

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
Fort Lauderdale Division
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IN RE:

CASE NO.: 09-34791-RBR

ROTHSTEIN ROSENFELDT ADLER, P.A.,

CHAPTER 11

Debtor.

MOTION TO CLARIFY PRIOR ORDERS REGARDING SPECIAL MASTER APPOINTED TO DETERMINE PRIVILEGE ISSUES RE EPSTEIN RELATED DOCUMENTS TO MAKE CLEAR THE RAZORBACK CREDITORS' RIGHT TO FULLY PARTICIPATE IN PROCESS, OR ALTERNATIVELY, TO AUTHORIZE THE RAZORBACK CREDITORS TO FULLY PARTICIPATE IN SUCH PROCESS

Creditors, RAZORBACK FUNDING, LLC, D3 CAPITAL CLUB, LLC, BFMC INVESTMENT, LLC, LINDA VON ALLMEN as Trustee of the VON ALLMEN DYNASTY TRUST, D&L PARTNERS, LP, DAVID VON ALLMEN, as Trustee of the DAVID VON ALLMEN LIVING TRUST, ANN VON ALLMEN, as Trustee of the ANN VON ALLMEN LIVING TRUST, DEAN KRETSCHMAR, COOPER MANAGEMENT, ANTHONY DEGENNARO as Trustee of the EXTRA INNING DYNASTY TRUST, ADELE MUSSRY, JACK MUSSRY, NASSIM MUSSRY, MELINA EL-ANI, DANIELLE EL-ANI, H&N ASSOCIATES, ARETZ ASSOCIATES, PARK NATIONAL CAPITAL FUNDING, LLC, PARK NATIONAL MORTGAGE SERVICING, SCOTT MORGAN, VICEROY GLOBAL INVESTMENTS, INC., CONCORDE CAPITAL, INC., SUSSCO, INC., EDWARD PALEY, FLORENCE PALEY, THE EDWARD AND FLORENCE PALEY FOUNDATION, STEVEN PALEY, LAURA PALEY, JANE ZARETSKY, STEVEN ZARETSKY, as Trustee of the JANE ZARETSKY DYNASTY TRUST, LAWRENCE E. DEKELBAUM, AND SHALOM

STRICTLY KOSHER MEATS, INC., (collectively, the "Razorback Creditors"), file this Motion to Clarify this Court's prior Orders regarding the appointment and role of Special Master Carney in order to make clear the right of the Razorback Creditors, through counsel, to fully participate in the special master process put in place by this Court, or alternatively, to enter an Order expressly authorizing such participation.

The grounds for this Motion are as follows:

1. It has come to the attention of undersigned counsel that a hearing has been scheduled by Special Master Carney for April 6, 2011 relating to the sufficiency of the privilege log as presently prepared by the Farmer, Jaffe firm with regard to 1500 or more Epstein related documents. Special Master Carney will perform an *in camera* inspection of the documents at issue during the hearing. The hearing is expected to last at least a full day and the parties under the Order appointing the Special Master will be present at the hearing.

2. As set out more fully below, the Razorback Creditors, through counsel, desire to participate and be heard at this hearing before the Court's special master, and to fully participate in and be party to all aspects of the special master process. The special master process was put in place by this Court's August 13, 2010 Order Respecting Production of Documents Regarding Jeffrey Epstein [DE #888], and subsequently clarified and amended by this Court's October 15, 2010 Amended Order Respecting Production of Documents Regarding Jeffrey Epstein [D.E. #1068].

3. The privilege log being reviewed by Special Master Carney relates to claims of privilege asserted by the Farmer, Jaffe firm on behalf of Bradley Edwards, Esq. and LM relating to various Jeffrey Epstein ("Epstein") related documents. The documents at issue were subpoenaed by Epstein on or about April 17, 2010 in the case styled *Jeffrey Epstein, Plaintiff v.*

Scott Rothstein, individually, Bradley J. Edwards, individually and L.M., individually, bearing case number 50-2009 CA 040800XXXX MB AG. The subpoena was directed to the Trustee in this case as the Trustee had possession of the documents at issue.

4. On October 13, 2010, the Razorback Creditors served a Rule 2004 subpoena on the Trustee that requested in this bankruptcy case virtually the same documents as were requested by Epstein in his subpoena to the Trustee. The documents requested in the Razorback Creditors Subpoena are listed in their Notices of 2004 Examination Duces Tecum [D.E. #s 1063, 1143, and 1191].

5. The Razorback Creditors subpoenaed the documents as it relates to investigation of claims relating to the Ponzi scheme at issue in this case, in particular, how Scott Rothstein and possibly others at RRA used false and sensational allegations involving Epstein and the promise of enormous settlements based on fictional and fabricated events to help lure investors into the Ponzi scheme.

6. This Court has recognized that the Razorback Creditors are interested parties with respect to the special master process when it required that the Farmer, Jaffe firm produce the non-privileged documents duplicated from the CD provided to the special master to be produced to the Razorback Creditors.¹ *See Amended Order Respecting Production of Documents Regarding Jeffrey Epstein* [D.E. #1068], at p. 2. The Razorback Creditors, through counsel, have participated in all hearings regarding the Epstein document issues since the service of their Rule 2004 subpoena, and have previously filed their limited objection [D.E. #1243] to oppose efforts of LM and Bradley Edwards, Esq. to unduly delay preparation of the privilege log by the Farmer, Jaffe firm.

¹ The documents in question have not been produced to undersigned counsel.

7. The Razorback Creditors' counsel and Trustee's counsel have previously agreed that all documents produced through the special master process would also be produced to the Razorback Creditors.

8. The Razorback Creditors have been attempting to obtain the Epstein related documents from the Trustee for more than five months now but have been unable to do so due to the on-going dispute over the privilege issues being considered in the special master process.

9. As parties with a significant stake in the issues being addressed through that process, and parties who seek to expedite resolution of the pending issues in order to obtain full Rule 2004 discovery, the Razorback Creditors seek to more actively participate in the special master process.

10. Accordingly, the Razorback Creditors request that the Court enter an Order clarifying its prior orders regarding the special master process, or entering a new Order, to make clear the right of the Razorback Creditors to fully participate in all aspects of that process, including without limitation, attendance at the upcoming April 6 hearing before Special Master Carney, the right to receive all papers in connection with that process, including the latest privilege log, and the right to fully advance its position with regard to the discovery disputes that relate to the documents it has requested in its Rule 2004 subpoena. Likewise, such participation would include arguing the merits of the special master's recommendations when they are presented to this Court for consideration.

WHEREFORE, The Razorback Creditors request that the Court grant the relief requested above and grant such other and further relief as the Court deems just and proper.

Dated: March 18, 2011

Respectfully submitted,

/s/William R. Scherer
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished this 18th day of March, 2011 via the Court's CM/ECF electronic noticing system to all electronic filing participants with respect to this proceeding, and by U.S. mail to the Hon. Robert B. Carney (ret.), Special Master, 2281 Saratoga Lane, West Palm Beach, FL 33409.

/s/James D. Silver
James D. Silver