

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

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SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

UNITED STATES SECURITIES )  
AND EXCHANGE COMMISSION, )

Plaintiff, )

v. )

CIVIL ACTION

JOHN E. BRINKER, JR., )

CASE NO. IP01-0259-C-H/G

GARY J. BENTZ, )

CASTLEROCK CONSULTING, LLC, )

GUARDIAN FIRST LIMITED, INC. )

(A NEVADA CORPORATION), )

GUARDIAN FIRST LIMITED, INC. )

(A GRENADA CORPORATION), )

WELLINGTON BANK AND TRUST, LTD., )

WELLINGTON CAPITAL HOLDINGS, )

LTD., INC., )

WELLINGTON CAPITAL HOLDINGS, LTD., )

WELLINGTON INTERNATIONAL )

INVESTMENTS, INC., )

WELLINGTON FIRST INTERNATIONAL )

INVESTMENTS, INC., AND ALL )

SUBSEQUENTLY NUMBERED )

WELLINGTON INTERNATIONAL )

INVESTMENTS, INC. ENTITIES, )

Defendants, )

and )

ALPHA ADVANTAGE II, INC., )

ELEVEN-EIGHTY-FIVE, LP AND )

STEADFAST MINISTRIES, INC. )

Relief Defendants. )

**RECEIVER'S MOTION FOR ABANDONMENT OF PROPERTY OF THE ESTATE**  
**(MOTOR VEHICLES)**

The Receiver herein, James A. Knauer, by counsel, for his Receiver's Motion for Abandonment of Property of the Estate (Motor Vehicles) ("Motion") states as follows:

## **PROCEDURAL BACKGROUND**

1. On February 27, 2001, this Court issued its Order of Permanent Injunction and other Equitable Relief. The Order froze the Defendants and Relief Defendants assets.

2. On March 21, 2001, this Court appointed James A. Knauer as Receiver over Relief Defendant Eleven Eighty-Five, LP ("1185).

## **FACTS**

3. Discovery undertaken by the Receiver, and disclosures made by the Defendants through their non-appearing counsel, has disclosed that the Defendants and 1185 leased and purchased numerous motor vehicles.

4. One of the receivership assets includes a 2001 Jaguar S-type motor vehicle. It appears that this vehicle was leased by 1185, and that it remains in Defendant John E. Brinker, Jr.'s possession at 746 Stonehill Run, Cincinnati, Ohio (or in the possession of his business associate Matt Powers). The vehicle identification number appears to be SAJDA01C3FL80314. Monthly lease payments are \$650, with a lease balance of approximately \$30,000. Upon information and belief, the lease payments are substantially in arrears, and the lessor has commenced replevin litigation in Ohio.

5. Another asset of the receivership includes a 2001 PT Cruiser in the possession of Defendant Brinker or his step-daughter Kelly at 746 Stonehill Run, Cincinnati, Ohio or 4287 Wellington Drive, Cincinnati, Ohio. This vehicle appears to have been purchased by 1185, and is subject to a purchase loan in the approximate amount of \$23,000, with a monthly payment of \$593.77. The monthly payments are substantially in arrears.

6. 1185 also leased a 2001 Dodge Durango, which is believed to be located at Brinker's 746 Stonehill Run, Cincinnati, Ohio residence. The VIN is 1B4HS28N21F536548, with monthly payments of \$500 and an approximate lease balance of \$31,882.93. The lease is in arrears.

7. 1185 also leased a 2000 Jaguar S-type. This luxury vehicle is believed to be at 775 Rue Center Court, Apt. 1, Cincinnati, Ohio 45245 (the residence of Defendant Brinker's sister-in-law, Cheryl Kepf). The VIN is SAJDA01C9YFL70669. Lease payments are \$581 per month, with a lease balance of approximately \$35,000. The lease payments are substantially in arrears, and it is understood that the lessor has commenced replevin litigation in Ohio.

8. 1185 also leased a 2001 Jaguar Van Dam Plas. The VIN is SAJDA2586YMF12287. Monthly payments are \$1,941.16, with an approximate remaining balance of \$63,000. 1185, in contravention of the lease agreement, purports to have leased the Jaguar to Mr. Tony Huelefeld, who was believed to reside at 6578 Wyndwatch Drive, Cincinnati, Ohio 45230. Upon information and belief, payments relevant to this luxury vehicle are substantially in arrears.

9. Discovery has disclosed that 1185 also leased a 1999 Chevrolet Suburban, which is believed to be located at Defendant Brinker's 746 Stonehill Run, Cincinnati, Ohio residence. Defendant Brinker's daughter Julianne Brinker is believed to be the primary user of this motor vehicle. The VIN is 3GKGK26JXG542766. The monthly lease payment is \$765.55, with an approximate lease balance of \$30,000. The lease payments are substantially in arrears.

10. 1185 also purchased a 1998 Chevrolet Corvette for the primary benefit of Defendant Brinker's daughter Julianne Brinker. The 1998 Chevrolet Corvette is presently located in storage at Dale Cook Moving & Storage, North Charleston, South Carolina. Monthly payments are \$981.42, with a payoff of approximately \$45,000. The lender is Jaguar Credit, and the monthly payments are substantially in arrears.

11. 1185 also purchased a 1998 Dodge Viper. Following Defendant Brinker's wreck of the Viper, the Viper has been located at 3 J's Wreck Teck, 602 Wayne Park Drive, Loveland, Ohio 45215. This vehicle is subject to a balance of \$56,000, with monthly payments of \$1,198.59. Further, this vehicle is subject to a repair bill of \$9,010.11.

12. One of the few assets owned free and clear by 1185 is a 1986 Mercury Capri (McLaren). The receiver previously demanded possession of the vehicle from Mr. Brinker, but it was not surrendered. Until recently, this vehicle was used by Defendant Brinker and stored at his 746 Stonehill Run residence. Upon information recently obtained by the Receiver, Mr. Brinker wrecked this vehicle, which is presently in the possession of Collins Auto Body on Mount Carmel Tabasco Road, Cincinnati, Ohio, telephone number 513-528-0835.

13. With the exception of the McLaren Mercury described in the preceding paragraph, neither 1185 nor the estate have any interest in the specifically-described motor vehicles subject to administration by your Receiver.

14. The above-described motor vehicles (with the exception of the McLaren Mercury) ("Motor Vehicles") should be abandoned from the receivership estate as being burdensome thereto.

15. The Receiver has been advised by entities seeking to recover the above-described motor vehicles that the Defendant John E. Brinker, Jr. and his daughter Julieann Brinker have consistently refused to surrender possession of the motor vehicles to those parties seeking to recover them pursuant to contract and Ohio law.

**APPLICATION OF FACTS TO THE LAW**

16. Pursuant to S.D. Ind. L.R. 66.1(e), receivership estates should be administered “as nearly as maybe in accordance with the practice in the administration of estates in bankruptcy [.]”

17. Pursuant to Bankruptcy Code Sec. 554 (11 U.S.C. Sec. 554) the Trustee (in this case, Receiver) may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

20. To reduce the likelihood or to minimize any potential claims by motor vehicle sellers or lessors against the receivership estate, the Receiver requests that the Motor Vehicles be abandoned from the receivership estate.

**REQUEST FOR RELIEF**

The Receiver respectfully requests that the above-described motor vehicles be abandoned from the receivership estate, that Defendant John E. Brinker, Jr. individually and as the manager of 1185 be ordered to cooperate fully with the surrender of the motor vehicles, and that the Court provide all other necessary relief.

Kroger, Gardis & Regas, L.L.P.

By: James A. Knauer 1/31/17  
James A. Knauer, Receiver

Kroger, Gardis & Regas, L.L.P.  
111 Monument Circle, Suite 900  
Indianapolis, Indiana 46204-5125  
(317) 692-9000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been served upon the following parties by placing a copy of the same in the United States Mail, first class postage pre-paid, on this 12<sup>th</sup> day of July, 2001:

Thomas J. Eme  
Scott Hlavacek  
United States Securities and Exchange Commission  
500 West Madison Street  
Suite 1400  
Chicago, Illinois 60661-2511

John E. Brinker, Jr.  
9378 Mason-Montgomery Road #102  
Mason, OH 45440

Gary J. Bentz  
11961 Fallcreek Lane  
Loveland, Ohio 45140-4809

  
James A. Knauer

**Kroger, Gardis & Regas, L.L.P.**  
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