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

SECURITIES AND § **EXCHANGE COMMISSION,** § § Plaintiff, § Civil Action No. 3:17-CV-420-L \mathbf{v} . § § PATRICK O. HOWARD, HOWARD CAPITAL HOLDINGS, § LLC, AND OPTIMAL ECONOMICS CAPITAL PARTNERS, LLC, § Defendants. §

ORDER

On February 14, 2017, the court entered an order appointing W. Craig Stokley as Receiver in this action. *See* Order Appointing Receiver (Doc. 10). On April 19, 2017, the Receiver filed a Motion to Show Cause (Doc. 56), requesting that the court order Defendant Patrick O. Howard ("Howard"), and several nonparty respondents, including Ron Scherer ("Scherer"), to show cause as to why they should not be held in contempt for violating the Order Appointing Receiver. On April 28, 2017, the court issued a Show Cause Order directing Howard and the nonparty respondents, including Scherer, to file written briefs showing cause why he or she should not be held in civil contempt of the Order Appointing Receiver. *See* Show Cause Order (Doc. 59). The court also ordered the Receiver to arrange for a process server to personally serve the order on the nonparties. The docket sheet reflects that Scherer was personally served with the Show Cause Order on May 2, 2017. *See* Affidavit of Service (Doc. 67). In violation of the court's Show Cause Order, Scherer did not file a response. Howard and the remaining nonparty respondents filed

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responses to the court's Show Cause Order. On February 20, 2018, the court issued a

memorandum opinion and order granting in part and denying in part the Receiver's Motion to

Show Cause. See Doc. 103.

While the Receiver's Motion to Show Cause has been resolved, Scherer's violation of the

court's Show Cause Order must still be addressed. The court has the inherent power to impose

sanctions for willful violation of a court order. Scaife v. Associated Air Ctr. Inc., 100 F.3d 406,

411 (5th Cir. 1996) ("Federal courts have inherent powers [that] include the authority to sanction

a party or attorney when necessary to achieve the orderly and expeditious disposition of their

dockets.") (citations omitted). Given that this is Scherer's first violation, and no undue prejudice

has been caused by his failure to file a response, the court concludes that a stern warning to Scherer

will serve as a sufficient deterrent to future noncompliance. Accordingly, Scherer is hereby

placed on notice that any future violation of a court order in this matter may result in the

imposition of appropriate sanctions, which may include monetary penalties, contempt of

court, or arrest.

The court **directs** Receiver to serve a copy of this order on Scherer by certified and regular

mail at his last known residence at 452 Cedar Drive, Saint Henry, Ohio 45883-8631, and to provide

the court with proof of service.

It is so ordered on this 21st day of February, 2018.

Sam Q. Jindsay Sam A. Lindsay

United States District Judge