 2000, this Court entered a preliminary injunction in favor of the Receiver and against Saxon (the "Preliminary Injunction"). A true and correct copy of the Preliminary Injunction is attached as Exhibit A to the Selander Declaration. The Preliminary Injunction has been in full force and effect since that time.

3. In the Preliminary Injunction this Court ordered Saxon, among other things, to perform the following acts within 10 days of the date of service of the Preliminary Injunction upon him:

- (a) repatriate and cause to be transferred all Loan Proceeds, and all assets acquired by or traceable to such Loan Proceeds, in his actual or constructive possession, or under this control to the Receiver;
- (b) provide a complete accounting to the Receiver of all Loan Proceeds; and
- (c) provide the Receiver copies of all bank statements, canceled checks (front and back), deposit slips and wire transfer advices for account number 700001605 at First Community Bank in Mobile, Alabama in the name of Nohemy Saxon and all other accounts into which Saxon transferred, or caused to be transferred, any portion of the Loan Proceeds.

4. The Preliminary Injunction was personally served upon Saxon on December 12, 2000 at his residence located at 9370 Leverette Drive, Semmes, Alabama 36575. This fact is demonstrated by the Proof and Return of Service attached as Exhibit B to the Selander Declaration. Since December 12, 2000 Saxon has had full knowledge of the provisions of the

Preliminary Injunction.

5. As of December 22, 2000 (10 days after service) Saxon had wholly failed and refused to comply with the provisions of the Preliminary Injunction set forth above. Accordingly, on December 28, 2000, counsel for the Receiver sent a Federal Express letter to Saxon at his residence located at 9370 Leverette Drive, Semmes, Alabama 36575 demanding that he comply with the provisions of the Preliminary Injunction set forth above and warning him that a motion for contempt would be filed against him, if he failed to do so by January 8, 2001. A true and correct copy of that Federal Express letter is attached as Exhibit C to the Selander Declaration.

6. Despite personal service of the Preliminary Injunction upon him and the Receiver's efforts to induce him to comply with the provisions of the Preliminary Injunction set forth above, Saxon has wholly failed and refused to do so and has willfully and intentionally disobeyed and disregarded the orders of this Court.

7. As a result of Saxon's refusal to comply with the provisions of the Preliminary Injunction set forth above, the Receiver has been required to file this motion for show cause hearing to hold defendant Saxon in contempt and will incur reasonable and necessary attorney's fees and costs in connection therewith.

8. Pursuant to W.D.Mich. LCivR 7.1(e), expedited consideration of this motion is necessary to obtain Saxon's full compliance with the Preliminary Injunction at the earliest possible date, so that the Receiver may take all appropriate steps to secure and prevent further dissipation of the Loan Proceeds and any and all assets acquired with, or traceable to, the Loan Proceeds.

9. Pursuant to W.D.Mich. LCivR 7.1(d), the Receiver has attempted to ascertain whether Saxon will oppose this motion by letter dated December 28, 2000. However, Saxon has failed to respond to that letter.

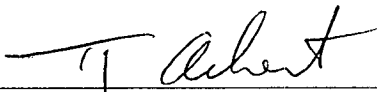
WHEREFORE, PREMISES CONSIDERED, the Receiver prays:

- (1) That this Court issue an order requiring Saxon to appear before this Court to show cause, if any, why he should not be held in civil contempt for failing and refusing to comply with the provisions of the Preliminary Injunction set forth above;
- (2) That following an evidentiary hearing, this Court adjudge Saxon to be in civil contempt of this Court;
- (3) That this Court enter an order requiring Saxon to purge himself of such civil contempt by
 - (a) fully complying with the provisions of the Preliminary Injunction set forth above, and
 - (b) paying all costs and attorney's fees incurred by the Receiver to force compliance with the provisions of the Preliminary Injunction set forth above;
- (4) That this Court order the issuance of a writ of attachment directing the United States Marshal of any district in which Saxon may be found, or any other federal officer or agent specifically appointed by the Court, to arrest and confine Saxon until such time as Saxon purges himself of such civil contempt, or until further order of this Court; and

- (5) That this Court order such other and further relief, both general and special, at law and in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

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