

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA

OFFICE OF THE ATTORNEY
GENERAL, DEPARTMENT OF LEGAL
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

vs.

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

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

Defendants.

**PLAINTIFF STATE OF FLORIDA'S RESPONSE AND OBJECTION TO DEFENDANT
HAMMILL'S MOTION TO MODIFY THE TEMPORARY INJUNCTION**

COMES NOW Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida, by and through its undersigned attorneys, and files this objection to Defendant Jon J. Hammill's Motion to Modify the Temporary Injunction ("Motion"), and alleges as follows:

1. Defendant Jon J. Hammill ("Hammill"), through his Motion, does not move to dissolve the Temporary Injunction entered by this Court on April 1, 2010 ("Injunction"), nor does Hammill contest the likelihood of Plaintiff's success on the merits that he was part of a Ponzi scheme that robbed investors of millions of dollars.
2. Instead, Defendant Hammill argues that this Court should exercise equitable powers to modify the Injunction to allow him to solicit even more monies from Botfly L.L.C. investors. Hammill does not explain why he cannot engage in lawful employment to pay for his own

living expenses, which have increased substantially since his recent discharge in Chapter 7 bankruptcy.

3. Equity is unavailable to Hammill. As stated in *Epstein v. Epstein*, 915 So.2d 1272, 1275 (Fla. 4th D.C.A. 2005) (citations omitted):

Equity imperatively demands of suitors in its courts fair dealing and righteous conduct with reference to the matters concerning which they seek relief. He who has acted in bad faith, resorted to trickery and deception, or been guilty of fraud, injustice, or unfairness will appeal in vain to a court of conscience

4. Hammill has unclean hands. As this Court has already ruled, the State of Florida is likely to be successful on the merits of its claims that Hammill participated in an investment scheme that was rooted in deception and fraud.
5. Since this case's inception, Hammill has continued to deceive Botfly L.L.C. investors by representing to them that their money is invested in foreign currencies in overseas accounts, and continues to misrepresent the assets and holdings of Botfly L.L.C.
6. Hammill has shown disregard for this Court's authority, and the fact-finding process:
 - a. Hammill did not comply with this Court's Order Appointing Receiver dated April 1, 2010, requiring him to cooperate with the receiver, turnover assets, and prepare and serve a complete and accurate financial statement. Order Appointing Receiver, ¶ 5, 7, 18.
 - b. Hammill did not comply with this Court's Amended Order Appointing Receiver dated April 14, 2010, requiring him to cooperate with the receiver and prepare and serve a complete and accurate financial statement. Amended Order Appointing Receiver, ¶ 5, 7, 18.
 - c. Hammill was deposed twice by the receiver on April 16, 2010, and again on June 10,

2010. Hammill chose not to answer a single question about his role in Botfly, L.L.C., or the location of its assets, on the grounds his answers may incriminate him.

- d. Upon information and belief, Hammill solicited an investor to wire monies directly to his last attorney in violation of the Temporary Injunction.
7. Hammill laments that he is without financial means to pay for his ordinary daily living expenses or attorneys' fees. Motion, ¶ 5. If this is so, it is due to Hammill's choice to make his living through deception and illegal behavior, rather than honest trade. Hammill also provides no reason why he cannot be employed in a legal manner.
8. Due to the continued deception by Hammill over his "family and friends," this Court has no guarantees that Botfly, L.L.C.'s investors will not be victimized again.
9. In the alternative, if this Court is inclined to grant Hammill's Motion, the State of Florida requests that the proposed investors be identified, that any Order granting his request only take effect once Hammill has complied with the Amended Order Appointing Receiver dated April 14, 2010, and that any investors be made fully aware of the content and existence of these proceedings, and any other proceedings against Hammill.

Respectfully submitted this 15th day of July, 2010.

BILL McCOLLUM
Attorney General



R. Scott Palmer
Special Counsel
Florida Bar No. 220353
Gregory S. Slemp
Assistant Attorney General
Florida Bar No. 478865
Nicholas Weilhammer
Assistant Attorney General
Florida Bar No. 479322
Office of the Attorney General
PL-01; The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3300
Facsimile: (850) 488-9134

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail and electronic transmission where noted this 13th day of July, 2010.

Jeffrey W. Warren,
Karen Cox
Bush Ross, P.A.,
P.O. Box 3913
Tampa, FL 33601-3913
Via electronic transmission to:
kcox@bushross.com

Jon Hammill
*Via electronic transmission per court order
dated July 9, 2010 to:*
jonhammill@yahoo.com

David R. Lewalski
As Registered Agent of Botfly, LLC
2515 Southwest 35th Place, Apt. #112
Gainesville, FL 32608

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



Nicholas J. Weilhammer