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Attorneys for Charles D. Scoville

IN THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH

SECURITIES AND EXCHANGE COMMISSION.

Plaintiff,

v.

TRAFFIC MONSOON, LLC, a Utah Limited Liability Company, and CHARLES DAVID SCOVILLE, an individual,

Defendants.

[REDACTED] MOTION TO EXCUSE APPEARANCE OF DEFENDANT CHARLES SCOVILLE AT UPCOMING EVIDENTIARY HEARING AND MOTION TO EXCUSE COMPLIANCE WITH SUBOPENA

Civil No. 2:16-cv-00832 JNP

By and through his counsel, Charles Scoville hereby respectfully submits the following Motion to Excuse Appearance of Defendant Charles Scoville At Upcoming Evidentiary Hearing and Motion to Excuse Compliance with Subpoena.

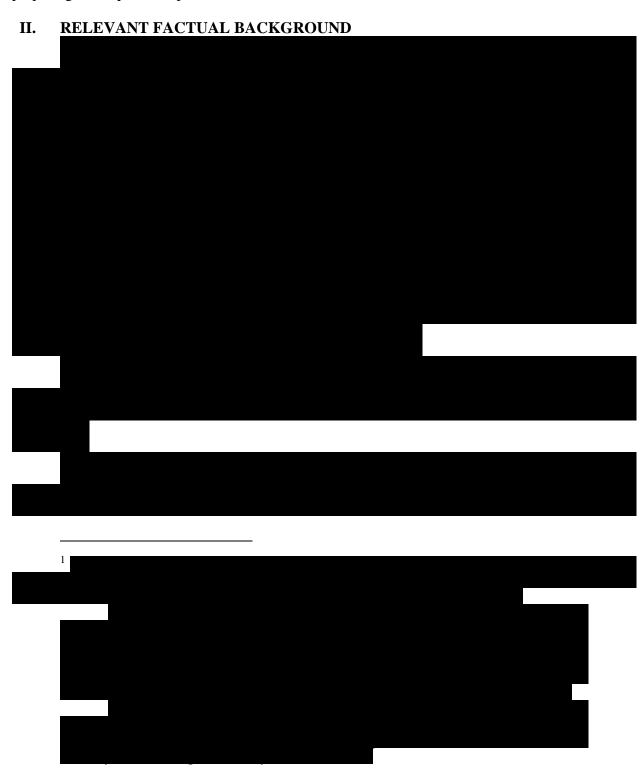
MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By order dated March 16, 2018, the Court ordered Mr. Scoville to reply to the Receiver's Motion for an Order to Show Cause and scheduled a hearing on that Order for April 11, 2018. Although the Court's order did not specify that Mr. Scoville's presence at the hearing was required, given the nature of the hearing the undersigned ("Counsel") believed it was prudent to seek leave of the Court to excuse Mr. Scoville from attending the hearing due to his present medical condition.

Further, the Receiver issued a subpoena to Mr. Scoville requiring him to produce various documents related to the transfer at issue in the Receiver's Motion on April 6, 2018.

For the reasons identified below, Counsel also seeks an order excusing compliance with the Subpoena based on Mr. Scoville's current medical condition and inability to assist counsel in preparing the required response.

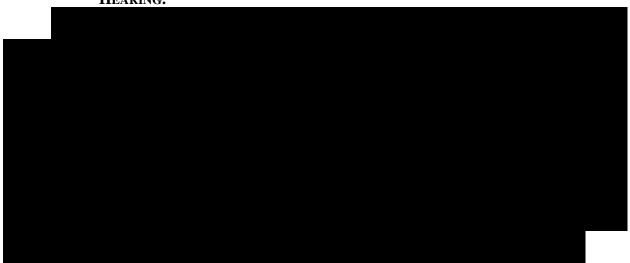


Counsel has endeavored to represent Mr. Scoville's interests and has received general directions from Mr. Scoville at times in the past few months, but to be clear, the response to the Receiver's Order to Show Cause filed roughly contemporaneously with this Motion was prepared without the opportunity to speak with Mr. Scoville about the underlying matters.

In preparing this Motion, and in preparing the response to the Motion for an Order to Show Cause, Counsel has consulted with Mr. Scoville's family both to be informed of facts and to obtain direction that Mr. Scoville has not been able to provide.

III. ARGUMENT

(a) MR. SCOVILLE SHOULD BE EXCUSED FROM ATTENDING THE APRIL 11, 2018 HEARING.



Because the Receiver did not point to any evidence in her motion to establish that Mr. Scoville participated in the transfer of the subject real property—as opposed to this being merely a fraud by third parties against the receivership estate—she has not, and is unlikely to, meet her burden to show that Mr. Scoville violated any order of this Court.

(b) MR. SCOVILLE SHOULD BE EXCUSED FROM COMPLYING WITH THE RECEIVER'S SUBPOENA AT THIS TIME.

Counsel also requests that Mr. Scoville be excused from complying with the subpoena issued by the Receiver. The subpoena requires Mr. Scoville to produce documents related to the Receiver's Motion. The subpoena is not improper, nor is it Counsel's position that Mr. Scoville

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could not be compelled to produce such documents if they exist. However, for the reasons cited

above, Counsel cannot assist Mr. Scoville in preparing a response to the subpoena, does not know

whether any responsive documents exist, and does not know how to obtain such documents if they

do exist.

Further, in consultation with Mr. Scoville's family members, Counsel has discovered that

they are not aware of any responsive documents and are dubious that Mr. Scoville had anything to

do with the transfer. They are even more dubious, given frequent requests for money before,

contemporaneous with, and after the transfer took place, that Mr. Scoville received any money

from the sale of the property—if he was even aware of it at any time prior to the filing of the

Receiver's Motion. As a result, Counsel is neither able to produce documents nor able to certify

that no responsive documents exist. Given Mr. Scoville's inability to assist counsel in responding

to the subpoena, ordering compliance with the subpoena issued by the Receiver at this time would

be a hollow act and would not assist the Receiver or the Court in determining how this asset of the

receivership was disposed of without the Receiver's authorization or knowledge.

IV. **CONCLUSION**

Based on the foregoing, Mr. Scoville respectfully requests: (1) that he be excused from

attending the hearing scheduled for April 11, 2018; and (2) that he be relieved from responding to

the Receiver's subpoena, at least for the present time.

DATED: April 2, 2018

SMITH CORRELL, LLP

/s/ D. Loren Washburn

D. Loren Washburn

Counsel for Charles Scoville

CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2018, the foregoing [REDACTED] MOTION TO EXCUSE APPEARANCE OF DEFENDANT CHARLES SCOVILLE AT UPCOMING EVIDENTIARY HEARING AND MOTION TO EXCUSE COMPLIANCE WITH SUBOPENA was served upon the person(s) named below, at the address set out below by ECF and email:

Daniel J. Wadley Amy J. Oliver Alison J. Okinaka Cheryl M. Mori SECURITIES EXCHANGE COMMISSION 351 South West Temple, Suite 6.100 Salt Lake City, Utah 84101

Peggy Hunt (Utah State Bar No. 6060) Michael Thomson (Utah State Bar No. 9707) John J. Wiest (Utah State Bar No. 15767) DORSEY & WHITNEY LLP 111 South Main Street, UT 84111-2176 Salt Lake City, UT 84111-2176

/s/ Melina Hernandez