

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 EMERGENCY MOTION FOR
ENTRY OF BREAK ORDER WITHOUT NOTICE**

COMES NOW, Michael E. Moecker (the "**Receiver**"), as Receiver of Botfly L.L.C., David R. Lewalski, and Jon J. Hammill and all other entities operated, controlled or otherwise associated with the Defendants' activities (collectively, the "**Defendants**"), by and through his undersigned counsel, and hereby moves this Court for entry of a break order without notice and, in support of the motion, states as follows:

1. On April 1, 2010, this Court entered the Order Appointing Receiver (the "**Order**"), which, among other things, determined that good cause exists to (1) protect the assets of the Defendants from being sold, transferred, alienated or otherwise dissipated until the resolution of the instant proceeding and (2) to refrain from giving notice to Defendants because of the likelihood that they would dissipate the assets of the business if notified of the motion to appoint receiver.

2. In addition, the Order required the Receiver to marshal, preserve, protect, maintain, manage and safeguard the Defendants' assets (the "Assets") and authorized him to take possession and control over the Assets, including but not limited to the offices, and the contents of such offices where the Defendants have conducted business.

3. Further the Order provided:

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. . . .

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 the Defendants directly, beneficially or otherwise. The term "assets" shall include files, records, documents . . . lands. . . and all other property, whether real, personal, or mixed or previously belonging to Defendants. . . .

Turnover. All persons, corporations, or other entities now or hereafter in possession of the Assets. . . shall forthwith and without further Order of this Court surrender such possession to the Receiver.

Any and all law enforcement authorities, including but not limited to the Pasco Sherriff'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. Lewalsi, and Jon Hammill located at 12709 Clocktower Parkway, Bayonet Point, Florida 34667 and any and all other locations of the Defendants.

(Emphasis added).

4. The Receiver has determined that in addition to 2709 Clocktower Parkway, Bayonet Point, Florida 34667, the Defendants conducted business in a location in Pinellas County, Florida, in particular at 2684 70th Ave S., St Petersburg, Florida 33712 (collectively, the "Premises").

5. On April 2 and April 5, 2010, the Receiver or his designee employed by Michael Moecker and Associates, Inc. attempted to serve the Order and the Defendants have refused to allow entry to the Premises.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a break order authorizing the Sheriffs of Pasco and Pinellas County to use force to enter the Premises and any building or enclosure of any kind located thereon and break any lock, outer door, or other hindrance in order to execute the Order, to remove all persons from said Premises, and turnover all Assets and control over the Premises to the Receiver.

Dated: Tampa, Florida
April 5, 2010

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Plaintiff,

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

v.

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

Defendants.

ORDER

On April 2 and 5, 2010 Michael E. Moecker or his designee employed by Michael Moecker and Associates, Inc., (the “**Receiver**”), as Receiver of Botfly L.L.C., David R. Lewalski, and Jon J. Hammill and all other entities operated, controlled or otherwise associated with the Defendants’ activities (collectively, the “**Defendants**”) attempted to serve an Order Appointing Receiver issued by Judge Stanley R. Mills on April 1, 2010 (the “**Receivership Order**”) and the Defendants refused to allow entry to the premises described below and, therefore, the Receiver, has moved for the entry of a Break Order directed to the Sheriffs of Pinellas County and Pasco County, Florida.

IT IS ORDERED AND ADJUDGED that the Pinellas County Sheriff’s Office shall accompany the Receiver to 2684 70th Ave S., St Petersburg, Florida 33712 and make demand for entry. If entry is not forthcoming, or no one is at the location at the time of enforcement of the Court’s Order, the Sheriff shall use the force of the County to break and enter the premises or

any structure or enclosure located at 2684 70th Ave S., St Petersburg, Florida 33712 to: (a) execute the Receivership Order; (b) remove all persons from said premises; and (c) place the Receiver in possession and control of all property of the Defendants at the premises. It is further,

ORDERED AND ADJUDGED that the Pasco County Sheriff's Office shall accompany the Receiver to 2709 Clocktower Parkway, Bayonet Point, Florida 34667 and make demand for entry. If entry is not forthcoming, or no one is at the location at the time of enforcement of the Court's Order, the Sheriff shall use the force of the County to break and enter the premises or any structure or enclosure located at 2709 Clocktower Parkway, Bayonet Point, Florida 34667 to: (a) execute the Receivership Order; (b) remove all persons from said premises; and (c) place the Receiver in possession and control of all property of the Defendants at the premises.

DONE AND ORDERED in Chambers, Pasco County, Florida, this ____ day of April, 2010.

CIRCUIT JUDGE