

Motions

2:08-cv-00566-LDG-LRL Securities and Exchange Commission v. Gold-Quest International, et al

United States District Court**District of Nevada****Notice of Electronic Filing**

The following transaction was entered by Silvestri, Jeffrey on 5/29/2008 at 5:20 PM PDT and filed on 5/29/2008

Case Name: Securities and Exchange Commission v. Gold-Quest International, et al

Case Number: 2:08-cv-566

Filer: Cook Receiver Services, Inc.

Document Number: 61

Docket Text:

MOTION for Turnover of Proceeds of the Receivership Estate Transferred to E-Bullion Accounts in the Names of Little Shell Nation and Michael Howard Reed by Receiver Cook Receiver Services, Inc.. Responses due by 6/16/2008. (Attachments: # (1) Exhibit A, # (2) Exhibit B)(Silvestri, Jeffrey)

2:08-cv-566 Notice has been electronically mailed to:

Lorraine B. Echavarria echavarrial@sec.gov

Teri M. Melson melsont@sec.gov

Karol Pollock pollockk@sec.gov

Securities and Exchange Commission pollockk@sec.gov

Jeffrey A Silvestri jsilvestri@mcdonaldcarano.com, dsampson@mcdonaldcarano.com

David J Van Havermaat vanhavermaatd@sec.gov

2:08-cv-566 Notice has been delivered by other means to:

Gold-Quest International
10620 Southern Highlands Parkway
Ste 110
Las Vegas, NV 89141

John Jenkins

10620 Southern Highlands Parkway
Ste 110
Las Vegas, NV 89141-4372

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1101333072 [Date=5/29/2008] [FileNumber=3854582-0]
][d16642d088359e8819fdcc9826db44c43b0f4d9acf55818e81d90489ea9c140e66b
6842a95502c31867bc1fcf8c486956dd6cab0bd983872455922f4c9eee4f2]]

Document description:Exhibit A

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1101333072 [Date=5/29/2008] [FileNumber=3854582-1]
][ca3548689677943f78986242332f8d5bad1e674837fbcc37afe14c7366e454073d1
908abc4c511d46d1b1578e03682ada79fba08a9dc973ada1ff98b679f9bed]]

Document description:Exhibit B

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1101333072 [Date=5/29/2008] [FileNumber=3854582-2]
][c90789264a1c407393970a44f251a5860931c2241d823f2a3a93fd3f79b437744cb
ab3ad77062f9b91bfec4d02f5af88c3407ed0b05c872eafec6af928a2ec92]]

1 JEFFREY A. SILVESTRI, ESQ.
Nevada Bar No. 5779
2 McDONALD CARANO WILSON LLP
2300 W. Sahara Avenue, Suite 1000
3 Las Vegas, NV 89102
jsilvestri@mcdonaldcarano.com
4 Telephone: (702) 873-4100
Facsimile: (702) 873-9966
5 *Attorneys for Permanent Receiver*
Cook Receiver Services, Inc.
6

7
8 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

9 SECURITIES AND EXCHANGE
COMMISSION,

10 Plaintiff,

11 vs.

12 GOLD-QUEST INTERNATIONAL, DAVID
13 GREENE a/k/a LORD DAVID GREENE a/k/a
14 DAVID GREEN, JOHN JENKINS and
MICHAEL MCGEE,

15 Defendant

Case No. 2:08-CV-00566-LDG-LRL

**MOTION FOR TURNOVER OF
PROCEEDS OF THE RECEIVERSHIP
ESTATE TRANSFERRED TO E-BULLION
ACCOUNTS IN THE NAMES OF
LITTLE SHELL NATION AND
MICHAEL HOWARD REED**

16
17 **PERMANENT RECEIVER'S MOTION FOR TURNOVER OF PROCEEDS OF**
18 **RECEIVERSHIP ESTATE TRANSFERRED TO E-BULLION ACCOUNTS IN THE**
NAMES OF LITTLE SHELL NATION AND MICHAEL HOWARD REED

19 COMES NOW the Permanent Receiver Cook Receiver Services, Inc. (the "Receiver"), by
20 and through its undersigned counsel, and for its Motion for Turnover of Proceeds of the
21 Receivership Estate Transferred to E-bullion Accounts in the Names of Little Shell Nation and
22 Michael Howard Reed, respectfully states as follows:

23 **Introduction and Summary**

24 1. The Securities and Exchange Commission (the "Commission") initiated this
25 securities fraud enforcement action on May 6, 2008.
26
27
28

 **McDONALD-CARANO-WILSON^{LLP}**
2300 WEST SAHARA AVENUE • SUITE 1000 • LAS VEGAS, NEVADA 89102-4354
PHONE (702) 873-4100 • (702) 873-9966


MCDONALD-CARANO-WILSON
 2300 WEST SAHARA AVENUE • SUITE 1000 • LAS VEGAS, NEVADA 89102-4354
 PHONE (702) 873-4100 • (702) 873-9966

1 2. On that same date and, based on a preliminary showing of securities fraud, the
 2 Court established an asset freeze and appointed Cook Receiver Services, Inc. as Temporary
 3 Receiver as set forth in the Temporary Restraining Order ("TRO") (Doc. # 23).

4 3. On May 16, 2008, the Court entered an Amended Preliminary Injunction ("PI
 5 Order") (Doc. # 51) which, *inter alia*, ordered the Defendants and any other persons who are in
 6 custody, possession or control of any assets of Gold-Quest International ("Gold-Quest") to give
 7 access to and control of such property to the Receiver. The PI Order also appointed Cook
 8 Receiver Services, Inc as Permanent Receiver for Gold-Quest.

9 4. In the instant Motion, the Receiver seeks a turnover order directing E-bullion,
 10 Little Shell Nation, and Michael Howard Reed to turnover to the Receiver two E-bullion accounts
 11 as follows:

Financial Institution, Bank or e-currency entity	Account Name or Account Authority	Account Number
E-bullion	Little Shell Nation	XX3571
E-bullion	Michael Howard Reed	XX0455

12 5. The Receiver and Commission personnel have reviewed books and records of
 13 Gold-Quest and identified two transfers of Gold-Quest funds to Little Shell Nation and Michael
 14 Howard Reed as follows:

15 A. On April 22, 2008, Gold-Quest transferred \$30,000 to Little Shell Nation's E-
 16 bullion account XX3571. A true and correct copy of the Transaction Details for this transfer is
 17 attached as **Exhibit A**.

18 B. On March 28, 2008, Gold-Quest transferred \$40,000 to Michael Howard Reed's E-
 19 bullion account XX0455. A true and correct copy of the Transaction Details for this transfer is
 20 attached as **Exhibit B**.

1 courts impose the remedy of constructive trust where, rightfully or wrongfully, a party has
2 obtained property which unjustly enriches him.”), modified on other grounds, 871 F.2d 1210 (3rd
3 Cir. 1989); see also Rollins v. Metropolitan Life Insurance Co., 863 F.2d 1346, 1354 (7th Cir.
4 1988) (“a constructive trust may be invoked even where the unjustly enriched party is completely
5 blameless”). The second is the applicable fraudulent transfer statutes. E.g., Cunningham, as
6 Trustee for Ponzi v. Brown, 265 U.S. 1 (1924).

8 **Argument**

9 13. On the facts as known to the Receiver, Little Shell Nation's E-bullion account and
10 Michael Howard Reed's E-bullion account (collectively, the "E-bullion Accounts") need to be
11 turned over to the Receiver for the benefit of the defrauded investors. The money Little Shell
12 Nation and Michael Howard Reed obtained from investors in the course of Gold-Quest's
13 fraudulent scheme never equitably became their money. Instead, Little Shell Nation and Michael
14 Howard Reed merely held the money in its possession as a constructive trustee for the benefit of
15 the defrauded investors. The E-bullion Accounts equitably belong to the fraud victims, and
16 therefore should be returned to the Receiver, to be used in compensating the defrauded Gold-
17 Quest investors.

19 14. Counsel for the Commission has reviewed this Motion and concurs with the relief
20 sought herein.

22 **Conclusion**

23 WHEREFORE, the Receiver respectfully requests the Court enter an Order:

24 A. Directing E-bullion and Little Shell Nation, to turnover the balance in E-bullion
25 account number XX3571;

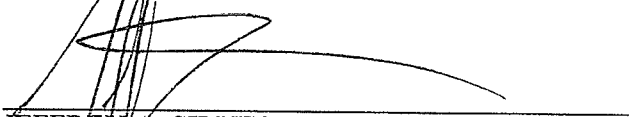
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. Directing E-bullion and Michael Howard Reed, to turnover the balance in E-bullion account number XX0455; and

C. For such other and further relief as the Court deems just and appropriate.

Respectfully submitted this 29th day of May, 2008.

McDONALD CARANO WILSON LLP



JEFFREY A. SILVESTRI, ESQ.
Nevada Bar No. 5779
2300 W. Sahara Avenue, Suite 1000
Las Vegas, NV 89102
jsilvestri@mcdonaldcarano.com
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
*Attorneys for Temporary Receiver
Cook Receiver Services, Inc.*

 **McDONALD-CARANO-WILSON**
2300 WEST SAHARA AVENUE • SUITE 1000 • LAS VEGAS, NEVADA 89102-4354
PHONE (702) 873-4100 • (702) 873-9966

LVDOCS\149832\1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano Wilson, LLP, and that on 20th day of May, 2008, I served a true and correct copy of the foregoing **MOTION FOR TURNOVER OF PROCEEDS OF THE RECEIVERSHIP ESTATE TRANSFERRED TO E-BULLION ACCOUNTS IN THE NAMES OF LITTLE SHELL NATION AND MICHAEL HOWARD REED** via the U.S. District Court's Notice of Electronic Filing ("NES") and by depositing a copy of the same in the U.S. Mail, postage prepaid, upon the parties and at the addresses listed below:

David J. Van Havermaat, Esq.
Karol Pollock, Esq.
Lorraine B. Echavarria, Esq.
Teri M. Melson, Esq.
US Securities and Exchange Commission
5670 Wilshire Boulevard, 11th Fl.
Los Angeles, CA 90036
Attorneys for Securities and Exchange Commission

Michael Howard Reed
PO Box 4
Rolette, North Dakota 58366

John K. Rubiner, Esq.
Bird, Marella
1875 Century Park East, 23rd Fl
Los Angeles, CA 90067
Attorneys for E-bullion

Michael McGee
[REDACTED]
Las Vegas, NV 89138

AND Via e-mail:
michael@lasvegas.net

John Jenkins
10620 Southern Highlands Parkway, Ste. 110
Las Vegas, NV 89141

AND

Via email - jjcjcj@gmail.com

 **MCDONALD-CARANO-WILSON**
2300 WEST SAHARA AVENUE • SUITE 1000 • LAS VEGAS, NEVADA 89102-4154
PHONE (702) 873-4100 • (702) 873-9966

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Michael Howard Reed and
Gregory Davis (Chief of Nation)
Little Shell Nation
506 5th Avenue
Rolette, North Dakota 58366

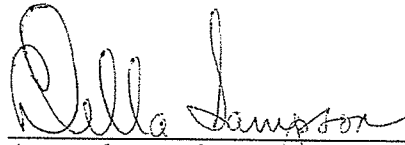
AND via Fax: 701-246-3584

AND via e-mail:
lsnag1@yahoo.com

David Greene
[REDACTED]
Las Vegas, Nevada 89146

AND

Via email - dm^g@intermind.net;
david@ldmg7712.com;
david@davidmgreene.com



An employee of McDonald Carano Wilson LLP

 MCDONALD • CARANO • WILSON
2300 WEST SAHARA AVENUE • SUITE 1000 • LAS VEGAS, NEVADA 89102-4354
PHONE (702) 873-4100 • (702) 873-9966

EXHIBIT A

EXHIBIT A

Date/Time	04/22/08 08:13:31 PM
Transaction Type	Transfer Sent
To/From Account	██████71 (LSNDOH)
Transaction ID #	T52110715-FR Completed
Metal/e-Currency	e-Currency USD
Rate per unit	1.00 USD\$
Amount	30000.00 USD\$
Fee	0.00 USD\$
Total	30000.00 USD\$
e-Currency USD Balance After This Transaction	255913.82 USD\$
Information from the Transaction Request	
Memo	GQI payment 2
<input type="button" value="Print"/> <input type="button" value="Close"/>	

EXHIBIT B

EXHIBIT B

Date/Time	03/28/08 10:31:32 PM
Transaction Type	Transfer Sent
To/From Account	██████████ 55 (Michael Howard Reed)
Transaction ID #	T34920060-FR Completed
Metal/e-Currency	e-Currency USD
Rate per unit	1.00 USD\$
Amount	40000.00 USD\$
Fee	0.00 USD\$
Total	40000.00 USD\$
e-Currency USD Balance After This Transaction	242281.82 USD\$
Information from the Transaction Request	
Memo	Little Shell Payment \$40,000.00 of \$120,000.00