

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA

OFFICE OF THE ATTORNEY
GENERAL, DEPARTMENT OF LEGAL
AFFAIRS, STATE OF FLORIDA,

Plaintiff,

57-2010-CA-2912-MS /B

vs.

CASE NO. _____

BOTFLY L.L.C., DAVID R. LEWALSKI,
and JON J. HAMMILL,

Defendants.

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2010 APR - 1 PM 2:48
PAUL S. OWENS
Clerk of Circuit Court
Pasco County, Florida

TEMPORARY INJUNCTION

This matter came on before the Court, on April ____, 2010, upon the Plaintiff's
EMERGENCY MOTION FOR TEMPORARY INJUNCTION AND APPOINTMENT OF
RECEIVER WITHOUT NOTICE.

The Court has reviewed the motion and other pleadings and affidavits submitted herein
and finds as follows:

Good cause exists to protect the assets of the named Defendants from being sold,
transferred, alienated or otherwise dissipated until the resolution of the instant proceeding and
likewise good cause exists to refrain from giving notice to Defendants Botfly L.L.C., David R.
Lewalski, and Jon J. Hammill because of the likelihood that they would dissipate the assets of
the business if notified of this motion.

Plaintiff has demonstrated a likelihood of success on the merits of its action under the

Florida Securities and Investor Protection Act, Fla. Stat. §§ 517.011 et seq. or the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201 et seq. Plaintiff has demonstrated that a likelihood exists that Defendants made false statements to investors promising a 10% per month return on their investments and that Defendants would only use investor funds for investment or margin purposes. A likelihood exists that Defendants misappropriated investor funds and did not invest many of those funds.

Plaintiff is the enforcing authority under the Florida Securities and Investor Protection Act, Fla. Stat. §§ 517.011 et seq. or the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201 et seq. The Court takes note of *Millennium Commun. & Fulfillment, Inc. v. Office of the AG, Dep't of Legal Affairs*, 761 So. 2d 1256, 1260 (Fla. 3d DCA 2000), which states that because section 501.207 "expressly authorizes the Department to seek injunctive relief on behalf of the state, the Department does not have to establish irreparable harm, lack of an adequate legal remedy or public interest."

Plaintiff has demonstrated that irreparable harm will result absent the entry of a temporary injunction. Investor funds provided to Defendants may be dissipated, transferred out of the country, and lost if a temporary injunction is not entered. More investors may invest funds in Botfly if a temporary injunction is not entered.

Plaintiff has demonstrated that it lacks an adequate remedy at law. Plaintiff has demonstrated that a temporary injunction is necessary to preserve the status quo and protect investors from further losses if an injunction is not granted.

Plaintiff has demonstrated that the public interest favors entry of a temporary injunction under the circumstances presented in the instant action. The public interest favors protecting consumers and investors from investment schemes with impossible returns or schemes in which

the money is not invested as promised.

Notice of the Plaintiff's Motion in advance of the hearing was not required because of the likelihood that investor funds would be dissipated if notice of the instant Motion was provided to Defendants.

Therefore, Plaintiff's Emergency Motion for Temporary Injunction and Appointment of Receiver without Notice is hereby GRANTED.

Accordingly, the Court hereby ORDERS AND ADJUDGES:

1. The sequestration or freezing of all assets of Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill, including but not limited to any personal bank accounts and business bank accounts in their names including but not limited to accounts at Bank of America, Fifth Third Bank, Deutsche Bank, Wells Fargo f/k/a Wachovia Bank, UBS A.G., and any other bank or financial institution, investment accounts, offices, the contents of such offices where the business of Defendants has been conducted, until further order of this Court or except as permitted by this Court's Order Appointing Receiver in this action.

2. Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill individually and/or by or through their spouses, trustees, agents, employees or other persons who act under, by, through or on behalf of either or all of them or the Defendants, are hereby ENJOINED from transferring, conveying, encumbering, disposing of or otherwise alienating their personal bank accounts or business accounts, including but not limited to accounts at Bank of America, Fifth Third Bank, Deutsche Bank, Wells Fargo f/k/a Wachovia Bank, UBS A.G., and any other bank or financial institution, until further order of this Court.

3. Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill individually and/or by or through their spouses, trustees, agents, employees or other persons who act under, by,

through or on behalf of either or all of them or the Defendants, are hereby ENJOINED from transferring, conveying, encumbering, disposing of or otherwise alienating automobiles, motorcycles, or any other personal property or real property owned by Botfly L.L.C., David R. Lewalski, or Jon J. Hammill and automobiles, motorcycles, or any other personal property or real property purchased or obtained using money received from investors in Botfly, L.L.C., until further order of this Court.

4. Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill individually and/or by or through their spouses, trustees, agents, employees or other persons who act under, by, through or on behalf of either or all of them or the Defendants, are hereby ENJOINED from receiving directly or indirectly any money, property, or accounts from any investors or lenders until further order of this Court.

5. Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill individually and/or by or through their spouses, trustees, agents, employees or other persons who act under, by, through or on behalf of either or all of them or the Defendants, are hereby ENJOINED from soliciting any person or entity to invest in Botfly, L.L.C. or make any loan to Botfly, L.L.C. until further order of this Court.

6. Defendants Botfly L.L.C., David R. Lewalski, and Jon J. Hammill individually and/or by or through their spouses, trustees, agents, employees or other persons who act under, by, through or on behalf of either or all of them or the Defendants, are hereby ENJOINED from destroying, mutilating, concealing, altering, or disposing of, in any manner, any of the books, records, papers, computer disks, computer memory retention devices or the like, computers, documents, correspondence, obligations or other property of the Defendants herein until further order of this Court.

7. The Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida, is an agency of the State of Florida and, in recognition of the public interest served by this action, no bond shall be required with respect to the relief granted herein.

DONE AND ORDERED in Chambers, at Pasco County, Florida, on this 15th day of April, 2010. @ 1:29 pm.

Spk

Stanley R. M. 20
CIRCUIT JUDGE