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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BY  DEPUTY

1 HOWARD KOLLITZ (State Bar No. 059611),
2 RICHARD D. BURSTEIN (State Bar No. 056661),
3 KIM TUNG (State Bar No. 196236),
4 JAMES B. DEVINE (State Bar No. 205270),
5 GREGORY M. SHAMO (State Bar No. 217656) of
6 DANNING, GILL, DIAMOND & KOLLITZ, LLP
7 2029 Century Park East, Third Floor
8 Los Angeles, California 90067-2904
9 Telephone: (310) 277-0077
10 Facsimile: (310) 277-5735

11 Attorneys for Defendants
12 Peter Henman-Laufer and Milova
13 Incorporated

14 UNITED STATES BANKRUPTCY COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 NORTHERN DIVISION

17 In re) Case No. ND-01-11549-RR
18)
19 REED E. SLATKIN,) Chapter 11
20)
21 Debtor.)

22 R. TODD NEILSON, Trustee Of The) Adv. No. AD-02-01165-RR
23 Chapter 11 Bankruptcy Estate Of)
24 Reed E. Slatkin,) Judge: Hon. Robin L. Riblet

25 Plaintiff,) DEFENDANTS' EX PARTE
26) APPLICATION FOR ORDER VACATING
27 v.) HEARING DATE ON TRUSTEE'S
28) MOTION FOR PARTIAL SUMMARY
29 PETER HENMAN-LAUFER, an) JUDGMENT, MEMORANDUM OF POINTS
30 individual, MILOVA INCORPORATED,) AND AUTHORITIES, DECLARATION
31 a California corporation, and) OF RICHARD D. BURSTEIN AND
32 DOES 1-10,) DECLARATION OF HOWARD KOLLITZ
33) IN SUPPORT THEREOF

34 Defendants.)
35) Date: January 17, 2003
36) Time: 10:00 a.m.
37) Place: 1415 State Street
38) Courtroom 201
39) Santa Barbara,
40) California

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ORIGINAL

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1 I.

2 INTRODUCTION

3 Defendants Peter Henman-Laufer and Milova Incorporated
4 ("Defendants") apply to this Court by this ex parte application
5 under the authority of Local Bankruptcy Rule 9075-1 for an Order
6 vacating the hearing date on the Trustee's pending motion for
7 partial summary judgment. Defendants cannot be compelled to
8 respond to the Trustee's motion at this time. They have had no
9 opportunity to develop a record to present to the Court. The
10 Trustee's counsel knows that.

11
12 II.

13 STATEMENT OF CASE

14 On or about November 18, 2002, the Trustee filed his within
15 Motion for Partial Summary Judgment ("Motion") with supporting
16 documentation seeking a partial summary judgment that the Debtor
17 possessed "actual intent to hinder, delay or defraud" his
18 creditors, as set forth at page 2, lines 19 through 24 of the
19 Motion. The Trustee has done so in this case, and in twenty other
20 cases, despite having advised counsel for various defendants by
21 fax letter on November 11, 2002 of his intent to do so and having
22 immediately received the responding demand of within counsel that
23 he not do so, that no discovery opportunity had been accorded to
24 the defendants to permit them to even begin to frame a response to
25 the Motion. After an exchange of communications, Trustee's
26 counsel maintained his intent to proceed.

27 It is elemental due process and a requirement of the Federal
28 Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure

1 that adequate opportunity to conduct discovery to meet a summary
2 judgment motion be accorded to a defendant before a summary
3 judgment motion can be heard. The Trustee's breathtaking
4 assertion in the Motion that the confession of the Debtor requires
5 this Court to determine this issue summarily against persons not
6 involved in the criminal case and without according them an
7 opportunity to probe the veracity of that plea and its
8 applicability to this case, or to offer evidence that a ponzi
9 scheme was not present here, is contrary to basic due process and
10 not supported by the authorities cited by the Trustee.

11 This Court must grant this application, or set it on
12 immediate hearing, vacate the hearing date until such time as,
13 upon further direction of the Court, it is determined that the
14 matter may be set for hearing.

15
16 III.

17 A BRIEF REVIEW OF THE TRUSTEE'S MOTION

18 FOR PARTIAL SUMMARY JUDGMENT DEMONSTRATES THAT DISCOVERY IS

19 PROPER AND DEFENDANTS HAVE NOT BEEN ACCORDED AN

20 OPPORTUNITY TO OBTAIN IT

21 A. Review of the Trustee's Motion

22 The Trustee asserts that this Court must summarily resolve in
23 his favor and against the Defendants the issue of whether or not
24 Slatkin acted with actual intent to hinder, delay or defraud his
25 creditors based on his plea that he acted with intent to defraud
26 investors, Motion at page 8, lines 1-4, and without the
27 Defendants' right to probe that plea or offer contrary evidence.

28 ///

1 The mere fact that the Slatkin plea agreement may be
2 admissible in evidence, or at trial may be sufficient to support a
3 finding of fact on a contested issue of fact, does not mean that
4 it is dispositive of an issue of fact for purposes of summary
5 judgment. Consequently, the Trustee's authority at page 8 of the
6 Motion is beside the point for purposes of this motion. The cases
7 cited by the Trustee only demonstrate how important it is for a
8 court to consider guilty pleas. Boykin v. Alabama, 395 U.S. 238
9 (1969) (reversible error to convict defendant where record fails
10 to disclose that guilty plea of defendant was made knowingly and
11 voluntarily); Seiling v. Eyman, 148 F.2d 211 (9th Cir. 1973)
12 (guilty verdict reversed where state failed to prove that
13 defendant was competent to make voluntary and knowing guilty
14 plea); (3) People v. Jones, 52 Cal.2d 636 (1959) (guilty plea
15 relieved prosecution of duty of presenting evidence that
16 defendants committed the crime).

17 Further, the cases cited at pages 9 and 10 of the Motion
18 merely establish that upon a contested trial, a conclusion of fact
19 may be based on the plea. In Emerson v. Maples (In re Mark
20 Benskin & Co., Inc.), 161 B.R. 644, 649-50 (Bankr. W.D. Tenn.
21 1993), the bankruptcy court looked at the totality of the
22 evidence, including the debtor's guilty plea, in determining that
23 the debtor actually intended to defraud creditors when it
24 conducted a trial on the issue - not summary judgment. In Martino
25 v. Edison Worldwide Capital (In re Randy), 159 B.R. 425, 440
26 (Bankr. N.D. Ill. 1995), the bankruptcy court explains at length
27 that the defendants in response to a summary judgment motion
28 failed to produce any evidence other than bare denials that

1 triable issues of material fact existed to counter the debtor's
2 guilty plea. Defendants here, by this motion, wish to avoid that
3 pitfall.

4 It is worth noting that the authority that the In re Randy
5 court relied upon involves the application of collateral estoppel
6 to parties in the criminal action. See Nathan v. Tenna Corp., 560
7 F.2d 761 (7th Cir. 1973) (plaintiff who pled guilty to fraud
8 stemming from illegal commission-sharing contract was collaterally
9 estopped from denying illegality of contract in subsequent civil
10 action to enforce contract); Raiford v. Abney (Matter of Raiford),
11 695 F.2d 521 (11th Cir. 1983) (debtor convicted of bankruptcy fraud
12 in connection with filing fraudulent schedules was collaterally
13 estopped from denying his discharge on the grounds of fraud);
14 Leibowitz v. Saleh (In re Discount Merchandise, Inc.), 1994 WL
15 18629 (Bankr. N.D. Ill. 1994) (defendant convicted of defrauding
16 creditors of bankrupt company by obtaining goods of the company
17 was collaterally estopped from denying that the transfers of the
18 debtor's property to him were fraudulent transfers). None of
19 these cases supports the notion that on summary judgment in a
20 civil case persons other than the criminal case defendant can be
21 estopped by that defendant's guilty plea. Finally, the In re
22 Randy case has recently been questioned by the 11th Circuit in
23 Orlick v. Kozyak (In re Financial Federated Title & Trust, Inc.),
24 2002 WL 31356650 (11th Cir. 2002).

25 Recognizing that this is, after all, a ponzi scheme, the
26 Trustee then goes on to argue that the ponzi scheme establishes
27 actual intent and the Debtor's confession that he operated a ponzi
28 scheme confirms that intent, see page 10 to 11 of the Motion. In

1 doing so, the Trustee demonstrates the frailty of his Motion.
2 That the Debtor may have lied, that he may not have operated a
3 pure ponzi scheme, may be shown both by cross-examination of him
4 and by independent expert testimony with regard to the books and
5 records of the Debtor. None of that, of course, has been afforded
6 to the Defendants.

7 **B. The Defendants have Had No Opportunity to Conduct Discovery**

8 As is shown in the accompanying Declaration of Howard
9 Kollitz, the Defendants have had no discovery opportunities.
10 Indeed, in status reports filed with this Court, the Trustee has
11 stated that the Debtor's deposition will not be available until
12 after the hearing date for this motion. The Trustee did not until
13 November 19, 2002, make available the Trustee's "Document
14 Depository" to counsel for the Defendants for examination, see the
15 Declaration of Richard D. Burstein.

16 **C. The Motion for Summary Judgment Must be Deferred for**
17 **Discovery**

18 While of course the Trustee relies on Federal Rule of
19 Bankruptcy Procedure 7056, which incorporates Federal Rule of
20 Civil Procedure 56, FRCP 56(f) permits the Court to continue a
21 hearing in the event that discovery is necessary to oppose the
22 motion. As shown herein, such discovery is necessary and this
23 Court must continue this hearing. For this reason, the
24 Defendants' counsel requested that the Trustee not bring this
25 motion at this time, but were rebuffed.

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1 IV.

2 CONCLUSION

3 For all of the reasons set forth herein, it is respectfully
4 requested that the within application be granted, the hearing on
5 the Motion be vacated, to be reset by further order of this Court.
6

7 Dated: December², 2002

DANNING, GILL, DIAMOND & KOLLITZ, LLP

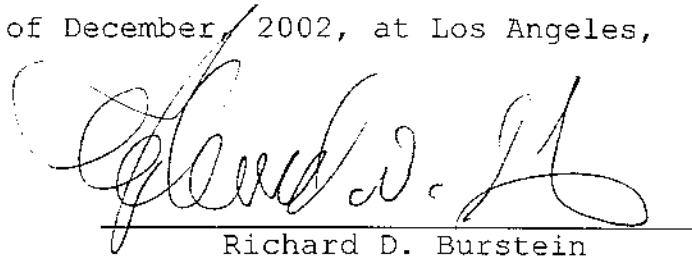
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10 By: 

11 Richard D. Burstein
12 Attorneys for Defendants,
13 Peter Henman-Laufer and
14 Milova Incorporated
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1 4. On December 3, 2002, at approximately 9:45 a.m., I
2 telephonically advised Alexander Pilmer that we would be lodging
3 the within application on December 4, 2002.

4
5 I declare under penalty of perjury under the laws of the
6 State of California and the United States of America that the
7 foregoing is true and correct.

8 Executed on this 3rd day of December, 2002, at Los Angeles,
9 California.

10
11 
12 _____
13 Richard D. Burstein

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KIRKLAND & ELLIS

Fax Transmittal

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Los Angeles, California 90017
Phone: (213) 680-8400
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<i>To:</i>	<i>Company:</i>	<i>Fax #:</i>	<i>Direct #:</i>	
Alan F. Broidy	Law Offices of Alan F. Broidy	310-286-6610	310-286-6601	
Clifford C. Gramer, Jr.		505-983-4049	505-983-2246	
Sean A. O'Keefe	Winthrop Couchot, PC	949-720-4111	949-720-4100	
Daniel Kenny	Harrington, Foxx, Dubrow, et al.	213-623-7929	213-489-3222	
Gary J. Gorham	Liner, Yankelevits, et al.	310-453-5901	310-453-5900	
J. Clark Aristei	Baum, Hedlund, Aristei, et al.	310-820-7444	310-207-3233	
Howard Kollitz Richard D. Burnstein	Danning, Gill, Diamond, et al.	310-277-5735	310-277-0077	
Richard Brownstein	Wasserman, Comden, et al.	818-996-8266	818-705-6800	
Richard M. Moneymaker		213-622-7002	213-622-1088	
Robert S. Brewer, Jr.	McKenna, Long & Alderidge	619-595-5450	619-595-5400	
Charles E. Campbell	McKenna, Long & Alderidge	404-427-4198	404-527-4000	
Robert Marshall	Sanger & Swysen	805-963-7311	805-962-4887	
Steven Cochran	Katten, Muchin, Zavis, et al.	310-788-4471	310-788-4400	
Ronald Gold	Hewitt & Prout	818-509-0402	818-509-0311	
Scott B. Campbell	Rogers, Sheffield & Campbell	805-966-3715	805-963-9721	
Sherman D. Lenske	Lenske, Lenske & Abramson	818-883-9260	818-716-1444	
Stephen g. Opperwall		925-417-0301	925-417-0300	
Herb Katz	Kelly, Lytton & Vann	310-277-5953	310-277-5333	
Steven L. Hogan	Lurie, Zepeda, Schmalz, et al.	310-274-2798	310-274-8700	
Walter A. Lack Paul A. Traina	Engstrom, Lipscomb & Lack	310-552-9434	310-552-3800	
<i>From:</i>	<i>Date:</i>	<i>Pages w/cover:</i>	<i>Fax #:</i>	<i>Direct #:</i>
Mark T. Cramer	November 11, 2002	7	(213) 680-8500	(213) 680-8412

Message:

EXHIBIT A

000 10

Burstein, Richard

From: Burstein, Richard
Sent: Monday, November 11, 2002 4:35 PM
To: 'alexander_pilmer@la.kirkland.com'
Cc: Kollitz, Howard; Tung, Kim; James Devine; Shamo, Greg
Subject: RE: In re Reed Slatkin

You argue that the debtor's actual intent flows from running a ponzi scheme. His testimony is subject to dispute. He could be lying because his testimony is bought and paid for. If it is or is not a ponzi scheme can also be disputed by expert testimony, no matter what he says. If it is not a ponzi scheme, than as to each transfer, you must show the requisite intent, which is of course a different level of effort. I suggest that you will be in bad faith if you feel that on Slatkin's uncontested, untested say so you can resolve the issue. I suggest you wait until the parties may take discovery.

-----Original Message-----

From: alexander_pilmer@la.kirkland.com [mailto:alexander_pilmer@la.kirkland.com]
Sent: Monday, November 11, 2002 4:05 PM
To: Burstein, Richard
Cc: Kollitz, Howard; Tung, Kim; James Devine; Shamo, Greg
Subject: Re: In re Reed Slatkin

Richard - we believe that the undisputed admissible evidence will support our motion. The basis for our motion will be that the actual fraudulent transfer claim for relief asks the question whether the transferor (here Mr. Slatkin) had the actual intent to defraud. There can be no dispute that Mr. Slatkin had an actual intent to defraud because he has already plead guilty to such an offense. We believe that none of the discovery you seek can possibly lead to any admissible evidence which will undercut that notion. While I am not surprised to hear that you will oppose our motion, I still would be happy to hear any arguments you have that you believe you can find some evidence that will support a contrary conclusion - namely that Mr. Slatkin did not have the actual intent to defraud.

Alex

"Burstein, Richard" <RBurstein@dgdk.com> on 11/11/2002 03:29:27 PM

To: Alexander Pilmer/Los Angeles/Kirkland-Ellis@K&E
cc: "Kollitz, Howard" <HKollitz@dgdk.com>, "Tung, Kim" <KTung@dgdk.com>, "James Devine" <JDevine@dgdk.com>, "Shamo, Greg" <GShamo@dgdk.com>

Subject: In re Reed Slatkin

Alex: I have your fax letter advising that on Monday, Nov 18, 2002, you intend to serve a motion for partial summary judgment

determining, based on the "admissions" of the debtor, that he ran a ponzi scheme. You graciously note the due date for our opposition.

Please be advised that we view this as an abuse of process. You have stated in court filings and in open court that the debtor is not available for deposition until after sentencing in February. You have yet to give access to the debtor's records to evaluate the issue of a ponzi scheme. In open court you have agreed to continuances of status conferences for several months to let discovery begin in light of these obstacles. Parties are entitled to a continuance of a motion for summary judgment to conduct discovery. How, under these circumstances, you can justify bringing this motion now other than perhaps by the hope of running up fees in this calendar year escapes me. Any such motion that you elect to bring under these circumstances will be resisted and postponement sought for the reasons set forth herein and for all other appropriate reasons. Please note in this regard that it is our strong feeling that if you proceed in light of the above, that you violate Rule 11, FRBP 9011, and we will request that you withdraw such motion, or failing that, that the court award sanctions against you and the trustee for clearly abusive conduct.

Kindly advise of your intention.

Richard Burstein

KIRKLAND & ELLIS

PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

777 South Figueroa Street
Los Angeles, California 90017

213 680-8400

Facsimile:
213 680-8500

November 19, 2002

By Facsimile and First Class MailRichard D. Burstein, Esq.
Danning, Gill, Diamond & Kollitz, LLP
2029 Century Park East, Third Floor
Los Angeles, CA 90067-2904

Re: In re Reed Slatkin Case No. ND 01-11549-RR, Adversary Proceedings

Dear Richard:

The Document Depository which contains documents related to Mr. Slatkin is now ready for your use. It will generally be available on weekdays from 9 a.m. to 5 p.m. You will have to arrange for access in advance because the Trustee must always have someone present in the Document Depository.

No copies of documents may be made on-site. Any copy requests must go through InHouse, a commercial copy service. You will be responsible for making copying arrangements; the Trustee will not have any part in those arrangements.

The non-privileged document index will be available in the Document Depository.

Please call to schedule access, or if you have any questions.

Sincerely,


Timothy B. Jafek

cc: R. Todd Neilson, Trustee

EXHIBIT C

Chicago

London

New York

000 20
Washington, D.C.

DECLARATION OF HOWARD KOLLITZ

I, Howard Kollitz, declare as follows:

1. I am the principal of a professional corporation which is a partner in the law firm of Danning, Gill, Diamond & Kollitz, LLP ("DGD&K"), the attorneys of record herein for Defendants, Peter Henman-Laufer and Milova Incorporated. The facts set forth herein are true of my own personal knowledge. If called upon to testify thereto, I could and would competently do so.

2. On September 10, 2002, I sent a letter to Timothy B. Jafek of Kirkland & Ellis, counsel for Plaintiff, R. Todd Neilson, as trustee ("Trustee") in the pending Chapter 11 Bankruptcy Case for Reed E. Slatkin, as debtor ("the Debtor"), informing him that Defendants, Anthony and Margaret Hitchman ("the Hitchmans") intended to depose the Debtor in the adversary proceeding entitled, Neilson, etc., v. Hitchman, etc., et al., and designated number AD-02-01111-RR ("the Hitchman Litigation"). I requested that Mr. Jafek advise me as to any dates which would be inconvenient for him during a specified three (3) week period. A true and correct copy of my September 10, 2002 letter to Mr. Jafek is attached hereto as Exhibit "1" and, by this reference, incorporated herein.

3. On September 13, 2002, I received a letter from R. Alexander Pilmer, another lawyer with Kirkland & Ellis, in response to my September 10, 2002 letter to Mr. Jafek. Mr. Pilmer advised that the Trustee took the position that the Hitchmans were not entitled to take the Debtor's deposition. A true and correct copy of Mr. Pilmer's September 13, 2002 letter to me is attached hereto as Exhibit "2" and, by this reference, incorporated herein.

1 4. On September 13, 2002, I sent a letter to Mr. Pilmer in
2 connection with arranging for a conference to discuss a deposition
3 of the Debtor, pursuant to Rule 30(a)(2) of the Federal Rules of
4 Civil Procedure, in the Hitchman Litigation. A true and correct
5 copy of my September 13, 2002 letter to Mr. Pilmer is attached
6 hereto as Exhibit "3" and, by this reference, incorporated herein.

7 5. On September 19, 2002, Mr. Pilmer sent me an email
8 proposing October 2, 2002 for the "meet and confer" regarding the
9 Hitchmans' disputed right to take the Debtor's deposition.

10 6. On September 23, 2002, I responded to Mr. Pilmer's
11 September 19, 2002 email stating that, on October 2, 2002, we
12 would meet and confer regarding, *inter alia*, the Hitchmans'
13 deposition of the Debtor in the Hitchman Litigation. A true and
14 correct copy of my September 23, 2002 email to Mr. Pilmer and Mr.
15 Pilmer's September 19, 2002 email to me are attached hereto as
16 Exhibit "4" and, by this reference, incorporated herein.

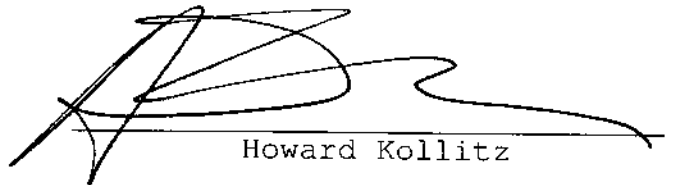
17 7. On October 2, 2002, John R. Reitman, Andrew S. Rotter
18 and Timothy B. Jafek (all lawyers representing the Trustee) and I,
19 along with other lawyers of DGD&K, had a telephone conference to
20 discuss, *inter alia*, taking the deposition of the Debtor in the
21 Hitchman Litigation. During the course of our telephone
22 conference, Mr. Reitman informed me that the Trustee's counsel was
23 not prepared on October 2, 2002 to agree that the Hitchmans could
24 seek to depose the Debtor, and that the Trustee was not willing to
25 produce any of the Debtor's documents until after the Trustee had
26 copied all of those documents which task was then estimated to
27 take another two (2) weeks.

28 ///

1 8. Not until November 19, 2002, did the Trustee finally
2 announce the availability of his Document Depository. I am
3 informed that the Trustee currently takes the position that the
4 Debtor will not be available for deposition until some unspecified
5 date after he is sentenced in February, 2003.

6
7 I declare, under penalty of perjury and subject to the laws
8 of the United States of America, that the foregoing is true and
9 correct to the best of my knowledge, information and belief.

10
11 Executed, on this 3rd day of December, 2002, at Los Angeles,
12 California.

13
14 
15 Howard Kollitz

RICHARD H. DIAMOND
LEONARD B. BISHOP
ERIC P. BRAZILL
DAVID M. CHITRAS
KATHY BACCHINI-FRÉCHES
DEBORAH J. GIBLIN
JANE L. HOFFER
RICHARD J. KAPLAN
ROBERTA HESSELMAN
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NIM TUNG
MATTHEW F. KENNEDY
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LA PROFESSIONAL CORPORATION

FILED
1992

REFER TO

210 9

September 10, 2002

Timothy B. Jafek, Esq.
Kirkland & Ellis
777 South Figueroa Street
Los Angeles, CA 90017

Re: Reed E. Slatkin Bankruptcy Case/Trustee adv. Hitchmans-A.P.
No. AD-02-01111-RR

Dear Tim:

Thank you for your September 5, 2002 letter, which my office received on September 9, 2002. Please recall that, during our September 5, 2002 telephone conversation and in response to your description of the August 29, 2002 Order, I also advised you that the Hitchmans would move to both quash the writ of attachment and vacate the Temporary Protective Order obtained by the Trustee without notice. In that regard, you will be served with the Hitchmans' moving papers today.

On September 9, 2002 your firm delivered to this firm deposition notices, which include requests for the production of documents, whereby the Trustee seeks to depose Anthony Hitchman in Los Angeles on September 20, 2002 and to depose Margaret Hitchman in Los Angeles on September 23, 2002. Neither of the Hitchmans is available for deposition on September 20 or 23 in Los Angeles. Further, virtually all of the records of the Hitchmans in connection with their transactions with Reed Slatkin are in transit to South Africa, and the Hitchmans will not have access to those records until sometime during the next month, that is, during October of 2002. The Hitchmans will make themselves available in South Africa for depositions by video conference, or by telephone, or by written questions, without the production of

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EXHIBIT 17

CONFIDENTIAL AND PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Timothy B. Jafek, Esq.
September 10, 2002
Page 2

Re: Reed E. Slatkin Chapter 11
Case/Trustee adv. Hitchmans

documents, on October 7, 8, 9, 10, 11, 14, 15, 16, 17 or 18, 2002, or, with the production of documents, on November 18, 19, 20, 21 or 22, 2002. The Trustee, in effect, is now forcing the Hitchmans to file a motion to vacate the September 6, 2002 Order, which was entered on the Trustee's ex parte application filed on September 5, 2002 and without any meaningful opportunity being afforded to the Hitchmans to respond. While the Trustee has, to date, elected to attempt to effect discovery by Orders obtained ex parte, or without any prior notice at all, I would ask that the Trustee reconsider, with a view to conducting this litigation on the most cost effective basis possible, his approach to discovery.

The Hitchmans are entitled to depose Reed Slatkin. In that regard, please advise me as to those dates during the weeks of September 30, October 7 and October 14, 2002 which would be inconvenient dates for you in connection with such deposition.

Finally, please recall that, during our September 5, 2002 conversation, I advised you that the Hitchmans intend to file a motion in the District Court to withdraw the reference of the Adversary Proceeding from the Bankruptcy Court, with a view to reducing litigation expense for both the Bankruptcy Estate and the Hitchmans. I inquired of you as to whether the Trustee would oppose such a motion, or would be willing to stipulate to the withdrawal of the reference. You advised me that you would consult with the Trustee and other lawyers working with you, and let me know what position the Trustee would take on this issue. Please advise me as to the Trustee's position on this issue at your earliest convenience.

~~Very truly yours,~~



HOWARD KOLLITZ

cc: John C. Reitman, Esq.
Tony and Peggy Hitchman (w/encl.)
Richard D. Burstein, Esq.
Kim Tung, Esq.
Valerie Radocay (i/o)

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EXHIBIT

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007

KIRKLAND & ELLIS

PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

777 South Figueroa Street
Los Angeles, California 90017

213 680-8400

Facsimile
213 680-8500

R. Alexander Pilmer
To Call Writer Directly:
(213) 680-8405
alexander_pilmer@la.kirkland.com

September 13, 2002

VIA FACSIMILE

Howard Kollitz
Danning, Gill, Diamond & Kollitz, LLP
2029 Century Park East
Third Floor
Los Angeles, California 90067

Re: Neilson v. Hitchman

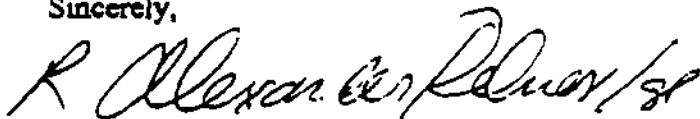
Dear Howard:

This letter responds to your September 10, 2002 letter to Tim Jafek. In your letter to indicate that you would be serving us with a motion to quash the writ of attachment on that day. We have not received any moving papers from you.

We reject your proposals regarding the Hitchmans' depositions. They are under a court order to appear for their deposition, and produce documents, in my office. It is no concern to me or my clients that the Hitchmans elected to flee the country. If the Hitchmans refuse to honor the Court order, we will take all appropriate actions to enforce it. Your request to take Mr. Slatkin's deposition is noted, however, the Hitchmans are not yet entitled to take that deposition. Finally, we do not agree at this time to stipulate to withdrawing the reference to the Bankruptcy court with respect to the action against the Hitchmans.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



R. Alexander Pilmer

RAP:gki

Chicago

London

New York

Washington, D.C.

EXHIBIT

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DANNING, GILL, DIAMOND & KOLLITZ, LLP

A LIMITED LIABILITY PARTNERSHIP COMPOSED OF PROFESSIONAL CORPORATIONS

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A PROFESSIONAL CORPORATION

10/12/02
LUTSIS, DANIEL
JAMES, J.

REFER TO
20237

September 13, 2002

VIA MAIL AND FACSIMILE

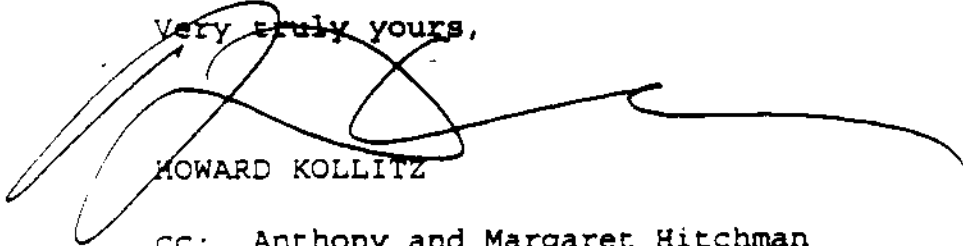
R. Alexander Pilmer, Esq.
Kirkland & Ellis
777 South Figueroa Street
Los Angeles, CA 90017

Re: Reed E. Slatkin Bankruptcy Case/Neilson, as Trustee, adv.
Anthony Hitchman, Margaret Hitchman, et al. -A.P. No.
AD-02-01111-RR/Request Under Local Bankruptcy Rule 9013-
1(c)(1)

Dear Alex:

Please advise me as to when you would be available on September 25, 26 or 27, 2002 to meet and confer concerning the Hitchmans' contemplated motion under Rule 30(a)(2) to obtain an Order of the Court allowing the Hitchmans to depose Reed E. Slatkin. If the Trustee is willing to stipulate to the deposition being taken, and save the time and expense associated with a dispute over this matter, please advise me at your earliest convenience.

Very truly yours,


HOWARD KOLLITZ

cc: Anthony and Margaret Hitchman
Richard D. Burstein, Esq.
Kim Tung, Esq.
Greg Shamo, Esq.

JUL 27

James Devine

From: Kollitz, Howard
Sent: Wednesday, October 09, 2002 8:08 PM
To: James Devine
Cc: Servin, Vivian; Burstein, Richard; Kollitz, Howard; Tung, Kim; Shamo, Greg
Subject: RES-Hitchmans/#23237/ Slatkin Bankruptcy Case/Trustee adv. Hitchmans

FYI.

-----Original Message-----

From: Kollitz, Howard
Sent: Monday, September 23, 2002 3:05 PM
To: 'alexander_pilmer@la.kirkland.com'
Cc: Kollitz, Howard; Burstein, Richard
Subject: RE: Slatkin Bankruptcy Case/Trustee adv. Hitchmans

4 p.m. on 10-2-02 is acceptable for the meet and confer on the Hitchmans' contemplated motion to require Slatkin to appear for a deposition. We can proceed on the basis that the meet and confer on the contemplated motion is added to the agenda on the conference call which Tim Jafek will initiate on 10-2-02.

-----Original Message-----

From: alexander_pilmer@la.kirkland.com
[mailto:alexander_pilmer@la.kirkland.com]
Sent: Thursday, September 19, 2002 3:59 PM
To: hkollitz@dgd.com
Subject:

Since we keep missing each other by phone, I thought I'd drop you a line. With respect to your request to meet and confer regarding the Hitchmans' request to depose Mr. Slatkin, I suggest that we schedule that discussion for the same time as the rule 26(f) conference.

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