

contending that 1) the Receiver lacks the authority to bring such a motion, and 2) that Pinkett has already substantially complied with the Court's Order.

Contrary to Pinkett's contention, the Commission believes that the Receiver is ideally suited to bring the present motion. The Receiver was appointed in this case by the Court for a number of purposes, including the identification, marshalling and managing of the assets of IFC, preserving IFC investor assets against further misappropriation and dissipation, the ongoing management of IFC and clarification of the entity's financial affairs, and ultimately devising and implementing plans for the distribution of potentially ill-gotten gains back to defrauded investors.

The receiver is empowered, by virtue of this Court's order, to carry out these purposes. See SEC v. Elfindapan, S.A., 169 F.Supp.2d 420, 424 (M.D.N.C.2001)(" Because the receiver is under the direct control of the court, which defines the receiver's powers and places limitations upon her, the scope and nature of a particular receivership will depend on the language of the order appointing the receiver."). To this end, the Court specifically provided the Receiver with numerous powers designed to enable the Receiver to identify and locate IFC investor assets, including the power "to institute, defend, compromise or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted," the power to "institute such actions or proceedings to impose a constructive trust, obtain possession and/or recover judgment with respect to persons or entities who received assets or funds traceable to investor monies," and the power to "investigate any matters he deems appropriate in connection with discovering additional information as it relates to the activities of the Receiver Estate," including the power

to compel the production of documents or testimony from any person, including Defendant Pinkett. See January Order Appointing Receiver, paragraphs 3(i)-(j), 10(a).

Pinkett acknowledges in his Opposition that records relating to the disbursement of IFC funds show that he received \$5 million. Yet, notwithstanding his claim that he has already substantially complied with the Court's Order, Pinkett has not offered any explanation of where the \$5 million went once he took possession of it, much less provide a sworn representation of the status of the funds. The Court's Order of December 12, 2006, clearly requires each defendant, including Pinkett, to identify all assets, which includes providing an accounting of "[a]ll securities, funds, real estate, and other assets held in their names" or in which they held any direct or indirect beneficial interest since July 1, 2003, a description of all bank or brokerage accounts held in their names, and an accounting of every transaction in which assets were transferred by any defendant since July 1, 2003.

Inasmuch as Pinkett has failed to account for his assets, including the \$5 million that he received from IFC, he has failed to comply with this Court's Order. Moreover, the powers specifically provided to the Receiver by the Court clearly give the Receiver the power to take all reasonably necessary steps to learn the disposition of "funds traceable to investor monies." This includes invoking the power of the Court to effect compliance with its Orders requiring the production of such information. See SEC v. Elfindapan, S.A., 169 F.Supp.2d at 427-429 (rejecting the argument that receiver lacked standing to seek an order compelling compliance with subpoena and granting the motion to compel).

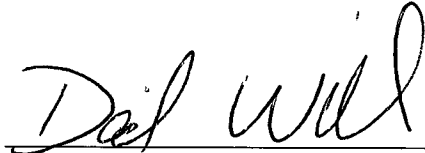
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CONCLUSION

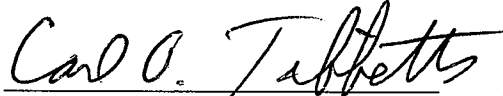
Because Pinkett has not complied with the Order of this Court, the Court should grant the Receiver's motion and take whatever steps are necessary to obtain compliance with this Court's Order.

Dated: Washington, D.C.
May 16, 2007

Respectfully submitted,



A. David Williams (Pro Hac Vice)



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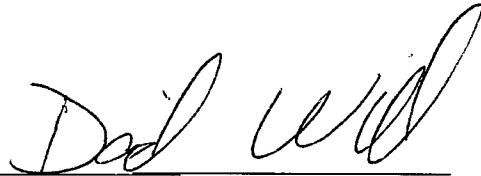
CERTIFICATE OF SERVICE

I HERBY CERTIFY that on May 16, 2007, I mailed the foregoing Memorandum in Support of Receiver's Motion for Show Cause Order to:

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A handwritten signature in cursive script, appearing to read "David Williams", written over a horizontal line.

A. David Williams