

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
SOUTHERN DIVISION**

FEDERAL TRADE COMMISSION, )  
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 Plaintiff, )  
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 vs. )  
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 AMERIDEBT, INC., et al., )  
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 Defendants. )

Civil Action No. PJM 03-3317

**RECEIVER’S APPLICATION FOR SUPPLEMENTAL RELIEF UNDER ORDER  
HOLDING ANDRIS PUKKE AND PETER BAKER IN CONTEMPT OF COURT;  
REQUEST FOR IMMEDIATE INCARCERATION OF ANDRIS PUKKE AND PETER  
BAKER TO COERCE COMPLIANCE WITH COURT ORDERS**

Robb Evans & Associates LLC as Receiver over the assets of Andris Pukke and DebtWorks, Inc. (“Receiver”) hereby applies to the Court for supplemental relief in furtherance of the enforcement of, and pursuant to the provisions of, the Court’s Order Holding Andris Pukke and Peter Baker in Contempt of Court filed March 30, 2007 (“Contempt Order”). The Receiver specifically seeks an order of the Court directing that Andris Pukke (“Pukke”) and Peter Baker (“Baker”) be immediately incarcerated until Pukke and Baker fully and strictly comply with the terms and provisions of the Contempt Order and the Court’s related Order for Vesting and Control of Dolphin Development Company Limited and Proceeds in Receiver filed March 30, 2007 (“Dolphin Vesting Order”). The Receiver contends good cause exists for such relief based on the memorandum of law, the declarations of M. Val Miller, Brick Kane and Gary Owen Caris filed concurrently herewith in support of this Application and the following:

**I. INTRODUCTION**

The Contempt Order determined that Pukke and Baker are in civil contempt of court for their violations of the Court’s Preliminary Injunction Order with Asset Freeze, Appointment of A Receiver, Repatriation of Assets, and Other Equitable Relief dated April 20, 2005 (“Preliminary

Injunction”) and the Stipulated Final Judgment and Permanent Injunction as to Defendants Debtworks, Inc. and Andris Pukke (“Stipulated Final Judgment”) dated May 17, 2006. The Contempt Order imposes various duties upon Pukke and Baker with respect to Concealed Assets which have been improperly not disclosed to and withheld from the Receiver, including the IO/Sportingbet Stock and Proceeds, the Hansabanka Funds and Proceeds, the Emerald Bay Property and Proceeds, and Dolphin Development Rights and Proceeds, as those terms are defined in the Contempt Order. Further, paragraphs 6 and 8 of the Contempt Order permit the Receiver to submit additional orders and apply to the Court or other courts for additional relief to implement and enforce the provisions of the Contempt Order. Paragraphs 9 and 10 of the Contempt Order permit the Receiver to seek additional relief from the Court in the event Pukke and/or Baker fail to comply “strictly, fully and timely” with the Contempt Order, including the turnover duty and duty of cooperation imposed on each of them in the Contempt Order.

## **II. BAKER’S DUTIES AND POST-ORDER HEARING ACTIVITIES BY BAKER UNDER THE CONTEMPT ORDER**

After the Contempt Order was entered, on April 2, 2007, and pursuant to the duty of cooperation set forth in paragraph 5, and particularly paragraph 5.C. of the Contempt Order, the Receiver’s counsel sent by overnight mail to Jones Day on behalf of Baker a detailed letter requiring Baker to make disclosures, turn over documents and execute various demand letters, consents to disclosure of account records and the grant deed to the Emerald Bay Property. The Receiver’s counsel delivered a supplemental request for documents to be executed on April 4, 2007, requesting that Pukke and Baker each execute instruction letters to Rodwell Williams of Williams & Barrow in Belize, directing the firm to turn over records and files to the Receiver.

Baker initially took steps to comply with his duties under the Contempt Order, and since shortly after the conclusion of the contempt hearing had been in communication with the Receiver’s representatives regarding his duties. Baker executed and delivered to the Receiver a grant deed to the Emerald Bay Property and timely vacated that Property, and title to the Emerald Bay Property is now vested in the receivership estate’s qualified settlement fund. Baker also executed and delivered to the Receiver’s representative, Kenton Johnson, most, but not all,

of the demand letters and the consents to disclosure of account records. Baker was also in communication with Brick Kane of the Receiver's office regarding the Dolphin Development Rights and Proceeds, pursuant to which Baker turned over limited records of Starfish Development Limited ("Starfish") and provided some information regarding the Starfish business activities, although the information Baker provided regarding the location of various banking and other records and the persons with custody of various documents concerning Dolphin Development Company Limited ("Dolphin Development"), Sanctuary Bay Limited ("Sanctuary Bay") and Starfish was inconsistent and incomplete.

In addition, as detailed in the accompanying declaration of M. Val Miller, the Receiver's representative met with John Usher and Mishell Hernandez in Belize during the week of March 26, 2007. During the two meetings the Receiver held with Mr. Usher, Mr. Usher was cooperative with the Receiver. Mr. Usher and Ms. Hernandez met with Mr. Miller for several hours, including driving Mr. Miller on a tour of the Sanctuary Bay Estates project. Mr. Usher specifically offered to prepare a proposed development and operating budget for the project to be provided to the Receiver and to work with the Receiver to create a successful development, and the Receiver indicated that after the Receiver's review of the financial and other information, if the Receiver determined it was appropriate and beneficial to the receivership estate, the Receiver would provide additional funding for the project if needed.

After the Contempt Order and related orders were entered, on April 2, 2007, the Receiver directed an e-mail to Mr. Usher and Ms. Hernandez with copies of the entered Contempt Order and Dolphin Vesting Order. Ms. Hernandez acknowledged receipt of the orders and again indicated a willingness to work with the Receiver and turn over all documents requested by the Receiver if instructed to do so by Baker. Mr. Usher in fact appeared at the contempt hearing voluntarily as a witness on behalf of Baker, and under oath Mr. Usher confirmed that he was employed by Baker through Starfish and was the General Manager of Starfish in Belize.

A. Cessation of Cooperation and Turnover by Baker as of April 16, 2007

The Receiver's representative, Brick Kane, was scheduled to meet with Baker on April 18, 2007 to obtain a turnover of the additional documents pertaining to Starfish and Sanctuary

Bay. In furtherance of the turnover demand, the Receiver directed an e-mail to Baker asking him to sign and deliver to the Receiver a letter of instructions to Mr. Usher regarding the turnover of documents concerning the Dolphin Development Rights and Proceeds, as well as the two letters he had previously refused to turn over, specifically demand letters to Baker's former lawyers, Rutan & Tucker and Rus, Miliband & Smith, both of whom apparently received transfers of IO/Sportingbet Proceeds from Baker, and the letter to Barrow & Williams which Baker had also not executed and returned.

On April 16, 2007, Baker advised Mr. Kane in a telephone call that Baker would not execute the letter to Mr. Usher. Later on the same date, Baker sent an e-mail to Mr. Kane and concurrently sent to Mr. Kane by facsimile a "GS Questionnaire" created by Baker for Mr. Kane to complete, sign and "certify" as a condition to Baker agreeing to be "interviewed" by Mr. Kane.<sup>1</sup> Despite efforts by the Receiver to obtain Baker's cooperation in, at a minimum, having documents turned over to the Receiver either personally by Baker or through a representative of Baker, he refused to meet and has refused all forms of cooperation and contact with the Receiver since April 16, 2007. Not coincidentally, on April 23 and 24, 2007, the Receiver received two letters signed by John Usher in his capacity as Chairman of the Board of Sittee River Wildlife Reserve ("Sittee River"). One of the letters was sent to the Receiver informing the Receiver that the Board of Sittee River had terminated all development rights and contracts of Dolphin Development, Sanctuary Bay, Starfish, and Baker at a recent Board meeting. The second letter was sent by Mr. Usher on behalf of the Sittee River Board to all of the lot owners at the project, demanding that they make payments on their purchase obligations to Sittee River instead of the Receiver. Given the significant about face in Mr. Usher's position regarding the Receiver and the Receiver's rights in the development that followed closely on the heels of Baker's complete cessation of cooperation and refusal to comply with the Contempt Order, it is apparent that Mr. Usher's position was prompted by instructions from Baker.

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<sup>1</sup> This "GS Questionnaire" is essentially identical in form and content to the one that Pukke handed to Gary Caris at Pukke's aborted April 11, 2007 deposition which had been noticed in the litigation brought by Stephen Todd Cook against the Receiver as discussed hereafter in Section IV.

B. Independent Board Members of Sittee River Shut Out of Meeting

The Receiver has investigated the Sittee River Board's actions. The Receiver has contacted the three outside directors on the Board, directors who are not affiliated with Baker. Two of them have advised Mr. Miller that they were not aware of, not invited to and did not attend any meeting of the Sittee River Board in the last 30 days. The third member advised Miller that he was aware of the meeting but did not attend or otherwise participate in it. The other members of the Sittee River Board, as reconstituted in 2006, include Baker's father, Richard Baker, Mr. Usher, Mishell Hernandez, who was the bookkeeper or accountant for Dolphin Development and subsequently Starfish, and three individuals who are also employed at the project. Therefore, to the extent that Sittee River Board action has taken place since April 16, 2007, it is action that has been taken by purported Board members related to, employed by and/or otherwise affiliated with Baker.

**III. BAKER'S DELIBERATE AND MATERIAL NON-COMPLIANCE WITH CONTEMPT ORDER**

Baker is in substantial default in the performance of his obligations under the Contempt Order at this time. Baker has (a) refused to turn over the funds in the Starfish and Sanctuary Bay bank accounts to the Receiver; (b) failed to turn over substantial records of Sanctuary Bay and Starfish pertaining to the Sanctuary Bay Estates development, including accounts receivable and accounts payable records and bank statements as more fully detailed in the proposed letter to Mr. Usher prepared by the Receiver for Baker's signature; (c) provided inconsistent information regarding where the Starfish business records, including bank statements, are located; (d) knowingly failed and refused to deliver executed demand letters to his counsel, Rutan & Tucker and Rus, Miliband & Smith, both of whom apparently received IO/Sportingbet proceeds from Baker, as well as to Williams & Barrow in Belize; (e) failed to account for and turn over proceeds of IO/Sportingbet Stock and Proceeds and Emerald Bay Proceeds in his possession or in the possession of third party transferees; and (f) refused to meet with the Receiver or have further communications or turn over any documents unless and until Brick Kane signed the "GS Questionnaire" presented by Baker. Moreover, to date, other than turning over title and

possession to the Emerald Bay Property, his execution and delivery of some of the demand letters to third parties required in the April 2, 2007 letter, Baker has failed to provide any information and documents concerning how he came to acquire the IO/Sportingbet Stock and Proceeds, as well as the other information required in the April 2, 2007 letter.<sup>2</sup> As set forth below, it seems clear that notwithstanding the civil contempt citation, Baker continues to act in concert with Pukke to protect Pukke's Concealed Assets from turnover to the Receiver and to prevent full and accurate information regarding these assets from being disclosed to the Receiver. It is also clear that Baker has intentionally and willfully impeded the Receiver from taking possession and control of the Sanctuary Bay Estates development, including all of the assets thereof.

**IV. PUKKE'S UTTER FAILURE AND REFUSAL TO COMPLY WITH HIS DUTIES UNDER THE CONTEMPT ORDER**

On April 2, 2007, the Receiver's counsel also directed a detailed letter to Jones Day on behalf of Pukke by overnight mail. The letter demanded a detailed statement of the history of Pukke's interest in the IO/Sportingbet Stock and Proceeds and accounting of his stock, detailed information regarding the other Concealed Assets subject to the Contempt Order, a turnover of records pertaining to Pukke's rights and interests in those assets, and execution of various enclosed demand letters and consents to disclosure of account records. The letter required Pukke to deliver the information and executed letters within 15 days, in accordance with paragraph 5 of the Contempt Order.

On April 11, 2007, in the related lawsuit filed by Pukke's friend Stephen Todd Cook pending before the Court, Pukke appeared at a duly noticed deposition in that litigation. He appeared without counsel. Pukke was approximately one hour late for the deposition and handed

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<sup>2</sup> On April 27, 2007, when the threat of incarceration was apparently made known to him by his counsel John Williams or by Pukke, Baker surfaced, called the Receiver's counsel from Belize and said that he would sign the remaining documents required to be executed by the Receiver. However, he falsely claimed that he was not in Belize in connection with the Sanctuary Bay Estates development, that he had no control over the Sittee River Board and that he had visited attorney Rodwell Williams in Belize over a week ago in order to obtain Rodwell Williams' consent to the execution of one of the required letters.

counsel for the Receiver a “GS Questionnaire” to be completed, signed and “certified” by Gary Caris, counsel to the Receiver. Pukke refused to provide substantive testimony at the deposition unless and until Mr. Caris completed and signed the document. The deposition was suspended and Pukke’s misconduct is the subject of a separate motion to compel and for sanctions filed by the Receiver in the Cook litigation on April 19, 2007.

Pukke failed to respond to the April 2, 2007 and April 4, 2007 letters and failed to execute or deliver any of the enclosed demand letters, instructions to third parties and consents to disclosure of account records by the applicable 15-day deadlines or at any time thereafter. More important, Pukke has not turned over any of the concealed IO/Sportingbet Stock and Proceeds or provided any explanation or accounting as to where those assets are hidden. Instead, on April 19, 2007, Pukke began filing a series of legally baseless pleadings and “motions” in this Court, seeking among other things, extensions of the deadline for him to perform under the Contempt Order and to hold this action “in abeyance.” On April 20, 2007, the Court issued an order denying these motions and directing Pukke to cease filing pleadings individually, as he is represented by counsel, Jones Day. Pukke has ignored the Court’s order of April 20, 2007, and on April 25, 2007, Pukke filed another frivolous pleading demanding that the Court find a lack of jurisdiction over the action and lack of standing by the FTC in the case.<sup>3</sup>

**V. IMMEDIATE INCARCERATION OF PUKKE AND BAKER IS ESSENTIAL TO OBTAIN COMPLIANCE WITH THE COURT’S ORDERS**

Pukke’s and Baker’s recent conduct has been obstreperous and abusive of the litigation process. Pukke has made it clear that he has no intention of complying either with the Contempt Order, Dolphin Vesting Order or any other order of this Court, as evidenced by his immediate violation of the Court’s April 20, 2007 order with the filing of yet another baseless pleading on April 25, 2007. Baker has also made a deliberate decision to change course from his initial,

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<sup>3</sup> As with Baker, Pukke finally surfaced on April 27, 2007 under the threat of incarceration. While he signed and returned various of the letters required by the Receiver, no assets whatsoever were turned over and no accountings were provided. Instead, he continues to assert that he does not own and never owned any interest in Internet Opportunity or Sportingbet, and that he has no interest and never had any interest in any Hansabanka account.

sporadic cooperation with the Receiver under the Contempt Order to conscious disregard of the Receiver's demands and Baker's duties under the order and intentional interference with the Receiver's rights and remedies under the Contempt Order and Dolphin Vesting Order. Other than the Emerald Bay Property grant deed signed by Baker, not a single dollar nor any other asset has been turned over by Pukke and Baker to the Receiver since the Court's contempt orders. The IO/Sportingbet Stock and Proceeds are worth at least \$20 million and the Dolphin Development Rights and Proceeds are worth at least another \$10 million. Why haven't the contemnors turned over any of these assets and funds?

It is apparent that only immediate incarceration of both Pukke and Baker will bring Pukke and Baker into compliance with these Orders. Not until they were apprised of the imminent incarceration did either of them provide even a minimal amount of cooperation. The Court has given Pukke and Baker a fair and reasonable opportunity to purge their contempt, restore receivership assets to the estate and provide the Receiver the information and cooperation needed to allow the Receiver to administer the Concealed Assets for the benefit of the injured consumers who are the beneficiaries of this estate.

WHEREFORE, the Receiver respectfully submits that a bench warrant should issue forthwith directing the United States Marshal to immediately take into custody civil contemnors Pukke and Baker, and directing that Pukke and Baker, and each of them, shall remain

incarcerated unless and until Pukke and Baker complies fully and strictly with all duties and obligations imposed on Pukke and Baker, respectively, under the Contempt Order and the Dolphin Vesting Order.

Dated: April 30, 2007

MCKENNA LONG & ALDRIDGE LLP

By: /s/ Gary Owen Caris  
GARY OWEN CARIS  
California Bar No. 088918  
LESLEY ANNE HAWES  
California Bar No. 117101  
444 South Flower Street, 8th Floor  
Los Angeles, California 90071  
Telephone: (213) 688-1000  
Facsimile: (213) 243-6330  
E-Mail: [gcaris@mckennalong.com](mailto:gcaris@mckennalong.com)  
[lhawes@mckennalong.com](mailto:lhawes@mckennalong.com)

Dated: April 30, 2007

MCKENNA LONG & ALDRIDGE LLP

By: /s/  
Christina M. Carroll (Bar No. 16863)  
McKENNA LONG & ALDRIDGE LLP  
1900 K Street, N.W.  
Washington, DC 20006  
Telephone: (202) 496-7500  
Fax: (202) 496-7756  
E-mail: [ccarroll@mckennalong.com](mailto:ccarroll@mckennalong.com)

Attorneys for Robb Evans & Associates LLC,  
Receiver

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 30th day of April 2007, a copy of the RECEIVER'S APPLICATION FOR SUPPLEMENTAL RELIEF UNDER ORDER HOLDING ANDRIS PUKKE AND PETER BAKER IN CONTEMPT OF COURT; REQUEST FOR ORDER FOR IMMEDIATE INCARCERATION OF ANDRIS PUKKE AND PETER BAKER was served on the parties listed on the attached Service List in the manner indicated.

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/s/

Christina M. Carroll  
McKENNA LONG & ALDRIDGE LLP  
1900 K Street, N.W.  
Washington, DC 20006  
Telephone: (202) 496-7500  
Fax: (202) 496-7756  
E-mail: ccarroll@mckennalong.com

Attorneys for Robb Evans & Associates  
LLC, Receiver

**SERVICE LIST**

The following CM/ECF participants were served by electronic means on April 30, 2007:

Gary C. Adler - [gadler@oconnorhannan.com](mailto:gadler@oconnorhannan.com); [jmurphy@oconnorhannan.com](mailto:jmurphy@oconnorhannan.com)  
Robert M .Adler - [radler@oconnorhannan.com](mailto:radler@oconnorhannan.com); [jcomisiak@oconnorhannan.com](mailto:jcomisiak@oconnorhannan.com);  
[jtowell@oconnorhannan.com](mailto:jtowell@oconnorhannan.com)  
Allison Ilene Brown - [aibrown@ftc.gov](mailto:aibrown@ftc.gov)  
Jeanne M. Crouse - [jcrouse@ftc.gov](mailto:jcrouse@ftc.gov)  
Ramona Dee Elliott - [relliott@ftc.gov](mailto:relliott@ftc.gov)  
Geoffrey Smith Irwin - [gsirwin@jonesday.com](mailto:gsirwin@jonesday.com)  
Charles Kevin Kobbe - [kevin.kobbe@dlapiper.com](mailto:kevin.kobbe@dlapiper.com)  
William N. Lobel - [wlobel@irell.com](mailto:wlobel@irell.com)  
Glenn A. Mitchell - [gamitchell@steinmitchell.com](mailto:gamitchell@steinmitchell.com); [abeato@steinmitchell.com](mailto:abeato@steinmitchell.com)  
Malini Mithal – [mmithal1@ftc.gov](mailto:mmithal1@ftc.gov)  
Lucy Emily Morris - [lmorris@ftc.gov](mailto:lmorris@ftc.gov)  
Kevyn D. Orr - [korr@jonesday.com](mailto:korr@jonesday.com)  
Jeffrey Mark Reisner - [jreisner@irell.com](mailto:jreisner@irell.com)  
Sanford M. Saunders, Jr. - [saunderss@gtlaw.com](mailto:saunderss@gtlaw.com)  
Roger Schlossberg - [bkcreditor@schlosslaw.com](mailto:bkcreditor@schlosslaw.com); [rschlossberg@schlosslaw.com](mailto:rschlossberg@schlosslaw.com)  
Mark David Taylor - [taylor.mark@arentfox.com](mailto:taylor.mark@arentfox.com)  
John Buchanan Williams - [jbwilliams@jonesday.com](mailto:jbwilliams@jonesday.com); [aypowell@jonesday.com](mailto:aypowell@jonesday.com)

The following non-CM/ECF participants were served by first-class mail, postage prepaid on April 30, 2007:

John F. Kaley, Esq.  
Doar Rieck Kaley & Mack  
217 Broadway, Suite 707  
New York, NY 10007

Stuart M. Fischbein  
United States Department of Justice  
PO Box 227  
555 Fourth St NW  
Washington, DC 20044