

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SECURITIES AND EXCHANGE §  
COMMISSION, §

PLAINTIFF, §

vs. §

BRIAN A. BJORK, THE ESTATE OF JOEL §  
DAVID SALINAS, J. DAVID GROUP OF §  
COMPANIES, INC., J. DAVID FINANCIAL §  
GROUP, LP, SELECT ASSET §  
MANAGEMENT, LLC, SELECT ASSET §  
CAPITAL MANAGEMENT, LLC, SELECT §  
ASSET FUND I, LLC, AND SELECT §  
ASSET PRIME INDEX FUND, LLC, §

CIVIL ACTION NO. 4:11 CV - 02830

DEFENDANTS. §

**RECEIVER’S MOTION FOR LEAVE TO EXCEED THE COURT’S 25-PAGE LIMIT  
ON THE BRIEF IN SUPPORT OF RECEIVER’S MOTION FOR JUDGMENT  
AGAINST GASAWAY PROPERTIES, LP AND RICHARD C. GASAWAY**

TO THE HONORABLE KEITH P. ELLISON, UNITED STATES DISTRICT COURT:

Receiver Steven A. Harr (“Receiver”) moves the Court for Leave to Exceed the Court’s 25-Page Limit on the Brief in Support of Receiver’s Motion for Judgment against Gasaway Properties, LP (“Properties”) and Richard C. Gasaway, individually, (“Gasaway”) in conformity with the Honorable Court’s April 19, 2012, Order denying Receiver’s Motion for Show Cause Order and Related Relief (DKT #63) (the “Order”), and for same would show as follows:

The Order permitted the Receiver to utilize summary procedures to determine the Receivership Estate’s rights against third parties, such as Properties and Gasaway (collectively, “Respondents”). The Receiver’s Motion for Judgment against Gasaway Properties, LP and Richard C. Gasaway and Brief in Support (“Motion for Judgment”) is in the nature of a Motion

for Summary Judgment and involves an analysis of both claims and defenses that cannot be sufficiently pled and argued in less than 25 pages.

The Receiver claims that the Respondents have defaulted on loans totaling approximately \$276,048.80 with various levels of interest accruing daily. Respondents have claimed setoff and fraud as defenses to their legal obligations to pay the monies due to the Receivership Estate. In the Motion for Judgment, the Receiver argues that the Receivership Estate is due payment for the defaulted loans and, alternatively, argues the Receivership Estate is entitled to claw back \$286,925.39 that Respondents received in excess of their total investments in certain Receivership Entities under theories of fraudulent transfer and equitable disgorgement. The Motion for Judgment involves an extended analysis of these claims and defenses, and the financial and accounting issues underlying the claims cannot be sufficiently condensed to less than 25 pages.

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully prays that the Court grant this Motion for leave and for such other and further relief to which the Receivership Estate may be entitled.

Respectfully submitted,

/s/ Randy A. Canché

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THE RECEIVER AND HIS COUNSEL

**CERTIFICATE OF CONFERENCE**

On August 21, 2012, I conferred with Tim McCole and he advised that the Securities and Exchange Commission is not opposed to the relief sought in this motion.

In light of the fact this Motion is brought in conjunction with claims against Gasaway and Properties, I also conferred with Counsel for Gasaway and Properties, Millard Johnson. Gasaway and Properties are opposed to the Motion.

*/s/ Randy A. Canché* \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that on August 21, 2012, a copy of the foregoing was served on Millard Johnson of Johnson, DeLuca, Kurisky & Gould, PC, 4 Houston Center, Suite 1000, 1221 Lamar Street, Houston, Texas, 77010, attorney for Respondents Richard C. Gasaway and Gasaway Properties, LP, by certified mail return receipt requested

*/s/ Randy A. Canché* \_\_\_\_\_  
Randy A. Canché

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**ORDER GRANTING RECEIVER’S MOTION FOR LEAVE TO  
EXCEED THE COURT’S 25-PAGE LIMIT ON THE BRIEF IN SUPPORT  
OF RECEIVER’S MOTION FOR JUDGMENT AGAINST  
GASAWAY PROPERTIES, LP AND RICHARD C. GASAWAY**

On \_\_\_\_\_ 2012, the Court considered Receiver’s Motion for Leave to Exceed the Court’s 25-Page Limit on Receiver’s Brief in Support of Receiver’s Motion for Judgment Against Gasaway Properties, LP and Richard C. Gasaway. The Court finds that the Motion should be GRANTED. It is therefore ORDERED that the Motion for Leave is GRANTED.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
THE HONORABLE KEITH P. ELLISON

ORDER GRANTING RECEIVER’S MOTION FOR LEAVE TO EXCEED THE COURT’S 25-PAGE LIMIT ON THE BRIEF IN SUPPORT OF RECEIVER’S MOTION FOR JUDGMENT AGAINST GASAWAY PROPERTIES, LP AND RICHARD C. GASAWAY - PAGE 1 OF 1