

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,  
STATE OF FLORIDA,

Plaintiff,

Case No.: 51-2010-CA-2912-WS/G

v.

BOTFLY, LLC, DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

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**MOTION TO COMPEL RECEIVER'S REQUEST FOR  
PRODUCTION OF DOCUMENTS FROM NICK P. COLA, CPA, P.A.**

Michael E. Moecker (the "**Receiver**"), by and through undersigned counsel, respectfully requests that this Court enter an Order compelling third party, Nick P. Cola, CPA, P.A., to produce documents and in support thereof states:

1. The Amended Order Appointing Receiver (the "**Order**") provides that Defendant Jon J. Hammill ("**Hammill**") must provide the Receiver with financial information and disclosures, including, without limitation, federal and state tax returns and financial statements. Order, ¶ 18. A true and correct copy of the Order is attached hereto as **Exhibit "A."** Defendant Hammill failed to provide the financial information and disclosures explicitly required in the Order to be provided to the Receiver and invoked the Fifth Amendment when requested to produce such information at depositions on April 16, 2010 and June 10, 2010. As such, it was necessary for the Receiver to request such financial information and disclosures from Defendant Hammill's accountant, Nick P. Cola, CPA, P.A.

2. The Order provides that the Receiver is authorized to demand production of documents on five (5) business days' notice without a subpoena. Order, ¶¶ 4(m), 8. Pursuant to the terms of the Order authorizing the Receiver to request production of documents on five (5) business days' notice without a subpoena, the Receiver sent correspondence to Nick P. Cola, CPA, P.A. on April 7, 2010 and April 15, 2010 (the "**Correspondence**") to coordinate the production of files, records, and documents concerning and relating to Defendant Hammill's financial information. The Receiver advised the Nick P. Cola, CPA, P.A., of the entry of the order and delivered a copy of the order with the Correspondence to inform Nick P. Cola, CPA, P.A., of the Receiver's authority and its obligations to provide the documents. A true and correct copy of the Correspondence is attached hereto as **Exhibit "B."** Nick P. Cola, CPA, P.A. never responded to the Correspondence.

3. On May 21, 2010, the Receiver issued a request for production of documents from Nick P. Cola, CPA, P.A. concerning and relating to Defendant Hammill's federal and state tax returns, W-2s, and W-4s. A true and correct copy of the Receiver's Second Request for Production of Documents From Third Party (the "**Request**") is attached hereto as **Exhibit "C."** Pursuant to the Request, Nick P. Cola, CPA, P.A. was required to produce the documents on or before May 31, 2010.

4. Nick P. Cola, CPA, P.A. did not produce the documents pursuant to the Request.

5. On or about May 25, 2010, Defendant Hammill filed an Objection to Receiver's Request for Production of Documents From Nick P. Cola, CPA, P.A. (the "**Objection**"), asserting the accountant-client privilege as an objection to Nick P. Cola, CPA, P.A. producing the documents requested. A true and correct copy of the Objection is attached hereto as **Exhibit "D."**

6. To date, no tax return information has been provided to the Receiver by Jon Hammill, despite the Receiver's repeated demands and the mandate of the Court that such information be provided. At a deposition conducted by the Receiver on June 10, 2010. Mr. Hammill invoked his Fifth Amendment privilege against self-incrimination regarding disclosure of his personal financial information, including tax return information.

Q. [Ms. Cox] Has -- have you received a copy of [the Amended Order Appointing Receiver]?

A. [Jon Hammill] I invoke my Fifth Amendment right on the grounds that it may tend to incriminate me.

Q. Have the contents of that order been made known to you?

A. I invoke my Fifth Amendment rights on the grounds that it may tend to incriminate me.

Q. Okay. Now, I'm going to show you what's been marked as Exhibit Number three. Do you recognize that?

A. I invoke my Fifth Amendment rights on the grounds it may tend to incriminate me.

Q. Okay. And can you identify that, read the title of what it is?

A. Financial Statement for Jon J. Hammill.

Q. Have you ever received a copy of that form?

A. I invoke my Fifth Amendment rights on the grounds that it may tend to incriminate me.

Q. Have you ever provided the information requested in that form to the receiver or to the attorney general?

A. I invoke my Fifth Amendment rights on the grounds that it may tend to incriminate me.

Q. Now, the second page -- let me -- I'm sorry, the third page of the form, if you can read from what the documents that are supposed to be provided or read what the "please attach"?

A. Please attach copies of the following: A, your last pay stub; B, the last three statements for each personal or business bank, savings, credit union, or other financial accounts; C, all personal and business motor vehicle registrations and titles; D, any deeds or titles to any real or personal property that you directly or indirectly own or are buying, or leases to property you directly or indirectly are renting; E, personal or business financial statements, loan applications, or lists of assets and liabilities submitted to any person or entity within the last three years; F, your last three filed income tax returns and all schedules thereto.

Q. Have you -- do you have any of those documents with you today?

A. I plead the -- I'm going to invoke my Fifth Amendment rights on the grounds it may tend to incriminate me.

Q. And have you provided any of those documents to the receiver in this case?

A. I invoke my Fifth Amendment rights on the grounds it may tend to incriminate me.

Deposition of Jon Hammill, June 10, 2010. A true and correct copy of the Deposition is attached hereto as **Exhibit "E."**

7. Accordingly, it is necessary that the Receiver to obtain the documents from Nick P. Cola, CPA, P.A.,

8. As further supported in the Receiver's contemporaneously filed Response in Opposition to the Objection, this Court should grant the Receiver's Motion to Compel and deny Defendant Hammill's Objection in its entirety.

9. The Receiver is entitled to an award for reasonable attorneys' fees and costs for bringing this Motion.

WHEREFORE, the Receiver, Michael E. Moecker, respectfully requests that this Court grant the Motion to Compel, deny Defendant Jon J. Hammill's Objection, order Nick P. Cola, CPA, P.A. to produce all documents and materials in its possession, custody, or control that are responsive to the Request within five (5) days of the date of the hearing of this Motion, award

the Receiver his reasonable attorneys' fees and costs for bringing this Motion, and such other relief as this Court deems proper.

Dated: Tampa, Florida  
June 23, 2010

BUSH ROSS, P.A.  
Post Office Box 3913  
Tampa, Florida 33601-3913  
(813) 224-9255 (telephone)  
(813) 223-9620 (facsimile)  
Attorneys for the Receiver

By: *Karen Cox*  
Jeffrey W. Warren  
Florida Bar No. 150024  
*jwarren@bushross.com*  
Karen Cox  
Florida Bar No. 456667  
*kcox@bushross.com*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23rd day of June, 2010 a true and correct copy of the foregoing has been mailed to the following addresses:

David R. Lewalski,  
as Registered Agent of Botfly, LLC  
2515 Southwest 35th Place, Apt. #112  
Gainesville, Florida 32608

David R. Lewalski, Individually  
2515 Southwest 35th Place, Apt. #112  
Gainesville, Florida 32608

Todd Foster, Esq.  
Cohen, Foster & Romine, P.A.  
201 E. Kennedy Boulevard, Suite 1000  
Tampa, Florida 33602

R. Scott Palmer  
Gregory S. Slemp  
PL-01: The Capitol  
Tallahassee, Florida 32399-1050

Robert W. Clark, Esq.  
Clark Mueller Bierley  
102 W. Whiting St., Suite 302  
Tampa, FL 33602

*Karen Cox*

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Attorney

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF  
LEGAL AFFAIRS, STATE OF FLORIDA,

Plaintiff,

vs.

Case No.: 51-2010-CA-2912-WS/G

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

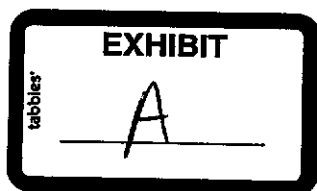
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**AMENDED ORDER APPOINTING RECEIVER**

This matter came on before the Court, on April 1, 2010, upon the Plaintiff's EMERGENCY MOTION FOR TEMPORARY INJUNCTION AND APPOINTMENT OF RECEIVER WITHOUT NOTICE, pursuant to Section 517.191(2), Florida Statutes and Section 501.207(3), Florida Statutes, and Rules 1.610 and 1.620, Florida Rules of Civil Procedure. Good cause exists to protect the assets of the named Defendants from being sold, transferred, alienated or otherwise dissipated until the resolution of the instant proceeding and likewise good cause exists to refrain from giving notice to Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill because of the likelihood that they would dissipate the assets of the business if notified of this motion.

The Court has reviewed the motion and other pleadings, and, accordingly, the Court does hereby:

ORDER AND ADJUDGE the following:



769695.1

u/a

1. MICHAEL E. MOECKER or his designee employed by MICHAEL MOECKER & ASSOCIATES, INC. is appointed the Receiver of Botfly L.L.C., David R. Lewalski, and Jon J. Hammitt and all other entities operated, controlled or otherwise associated with the Defendants' activities, which entities shall be deemed to be included in the term "Defendants" and shall serve until further Order of this Court.

2. Oath: Within ten (10) business days of the date of this Order, the Receiver shall file with this Court an Oath of Receiver accepting the appointment and agreeing to faithfully discharge his duties, any subsequent directives by this Court, and applicable law.

3. Bond: Within twenty (20) days of entry of this Order, the Receiver shall file proof of the existence of his fidelity bond in the amount of \$50,000.00 to secure the faithful performance of his duties.

4. Duties of Receiver: The Receiver shall marshal, preserve, protect, maintain, manage and safeguard the Assets of Defendants in a reasonable, prudent, diligent, and efficient manner. Property in the custody of the Receiver or property to which the Receiver has the right to custody shall not be subject to execution or similar process. The Receiver shall be vested with the usual powers and duties of equity Receivers in like cases, and is hereby authorized and instructed to take possession of and control over the Assets; and, without limitation of any kind as to his general duties, the Receiver shall have at least the following specific duties and responsibilities:

a. Business Offices. The Receiver shall take possession of all Assets, bank accounts, including but not limited to accounts at BANK OF AMERICA, FIFTH THIRD BANK, and DEUTSCHE BANK, offices, and the contents of such offices where the business of Defendants has been conducted.

b. Revenues. Commencing immediately, the Receiver shall collect all receipts, revenues, deposits, receivables, notes and other funds generated by, from or due to Defendants. All sums marshaled shall be deposited with a state or federally chartered financial institution. Defendants shall immediately turn over to the Receiver any monies belonging to or otherwise generated from consumers or Defendants' clients in their possession. Defendants shall refrain from any further collection of receipts or revenues generated by Defendants from consumers or Defendants' clients, except as the Receiver might direct. Any funds of Defendants received by any party shall be forthwith delivered to the Receiver without further Order of this Court. The Receiver shall have the exclusive right to pursue, collect and control all monies belonging to or otherwise generated by Defendants, and shall have the exclusive right to make payments and disbursements from Defendants' bank accounts, including rents, accounts payable, expenses, costs of merchandise or equipment, and payroll.

c. Insurance. The Receiver shall maintain appropriate insurance for Defendants, its premises and/or its merchandise, if appropriate in the Receiver's sole discretion.

d. Bank Accounts. As the Receiver may deem necessary, and effective immediately upon entry of this Order, the Receiver shall establish and maintain, at a bank or banks whose deposits are federally insured, operating accounts for the Receivership into which the Receiver shall deposit all receipts or revenues from Defendants. Amounts on deposit in all accounts, including but not limited to in a financial institution, brokerage account, and/or as a retainer previously paid, and/or in bank accounts at BANK OF AMERICA, FIFTH THIRD BANK, and DEUTSCHE BANK, of Defendants shall be transferred to the Receiver without further Order of this Court. All safety deposit boxes shall be transferred to the Receiver without further Order of this Court. The Receiver is authorized to disburse regularly and punctually (to

the extent available), all amounts hereafter due and payable as reasonable, necessary and proper operating expenses of the Receivership, subject to the terms of this Order.

e. Expenses. The Receiver shall pay from the estate's of Defendants' funds the expenses incurred by him in the conservation, protection and management of the Assets.

f. Maintenance of Assets. The Receiver shall enter into any and all service contracts reasonably necessary to keep, maintain and protect the Assets.

g. Checks. The Receiver shall endorse all checks and drafts now or hereafter made payable to Defendants concerning such accounts receivables, deposits, rents, income, profits, and revenues.

h. Mail. The Receiver shall open all mail in connection with the Assets or businesses of Defendants.

i. Recovery and Liquidation of Assets. The Receiver shall collect and reduce to money the Assets either by suit, in any court of competent jurisdiction, or by public or private sale. The Receiver is specifically authorized and empowered to file suit against any person(s) or entity(s) to recover property of Defendants including, but not limited to, fraudulent conveyances and other claims and causes of actions of Defendants.

j. Claims. The Receiver shall establish a procedure for creditors of Defendants to file claims. The Receiver shall examine the validity and priority of all claims against Defendants, which claims shall be finally determined by this Court.

k. Abandonment of Assets. The Receiver may abandon Assets to duly perfected secured or lien creditors where, after due investigation and notice to parties in interest, he determines that Defendants have no equity in such assets or such assets are burdensome to the estate or are of inconsequential value and harmful to Defendants.

1. Supplemental Proceedings. The Receiver is specifically authorized, empowered, and has standing to bring Supplemental Proceedings as follows:

- (i) Any action to recover money or other assets of Defendants;
- (ii) Any action to determine the validity, priority, or extent of a lien or other interest in property or to subordinate or avoid an unperfected security interest;
- (iii) Any action to pursue claims and/or causes of action on behalf of Defendants and/or any creditor of Defendants, including but not limited to negligence;
- (iv) Any action to avoid any conveyance or transfer void or voidable by applicable law; and
- (v) Any other action or actions as may be authorized or directed by further Order of this Court.

A supplemental proceeding is an action of the Receiver designated in paragraphs (i), (ii), (iii) and (iv) above and shall be brought as follows:

- (1) The Florida Rules of Civil Procedure shall, apply to supplemental proceedings, except where inconsistent with the provisions of this order.
- (2) The Clerk of the Court shall docket a supplemental proceeding under this matter's case number, and a separate supplemental proceeding number, and shall assign such supplemental proceeding to this Court's division.
- (3) All pleadings and other papers filed in a supplemental proceeding shall contain a separate sub-caption and the supplemental proceeding number in addition to the caption and the case number applicable to the main case.

By this authorization and empowerment, this Court specifically determines that the Receiver is not prohibited and shall not be barred from bringing any supplemental proceeding due to the doctrine in pari delicto.

m. Discovery. The Receiver is authorized to set depositions and demand production of documents on five (5) business days' notice. Any objections to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

n. General Powers. The Receiver shall exercise all other powers and rights necessary to manage, protect and preserve the Assets and the businesses of Defendants.

5. Cooperation: Defendants, and their officers, agents, partners, servants, employees and transferees shall cooperate fully with Receiver and comply with Receiver's requests for information, records and documentation so that Receiver may perform his duties with full information and knowledge. Defendants, and their officers, agents, partners, servants, employees and transferees shall not interfere with or hinder the operations of Receiver, but shall maintain their legal rights with respect to this action, the Receiver and the Receivership.

6. Possession of Property: The Receiver shall immediately take possession and control of all of the assets in the possession or under the control of Defendants whether such property is held by Defendants directly, beneficially or otherwise. The term "assets" shall include files, records, documents, monies, leases, mortgages, securities, investments, contracts, effects, lands, agreements, judgments, bank accounts, books of accounts, rents, choses in action, goods, automobiles, motorcycles, chattels, rights, credits, claims both asserted and unasserted, pending court actions and appeals, files and documents in the possession of attorneys and accountants for Defendants, and all other property, whether real, personal or mixed or previously belonging to Defendants, or which, in the case of records, documents and other papers, pertain to property

belonging now or previously to Defendants, or obligations of Defendants (hereafter defined as "Assets"). The Receiver shall retain custody and control of all of the foregoing pursuant to the terms of this Order. The Receiver shall file an inventory of the property Assets within 60 days of the date of this Order.

The parties, their attorneys and accountants, and all other persons, entities or corporations now or hereafter in possession of any of the foregoing Assets, records or documents, or any part thereof, or any other of the items intended by the Court to be entrusted to the Receiver, shall forthwith and without further Order of the Court surrender said items to the Receiver. The Receiver shall maintain custody of the records, computers, computer files and documents, which shall be available for inspection as this Court may direct. The Receiver is hereby authorized to employ agents, servants and employees, and to enter into contracts and take all actions as necessary for the purpose of taking possession of the Assets and carrying out the terms of the Receivership and the orders of this Court.

7. Turnover: All persons, corporations, or other entities now or hereafter in possession of the Assets, or Any part thereof, including, but not limited to, intangibles, bank accounts, operating statements, service agreements, management agreements, contracts, licenses, leases, and permits, revenues, and profits collected or derived from the Assets and all assets, papers, files, records, documents, monies, securities, choses in action, books of account, bank accounts, rents, accounts receivables, leases, permits, licenses, down payments, marketing plans and materials, servicing agreements, management agreements, or any and all other contracts, or any other items entrusted to Receiver, shall forthwith and without further Order of this Court surrender such possession to the Receiver.

8. Discovery: The Receiver is authorized to set depositions and demand production of documents on five (5) days notice. Any objection to documents requested by the Receiver may be stated at the deposition and reserved for hearing.

9. Outside Professionals: The Receiver is specifically empowered, in his discretion, to hire and employ legal counsel with prior approval by Plaintiff, accountants, investigators and consultants ("Outside Professionals"), including entities of which Receiver is a principal/shareholder, to furnish legal, accounting and other advice to the Receiver for such purposes as may be reasonable and necessary during the period of receivership. The Receiver is authorized to pay from the receivership estate's funds eighty (80%) percent of the ordinary and reasonable fees and one hundred (100%) percent of the costs of such Outside Professionals upon receipt of a bill from the Outside Professional. The remaining 20% of fees shall be withheld (the "holdback") pending final application to the Court for approval of all fees and expenses of such Outside Professional, including the Holdback.

10. Receiver's Fees: The Receiver shall be entitled to payment of fees from the Defendants' estate's funds for his services at his standard rate of \$300.00 per hour, plus such other amounts as may be awarded by the Court after a hearing upon notice to the parties and all counsel of record.

11. Quarterly Report: The Receiver is directed to prepare a full and complete report, certified to be correct by the Receiver, setting forth all receipts and disbursements, cash flow, activities of Defendants, and reporting all changes in the Assets in his charge, or claims against the Assets, that have occurred during the period covered by the report. The Receiver shall include in the report the status of any taxes, lien claims or pending litigation. The report shall be filed by the twentieth day of the month following the reporting period. The Receiver shall serve

notice of filing of the report on the attorneys of record for each of the parties herein and parties in interest. The notice of filing shall advise that the report is available upon request made to the Receiver. To the extent any portion of the report is deemed privileged, the Receiver is authorized to file his report and/or portions of his report under seal.

12. Additional Funds: The balance of any funds beyond the monies deemed necessary for his operating account received by the Receiver shall be placed in an interest-bearing bank or trust account.

13. Receiver's Certificates: The Receiver is hereby authorized to obtain receiver's certificates as is reasonably required and/or necessary to carry out and fulfill the Receiver's duties and obligations herein.

14. Notices: All written notices called for under this Order shall be effective upon hand delivery to counsel of record of the parties or to the parties, or twenty-four (24) hours after delivery to a private expedited delivery service, or 48 hours after deposit into the mail, postage paid, addressed to counsel of record or the parties or to the parties.

15. Reserve Right For Additional Powers: The Receiver may, at any time upon prior notice to all parties to this action, apply to this Court for further or other instructions or powers, whenever such instructions or additional powers shall be deemed necessary in order to enable him to perform properly and legally the duties of the office of Receiver and to maintain, operate, preserve and protect the Receivership Estate.

16. The Plaintiff, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA, is an agency of the State of Florida and, in recognition of the public interest served by this action, no bond shall be required with respect to the relief granted herein.

17. Any and all law enforcement authorities, including but not limited to the Pasco Sheriff's Office for said locations in Pasco County, are authorized to take any and all necessary steps to assist the Receiver in the securing of the assets, business offices, and contents of such business offices of Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill located at 12709 Clocktower Parkway, Bayonet Point, Florida 34667 and any and all other locations of the Defendants.

18. Financial Statement: IT IS FURTHER ORDERED, within three (3) business days after service of this Order, each Defendant shall prepare and serve to the Receiver a complete and accurate financial statement, signed under penalty of perjury, on the applicable form appended to this Order.

19. Repatriation of Foreign Asset and Documents: IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, each Defendant shall:

a. Provide the Receiver and the Office of the Attorney General with a full accounting of all funds, documents, and assets located outside of the United States which are (1) titled in the name, alias, or fictitious "doing business as" name, individually or jointly, of any Defendant; or (2) held by any person or entity for the benefit of any Defendant; or (3) under the direct or indirect control, of any Defendant;

b. Transfer within the State of Florida all funds, documents, and assets located outside of the United States which are (1) titled in the name, alias, or fictitious "doing business as" name, individually or jointly, of any Defendant; or (2) held by any person or entity for the benefit of any Defendant; or (3) under the direct or indirect control, of any Defendant;

c. Hold and retail all repatriated funds, documents and assets, and prevent any transfer, disposition, or dissipation whatsoever of any funds or assets except as required by this Order; and

d. Provide the Receiver and the Office of the Attorney General access to all records of funds, documents, or assets of any Defendant held by financial institutions or other entities or individuals located outside the United States by signing any and all necessary forms to permit such access.

20. Interference With Repatriation: IT IS FURTHER ORDERED that the Defendants are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of funds, documents, or assets held outside of the United States, or in the hindrance of the repatriation required by the preceding paragraph of this Order, including, but not limited to:

a. Sending any statement, letter, fax, e-mail or wire transmission, telephoning, text messaging, or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a "duress" event has occurred under the terms of a foreign trust agreement until such time that all assets have been fully repatriated pursuant to the preceding paragraph of this Order; and

b. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time that all assets have been fully repatriated pursuant to the preceding paragraph of this Order.

21. In the event that the Receiver discovers that funds of persons who have invested in Botfly, L.L.C. have been transferred to other persons or entities, the Receiver shall apply to

this Court for an Order giving the Receiver possession of such funds and, if the Receiver deems it advisable, extending this receivership over any person or entity holding such investor funds.

22. The United States Postal Service and the United Parcel Service are directed to provide any information requested by the Receiver regarding Botfly, L.L.C. or any of the Defendants, and to handle future deliveries of the mail of Botfly, L.L.C. and the Defendants as directed by the Receiver.

23. Service of this Order shall be sufficient if made upon Defendants and their principals by facsimile or overnight courier.

24. Upon request by the Receiver, any company providing telephone services to Botfly, L.L.C. and any of the Defendants shall provide a reference of calls from any number presently assigned to Defendants to any such number designated by the Receiver or perform any other changes necessary to the conduct of the receivership.

DONE AND ORDERED in Chambers, at Pasco County, Florida, on this \_\_\_\_\_ day of April, 2010.

**ORIGINAL SIGNED**

**APR 14 2010**

STANLEY R. MILLS  
CIRCUIT JUDGE

\_\_\_\_\_  
The Honorable Stanley R. Mills  
CIRCUIT JUDGE

**Copies furnished to:**

Karen Cox, Esq.  
Jeffrey W. Warren, Esq.  
Bush Ross, P.A.  
P.O. Box 3913  
Tampa, FL 33601-3913

David R. Lewalski  
as Registered Agent of Botfly, L.L.C.  
2515 Southwest 35th Place, Apt. #112

Gainesville, Florida 32608

David R. Lewalski, Individually  
2515 Southwest 35th Place, Apt. #112  
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Jon J. Hammill  
2684 70th Avenue South  
St. Petersburg, Florida 33712

R. Scott Palmer  
Gregory S. Slemp  
PL-01: The Capitol  
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William H. Bryan, III  
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Kissimmee, Florida 34744

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

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v.

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

\_\_\_\_\_ /

**FINANCIAL STATEMENT FOR DAVID R. LEWALSKI**

Full Legal Name: \_\_\_\_\_  
Nicknames or Aliases: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
Mailing Address (if different): \_\_\_\_\_  
Telephone Numbers: (Home) \_\_\_\_\_  
(Business) \_\_\_\_\_  
Name of Employer: \_\_\_\_\_  
Address of Employer: \_\_\_\_\_  
Position or Job Description: \_\_\_\_\_  
Rate of Pay: \$ \_\_\_\_\_ per \_\_\_\_\_ Average Paycheck: \$ \_\_\_\_\_ per \_\_\_\_\_  
Average Commissions or Bonuses: \$ \_\_\_\_\_ per \_\_\_\_\_  
Commissions or bonuses are based on: \_\_\_\_\_  
Other Personal Income: \$ \_\_\_\_\_ from \_\_\_\_\_  
(Explain details on the back of this sheet or an additional sheet if necessary.)  
Social Security Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
Driver's License Number: \_\_\_\_\_  
Marital Status: \_\_\_\_\_ Spouse's Name: \_\_\_\_\_

\*\*\*\*\*

***SPOUSE RELATED PORTION***

Spouse's Address (if different): \_\_\_\_\_  
Spouse's Social Security Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
Spouse's Employer: \_\_\_\_\_  
Spouse's Average Paycheck or Income: \$ \_\_\_\_\_ per \_\_\_\_\_

Other Family Income: \$ \_\_\_\_\_ per \_\_\_\_\_

(Explain details on back of this sheet or on additional sheet if necessary.)

Describe all other accounts or investments you may have, including stocks, mutual funds, savings bonds, or annuities, on the back of this sheet or on an additional sheet if necessary.

\*\*\*\*\*

Names and Ages of All Your Children (and addresses if not living with you): \_\_\_\_\_

Child Support or Alimony Paid: \$ \_\_\_\_\_ per \_\_\_\_\_

Names of Others You Live With: \_\_\_\_\_

Who is Head of Your Household? \_\_\_\_\_ You \_\_\_\_\_ Spouse \_\_\_\_\_ Other Person \_\_\_\_\_

Checking Account at: \_\_\_\_\_ Account # \_\_\_\_\_

Savings Account at: \_\_\_\_\_ Account # \_\_\_\_\_

**For Real Estate (land) You Own or Are Buying:**

Address: \_\_\_\_\_

All Names on Title: \_\_\_\_\_

Mortgage Owed to: \_\_\_\_\_

Balance Owed: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

(Attach a copy of the deed or mortgage, or list the legal description of the property on the back of this sheet or an additional sheet if necessary. Also provide the same information on any other property you own or are buying.)

**For All Motor Vehicles You Own or Are Buying:**

Year/Make/Model: \_\_\_\_\_ Color: \_\_\_\_\_

Vehicle ID No.: \_\_\_\_\_ Tag No: \_\_\_\_\_

Mileage: \_\_\_\_\_

Names on Title: \_\_\_\_\_ Present Value: \$ \_\_\_\_\_

Loan Owed to: \_\_\_\_\_

Balance on Loan: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

(List all other automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.)

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? If your answer is "yes," describe the property, market value, and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? \_\_\_\_\_ Amount Owed: \$ \_\_\_\_\_  
Name and Address of Person Owing Money: \_\_\_\_\_  
Reason money is owed: \_\_\_\_\_

Please attach copies of the following:

- a) Your last pay stub.
- b) The last 3 statements for each personal or business bank, savings, credit union, or other financial accounts.
- c) All personal and business motor vehicle registrations and titles.
- d) Any deeds or titles to any real or personal property that you directly or indirectly own or are buying, or leases to property you directly or indirectly are renting.
- e) Personal or business financial statements, loan applications, or lists of assets and liabilities submitted to any person or entity within the last 3 years.
- f) Your last 3 filed income tax returns and all schedules thereto.

**UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.**

\_\_\_\_\_  
David R. Lewalski

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010 by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ as identification and who \_\_\_\_ did/did not \_\_\_\_ take an oath.

WITNESS my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
Notary Public, State of Florida

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**DAVID R. LEWALSKI SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE RECEIVER'S ATTORNEY, JEFFREY W. WARREN, BUSH ROSS, P.A., 1801 N. HIGHLAND AVE., TAMPA, FL 33602.**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

CASE NO.: 51-2010-CA-2912-WS/G

v.

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

FINANCIAL STATEMENT FOR JON J. HAMMILL

Full Legal Name: \_\_\_\_\_  
Nicknames or Aliases: \_\_\_\_\_  
Residence Address: \_\_\_\_\_  
Mailing Address (if different): \_\_\_\_\_  
Telephone Numbers: (Home) \_\_\_\_\_  
(Business) \_\_\_\_\_  
Name of Employer: \_\_\_\_\_  
Address of Employer: \_\_\_\_\_  
Position or Job Description: \_\_\_\_\_  
Rate of Pay: \$ \_\_\_\_\_ per \_\_\_\_\_ Average Paycheck: \$ \_\_\_\_\_ per \_\_\_\_\_  
Average Commissions or Bonuses: \$ \_\_\_\_\_ per \_\_\_\_\_  
Commissions or bonuses are based on: \_\_\_\_\_  
Other Personal Income: \$ \_\_\_\_\_ from \_\_\_\_\_  
(Explain details on the back of this sheet or an additional sheet if necessary.)  
Social Security Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
Driver's License Number: \_\_\_\_\_  
Marital Status: \_\_\_\_\_ Spouse's Name: \_\_\_\_\_

\*\*\*\*\*

***SPOUSE RELATED PORTION***

Spouse's Address (if different): \_\_\_\_\_  
Spouse's Social Security Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_  
Spouse's Employer: \_\_\_\_\_  
Spouse's Average Paycheck or Income: \$ \_\_\_\_\_ per \_\_\_\_\_

Other Family Income: \$ \_\_\_\_\_ per \_\_\_\_\_

(Explain details on back of this sheet or on additional sheet if necessary.)

Describe all other accounts or investments you may have, including stocks, mutual funds, savings bonds, or annuities, on the back of this sheet or on an additional sheet if necessary.

\*\*\*\*\*

Names and Ages of All Your Children (and addresses if not living with you): \_\_\_\_\_

Child Support or Alimony Paid: \$ \_\_\_\_\_ per \_\_\_\_\_

Names of Others You Live With: \_\_\_\_\_

Who is Head of Your Household? \_\_\_\_\_ You \_\_\_\_\_ Spouse \_\_\_\_\_ Other Person

Checking Account at: \_\_\_\_\_ Account # \_\_\_\_\_

Savings Account at: \_\_\_\_\_ Account # \_\_\_\_\_

**For Real Estate (land) You Own or Are Buying:**

Address: \_\_\_\_\_

All Names on Title: \_\_\_\_\_

Mortgage Owed to: \_\_\_\_\_

Balance Owed: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

(Attach a copy of the deed or mortgage, or list the legal description of the property on the back of this sheet or an additional sheet if necessary. Also provide the same information on any other property you own or are buying.)

**For All Motor Vehicles You Own or Are Buying:**

Year/Make/Model: \_\_\_\_\_ Color: \_\_\_\_\_

Vehicle ID No.: \_\_\_\_\_ Tag No: \_\_\_\_\_

Mileage: \_\_\_\_\_

Names on Title: \_\_\_\_\_ Present Value: \$ \_\_\_\_\_

Loan Owed to: \_\_\_\_\_

Balance on Loan: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

(List all other automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.)

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? If your answer is "yes," describe the property, market value, and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? \_\_\_\_\_ Amount Owed: \$ \_\_\_\_\_  
Name and Address of Person Owing Money: \_\_\_\_\_  
Reason money is owed: \_\_\_\_\_

Please attach copies of the following:

- a) Your last pay stub.
- b) The last 3 statements for each personal or business bank, savings, credit union, or other financial accounts.
- c) All personal and business motor vehicle registrations and titles.
- d) Any deeds or titles to any real or personal property that you directly or indirectly own or are buying, or leases to property you directly or indirectly are renting.
- e) Personal or business financial statements, loan applications, or lists of assets and liabilities submitted to any person or entity within the last 3 years.
- f) Your last 3 filed income tax returns and all schedules thereto.

**UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.**

\_\_\_\_\_  
Jon J. Hammill

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010 by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ as identification and who \_\_\_\_ did/did not \_\_\_\_ take an oath.

WITNESS my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public, State of Florida

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**JON J. HAMMILL SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE RECEIVER'S ATTORNEY, JEFFREY W. WARREN, BUSH ROSS, P.A., 1801 N. HIGHLAND AVE., TAMPA, FL 33602.**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

CASE NO.: 51-2010-CA-2912-WS/G

v.

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

FINANCIAL STATEMENT FOR BOTFLY, L.L.C.

Name of Entity: \_\_\_\_\_

Name and title of person filling out this form: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Place of Business: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_

Gross/taxable income reported for federal income tax purpose last three years:  
\$ \_\_\_\_\_ / \$ \_\_\_\_\_ \$ \_\_\_\_\_ / \$ \_\_\_\_\_ \$ \_\_\_\_\_ / \$ \_\_\_\_\_

Taxpayer Identification Number: \_\_\_\_\_

Is this entity an S corporation for federal income tax purposes? \_\_\_\_\_ YES \_\_\_\_\_ NO

Average number of employees per month: \_\_\_\_\_

Name of each shareholder, member, or partner owning 5% or more of the entity's common stock, preferred stock, or other equity interest:  
\_\_\_\_\_  
\_\_\_\_\_

Names of officers, directors, members, or partners: \_\_\_\_\_

Checking account at: \_\_\_\_\_ Account #: \_\_\_\_\_

Savings account at: \_\_\_\_\_ Account #: \_\_\_\_\_

Does the entity own any vehicles? \_\_\_\_\_ YES \_\_\_\_\_ NO

For each vehicle please state:

Year/Make/Model: \_\_\_\_\_ Color: \_\_\_\_\_ Vehicle I.D. No.: \_\_\_\_\_

Tag No.: \_\_\_\_\_ Mileage: \_\_\_\_\_

Names on Title: \_\_\_\_\_

Present Value: \$ \_\_\_\_\_ Loan owed to: \_\_\_\_\_  
Balance on Loan: \$ \_\_\_\_\_ Monthly payment: \$ \_\_\_\_\_  
Does the entity own any real property? \_\_\_\_\_ YES \_\_\_\_\_ NO  
If yes, please state the address(es): \_\_\_\_\_  
\_\_\_\_\_

Please check if the entity owns the following:

\_\_\_\_\_ Boat  
\_\_\_\_\_ Camper  
\_\_\_\_\_ Stocks/bonds  
\_\_\_\_\_ Other real property  
\_\_\_\_\_ Other personal property

Please attach copies of the following:

1. Copies of state and federal income tax returns for the past 3 years.
2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.
3. All cancelled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.
6. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.
7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.
8. Minutes of all meeting of the entity's members, partners, shareholder, or board of directors held within 2 years of the service date of this Fact Information Sheet.
9. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

**UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.**

**BOTFLY, L.L.C.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by \_\_\_\_\_, on behalf of BOTFLY, L.L.C., who is personally known to me or has produced \_\_\_\_\_ as identification and who \_\_\_\_\_ did/did not \_\_\_\_\_ take an oath.

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
Notary Public, State of Florida

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**BOTFLY, L.L.C. SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE RECEIVER'S ATTORNEY, JEFFREY W. WARREN, BUSH ROSS, P.A., 1801 N. HIGHLAND AVE., TAMPA, FL 33602.**

**Karen Cox**

---

**From:** Karen Cox  
**Sent:** Wednesday, April 07, 2010 4:48 PM  
**To:** 'tax@nickcolacpa.com'  
**Subject:** Demand by the Receiver of Botfly LLC, David R. Lewalski and Jon J. Hammill for turnover of records  
**Attachments:** Order appointing receiver - Botfly pdf (3).pdf; Complaint.pdf

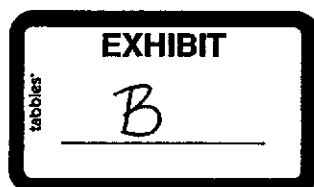
Dear Mr. Cola,

Thank you for speaking with me during a very demanding time of the year for CPAs. I have attached a copy of the Order Appointing Receiver that was entered on April 1, 2010 by Judge Mills, and for informational purposes only, a copy of the complaint filed by the Office of the Attorney General that is the basis for the appointment of a receiver. As I mentioned, we represent Michael E. Moecker the court-appointed receiver for Botfly, Lewalski and Hammill. The Order requires that the Receiver take possession of files and records of Botfly, Lewalski and Hammill. Section 6 beginning on page six states "The Receiver shall immediately take possession and control of all of the assets in the possession or under the control of Defendants whether such property is held by defendants directly, beneficially or otherwise" and defines "assets" to include files and documents in the possession of accountants for the Defendants. On page seven, the Order provides that such records be turned over to the Receiver without further order of the court.

We have information that you served as the accountant for Hammill. Please provide the files for any work you performed for any of the Defendants to the Receiver. This request also includes any records you may have regarding Jon Hammill, P.A. and any other entity that belonged to any of the Defendants.

I appreciate your cooperation. Once you have had the opportunity to review the order, please advise how to best coordinate the production of the responsive records in your possession.

Regards,



6/21/2010

**Karen Cox**

---

**From:** Karen Cox  
**Sent:** Thursday, April 15, 2010 1:52 PM  
**To:** 'tax@nickcolacpa.com'  
**Subject:** FW: Demand by the Receiver of Botfly LLC, David R. Lewalski and Jon J. Hammill for turnover of records  
**Attachments:** Order appointing receiver - Botfly pdf (3).pdf, Complaint.pdf

Dear Mr. Cola,

When can I expect a response to my request?

---

**From:** Karen Cox  
**Sent:** Wednesday, April 07, 2010 4:48 PM  
**To:** 'tax@nickcolacpa.com'  
**Subject:** Demand by the Receiver of Botfly LLC, David R. Lewalski and Jon J. Hammill for turnover of records

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I appreciate your cooperation. Once you have had the opportunity to review the order, please advise how to best coordinate the production of the responsive records in your possession.

Regards,

Karen Cox, Esq.  
Bush Ross, P.A.  
1801 North Highland Avenue  
Tampa, Florida 33602-2656  
(813) 224-9255 [Phone]  
(813) 223-9620 [Fax]  
(813) 204-6433 [Direct Line]  
[kcox@bushross.com](mailto:kcox@bushross.com) [Download vCard](#)  
[www.bushross.com](http://www.bushross.com)  
Mailing Address:  
Post Office Box 3913  
Tampa, Florida 33601-3913

**DISBURSED**

6/21/2010

**IRS Circular 230 Notice:** To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any tax-related matter addressed herein.

**Privileged and Confidential:** Unless otherwise indicated or obvious from the nature of the transmittal, the information contained in this message is privileged and/or confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication or any of the information in it is strictly prohibited. If you have received this communication in error, please advise the sender by reply e-mail and then delete the message. Thank you.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,  
Plaintiff,

CASE NO.: 51-2010-CA-2912-WS/G

v.

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,  
Defendants.

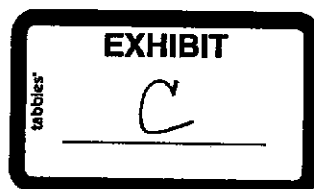
**RECEIVER'S SECOND REQUEST FOR PRODUCTION  
OF DOCUMENTS FROM THIRD PARTY**

To: Nick P. Cola, CPA, P.A.  
2759 State Road 580  
Suite 211  
Clearwater, FL 33761

Receiver, Michael Moecker & Associates, through counsel and pursuant to the Order Appointing Receiver dated April 1, 2010, as amended, requests NICK P. COLA, CPA, P.A., to produce to the Receiver at the offices of Bush Ross, P.A., 1801 North Highland Avenue, Tampa, Florida 33602, on or before May 31, 2010, the documents and things described on the attached list.

BUSH, ROSS, P.A.  
Post Office Box 3913  
Tampa, FL 33601-3913  
(813) 224-9255  
(813) 223-9620 (telecopy)  
*Counsel for the Receiver*

BY: Karen Cox  
Jeffrey W. Warren, Esquire  
Florida Bar No. 150024  
Karen Cox, Esquire  
Florida Bar No. 456667



**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 21<sup>st</sup> day of May, 2010 a true and correct copy of this Receiver's Request for Production of Documents from Third Party has been mailed to the following addresses:

David R. Lewalski  
as Registered Agent of Botfly, L.L.C.  
2515 Southwest 35th Place, Apt. #112  
Gainesville, Florida 32608

David R. Lewalski, Individually  
2515 Southwest 35th Place, Apt. #112  
Gainesville, Florida 32608

Todd Foster, Esq.  
Cohen, Foster & Romine, P.A.  
201 E. Kennedy Blvd., Suite 1000  
Tampa, FL 33602

R. Scott Palmer  
Gregory S. Slemp  
PL-01: The Capitol  
Tallahassee, Florida 32399-1050

*Karen Cox*

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Karen Cox

## EXHIBIT A

### DEFINITIONS

1. As used herein, "document" or "documents" means the original, or a copy thereof, if the original is not available, of every written, printed, typed, recorded, reported or graphic record or material including every draft and/or non-identical copy thereof of every type and description that is in the actual or constructive possession, control or custody of you or your attorneys, including, but not limited to, all correspondence, letters, communications, memoranda, notes, agreements, contracts, proposed contracts or agreements, whether or not actually consummated, reports, logs, studies, summaries, agendas, bulletins, notices, announcements, instructions, charts, manuals, models, graphs, photographs, brochures, publications, books, minutes, including minutes of board of directors meetings and executive meetings, partnership meeting and management or executive partnership committee meetings, computer printouts, schedules, drawings, videotape, tape or other voice and/or picture recordings, simulations, intra and inter-company memoranda, articles of newspapers, magazines and other publications, telegrams, purchase orders, lists, proposals, invoices, plans, specifications, addenda, statements, receipts, confirmation slips, evidence of payments, bills, diaries, calendars, bills of lading, canceled checks and any copy of a document bearing notations, markings, or writings of any kind or nature different from the original. *This term includes all electronically stored data, including emails, and all documents which may be stored on a computer hard drive, computer disk, computer tape, cd-rom, dvd-rom, or any other such electronically stored information which is capable of being viewed on a computer (including, but not limited to, computer related devices like handheld PDAs), and is savable and transferable on any computer data storage media.*

2. "Correspondence" or "communication" shall be construed in its broadest sense and shall mean any written, electronic or oral statement, dialogue, colloquy, discussion, conversation, telephone calls, letters, memoranda, notes, reports, telegrams, electronic mail (E-mail), confirmations, exhibits, drawings, sketches, any transfer of thoughts or ideas, any transfer of data from one location to another, or any other type of "document" as previously defined, between or among any person and/or entity.

### II. INSTRUCTIONS

All questions regarding this document request, including the items to be produced, should be directed to Karen Cox at (813) 204-6433.

### III. DOCUMENTS REQUESTED

1. All documents and correspondence relating to accounting services performed for Jon J. Hammill including federal and state tax returns, W-2s, and W-4s.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,  
STATE OF FLORIDA,

Plaintiff,

Case No.: 51-5010-CA-2912-WS/G

v.

BOTFLY, LLC, DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

---

**OBJECTION TO RECEIVER'S REQUEST FOR PRODUCTION OF DOCUMENTS  
FROM NICK P. COLA, CPA, P.A. AND JAY W. MORELAND, ESQ.**

COMES NOW, Jon J. Hammill, by and through undersigned counsel, and, pursuant to Rule 1.351(b) of the Florida Rules of Civil Procedure and Paragraph 4(m) of the Order Appointing Receiver, hereby files this Objection to the Receiver's Request for Production of Documents from Nick P. Cola, CPA, P.A. and Jay W. Moreland, Esq. In support thereof, Mr. Hammill would state:

1. On May 21, 2010, the Receiver served its Second Request for Production of Documents From Third Party to Nick P. Cola, CPA, P.A. The Request seeks "All documents and correspondence relating to accounting services performed for Jon J. Hammill including federal and state tax returns, W-2s and W-4s." A copy of the Request is attached as Exhibit A.

2. Nick Cola is Mr. Hammill's personal accountant. The documents requested include communications made in the rendition of accounting advice to Mr. Hammill and were not intended to be disclosed to third persons



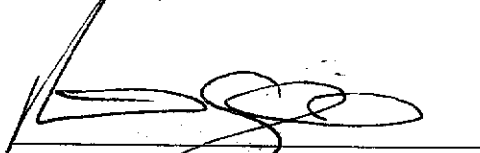
3. On May 21, 2010, the Receiver served its Request for Production of Documents From Third Party to Jay Moreland, Esq. The Request seeks "All documents and correspondence relating to legal services performed for Jon J. Hammill related to *In re Jon J. Hammill*, U.S. Bankruptcy Court, Middle District of Florida, Case No. 8:09-bk-02272-CPM." A copy of the Request is attached as Exhibit B.

4. Jay Moreland is Mr. Hammill's attorney. The documents requested include communications made in the rendition of legal services to Mr. Hammill and were not intended to be disclosed to third persons.

5. The two requests are objectionable as they seek disclosure of documents which are privileged: either lawyer-client (Fla. Stat. §90.502) or accountant-client. (Fla. Stat. §90.055).

WHEREFORE, Defendant, Jon J. Hammill, hereby objects to the Second Request for Production of Documents from Third Party, Nick P. Cola, CPA, P.A. and Request for Production of Documents from Third Party, Jay W. Moreland, P.A. and requests a hearing concerning same.

Respectfully Submitted,



TODD FOSTER

Florida Bar No.: 0325198

MICHAEL A. GOLD

Florida Bar No.: 0071943

COHEN, FOSTER & ROMINE, P.A.

201 E. Kennedy Boulevard, Suite 1000

Tampa, Florida 33602

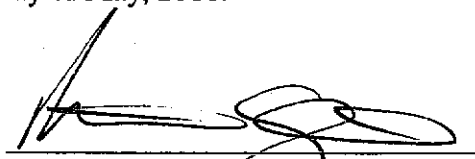
Telephone: 813-225-1655

Facsimile: 813-225-1921

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U.S. Mail to: **Nick P. Cola, CPA, PA**, 2759 State Road 580, Suite 211, Clearwater, Florida 33761; **Jay W. Moreland, Esquire**, 8520 Government Drive, Suite 5, New Port Richey, Florida 34654; **R. Scott Palmer, Special Counsel**, and **Gregory S. Slemp, Assistant Attorney General**, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399; **Karen Cox, Esquire**, Bush Ross, 1801 N. Highland Avenue, Tampa, Florida 33602; and **David R. Lewalski, Individually and as Registered Agent of Botfly, LLC**, 2515 SW 35<sup>th</sup> Place, Apartment 112, Gainesville, Florida 32608 on this 25<sup>th</sup> day of May, 2010.



TODD FOSTER  
Florida Bar No.: 0325198  
MICHAEL A. GOLD  
Florida Bar No.: 0071943  
COHEN, FOSTER & ROMINE, P.A.  
201 E. Kennedy Boulevard, Suite 1000  
Tampa, Florida 33602  
Telephone: 813-225-1655  
Facsimile: 813-225-1921  
*Attorneys for Defendant*

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

CASE NO.: 51-2010-CA-2912-WS/G

v.

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,

Defendants.

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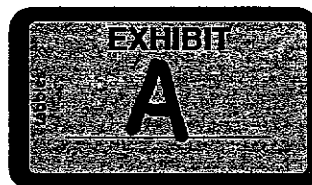
**RECEIVER'S SECOND REQUEST FOR PRODUCTION  
OF DOCUMENTS FROM THIRD PARTY**

To: Nick P. Cola, CPA, P.A.  
2759 State Road 580  
Suite 211  
Clearwater, FL 33761

Receiver, Michael Moecker & Associates, through counsel and pursuant to the Order Appointing Receiver dated April 1, 2010, as amended, requests NICK P. COLA, CPA, P.A., to produce to the Receiver at the offices of Bush Ross, P.A., 1801 North Highland Avenue, Tampa, Florida 33602, on or before May 31, 2010, the documents and things described on the attached list.

BUSH, ROSS, P.A.  
Post Office Box 3913  
Tampa, FL 33601-3913  
(813) 224-9255  
(813) 223-9620 (telecopy)  
*Counsel for the Receiver*

BY: Karen Cox  
Jeffrey W. Warren, Esquire  
Florida Bar No. 150024  
Karen Cox, Esquire  
Florida Bar No. 456667



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21<sup>st</sup> day of May, 2010 a true and correct copy of this Receiver's Request for Production of Documents from Third Party has been mailed to the following addresses:

David R. Lewalski  
as Registered Agent of Botfly, L.L.C.  
2515 Southwest 35th Place, Apt. #112  
Gainesville, Florida 32608

David R. Lewalski, Individually  
2515 Southwest 35th Place, Apt. #112  
Gainesville, Florida 32608

Todd Foster, Esq.  
Cohen, Foster & Romine, P.A.  
201 E. Kennedy Blvd., Suite 1000  
Tampa, FL 33602

R. Scott Palmer  
Gregory S. Slemp  
PL-01: The Capitol  
Tallahassee, Florida 32399-1050

*Karen Cox*

---

Karen Cox

## EXHIBIT A

### DEFINITIONS

1. As used herein, "document" or "documents" means the original, or a copy thereof, if the original is not available, of every written, printed, typed, recorded, reported or graphic record or material including every draft and/or non-identical copy thereof of every type and description that is in the actual or constructive possession, control or custody of you or your attorneys, including, but not limited to, all correspondence, letters, communications, memoranda, notes, agreements, contracts, proposed contracts or agreements, whether or not actually consummated, reports, logs, studies, summaries, agendas, bulletins, notices, announcements, instructions, charts, manuals, models, graphs, photographs, brochures, publications, books, minutes, including minutes of board of directors meetings and executive meetings, partnership meeting and management or executive partnership committee meetings, computer printouts, schedules, drawings, videotape, tape or other voice and/or picture recordings, simulations, intra and inter-company memoranda, articles of newspapers, magazines and other publications, telegrams, purchase orders, lists, proposals, invoices, plans, specifications, addenda, statements, receipts, confirmation slips, evidence of payments, bills, diaries, calendars, bills of lading, canceled checks and any copy of a document bearing notations, markings, or writings of any kind or nature different from the original. *This term includes all electronically stored data, including emails, and all documents which may be stored on a computer hard drive, computer disk, computer tape, cd-rom, dvd-rom, or any other such electronically stored information which is capable of being viewed on a computer (including, but not limited to, computer related devices like handheld PDAs), and is savable and transferable on any computer data storage media.*

2. "Correspondence" or "communication" shall be construed in its broadest sense and shall mean any written, electronic or oral statement, dialogue, colloquy, discussion, conversation, telephone calls, letters, memoranda, notes, reports, telegrams, electronic mail (E-mail), confirmations, exhibits, drawings, sketches, any transfer of thoughts or ideas, any transfer of data from one location to another, or any other type of "document" as previously defined, between or among any person and/or entity.

### II. INSTRUCTIONS

All questions regarding this document request, including the items to be produced, should be directed to Karen Cox at (813) 204-6433.

### III. DOCUMENTS REQUESTED

1. All documents and correspondence relating to accounting services performed for Jon J. Hammill including federal and state tax returns, W-2s, and W-4s.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS, STATE OF FLORIDA,  
Plaintiff,

CASE NO.: 51-2010-CA-2912-WS/G

v.

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,  
Defendants.

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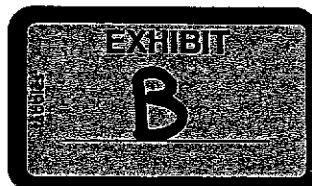
**RECEIVER'S REQUEST FOR PRODUCTION  
OF DOCUMENTS FROM THIRD PARTY**

To: Jay W. Moreland, Esq.  
8520 Government Dr.  
Suite 5  
New Port Richey, FL 34654

Receiver, Michael Moecker & Associates, through counsel and pursuant to the Order Appointing Receiver dated April 1, 2010, as amended, requests JAY W. MORELAND, ESQ. to produce to the Receiver at the offices of Bush Ross, P.A., 1801 North Highland Avenue, Tampa, Florida 33602, on or before May 31, 2010, the documents and things described on the attached list.

BUSH, ROSS, P.A.  
Post Office Box 3913  
Tampa, FL 33601-3913  
(813) 224-9255  
(813) 223-9620 (telecopy)  
*Counsel for the Receiver*

BY: Karen Cox  
Jeffrey W. Warren, Esquire  
Florida Bar No. 150024  
Karen Cox, Esquire  
Florida Bar No. 456667



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201 E. Kennedy Blvd., Suite 1000  
Tampa, FL 33602

R. Scott Palmer  
Gregory S. Slemp  
PL-01: The Capitol  
Tallahassee, Florida 32399-1050

*Karen Cox*

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Karen Cox

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1. As used herein, "document" or "documents" means the original, or a copy thereof, if the original is not available, of every written, printed, typed, recorded, reported or graphic record or material including every draft and/or non-identical copy thereof of every type and description that is in the actual or constructive possession, control or custody of you or your attorneys, including, but not limited to, all correspondence, letters, communications, memoranda, notes, agreements, contracts, proposed contracts or agreements, whether or not actually consummated, reports, logs, studies, summaries, agendas, bulletins, notices, announcements, instructions, charts, manuals, models, graphs, photographs, brochures, publications, books, minutes, including minutes of board of directors meetings and executive meetings, partnership meeting and management or executive partnership committee meetings, computer printouts, schedules, drawings, videotape, tape or other voice and/or picture recordings, simulations, intra and inter-company memoranda, articles of newspapers, magazines and other publications, telegrams, purchase orders, lists, proposals, invoices, plans, specifications, addenda, statements, receipts, confirmation slips, evidence of payments, bills, diaries, calendars, bills of lading, canceled checks and any copy of a document bearing notations, markings, or writings of any kind or nature different from the original. *This term includes all electronically stored data, including emails, and all documents which may be stored on a computer hard drive, computer disk, computer tape, cd-rom, dvd-rom, or any other such electronically stored information which is capable of being viewed on a computer (including, but not limited to, computer related devices like handheld PDAs), and is savable and transferable on any computer data storage media.*

2. "Correspondence" or "communication" shall be construed in its broadest sense and shall mean any written, electronic or oral statement, dialogue, colloquy, discussion, conversation, telephone calls, letters, memoranda, notes, reports, telegrams, electronic mail (E-mail), confirmations, exhibits, drawings, sketches, any transfer of thoughts or ideas, any transfer of data from one location to another, or any other type of "document" as previously defined, between or among any person and/or entity.

### II. INSTRUCTIONS

All questions regarding this document request, including the items to be produced, should be directed to Karen Cox at (813) 204-6433.

### III. DOCUMENTS REQUESTED

1. All documents and correspondence relating to legal services performed for Jon J. Hammill related to *In re Jon J. Hammill*, U.S. Bankruptcy Court, Middle District of Florida, Case No. 8:09-bk-02272-CPM.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,  
IN AND FOR PASCO COUNTY, FLORIDA  
CIVIL DIVISION

OFFICE OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,  
STATE OF FLORIDA,  
Plaintiff,

vs. Case No.: 51-2010-CA-2912-WS/G

BOTFLY L.L.C., DAVID R. LEWALSKI,  
and JON J. HAMMILL,  
Defendants.

DEPOSITION OF: JON J. HAMMILL  
TAKEN: Pursuant to Notice  
DATE: April 16, 2010  
TIME: 10:23 a.m. - 10:30 a.m.  
PLACE: Gravity Reporting  
111 Second Avenue NE  
5th Floor  
St. Petersburg, Florida 33701  
BEFORE: Billie M. Davis  
Notary Public  
State of Florida

**ORIGINAL**

EXHIBIT

E

APPEARANCES:

KAREN COX, ESQUIRE  
Attorney at Law  
Post Office Box 3913  
Tampa, Florida 33601  
Attorney for Receiver

GREGORY SLEMP  
Office of the Attorney General  
400 S. Monroe Street #PL-01  
Tallahassee, Florida 32399

ALSO PRESENT: Todd Foster, Esquire

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MS. COX: Karen Cox, attorney for the receiver Michael Moecker.

MR. SLEMP: Greg Slemp, attorney for the Office of the Attorney General, State of Florida, Plaintiff.

MR. FOSTER: I'm Todd Foster.

MR. HAMMILL: Jon Hammill.

MR. ATIKER: Mike Atiker (sic).

MR. ROSS: Jack Ross.

JON HAMMILL,

the deponent herein, after being first duly sworn on oath, was examined and deposed as follows:

DIRECT EXAMINATION

MS. COX: Okay, and I guess before we proceed - Todd let's just sort of -- it is my understanding that you are appearing on behalf of Mr. Hammill today.

MR. FOSTER: I am here on behalf of the corporation, and in his capacity as an agent or representative of the corporation.

MS. COX: So you are counsel for Botfly L.L.C.?

MR. FOSTER: Yes.

MS. COX: And you are representing Mr. Hammill today?

MR. FOSTER: Yes.

MS. COX: As an employee?

MR. FOSTER: As an agent.

MS. COX: As an agent of Botfly.

MR. FOSTER: Yes, that is correct.

MR. SLEMP: So you are not representing him in his personal capacity?

MR. FOSTER: Also correct.

MS. COX: Is that correct also with as far as Mr. Ross.

MR. FOSTER: Yes, Mr. Ross and I are together.

MS. COX: And based on conversations that we had this morning immediately prior to the deposition it is my understanding that you were just retained last night; is that correct?

MR. FOSTER: Yes.

MS. COX: Actually this deposition was for Mr. Hammill individually, but he, there are no documents that will be produced by Mr. Hammill today?

MR. FOSTER: Correct.

MS. COX: Let me ask you this, with respect to that, is that because there is an intention not to produce documents pursuant to the Subpoena, or because you just got retained and haven't had the opportunity to --

MR. FOSTER: Well, it is mostly that Mr. Hammill based on our conversations this morning and yesterday would be invoking his privilege against

self-incrimination as to testimony, as well as to production. And we didn't have much time to get involved with him, so candidly I don't know what documents exist and I haven't asked him really. I haven't seen any documents, I don't know what -- I have seen the pleadings, but beyond that to be safe and to protect him at this point in time because the deposition came up very quickly. I apologize for not calling you last night, I didn't get back from I was out of town last evening and got back, actually Barry met with him last night. But to protect him we thought the best advice for him to invoke the Fifth Amendment as to everything at this point. As to any question that would tend to incriminate him, if you asked him his name I think he would tell you that. If you talked about matters which are independent of Botfly he may not invoke the Fifth. Anything relating to his involvement at the company, participation in events, receipt of money, or anything-like that I anticipate he would take the Fifth.

MS. COX: And let me ask you Mr. Hammill, is it your intention to follow Mr. Foster's advice?

MR. HAMMILL: Yes, it is.

MS. COX: Because I could sit here and ask you a whole litany of questions and have you answer I am

going to invoke the Fifth Amendment, but if you having sat here and heard him sort of outline to me his advice to you if it is your intention to follow that then I don't see any need for us to spin our wheels.

MR. FOSTER: Maybe a future date that we will reconvene or something, but for right now we thought that was the best advice.

MS. COX: And I think what probably makes the most sense for everyone involved so we don't waste people's times but leave open the opportunity for possibility of productive cooperation in the future, is just to terminate this deposition at the moment and have you give me a call once you have your arms around this a little bit better.

MR. FOSTER: Okay, fair enough.

MS. COX: Let me ask you just for clarification purposes since he is being sued individually, we have been sending him documents via his email address because we have expedited noticing under, I don't know if you have seen the Receivership Order but it provides for expedited hearings and that type of thing. I don't know whether you want us to terminate that right now and just do things by mail, or I can obviously email you things as well.

MR. FOSTER: Well if you would just send them to

me as well, I don't see any harm in you sending them to him also. This way he will get the notice as well, but if we can get just a simultaneous notification that would be fine.

MS. COX: And we have also been mailing them too just things come up really fast so that he gets as much heads up as possible.

MR. FOSTER: And as you say now that we know each involved we can talk.

MS. COX: Right, right. So I will call you probably this afternoon so we can just talk about it because there is an urgency as a result of the nature of what is going on. And you will see that the Receivership Order does give the receiver expedited discovery and all those things so.

MR. FOSTER: All right, well I will wait for your call.

(WHEREUPON, the taking of the deposition . . . was concluded at 10:32 a.m.).

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, the undersigned authority, certify that  
JON HAMMILL personally appeared before me and was duly  
sworn.

WITNESS my hand and official seal this 28TH  
day of APRIL, 2010.

---

BILLIE M. DAVIS

Notary Public, State of Florida

Commission No. DD 0851614

Expires: January 14, 2013

REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, BILLIE M. DAVIS, certify that I was authorized to and did stenographically report the foregoing Deposition; that a review of the transcript was not requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action

DATED THIS April 28, 2010.

---

Billie M. Davis

Notary Public, State of Florida

Commission No.: DD 0851614

Expires: January 14, 2013

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