

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:04 CV 251

MICHAEL J. QUILLING, Receiver )  
for FREDERICK J. GILLILAND, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GRAND STREET TRUST, HEARTLAND )  
CONTROL TRUST, FUTURE CONTROL )  
TRUST, MARIE MARGARITE GUECO )  
MERCADO PAQUETTE, REIN EVANS )  
SESTANOVICH, L.L.P. f/k/a )  
DRESSLER REIN EVANS & )  
SESTANOVICH, L.L.P., )  
MELROSE ESCROW, INC., AND )  
PAUL J. COHEN, )  
 )  
Defendants. )  
\_\_\_\_\_ )

ORDER

THIS MATTER IS BEFORE THE COURT upon the Motion to Amend Order to Include Certification for Interlocutory Appeal and to Stay Proceeding Pending Appeal filed by Defendant Rein Evans Sestanovich, f/k/a Dressler Rein Evans & Sestanovich, L.L.P. ("Rein Evans") (doc. 32). After carefully reviewing the Motion and supporting Memorandum, this Court determines that the motion should be denied.

Through this Motion, Rein Evans seeks to have this Court amend its August 12, 2005 Order denying Rein Evans' Motion to Dismiss. The applicable statute in making this determination states:

When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

28 U.S.C. § 1292(b). Considering the standard provided in the above statute, this Court finds that its August 12, 2005 Order does not involve a controlling question of law as to which there is substantial ground for difference of opinion. Further, this Court is not of the opinion that an immediate appeal would advance the ultimate termination of the litigation. It follows that this Court will also deny the request for a stay pending appeal as the underlying request to amend the Order has been denied.

Accordingly, for the foregoing reasons, **IT IS HEREBY ORDERED THAT** Rein Evans' Motion to Amend Order to Include Certification for Interlocutory Appeal and to Stay Proceeding Pending Appeal (doc. 32) **be denied.**

**Signed: September 8, 2005**

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
Chief United States District Judge

