

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 SECOND MOTION FOR ENTRY OF BREAK ORDER

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 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. Lewalski, 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 the Defendants' business was also conducted from a location in Alachua County, Florida, in particular at 4813 SW 91st St., Gainesville, Florida 33712 and assets held by the Defendants may be stored at a self-storage facility located at 4421 Northwest 65th Terrace, No. 005, Gainesville, Florida (collectively, the "Premises").

5. On April 9 and April 10, 2010, the Receiver or his designee employed by Michael Moecker and Associates, Inc. attempted to serve the Order at 4813 SW 91st St., Gainesville, Florida 33712 and no one was present. The Receiver has obtained information that indicates that this location was occupied by David R. Lewalski and used as an office for Botfly, LLC. The Receiver anticipates that the self-storage facility will be secured and that a break order will be necessary to obtain entry.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a break order authorizing the Sheriff of Alachua County to use force to enter the above-described 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 to the extent necessary and appropriate, and turnover all Assets and control over the Premises to the Receiver.

Dated: Tampa, Florida
April 12, 2010

BUSH, ROSS, P.A.
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Counsel for the Receiver

BY: Karen Cox
Jeffrey W. Warren, Esquire
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Karen Cox, Esquire
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April, 2010 a true and correct copy of this Second Motion for Entry of Break Order has been emailed to Jon J. Hammill, R. Scott Palmer, and Gregory S. Slempp, and mailed to the following addresses:

David R. Lewalski
as Registered Agent of Botfly, L.L.C.
2515 Southwest 35th Place, Apt. #112
Gainesville, Florida 32608

David R. Lewalski, Individually
2515 Southwest 35th Place, Apt. #112
Gainesville, Florida 32608

Jon J. Hammill
2684 70th Avenue South
St. Petersburg, Florida 33712

R. Scott Palmer
Gregory S. Slempp
PL-01: The Capitol
Tallahassee, Florida 32399-1050
VIA FACSIMILE: 850-488-9134

William H. Bryan, III
Pineyro Law Firm
1611 N. Main Street
Kissimmee, Florida 34744

BY: Karen Cox
Karen Cox, Esquire