

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, §  
§  
DEFENDANTS. §

CIVIL ACTION NO. 4:11 CV – 02830

**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 Judgment against Respondents 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”).<sup>1</sup> 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,

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<sup>1</sup> A true and correct copy of the Order is attached as Exhibit “1” to the Brief in Support of Receiver’s Motion for Judgment Against Gasaway Properties, LP and Richard C. Gasaway.  
RECEIVER’S MOTION FOR JUDGMENT AGAINST GASAWAY PROPERTIES, LP AND RICHARD C. GASAWAY - PAGE 1 OF 3

“Respondents”).<sup>2</sup> In support of his Motion for Judgment (“Motion”), the Receiver respectfully states:

Respondents have defaulted on loans totaling approximately \$276,048.80 with interest accruing daily. Respondents have no defense to the debt owed, but needlessly complicate the Receiver’s efforts with erroneous claims of setoff and fraud. Alternatively, in the unlikely event that Respondents are entitled to setoff an *equity investment* in one of the Receivership Entities against these loans, the Receiver is entitled to claw back \$286,925.39 that Respondents received *in excess of their total investments* in J. David Financial Group of Companies and SAM under theories of fraudulent transfer and equitable disgorgement.

The arguments and authorities in support of Receiver’s Motion for Judgment against Properties and Gasaway are contained in the Brief in Support of Receiver’s Motion for Judgment against Gasaway Properties, LP and Richard C. Gasaway, which has been simultaneously filed with the Court.

Respectfully submitted,

/s/ Randy A. Canché

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THE RECEIVER AND HIS COUNSEL

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<sup>2</sup> See *id.*, p. 3.

**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