Exhibit A

appealed the order that put them under the receivership order.

MR. GOLDEN: Your Honor, we would note -- And we put it in the papers -- that we believe Mr. Schepps has filed six or seven other papers and other motions on behalf of the LLC's. So it goes beyond the appeal.

THE COURT: My view is the only people that I have approved to represent the LLC's because they are in receivership is Mr. Jackson and Mr. Cox.

And I wouldn't expect to receive any motions on behalf of the LLC's except for those people. So I don't recognize the authority that you say you have. Of course, the matter is in the Fifth Circuit in that regard, so I will leave it to the Fifth Circuit to decide that.

MR. GOLDEN: Your Honor, with regard to your order, Mr. Schepps is supposed to show authority including among other things the name that he says is back at his office. Would you like to include Mr. Schepps's disclosure of that information during one of these meetings we set up?

THE COURT: I think that would be helpful.

MR. GOLDEN: On the 17th?

THE COURT: Yes.

MR. GOLDEN: I say that because in the order it doesn't set a deadline.

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC.,	)	
MANILA INDUSTRIES, INC., and	)	
MUNISH KRISHAN,	)	
Plaintiffs,	)	
	)	
vs.	)	Civil Action No. 3-09CV0988-F
	)	
JEFFREY BARON, and	)	
ONDOVA LIMITED COMPANY,	)	
Defendants.	)	

NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Notice is hereby given that JEFFREY BARON, defendant in the above-named case hereby appeals to the United States Court of Appeals for the Fifth Circuit from the District Court's Order Appointing Receiver signed on November 24, 2010 [Docket #124, and Docket #130, Entered 11/30/2010].

This appeal is taken pursuant to 28 U.S.C. §1292(a)(2).

The parties to the order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Appellant: Defendant JEFFREY BARON

Represented on Appeal by:

Gary N. Schepps
Drawer 670804
Dallas, Texas 75367
Telephone (214) 210-5940
Facsimile (214) 347-4031
legal@schepps.net

Appellee: Defendant ONDOVA LIMITED COMPANY

c/o DANIEL J. SHERMAN, Trustee

Represented by:

Raymond J. Urbanik
Munsch, Hardt, Koph & Harr, PC
500 N. Akard Street, Suite 3800
Dallas, Texas 75201-6659
Telephone (214) 855-7500
Facsimile (214) 855-7584
rurbanik@munsch.com

Dated: December 2, 2010.

Respectfully submitted,

/s/ Gary N. Schepps

Gary N. Schepps
State Bar No. 00791608
Drawer 670804
Dallas, Texas 75367
Telephone (214) 210-5940
Facsimile (214) 347-4031
legal@schepps.net

APPELLATE COUNSEL FOR JEFFREY BARON

CERTIFICATE OF SERVICE

This is to certify that this was served on all parties who receive notification through the Court's electronic filing system and including:

Gary G. Lyon
PO Box 1227
Anna, Texas 75409
glyon.attorney@gmail.com

Raymond J. Urbanik
Munsch, Hardt, Koph & Harr, PC
500 N. Akard Street, Suite 3800
Dallas, Texas 75201-6659
rurbanik@munsch.com

Martin Thomas
PO Box 36528
Dallas, Texas 75235
thomas12@swbell.net

/s/ Gary N. Schepps
Gary N. Schepps

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA INDUSTRIES., INC., AND MUNISH KRISHAN	§	
PLAINTIFFS,	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
JEFFREY BARON AND ONDOVA LIMITED COMPANY,	§	
DEFENDANTS.	§	

ORDER GRANTING THE RECEIVER'S MOTION TO CLARIFY THE RECEIVER ORDER WITH RESPECT TO NOVO POINT, LLC AND QUANTEC, LLC

CAME ON TO BE HEARD, the Receiver Peter S. Vogel's Motion to Clarify the Receiver Order. The Court considered the Motion and finds as follows:

On November 24, 2010, the Court issued an order appointing Peter S. Vogel as the Receiver for Defendant Jeffrey Baron (the "Receiver Order"). [Docket #124.] The Court declares that the Receiver Order's definition of Receivership Parties has always included Novo Point, LLC and Quantec, LLC (the "Clarification").

The Court further clarifies that, based on the Clarification, the Receiver Order requires that the Receiver Parties (including, without limitation Novo Point, LLC and Quantec, LLC, as well as any individuals representing them) comply with all reasonable instructions given to them by the Receiver relating to the Receiver Order, the Receivership Parties, the Receiver Assets, and the Professionals, including, without limitation, instructions relating to the Receiver's efforts to obtain and maintain access to the Receiver Assets ("Further Clarification").

As specific examples of the Further Clarification (although these are merely examples, and not to be construed as limitations of the Further Clarification), the Court ORDERS that the following shall occur:

1. Jeff Harbin shall meet with counsel for the Receiver at an agreed upon time within one week of the date of this Order, at BBVA Compass Bank, 2301 Cedar Springs Road, Dallas, Texas 75201. Once at the bank, Jeff Harbin shall immediately execute whatever documents Receiver's counsel deem(s) necessary, including documents to effectuate the process for the Receiver and his counsel to obtain joint access to the Receiver Assets, including, without limitation, joint access to the following accounts: checking account #XXXXXX1315 at BBVA Compass, in the name of Novo Point, LLC; checking account #XXXXX1323 at BBVA Compass, in the name of Quantec, LLC; ~~checking account #XXXXXX4043 at BBVA Compass, in the name of Quasar Services, LLC; and checking account #XXXXXX4027 at BBVA Compass.~~ Jeff Harbin shall not withdraw funds, issue checks, make other payments or enter ~~or~~ into or execute any contracts (written or oral) or in any way obligate Novo Point, LLC and/or Quantec, LLC in any other way, above the amount of $3,000.00 (THREE THOUSAND DOLLARS) without the express written or e-mail authorization by the Receiver or his counsel, and the account shall be set up with the bank with those same restrictions (*i.e.*, permitting the Receiver or his counsel to withdraw funds, issues checks, or make payments above $3,000 without Mr. Harbin's signature, but not permitting Mr. Harbin to withdraw funds, issue checks, or make payments above $3,000 without the Receiver's or the Receiver's Counsel's signature). On or before the tenth day of each month, Mr. Harbin shall provide the Receiver and his counsel with a full and complete written accounting for the previous month of ***all*** of the accounts

identified in this paragraph, including, all transactions (regardless of whether the transactions involved more or less than $3,000) and including among other things, (a) an accounting of all withdrawals from any and all of these accounts, (b) checks issued from any and all of these accounts, (c) payments made to any and all of these accounts, (d) deposits into any and all of these accounts, (e) contracts (written or oral) entered into on behalf of Quantec, LLC or Novo Point, LLC, and (f) any other obligations entered into on behalf of Quantec, LLC or Novo Point, LLC.

2. Jeff Harbin shall report to the Receiver and his counsel all communications with Jeff Baron within 48 hours after such communications occur.

3. Jeff Harbin shall provide to the Receiver and his counsel all written and e-mail communications occurring since the date of this Order to or from (a) Jeff Baron, (b) Gary Schepps, (c) any other attorney representing Jeff Baron, (d) any other individual purporting to represent or act on behalf of Jeff Baron, (e) Mike Robertson, or (f) any other employee, representative, contractor, or agent of Fabulous.com or any other registrar.

4. The Receiver shall have the right to terminate Jeff Harbin immediately (meaning at any time and without prior notice) if the Receiver reasonably believes that Jeff Harbin is not acting in the best interests of Quantec, LLC or Novo Point, LLC, or if the Receiver reasonably believes that Jeff Harbin is not complying with this Order or is working in conjunction with Jeff Baron to obstruct the Receiver from complying with the Receiver Order dated November 24, 2010.

5. Jeff Harbin shall immediately execute whatever documents Receiver's counsel deem(s) necessary to effectuate the process of the Receiver and his counsel obtaining sole access to all other *domestic* accounts comprising the Receiver Assets, including, without limitation: Roth Conversion IRA account #XXXXXXXXXX0491 at Dreyfus Investments, in the name of the Bank of New York Mellon Cust f/b/o Jeffrey D. Baron; IRA account #U647003 at Delaware Charter Guarantee & Trust d/b/a Principal Trust Company, in the name of Jeff Baron; Roth IRA account #XXX55 at Sterling Trust Company, in the name of Jeff Baron; money market account #XXXX9290 at Las Colinas Federal Credit Union, in the name of Jeff D. Baron; Roth IRA account #XX471 at Equity Trust Company, in the name of Jeffrey Baron; account #XXX-XXX236 with TD Ameritrade, in the name of Jeffrey Baron; money market account #XX-XXXXX0893 at American Century Investments, in the name of Jeffrey D. Baron; checking account #XXXXXX9614 at Capital One Bank, in the name of Jeffrey D. Baron; money market account #XXXXXX5908 at Capital One Bank, in the name of Jeffrey D. Baron; savings account #XXXXXX0961 at Capital One Bank, in the name of Jeffrey D. Baron; money market account #XXXX-XXXXXX7102 at Dreyfus Investments, in the name of Jeffrey D. Baron; money market account #XXX-XXXXXX1818 at Evergreen Investments, in the name of Jeffrey D. Baron; checking account #XXXXXX5728 at Hibernia National Bank, in the name of Jeffrey D. Baron; international stock index fund account #XXXX-XXXXXXXX7792 at The Vanguard Group, in the name of Jeffrey D. Baron; checking account #XXXXXXX1261 at Woodforest National Bank, in the name of Jeffrey D. Baron; CD account #CDXXXXXXX1063 at Woodforest National Bank, in the name of Jeffrey D. Baron; CD account #CDXXXXXXX1064 at Woodforest National Bank, in the name of Jeffrey D. Baron; CD account #CDXXXXXX1065

at Woodforest National Bank, in the name of Jeffrey D. Baron; CD account #CDXXXXXX2223 at Woodforest National Bank, in the name of Jeffrey D. Baron; CD account #CDXXXXXX7831 at Woodforest National Bank, in the name of Jeffrey D. Baron; commercial checking account #XXXXXXX1811 at NetBank, in the name of Compana LLC; checking account #XXXXXXXX3093 at Bank of America, in the name of Diamond Key, LLC; Roth IRA account #XXX-XX1396 at Mid-Ohio Securities Corporation, in the name of Equity Trust Co. Cust IRA of Jeffrey Baron; checking account #XXXXXXXX8930 at Bank of America, in the name of Manassas, LLC; checking account #XXXX7068 at Park Cities Bank, in the name of Manassas, LLC; checking account #XXXX1121 at Park Cities Bank, in the name of Novo Point, LLC; account #XXXX3100 at Las Colinas Federal Credit Union, in the name of Ondova Limited Company; and checking account #XXXX1618 at Park Cities Bank, in the name of Quantec, LLC (collectively, the "Baron Domestic Accounts"). For example, but not to be taken as a limitation, Jeff Harbin shall execute immediately upon their presentation letters drafted by the Receiver to each of the aforementioned financial institutions maintaining the Baron Domestic Accounts instructing them immediately to direct any and all funds in Baron Domestic Accounts to the one or more of the accounts identified in paragraph 1 of this Order.

6. Jeff Harbin shall immediately execute whatever documents Receiver's counsel deem(s) necessary to effectuate the process of the Receiver and his counsel obtaining sole access to all *non-domestic* accounts comprising the Receiver Assets, including, without limitation, all accounts located in the Cook Islands that are owned, controlled or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to any Receivership Party or any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or

controlled by, or under common control with, any Receivership Party, including, without limitation, Southpac Trust Limited, The Village Trust, Quantec, LLC, Iguana Consulting, LLC, Novo Point, LLC, Iguana Consulting, Inc., and Quantec, Inc. ("Cook Island Accounts"). For example, but not to be taken as a limitation, Jeff Harbin shall execute immediately upon their presentation letters drafted by the Receiver to Brian Mason and Tine Faasili Ponia at Southpac Trust Limited and Adrian Taylor at Asiacititrust with instructions relating to any and all Cook Island Accounts managed, controlled by, held by, subject to access by Southpac Trust Limited ("Southpac Trust Limited Accounts"), including a copy of this Order and instructions from Mr. Harbin that Brian Mason, Tine Faasili Ponia, or anyone working for or with either of them including Adrian Taylor at Asiacititrust shall (a) not withdraw any amounts from the Southpac Trust Limited Accounts, (b) not transfer any amounts from those Southpac Trust Limited Accounts, (c) not close the Southpac Trust Limited Accounts, and (d) to take all actions necessary to allow the Receiver and his counsel to gain sole access to and withdraw funds from the Southpac Trust Limited Accounts and direct said funds to one or more of the accounts identified in paragraph 1 of this Order. Nothing in this Order shall be construed either as evidencing or not evidencing that Jeff Harbin, Novo Point, LLC and/or Quantec, LLC are or are not in control of any of the trusts (*i.e.*, the Court is not issuing a ruling at this time as to whether Jeff Harbin, Novo Point, LLC, or Quantec LLC control any of the trusts). Likewise Mr. Harbin's, Novo Point, LLC's and/or Quantec LLC's compliance with this Order and/or the Receiver's instructions shall not be construed either as evidencing or not evidencing that any of Jeff Harbin, Novo Point, LLC and/or Quantec, LLC are or are not in control of any of the trusts.

7. Jeff Harbin shall immediately execute whatever documents the Receiver or his counsel deem(s) necessary to divert funds to be transferred *by* certain revenue sources (including, but not limited to Netsphere, Hitfarm, Namedrive, Firstlook, Parked, DDC.com, Domainsponsor.com, SEDO, and Trellian / Above) ("Revenue Sources"), *from* whatever accounts the Revenue Sources were currently sending funds *to* one or more of the accounts identified in paragraph 1 of this Order. Further, but not to be taken as a limitation, Jeff Harbin shall immediately upon their presentation execute letters drafted by the Receiver to any internet domain name monetizers instructing the same to direct all funds immediately to one or more of the accounts identified in paragraph 1 of this Order. Mr. Harbin shall not divert or cause to be diverted any funds *by* the Revenue Sources *from* any of the accounts identified in paragraph 1 of this Order *to* any other accounts without prior written or e-mail authorization from the Receiver or his counsel.

8. Without prior written or e-mail authorization of the Receiver or his counsel, Jeff Harbin shall not attempt to retain or terminate any of the Receiver's Professionals, or any employees, contractors, or other service providers of Quantec, LLC or Novo Point, LLC, including, without limitation, hire or fire attorneys, CPAs, consultants, or the like.

9. By 9:00 a.m. on December 28, 2010, Thomas Jackson and Joshua Cox shall both file a sworn statement to the Court setting forth the following information and copies of written documents sufficient to evidence these materials for legal services:

a. Whom do you purport to represent.

b. When did you commence that representation?

c. What is the name of the individual who retained you to represent that party(ies)?

d. Whether you have been paid a retainer, the amount of the retainer, and the account from which the retainer payment was drawn.

10. By 9:00 a.m. on December 28, 2010, Thomas Jackson, Joshua Cox, James Eckels, and Jeff Harbin, and shall each file a sworn statement to the Court setting forth the following information and copies of written documents sufficient to evidence these materials for legal service:

a. The amounts you have received from any Receivership Parties since the date of the Receiver Order ("Post Receiver Order Payments").

b. Who provided you with the Post Receiver Order Payments.

c. The account from which the Post Receiver Order Payments was drawn.

If any of these ORDERS are not strictly followed, the Court ORDERS that the Receiver file a SHOW CAUSE MOTION FOR CONTEMPT.

SO ORDERED.

DATED: 12/17/2010

Royal Ferguson

U.S. District Judge Royal Ferguson

Exhibit D

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed July 28, 2010

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	Case No. 09-34784-SGJ
ONDOVA LIMITED COMPANY,	§	(Chapter 11)
	§	
Debtor.	§	

ORDER GRANTING TRUSTEE'S motion for approval of settlement AGREEMENT pursuant to rule 9019, FEDERAL RULES OF BANKRUPTCY PROCEDURE

At Dallas, Texas in said District, on July 12, 14 and 22, 2010, this Court conducted hearings on the *Trustee's Motion for Approval of Settlement Agreement Pursuant to Rule 9019, Federal Rules of Bankruptcy Procedure* [Docket No. 368] (the "Motion")[1], filed on July 2, 2010 by Daniel J. Sherman (the "Trustee"), the duly-appointed Chapter 11 trustee of Ondova Limited Company (the "Debtor" or "Ondova").

During the three hearings conducted with respect to the Motion, this Court considered the evidence presented and record before the Court, including, without limitation, the testimony of the Trustee, Jeffrey Baron, Munish Krishan, an affidavit of Munoj Krishan, all of the exhibits introduced at the hearings and the presentations of counsel. The record before the Court also includes the evidence presented at a hearing on June 22, 2010, when the parties first

[1] All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

announced to the Court that a global settlement had been reached and the affidavits of Jeffrey Baron as ordered by this Court on July 22, 2010. Accordingly, this Court finds as follows:

A. This Court has jurisdiction to hear and to determine the Motion and to grant the relief requested therein pursuant to 28 U.S.C. §§ 157(a) and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue of the above-captioned bankruptcy case and of the Motion is proper in this District under 28 U.S.C. §§ 1408 and 1409.

B. Notice of the Motion and the foregoing hearings were appropriate and sufficient under the circumstances and complied with all applicable provisions of the Bankruptcy Code and the Bankruptcy Rules. No further notice of the Motion is necessary.

C. All parties-in-interest had a reasonable opportunity to object to and be heard regarding the Motion and the Settlement Agreement proposed therein. A limited objection to the Motion was filed on July 12, 2010 by Jeffrey Baron pertaining to only one minor portion of the Settlement Agreement, Section 6(c), however as a result of negotiations between the parties, the limited objection of Mr. Baron was resolved and based on the testimony of Mr. Baron from the hearing held on July 14, 2010, Mr. Baron has fully and completely agreed to the Settlement Agreement as negotiated by the parties. Accordingly, the Limited Objection filed by Mr. Baron is overruled.

D. This Court considered the Motion and the Settlement Agreement in the context of the applicable legal standards and requirements for approval of a settlement under Bankruptcy Rule 9019. Specifically, this Court applied the standards established by *United States v. Aweco, Inc. (In re Aweco, Inc.)*, 725 F.2d 293, 299 (5th Cir. 1984), *cert. denied 469 U.S. 880 (1984), Protective Comm. For Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1966); *In re Jackson Brewing Co.*, 624 F.2d 599, 602 (5th Cir. 1980).

E. The record before this Court and this Court's own analysis indicate that the

settlement reached by the parties is fair and equitable and should be approved. The Court notes that the litigation and disputes being resolved by the Settlement, including those causes of action that the Trustee could bring on behalf of the Debtor's bankruptcy estate ("Estate"), are novel and complex. The Court notes that many lawsuits are being settled and further believes the Settlement Agreement should be approved in light of the risks and rewards of the complex litigation being settled and the probability of very prolific and protracted litigation in the absence of a settlement. The Settlement Agreement has been extensively negotiated, at arm's length and in good faith, by all the settling parties.

F. The Court finds that the Settlement Agreement is in the best interests of the Estate and an exercise of the Trustee's sound business judgment. The resolutions of the disputes among, and litigation between, the settling parties embodied in the Settlement Agreement are reasonable and appropriate under the circumstances. The consideration to be exchanged between the settling parties in accordance with the terms of the Settlement Agreement, including the releases and security interests contemplated under the Settlement Agreement, are fair, reasonable, and adequate under the circumstances.

G. Mr. Baron requested certain findings as part of the Settlement Agreement, which were proffered into the record during the hearing as follows:

> (i) That in December 2005 Jeffrey Baron, directly or indirectly through entities owned or controlled by Jeffrey Baron, intended to transfer any domain name he or they owned to the Village Trust and such intention to transfer was not conditional on whether or not the USVI deal was consummated;
>
> (ii) That Jeffrey Baron has not been the moving force behind monetization of the domain names in the "Odd Group Portfolio" since at least July 17, 2009;
>
> (iii) That Jeffrey Baron has not been the moving force behind monetization of the domain names in the Blue Horizon Portfolio since at least April 25, 2009; and
>
> (iv) That neither Jeffrey Baron nor Ondova Limited Company have been listed as the registrant of record for, or been the licensee of the listed registrant of record for, or holder of record title to or in, the domain names in the Odd

Group Portfolio.

No parties objected to the proffer and therefore the Court so finds.

H. At the hearing conducted on July 22, 2010, Mr. Baron did not attend due to a medical emergency whereby Mr. Baron checked himself in to Plano Presbyterian Hospital. Mr. Baron's presence was necessary due to the fact that there were two significant matters which needed his testimony and/or a proffer of his testimony. Mr. Baron's medical emergency and absence were not reported to the Court or the Trustee prior to the 2:30 p.m. hearing. Upon the Court's suggestion, the parties have agreed to facilitate the approval of the Settlement Agreement through two mechanisms set forth in this Order, however the Court requires a verified affidavit from Mr. Baron describing the medical emergency which kept him from the July 22nd hearing with sufficient supporting documentation (as determined by the Court) from Plano Presbyterian Hospital or the doctor who treated him. This affidavit must be filed under seal by Tuesday, July 27, 2010 at 5:00 p.m. central time and also be served on counsel for the Trustee and the Netsphere Parties. This Court has entered a sua sponte seal order with respect to this affidavit.

I. Because Mr. Baron did not attend the hearing on July 22, 2010, he was not able to be present for a proffer related to a resolution reached between Baron and the Netsphere Parties related to the Belton Trust. In order to facilitate approval of the Settlement Agreement, this Court ordered Mr. Baron to submit a verified affidavit as a proffer of his testimony for the additional findings by this Court. Mr. Baron was ordered to file the affidavit, as prepared by counsel for the Netsphere Parties, no later than 5 p.m. central time on Tuesday, July 27, 2010, setting forth his agreement to the resolution reached and providing the testimony for the additional findings read into the record at the July 22nd hearing. Based upon the verified affidavit filed by Mr. Baron stating the following, this Court further finds:

(1) That Jeffrey Baron is the trustee of the Belton Trust;

(2) That all beneficiaries of the Belton Trust are signing the Settlement Agreement and desire that the Belton Trust be bound by this Settlement Agreement;

(3) That the only asset in which the Belton Trust has any interest of any kind is Domain Jamboree, LLC;

(4) That the only assets in which Domain Jamboree, LLC has any interest of any kind is the domain name domainjamboree.com and its accreditation agreement with ICANN and registry agreement with Verisign, Inc; and

(5) That Jay Kline is the current Manager of Domain Jamboree, LLC and is authorized to sign this Settlement Agreement on behalf of Domain Jamboree, LLC.

J. In order to resolve an outstanding issue regarding the price to be paid by Quantec, LLC and Novo Point, LLC for the renewal of the domain names pursuant to Section 6(c) of the Settlement Agreement which requires the parties to enter into a New Domain Name Registration Agreement, the parties have agreed to allow this Court to determine the price to be paid per domain name pursuant to a motion to be filed by the Trustee and the parties shall be bound by such determination. The Trustee, Quantec, LLC, and Novo Point, LLC have previously agreed to a price of $8.94 per domain name however that price was not agreed to by Baron. The parties agree to be bound by the price determined by the Court pursuant to a separate motion to be filed by the Trustee and agree to execute the Settlement Agreement by the deadlines set forth in this Order.

NOW, THEREFORE, IT IS HEREBY:

ORDERED that the Motion is GRANTED; it is further

ORDERED that the findings of fact and conclusions of law stated herein shall constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this matter through Bankruptcy Rule 9014. To the extent that any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any

conclusion of law shall be determined to be a finding of fact, it shall be so deemed. It is further,

ORDERED that the Settlement Agreement, including all related agreements, releases, and other actions contemplated therein, are APPROVED. It is further

ORDERED that all parties are directed to execute the Settlement Agreement no later than 5 p.m. central time Wednesday, July 28, 2010, except for Denis Kleinfeld, Jeannie Hudson and their related entities, who must execute this Settlement Agreement no later than by 5 p.m. central time on July 30, 2010. It is further,

ORDERED that Jay Kline shall sign the Settlement Agreement as manager of Domain Jamboree, LLC, however if the parties are unable to locate Mr. Kline, Jeffrey Baron is ordered to sign on behalf of Domain Jamboree, LLC, as the trustee of the Belton Trust which is the sole Member / owner of Domain Jamboree, LLC. Either Mr. Baron or Mr. Kline must execute the Settlement Agreement on behalf of Domain Jamboree, LLC no later than 5 p.m. central time on July 30, 2010. It is further,

ORDERED that the Trustee will file the motion for this Court to determine the price for domain name renewals for the New Domain Name Registration Agreement no later than July 30, 2010. It is further,

ORDERED that the Trustee and all the settling parties are directed to execute the Settlement Agreement by the dates set forth herein and are authorized to take any and all action required to implement the Settlement Agreement, including to make all payments required thereunder and to fulfill all of their respective obligations contemplated under the Settlement Agreement. It is further

ORDERED that this Court shall retain jurisdiction to hear and resolve all matters regarding the Motion, all disputes as provided for in the Settlement Agreement and for the

enforcement and implementation of this Order in connection with such disputes.

END OF ORDER # #

Submitted by:

Raymond J. Urbanik
Texas Bar No. 20414050
Lee Pannier
Texas Bar No. 24066705
MUNSCH HARDT KOPF & HARR, P.C.
3800 Lincoln Plaza
500 N. Akard Street
Dallas, Texas 75201-6659
Telephone: (214) 855-7500
Facsimile: (214) 855-7584

ATTORNEYS FOR DANIEL J. SHERMAN, CHAPTER 11 TRUSTEE

From: VOGEL, PETER <pvogel@gardere.com>
To: 'james eckels' <jamesmeckels@gmail.com>
Date: Monday, March 7, 2011, 11:42:35 AM
Subject: Memo Requesting Approval re Deletion of February-Expiring Money Losing Domains

Dear Mr. Eckels,

The Receiver accepts your recommendation and requests that you instruct Fabulous.com to proceed with the deletion of the money-losing domain names described in the memo and whose registrations expired in February 2011. Thank you.

Peter S. Vogel | Receiver
Gardere Wynne Sewell LLP

1601 Elm Street, Suite 3000 | Dallas, TX 75201
214.999.4422 direct
214.999.3422 fax
Gardere | Bio | vCard

From: james eckels [mailto:jamesmeckels@gmail.com]
Sent: Saturday, March 05, 2011 10:40 AM
To: VOGEL, PETER
Cc: GOLDEN, BARRY; LOH, PETER; Urbanik, Raymond; Corky Sherman; droossien@munsch.com; BLAKLEY, JOHN DAVID; Gary Schepps; peter@barrettcrimelaw.com; Jeff Baron; Tom Jackson; Joshua Cox; Damon Nelson
Subject: Memo Requesting Approval re Deletion of February-Expiring Money Losing Domains

Dear Mr. Vogel:

Attached with this message is the memo and supporting exhibits requesting approval to delete 10,258 February-Expiring Money-Losing Domains.

Please e-mail or call with any questions.

Sincerely,

--
James M. Eckels, Esq.
Dallas, TX
562 899 0879 mobile
972 439 1882 office
jamesmeckels@gmail.com

Exhibit F

Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE INC.,	§	
MANILA INDUSTRIES, INC.; and	§	
MUNISH KRISHAN	§	
Plaintiffs,	§	
	§	**CIVIL ACTION NO. 3-09-CV-0988-F**
v.	§	
	§	
JEFFREY BARON and	§	
ONDOVA LIMITED COMPANY,	§	
Defendants.	§	

SWORN DECLARATION OF JEFFREY L. HARBIN

Jeffrey L. Harbin declares under penalty of perjury pursuant to the laws of the United States as follows:

1. My name is Jeffrey L. Harbin.

2. I am the Manger of Quantec, LLC and Novo Point, LLC, and have been at all times pertinent hereto.

3. On this day I tender my resignation as Manager of the LLCs.

4. I tender my resignation for the reason that, by attempting to operate and manage the LLCs, I have consistently been placed in what I perceive to be an adversarial position with the Receiver and his attorneys.

5. I resign because I feel that I cannot perform effectively in an environment where any misstep on my part may be the cause of my being cited for contempt as has been implied.

6. On February 16, 2011, the attorneys for the LLCs, Thomas P. Jackson and Joshua Cox, and I met with the Receiver commencing at 10:00 a.m. and ending at approximately 5:00 p.m. I met with the Receiver in an attempt to resolve ongoing operational issues of the LLCs. Although repeatedly requested, the actual implementation of operational protocols was not discussed.

7. This resignation is effective immediately.

Further Affiant Sayeth Not.

Signed under penalty of perjury under the laws of the United States this 21st day of February, 2011.

/s/ Jeffrey L. Harbin
Jeffrey L. Harbin

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2011, a true and correct copy of the foregoing was sent to all parties requesting electronic service through the Court's ECF system.

/s/ Thomas P. Jackson
Thomas P. Jackson

Exhibit H

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA INDUSTRIES., INC., AND MUNISH KRISHAN	§	
PLAINTIFFS,	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
JEFFREY BARON AND ONDOVA LIMITED COMPANY,	§	
DEFENDANTS.	§	

THE RECEIVER'S MOTION TO CLARIFY THE RECEIVER ORDER

The Order Appointing Receiver grants the Receiver exclusive control over any and all "Receivership Parties." The Receiver moves for clarification that the definition of Receivership Parties has always included Novo Point, LLC and Quantec, LLC.

1. On November 24, 2010, the Court issued an order appointing Peter S. Vogel as the Receiver for Defendant Jeffrey Barron (the "Receiver Order"). [Docket #124.]

2. The Receiver Order defines "Receivership Parties" as Jeffrey Baron and Village Trust, Equity Trust Company IRA 19471, Daystar Trust, Belton Trust, Novo Point, Inc., Iguana Consulting, Inc., Quantec, Inc., Shiloh, LLC, Novquant, LLC, Manassas, LLC, Domain Jamboree, LLC, and ID Genesis, LLC. [Id. at p. 1.] The Receiver Order further defines Receivership Parties as "any entity under the direct or indirect control of Jeffrey Baron, whether by virtue of ownership, beneficial interest, a position as officer, director, power of attorney or any other authority to act." [Id. at p. 2.]

3. At a telephone hearing on November 30, 2010, the Court stated that the definition of Receivership Parties has always included Novo Point, LLC and Quantec, LLC.

4. The Receiver moves the Court for an order that the definition of Receivership Parties has always included Novo Point, LLC and Quantec, LLC.

WHEREFORE, PREMISES CONSIDERED, the Receiver Peter S. Vogel respectfully requests that the Court issue an order clarifying that in the Order Appointing Receiver, the definition of Receivership Parties has always included Novo Point, LLC and Quantec, LLC.

Respectfully submitted,

/s/ Barry M. Golden
Barry M. Golden
Texas State Bar No. 24002149
Peter L. Loh
Texas Bar Card No. 24036982
GARDERE WYNNE SEWELL LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201
(214) 999 4667 (facsimile)
(214) 999 3000 (telephone)
bgolden@gardere.com
ploh@gardere.com

ATTORNEYS FOR THE RECEIVER, PETER S. VOGEL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on December 3, 2010.

/s/ Peter L. Loh
Peter L. Loh

CERTIFICATE OF CONFERENCE

The undersigned certifies he attempted to confer via e-mail on December 2, 2010, with regard to the foregoing motion with all counsel of record in this matter. Counsel either did not respond to the attempt to confer or stated they were unopposed to the motion.

/s/ Peter L. Loh
Peter L. Loh

Exhibit I

EXECUTION VERSION

EXHIBIT K

Form of Agreed Order of Dismissal/Joint Stipulation in the Dallas Federal Case

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., et al.,	§	
	§	
Plaintiffs,	§	
	§	
	§	
	§	
vs.	§	**CIVIL ACTION NO.**
	§	**3-09CV0988-F**
JEFFREY BARON, et. al.,	§	
	§	
Defendants.	§	
	§	

STIPULATED DISMISSAL WITH PREJUDICE

Plaintiffs, Netsphere, Inc., Manila Industries, Inc. and Munish Krishan (collectively "Plaintiffs"), filed the Complaint in Civil No. 3-09-CV-0988-F against Defendants, Jeffrey Baron and Ondova Limited Company d/b/a Compana, LLC (collectively "Defendants"). Charla Aldous ("Aldous") and Jeffrey Rasansky ("Rasansky") have intervened in this matter and Quantec LLC ("Quantec"), Novo Point LLC ("Novo Point"), and Iguana Consulting LLC ("Iguana") have sought to intervene (Aldous, Rasansky, Quantec, Novo Point, and Iguana are herein collectively referred to as the "Intervenors"). Plaintiffs have now agreed upon a resolution of this matter with Defendants and Intervenors prior to a trial on the merits. Plaintiffs, Defendants and Intervenors hereby agree and it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. This Court has jurisdiction over the parties and subject matter of this action.

2. Any and all claims and counter-claims that have been or could have been asserted by Plaintiffs, Defendants and Intervenors are dismissed with prejudice to the right of Plaintiffs,

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.

5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

Netsphere, Inc. Signed: John MacPete Name: John MacPete Title: Attorney for Netsphere Date: 24 August, 2010	**Manila Industries, Inc.** Signed: John MacPete Name: John MacPete Title: Attorney for Manila Date: 24 August, 2010
John MacPete John MacPete Attorney for Munish Krishan	_____ Munish Krishan Date: 24 August 2010
_____ Jeffrey Baron Date: ____, 2010	**Ondova Limited Company** By: Daystar Trust, Managing Member Signed: _____ Name: _____ Title: _____ Date: _____, 2010
Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed: Daniel J. Sherman Name: DANIEL J. SHERMAN Title: Ch 11 Trustee Date: 8/13, 2010	**Quantec LLC** Signed: _____ Name: _____ Title: _____ Date: _____, 2010

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.

5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

Netsphere, Inc. Signed: John MacPete Name: John MacPete Title: Attorney for Netsphere Date: 24 August, 2010	Manila Industries, Inc. Signed: John MacPete Name: John MacPete Title: Attorney for Manila Date: 24 August, 2010
John MacPete John MacPete Attorney for Munish Krishan	_____ Munish Krishan Date: 24 August, 2010
_____ Jeffrey Baron Date: ____, 2010	Ondova Limited Company By: ~~Daystar Trust, Managing Member~~ Signed: Daniel J. Sherman Name: DANIEL J. SHERMAN Title: Ch 11 Bankruptcy Trustee Date: 8/30, 2010
Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed: Daniel J. Sherman Name: DANIEL J. SHERMAN Title: Ch 11 Trustee Date: 8/13, 2010	Quantec LLC Signed: _____ Name: _____ Title: _____ Date: _____, 2010

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.

5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

Netsphere, Inc. Signed:_____ Name:_____ Title:_____ Date: _____, 2010	**Manila Industries, Inc.** Signed:_____ Name:_____ Title:_____ Date: _____, 2010
	_____ Munish Krishan Date: _____, 2010
Jeffrey Baron Date: ____, 2010	**Ondova Limited Company** By: Daystar Trust, Managing Member Signed:_____ Name:_____ Title:_____ Date: _____, 2010
Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed: Daniel J. Sherman Name: DANIEL J. SHERMAN Title: Ch 11 Trustee Date: 8/13, 2010	**Quantec LLC** Signed:_____ Name:_____ Title:_____ Date: _____, 2010

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.

5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

Netsphere, Inc. Signed: [signature] Name: Munish Krishan Title: President Date: 8/26, 2010	**Manila Industries, Inc.** Signed: [signature] Name: Munish Krishan Title: President Date: 8/26, 2010
	[signature] Munish Krishan Date: 8/26, 2010
[signature] Jeffrey Baron Date: ____, 2010	**Ondova Limited Company** By: Daystar Trust, Managing Member Signed: _____ Name: _____ Title: _____ Date: _____, 2010
Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed: [signature] Name: DANIEL J. SHERMAN Title: Ch 11 Trustee Date: 8/13, 2010	**Quantec LLC** Signed: _____ Name: _____ Title: _____ Date: _____, 2010

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.

5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

Netsphere, Inc. Signed:_____ Name:_____ Title:_____ Date: _____, 2010	**Manila Industries, Inc.** Signed:_____ Name:_____ Title:_____ Date: _____, 2010
	_____ Munish Krishan Date: _____, 2010
_____ Jeffrey Baron Date: _____, 2010	**Ondova Limited Company** By: Daystar Trust, Managing Member Signed:_____ Name:_____ Title:_____ Date: _____, 2010
Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed: Daniel J. Sherman Name: DANIEL J. SHERMAN Title: Ch 11 Trustee Date: 8/13, 2010	**Quantec LLC** Signed:_____ Name:_____ Title:_____ Date: _____, 2010

Defendants and Intervenors to file or refile same or any part thereof against any and/or all of the parties herein.

4. Each party shall bear its own costs and attorneys' fees.

5. This Court shall retain jurisdiction for purposes of enforcing this order.

SO AGREED AND STIPULATED:

Netsphere, Inc. Signed:_____ Name:_____ Title:_____ Date: _____, 2010	**Manila Industries, Inc.** Signed:_____ Name:_____ Title:_____ Date: _____, 2010
	_____ Munish Krishan Date: _____, 2010
_____ Jeffrey Baron Date: _____, 2010	**Ondova Limited Company** By: Daystar Trust, Managing Member Signed:_____ Name:_____ Title:_____ Date: _____, 2010
Ondova Chapter 11 Trustee By: Daniel J. Sherman Signed:_____ Name:_____ Title:_____ Date: _____, 2010	**Quantec LLC** Signed: ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER Name: ANGELA POPE / JOLEEN KOTEWA Title:_____ Date: 6th July, 2010

EXECUTION VERSION

Novo Point LLC Signed: ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER Name: ANGELA POPE & JOCELYN KOTERA Title: _____ Date: 9th July, 2010	**Iguana Consulting LLC** Signed: ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER Name: ANGELA POPE & JOCELYN KOTERA Title: _____ Date: 9th July 2010
_____ Charla Aldous Date: _____, 2010	_____ Jeffrey Rasansky Date: _____, 2010

SO ORDERED:

Signed _____, 2010.

_____
THE HONORABLE W. ROYAL FURGESON, JR.
U.S. DISTRICT COURT JUDGE

EXECUTION VERSION

Novo Point LLC	**Iguana Consulting LLC**
Signed:_____	Signed:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date: _____, 2010	Date: _____, 2010
Charla Aldous	Jeffrey Rasansky
Date: 7-28, 2010	Date: 7-28, 2010

SO ORDERED:

Signed _____, 2010.

THE HONORABLE W. ROYAL FURGESON, JR.
U.S. DISTRICT COURT JUDGE

EXECUTION VERSION

Novo Point LLC ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER Signed: _____ Name: ANGELA POPE & JOCELYN KOTEKA Title: _____ Date: 9th July, 2010	**Iguana Consulting LLC** ATP NOMINEES LIMITED BY ITS DULY AUTHORISED OFFICER Signed: _____ Name: ANGELA POPE & JOCELYN KOTEKA Title: _____ Date: 9th July 2010
_____ Charla Aldous Date: _____, 2010	_____ Jeffrey Rasansky Date: Aug 27 2010

SO ORDERED:

Signed _____, 2010.

_____
THE HONORABLE W. ROYAL FURGESON, JR.
U.S. DISTRICT COURT JUDGE

Exhibit J

DECLARATION OF NARIDA HINANO CROCOMBE

1. My name is Narida Hinano Crocombe and I reside in the Cook Islands.
2. I am competent to make this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct. I have knowledge of the stated facts which I learned as the result of my position directing the affairs of Novo Point, LLC and Quantec, LLC, on behalf of Corporate Director Management Services, LLC, the manager of those LLCs duly appointed as such under Cook Islands law.
3. If the domain names of Novo Point, LLC and Quantec, LLC are allowed to be deleted, the names will be lost forever as they will be snapped up by individuals and the companies' competitors. Each domain is unique and represents a unique business opportunity. Most of the names that are now threatened with deletion have—according to the company's internal reports– been appraised at a minimum of $320.00 per domain.
4. The loss of over 10,000 domain names valued at $320.00 or more per domain, is the loss of over $3,200,000.00.
5. The failure of the person who now controls the cash flow of Novo Point, LLC and Quantec, LLC to release sufficient funds to allow Corporate Director Management Services, LLC to maintain compliance with registration and reporting laws with respect to the international obligations of the LLCs, and the failure of that person to do so himself, has jeopardized the business of the LLCs and cannot possibly be in the best interests of either it creditors or its member. The governmental penalties

could be as high as $7,000,000.00 for 2011 if this situation is allowed to continue beyond March 15, 2011 a significant trigger date for compliance.

6. Jeff Harbin was a key man to the business. I do not believe damages will be an adequate remedy to compensate for the consequences of the loss of the LLC's key man. While the loss will be substantial it will also difficult to calculate and probably, given the amount and the ongoing revenue stream which will be lost, impossible to recover from anyone.

7. Novo Point, LLC and Quantec, LLC have now essentially been shut down by the Receiver appointed by the United States District Court. To the best of my knowledge the Receiver is undertaking no active development to expand the use and income stream from the domain use. No domains are being developed through content activation, joint ventues, or effective content programming. Indeed it appears quite the opposite is occurring. The LLCs are now being directed by the receiver to cannibalize themselves.

8. It is inevitable the reputation of the Novo Point, LLC and Quantec, LLC is being damaged internationally by this. The reputation of the companies is also being directly impacted by what appears to be the internationally published mis-information of the receiver claiming that Damon Nelson is the manager of the companies.

9. Damon Nelson is neither the manager of Novo Point, LLC nor Quantec, LLC and we know of no authority on the part of the Receiver under the companies constitutive documents or at law to make such appointment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed and Signed this 9th day of March, 2011.

Signature: _____

Printed Name: NARIDA HAJANO CROCOMBE

SWORN AND DECLARED TO UNDER PENALTY OF PERJURY

Exhibit K

COOK ISLANDS

CERTIFICATE OF CURRENT STATUS

NOVO POINT LLC

I, NGAMETUA ARAKUA, Registrar of Limited Liability Companies for the Cook Islands HEREBY CERTIFY:

1. THAT **NOVO POINT LLC** ("the Limited Liability Company") No **072/2009** was duly registered as a Limited Liability Company pursuant to the Limited Liability Companies Act 2008 on the **30th day of June 2009.**

2. THAT the Limited Liability Company's registration is current and expires on the **29th day of June 2011.**

3. THAT according to our records at the date of this certificate:

   (a) The name of the Registered Agent is SOUTHPAC TRUST LIMITED

   (b) The address for service is Southpac Trust Limited, ANZ House, Main Road, Avarua, Rarotonga, Cook Islands.

   (d) No notices of suspension have been filed with this office.

CERTIFIED under my hand and seal at Rarotonga, Cook Islands this **28th** day of **January 2011.**

REGISTRAR OF LIMITED LIABILITY COMPANIES
GOVERNMENT OF THE COOK ISLANDS

NGAMETUA ARAKUA
Registrar of Limited Liability Companies

FINANCIAL SUPERVISORY COMMISSION

Exhibit L

COOK ISLANDS

CERTIFICATE OF CURRENT STATUS

QUANTEC LLC

I, NGAMETUA ARAKUA, Registrar of Limited Liability Companies for the Cook Islands HEREBY CERTIFY:

1. THAT **QUANTEC LLC** ("the Limited Liability Company") No **073/2009** was duly registered as a Limited Liability Company pursuant to the Limited Liability Companies Act 2008 on the **30th day of June 2009.**

2. THAT the Limited Liability Company's registration is current and expires on the **29th day of June 2011.**

3. THAT according to our records at the date of this certificate:

   (a) The name of the Registered Agent is SOUTHPAC TRUST LIMITED

   (b) The address for service is Southpac Trust Limited, ANZ House, Main Road, Avarua, Rarotonga, Cook Islands.

   (d) No notices of suspension have been filed with this office.

CERTIFIED under my hand and seal at Rarotonga, Cook Islands this **28th** day of **January 2011.**

REGISTRAR OF LIMITED LIABILITY COMPANIES
GOVERNMENT OF THE COOK ISLANDS

NGAMETUA ARAKUA
Registrar of Limited Liability Companies

FINANCIAL SUPERVISORY COMMISSION

Exhibit M

DEED OF RESIGNATION OF TRUSTEE AND APPOINTMENT OF SUCCESSOR TRUSTEE OF THE VILLAGE TRUST

PARTIES

1 **STOWE PROTECTORS LTD**

2. **ASIATRUST LIMITED**

3. **SOUTHPAC TRUST INTERNATIONAL, INC.**

WHEREAS, on December 30, 2005, Jeffrey Baron, as Settlor (the "Settlor"), Asiatrust Limited, as Trustee, and PN Management Limited, as Protector, executed that certain Trust Deed (the "Trust Deed") establishing a trust to be known as The Village Trust (the "Trust');

WHEREAS, PN Management Limited resigned as Protector of the Trust and Stowe Protectors Ltd was appointed the Protector of the Trust on February 3, 2009;

WHEREAS, Stowe Protectors Ltd is currently serving as Protector of the Trust (the "Protector");

WHEREAS, Article III C of the Trust Deed provides that the Trustee may resign at any time by providing written notice addressed to the Protector;

WHEREAS, Article III B.3 of the Trust Deed gives the Protector the power to appoint a successor Trustee, whether within or without the Cook Islands, as Trustee of the Trust;

WHEREAS, Article III G of the Trust Deed provides that without prejudice to any other right conferred by law a resigning Trustee shall be entitled to require from each continuing Trustee or successor Trustee an indemnity as described in Article XVII of the Trust Deed;

WHEREAS, Asiatrust Limited desires to resign as Trustee of the Trust (the "Resigning Trustee") by giving written notice to the Protector and to be discharged from the trusts and powers of the Trust upon being indemnified as provided herein;

WHEREAS, the Protector desires to appoint Southpac Trust International, Inc , as successor Trustee of the Trust;

NOW, THEREFORE, the parties hereto agree to the following:

1. The Resigning Trustee does hereby provide written notice to the Protector that it resigns as Trustee of the Trust and the Resigning Trustee is hereby discharged from all or any of the trusts and powers reposed in or conferred on it under the Trust Deed

2 Stowe Protectors Ltd , as Protector, does hereby appoint Southpac Trust International, Inc as successor Trustee of the Trust (the "Successor Trustee") to exercise all powers and discretions granted to the Trustee under the Trust Deed

3. The Successor Trustee does hereby accept its appointment as successor Trustee of the Trust and hereby covenants with the Resigning Trustee and its directors and officers and its successors in title at all times fully and effectually (but subject as provided below), pursuant to Article III G and Article XVII, to release and indemnify the Resigning Trustee and its directors, officers, employees and its successors in title against any and all liabilities, actions, proceedings, claims, undertakings, obligations, demands, taxes, and duties (including all associated interests, penalties, and costs) and all costs, expenses and other liabilities of whatsoever nature for and in respect of which the Resigning Trustee may be or become liable as trustee or former trustee of the Trust (the "Liabilities"), PROVIDED THAT the liability of the Successor Trustee under the above release and indemnity shall not extend to the Liabilities that arise from the Resigning Trustee's own fraud, willful misconduct, or negligence, and PROVIDED FURTHER THAT the liability of the Successor Trustee under the above release and indemnity shall be limited to its right of indemnity against the Trust Property provided under the Trust Deed and shall extend only to the Liabilities in respect of which the Resigning Trustee would have been entitled to reimbursement out of the property of the Trust had it remained trustee of the Trust on its present terms

4 The provisions of this document shall take effect on September 29, 2010 (the "Effective Date"). Upon the Effective Date, the Trust Property shall vest in the Successor Trustee The Resigning Trustee, pursuant to Article III E of the Trust Deed, hereby covenants with the Successor Trustee to execute all documents and take such other action as may be reasonably necessary or desirable to transfer the Trust Property to the Successor Trustee as soon as possible after the Effective Date.

5. In this document where the context allows words and expressions shall bear the same meanings as in the Trust Deed

6. This document may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but such counterparts together shall constitute one and the same document. A facsimile or a scan emailed copy of a signed counterpart shall be deemed to be equivalent to a signed original.

7. This document shall be governed by and construed in accordance with the laws of the Cook Islands

RESIGNING TRUSTEE

The Common Seal of **ASIATRUST LTD**)
as trustee was hereunto affixed on the)
day of 2010 in the presence of:)

ATP Directors Ltd, Director by its authorized Signatories

_____

SUCCESSOR TRUSTEE
Appointment Accepted

The Common Seal of **SOUTHPAC TRUST INTERNATIONAL, INC.** as trustee was)
hereunto affixed on the day of)
2010 in the presence of:)

Corporate Directors Limited, Director, by its authorized signatory

_____

Sepac Limited, Resident Secretary, by its authorized signatory

_____

ACKNOWLEDGED

STOWE PROTECTORS LTD ,
Protector of The Village Trust

By: _____
Print name: DAVID WILSON
Title: DIRECTOR

21/9/2010
Date

in the presence of:

_____
Witness signature

Julie Wynne
Witness name

Attorney-at-law
Witness occupation

Geneva, Switzerland
Witness place of abode

RESIGNING TRUSTEE

The Common Seal of **ASIATRUST LTD**)
as trustee was hereunto affixed on the)
21st day of September 2010 in the presence of:)

ATP Directors Ltd, Director by its authorized Signatories

_____

SUCCESSOR TRUSTEE
Appointment Accepted

The Common Seal of **SOUTHPAC TRUST INTERNATIONAL, INC.** as trustee was)
hereunto affixed on the 21st day of)
September 2010 in the presence of:)

Corporate Directors Limited, Director, by its authorized signatory

_____

Sepac Limited, Resident Secretary, by its authorized signatory

_____

ACKNOWLEDGED

STOWE PROTECTORS LTD ,
Protector of The Village Trust

By:_____ _____
Print name:_____ Date
Title:_____

in the presence of:

_____
Witness signature

Exhibit N

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA INDUSTRIES., INC., AND MUNISH KRISHAN	§	
PLAINTIFFS,	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
JEFFREY BARON AND ONDOVA LIMITED COMPANY,	§	
DEFENDANTS.	§	

THE RECEIVER'S FOURTH MOTION TO CLARIFY THE RECEIVER ORDER

Mr. Baron has ***again*** obstructed the Receiver from managing the LLC entities that control the thousands of domain names. This is how. Mr. Baron has created a new legal entity called ***CDM Services, LLC***. He claims that this entity has "oversight authority" over the LLCs. By creating this new parent entity, Mr. Baron now appears to be arguing that the Receiver Order does not control the LLCs since: (1) the lawyers for the LLCs who previously entered into agreements on behalf of the LLCs lacked authority over of the parent entity, and (2) the Receiver Order fails to specifically name the parent entity. In order to halt this latest obstruction and permit the Receiver to do his job (including potentially resolving claims from attorneys who contend that the LLCs failed to pay them for their services), the Receiver seeks clarification that the Receiver Order includes the parent entity, too.

A. Relevant Facts.

1. The Receiver Order did not specifically name the LLCs.

The Receiver Order gives the Receiver control over any Receivership Party—defined as Mr. Baron as well as "any entity under the direct or indirect control of Jeffrey Baron, whether by virtue of ownership, beneficial interest, a position as officer, director, power of attorney or any other authority to act." [Docket No. 124, p. 2.] As examples, but not as limitations, the Receiver Order included Novo Point, ***Inc***. and Quantec, ***Inc***. After the Court issued the Receiver Order, the Receiver learned that the entities controlling the approximately 200,000 domain names are actually Novo Point, ***LLC*** and Quantec, ***LLC*** (collectively, the "LLCs").

2. The Court clarified that the Receiver Order includes the LLCs.

During a telephone hearing on November 30, 2010, the Court was made aware of the apparent glitch (which appeared to be more of a clerical error than anything else), and the Court stated that the definition of Receivership Parties has always included Novo Point, LLC and Quantec, LLC. Pursuant to the Court's instruction to the Receiver, on December 3, 2010, the Receiver filed *The Receiver's Motion to Clarify the Receiver Order* requesting that the Court issue a written Order stating that the definition of Receivership Parties has always included Novo Point, ***LLC*** and Quantec, ***LLC***. [Docket No. 139.]

3. Lawyers for the LLC requested an Order from the Court clarifying that the Receiver Order includes the LLCs.

On December 17, 2010, and in response to a request from Joshua Cox and Thomas Jackson, the only attorneys representing Novo Point, LLC and Quantec, LLC, the Court issued its *Order Granting the Receiver's Motion to Clarify the Receiver Order with Respect to Novo Point, LLC and Quantec, LLC* (the "Agreed LLC Order") [Docket No. 176.] The Agreed LLC Order states, in relevant part, that "[t]he Court declares that the Receiver Order's definition of

Receivership Parties has always included Novo Point, LLC and Quantec, LLC." [*Id.*] Notably, the Court issued the Agreed LLC Order in the presence of Gary Schepps, counsel for Mr. Baron, and Mr. Baron himself—and neither of them objected.[1] Mr. Schepps and/or Mr. Baron, however, later experienced buyer's remorse.

4. In a first attempt nullify the Agreed LLC Order, Mr. Baron's attorney appealed the LLC Order.

On January 18, 2011, Mr. Schepps filed the *Notice of Appeal to the United States Court of Appeals for the Fifth Circuit* (the "Notice of Appeal"), through which he contends that the LLCs are appealing the Agreed LLC Order. [Docket No. 227.] In other words, the LLCs now appear to be appealing the very same Agreed LLC Orders they sponsored. The only difference is that the attorneys purportedly representing the LLCs are no longer Messrs. Cox and Jackson—both of whom claimed that neither they, nor their contact at the LLCs, Jeff Harbin, authorized the filing of the Notice of Appeal. The only attorney for the LLCs listed on the Notice of Appeal is Mr. Baron's personal attorney, Mr. Schepps. [*Id.*]

On January 20, 2011, the Receiver filed *The Receiver's Emergency Motion to Strike Gary Schepps' Notice of Appeal Purportedly Filed on Behalf of the LCCs and for Gary Schepps to Show Authority* ("Motion to Show Authority"). [Docket No. 234.] The Motion to Show Authority seeks an order to strike Mr. Schepps' Notice of Appeal for lack of authority from this Court and to require Mr. Schepps to show his authority to represent the LLCs. The Court has not yet ruled on the Motion to Show Authority.

---

[1] *See* a true and correct copy of the relevant portions of the transcript from December 17, 2010, showing that Messrs. Schepps and Baron were present during the entry of the Agreed LLC Order, and that neither objected attached hereto as Appendix in Support of the Receiver's Fourth Motion to Clarify the Receiver Order ("Appx.") at 1-9.

5. In a second attempt to nullify the Agreed LLC Order, Mr. Baron's attorney declared that the LLCs are controlled by a brand new entity.

On the evening of January 20, 2011 (a few hours after the Receiver filed the Motion to Show Authority), Mr. Baron made the next chess move. In a letter to the Trustee, Mr. Baron's attorney Mr. Schepps declared that Novo Point, LLC and Quantec, LLC do not have independent authority to act—rather they are under "oversight authority" by yet ***another*** Baron entity. The letter, a copy of which is attached hereto, provides, in relevant part:

> CDM Services, LLC is the entity which has been legally entrusted with oversight authority for NovoPoint [sic] and Quantec, roughly equivalent a [sic] board of directors here. We [sic] were retained to represent NovoPoint [sic] and Quantec with respect to the appeal of the receivership by CDMS.

[Appx. at 10-11.]

Prior to January 20, 2011, the Receiver has never heard of CDM Services, LLC (and, from the Receiver's communications with the Trustee, apparently neither has the Trustee). The Receiver wonders when this entity actually came into existence (which will hopefully come to light through the Receiver's Motion to Show Authority).

By declaring that CDM Services, LLC has authority over the LLCs, Mr. Baron appears to be arguing that (a) the attorneys for Novo Point, LLC and Quantec, LLC who agreed to the Agreed LLC Order, did not have the appropriate authority to enter into the Agreed LLC Order, since they did not have the authority of CDM Services, LLC (the "Lack of Authority Argument"), and (b) the Receiver does not have any control over Novo Point, LLC or Quantec, LLC, since the Receiver Order (or any subsequent clarification order) does not specifically identify CDM Services (the "Specific Naming Argument").

The bottom line on Mr. Baron's latest chess move is that he, perhaps through Mr. Schepps, would take control over the hundreds of thousands of domains names which are the only money-making assets currently visible to the Receiver, other than stocks and bank accounts.

B. Requested Relief.

The Receiver expects that the Court will address the Lack of Authority Argument in considering the Motion to Show Authority. As for the Specific Naming Argument, which Mr. Baron apparently conjured up after the Receiver filed the Motion to Show Authority, the Receiver moves the Court for an order stating that (a) the definition of "Receivership Parties" has always included CDM Services, LLC or, (b) if CDM Services, LLC was created after the date of the Receiver Order, the definition of "Receivership Parties" included CDM Services, LLC since the date of CDM Services, LLC's creation. The Receiver further requests an order stating that all individuals affiliated with or purporting to represent CDM Services, LLC are subject to the Order Appointing Receiver in all respects.

Respectfully submitted,

/s/ Barry M. Golden
Barry M. Golden
Texas State Bar No. 24002149
Peter L. Loh
Texas Bar Card No. 24036982
GARDERE WYNNE SEWELL LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201
(214) 999 4667 (facsimile)
(214) 999 3000 (telephone)
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ploh@gardere.com

ATTORNEYS FOR THE RECEIVER, PETER S. VOGEL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on January 24, 2011.

/s/ Peter L. Loh
Peter L. Loh

CERTIFICATE OF CONFERENCE

Given the nature of this motion, the Receiver does not believe it is necessary to confer with counsel to this case. Nonetheless, the undersigned certifies that counsel for the Receiver attempted to confer via e-mail on January 24, 2011, with regard to the foregoing motion with all counsel of record in this matter. Counsel either did not respond to the attempt to confer or stated they were unopposed to the motion.

/s/ Peter L. Loh
Peter L. Loh

Exhibit O

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE INC., MANILA INDUSTRIES, INC.; and MUNISH KRISHAN Plaintiffs, vs. JEFFREY BARON and ONDOVA LIMITED COMPANY, Defendants	§ § § § § § § § § §	CIVIL ACTION NO. 3-09CV0988-F

ORDER APPOINTING RECEIVER

The Court hereby appoints a receiver and imposes an ancillary relief to assist the receiver as follows:

APPOINTMENT OF RECEIVER

IT IS HEREBY ORDERED that Peter S. Vogel is appointed Receiver for Defendant Jeffrey Baron with the full power of an equity receiver. The Receiver shall be entitled to possession and control over all Receivership Assets, Receivership Parties and Receivership Documents as defined herein, and shall be entitled to exercise all powers granted herein.

RECEIVERSHIP PARTIES, ASSETS, AND RECORDS

IT IS FURTHER ORDERED that the Court hereby takes exclusive jurisdiction over, and grants the Receiver exclusive control over, any and all "Receivership Parties", which term shall include Jeffrey Baron and the following entities:

Village Trust, a Cook Islands Trust
Equity Trust Company IRA 19471
Daystar Trust, a Texas Trust
Belton Trust, a Texas Trust
Novo Point, Inc., a USVI Corporation
Iguana Consulting, Inc., a USVI Corporation
Quantec, Inc., a USVI Corporation
Shiloh, LLC, a Delaware Limited Liability Company
Novquant, LLC, a Delaware Limited Liability Company

Manassas, LLC, a Texas Limited Liability Company
Domain Jamboree, LLC, a Wyoming Limited Liability Company
ID Genesis, LLC, a Utah Limited Liability Company

and any entity under the direct or indirect control of Jeffrey Baron, whether by virtue of ownership, beneficial interest, a position as officer, director, power of attorney or any other authority or right to act. The Court hereby enjoins any person from taking any action based upon any presently existing directive from any person other than the Receiver with regard to the affairs and business of the Receivership Parties, including but not limited to proceeding with the transfer of a portfolio of internet domain names ("Domain Names") for which Ondova Limited Company ("Ondova") acted as registrar. Specifically, but without limitation, VeriSign Inc and The Internet Corporation for Assigned Names and Numbers ("ICANN"), and any other entity connected to the transfer of the Domain Names, shall immediate cease such efforts and shall terminate any movement of the Domain Names.

IT IS FURTHER ORDERED that the Court hereby takes exclusive jurisdiction over, and grants the Receiver exclusive control over, any and all "Receivership Assets", which term shall include any and all legal or equitable interest in, right to, or claim to, any real or personal property (including "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes" (as these terms are defined in the Uniform Commercial Code)), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located, and further including any legal or equitable interest in any trusts, corporations, partnerships, or other legal entities of any nature, that are:

1. owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Receivership Party;

2. in the actual or constructive possession of any Receivership Party; or

3. in the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any

other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Receivership Party, including, but not limited to, any assets held by or for any Receivership Party in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside of the State of Texas.

IT IS FURTHER ORDERED that the Receiver shall be entitled to any document that any Receivership Party is entitled to possess as of the signing of this order ("Receivership Documents").

IT IS FURTHER ORDERED that all persons who receive actual notice of this Order by personal service or otherwise are hereby restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any Receivership Assets.

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Receivership Party, or subject to access by any Receivership Party or under any Receivership Party's control, without providing the Receiver prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section;

C. Cashing any checks or depositing any payments from customers or clients of a Receivership Party;

D. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Receivership Party; or

E. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Receivership Party or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Receivership Party.

F. The funds, property, and assets affected by this Order shall include both existing assets and assets acquired after the effective date of this Order.

IT IS FURTHER ORDERED that any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any Receivership Party, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Receivership Party, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the assets, funds, documents, or other property held by, or under its control:

1. on behalf of, or for the benefit of, any Receivership Party;

2. in any account maintained in the name of, or for the benefit of, or subject to withdrawal by, any Receivership Party; and

3. that are subject to access or use by, or under the signatory power of, any Receivership Party.

B. Deny any person other than the Receiver or his designee access to any safe deposit boxes or storage facilities that are either:

1. titled in the name, individually or jointly, of any Receivership Party; or

2. subject to access by any Receivership Party.

C. Provide the Receiver an immediate statement setting forth:

1. The identification number of each account or asset titled in the name, individually or jointly, of any Receivership Party, or held on behalf thereof, or for the benefit thereof, including all trust accounts managed on behalf of any Receivership Party or subject to any Receivership Party's control;

2. The balance of each such account, or a description of the nature and value of such asset;

3. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Receivership Party, whether in whole or in part; and

4. If the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date.

D. Immediately provide the Receiver with copies of all records or other documentation pertaining to each such account or asset, including, but not limited to, originals or copies of account applications, account statements, corporate resolutions, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

E. Immediately honor any requests by the Receiver with regard to transfers of assets to the Receiver or as the Receiver may direct.

DUTIES OF DEFENDANTS REGARDING ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that Defendants shall:

A. Within three business days following service of this Order, take such steps as are necessary to turn over control to the Receiver and repatriate to the Northern District of Texas all Receivership Documents and Receivership Assets that are located outside of the Northern District of Texas and are held by or for the Receivership Parties or are under the Receivership Parties' direct or indirect control, jointly, severally, or individually;

B. Within three business days following service of this Order, provide Plaintiff and the Receiver with a full accounting of all Receivership Documents and Receivership Assets wherever located, whether such Documents or Assets held by or for any Receivership Party or are under any Receivership Party's direct or indirect control, jointly, severally, or individually, including the addresses and names of any foreign or domestic financial institution or other entity holding the Receivership Documents and Receivership Assets, along with the account numbers and balances; and

D. Immediately following service of this Order, provide Plaintiff and the Receiver access to Defendants' records and Documents held by Financial Institutions or other entities, wherever located.

POWERS AND DUTIES OF RECEIVER

IT IS FURTHER ORDERED that the Receiver shall immediately present a sworn statement that he will perform his duties faithfully and shall post a cash deposit or bond in the amount of $1,000.

IT IS FURTHER ORDERED that in addition to all powers granted in equity to receivers, the Receiver shall immediately have the following express powers and duties:

A. To have immediate access to any business premises of the Receivership Party, and immediate access to any other location where the Receivership Party has conducted business and where property or business records are likely to be located.

B. To assume full control of the Receivership Party by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee or agent of the Receivership Party, including any Defendant, from control of, management of, or participation in, the affairs of the Receivership Party;

C. To take exclusive custody, control, and possession of all assets and documents of, or in the possession, custody or under the control of, the Receivership Party, wherever

situated, including without limitation all paper documents and all electronic data and devices that contain or store electronic data including but not limited to computers, laptops, data storage devices, back-up tapes, DVDs, CDs, and thumb drives and all other external storage devices and, as to equipment in the possession or under the control of the Receivership Parties, all PDAs, smart phones, cellular telephones, and similar devices issued or paid for by the Receivership Party.

D. To act on behalf of the Receivership Party and, subject to further order of the Court, to have the full power and authority to take all corporate actions, including but not limited to, the filing of a petition for bankruptcy as the authorized responsible person as to the Receivership Party, dissolution of the Receivership Party, and sale of the Receivership Party.

E. To divert mail.

F. To sue for, collect, receive, take in possession, hold, and manage all assets and documents of the Receivership Party and other persons or entities whose interests are now held by or under the direction, possession, custody or control of the Receivership Party.

G. To investigate, conserve, hold, and manage all Receivership Assets, and perform all acts necessary or advisable to preserve the value of those assets in an effort to prevent any irreparable loss, damage or injury to consumers or to creditors of the Receivership Party including, but not limited to, obtaining an accounting of the assets, and preventing transfer, withdrawal or misapplication of assets.

H. To enter into contracts and purchase insurance as advisable or necessary.

I. To prevent the inequitable distribution of assets and determine, adjust, and protect the interests of creditors who have transacted business with the Receivership Party.

J. To manage and administer the business of the Receivership Party until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which include retaining, hiring, or dismissing any employees, independent contractors, or agents.

K. To choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists (collectively, "Professionals"), as each Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order.

L. To make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order.

M. To institute, compromise, adjust, defend, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts that each Receiver deems necessary and advisable to preserve or recover the assets of the Receivership Party or that each Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including but not limited to, the filing of a petition for bankruptcy.

N. To conduct investigations and to issue subpoenas to obtain documents and records pertaining to, or in aid of, the receivership, and conduct discovery in this action on behalf of the receivership estate.

O. To consent to the dissolution of the receivership in the event that the Plaintiff may compromise the claim that gave rise to the appointment of the Receiver, provided, however, that no such dissolution shall occur without a motion by the Plaintiff and service provided by the Plaintiff upon all known creditors at least thirty days in advance of any such dissolution.

LIMITATION OF RECEIVER'S LIABILITY

IT IS FURTHER ORDERED that except for an act of gross negligence, the Receiver and the Professionals shall not be liable for any loss or damage incurred by any of the Receivership Parties, their officers, agents, servants, employees and attorneys or any other person, by reason of any act performed or omitted to be performed by the Receiver and the Professionals in connection with the discharge of his or her duties and responsibilities. Additionally, in the

event of a discharge of the Receiver either by dissolution of the receivership or order of this Court, the Receiver shall have no further duty whatsoever.

PROFESSIONAL FEES

IT IS FURTHER ORDERED that each Receiver and his professionals, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, which compensation shall be derived exclusively from the assets now held by, or in the possession or control of, or which may be received by the Receivership Party or which are otherwise recovered by the Receiver, against with the Receiver shall have a first and absolute administrative expense lien. The Receiver shall file with the Court and serve on the parties a fee application with regard to any compensation to be paid to professionals prior to the payment thereof.

COOPERATION WITH RECEIVER

IT IS FURTHER ORDERED that the Defendants and all other persons or entities served with a copy of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but not be limited to, providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic account, or digital file or telephonic data in any medium; turning over all accounts, files, and records including those in possession or control of attorneys or accountants; and advising all persons who owe money to the Receivership Party that all debts should be paid directly to the Receiver. Defendants are hereby temporarily restrained and enjoined from directly or indirectly:

A. Transacting any of the business of the Receivership Party;

B. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of any documents of the Receivership Party including, but not limited to, books, records, accounts, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations, electronically-stored records, or any other papers of any kind or nature;

C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Party or the Receiver;

D. Drawing on any existing line of credit available to Receivership Party;

E. Excusing debts owed to the Receivership Party;

F. Failing to notify the Receiver of any asset, including accounts, of the Receivership Party held in any name other than the name of any of the Receivership Party, or by any person or entity other than the Receivership Party, or failing to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody or control of such assets;

G. Doing any act that would, or failing to do any act which failure would, interfere with the Receiver's taking custody, control, possession, or management of the assets or documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Party; or to refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any Order of this Court; and

H. Filing, or causing to be filed, any petition on behalf of the Receivership Party for relief under the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (2002), without prior permission from this Court.

IT IS FURTHER ORDERED that:

A. Immediately upon service of this Order upon them, or within such period as may be permitted by the Receiver, Defendants or any other person or entity shall transfer or deliver possession, custody, and control of the following to the Receiver:

1. All assets of the Receivership Party, including, without limitation, bank accounts, web sites, buildings or office space owned, leased, rented, or otherwise occupied by the Receivership Party;

2. All documents of the Receivership Party, including, but not limited to, books and records of accounts, legal files (whether held by Defendants or their counsel) all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents, and other papers;

3. All of the Receivership Party's accounting records, tax records, and tax returns controlled by, or in the possession of, any bookkeeper, accountant, enrolled agent, licensed tax preparer or certified public accountant;

4. All loan applications made by or on behalf of Receivership Party and supporting documents held by any type of lender including, but not limited to, banks, savings and loans, thrifts or credit unions;

5. All assets belonging to members of the public now held by the Receivership Party; and

6. All keys and codes necessary to gain or secure access to any assets or documents of the Receivership Party including, but not limited to, access to their business premises, means of communication, accounts, computer systems or other property;

B. In the event any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Paragraph, the Receiver may file ex parte an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, Writs of Possession or Sequestration or other equitable

writs requested by the Receivers. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the asset, document or other thing and to deliver it to the Receivers.

IT IS FURTHER ORDERED that, upon service of a copy of this Order, all banks, broker-dealers, savings and loans, escrow agents, title companies, leasing companies, landlords, ISOs, credit and debit card processing companies, insurance agents, insurance companies, commodity trading companies or any other person, including relatives, business associates or friends of the Defendants, or their subsidiaries or affiliates, holding assets of the Receivership Party or in trust for Receivership Party shall cooperate with all reasonable requests of each Receiver relating to implementation of this Order, including freezing and transferring funds at his or her direction and producing records related to the assets of the Receivership Party.

STAY OF ACTIONS

IT IS FURTHER ORDERED that:

A. Except by leave of this Court, during the pendency of the receivership ordered herein, all other persons and entities aside from the Receiver are hereby stayed from taking any action to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of, the Receivership Party, any of their partnerships, assets, documents, or the Receiver or the Receiver's duly authorized agents acting in their capacities as such, including, but not limited to, the following actions:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;

2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody or control of any asset;

attempting to foreclose, forfeit, alter or terminate any interest in any asset, whether such acts are part of a judicial proceeding or are acts of self-help or otherwise;

3. Executing, issuing, serving or causing the execution, issuance or service of, any legal process including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; and

4. Doing any act or thing whatsoever to interfere with the Receiver taking custody, control, possession, or management of the assets or documents subject to this receivership, or to harass or interfere with the Receiver in any way, or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Party;

B. This Order does not stay:

1. The commencement or continuation of a criminal action or proceeding; and

2. Except as otherwise provided in this Order, all persons and entities in need of documentation from the Receiver shall in all instances first attempt to secure such information by submitting a formal written request to the Receiver, and, if such request has not been responded to within 30 days of receipt by the Receiver, any such person or entity may thereafter seek an Order of this Court with regard to the relief requested.

JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

SO ORDERED, this 24th day of November, 2010

Royal Furgeson
JUDGE PRESIDING

Exhibit P

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC.,	§	
MANILA INDUSTRIES, INC. AND	§	
MUNISH KRISHAN	§	
	§	
PLAINTIFFS,	§	
	§	
v.	§	CIVIL ACTION NO. 3:09-CV-0988-F
	§	
JEFFREY BARON AND	§	
ONDOVA LIMITED COMPANY,	§	
	§	
DEFENDANTS.	§	

RESPONSE AND OBJECTION OF QUANTEC, LLC AND
NOVO POINT, LLC TO RECEIVER'S MOTION TO CLARIFY THE RECEIVER ORDER

TO THE HONORABLE ROYAL FERGUSON, U.S. DISTRICT COURT JUDGE:

Quantec, LLC and Novo Point, LLC (collectively, the "Cook Islands LLCs") by and through their undersigned counsel hereby file this *Response and Objection of Quantec, LLC and Novo Point, LLC to Receiver's Motion to Clarify the Receiver Order*, and in support thereof would show the Court as follows:

1. On November 24, 2010, Daniel J. Sherman, acting in his capacity as Chapter 11 Trustee (the "Chapter 11 Trustee") in the bankruptcy case *In re Ondova Limited Company*, Case No. 09-34784-SGJ-11, pending in the United States Bankruptcy Court for the Northern District of Texas, filed herein an *Emergency Motion for Appointment of a Receiver over Jeffrey Baron*. [Docket #123].

2. On November 24, 2010, the Court granted the Trustee's Motion and issued an order appointing Peter S. Vogel as the Receiver for Defendant Jeffrey Baron (the "Receiver Order"). [Docket #124.]

3. The Receiver Order defines "Receivership Parties" as Jeffrey Baron and Village Trust, Equity Trust Company IRA 19471, Daystar Trust, Belton Trust, Novo Point, Inc., Iguana Consulting, Inc., Quantec, Inc., Shiloh, LLC, Novquant, LLC, Manassas, LLC, Domain Jamboree, LLC, and ID Genesis, LLC. [Id. at p. 1.] The Receiver Order further defines Receivership Parties as "any entity under the direct or indirect control of Jeffrey Baron, whether by virtue of ownership, beneficial interest, a position as officer, director, power of attorney or any other authority to act." [Id. at p. 2.].

4. On December 3, 2010, the Receiver filed his *Motion to Clarify Receiver Order* [Docket #139], alleging that the definition of Receivership Parties contained in the Receivership Order (set forth above) has always included Novo Point, LLC and Quantec, LLC, and requesting the Court enter an order to such effect.

5. The Cook Islands LLCs object to the Receiver's *Motion to Clarify Receiver Order* on the following non-exclusive grounds:

a. The Chapter 11 Trustee is not a proper party to request a receivership over the Cook Islands LLCs because the Chapter 11 Trustee does not have or claim any interest in or to the Cook Islands LLC.

b. The receivership has seriously interfered with the Cook Islands LLCs' property rights by ousting the Cook Islands LLCs from control without good cause.

c. The Chapter 11 Trustee has failed to show clear necessity in seeking the receivership in order to protect the Chapter 11 Trustee's interests in the Cook Islands LLCs.

d. The Chapter 11 Trustee has failed to show good cause as to why the receivership should be granted *ex parte* and without notice to the Cook Islands LLCs.

e. The Chapter 11 Trustee has failed to show that the Cook Islands LLCs engaged in fraudulent conduct warranting establishment of the receivership over the Cook Islands LLCs.

f. The Chapter 11 Trustee has failed to show that there exists an imminent danger of loss of property in which the Chapter 11 Trustee claims an interest with regard to the Cook Islands LLCs.

g. The Chapter 11 Trustee has failed to show the inadequacy of legal remedies as to the Cook Islands LLCs.

h. The Chapter 11 Trustee has failed to show harm is likely to the Chapter 11 Trustee if the receivership over the Cook Islands LLCs is denied.

i. The Chapter 11 Trustee has failed to show that Jeffrey Baron, the subject of the receivership,

i. Has direct or indirect control over the Cook Islands LLCs;

ii. Has an ownership interest in the Cook Islands LLCs;

iii. Has a beneficial interest in the Cook Islands LLCs;

iv. Holds a position as an officer or director of the Cook Islands LLCs;

v. Has a power of attorney with respect to the Cook Islands LLCs; or,

vi. Has any authority whatsoever to act with respect to the Cook Islands LLCs.

j. The Cook Islands LLCs reserve any and all other objections they may have at law or in equity for a trial of this matter.

WHEREFORE, PREMISES CONSIDERED, Quantec, LLC and Novo Point, LLC respectfully request that the Court DENY the Receiver's *Motion to Clarify Receiver Order* and pray for such other and further relief to which they may be entitled.

Respectfully submitted,

By: */s/ Joshua E. Cox*
Joshua E. Cox
Texas Bar No. 24038839
PO BOX 2072
Keller TX 76244
682.583.5918 telephone
j.cox.email@gmail.com

ATTORNEY FOR QUANTEC, LLC AND
NOVO POINT, LLC

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2010, a true and correct copy of the foregoing was sent to all parties requesting electronic service through the Court's ECF system.

/s/ Joshua E. Cox
Joshua E. Cox

know, diligently on trying to resolve issues. And I think we have some good news on a couple of fronts. Several of the issues that I believe we were struggling with last week have been resolved.

I'm going to sort of run through the list and probably we could come back to them. I think that you will hear from Mr. Lyon that there has been a lot of progress made regarding the selection of a new trustee and protector for The Village Trust. They have been working, you know, non-stop on getting those components done. They were due I think on the 15th, last Wednesday. And I believe you'll hear from Mr. Lyon that that is all done. And he's been sending us updates and e-mails on that.

Mr. Taube is here. There is a document that deals with this replacement trustee and successor, the supplemental agreement. I want to hear from both Mr. Taube and Mr. Lyon that, you know, it's done, it's signed, you know, nothing else has to be done on the supplemental agreement and everyone's okay with it, because it's an integral part of the settlement agreement. And they can speak to that. But I understand that is the case, that the supplemental agreement is all worked out now that they have the new people identified.

Here's another, I think, piece of, item of progress that was sort of a sticking point towards the end of last week's hearing. I understand that Mr. Baron has now acknowledged and

Exhibit Q

Exhibit R

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ONDOVA LIMITED COMPANY D/B/A COMPANA, LLC,

Plaintiff,

vs.

ROLFING SPORTS, INC.

Defendant,

vs.

JEFFREY BARON,

Third-Party Defendant.

CASE NO. 3:05-CV-2411-K
ECF

THE HON. ED KINKEADE

MAGISTRATE JUDGE STICKNEY

BRIEF IN SUPPORT OF PLAINTIFF'S AND THIRD-PARTY DEFENDANT'S JOINT MOTION TO DISQUALIFY DEFENDANT'S COUNSEL

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ATTORNEY FOR PLAINTIFF, ONDOVA LIMITED COMPANY, d/b/a COMPANA, LLC AND THIRD-PARTY DEFENDANT, JEFFREY BARON

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BRIEF IN SUPPORT OF PLAINTIFF'S AND THIRD-PARTY DEFENDANT'S JOINT MOTION TO DISQUALIFY DEFENDANT'S COUNSEL

Plaintiff, Ondova Limited Company, d/b/a Compana, LLC ("Compana"), and Third-Party Defendant, Jeffrey Baron ("Mr. Baron"), by their attorney, and pursuant to, *inter alia*, FED. R. CIV. P. 7(b), and LR 7.1, herewith submit their brief in support of *Plaintiff's and Third-Party Defendant's Joint Motion to Disqualify Defendant's Counsel*, filed with the Court contemporaneously herewith.

INTRODUCTORY STATEMENT

1. Sometime in 2001 or 2002, Mr. Baron, acting as Compana's President, contacted Peter S. Vogel, of the Gardere law firm,[1] seeking representation in connection with Compana's business of acquiring newly-deleted domain names, using proprietary and confidential methods, which allowed Compana to secure generic and descriptive domain names of interest, in advance of its competitors. See *Declaration of Jeffrey Baron Under Penalty of Perjury*, attached to *Appendix to Brief in Support of Plaintiff's and Third-Party Defendant's Joint Motion to Disqualify Defendant's Counsel* ("Appendix") at pp. 3-4. Upon information and belief, Attorney Vogel then served as Chairman of Gardere's e-Litigation, e-Commerce, and Computer Technology Practice Groups, and Mr. Baron and Attorney Vogel had several conversations, as well as a personal meeting at Gardere's office, concerning the proposed representation. *Appendix* at p. 4, ¶ 3.

2. During these conversations, Mr. Baron disclosed confidential information to Attorney Vogel regarding Compana's domain name registration activities, and the issues faced in connection therewith, involving both claims by third parties against Compana, and claims Compana had against others. *Id.* Attorney Vogel listened, and appeared willing to accept the engagement, but Mr. Baron

[1]Upon information and belief, the subject firm has operated under the names, Gardere Wynne Sewell & Riggs, LLP, Gardere & Wynne, LLP, and Gardere Wynne Sewell, LLP, during the relevant period, and shall be referred to hereinafter as "the Gardere firm," or "Gardere."

ultimately decided not to engage Gardere, primarily due to cost concerns. *Id.* Nonetheless, the door to Gardere's future representation of Compana was left open, and Mr. Baron expected that his discussions with Attorney Vogel would be held in strict confidence, as attorney-client communications. *Id*.

3. Based in part on his favorable experiences with Mr. Vogel, Mr. Baron contacted Gardere again in November 2003, and had a series of conversations, electronic mail exchanges, and facsimile communications with Dawn Estes, another partner in the firm, which continued through early-December 2003. *Appendix* at p. 4. The purpose of these communications was to engage Gardere's services in connection with several contractual disputes involving Compana's method of acquiring newly-deleted domains, and Mr. Baron asked that Gardere consider representing Compana on a contingency basis therein. *Id.* Attorney Estes agreed to evaluate the matters, explaining that she would review and discuss the subject contracts with other members of Gardere, prior to making a final determination. *Id*. At the same time, Attorney Estes emphasized that Gardere was well-positioned to assist Compana with all of its legal needs, touting the qualifications of the firm's e-commerce and intellectual property attorneys, including Attorney Vogel's credentials. *Id*.

4. During these communications, Mr. Baron explained, in depth, Compana's domain name business; Compana's method of registering newly-deleted domain names, and the problems Compana faced in the business, including those relating to the contracts at issue. *Appendix* at p. 5. In addition to his verbal disclosures to Attorney Estes, Mr. Baron provided her with copies of the aforementioned contracts, each of which was marked "confidential" and/or included non-disclosure provisions. *Id.* See *also*, *Appendix* at pp. 9-16. These contracts formed the essence of Compana's business model at the time and contained detailed descriptions of the methods Compana used to

acquire newly-deleted domain names, and the purpose of such acquisitions. *Appendix* at p. 5. Identifying portions of Mr. Baron's electronic mail messages to Attorney Estes in this regard, appear in the *Appendix* at pp. 9-16. Certain details have been redacted, to preserve the confidentiality of this material. *Appendix* at p. 5.

5. Following further discussions, on December 9, 2003, Attorney Estes mailed a letter to Mr. Baron, indicating that Gardere had decided not to represent Compana in the subject contractual disputes. *Appendix* at p. 5. A copy of this letter, redacted to preserve confidential information, appears in the *Appendix* at pp. 17-19. The letter indicated that Gardere would not charge Compana for fees or expenses incurred in connection with its work, given the decision the firm had made. *Appendix* at pp. 5, 18. The letter did **not** indicate, however, that Gardere might use or disclose the confidential information and material Mr. Baron had provided, and the provided material was not returned. *Appendix* at pp. 5, 18. Thus, Mr. Baron and Compana continued to expect that these disclosures would be held in strict confidence, as attorney-client communications.

6. As set forth in Plaintiff's *Complaint*, at ¶ 17, on October 6, 2005, Defendant filed a complaint with the National Arbitration Forum, pursuant to ICANN's *Uniform Dispute Resolution Policy* ("UDRP"), asserting that Defendant held exclusive rights in the words, "Golf Hawaii," which Compana had registered as a domain; accusing Compana of "cybersquatting," namely acquiring and using the domain name in bad faith; assailing Mr. Baron's character; disparaging Compana's business model, and, demanding transfer of the <golfhawaii.com> domain to Defendant. *Id.* See *also*, *Appendix* at p. 6. Upon reviewing the UDRP complaint, Mr. Baron was shocked to learn that it was prepared and filed by Gardere, and he promptly advised counsel of his belief that the action was an egregious betrayal of the confidences entrusted thereto. *Appendix* at p. 6, ¶ 7.

7. Based on Compana's concerns, undersigned counsel wrote to Gardere the same day the UDRP complaint was received, advising of the conflict of interest; placing the firm on notice that Compana did not consent to Gardere's representation of Defendant in the UDRP proceeding, and requesting that the UDRP Complaint be withdrawn. *Appendix* at p. 6; *Appendix* at p. 21. Compana's counsel also telephoned Attorney Beverly Bell Godbey, the responsible partner in the Gardere firm, to discuss the conflict of interest issue. *Appendix* at p. 6. However, these entreaties were rebuffed. *Id*. Rather than responding substantively to Compana's concerns, Attorney Godbey simply provided counsel with a copy of Attorney Estes' letter of December 9, 2003, apparently believing it sufficient to justify the firm's assault against Compana, and Mr. Baron's character and motives, in the UDRP proceeding. *Appendix* at pp. 6, 25-26. Compana's counsel disagreed, and continued to write Attorney Godbey regarding the issue, but these communications were ignored. *Appendix* at pp. 6-7, 26-33. Nonetheless, Gardere did not file further documents in the UDRP dispute, although it was permitted to do so, and Mr. Baron hoped the firm had come to accept that it had a conflict of interest and must refrain from additional action against Compana in the case. *Appendix*, at p. 7.

8. When the UDRP proceeding was decided in Defendant's favor on November 28, 2005, and Compana filed the present action to clear its name and prevent transfer of the <golfhawaii.com> domain, Compana's counsel wrote Gardere, on December 8, 2005, reminding of the conflict, and indicating that Compana would file a motion to disqualify Gardere and its involved attorneys, should the firm enter an appearance on Defendant's behalf. *Appendix* at pp. 7, 34. Nonetheless, on January 3, 2006, Gardere filed an *Answer* for Defendant herein, with counterclaims against Compana, and a third-party claim against Mr. Baron personally, alleging, *inter alia*, that

Compana's business model is unlawful; that it acquired and has used the <golfhawaii.com> domain name in "bad faith," and that Mr. Baron and Compana are jointly liable for substantial damages to Defendant as a result. *Appendix* at pp. 7-8. See *also*, *Defendant Rolfing Sports, Inc.'s Counterclaim, and Third Party Complaint*, at ¶¶ 9, 11, 12, 13, 14, 15, 19, 27, 28, 31, 34, 36, 39, 40, 42, 43, 46, and 49.

9. The proprietary, confidential, trade-secret protected methods used by Compana to acquire the <golfhawaii.com> domain, in March 2003, when it became newly available for registration, and Compana's motives for the acquisition, were the same methods and motives disclosed to Attorney Vogel in 2001 or 2002, and Attorney Estes in November/December 2003. *Appendix* at pp. 7-8. Additionally, the contract involved in the <golfhawaii.com> acquisition was identical or substantially similar to the agreements reviewed by, and discussed with and among Gardere, the same year the acquisition occurred. *Id.* As a result, Attorneys Vogel and Estes, and presumably, other members of the Gardere firm, are thoroughly familiar with Compana's business model; its related trade secrets, and its intended uses for the domain names it has registered. *Id.* Accordingly, Compana and Mr. Baron are concerned that the information and material disclosed to Gardere's attorneys will be used against them in this proceeding; will be (or have been) disclosed to Defendant; and/or will vest Gardere, and consequently, Defendant, with an unfair advantage in this case, based on information divulged in confidence to partners of the firm, in the course of seeking legal advice. *Appendix* at pp. 7-8. Additionally, there is a strong appearance of impropriety in Gardere's representation of a client adverse to Compana in a case involving the same subject matter for which Mr. Baron and Compana sought Gardere's advice.

10. Gardere's aforesaid conduct violates the ethical standards followed by this Court with

respect to actions against former clients, and prospective clients, with whom attorney-client relationships have formed, privileges have attached, and/or from whom confidential information has been received. Moreover, the relationships formed with Attorneys Vogel and Estes, and the confidences obtained by each, are imputed to every partner and associate in the Gardere firm. Accordingly, Gardere, and all of its partners and associates, must be disqualified from further representation of Defendant herein. In support whereof, the following is shown:

ARGUMENT

I. GARDERE, AND ALL OF ITS PARTNERS AND ASSOCIATES, MUST BE DISQUALIFIED AS DEFENDANT'S COUNSEL IN THIS CASE.

In this Circuit, a motion to disqualify counsel is the proper method by which to call a court's attention to an alleged conflict of interest, or other breach of an attorney's ethical duties. *In re American Airlines, Inc.*, 972 F.2d 605, 610 (5th Cir. 1992), *reh'g denied*, 976 F.2d 732 (5th Cir. 1992), *cert. denied*, 507 U.S. 912 (1993).[2] While "disqualification of counsel is an extreme remedy that will not be imposed lightly," *Admiral Insurance Company v. Heath Holdings USA, Inc.*, No. 3:03-CV-1634-G (N.D. Tex. August 9, 2005) (available at 2005 U.S. Dist. LEXIS 16363),[3] a court is nonetheless "obliged to take measures against unethical conduct occurring in connection with any proceeding before it," *In re American Airlines*, 972 F.2d at 611 [quoting *Woods v. Covington County Bank*, 537 F.2d 804, 810 (5th Cir. 1976)],[4] and courts in the Fifth Circuit are particularly sensitive

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[2]See *also*, *Musicus v. Westinghouse Elec. Corp*., 621 F.2d 742, 744 (5th Cir. 1980); *FDIC v. Cheng*, *et al*, No. 3:90-CV-0353-H (N.D. Tex. 1992) (available at 1992 U.S. Dist. LEXIS 20824).

[3]See *also*, *McCuin v. Texas Power & Light Co.*, 714 F.2d 1255, 1262-63 (5th Cir. 1983) [citing *Duncan v. Merrill Lynch, Pierce, Fenner & Smith*, 646 F.2d. 1020, 1025 n. 6 (5th Cir.), *cert. denied*, 454 U.S. 895 (1981)].

[4]See *also*, *E.F. Hutton & Co. v. Brown*, 305 F. Supp. 371, 376-77 (S.D. Tex. 1969).

to preventing conflicts of interest. *Matter of Consolidated Bankshares, Inc*. 785 F.2d 1249, 1256 (5th Cir. 1986); *In re American Airlines*, 972 F.2d at 611.[5]

A. The Applicable Standards.

Motions to disqualify counsel are governed by state and national ethical standards adopted by the district court, and applied under federal law. *Horaist v. Doctor's Hosp*., 255 261, 266 (5th Cir. 2001)[citing *FDIC v. U.S. Fire Ins. Co.*, 50 F.3d 1304, 1311 (5th Cir. 1995)]; *In re American Airlines*, 972 F.2d at 610. The rules promulgated by the local court, under 28 U.S.C. § 2071, provide the most immediate source of guidance, but are not the sole authority governing motions to disqualify. *U.S. Fire Ins. Co.,* 50 F.3d at 1312; *In re Dresser Industries, Inc*., 972 F.2d 540, 543 (5th Cir. 1992). The applicable state code of professional conduct is also an appropriate source of ethical rules,[6] but federal courts must also consider motions to disqualify under the ethical rules announced by the national profession, in light of the public interest and the litigant's rights. *In re Dresser Industries, Inc*., 972 F.2d at 543 (holding that the Fifth Circuit's source for the ethical rules of the national profession is the American Bar Association). Moreover, a finding that an ethics rule has been violated, without more, is not sufficient to support disqualification. *U.S. Fire Ins. Co.,* 50 F.3d at 1314. A court also must take into account the social interests at stake, by considering whether a conflict has (1) the appearance of impropriety in general, or (2) a possibility that a specific

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[5]Indeed, the Fifth Circuit has "squarely rejected [a] hands off approach in which ethical rules 'guide' whether counsel's presence will 'taint' a proceeding," holding instead that a rigorous, "careful and exacting application of the rules in each case," must be employed to "separate proper and improper disqualification motions" based on alleged conflicts of interest *In re American Airlines, Inc.,* 972 F.2d at 611.

[6]See *Resolution Trust Corp. v. Bright*, 6 F.3d 336, 341 (5th Cir. 1993)("[a] federal court may . . . hold attorneys accountable to the state code of professional conduct"). See *also*, *Dyll v. Adams*, 3:94-CV-2734-D (N.D. Tex. April 29, 1997) (available at 1997 WL 22918).

impropriety will occur, and (3) a likelihood that public suspicion from the impropriety outweighs any social interests which will be served by the lawyer's continued participation in the case." *Id.* [quoting *Dresser*, 972 F.2d at 544]. See also *Woods*, 537 F.2d at 810; *U.S. Fire Ins. Co.,* 50 F.3d at 1312.

1. The Canons Applied in this District and Division.

The United States District Court for the Northern District of Texas, Dallas Division, considers the following ethical canons in determining whether disqualification of an attorney is appropriate,: (1) the ABA Model Rules of Professional Conduct, (2) the Texas Disciplinary Rules of Professional Conduct, and (3) the local rules of the Northern District of Texas. *Admiral Insurance Company,* 2005 U.S. Dist. LEXIS 16363.[7] The Model Rules embody "the national standards utilized [in] this Circuit in ruling on disqualification motions," *U.S. Fire Ins. Co.,* 50 F.3d at 1312, while the Texas Rules are relevant because they govern attorney conduct within Texas generally, and because the Local Rules and Texas Rules are identical. *Id*.[8] The relevant provisions of these canons in the present case are TEX. DISCIPLINARY R. PROF. CONDUCT, Rules 1.05(b), 1.09(a)(2), 1.09(a)(3), and 1.09(b) (the "Texas Rules"), and MODEL RULES OF PROFESSIONAL CONDUCT, Rules 1.9(a), 1.9(c), 1.10(a), 1.18(a), 1.18(b) and 1.18(c) (the "Model Rules").

a. The Texas Rules

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[7]See *also*, *U.S. Fire Ins. Co.,* 50 F.3d at 1312; *Advanced Display Systems, Inc. v. Kent State University*, No. 3:96-CV-1480-BD (N.D. Tex. November 29, 2001) (available at 2001 U.S. Dist. LEXIS 19466); *Senior Living Properties LLC Trust v. Clair Odell Insurance Agency*, No. 3:04-CV-0816-G (available at 2005 U.S. Dist. LEXIS 8993).

[8]LR 83.8(e) provides that: "[t]he term 'unethical behavior,' as used in this rule, means conduct undertaken in or related to a civil action in this court that violates the Texas Disciplinary Rules of Professional Conduct." *Id.*

Texas Rule 1.09, incorporated herein by LR 83.8(e) sets forth the general rule in this Division regarding prohibited conflicts in actions against former clients, as follows:

> (a) Without prior consent, a lawyer who personally has formerly represented a client in a matter shall not thereafter represent another person in a matter adverse to the former client:
>
> * * *
>
> (2) if the representation in reasonable probability will involve a violation of Rule 1.05; or
>
> (3) if it is the same or a substantially related matter.
>
> (b) Except to the extent authorized by Rule 1.10, when lawyers are or have become members of or associated with a firm, none of them shall knowingly represent a client if any one of them practicing alone would be prohibited from doing so by paragraph (a).

TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09.

Texas Rule 1.09(a)(2) also references Texas Rule 1.05, which prohibits a lawyer's use of confidential information obtained from a former client to that former client's disadvantage. See TEX. DISCIPLINARY R. PROF. CONDUCT, Rules 1.09(a)(2) and 1.05(b)(2). Thus, on its face, Texas Rule 1.09 forbids a lawyer from appearing against a former client if the current representation, in reasonable probability, will involve the use of confidential information, or if the current matter is substantially related to matters in which the lawyer has represented the former client. *Id.; In re American Airlines,* 972 F.2d at 615. Additionally, while referring to "former clients," the Rule applies in circumstances where no attorney-client relationship has been formed, to protect prospective clients, who seek an attorney's advice, *In re American Airlines,* 972 F.2d at 612 [citing TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09, Comment 4A; HAZARD & HODES, THE LAW OF LAWYERING § 1.9.111 (1991)]. Finally, these prohibitions are imputed to every partner and associate in the conflicted lawyer's firm. TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09(b).

b. The Model Rules.

The American Bar Association's Model Rule 1.9 is identical to Texas Rule 1.09 in all important respects. Model Rule 1.9 provides, in pertinent part, that:

> (a) A lawyer who has formally represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation.
>
> * * *
>
> (c) A lawyer who has formally represented a client in a matter . . . shall not thereafter: (1) use information relating to the representation to the disadvantage of the former client.

MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.9. Like the Texas Rules, the Model Rules impute conflicts under Model Rule 1.9 to all lawyers associated in a firm with the conflicted attorney. MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.10(a).[9] Moreover, as with the Texas Rules, the proscriptions of Model Rule 1.9 apply to prospective clients, as well as "former clients," pursuant to Model Rule 1.18(b). MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.18(b).

Model Rule 1.18, encaptioned, "Duty to a Prospective Client," has no counterpart in the Texas Rules, and does not appear in the body of federal law in this Circuit governing conflict of interest situations. Model Rule 1.18 reads, in pertinent part, as follows:

> a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.
>
> (b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.
>
> (c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the

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[9]See *also*, *Admiral Insurance Company,* 2005 U.S. Dist. LEXIS 16363; MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.18(c).

> lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).
>
> (d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:
>
> > (1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:
> >
> > (2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and
> >
> > > (i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
> > >
> > > (ii) written notice is promptly given to the prospective client.

MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.18. The Rule indicates, when read in conjunction with Model Rules 1.9 and 1.10(a), that an attorney who has received information from a prospective client (whether privileged or not), may not thereafter use that information to the prospective client's disadvantage, and the prohibition extends to all lawyers in the conflicted attorney's firm. MODEL RULES OF PROFESSIONAL CONDUCT, Rules 1.18(b); 1.9(c), and 1.10(a). Moreover, if an attorney has received information from a prospective client that could be harmful if used against the prospective client in a substantially related matter, neither the lawyer, nor his partners or associates, may represent the prospective client's adversary in that matter, absent the current and prospective clients' express written consent, or prompt notice to the prospective client; *provided that* specified precautions were taken during the initial consultation(s), and that prompt steps were taken to isolate the conflicted attorney(s), before notice to the prospective client was

dispatched. MODEL RULES OF PROFESSIONAL CONDUCT, Rules 1.18(a) and 1.18(b).

Whereas, Model Rule 1.18 is new; has not been adopted in Texas, and has not been interpreted in federal jurisdictions with no corresponding state rule, and, whereas, in some respects, the Rule is inconsistent with the established law of this Circuit, its applicability to the present case is questionable. Nonetheless, it will be discussed further hereinbelow.

2. The "Substantial Relationship" Test.

In addition to the foregoing ethical canons and social considerations, the Fifth Circuit applies a "substantial relationship test" to disqualification motions grounded in an attorney's former representation of a client. This test is not derived from disciplinary rules, and is not dependent upon them; rather, it was developed, and exists, at common law.[10] *In re American Airlines*, 972 F.2d at 617 [citing *T.C. Theatre Corp. v. Warner Bros Pictures, Inc*., 113 F.Supp. 265 (S.D.N.Y. 1953); *Wilson P. Abraham Constr. Corp. v. Armco Steel Corp*., 559 F.2d 250, 252 (5th Cir. 1977); *In re Yarn Processing Patent Validity Litigation*, 530 F.2d 83, 89 (5th Cir. 1976)]. Pursuant thereto, a party seeking to disqualify counsel on grounds of a former representation must establish: (1) an actual attorney-client relationship between the moving party and the attorney it seeks to disqualify and, (2) a substantial relationship between the subject matter of the former and present representations. *In re American Airlines*, 972 F.2d at 614 [citing *Johnston v. Harris County Flood Control District*, 869 F.2d 1565, 1569 (5th Cir. 1989), *cert. denied sub nom*., *Northwest Airlines, Inc. v. American Airlines, Inc.*, 507 U.S. 912 (1993)].

With respect to the first element, it is well-established that the existence of an "actual

[10]Nonetheless, the substantial relationship test is incorporated in, or mentioned by, a number of the Model Rules and Texas Rules adopted thereafter. See *e.g.*, Model Rule 1.9(a) and 1.9(b), Model Rule 1.10(b), Model Rule 1.18(c), Texas Rule 1.06(b)(1), Texas Rule 1.09(a)(3).

attorney-client relationship" does not depend upon the payment of a fee. *Woolley v. Sweeney*, No. 3:01-CV-1331-BF (N.D. Tex. May 13, 2003) (available at 2003 U.S. Dist. LEXIS 8110) [citing *Vinson & Elkins v. Moran*, 946 S.W.2d 381, 404 n. 15 (Tex. App. – Houston 1997). Indeed, the Rule applies in cases where an attorney-client relationship has not been formed: a lawyer may not "switch sides and represent a party whose interests are adverse to a person who sought in good faith to retain the lawyer." *In re American Airlines,* 972 F.2d at 612 [citing TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09, Comment 4A; HAZARD & HODES, THE LAW OF LAWYERING § 1.9.111 (1991)].

As for the second element, a "substantial relationship" may be found only after the moving party delineates, with specificity, the subject matters, issues, and causes of action common to the prior and current representations, and the court engages in a painstaking analysis of the facts and precise application of precedent." *In re American Airlines,* 972 F.2d at 612 (citing *Duncan,* 646 F.2d at 1029). The burden of establishing the substantial relationship is on the party moving for disqualification. 972 F.2d at 612. However, the former and current representations need not involve identical causes of action[11] – the two causes "need only involve the same subject matter in order to be substantially related." *In re American Airlines*, 972 F.2d at 625 [citing *In re Corrugated Container Antitrust Litigation*, 659 F.2d 1341 (5th Cir. 1981); *Duncan*, 646 F.2d 1020]. Nor must the movant establish that confidences were divulged in the prior representation – information provided by a former client is sheltered from use by the attorney against him, regardless of whether someone else may be privy to it. *In re American Airlines*, 972 F.2d at 620 [citing *Brennan's Inc. v.*

[11]Such a strict requirement would undermine the policy underlying the rules against conflicting representations – the preservation of the attorney-client relationship and the protection of a client's confidential information. *Senior Living Properties LLC Trust,* 2005 U.S. Dist. LEXIS 8993) [citing *In re American Airlines*, 972 F.2d at 619].

Brennan's Restaurants, Inc., 590 F.2d 168, 172 (5th Cir. 1979)]. A lawyer who has represented a client in a substantially related matter must be disqualified whether or not he has gained confidences, and regardless of whether any advice rendered is relevant, in an evidentiary sense, to the present litigation. *In re American Airlines*, 972 F.2d at 618-19 [quoting *In re Corrugated*, 659 F.2d at 1346].[12] The prior matter need only be "akin to the present action in a way reasonable persons would understand as important to the issues involved." *In re Corrugated*, 659 F.2d at 1346; *Gibbs v. Paluk*, 742 F.2d 181 (5th Cir. 1984).

The substantial relationship test is governed by two irrebuttable presumptions. First, once it is established that the prior matter is substantially related to the present case, the court must irrebuttably presume that relevant confidential information was disclosed during the former period of representation. *In re American Airlines* 972 F.2d at 613; *Duncan*, 646 F.2d at 1028; *In re Corrugated*, 659 F.2d at 1347.[13] This is because, if the presumption were rebuttable – that is, if the attorney could attempt to prove he did not recall any disclosure of confidential information, or that no confidential information was in fact disclosed, the purpose of keeping the client's secrets confidential could be defeated. The confidences would be disclosed by the attorney during the course of rebutting the presumption, or if the presumption was considered rebutted, the client would be put into the anomalous position of having to show what confidences he entrusted to his attorney, in order to prevent them from being revealed. *In re Corrugated*, 659 F.2d at 1347. See *also*, *E.F. Hutton*, 305 F.Supp at 395 (attorney cannot defeat motion to disqualify by showing he received no

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[12]See also, *Burnett v. Olson*, No. 04-2200 (E.D. La. March 18, 2005) (available at 2005 U.S. Dist. LEXIS 4849).

[13]See *also*, *Admiral Insurance Company,* 2005 U.S. Dist. LEXIS 16363.

confidential information from the former client; to do so would engender a feeling that the attorney has escaped on a technicality).[14]

The second irrebuttable presumption governing the "substantial relationship" test is that confidences obtained by an individual lawyer will be shared with the other members of his firm. *In re American Airlines*, 972 F.2d at 614 [citing *In re Corrugated*, 659 F.2d at 1346; *Selby v. Revlon Consumer Products*, 6 F.Supp..2d 577,582 (N.D. Tex. 1997)]. One reason for this presumption is that it would be virtually impossible for a former client to prove that attorneys in the same firm have not shared confidences. Another reason is that it helps clients feel more secure. Finally, the presumption guards the integrity of the legal profession, by removing undue suspicion that the former client's interests are not being fully protected. See *In re Epic Holdings*, 985 S.W.2d 41, 49 (Tex. 1998). This irrebuttable imputation of conflicts is applicable under the substantial relationship test, "regardless of the size of the firm [or] how many separate offices it may maintain. *Senior Living Properties LLC Trust,* 2005 U.S. Dist. LEXIS 8993; *American Sterilizer Co. v. Surgikos, Inc*., No. 4089-238-Y (N.D. Tex. June 12, 1992) (available at 1992 U.S. Dist. LEXIS 21542, *14).[15] "Members of a law firm cannot disavow access to [the] confidential information of any one attorney's client." *In re Epic Holdings, Inc.,* 985 S.W.2d at 49.

Regardless of which ethical canon or federal common law standard is applied, Gardere's representation of Defendant in this matter comprises a violation.

B. Gardere's Representation of Defendant Violates the Texas Rules.

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[14]See *also*, HARVA RUTH DOCKERY, NOTE, MOTIONS TO DISQUALIFY COUNSEL REPRESENTING AN INTEREST ADVERSE TO A FORMER CLIENT, 57 Tex. L. Rev. 726 (1979).

[15]See *also*, *In re ESM Government Securities, Inc.*, 66 B.R. 82, 84 (S.D. Fla. 1986).

1. Gardere's Conduct Violates Texas Rule 1.09(a)(2).

Texas Rule 1.09(a)(2) "forbids a lawyer to appear against a former client if the current representation, in reasonable probability, will involve the use of confidential information gained from the prior representation," *In re American Airlines*, 972 F.2d at 615 [quoting TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09] and the Fifth Circuit has indicated that a former client may disqualify counsel simply by showing that the former attorney possesses relevant confidential information contemplated by Texas Rule 1.09(a)(2). *In re American Airlines*, 972 F.2d at 615. Moreover, "confidential information" is not limited to "privileged information," but encompasses ``all information relating to a client or furnished by the client, ... acquired by the lawyer during the course of or by reason of the representation . . .. " TEX. DISCIPLINARY R. PROF. CONDUCT, Rules 1.09(a)(2), 1.05(a).[16] Thus, a movant may disqualify counsel by "pointing to specific instances where it revealed relevant confidential information regarding its practices and procedures." *In re American Airlines*, 972 F.2d at 615 [citing *Duncan*, 646 F.2d at 1032].

In the present case, Mr. Baron and Compana have amply identified specific instances in which confidential information was revealed to Gardere's attorneys concerning Compana's business practices and procedures. Such information was revealed to Attorney Vogel in 2001 or 2002, in the course of several conversations, and upon information and belief, a personal meeting. *Introductory Statement* at ¶¶ 1-2; *Appendix* at pp. 3-4. Such information was also disclosed to Attorney Estes, and discussed by her with other attorneys at Gardere, over several weeks in November and December 2003 – the same year Compana acquired the <golfhawaii.com> domain. *Introductory Statement* at ¶¶ 3, 4, 9; *Appendix* at pp. 4-5, 8. As a result of these disclosures, Attorneys Estes and Vogel gained

[16]See *also*, *Clarke v. Ruffino*, 819 S.W.2d 947, 950-951 (Tex. App.– Houston 1991).

a thorough understanding of Compana's business model and related trade secrets, *Introductory Statement* at ¶ 9; *Appendix* at pp. 7-8, and Attorney Estes also acquired, reviewed, and discussed with other members of Gardere, specific, confidential, contracts pertaining to Compana's domain name acquisition activities. *Introductory Statement* at ¶¶ 3-4; *Appendix* at pp. 4-6, 10-16. The information revealed to Attorneys Estes and Vogel is relevant herein, because, *inter alia*, it pertained to Compana's method and motives for acquiring newly-deleted domains, and the domain name at issue was "newly-deleted" when acquired by Compana using these methods, for the same reasons, in 2003. *Introductory Statement* at ¶ 9; *Appendix* at pp. 7-8. Moreover, there is a reasonable probability that this information will be used against Compana and/or Mr. Baron herein, in contravention of Texas Rule 1.05, and Mr. Baron has expressed concern regarding this likelihood. *Appendix*, at pp. 7-8, 21-24, 26-35, 38-40, 43-44. Whereas, Texas Rule 1.09(a)(2) is equally applicable to information disclosed by prospective clients, *In re American Airlines,* 972 F.2d at 612 [citing TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09, Comment 4A; HAZARD & HODES, THE LAW OF LAWYERING § 1.9.111 (1991)][17], and its prohibitions are imputed to every partner and associate in the conflicted lawyer's firm, TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09(b), Gardere, and all its partners and associates are prohibited from continuing to represent Defendant in this case. *Abney v. Wal-Mart*, 984 F.Supp. 526, 528 (E.D. Tex. 1997); *Admiral Insurance Company*, 2005 U.S. Dist. LEXIS 16363.

2. <u>Gardere's Conduct Violates Texas Rule 1.09(a)(3)</u>.

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[17]See *also*, TEXAS DISCIPLINARY R. PROF. CONDUCT, preamble, at ¶ 13 (". . there are some duties, such as of that of confidentiality, that may attach before a client-lawyer relationship has been established"); *Woolley,* 2003 U.S. Dist. LEXIS 8110 [citing *Vinson & Elkins,* 946 S.W.2d 381, 404 n. 15].

Texas Rule 1.09(a)(3) provides that "a lawyer who personally has formerly represented a client in a matter" may not, without prior consent, represent another person in "the same or a substantially related matter." TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09(a)(3). Conflicts under this Rule are imputed to all attorneys in the lawyer's firm, TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09(b), and the Rule applies to prospective, as well as former, clients. *In re American Airlines,* 972 F.2d at 612. Comment 4B to Texas Rule 1.09 provides that a "substantially related" matter, "primarily involves situations where a lawyer could have acquired confidential information concerning a prior client that could be used either to that prior client's disadvantage or for the advantage of the lawyer's current client or some other person. It thus largely overlaps the prohibition contained in Paragraph (a)(2) of this Rule [i.e., a situation in which representation in reasonable probability will involve a violation of Rule 1.05's requirements concerning confidentiality]." TEX. DISCIPLINARY R. PROF. CONDUCT, Rule 1.09, Comment 4B (emphasis added).

As set forth *supra*, at p. 17, Gardere acquired confidential information regarding Compana, that is relevant to the present action, and could be used to Compana's and Mr. Baron's disadvantage, or to the advantage of Defendant herein. Whereas, Texas Rule 1.09(a)(2) concerns the "reasonable probability" that this information might be used, Texas Rule 1.09(a)(3), as clarified in Comment 4B, establishes Gardere's conflict, whether this information is likely to be used or not – as long as the information "could be used," a prohibited conflict exists, absent Compana's prior consent. Whereas, no such consent has been given, *Appendix*, at pp. 7-8, 21-24, 26-35, 38-40, 43-44, Gardere, and all

of its partners and associates, are forbidden from continuing to represent Defendant in this case.[18]

C. Gardere's Representation of Defendant Violates the Model Rules.

1. **Gardere's Conduct Violates Model Rules 1.9(c) and 1.18(b)**

Model Rule 1.9(c) indicates that "[a] lawyer who has formerly represented a client in a matter or whose . . . firm has formerly represented a client in a matter shall not thereafter: (1) use information relating to the representation to the disadvantage of the former client . . ., or (2) reveal information relating to the representation . . . ." MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.9(c). This prohibition applies to prospective clients in this Circuit, and is also applied to prospective clients by Model Rule 1.18(b). MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.18(b). The prohibition also extends to all attorneys in the subject lawyer's firm, under the plain language of Model Rule 1.9(c), Model Rule 1.10(a), and the law of this District and Division. MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.9(c), Rule 1.10(a); *Woolley,* 2003 U.S. Dist. LEXIS 8110, *32) ("While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by [Model] Rules 1.7, 1.8(c), 1.9 or 2.2").

Attorney Vogel, Attorney Estes, and the additional Gardere lawyers with whom Attorney Estes discussed Compana's 2003 disclosures, could not be reasonably be expected to represent Defendant directly in this case without using (consciously or subconsciously), or revealing (intentionally or inadvertently), the information Compana disclosed, to Compana's disadvantage, or to the advantage of Defendant. Moreover, in such a situation, it would be unconscionable to

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[18]See *Islander East Rental Program v. Ferguson*, 917 F.Supp. 504 (S.D. Tex. 1996) ("[i]n providing two distinct grounds for disqualification, the Rules expand the protections for former clients beyond those offered by the substantial relationship test").

expect Compana to rely on a "promise" that such information, though possessed by these attorneys, would not be used or revealed in an action filed against it by the same attorneys, regarding the same subject matter. There is a reasonable probability that this information will be used or disclosed, and/or has been already. Thus, Attorneys Vogel and Estes, and all other Gardere attorneys who have shared in, and discussed, Mr. Baron's revelations on Compana's behalf, are barred from representing Defendant herein, under Model Rule 1.9(c) and newer Model Rule 1.18(b), and Gardere's remaining partners and associates are similarly barred, by Model Rule 1.9(c), Model Rule 1.10(a), and the standards followed in this Circuit, District, and Division. MODEL RULES OF PROFESSIONAL CONDUCT, Rules 1.9(c), 1.18(b), and 1.10(a); *Woolley,* 2003 U.S. Dist. LEXIS 8110, *32.

2. Gardere's Conduct Violates Model Rule 1.9(a), Even When Model Rule 1.18 is Applied.

Model Rule 1.9(a) provides that "[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client, unless the former client gives informed consent, confirmed in writing." MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.9(a). This prohibition is imputed to all members of the involved lawyer's firm, under Model Rule 1.10(a). MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.10(a). Comment 3 to Model Rule 1.9 elucidates the meaning of "substantially related matter" as follows:

> Matters are "substantially related" . . . if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter. For example, a lawyer who has represented a businessperson and learned extensive private financial information about that person may not then represent that person's spouse in seeking a divorce. Similarly, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the

> property on the basis of environmental considerations . . . In the case of an organizational client . . . knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation. A former client is not required to reveal the confidential information learned by the lawyer in order to establish a substantial risk that the lawyer has confidential information to use in the subsequent matter . . . .

MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.9, Comment 3.

In the present case, Gardere's attorneys previously consulted with Compana over a period of several weeks, through its President, Mr. Baron, concerning Compana's acquisition of newly-deleted domains, obtaining extensive, private, trade secret-protected information and documents regarding the manner and methods through which such domain names were acquired; the motivations for such acquisitions; Compana's intended uses for the domains, and the problems Compana faced in the business. *Introductory Statement* at ¶¶ 1-4, 9; *Appendix* at pp. 3-6, 8, 10-16. An ultimate issue in this action is whether Compana's acquisition and use of one of these newly-deleted domain names, <golfhawaii.com>, was in bad faith, amounting to willful cybersquatting, under 15 U.S.C. § 1125(d), *et seq*., and warranting transfer of the domain to Defendant, with statutory damages for the alleged violation. This situation is analogous to the example specified in Model Rule 1.9, Comment 3, where an attorney formerly representing a client in connection with environmental permits may not later represent another client against him, in an action based on environmental considerations. Whereas, a number of specific facts gained by Gardere's attorneys in the prior matter are relevant to ultimate issues in this case, the respective matters are substantially related, and Model Rules 1.9(a), and 1.10(a) preclude Gardere's representation of Defendant herein.

Model Rule 1.18(c), if deemed applicable by the Court, does not alter the foregoing result. The Rule adds a requirement, for prospective clients only, that the information acquired in the

previous matter must be "significantly harmful" if used against the prospective client in the later case. Obviously, Compana would be harmed significantly by Gardere's use of the confidential information previously divulged, which included trade secrets relating to Compana's business model and domain name acquisition activities, and confidential agreements, with non-disclosure provisions, pertaining thereto.

Nor may imputation of the Model Rule 1.9(a) violation be avoided herein, through the procedures outlined in Model Rule 1.18(d). See MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.18(d). Compana has never consented in writing to Gardere's representation of Defendant in this matter, as required by Model Rule 1.18(d)(1), and the alternate requirements of Model Rule 1.18(d)(2) have not been met. First, given the extensive nature of Mr. Baron's prior disclosures to Attorneys Estes and Vogel, it cannot be credibly claimed that precautions were taken to limit these disclosures to information reasonably necessary for Gardere to determine whether it would represent Compana in the prior disputes. See MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.18(d)(2). Indeed, the evidence indicates that Attorney Estes, in particular, encouraged Compana to select Gardere for all its legal needs, and it should be assumed that the disclosures made were commensurate with this invitation. *Introductory Statement* at ¶ 3; *Appendix* at p. 4. Second, Gardere's attorneys in the present and prior matters practice within the same "section" of the firm, and while Model Rule 1.18(d)(2)(i) permits a "screen" under certain circumstances, there is no evidence that such a screen was timely employed, or that a screen would sufficiently protect the information and material disclosed. The Model Rules are not the sole authority governing motions to disqualify in this Circuit, and the screening procedure referenced in Model Rule 1.18(d)(2) is contraindicated by both the Texas Rules and the "substantial relationship" test employed by this

Court, which permit no exceptions to the irrebuttable imputation of conflicts under Texas Rule 1.09 and Model Rules 1.9 and 1.10(a).[19] Finally, written notice was not timely provided to Compana, as required by Model Rule 1.18(d)(2)(ii). As amply evidenced by the correspondence in the *Appendix* at pp. 21-46, initial notice of the conflict emanated from Compana's counsel, and was rebuffed by defense counsel for more than two months. *Id.*; *Appendix* at p. 8. Initially, Gardere responded by presenting a copy of its 2003 "disengagement letter," which advised that it would not be representing Compana in the prior matters, while remaining silent on the subjects of confidentiality and future conflicts. *Introductory Statement* at ¶ 7; *Appendix* at pp. 8, 25. It is apparent from this response that Gardere believed it had no obligations to Compana, due to its declination of the 2003 engagement, and that no notice was required. Later, Gardere apparently came to believe that initiating actions against Compana provided the requisite notice – a proposition antithetical to the letter and spirit of Model Rule 1.18(d)(2)(ii). See *Appendix* at pp. 36, 42. In sum, whether or not Model Rule 1.18 is applied by the Court, Gardere stands in violation of that Rule, as well as Model Rule 1.09(a).

D. Gardere's Conduct Cannot Withstand the Substantial Relationship Test.

Both elements of the substantial relationship test applied in this Circuit are met in the instant case. First, there was an actual attorney-client relationship between Compana and Attorneys Vogel and Estes of the Gardere firm. As stated previously, this element may be satisfied even when an attorney-client relationship has not been formed, but a person has sought in good faith to retain the

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[19] *E.g.*, *Woolley,* 2003 U.S. Dist. LEXIS 8110, *32 ("While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9 or 2.2"); *Dyll,* 1997 WL 222918, at *2; *Selby,* 6 F.Supp..2d at 582; *American Sterilizer Co.,* 1992 U.S. Dist. LEXIS 21542, *14; *In re Epic Holdings, Inc.,* 985 S.W.2d at 49 ("Members of a law firm cannot disavow access to [the] confidential information of any one attorney's client").

lawyer. *E.g.*, *In re American Airlines,* 972 F.2d at 612. The rationale for this result was well-expressed in *In re Dupont's Estate*, 60 Cal. App. 2d 276 140 P.2d 866, 873 (1943):

> If a person in respect to his business affairs or troubles of any kind, consults with an attorney in his professional capacity, with a view to obtaining professional advice or assistance, and the attorney voluntarily permits or acquiesces in such consultation, then the professional employment must be regarded as established, and the communication made by the client, or advice given by the attorney . . . is privileged. An attorney is employed – that is, he is engaged in his professional capacity as a lawyer or counselor – when he is listening to his client's preliminary statement of his case, or when he is giving advice thereon, just as truly as when he is drawing his client's pleadings, or advocating his client's cause in open court. It is the consultation between attorney and client which is privileged, and which must ever remain so, even though the attorney, after hearing the preliminary statement, should decline to be retained further in the cause, or the client, after hearing the attorney's advice, should decline to further employ him. [citation omitted]. As has been pointed out in other cases, no person could ever safely consult an attorney for the first time with a view to his employment if the privilege depended on the chance of whether the attorney, after hearing his statement of the facts decided to accept the employment or decline it.

Id.[20] Second, a substantial relationship exists between the subject matter of the former and present representations. As discussed, *supra*, at p. 21, an ultimate issue in this case is whether Compana's acquisition of the newly-deleted domain name, <golfhawaii.com>, in 2003 constituted "bad faith," a determination requiring examination of the circumstances of the acquisition, and Compana's

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[20]The same view is reflected in the following opinions, and many others: *Kearns v. Fred Lavery Porche Audi Co.*, 745 F.2d 600, 603 (Fed Cir. 1984); *Westinghouse Elec. Corp. v. Kerr-McGee Corp*., 580 F.2d 1311, 1319 and n. 12 (7th Cir. 1978) (fiduciary relationship between lawyer and client extends to preliminary consultation by prospective client with view to retention of lawyer though actual employment does not result); *Wilson P. Abraham Constr. Corp.,* 559 F.2d at 253; (attorney-client relationship existed between attorney and each co-defendant in a conspiracy case, due to necessity of consultation); *In re Yarn Processing Plant Validity Litig*., 530 F.2d at 90 (attorney-client relationship arose by imputation); *Williamsburg Wax Museum, Inc. v. Historic Figures, Inc*., 501 F.Supp. 326, 331 (D.D.C. 1980); *E.F. Hutton & Co.,* 305 F.Supp. at 388 (relation of attorney and client not dependent on payment of a fee or execution of formal contract); *Taylor v. Sheldon*, 173 N.E.2d 892, 895 (Ohio 1961) (disclosures made with a view to enlist attorney's services are privileged).

underlying motives therefor. The previous matters involved Compana's business of acquiring newly-deleted domain names; its proprietary method of such acquisition, and its motives therefor, and the <golfhawaii.com> domain was acquired using these methods, for the same motives. The prior matters were "akin to the present action in a way reasonable persons would understand as important to the issues involved," and accordingly, the second element of the substantial relationship test is met. *In re Corrugated*, 659 F.2d at 1346; *Gibbs v. Paluk*, 742 F.2d 181. Thus, it must be irrebuttably presumed that (1) relevant confidential information was disclosed to Attorneys Vogel and Estes in the former matters, *In re American Airlines* 972 F.2d at 613; *Duncan*, 646 F.2d at 1028; *In re Corrugated*, 659 F.2d at 1347,[21] and that (2) the confidences obtained by these attorneys will be shared with the other members of Gardere. *In re American Airlines*, 972 F.2d at 614; *In re Corrugated*, 659 F.2d at 1346; *Selby,* 6 F.Supp..2d at 582. Under this test alone, Gardere, and its partners and associates, must be disqualified from continuing to represent Defendant herein.

E. The Relevant Social Considerations Favor Gardere's Disqualification.

Gardere's representation of Defendant in a counterclaim against Compana, and a third-party complaint against Mr. Baron, in which the very practices Compana disclosed to Attorneys Vogel and Estes, and for which Compana sought Gardere's assistance, are condemned as unlawful, warranting damages and injunctive relief, has a strong appearance of impropriety in general. Moreover, the possibility that confidences revealed will be disclosed, or will be used to Compana's and Mr. Baron's disadvantage, or to the advantage of Defendant, represent a real possibility that specific improprieties will occur. Finally, Gardere's conduct will arouse public suspicions of impropriety that greatly outweigh any social interests served by its continued participation in this case.

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[21]See *also*, *Admiral Insurance Company,* 2005 U.S. Dist. LEXIS 16363.

Both Compana and Mr. Baron have the right to expect that their credibility will not be impugned by their former attorneys in a substantially related matter, or by other members of the attorneys' firm. *Selby,* 6 F.Supp.2d at 582. Moreover, it would be unfair to force Compana or Mr. Baron to fight Defendant's counterclaims and third-party complaint under the specter of unfairness that has befallen this case. Should Defendant ultimately prevail, Compana and its officer will always wonder whether Defendant was advantaged by information obtained by Gardere during a relationship considered sacrosanct by the Court. Additionally, Compana and Mr. Baron will raise the disqualification issue on appeal if they are on the receiving end of an adverse judgment. A reversal on this issue might require Defendant to relitigate this case from the beginning with new counsel, paying for legal expenses to prosecute and defend against this case twice. Plaintiff and Third-Party Defendant would likely also incur additional expense. Meanwhile, this case is in a very early stage of litigation and Gardere's role thus far has been limited to filing an Answer. Accordingly, for the protection of all parties, Gardere, and all of its partners and associates, should be disqualified from continuing in this matter. *Burnett,* 2005 U.S. Dist. LEXIS 4849, at *22.

F. CONCLUSION.

IN VIEW OF THE ABOVE, Plaintiff and Third-Party Defendant request that Defendant's current attorneys of record, and all partners and associates within the Gardere firm, be disqualified from representing Defendant herein, and that the Court award the movants' reasonable attorney's fees and expenses for preparing, filing, and prosecuting the present *Motion*.

RESPECTFULLY SUBMITTED:

February 7, 2006

By : s/Gregory H. Guillot

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ATTORNEY FOR PLAINTIFF, ONDOVA LIMITED COMPANY, d/b/a COMPANA, LLC AND THIRD-PARTY DEFENDANT, JEFFREY BARON

Certificate of Service

I, Gregory H. Guillot, do hereby certify that a true and correct copy of the foregoing document was served via CM/ECF upon Beverly B. Godbey, Gardere Wynne Sewell LLP, 1601 Elm Street, Suite 3000, Dallas, TX, counsel for Plaintiff, on this, the 7th day February 2006.

s/ Gregory H. Guillot
Gregory H. Guillot

Exhibit S

Disputing

Conversations about Dispute Resolution
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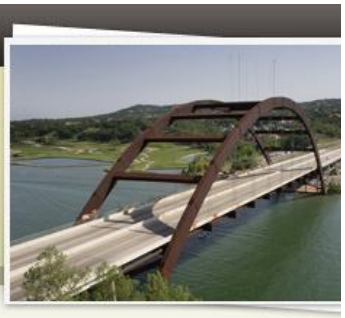

Special Master Appointed to Conduct Global Mediation in Bankruptcy Case

Nov 2

A special master was recently appointed by the Northern District of Texas in *NetSphere v. Baron* (*In re Ondova Ltd. Co.*), No. 3-09CV988-RF. The underlying Chapter 11 bankruptcy case involves numerous parties, offshore entities and several related lawsuits. After the bankruptcy court held four status conferences related to the parties' global settlement agreement (GSA), approved by the bankruptcy court on July 28, 2010, the bankruptcy judge made a "Report and Recommendation" to Senior District Court Judge Royal Furgeson which detailed the status of the GSA and recommended the appointment of a special master to mediate claims arising from the conduct of one of the parties.

In large part, the bankruptcy court's concern regarding the GSA arose from what the court termed Baron's "Cavalcade of Attorneys." Throughout the bankruptcy proceedings, Baron "has continued to hire and fire lawyers" and has instructed these lawyers to file pleadings against matters resolved by the agreement. The court also expressed concern that such constant turn-over in the "dozens of sets of lawyers" hired by Baron has generated "significant fees . . . to a level that is more than a little disturbing." The court noted that this behavior "smacks of the possibility of violating Rule 11" or, "more troubling," the possibility that "Baron may be engaging in the crime of theft of services."

Although the bankruptcy court's report indicates that there was "substantial consummation" of the settlement agreement by most parties, the court nevertheless "has had lingering concerns at each of the status conferences regarding Jeffrey Baron's commitment to completing his obligations under . . . and possibly taking actions to frustrate . . . [the settlement agreement]." The court also expressed concern that Baron's practice of continuously switching legal counsel may pose a risk to the bankruptcy estate and expose other parties to the GSA to unwanted administrative expense.

The bankruptcy court informed Baron that he would no longer be allowed to hire additional attorneys. He was given the option to retain his current legal counsel throughout the remainder of the bankruptcy litigation or proceed *pro se*. Further, the bankruptcy court recommended the Northern District of Texas appoint a special master to conduct a global mediation between Baron and "various attorneys who may make a claim" for reimbursement against the amount of $330,000 set aside by the bankruptcy court as a "security deposit" against the financial risks posed against the bankruptcy estate by the fees incurred by Baron's attorneys.

After consideration of the bankruptcy court's report, the Northern District of Texas adopted the bankruptcy court's recommendation in its entirety and appointed a special master to the case. Although the case is still pending, Judge Fergeson's Order may be viewed here. The bankruptcy court's Report and Recommendation is available at 2010 Bankr. LEXIS 3575 or 2010 WL 4226285 (N.D. Texas).

Tags: special masters, mediation

Tags: Mediation, special masters

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7/1/09 Hearing

haven't physically been the one.

THE COURT: I realize.

This is great testimony. You are supposed to know everything about your company, and you register the names, and you know nothing. Why should I allow you to continue to run the companies? Why don't I put a receiver in your place to take control of all of these matters and run your company for you since you don't seem to understand how it runs or who runs it or what's being done with it?

THE WITNESS: I think it's just regarding particular domain names and what's happened with them. It's difficult to come off the top of my head and explain what's happened to any particular name.

THE COURT: What about putting someone in control of your companies? Putting a receiver in control so that I can know that things are being done correctly?

THE WITNESS: I prefer that I continue to be able to run the company. But what you decide to do is what you decide to do.

MR. KRAUSE: Your Honor, may I address the Court? I have proposed a discovery master to help alleviate some of these issues. I'm not aware of any basis to appoint a receiver for these companies. There is no one making an application for that.

Exhibit T

Exhibit U

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE INC., MANILA INDUSTRIES, INC.; and MUNISH KRISHAN	§	
Plaintiffs,	§	**CIVIL ACTION NO. 3-09CV0988-F**
vs.	§	
JEFFREY BARON and ONDOVA LIMITED COMPANY,	§	
Defendants	§	

ORDER APPOINTING SPECIAL MASTER

IT IS HEREBY ORDERED AS FOLLOWS:

Pursuant to Rule 53 of the Federal Rules of Civil Procedure the Court appoints Peter S. Vogel, a practicing attorney whose address is 1601 Elm Street, Suite 3000, Dallas, Texas 75201, whose telephone number is (214) 999-4422, to serve as Special Master (hereinafter "Master") in this case.

GENERAL

The Master shall receive production of proprietary source code, if any, owned by Defendants pursuant to the terms of the Amendment to Preliminary Injunction signed by this Court. Defendants shall submit a written statement to Plaintiffs' counsel describing the nature and purpose of the proprietary source code in sufficient detail so as to permit Plaintiffs' counsel to evaluate whether such source code is relevant. With respect to any source code submitted, the Master shall determine, whether such source code should be

produced to Plaintiffs' counsel under a highly confidential designation based upon whether such source code is relevant or likely to lead to the production of relevant evidence.

In addition, the Master shall generally assist the Court, upon further request of the Court, regarding electronic evidence.

The Master has and shall exercise the power to regulate all proceedings in every hearing conducted before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under this Order.

The Master shall be empowered to recommend to the Court sanctions which may be imposed by the Court against any party for their conduct during the course of any hearing being conducted by the Master or any proceeding being supervised by the Master.

When a party so requests, the master shall designate a Court Reporter to attend the hearing and prepare the official transcript. The parties may procure the attendance of witnesses before the Master by the issuance and service of process as provided by the Federal Rules of Civil Procedure.

When the Master makes a decision in the case, either the Master or the appropriate attorney shall prepare a proposed order for entry. The proposed order shall be circulated to the Master and all attorneys of record. After allowing three (3) days for response, the Master shall forward his recommended order to the Court. The Court may confirm, modify, correct, reject, reverse or recommit any ruling or decision made by the Master as it may deem proper and necessary in the particular circumstances of the case.

COSTS

Defendants shall deposit into the Master's Trust Account, on or before the 15th day of July, 2009, the sum of $5,000.00 to be retained in the Master's Trust Account pending disbursement necessitated by fees and expenses incurred by the Master appointed herein.

The Master shall submit itemized statements to the Court, with copies to the parties, detailing the work done, the hours spent, routine costs incurred, and other expenses. The Defendants shall pay these fees, costs and expenses and the Master shall be empowered to debit the trust for payment of same.

In the event that the sums in the Master's Trust Account should become inadequate to cover the anticipated fees and expenses of the Master appointed herein, the Master may request the Court to order the deposit of additional sums by the Defendant. The Defendant shall, within five days of such order, deposit the additional sums into the Master's Trust Account.

The Court sets the rate of the Master's compensation at $615.00 per hour. The Master shall also be reimbursed for reasonable expenses.

This Order may be amended or altered as the Court may deem appropriate.

SO ORDERED.

This 9th day of July, 2009.

W. ROYAL FURGESON, JR.
U.S. DISTRICT JUDGE

Ondova trying to seize any monetization funds. Now, what you bring to my attention -- And I'll wait to see what happens in bankruptcy. But what you do bring to my attention is I don't have control of those monetization funds and I don't have control of that money. And if there are third parties that have beneficial interests, I need to really consider whether or not I will appoint a receiver in this case. I already have a receiver. I have a special master, I mean. I might make him the receiver as well, and I might put all of those funds into the trust account of the master and make him a special receiver. Because if I've got beneficial claims of ownership, I can't let those funds escape. And so I want everybody to know I'm very worried that there is money out there that has been and is being and will be generated by the domain names that are now under Mr. Baron's control perhaps as a beneficial representative of other people, and I don't have any control over those. And if I've got claims from past attorneys, intervenors and so forth, I need to get a hold of those funds, and I need a receivership. So I'm telling everybody that right now. Of course, the plaintiffs are going to have damage claims, and those funds shouldn't disappear in that regard. So I want everybody to be thinking about this, but my view is I may have to create Mr. Vogel as not only a special master but

Exhibit V

as a receiver. I'll have to talk to him first. He has never heard this idea before and it might alarm him

MR. VOGEL: Your Honor, I'll do whatever you ask me to do.

THE COURT: When this case comes back to me, I'm considering you as receiver and getting you to give notice to all monetization funds that receive money now or in the past or in the future from Mr. Baron's domain names and put them in a receivership until we can figure out who the owner is.

MR. VOGEL: Whatever you direct, your Honor.

MR. MACPETE: On that particular score, I would say two things in response to Mr. Lurich. Number one, I absolutely disagree with him that the representation was not made to this Court, both your Honor and Judge Lynn.

THE COURT: That's okay. Second.

MR. MACPETE: Worse than that, as I told you at the beginning of the hearing, I have had Mr. Baron on cross examination now for four hours in the bankruptcy court. It resumes again tomorrow at 9:30. During that four hours of testimony, Mr. Baron testified essentially that he committed a fraud on my clients in conjunction with the settlement agreement and on this court in connection with the preliminary injunction. Let me explain how that is.

been cut off to the Friedman Figer trust account as a result of the games Mr. Baron is playing. There is not money to pay him or Mr. Vogel or the forensic people.

THE COURT: What we're going to do is -- That probably is another reason why I am going to make Mr. Vogel a receiver, and he can use whatever investigative tools he needs to figure out where the domain names are, set aside monetization funds with fund companies and use court orders to seize those funds. So there will be money there. You know, all we're doing is just greatly complicating this. If everybody could just sit down and talk about this, it could be different. Now I have a criminal lawyer on the payroll and Mr. Rasansky is sitting out there wanting money. I have Mr. Rasansky and Ms. Aldous sitting out there with their entitlements. Really, this is one time where somebody ought to sit down and say how do we get this thing resolved.

MR. MACPETE: He's still looking for the magic answer, your Honor, and we talked with the bankruptcy counsel over the Labor Day weekend about the possibility of trying to sit down and work something out prior to this hearing tomorrow when he resumes the stand and whether the bankruptcy judge may appoint a Chapter 11 trustee or dismiss his bankruptcy case, and we have gotten no response back. We have tried, but we're not getting

Exhibit E

circumstance and the judge gives a reason, they are not res judicata for anything else but that matter alone.

THE COURT: Let me make sure you understand -- I think Judge Jernigan and I are going to talk. I just feel like it's the best thing in the world. Judge Jernigan is a very experienced judge, and so she and I are going to talk, and I'm going to read everything I have been given up to date, but I am going to sit down -- Maybe I'll take her to lunch, and she and I are going to talk about this.

MR. KEIFFER: Can I have an opportunity to file a reply relative to their points with regard to the 137 application because I think they are massively overstated as this Court admonished not to do.

THE COURT: How soon can you do that?

MR. KEIFFER: Next week is very heavy in trials and the week after that, but I can probably get to you by Monday, a quick retort with regard to those points on 137(d) and its application here as well as the functional situation we have here where somehow it is seen that judicial economy can bypass, as this Court has admonished everyone else here, the rules and procedures that are out here.

THE COURT: Well, you know, surely you have good help in your firm.

MR. KEIFFER: I'm afraid my firm is relatively

Exhibit X

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	
ONDOVA LIMITED COMPANY,	§	Case No. 09-34784-SGJ-11
DEBTOR.	§	
	§	
	§	
NETSPHERE, INC., ET AL.,	§	
PLAINTIFFS,	§	
	§	
VS.	§	Civil Action No. 3-09CV0988-F
	§	
JEFFREY BARON, ET AL.,	§	
DEFENDANTS.	§	

REPORT AND RECOMMENDATION TO DISTRICT COURT (JUDGE ROYAL FURGESON): THAT PETER VOGEL, SPECIAL MASTER, BE AUTHORIZED AND DIRECTED TO MEDIATE ATTORNEYS FEES ISSUES

The undersigned bankruptcy judge makes this Report and Recommendation to the Honorable Royal Furgeson, who presides over litigation related to the above-referenced bankruptcy case styled *Netsphere v. Baron*, Case # 3-09CV0988-F (the "District Court Litigation"). The purpose of this submission is: (a) to report the status of certain matters pending before the bankruptcy court, that are related to the District Court Litigation; and (b)

Exhibit Y

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE INC., MANILA INDUSTRIES, INC.; and MUNISH KRISHAN Plaintiffs,	§	
vs.	§	CIVIL ACTION NO. 3-09CV0988-M
JEFFREY BARON and ONDOVA LIMITED COMPANY, Defendants	§	

ORDER TO MEDIATE DISPUTES REGARDING ATTORNEYS FEES

Based on Bankruptcy Judge Stacey G. C. Jernigan's October 12, 2010 Report and Recommendation that Peter S. Vogel, Special Master, be Authorized and Directed to Mediate Attorneys Fees Issues this Court hereby issues the following Order:

As soon as practical Peter S. Vogel is ordered to mediate all claims against Jeffrey Baron on behalf of this Court and the In Re: Ondova Limited Company, Bankruptcy Case No. 09-34784-SGJ-11 for legal fees and related expenses, and within 30 days of the date of this Order all lawyers who have claims for legal fees against Jeffrey Baron shall submit confidential reports of fees, expenses, and claims to Peter S. Vogel at 1601 Elm Street, Suite 3000, Dallas, Texas 75201 or by email at pvogel@gardere.com. At the date of this Order the attached list and Schedule F (Creditors Holding Unsecured Nonpriority Claims) includes all known claims for attorneys fees and expenses.

ORDERED this 19th of October, 2010.

Royal Furgeson

W. ROYAL FURGESON, JR.
SENIOR U.S. DISTRICT JUDGE

Exhibit Z

LIST OF ATTORNEYS WHO MAY HAVE CLAIMS AGAINST JEFFREY BARON

Gerrit Pronske (Pronske and Patel)
Mike Nelson
Dean Ferguson
Jeff Hall
Gary Lyon
David Paccione
Mark Taylor
Fee Smith (law firm)
Friedman and Feiger
Stephen Jones

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE INC., MANILA INDUSTRIES, INC.; and MUNISH KRISHAN	§	
Plaintiffs,	§	
vs.	§	**CIVIL ACTION NO. 3-09CV0988-M**
JEFFREY BARON and ONDOVA LIMITED COMPANY,	§	
Defendants	§	

AMENDED ORDER TO MEDIATE DISPUTES REGARDING ATTORNEYS FEES

Based on Bankruptcy Judge Stacey G. C. Jernigan's October 12, 2010 Report and Recommendation that Peter S. Vogel, Special Master, be Authorized and Directed to Mediate Attorneys Fees Issues this Court hereby issues the following amended Order:

As soon as practical Peter S. Vogel is ordered to mediate all claims against Jeffrey Baron on behalf of this Court and the In Re: Ondova Limited Company, Bankruptcy Case No. 09-34784-SGJ-11 for legal fees and related expenses, and within 30 days of the date of this Order all lawyers who have claims for legal fees against Jeffrey Baron shall submit confidential reports of fees, expenses, and claims to Peter S. Vogel at 1601 Elm Street, Suite 3000, Dallas, Texas 75201 or by email at pvogel@gardere.com. At the date of this Order the following attorneys have claims for attorneys fees and expenses:

Gerrit Pronske (Pronske and Patel)
Mike Nelson
Dean Ferguson
Jeff Hall
Gary Lyon
David Paccione
Mark Taylor
Fee Smith (law firm)
Friedman and Feiger
Stephen Jones

ORDERED this 25th of October, 2010.

W. ROYAL FURGESON, JR.
SENIOR U.S. DISTRICT JUDGE

Exhibit AA

Exhibit A B

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed September 16, 2010

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	Case No. 09-34784-SGJ-11
ONDOVA LIMITED COMPANY,	§	
	§	Chapter 11
Debtor.	§	
	§	

ORDER DIRECTING ESTABLISHMENT OF SECURITY DEPOSIT

At Dallas, Texas, in said District, on the 15th day of September, 2010, this Court considered the Motion for Expedited Status Conference filed on September 8, 2010, by Daniel J. Sherman, Chapter 11 Trustee [Docket No. 421].

For the reasons stated on the record, this Court orders Jeffrey Baron to request Adrian Taylor, Trustee of the Village Trust, to immediately **(*i.e.*, by Friday September 17, 2010)** transfer the sum of $330,000 to Daniel J. Sherman, Trustee, as a security deposit (the "Security Deposit"). The Security Deposit shall be held by Mr. Sherman until further order of this Court.

Failure to comply shall be an act in contempt of this court.

IT IS SO ORDERED.

END OF ORDER # #

SUBMITTED BY:

Raymond J. Urbanik
Texas Bar No. 20414050
Lee J. Pannier
Texas Bar No. 24066705
MUNSCH HARDT KOPF & HARR, P.C.
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Facsimile: (214) 855-7584

ATTORNEYS FOR DANIEL J. SHERMAN,
CHAPTER 11 TRUSTEE

to accumulate to pay some monthly support allowance for Mr. Baron. I'm not taking that out of consideration.

MR. JACKSON: And we would like to sit down with the receiver and submit a proposed budget as to my two companies.

THE COURT: Fine.

MR. JACKSON: If he has other sources out there, I have nothing to do with those.

THE COURT: My view is we're going to work it out with you guys. We, all of us together. But you know -- I want this to be a cooperative venture. These people are acting under the orders of the Court, and if we can get these orders clarified so that you can operate the way you want to, Mr. Jackson, you and Mr. Cox, and your client and the receiver can receive funds, used to pay lawyers, then we will be fine. And so I see you guys as the not difficult part of this puzzle. That was my hope.

MR. GOLDEN: I guess the first thing, your Honor, is we need to get clarification that Quantec and Novo Point are, in fact, receiver parties as set forth in the receiver order.

THE COURT: They are going to be receiver parties.

MR. GOLDEN: We need a written order because my clients requires that.

Exhibit AC

15:09 companies, and so the receiver will assume that you are going to be representing them and them alone and any communications you have relate to them, not to any other party.

MR. JACKSON: Correct.

MR. COX: Yes, your Honor.

MR. LOH: For the time being. In the sense that we have already discussed what their possible role may be going forward, but we can't make any promises to that effect right now.

THE COURT: Well, my goal is in thirty days we have a lot of this straightened away. But this has been helpful that this agreement has been reached.

MR. LOH: One more thing on housekeeping. With 15:09 regard to the order -- we did this over lunch -- there are a couple of typos that we corrected, and counsel for the parties merely corrected in the order and initialed. So those are the extraneous markings that you may see in a few different places. We apologize for any inconvenience, but this was a rush job to a certain extent.

THE COURT: I'm impressed you got that far.

MR. JACKSON: Your Honor, in that regard, if I may for the record. We were under time restraints, and we got it done. That's the important thing. But there is a memorandum of understanding as to how this is going

Exhibit AD

forward with management and decision making primarily because we want to minimize receiver fees and fees from the receiver's attorney that eventually will be a fee app to our two clients.

THE COURT: All the Court can ask is that lawyers work in a professional, civil way as officers of the Court in goodwill. And I think that's what you are doing. And so I'm very grateful to you for that.

That's all that can be done. What I would like to do for the hearing on the 4th is -- I do have a lot of lawyers in the courtroom and I'm glad to hear from all the lawyers who should testify in this case.

MR. JACKSON: May Quantec and Novo Point be excused?

THE COURT: Yes. Let me read this order real quick, and I'll excuse you.

MR. JACKSON: Don't hold everybody else up for us. Finish with everybody else and then -- Just excused from the 4th.

THE COURT: Absolutely. You will be excused from the 4th. What I would like the lawyers to do in good faith and good will is line up the witness list, who Mr. Baron wants to call and who Mr. Sherman wants to call, and line up all of these people and especially as a courtesy to Mr. Ferguson and give him notice of when you think they

Exhibit A E

N THE UNITED STATES DISTRICT COURT
OR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA INDUSTRIES., INC., AND MUNISH KRISHAN	§	
PLAINTIFFS,	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
JEFFREY BARON AND ONDOVA LIMITED COMPANY,	§	
DEFENDANTS.	§	

THE RECEIVER'S THIRD MOTION TO CLARIFY THE RECEIVER ORDER

The Order Appointing Receiver (the "Receiver Order") grants the Receiver exclusive control over any and all "Receivership Parties." The Receiver moves for clarification that the definition of Receivership Parties has always included the following entities: Iguana Consulting, LLC, Diamond Key, LLC, Quasar Services, LLC, Javelina, LLC, HCB, LLC, a Delaware limited liability company, HCB, LLC, a U.S. Virgin Islands limited liability company, Realty Investment Management, LLC, a Delaware limited liability company, Realty Investment Management, LLC, a U.S. Virgin Islands limited liability company, Blue Horizon Limited Liability Company, Simple Solutions, LLC, Asiatrust Limited, Southpac Trust Limited, Stowe Protectors, Ltd., and Royal Gable 3129 Trust (the "Baron-Controlled Entities"). Additionally, the Receiver moves for removal of ID Genesis, LLC from the definition of Receivership Parties.

1. On November 24, 2010, the Court issued an order appointing Peter S. Vogel as the Receiver for Defendant Jeffrey Barron, referred to herein as the Receiver Order. [Docket #124.]

2. The Receiver Order defines "Receivership Parties" as Jeffrey Baron and Village Trust, Equity Trust Company IRA 19471, Daystar Trust, Belton Trust, Novo Point, Inc., Iguana Consulting, Inc., Quantec, Inc., Shiloh, LLC, Novquant, LLC, Manassas, LLC, Domain Jamboree, LLC, and ID Genesis, LLC. [*Id.* at p. 1.] The Receiver Order further defines Receivership Parties as "any entity under the direct or indirect control of Jeffrey Baron, whether by virtue of ownership, beneficial interest, a position as officer, director, power of attorney or any other authority to act." [*Id.* at p. 2.]

3. The Receiver understands, upon information and belief, that the Baron-Controlled Entities are under Baron's control and, thus, are included in the Receiver Order's definition of Receivership Parties.

4. The Receiver understands that ID Genesis, LLC was mistakenly incorporated into the Receiver Order as one of the "Receivership Parties." The Receiver has received confirmation of this understanding from Plaintiff Netsphere, Inc. and Daniel J. Sherman, the duly-appointed Chapter 11 trustee in the bankruptcy case of Ondova, styled in *In re Ondova Limited Company*, Case No. 09-34784, in the United States Bankruptcy Court for the Northern District of Texas

5. The Receiver moves the Court for an order that the definition of "Receivership Parties" (1) has always included the Baron-Controlled Entities and (2) does not include ID Genesis, LLC.

WHEREFORE, PREMISES CONSIDERED, the Receiver Peter S. Vogel respectfully requests that the Court issue an order (1) clarifying that in the Order Appointing Receiver, the definition of Receivership Parties has always included the following entities: Iguana Consulting, LLC, Diamond Key, LLC, Quasar Services, LLC, Javelina, LLC, HCB, LLC, a Delaware limited

liability company, HCB, LLC, a U.S. Virgin Islands limited liability company, Realty Investment Management, LLC, a Delaware limited liability company, Realty Investment Management, LLC, a U.S. Virgin Islands limited liability company, Blue Horizon Limited Liability Company, Simple Solutions, LLC, Asiatrust Limited, Southpac Trust Limited, Stowe Protectors, Ltd., and Royal Gable 3129 Trust; and (2) removing ID Genesis, LLC from the Order Appointing Receiver's definition of Receivership Parties.

Respectfully submitted,

/s/ Barry M. Golden
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ATTORNEYS FOR THE RECEIVER, PETER S. VOGEL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF system on all counsel of record on December 23, 2010.

/s/ Peter L. Loh
Peter L. Loh

CERTIFICATE OF CONFERENCE

Given the nature of this motion, the Receiver does not believe it is necessary to confer with counsel to this case. Nonetheless, the undersigned certifies that counsel for the Receiver attempted to confer via e-mail on December 21 and 22, 2010, with regard to the foregoing motion with all counsel of record in this matter. Counsel either did not respond to the attempt to confer or stated they were unopposed to the motion.

/s/ Peter L. Loh
Peter L. Loh

Exhibit AG

E UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA INDUSTRIES, INC., AND MUNISH KRISHAN	§	
PLAINTIFFS,	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
JEFFREY BARON AND ONDOVA LIMITED COMPANY,	§	
DEFENDANTS.	§	

ORDER GRANTING THE RECEIVER'S THIRD MOTION TO CLARIFY THE RECEIVER ORDER

Having heard the Receiver Peter S. Vogel's Third Motion to Clarify the Receiver Order (Docket No. 180), the Court declares, for purposes of clarification, that the Receiver Order's definition of Receivership Parties has always included Iguana Consulting, LLC, Diamond Key, LLC, Quasar Services, LLC, Javelina, LLC, HCB, LLC, a Delaware limited liability company, HCB, LLC, a U.S. Virgin Islands limited liability company, Realty Investment Management, LLC, a Delaware limited liability company, Realty Investment Management, LLC, a U.S. Virgin Islands limited liability company, Blue Horizon Limited Liability Company, Simple Solutions, LLC, Asiatrust Limited, Southpac Trust Limited, Stowe Protectors, Ltd., and Royal Gable 3129 Trust. Further, ID Genesis, LLC is removed from the Receiver Order's definition of Receivership Parties.

SIGNED this 3rd day of February, 2011

Royal Furgeson
Senior United States District Judge

Exhibit AH

IE UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC., MANILA INDUSTRIES., INC., AND MUNISH KRISHAN PLAINTIFFS,	§	
v.	§	CIVIL ACTION NO. 3:09-CV-0988-F
JEFFREY BARON AND ONDOVA LIMITED COMPANY, DEFENDANTS.	§	

ORDER GRANTING THE RECEIVER'S FOURTH MOTION TO CLARIFY THE RECEIVER ORDER

BEFORE THE COURT is the Receiver Peter S. Vogel's Fourth Motion to Clarify the Receiver Order (Docket No. 141). The Court considered the Motion to Clarify, the relevant pleadings, and the evidence on file and finds that the Motion to Clarify is well-taken and should be GRANTED in all ways.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the definition of "Receivership Parties" in the Court's November 24, 2010, Order Appointing Receiver has always included CDM Services, LLC or if CDM Services, LLC was created after the date of the Order Appointing Receiver, the definition of "Receivership Parties" included CDM Services, LLC since the date of CDM Services, LLC's creation.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all individuals affiliated with or purporting to represent CDM Services, LLC are subject to the Order Appointing Receiver in all respects.

Signed this 4th day of February, 2011.

Royal Furgeson
Senior United States District Judge