

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SECURITIES EXCHANGE COMMISSION)	
)	
Plaintiff,)	
)	
vs.)	
)	
DAVID TANNER, et al.,)	Civil Action No.: 05-4057-RDR
)	
Defendants,)	
)	
and)	
)	
MARGARET F. SPENCER, et al.,)	
)	
Relief Defendants.)	

**RECEIVER’S REPLY TO IPTS, INC.’S OBJECTION TO
RECEIVER’S MOTION FOR ENTRY OF JUDGMENT ON
RECEIVER’S MOTION FOR TURNOVER OF PROPERTY OF
THE RECEIVERSHIP ESTATE TRANSFERRED TO IPTS, INC.**

Receiver Larry E. Cook, by and through undersigned counsel, for his Reply to iPTS, Inc.’s Objection (the "Objection") (Doc. # 388) to Receiver's Motion for Entry of Judgment (the "Motion for Judgment") (Doc. # 380) on Receiver’s Motion for Turnover of Property of the Estate Transferred to iPTS, Inc. (the "Turnover Motion") (Doc. # 117). In support of this Motion, Receiver respectfully states as follows:

SUMMARY

The Receiver filed the Turnover Motion on September 16, 2005 seeking the return of approximately US\$1.4 million¹ in an iPTS account at VEF Banka in Riga, Latvia frozen by the Latvian Prosecutor’s Office. After the Turnover Motion was served on iPTS’s president, George Hegedus, Hegedus and an attorney “assisting” iPTS

¹ The Latvian Prosecutor’s Office reported to the Receiver VEF Banka froze €329,226.31 and US\$978,684.31 for an estimated total of US\$1.4 million, depending on the exchange rate.

contacted counsel for the Receiver to discuss a resolution of the Turnover Motion. iPTS maintained that only approximately \$500,000 in the VEF Banka account was CEC-related funds. However, the documents provided by iPTS to the Receiver did not support this.

On May 11, 2007, the Receiver filed his Motion for Judgment. On May 31, 2007, iPTS filed its Objection. The Receiver has reviewed the contents of iPTS' Objection and has found no additional information to suggest the funds at VEF Banka are not CEC funds. Accordingly, the Receiver requests the Court enter judgment against iPTS and VEF Banka for the return of the VEF Banka funds to the Receiver.

BACKGROUND

1. The Receiver filed the Turnover Motion on September 16, 2005. As set forth in the Turnover Motion, the Receiver had identified a \$573,000 wire transfer from defendant Marroc Corporation's Wachovia bank account to iPTS' VEF Banka account, account number LV73VEFBNP30010096460 (the "iPTS Account") on April 1, 2005 and a "Capital Enhancement Club Newsletter" which contained instructions for CEC investors to invest in CEC via Marroc's Wachovia account. The Turnover Motion further reported a June 10, 2005 telephone conference between the Receiver and Mr. Hegedus in which Hegedus advised the Receiver that David Tanner completed an iPTS account application and that wire transfers sent to VEF Bank with an iPTS member number were placed in an iPTS account at VEF Bank for further instructions from CEC.

2. The Turnover Motion was mailed to Hegedus as indicated in the Certificate of Service in the Turnover Motion. Following service, Hegedus and an attorney who was "assisting," but not "representing," iPTS had several communications

with the Receiver and his counsel. These communications, attached as Exhibits A-D to the Motion for judgment may be summarized as: (i) a claim that not all of the funds in iPTS' VEF Banka account were CEC-related; and (ii) iPTS was not subject to the personal or subject matter jurisdiction of the Court.

3. On May 11, 2007, the Receiver filed his Motion for Judgment which addressed iPTS' jurisdictional objections and its claim that not all of the funds in the iPTS Account were CEC-related. Exhibit E to the Motion for Judgment identified the CEC-related deposits into the account.

4. On May 31, 2007, iPTS filed its Objection. iPTS appears to have dropped its jurisdictional challenges, instead reasserting an incoherent claim that the iPTS Account contained non-CEC related funds. This Reply addresses iPTS' allegations as follows:

A. Paragraph 1 of iPTS' Objection

5. iPTS' first claim is that it was in business before CEC. This is incorrect. iPTS was incorporated as an International Business Company in the Republic of Seychelles on January 17, 2005. *See* Declaration of Larry E. Cook attached hereto as **Exhibit A**, ¶ 3. CEC began operating sometime in 2001. *See* Cook Decl., ¶ 4.

6. iPTS' second claim is that iPTS had "more accounts than CEC." The Receiver is not concerned with any other accounts iPTS may or may not have—the focus of this action is on the iPTS Account at VEF Banka wherein CEC investor funds were pooled.

7. iPTS' third claim is that a total of US\$8,682,752.48 was deposited into the iPTS Account, not the US\$5,731,821.00 reported by the Receiver in Exhibit E to the

Motion for Judgment, and that a total of €2,208,856.75 was deposited into the iPTS Account which "had nothing to do with CEC." Again, iPTS is mistaken. First, the Receiver agrees that a total of US\$8,682,952.48 (including a conversion of €1,472,500) was deposited into the iPTS Account between the time the iPTS Account was opened on January 31, 2005 and the time the Latvian Prosecutor's General Office froze the account on or about May 31, 2005. *See* Cook Decl., ¶ 5. The \$5,731,821 amount reported on Exhibit E to the Motion for Judgment was a total amount deposited into the iPTS Account which the Receiver could confirm was CEC-related; The Receiver could not discern for certain whether the remaining deposits into the iPTS Account were CEC-related. *See* Cook Decl., ¶ 6. The point, however, was that the iPTS Account received *at least* \$5.7 million of CEC investor funds and only \$1.4 million remained at the time the iPTS Account was frozen—establishing that more than \$1.4 million of CEC funds was in the iPTS Account was unnecessary. Moreover, nearly all of the iPTS Account deposits that cannot be verified as CEC-related were deposited by Argus Global, Ltd. Although iPTS has refused to identify who or what Argus Global, Ltd. was, the Receiver's investigation into this entity has revealed it is an alias for Argus Global Equities, Ltd., a "securities brokerage" firm which was dissolved by the Nevis Financial Services Regulation and Supervision Department in 2006 following complaints by the United Kingdom's Financial Services Authority and the Securities Commission of the Bahamas. *See* Cook Decl., ¶¶ 8-9. The Receiver's investigation into the iPTS Account and Argus Global has not produced any evidence that the entire iPTS account was not CEC-related.

B. Paragraph 2 of iPTS' Objection

8. Paragraph 2 of iPTS' objection states that \$38,000 of funds identified on Exhibit E to the Motion for Judgment were for the sale of e-gold unrelated to CEC. As an initial matter, Exhibit E to the Motion for Judgment was an accounting of CEC-related deposits into the iPTS Account. Assuming, *arguendo*, that \$38,000 of the \$5.73 million in CEC-related deposits identified on Exhibit E to the Motion for Judgment was not CEC-related, this would still leave approximately \$4.99 million in CEC-related deposits when the Receiver is only trying to recover approximately \$1.4 million left in the iPTS Account. Second, and more importantly, the \$38,000 which iPTS claims is not related to CEC consists of a \$10,000 deposit by Diversified Partners, Ltd. on May 3, 2005 and a \$28,000 deposit by Cedax on February 15, 2005. *See* Exhibit E to Turnover Motion. As the Court is aware, Diversified Partners, Ltd., f/k/a Cedax previously agreed to turnover all funds in its accounts at VEF Banka pursuant to a Stipulated Order (Doc. # 84). Accordingly, iPTS is simply wrong in its assertion that this \$38,000 is not related to CEC.

C. Paragraph 3 of iPTS' Objection

9. Paragraph 3 to iPTS' Objection states that Exhibit F to the Motion for Judgment shows deposits that are not in the iPTS database nor in the iPTS Account statements. As an initial matter, Exhibit F to the Motion was never presented as an accounting of deposits into the iPTS Account. Rather, it was presented *solely* for the purposes of establishing the Court's jurisdiction over iPTS insofar as iPTS purposefully transacted business within the United States with United States citizens. Because iPTS has now dropped that defense, Exhibit F to the Motion for Judgment is irrelevant. Furthermore, it would only make sense that the dollar amounts reflected on Exhibit F to

the Turnover Motion are not all identifiable on the iPTS Account statements because Exhibit F reports the *allowed amount* of each holder's claim. Many of the investors invested in CEC via iPTS through multiple deposits over time. Furthermore, many holders of allowed claims have an allowed claim in an amount less than their total deposits because they received money back from CEC—each allowed claim is the difference between the total amount invested less the total amount that holder received back.

D. Paragraphs 4 and 5 of iPTS' Objection

10. Paragraphs 4 and 5 to iPTS' Objection allege that by comparing certain Microsoft Excel (.xls) files of Deposits and Withdrawals in the iPTS database makes clear that the Receiver has no rights to the funds in the iPTS Account and that it "feels" the funds in the iPTS Account "have very little to do with CEC." The Receiver has reviewed the data produced by iPTS and there is nothing in that data to suggest the funds presently frozen in the iPTS account are not CEC funds. Rather, iPTS has conveniently produced spreadsheets which allege all CEC-related funds were withdrawn from the account prior to the account being frozen. However, a review of the iPTS Account statements simply does not support iPTS' allegations. *See* Cook Decl., ¶ 10. Furthermore, the "accounting" provided by iPTS in its Objection is simply nonsensical and provides no basis for determining the iPTS Account funds are anything other than CEC investor deposits.

D. Conclusion of iPTS' Objection

11. Page 29 of 30 of iPTS' Objection states in conclusory fashion that it can clearly show all funds received and disbursed by Mr. David Tanner and that only

\$156,270.55 in the iPTS Account is for CEC. Again, iPTS claims simply belie the iPTS Account statements which do not show a *single* deposit or withdrawal by David Tanner. Rather, the deposits were made by CEC investors or in the name of Diversified Partners, Ltd. and Cedax, Ltd.—both companies owned and controlled by Mark Zarubi who has previously agreed to turnover investor funds held by these companies. *See* Cook Decl., ¶¶ 2 and Stipulated Order of Turnover (Doc. # 84).

CONCLUSION

12. iPTS has failed to provide any evidence to support that any of the funds in the iPTS Account are anything other than funds stolen from the CEC investors. The Receiver has traced the investor funds deposited into the iPTS Account and believes the entire account balance should be returned to the Receiver.

13. Counsel for the Commission has reviewed this Reply and concurs with the relief sought herein.

WHEREFORE, Receiver Larry E. Cook respectfully requests that this Court enter judgment in favor of the Receiver on his Motion for Turnover of Property of the Estate Transferred to iPTS, Inc and order iPTS, Inc. and VEF Banka to immediately return the iPTS Account funds to the Receiver.

Dated: June 8, 2007

Respectfully submitted,

LATHROP & GAGE L.C.

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Attorneys for Larry E. Cook, Receiver

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of June, 2007 I electronically filed the foregoing, with the Clerk of the Court for the District of Kansas, Topeka Division, by using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participants:

J. Kevin Edmundson, SEC

George Hegedus, President
iPTS, Inc.
50 Hamilton Drive
Newmarket, ON L3YE38
CANADA

/s/ Brian M. Holland
An attorney for Larry E, Cook,
Receiver

EXHIBIT A

DECLARATION OF LARRY E. COOK, RECEIVER

I, Larry E. Cook, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. Section 1746, that the following is true and correct, I am competent to testify as to matters stated herein, and this declaration is based on personal knowledge.

1. I am over 21 years of age. Since January 2000, I have been employed as a fraud examiner, investigator, and consultant providing investigative and consulting services to private and government clients nationwide. In this capacity, I have been appointed as a Receiver in U.S. District Court in Kansas in civil actions filed by the United States Securities and Exchange Commission. I am presently serving as Receiver in the case styled *SEC v. Tanner, et. al. ("CEC")*, Case No. 05-4057.

2. During the course of my duties in this case, I learned that iPTS, Inc. received at least \$5.7 million in CEC investor funds, including \$5 million in deposits by Diversified Partners Ltd. and Cedax Limited, in its VEF Banka account in Riga, Latvia. VEF Banka is the same bank where in excess of \$13 million of CEC investor funds were deposited in the name of Diversified Partners, Ltd. f/k/a Cedax Limited by Mark Zarubi, the beneficial owner of the Diversified/Cedax account. I did not find a single deposit or withdrawal from iPTS' VEF Banka account by "David Tanner."

3. I have reviewed the bank records of iPTS' account at VEF Banka, account number LV73VEFBNP30010096460 (the "iPTS Account"), and determined that iPTS was incorporated as an International Business Company in the Republic of Seychelles on January 17, 2005.

4. In reviewing various other records in this case, I have determined CEC began operating sometime in 2001.

5. The Latvian Prosecutor's Office, in conjunction with the Commission's Office of International Affairs, and the US Justice Department, froze the iPTS Account on or about May 31, 2005. The Latvian Prosecutor's Office reported there was approximately US\$1.4 million in the iPTS Account at the time it was frozen consisting of US\$978,684.31 and €3229,226.31.

6. In reviewing the iPTS Account records produced by VEF Banka, I identified \$5.73 million in CEC-related deposits. The remaining deposits could not be confirmed as CEC-related, nor could they be confirmed as not being CEC-related.

7. On or about May 11, 2007, iPTS's president, George Hegedus, provided me with a variety of spreadsheets and database information purportedly in support of its contention that the iPTS Account contained non-CEC funds. Mr. Hegedus claimed the funds belonged to "Argus Global, Ltd."

8. I conducted an investigation into Argus Global, Ltd. and found it was an alias for Argus Global Equities, Ltd. I determined this by locating Argus Global, Ltd.'s website (www.argusglobal.com) and running a "whois" search on the IP Address for the website. A true and correct copy of that report is attached hereto as **Exhibit A-1**. As evidenced by the report, www.argusglobal is owned by Argus Global Equities, Ltd. in Nevis.

9. I conducted further research and determined that Argus Global was the subject of two foreign securities regulatory commission's warning letters: the United Kingdom's Financial Services Authority issued a warning on September 2, 2004 and the

Securities Commission of the Bahamas issued a similar warning on September 22, 2005. In addition, the Nevis Financial Services Regulation and Supervision Department dissolved Argus Global on April 25, 2006. True and correct copies of the UK, Bahamas, and Nevis reports are attached hereto as **Exhibit A-2**.

10. In sum, I believe the entire balance of funds in the iPTS Account are the proceeds of the CEC scheme and should be returned to the Receivership Estate for distribution to the holders of allowed claims. Although I cannot determine that every single deposit into the iPTS Account was CEC-related, I can determine that CEC-investor funds were deposited into the account in an amount far greater than the current account balance.

I declare under penalty of perjury the foregoing is true and correct:

Date: June 8, 2007

/s/ Larry E. Cook
Larry E. Cook Receiver