

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

SECURITIES AND EXCHANGE COMMISSION,)	
)	
)	
PLAINTIFF,)	
)	
v.)	Civil Action No. 3:17CV-420- L
)	
)	
PATRICK O. HOWARD; HOWARD CAPITAL HOLDINGS, LLC; AND OPTIMAL ECONOMICS CAPITAL PARTNERS, LLC,)	
)	
)	
DEFENDANTS.)	

**APPENDIX IN SUPPORT OF RECEIVER’S RESPONSE IN
OPPOSITION TO DEFENDANT PATRICK HOWARD’S DOCKET
ENTRIES 85, 86, 90, 91 AND UNFILED LETTER TO COURT RELATING
TO SHOW CAUSE ORDER AND REQUEST FOR FEES**

Receiver W. Craig Stokley, by and through the undersigned counsel, respectfully files this Appendix in Support of *Receiver’s Response in Opposition to Defendant Patrick Howard’s Docket Entries 85, 86, 90, 91 and Unfiled Letter to Court Relating to Show Cause Order and Request for Fees* (the “Response”), which is filed concurrently herewith, and incorporates the evidence presented in this Appendix into the Response as if fully set forth therein.

Respectfully submitted,



KIMBERLY M. J. SIMS

State Bar No. 24046167

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Dallas, Texas 75225

Telephone: (214) 888-3106

Facsimile: (214) 888-3109

ATTORNEY FOR RECEIVER

W. CRAIG STOKLEY

CERTIFICATE OF SERVICE

On June 30, 2017, I electronically filed the foregoing document via the Court's CM/ECF filing system, which will send a notice of electronic filing to all CM/ECF participants. I further certify that I served a true and correct copy of the foregoing document and the notice of electronic filing via UPS and electronic mail on all non-CM/ECF parties and/or their counsel.



KIMBERLY M.J. SIMS

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Ex. #	APP Nos.	Description
A	1-3	Declaration of Dovile Soblinskas, dated June 29, 2017.
B	4-5	Letter from Brandon N. McCarthy, Esq. to Judge Sam A. Lindsay, dated June 12, 2017.
C	6-8	Email from Ramon Rodriguez to Craig Stokley, dated June 12, 2017 at 4:01 PM.
D	9-10	Email from Craig Stokley to Phil Benzanson, copying Timothy McCole and Kimberly Sims, dated June 9, 2017 at 4:29 PM.

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DECLARATION OF DOVILE SOBLINSKAS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

1. “My name is Dovile Soblinskas. I am over the age of eighteen (18) years, of sound mind and capable of making this declaration. I have personal knowledge of the facts stated below.

2. “I have read the following documents filed by Defendant Patrick Howard (“Howard”): (a) Howard’s Motion to Strike Receiver’s Omnibus Response and Brief in Support Thereof, filed on June 9, 2017 [Dkt. 85] (the “Motion to Strike”); (b) Howard’s Affidavit in Support of His Motion to Strike Receiver’s Omnibus Response and Brief in Support, filed on June 12, 2017 [Dkt. 86] (the “Howard Affidavit”); and (c) Howard’s Motion to Seal and Brief in Support Thereof, filed on June 20, 2017 [Dkt. 91] (the “Motion to Seal”) (collectively, “Howard’s Motions”).

3. “This declaration responds to the factual allegations contained in Howard’s Motion as they relate to my relationship with Howard, attorney James Bell, attorneys at Bracewell L.P., and the Receiver.

4. “I left Dallas, Texas for a pre-paid trip to the Philippines on February 17, 2017 and did not return to Dallas, Texas until March 3, 2017.

5. “On February 26, 2017, the Receiver sent me a letter advising me that I had been terminated as an employee of OE Capital Partners.

6. “On March 4, 2017, I received an email from Howard which contained an email Howard had received from his attorney, Brandon McCarthy, on February 26, 2017 (the ‘McCarthy Email’). Howard did not copy anyone else on the McCarthy Email when he sent it to me. Howard did not instruct me either verbally or in writing that the McCarthy Email was confidential.

7. “At the time that the McCarthy Email was sent to me, I had no knowledge of any ‘joint defense agreement’ or ‘common interest agreement’ with Howard or his attorneys. At the time the McCarthy Email was sent to me I had not retained any attorney to represent me.

8. “I had not heard about James Bell until the day the McCarthy Email was sent to me on March 4, 2017. I did not retain James Bell at that time.

9. “On March 21, 2017, I attended a meeting with the Receiver at the Receiver’s office. I had not retained an attorney to represent me at that time.

10. “Some time after the March 21, 2017 meeting, I met with another attorney, Rob Castle of Lackey Hershman. I received Mr. Castle’s contact information from Barrett Howell. At the time I contacted Mr. Castle, I had not retained an attorney to represent me.

11. “On April 11, 2017, I notified the Receiver that I would be retaining Rob Castle to represent me and other investors. However, I never formalized any engagement with Rob Castle.

12. “On April 20, 2017, I retained attorney James Bell to represent me in connection with responding to the Receiver’s Motion to Show Cause.

13. “On May 21, 2017, my engagement with James Bell terminated. I then hired Ramon Rodriguez to represent me in connection with this matter.

14. “I have never been and I am not currently in any ‘joint defense agreement’, ‘common interest agreement’, or any other similar type of agreement, with Howard, James Bell, or any attorneys at Bracewell. The first time I had heard anyone claim there was a ‘joint defense agreement’ was in connection with Howard’s Motions, filed in June 2017, referenced above.

15. I do not believe that Patrick Howard and I have common legal interests. I never received a subpoena from the SEC, and am not aware of any other investigations related to me. On the other hand, Patrick Howard was a named defendant in the securities fraud case brought by the SEC. I do not believe that I was ever targeted to be a named defendant in the above-referenced case by the SEC, and have not been named as a defendant in any litigation.

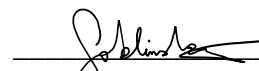
16. “I have not agreed to any joint defense agreement with Howard or his counsel. If an understanding was reached to that effect between James Bell and Bracewell, I had no knowledge of the agreement and James Bell was not authorized to enter into that agreement on my behalf.

17. “I have never personally been represented by any attorneys at Bracewell L.P., including Brandon McCarthy and Barrett Howell.

18. “I am not an attorney.”

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 6/29/2017


Dovile Soblinskas

BRACEWELL

June 12, 2017

Judge Sam A. Lindsay
United States District Court
Northern District of Texas
1100 Commerce Street, Rm 1544
Dallas, Texas 75242-1003

Re: **June 2, 2017 filing by Craig Stokley**
Case No. 3:17-CV-0042; Filing #81, 82

Dear Judge Lindsay:

I am aware that you disfavor attorneys using your Court as a public forum for anything related to mud-slinging. Out of respect for that, I have written this letter (cc'ing opposing counsel), rather than filing another pleading in response to Receiver Craig Stokley's (the Receiver) recent allegations against our firm. As I practice in front of you regularly, I do not want false impressions left with the Court about me or my partners at Bracewell.

Last Friday, June 2, Kimberly Sims, counsel for the Receiver (and Mr. Stokley's law partner), submitted two entries on the docket number listed above. The Receiver's motion is an inflammatory one-sided conspiracy theory that is defamatory, inaccurate, incomplete, manipulates, and leaves out the context of the communications referenced, and is ultimately devoid of damages or harm. Furthermore, Receiver improperly obtained and used private, *privileged* attorney-client communications in order to support his motion.

The Receiver also complains about actions (potentially seeking to appoint a different Receiver or the Receiver being obstructed) that have not occurred. The true foundation of the Receiver's complaint is that Bracewell attorneys, Brandon McCarthy and Barrett Howell, made attorney referrals. Even if attorney referrals were a violation (they are not), ironically, the attorneys recommended were not hired, further exemplifying the total absence of harm.

The February 26, 2017, email was a private privileged communication between attorneys and Patrick Howard. The Receiver should never have read, much less obtained, access to Howard's privileged communications. Howard did not give this communication to the receiver at any time. The means by which the Receiver acquired this information will be addressed later in a proper filing with the court.

Brandon N. McCarthy
Partner

T: +1.214.758.1066 F: +1.800.404.3970
1445 Ross Avenue, Suite 3800, Dallas, Texas 75202-2724
brandon.mccarthy@bracewell.com bracewell.com

Judge Sam A. Lindsay
June 12, 2017
Page 2

In addition, the Receiver manipulates the text of the email to suit his own purposes (please compare the actual to the quote in his motion). This email references a referral that never occurred (as the investors are represented by someone entirely different – Jeffrey Ansley).

That aside, in a flagrant attempt to inflame the Court, the Receiver argues that Howard's attorneys were intending to thwart the Court. The Court's intent is to protect the investors. It is obvious from the referenced email, that was our intent as well:

If they do ask for counsel, I would direct them to James Bell. He is the one I recommended would be best to help protect the investor interest and hopefully lose/jettison the receiver...

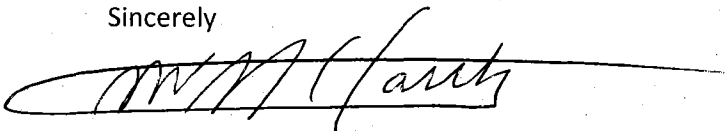
Recommending competent counsel (if they ask) to hopefully (in the future) (1) bring true facts to light, (2) present them to the Court, and (3) give the Court the opportunity to evaluate whether the continued use of a receiver acting improperly, would be positive for all.

At the time of the privileged email, our client had multiple ethical, legal, and factual grounds for serious concern about the Receiver. That myriad of concerns about the Receiver led us to believe the investors may need representation in the future.

Words like "jettison" and "havoc" are admittedly strong. But that was a private message to a client reflecting the entirety of the circumstances. In all candor, clients want to feel like their attorney is fighting hard for them. As a consequence, private messages to clients are sometimes strongly worded, so the client gets the sense that their attorney cares, is outraged as well, and is fighting zealously for them.

On February 26, a potential referral seemed appropriate and needed. Ultimately, the investors' counsel and the investors could make the decision about the receiver. And, at the end of the day, the anticipated referral did not even occur.

Sincerely

A handwritten signature in black ink, appearing to read "B. McCarthy", with a long horizontal line extending to the right.

Brandon N. McCarthy
Partner

Craig Stokley

From: Ramon Rodriguez <ramon@rrtxlaw.com>
Sent: Monday, June 12, 2017 4:01 PM
To: Craig Stokley
Subject: Fwd: SEC v. Howard: Cease and Desist

Sincerely, and, as always, with regard,

Ray

Ramon de Jesus Rodriguez
Attorney

Law Offices of Ramon Rodriguez
5001 Spring Valley Rd.,
Suite 400E
Dallas, Texas 75244
P: [972-383-1510](tel:972-383-1510)
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692-7719

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----- Forwarded message -----

From: Bezanson, Phil <philip.bezanson@bracewell.com>
Date: Fri, Jun 9, 2017 at 4:35 PM
Subject: RE: SEC v. Howard: Cease and Desist
To: Ramon Rodriguez <ramon@rrtxlaw.com>
Cc: "Howell, Barrett" <barrett.howell@bracewell.com>

As you might have experienced, joint defense agreements are rarely committed to writing. I recommend you confer with your client's prior counsel. Thank you and take care. Phil

From: Ramon Rodriguez [mailto:ramon@rrtxlaw.com]
Sent: Friday, June 9, 2017 2:15 PM

Subject: Re: SEC v. Howard: Cease and Desist

Mr. Bezanson,

Can you please provide me with an executed copy of the joint defense agreement mentioned in your letter.

Thank you,

Ray

Sincerely, and, as always, with regard,

Ray

Ramon de Jesus Rodriguez

Attorney

Law Offices of Ramon Rodriguez

5001 Spring Valley Rd.,

Suite 400E

Dallas, Texas 75244

P: [972-383-1510](tel:972-383-1510)

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692-7719

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On Fri, Jun 9, 2017 at 3:50 PM, Bezanson, Phil <philip.bezanson@bracewell.com> wrote:

Mr. Rodriguez, please see attached letter and let Barrett or me know if you have any questions.

PHIL BEZANSON

Managing Partner, Seattle

philip.bezanson@bracewell.com

T: [+1.206.204.6206](tel:+12062046206) | F: [+1.800.404.3970](tel:+18004043970) | M: [+1.646.239.3555](tel:+16462393555)

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Craig Stokley

From: Craig Stokley
Sent: Friday, June 9, 2017 4:29 PM
To: 'Bezanson, Phil'
Cc: McCole, Timothy S.; Kimberly Sims
Subject: FW: Voice Message From Number 2062046206 Sent Fri 6/9/2017 3:55 PM
Attachments: 0000283C.WAV

Phil,

I received your voicemail a few minutes ago seeking to confer on a motion to strike evidence attached to my June 2, 2017 filing that you contend to be "privileged joint defense" communications. As I expect you know, such a filing (1) has no merit under applicable law and the facts here; (2) will do nothing more than bring additional attention to your client and your partners contemptuous conduct; and (3) will cost the Receivership money. However, should you wish to file such an ill-advised motion, be advised that I will seek any costs associated with responding to be paid by your client and your law firm directly.

Regards,

Craig Stokley, Receiver in 3:17-CV-420-L

W. CRAIG STOKLEY, ESQ.
Founding Member

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-----Original Message-----

From: Palter Scanner

Sent: Friday, June 9, 2017 9:56 AM

To: Craig Stokley <CStokley@palterlaw.com>

Subject: Voice Message From Number 2062046206 Sent Fri 6/9/2017 3:55 PM

Message

Sent By: Number 2062046206

Voice Mail Received: Fri 6/9/2017 3:55 PM Voice Message Attached