

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

Defendants.

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**ORDER GRANTING MOTION TO (1) APPROVE  
PROCEDURE TO ADMINISTER CLAIMS AND PROOF OF CLAIM  
FORM, (2) ESTABLISH DEADLINE FOR FILING PROOFS OF CLAIM,  
AND (3) PERMIT NOTICE BY MAIL AND PUBLICATION**

This cause comes before the Court for consideration of Receiver's Motion to (1) Approve Procedure to Administer Claims and Proof of Claim Form, (2) Establish Deadline for Filing Proofs of Claim, and (3) Permit Notice by Mail and Publication.

Having considered the motion, and being otherwise fully advised, it is **ORDERED AND ADJUDGED** that:

1. The Motion is GRANTED.
2. The Proof of Claim Form attached to this order as Exhibit A (the "**Claim Form**") is approved. Each person or entity that asserts a claim against Botfly, LLC, or David R. Lewalski or Jon J. Hammill, arising out of or related in any way to the acts, conduct, or activities of Botfly, LLC must submit an original, written Claim Form to the Receiver, Michael E. Moecker c/o Michael Moecker & Associates, Inc., 3613 N. 29<sup>th</sup> Ave., Hollywood,

FL 33020 to be received on or before the later of 120 days from the entry of this Order or 90 days from the mailing of the Proof of Claim Form to known possible Claimants (the "Claim Bar Date"). Any person or entity that fails to submit a Claim Form on or before the Claim Bar Date (i.e., fails to take the necessary steps to ensure that the Claim Form is received by the Receiver on or before the Claim Bar Date), shall be forever barred and precluded from asserting any claim against Botfly, LLC, its successors, its respective property, the Receiver, or the Receivership Estate, and from participating in any distribution from the Receivership.

3. The notice procedures of the Claim Bar Date provided in the Motion shall be sufficient and reasonably calculated to provide notice to all creditors if made by (a) first class U.S. mail to the last known addresses, (b) by publication on one day in the global edition of The Wall Street Journal and on one day in The St. Petersburg Times, and (c) on the Receiver's website at www.botflyreceivership.com. The form of the Notice shall be in the form attached to this Order as Exhibit B. The Court hereby authorizes that the costs of publication be paid directly from the Receivership's assets.

4. The Claims Administration Procedure as set forth in the Motion is approved in all respects without prejudice to the Receiver seeking additional relief as necessary and appropriate.

DONE AND ORDERED at New Port Richey, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ORIGINAL SIGNED

APR 28 2011

STANLEY R. MILLS  
CIRCUIT JUDGE

\_\_\_\_\_  
HONORABLE STANLEY MILLS

Copies furnished to:

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

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

Steve D. Tran, Esq.  
2285 First Avenue North, Suite A  
St. Petersburg, FL 33713

Inmate David Lewalski  
Pinellas County Jail  
Cell Location/Status: CEN-6C1-UN01-08-003  
14400 49th St N  
Clearwater, FL 33762

Gabriel Mazzeo, Esquire  
285 Ocklawaha Circle  
Quincy FL 32351

Jon J. Hammill  
6232 Fifth Avenue North  
St. Petersburg, FL 33710

# **EXHIBIT A**

## PROOF OF CLAIM FORM

Name of Defendants:

Pasco County Circuit Court Case Number:

**BOTFLY, LLC, DAVID R. LEWALSKI,  
JON J. HAMMILL, and JON J. HAMMILL,  
P.A.**

**51-2010-CA-2912-WS/G**

### GENERAL INSTRUCTIONS

Answer each and every question as fully as possible.

If you need additional space to complete an answer, please attach a separate sheet of paper and indicate the number of the question for which you are providing the additional information.

1. **Name, address, telephone number(s), and email address for claimant.**

2. **If Proof of Claim is completed by person other than claimant, name, address telephone number(s) and email address for person completing form and the basis for the authority to act on the Claimant's behalf. Submit documentation demonstrating authority to file Proof of Claim with the Proof of Claim.**

3. **Name and address where correspondence, notices, and any other communications from the Receiver relating to the claim should be sent (if different from claimant).**

4. **Name and address for where payment should be sent (if different from claimant).**

**5. Basis for Claim.**

State the reason for your claim for payment from the Receivership (for example, as to claims against Botfly — investor, beneficiary to deceased investor, assigned from another party, sold to you by another party, goods or services rendered to Botfly, Lewalski or Hammill for which payment was not received; as to claims against Botfly, Lewalski or Hammill — goods or services rendered for which payment was not received or other claims based on the acts or omissions of Botfly, Lewalski or Hammill, even if the claims are not now mature, fixed, liquidated or certain).

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**6. Funds Paid to Botfly.**

Did you or anyone on your behalf make any investments in or loans to Botfly? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If "Yes" (a) provide information regarding each payment below and (b) enclose copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents substantiating the payments with the Proof of Claim. (Use additional sheet if necessary).

	Amount paid	Payment date	Type of Payment (check, cashiers check, wire transfer, cash, or other)	Account name, account number and financial institution from which payment was made
1				
2				
3				
4				
5				
6				
7				
8				
9				

10				
11				
12				

Did you receive a promissory note or notes from Botfly? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If "Yes" submit copies of all promissory notes with the Proof of Claim.

Did you receive any statements that reflected the payments made to Botfly, either in paper or by way of on-line access to account statements? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If "Yes" submit copies with the Proof of Claim and provide the Botfly account number(s) associated with the payment(s).

**7. Funds Received from Botfly**

Did you receive any payments from Botfly? \_\_\_\_\_ Yes \_\_\_\_\_ No.

Did any person or entity other than yourself receive payments made by Botfly on your behalf or at your direction? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If the answer is "Yes" to either of the two preceding questions, (a) provide information regarding each payment and (b) enclose copies of all checks, bank or other financial account statements, wire transfer confirmations, 1099's, correspondence (including e-mail correspondence) and any other documentation reflecting the payments with the Proof of Claim. Include any payments made to you or made to another person on your behalf that resulted from the referral or origination of investments by others in Botfly. (Use additional sheet if necessary).

	Amount of Payment	Payment date	Person or Entity receiving payment	Type of Payment (check, cashiers check, wire transfer, cash, or other)	Reason for payment
1					
2					
3					
4					
5					

6					
7					
8					
9					

**8. Anything of value received from the Receivership Entities**

In addition to the payments listed in section 7, have you received anything else of value either directly or indirectly from Botfly, LLC, David R. Lewalski or Jon J. Hammill (for example, promissory notes, shares of stock, interest in business ventures, and personal property) at any point in time? \_\_\_\_\_ Yes \_\_\_\_\_ No.

Did any person or entity other than yourself receive anything else of value from Botfly, LLC, David R. Lewalski or Jon J. Hammill on your behalf or at your direction at any point in time? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If the answer is "Yes" to either of the two preceding questions, explain the circumstances and reasons for the transfer and identify what was received, who received it, when it was received, and where it came from.

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By signing below, I certify under penalty of perjury pursuant to Florida Statute that the information provided in this form is true and correct. I further acknowledge I understand that claimants who submit claims for distribution from the Receivership on this Proof of Claim, are subject to the exclusive jurisdiction of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County Florida for all purposes, including, without limitation, as to any claims, objections, defenses, or counterclaims that could be or have been asserted by the Receiver against such claimant or the holder of such claim in connection with this Receivership, including those arising out of (1) any dealing or business transacted by or related to Botfly or (2) any dealing or business transacted that relates in any way to any the Receivership property and waive any right to a jury trial with respect to such claims, objections, defenses, and counterclaims.

Sign: \_\_\_\_\_

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

Date: \_\_\_\_\_

Title (if any): \_\_\_\_\_

DATE: \_\_\_\_\_

RE: CLAIMS FOR PAYMENT FROM RECEIVERSHIP OVER ASSETS OF BOTFLY, LLC,  
DAVID R. LEWALSKI AND JON J. HAMMILL

**ATTENTION:**

The Honorable Stanley R. Mills of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County Florida appointed Michael E. Moecker as Receiver of BOTFLY, LLC (“Botfly”), DAVID R. LEWALSKI, AND JON J. HAMMILL (collectively, the “Receivership Entities”). The estates for the Receivership Entities have been consolidated into a single Receivership administered by the Receiver principally for the payment of valid claims by Botfly investors.

On \_\_\_\_\_, the Court issued an order establishing a Claim Bar Date for all claims against the Receivership Entities and approving this Proof of Claim Form and the basic procedures to administer claims against the Receivership Entities. *The proper filing of this completed claim form may entitle you to receive a distribution from the Receivership.*

The information provided in this Proof of Claim Form will be used determine whether you will receive any distribution from the Receivership. The Receiver has the right to dispute and/or verify any information you have provided in order to determine the proper distribution amount, if any, to which you may be entitled.

It is your responsibility to advise the Receiver of any change in your address after you submit a Proof of Claim so that the Receiver may contact you as necessary regarding the Proof of Claim.

**WHO MUST FILE A PROOF OF CLAIM**

If you think you may have a claim against Botfly, LLC, or David Lewalski or Jon Hammill arising out of or relating in any way to the acts, conduct or activities of Botfly, LLC, you must file a Proof of Claim and, if applicable provide the Receiver with pertinent documentation, to share in distributions from the Receivership.

**WHERE AND WHEN TO FILE**

All Proofs of Claims must be delivered by U.S. mail or other means so that the claim is **received on or before** \_\_\_\_\_, at the following address:

Michael E. Moecker, Receiver  
c/o Michael Moecker & Associates, Inc.  
3613 N. 29<sup>th</sup> Ave.  
Hollywood, FL 33020

**CONSEQUENCES OF FAILURE TO FILE PROOF OF CLAIM**

Any holder of a claim or potential claim that fails to file a Proof of Claim on or before \_\_\_\_\_ will be forever **barred, estopped, and enjoined from asserting such claim** against Botfly, LLC, its successors, its respective property, the Receiver, or the Receivership estate, **and from participating in any distribution** from the Receivership.

# **EXHIBIT B**

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

Defendants.

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**NOTICE OF DEADLINE REQUIRING  
FILING OF PROOFS OF CLAIM ON OR BEFORE**

**TO ALL PERSONS AND ENTITIES WITH CLAIMS AGAINST BOTFLY, LLC, DAVID R. LEWALSKI, AND JON J. HAMMILL:**

On April 1, 2010, the Office of the Attorney General, Department of Legal Affairs initiated this action. That same day, the Court entered an order appointing Michael E. Moecker or his designee employed by Michael Moecker & Associates, Inc. as Receiver for Botfly LLC (“**Botfly**”), David R. Lewalski (“**Lewalski**”) and Jon J. Hammill (“**Hammill**”) (collectively, the “**Receivership Entities**”). Mr. Moecker has the full and exclusive power, duty, and authority to administer and manage the business affairs, funds, investments, property, assets, causes in action, and any other property of the Receivership Entities; to marshal and safeguard all of the Receivership Entities’ assets; and to take whatever actions are necessary for the protection of Botfly’s investors. The estates for the Receivership Entities have been consolidated into a single Receivership administered by the Receiver principally for the payment of valid claims by Botfly investors.

To the extent the Receivership does not have sufficient funds to pay all valid claims, the recipients and amounts of the Receiver's distributions for claims brought for investments in Botfly will be based on the Net Investment Amounts. The Net Investment Amount for an investor is calculated by adding all amounts contributed by the pertinent investor(s) to as an investment in Botfly and subtracting all payments made and/or in connection with that investment, regardless of whether those payments were characterized as interest, earnings, profits, returns or redemptions of principal, incentive fees, management fees or by any other terminology.

On \_\_\_\_\_, the Court entered an order (the “**Claim Bar Date Order**”) establishing \_\_\_\_\_ (the “**Claim Bar Date**”) as the last date for each person or entity (including individuals, partnerships, corporations, joint ventures, estates, trusts, and governmental units) to file a Proof of Claim against Botfly, LLC, or David Lewalski or Jon Hammill arising out of or relating in any way to the acts, conduct or activities of Botfly, LLC.

Any person or entity that submits a Proof of Claim submits to the exclusive jurisdiction of the Sixth Judicial Circuit, in and for Pasco County, Florida for all purposes, including, without limitation, as to any claims, objections, defenses, or counterclaims that could be or have been asserted by the Receiver against such claimant or the holder of such claim in connection with the Receivership, including those arising out of (1) any dealing or business transacted by or with the Receivership Entities or (2) any dealing or business transacted that relates in any way to any property in the possession of the Receivership Entities. Further, claimants waive any right to a jury trial with respect to such claims, objections, defenses, and counterclaims.

The procedures set forth below for filing a Proof of Claim and the requirement that Proofs of Claims be received on or before \_\_\_\_\_ apply to all claims against any of the Receivership Entities.

## 1. WHO MUST FILE A PROOF OF CLAIM

If you think that you may have a claim, you **MUST** file a Proof of Claim to share in distributions from the Receivership. A claim based on acts or omissions of the Receivership Entities must be filed on or before \_\_\_\_\_, even if such claim is not now mature, fixed, liquidated, or certain, or does not become mature, fixed, liquidated, or certain before \_\_\_\_\_.

## 2. WHAT TO FILE

If your claim is based upon a payment made to Botfly as either an investment or a loan, with the Proof of Claim you must also provide to the Receiver by \_\_\_\_\_ (1) copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents substantiating the payments; (2) promissory notes from Botfly; (3) copies of all checks, bank or other financial account statements, wire transfer confirmations, 1099's, correspondence (including e-mail correspondence) and any other documentation reflecting the payments.

If you were not an investor in Botfly or did not make a loan to Botfly, but believe you are or may be a creditor of Botfly, Lewalski or Hammill, with the Proof of Claim you must also provide to the Receiver by \_\_\_\_\_ (1) the amount you contend you are owed from Botfly, Lewalski or Hammill; (2) any amounts received from Botfly, Lewalski or Hammill; and (3) legible copies of all documents on which you base your claim (i.e., all invoices for services or goods provided, loan documents, etc.) or, if any such documents are not available, a detailed explanation as to why any such documents are not available.

Each Proof of Claim you file **must** conform substantially to the Proof of Claim Form and provide responses to all of the questions in the Proof of Claim Form that either (1) was mailed to you along with this Notice or (2), if you have not received one by mail, was posted on the Receiver's website at [www.botflyreceivership.com](http://www.botflyreceivership.com). A copy of a Proof of Claim Form also may be obtained from Karen Cox, Esq., Bush Ross, P.A., P.O. Box 3913, Tampa, FL 33601-3913 (813) 224-9620.

Each Proof of Claim you file must be signed under penalty of perjury by the claimant or, if the Claimant is not an individual, by an authorized agent of the claimant. Each Proof of Claim must be legible, written in English, and denominated in United States currency.

**3. WHEN AND WHERE TO FILE**

All Proofs of Claim must be delivered by mail or otherwise so as to be **received on or before** \_\_\_\_\_ at the following address:

Michael E. Moecker, Receiver  
c/o Michael Moecker & Associates, Inc.  
3613 N. 29<sup>th</sup> Ave.  
Hollywood, FL 33020

**Do not send your proof of claim form to the court or judge presiding over this case.**

**4. CONSEQUENCES OF FAILURE TO FILE A PROOF OF CLAIM BY THE BAR DATE**

Any holder of a claim or potential claim that fails to file a Proof of Claim (1) that fully complies with all requirements set forth in this notice and (2) that is received on or before \_\_\_\_\_ will be forever barred, estopped, and enjoined from asserting such claim against Botfly, Lewalski, Hammill, their respective property, the Receiver, or the Receivership Estate, and from participating in any distribution from the Receivership.

A holder of a claim or potential claim against Botfly, Lewalski or Hammill may wish to consult an attorney regarding matters in connection with this Notice.

Dated \_\_\_\_\_, Tampa, Florida.

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: \_\_\_\_\_  
Jeffrey W. Warren  
Florida Bar No. 150024  
[jwarren@bushross.com](mailto:jwarren@bushross.com)  
Karen Cox  
Florida Bar No. 456667  
[kcox@bushross.com](mailto:kcox@bushross.com)