

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

NOV 19 2008

PATRICIA PRESLEY, COURT CLERK

by _____ DEPUTY

CASE NO. CJ-2008-7963

OKLAHOMA DEPARTMENT OF §
SECURITIES, *ex rel.* IRVING L. FAUGHT, §
ADMINISTRATOR §

v. §

JERRY D. CASH §

**NON-PARTIES BRYAN SIMMONS AND STEVEN HOCHSTEIN'S UNOPPOSED
MOTION TO SUPPLEMENT AUGUST 29, 2008 TEMPORARY INJUNCTION
AND ORDER FREEZING ASSETS**

COMES NOW, non-parties Bryan Simmons ("Simmons") and Steven Hochstein ("Hochstein"), who file this motion requesting that the Court supplement the Temporary Injunction and Order Freezing Assets entered on August 29, 2008, and in support thereof would show as follows¹:

1. On August 29, 2008, the Court entered a Temporary Injunction and Order Freezing Assets (the "Injunction") in the above-referenced case. A copy of the Injunction is attached as Exhibit 1. The Injunction arose out of allegations by the Oklahoma Department of Securities that Defendant Jerry D. Cash ("Cash") misappropriated approximately \$10 million from Quest Resource Corporation and some of its affiliates ("Quest"). In its Petition for Injunction and Other Equitable Relief ("Petition"), the Oklahoma Department of Securities alleged that Cash "controlled" a Texas limited liability company called Rockport Energy, LLC ("Rockport Energy") and that Cash "engaged in a series of suspicious financial transactions between Rockport Energy" and Quest. *See* Pet. at ¶¶ 9, 12. Specifically, the Petition contended that "Cash caused [Quest] money to be transferred to a bank account held

¹ Should the Court deem intervention necessary, non-parties Simmons and Hochstein would ask the Court to construe this motion as both a Motion to Intervene pursuant to OKLA. STAT. tit. 12, § 2024 and a Motion to Supplement August 29, 2008 Temporary Injunction and Order Freezing Assets.

in the name of Rockport Energy. Cash maintained sole signature authority over the Rockport Account.” *See* Pet. at ¶ 10.

2. Non-parties Simmons and Hochstein are members, along with Cash, in Rockport Energy.² Neither Simmons nor Hochstein had any knowledge of Cash’s alleged scheme or that Cash allegedly used a Rockport Energy account as part of his purported scheme. Indeed, the Petition does not make any allegations about Simmons or Hochstein, and they are not named as Defendants. At all times, Cash controlled the Rockport Energy bank account(s) in issue and, as noted in the Petition, had sole signatory authority on the account(s). Cash was also the only member of Rockport Energy to receive copies of the bank statements for the account(s).

3. Given the nature of the allegations against Cash, Simmons and Hochstein are anxious to review the records and account statements for the bank account(s) and receive copies of any future account statements. To do this, however, will require that the Court’s Injunction be modified.

4. For example, the Injunction currently prohibits any person or entity from:

tampering with, mutilating, altering, erasing, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks, tapes or other data recordings of any type, pertaining to or referring to Defendant, and/or [Quest], Rockport Energy, L.L.C., and any of their subsidiaries or affiliates. Injunction at 2.

5. The Injunction also currently requires that:

[a]ll banks, depository institutions, internet service providers, securities firms, or other institutions or persons served with a copy of this Order [to] cooperate with the Plaintiff relating to the

² In light of the serious allegations against Cash, Simmons and Hochstein voted on September 1, 2008, to remove Cash as a manager of Rockport Energy. A copy of the resolution is attached as Exhibit 2.

implementation of this Order, to include imposing a freeze on all Assets and producing records relating thereto. Injunction at 2.

6. Thus, under the express terms of the Injunction, Simmons and Hochstein are prohibited from adding any additional addresses on any Rockport Energy bank account so that monthly account statements will be sent to Simmons and Hochstein. Similarly, Simmons and Hochstein are prohibited from obtaining a complete set of the bank records and statements for any Rockport Energy account.

7. Accordingly, Simmons and Hochstein respectfully request that the Court modify the Injunction to allow:

- a. any bank or depository institution that currently has a Rockport Energy account to add Simmons and Hochstein as proper recipients for the purpose of receiving any account statements issued by the bank or depository institution; and
- b. any bank or depository institution that currently has a Rockport Energy account to release a complete set of bank records and historical account statements related to the Rockport Energy account to Bryan Simmons.

8. The modifications requested by Simmons and Hochstein will not injure or impair any assets or records currently subject to the Injunction, but will allow Simmons and Hochstein to assume greater oversight of any Rockport Energy bank account(s).

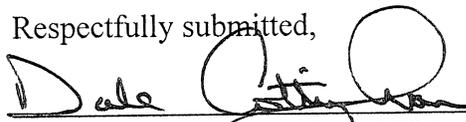
9. Counsel for both Cash and the Oklahoma Department of Securities have been contacted. Both authorized the undersigned to state that they are unopposed to the instant motion.

WHEREFORE, based on the foregoing, non-parties Bryan Simmons and Steven Hochstein respectfully pray that the Court modify the Temporary Injunction and Order Freezing Assets, entered on August 29, 2008, to allow: (a) any bank or depository institution

that currently has a Rockport Energy account to add Simmons and Hochstein as proper recipients of any account statements issued; and (b) any bank or depository institution that currently has a Rockport Energy account to release a complete set of bank records and account statements to Bryan Simmons, and for such other relief as the Court may deem necessary, just, and proper.

Dated: November 19th, 2008.

Respectfully submitted,



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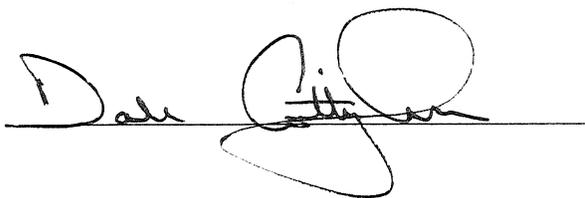
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was served upon all counsel of record *via* e-mail, telefacsimile and/or certified mail, return receipt requested, this 19th day of October, 2008, addressed as follows:

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November

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A handwritten signature in black ink, appearing to read "Dale Coldiron", is written over a horizontal line. The signature is stylized and cursive.

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SECURITIES, <i>ex rel.</i> IRVING L. FAUGHT,	§	
ADMINISTRATOR	§	
	§	CASE NO. CJ-2008-7963
v.	§	
	§	
JERRY D. CASH	§	

**MODIFICATION OF AUGUST 29, 2008 TEMPORARY INJUNCTION
AND ORDER FREEZING ASSETS**

IT IS ORDERED that the August 29, 2008 Temporary Injunction and Order Freezing Assets (“Injunction”) is modified to allow:

- a. any bank or depository institution that currently has a Rockport Energy, LLC account to add Bryan T. Simmons and Steven Hochstein as proper recipients for the purpose of receiving any account statements issued by the bank or depository institution; and
- b. any bank or depository institution that currently has a Rockport Energy, LLC account to release a complete set of bank records and historical account statements related to the Rockport Energy account to Bryan T. Simmons.

All other terms and restrictions contained in the Injunction remain in effect.

SIGNED this _____ day of October, 2008.

JUDGE PRESIDING