

FILED

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CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

BY  DEPUTY

7 Attorneys for claimants,
 8 Chelsea Murgatroyd and Jack Murgatroyd

9 UNITED STATES BANKRUPTCY COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 NORTHERN DIVISION

12 In re) Case No. ND-01-11549-RR [Substantively
 13 REED E. SLATKIN and Substantively) Consolidated With Former Case No. ND-01-
 14 Consolidated Affiliates TOPSIGHT) 12990-RR]
 15 OREGON, LLC, and REED SLATKIN) "BY FAX"
 16 INVESTMENT CLUB, L.P.,) [Chapter 11 Case]
 17) Adv. No. ~~AD-02-1218-RR~~
 18) Judge: Hon. Robin L. Riblet
 19) NOTICE OF OBJECTIONS AND
 20) JOINDER TO OBJECTIONS BY
 21) CLAIMANTS CHELSEA AND JACK
 22) MURGATROYD TO PROPOSED
 23) CHAPTER 11 PLAN DATED JANUARY
 24) 30, 2003 AND MEMORANDUM OF
 25) POINTS AND AUTHORITIES IN
 26) SUPPORT OF OBJECTIONS
 27)
 28) Debtors.) Date: June 2, 2003
) Time: 10:00 a.m.
) Place: 1415 State Street
) Courtroom 201
) Santa Barbara, California

23 TO THE HONORABLE ROBIN L. RIBLET, UNITED STATES BANKRUPTCY JUDGE,
 24 THE CHAPTER 11 TRUSTEE, THE OFFICIAL COMMITTEE OF UNSECURED
 25 CREDITORS, THE DEBTOR AND THE UNITED STATES TRUSTEE:

26 PLEASE TAKE NOTICE, that, Chelsea and Jack Murgatroyd (jointly and severally, the
 27 "Objecting Parties"), pursuant to Federal Rule of Bankruptcy Procedure 3020, HEREBY OBJECT
 28 to the proposed Chapter 11 Trustee And Creditor Committee's Joint Plan Of Reorganization Dated

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jg

1 January 30, 2003 (the "Plan") submitted by R. Todd Neilson, trustee (the "Trustee") of the Chapter
2 11 bankruptcy estate (the "Estate") of Reed E. Slatkin ("Slatkin" or "Debtor") and the Official
3 Committee of Unsecured Creditors appointed in Slatkin's Bankruptcy Case (the "Committee"), on
4 the following ground, and for the reasons stated herein and in the papers filed in support hereof:

5 The Plan cannot be confirmed because the Plan does not comply with Section 1129(a)(1)(2)
6 and (3) of the Bankruptcy Code [11 U.S.C. § 1129(a)(1)(2)(3)], in that the Disclosure Statement to
7 Accompany Chapter 11 Trustee and Creditors' Committee's Joint Plan of Reorganization fails to
8 disclose the Trustee's intention to litigate against and seek recovery from the Church of
9 Scientology, a fact which a substantial number of creditor claimants, many of whom are Church
10 members, would consider material in making their decision to approve or reject the proposed Plan.
11 Notwithstanding, this fact was not disclosed until March 26, 2003, in a newspaper article, seven
12 weeks after the Disclosure Statement was approved and after the ballots were sent out,
13 accompanied by the approved Disclosure Statement. This objection is based upon the
14 memorandum of points and authorities, the declaration of Paul J. Hedlund, and a March 26, 2003
15 Los Angeles Times article entitled "Victims of Scam Target Church" which are filed and served
16 concurrently herewith, together with the records and papers on file with the Court, and such other
17 and further evidence as may be presented at the hearing to consider the Objections and
18 confirmation of the Plan.

19 Chelsea and Jack Murgatroyd hereby join in and object on the grounds asserted by those
20 certain Objectors in their Notice of Objection and supporting documents filed and served herein on
21 May 2, 2003 by and through the law offices of Danning, Gill, Diamond & Kollitz, LLP.

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23 Dated: May 5, 2003

BAUM, HEDLUND, ARISTEI, GUILFORD &
SCHIAVO

24
25
26 By: 

Paul J. Hedlund
Attorneys for Objecting Parties In Interest,
Chelsea and Jack Murgatroyd

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I. INTRODUCTION

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Chelsea and Jack Murgatroyd are the children of George and Tracy Murgatroyd. George and Tracy Murgatroyd had several investment accounts with Reed Slatkin, one for them, a retirement account and ones for Chelsea and Jack Murgatroyd. George and Tracy Murgatroyd have been sued as alleged "debtors" of the Slatkin Bankruptcy Estate, whereas Chelsea and Jack Murgatroyd have been acknowledged as "creditors" of the Estate. Chelsea and Jack Murgatroyd's account each suffered a net loss of \$22,500 as a consequence of Slatkin's filing bankruptcy. Proofs of Claims were submitted on their behalf, which the Trustee disputed at the level they were filed, but accepted at the net losses of \$22,500 each. The Murgatroyds are members of the Church of Scientology.

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II. Objection to the Plan

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Chelsea and Jack Murgatroyd object to confirmation of the Proposed Chapter 11 Plan Dated January 30, 2003 on the basis that the Disclosure Statement that accompanied the Proposed Plan failed to state that the Church of Scientology would be a target of the Trustee's fraudulent transfer litigation. This failure to disclose such a material fact to the Slatkin Bankruptcy Estate creditors who are Church members or are sympathetic to the Church is inconsistent with the requirement of good faith disclosure embodied in 11 U.S.C. 1129(a)(3). The fact that the Trustee intends to sue the Church was not disclosed until March, 2003, seven weeks after the Disclosure Statement was approved by this Court on February 5, 2003. Voting to accept or reject the Proposed Plan, or objecting to the plan, required knowing what the facts were. Having failed to disclose the intention to sue the Church of Scientology prevented knowledge that would likely have led to more rejections and objections to the plan.

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11 U.S.C. 1129(a)(3) states that the court shall confirm a plan only if "the plan has been proposed in good faith and not by any means forbidden by law." A plan's disclosure statement that fails to disclose or conceals a material fact is not in good faith, hence it cannot be confirmed. Here, the Disclosure Statement solicits approval of the Proposed Plan from creditors that include a substantial number of Scientologists or their families and friends. It is well known, and the

1 Trustee's First Interim Report indicated, that a substantial number of the investors that Slatkin
2 recruited were members of the Church of Scientology. Notwithstanding, nothing in the Disclosure
3 Statement suggests that the Trustee intended to sue that Church. This would be a material fact in
4 weighing whether or not to vote in favor of a Proposed Plan. Placing Scientologists in the position
5 of supporting a plan that would involve suing their Church is not something they would take
6 lightly. A plan seeking approval that included suing and recovering assets from the Church would
7 likely face resistance from church member creditors.

8 The Disclosure Statement that was approved on February 5, 2003, accompanied the ballots
9 seeking approval of the Proposed Plan. Pages 45 to 62 of the Disclosure Statement identify a
10 number of entities and individuals against whom the Trustee intended to maintain litigation and
11 seek recovery. The causes of actions and targets of the causes of action that the Trustee intends to
12 maintain are discussed at length in the Disclosure Statement. There is no mention of suing the
13 Church of Scientology or any of its affiliates. Yet, on March 26, 2003, seven weeks after the
14 Disclosure Plan was approved, after the Disclosure Statements and ballots were sent out to
15 creditors for approval or rejection, the Trustee's counsel revealed that they indeed did intend to
16 seek recovery of tens of millions of dollars from the Church of Scientology. The March 26, 2003
17 Los Angeles Times Business section reported "Victims of Scam Target Church" and states:

18 Lawyers for the trustee and the creditors contend that proves the "profits" he
19 distributed were ill-gotten, whether the investors knew it or not, and must be
20 returned... Legally, there is no protection for third parties such as the Church of
21 Scientology if it can be shown that they received supposed profits from Slatkin, said
22 Alexander Pilmer, an attorney for the trustee and creditors. He added that there's a
23 potential for significant recoveries from the organizations... "We believe that
24 Scientology entities received tens of millions of dollars from Slatkin or from
25 Slatkin's Ponzi Scheme," Pilmer said. (Exhibit 1 to Hedlund Decl.)

26 Targeting the Church of Scientology for tens of millions of dollars was not in the disclosure
27 statement. This only came to light after the Disclosure Statement had been approved by this Court,
28 and after the ballots were sent out, accompanied by the Disclosure Statement. Failure to disclose in

1 a Confirmation Plan the parties against whom suits will be brought has resulted in estoppel from
2 seeking such actions. See e.g., Trulis v. Barton, 107 F3d 685 (9th Cir. 1995). Although the party
3 being threatened with suit is not being requested to sign a ballot approving the plan as in Trulis, its
4 members are being requested to approve a plan with the undisclosed intent to sue their Church.
5 Good faith disclosure is required of plans seeking confirmation and implementation.

6 With the intent to sue the Church, it would be incumbent upon a party acting in good faith
7 not to solicit acceptances of the Proposed Plan from Scientologists or their friends and family
8 members unless and until they modified the Disclosure Statement and stated they intended to sue
9 the Church for millions of dollars. That was not done here. Consequently, the Proposed Plan
10 cannot be confirmed because a material fact was omitted, inconsistent with the good faith
11 requirements of 11 USC 1129(a)(3).

12 Chelsea and Jack Murgatroyd hereby join in and object on the grounds asserted by those
13 certain Objectors in their Notice of Objection and supporting documents filed and served herein on
14 May 2, 2003 by and through the law offices of Danning, Gill, Diamond & Kollitz, LLP.

15 III. CONCLUSION

16 This appears to have been a tricky move by the Trustee, the Creditors' Committee and their
17 counsel—a kind of bait and switch with which this Court should not allow itself to be associated by
18 confirming the plan based on the defective Disclosure Statement. The Trustee and his counsel
19 solicited approval on one set of facts, knowing that the Plan was at risk of getting rejected by the
20 Scientologist creditors. Instead of facing this dilemma head on and attempting to deal with the fall
21 out, the Disclosure Statement was issued without this most material fact for Scientologists, their
22 families and their friends. Whether it was done intentionally or not may be the subject of future
23 discovery and litigation, but on its face, intending to sue and seek recovery from the Church of
24 Scientology was clearly a material fact that ought to have been part of the group of facts creditors
25 were given to weigh when deciding whether to approve or reject the Proposed Plan. Confirmation
26 under these circumstances would be tainted. There is an aura, if not an absolute fact, of bad faith.

27 Voters evaluating whether to accept or reject the plan had a right to know what the Trustee,
28 the Creditors' Committee and their lawyers intended to do. Placing the intent to sue the Church of

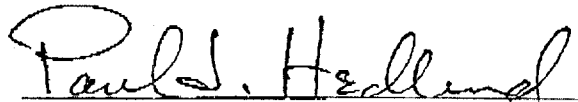
1 Scientology in the Disclosure Statement would have provided needed information to determine
 2 whether to file objections or vote to reject the Proposed Plan. People may have been induced not
 3 to vote at all, having been lulled into a state of false security, which had they known the full
 4 picture, they might have been more proactive in objecting to or rejecting the plan.

5 At a minimum, the Trustee and his counsel need to revise and re-submit the Disclosure
 6 Statement, incorporating and publishing their intent to sue the Church of Scientology before they
 7 can be permitted to solicit approval from Scientologists of their Proposed Plan. The Disclosure
 8 should also probably include a copy of the Los Angeles Times article. For all of the reasons set
 9 forth herein, confirmation of the Plan must be denied.

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Dated: May 5, 2003

BAUM, HEDLUND, ARISTEI, GUILFORD & SCHIAVO

By 
 Paul J. Hedlund
 Attorneys for Objecting Parties In Interest,
 Chelsea and Jack Murgatroyd