

IN THE DISTRICT COURT OF OKLAHOMA  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

NOV 21 2008

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
DEPUTY

Oklahoma Department of Securities )  
*ex rel.* Irving L. Faught, )  
Administrator, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Jerry D. Cash, )  
 )  
Defendant. )

Case No. CJ-2008-7963

HEARING SET FOR  
JANUARY 23, 2009 at 9:00 A.M.

**PLAINTIFF'S MOTION TO MODIFY TEMPORARY INJUNCTION  
AND ORDER FREEZING ASSETS**

Plaintiff, Oklahoma Department of Securities ("Department") *ex rel.* Irving L. Faught, Administrator, moves this Court for entry of an order modifying the *Temporary Injunction and Order Freezing Assets* ("Order") entered by the Court on August 29, 2008, and supplemented by orders of the Court on September 9, 2008 and November 4, 2008.

**Background**

1. On August 29, 2008, the Department filed a *Petition for Permanent Injunction and Other Equitable Relief* (the "*Petition*") against Defendant Jerry D. Cash ("Defendant"), pursuant to Section 406.1 of the Oklahoma Securities Act ("Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 & Supp. 2002).

2. The *Petition* alleged that while the Chief Executive Officer of Quest Resource Inc. ("QRCP"), a public company, Cash caused QRCP money to be transferred to a bank account held in the name of Rockport Energy, L.L.C., an entity controlled by him. Cash maintained sole signature authority over the Rockport Energy bank account

into which the QRCP money was deposited. The *Petition* alleged that Cash then expended large sums of QRCP money from the Rockport Energy bank account for personal expenses and/or business activities not authorized by the board of directors of QRCP.

3. Cash made certain written stipulations in connection with the *Petition* and consented to the entry of the *Order* (the "*Stipulation and Consent*").

4. The *Order* provided in part:

IT IS FURTHER ORDERED that the following bank accounts: 2271 NBanC; 8950 Coppermark Bank; and 9065 Coppermark Bank (only last four digits of account numbers provided), are excluded from the provisions of this Order for the purposes of the following payments only:

(1) to pay any ordinary, necessary and recurring living expenses for the Defendant and his spouse;

(2) to pay any reasonable attorneys' fees and expenses incurred; and

(3) to pay any ordinary, necessary and recurring expenses related to the business operations of STP Newco and Rockport Energy, LLC.

5. The *Stipulation and Consent* executed by Defendant and incorporated into the *Order* provided in part:

Defendant agrees to provide Plaintiff with a report every two weeks identifying disbursements from and deposits to the following accounts, pursuant to the provisions of the Order: 2271 NBanC; 8950 Coppermark Bank; and 9065 Coppermark Bank (only last four digits of account numbers provided).

### Extraordinary Expenses

6. Defendant's reports dated October 10, 2008, October 29, 2008, and November 7, 2008, include several disbursements that are not considered by the Plaintiff to be ordinary and/or necessary living expenses. These expenses include, but are not limited to, \$1,900 paid to Neiman Marcus; approximately \$1,400 paid to SaksFirst; monthly payments of \$800 each for a yoga instructor; weekly payments ranging from \$1,000 to \$1,500 for lawn care; payments totaling in excess of \$2,200 for plants; \$1,500 per month for housekeeping services; and expenses of approximately \$3,100 for koi pond maintenance. Defendant's reports also include monthly payments of \$646.97 each for a BMW truck provided to and driven by Hiroshi Makita and monthly mortgage payments for the residential property located at 1612 Downing, a home provided to and occupied by Mr. Makita. Mr. Makita does not pay rent or any other compensation to Defendant for use of the truck or the house.

7. On November 4, 2008, Defendant filed an *Application for Order Regarding Disbursement of Necessary Expenses and Reasonable Attorneys Fees for Defendant with the Court's Approval* (the "*Application*"). The *Application* sought the approval of the Court for the payment of expenses for Defendant to attend an inpatient rehabilitative treatment center in the State of Georgia and for the payment of legal fees in connection with Defendant's November 2, 2008, arrest for multiple felony and misdemeanor offenses ("Rehabilitation and Legal Services"). The Court granted the application in part. Counsel for Defendant represented to the Court that Defendant would be leaving for the treatment center on November 5, 2008.

### Request for Relief

8. Based on the prior payments of expenses that were not ordinary and/or necessary, and the fact that Defendant is now in an out-of-state treatment center, Plaintiff requests the Court to supplement its previous orders by:

- a. defining ordinary, reasonable and/or recurring living expenses as mortgage payments, car payments, required minimum payments on credit cards for debt incurred on or before the filing date of this Motion, insurance premiums, utilities, non-elective medical and pharmaceutical costs, emergency home maintenance services, and income tax estimates, for Defendant and his spouse only;
- b. restricting expenditures for the grounds around their home on Nichols Road to basic lawn care services;
- c. ordering that the services of Hiroshi Makita be immediately terminated by Defendant and/or his spouse;
- d. ordering that the use of any automobile owned by Defendant and/or his spouse, and the continued occupation of the house located at 1612 Downing, Oklahoma City, Oklahoma, by Hiroshi Makita be terminated within 30 days, unless Mr. Makita agrees to make monthly payments in appropriate amounts as determined by the Court;
- e. limiting Defendant's expenditures relating to his Rehabilitation and Legal Services to those authorized in the Court's order of November 4, 2008;

- f. approving reasonable expenditures for retention of an accountant to administer the payment of personal and business expenses on behalf of Defendant and his spouse, in accordance with the Court's orders;
- g. establishing a budget of One Thousand Dollars (\$1,000.00) per month for food, fuel, personal care services, and apparel for Defendant's wife, Sherry Cash;
- h. restricting all purchases made by Defendant and/or his spouse to cash only; and
- i. requiring the prior approval of the Court for any deviation from the Court's orders.

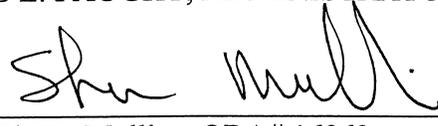
This request by Plaintiff is necessary to protect the interests of those affected by Defendant's conduct as described in the Petition. As pointed out in *S.E.C. v. Dobbins*, 2004 WL 957715, Fed Sec. L. Rep. ¶ 92820, "the Court has a duty to ensure that Defendant's assets are available to make restitution," *citing, FTC v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1031 (7<sup>th</sup> Cir. 1988).

### **CONCLUSION**

Wherefore, Plaintiff requests that the Court restrict Defendant and his spouse from incurring expenses that are not ordinary, necessary and/or recurring and to appoint an independent certified public accountant to pay those expenses permitted by the Court.

Respectfully Submitted,

OKLAHOMA DEPARTMENT OF SECURITIES  
IRVING L. FAUGHT, ADMINISTRATOR

By: 

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 21<sup>st</sup> day of November, 2008, a true and correct copy of the foregoing was mailed by first class mail with postage prepaid thereon addressed to:

Patrick M. Ryan  
Ryan, Whaley & Coldiron  
900 Robinson Renaissance  
119 N. Robinson  
Oklahoma City, OK 73102

