

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,
JON J. HAMMILL, and JON J.
HAMMILL, P.A.,

Defendants.

**PLAINTIFF'S MOTION FOR INTERIM DISTRIBUTION
OF FUNDS HELD BY THE RECEIVER**

Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida,
by and through its undersigned attorneys, hereby files this Motion for Interim Distribution of
Funds Held by the Receiver, and states as follows:

1. On April 1, 2010, this Court appointed Michael E. Moecker or his designee employed by Michael Moecker & Associates, Inc. as the Receiver for Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill.
2. The Receiver has collected a substantial amount of funds and assets from the Defendants and from other sources.
3. Based upon the Receiver's Sixth Interim Report, the Receiver has collected at least \$4,553,097.62 from various sources. Further, in September 2011, approximately

\$719,685.48 was obtained by the Receiver from David Lewalski's Swiss Dukascopy accounts.

4. This Court has previously determined that Defendants are liable to Plaintiff for the claims asserted in the Amended Complaint and has entered Partial Summary Judgments against the Defendants and in favor of Plaintiff.

5. Defendants Botfly L.L.C. and David R. Lewalski have agreed to the entry of a Consent Final Judgment that requires said Defendants to pay restitution to victims of the Botfly L.L.C. Ponzi scheme in the total amount of \$19,240,372.75. Plaintiff has filed a Motion for Entry of the Consent Final Judgment, and a hearing on this Motion is scheduled for December 2, 2011.

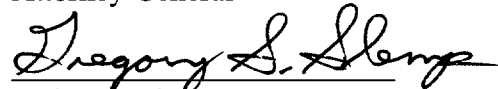
6. Further, Plaintiff has moved for a Summary Final Judgment against Defendants Jon J. Hammill and Jon J. Hammill, P.A., and a hearing on this Motion is scheduled for December 2, 2011.

7. "It is well established that the court which appoints a receiver may issue orders as are necessary and proper for the property and interests of those concerned." *City of Kissimmee v. Department of Environmental Regulation*, 753 So.2d 770, 771 (Fla. 5th DCA 2000) (citations omitted). Thus, the Court has the authority to order an interim distribution of funds from the receivership to the victims of the Botfly Ponzi scheme. *See, e.g., Real Estate Apartments, Ltd. v. Bayshore Garden Apartments, Ltd.*, 530 So.2d 977, 978 (Fla. 2d DCA 1988).

8. Accordingly, Plaintiff respectfully requests that this Court grant the instant Motion and order that an interim distribution of funds in an amount to be determined by the Court be paid as soon as practicable to victims of the Botfly Ponzi scheme in accordance with the claims process.

WHEREFORE, Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida, respectfully requests that this Court enter an Order granting its Motion for Interim Distribution of Funds Held by the Receiver, and for such other and further relief that this Court deems just and proper.

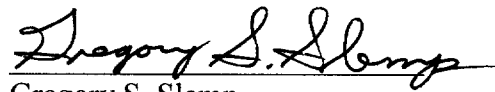
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Jeffrey W. Warren and Karen Cox, Bush Ross, P.A., P.O. Box 3913, Tampa, FL 33601-3913; David R. Lewalski, Pinellas County Jail, Cell Location/Status: CEN-6C1-UN01-06-003, 14400 49th St. N., Clearwater, FL 33762; Steve D. Tran, 2285 First Avenue North, Suite A, Saint Petersburg, FL 33713; Jon J. Hammill, 6232 Fifth Avenue North, Saint Petersburg, FL 33710; and Gabriel Mazzeo, 285 Ocklawaha Circle, Quincy, FL 32351 on this 22nd day of November, 2011.



Gregory S. Slemp