

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No.: 09-20526-CIV-GOLD/McALILEY  
Special Master - Thomas E. Scott

KLAUS HOFMANN,

Plaintiff,

vs.

EMI RESORTS, INC., et al.

Defendants.

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**SPECIAL MASTER'S ORDER REGARDING  
JUNE 5, 2009, TELEPHONE STATUS CONFERENCE**

In compliance with Judge Gold's Interim Order Following Hearing on Preliminary Injunction; Preliminarily Appointing Special Master [D.E. 348]; a telephonic status conference occurred on Friday, June 5, 2009, for the purposes of complying with Judge Gold's Order regarding the first phase of the Special Master's role. The purpose of the telephonic hearing was to prepare an initial report to Judge Gold by Monday June 22, 2009.

The undersigned conducted the one (1) hour hearing in which the parties were represented by counsel for the *Hofmann* and *Aguilar* Plaintiffs and *Elliott* Defendants. The Special Master heard key points from the parties on the issues of: 1) investigation; 2) the business and accounting of the projects; 3) *ex parte* communications; 4) objections to appointment of the Special Master; 5) other pending suits both within the United States and in other countries involving the parties and non-parties which may directly impact the

subject action; and 6) the two (2) temporary restraining orders from the Court in the Dominican Republic entered in both April, 2009, and May, 2009.

Accordingly, it is hereby

ORDERED AND ADJUDGED as follows:

1. A two (2) hour hearing is scheduled before the Special Master on Tuesday, June 9, 2009, beginning at 1:45 p.m. The hearing will be held at the offices of the Special Master, Cole, Scott & Kissane, P.A., Dadeland Centre II, 9150 South Dadeland Boulevard, 14<sup>th</sup> Floor, Miami, Florida. Counsel for the Plaintiffs who are unable to attend the hearing in person and desire to attend the hearing via telephone, are to contact my paralegal, Tracy Carhart, by 5:00 p.m., Monday, June 8, 2009, so arrangements can be made for telephonic attendance via an international conference line.
2. The June 9, 2009, hearing shall address the following issues:
  - (1) Scope of the Special Master's proposed duties for each phase of his role in the litigation and how the case shall proceed;
  - (2) Budget proposal to be submitted to Judge Gold;
  - (3) Status of confidentiality agreement;
  - (4) Discovery plan;
  - (5) Status of any and all trust accounts, escrow accounts, bank accounts in the United States, Dominican Republic and offshore accounts

relating to projects which are the subject of this litigation;

- (6) Status of pending litigation in the forums other than the subject litigation including California, Idaho, Utah, Turks and Caicos and Dominican Republic; and
  - (7) Overview of how the litigation should proceed before the Special Master.
3. As to Paragraph 2.(2) above, regarding the budget proposal, the parties shall address where the funding will be derived.
  4. Regarding paragraph 2.(3) above, the *Hofmann* and *Aguilar* Plaintiffs shall prepare a submission to the Special Master by 5:00 p.m., Monday, June 8, 2009, briefing their respective positions and areas of objections regarding the issues of a confidentiality agreement, the parameters of such agreement and the parties to be affected. The *Elliott* Defendants shall submit a proposed confidentiality agreement by the same time.
  5. Regarding paragraph 2.(5), the parties shall submit to the Special Master a briefing on the status of any and all monetary accounts including, but not limited to, trust accounts, escrow accounts, bank accounts in the United States, Dominican Republic and any offshore accounts relating to the projects which are the subject of this litigation.
  6. Regarding paragraph 2.(6), the parties are to provide to the Special Master

by Monday, June 8, 2009, by 5:00 p.m., a list of the pending suits and their status including, but not limited to, the named Plaintiffs as well as Impact and Impact-related individuals and Defendants. The list shall include the style of the case, the case number, the court jurisdiction and subject matter of the litigation. The briefing is to include the background and status of the two (2) temporary restraining orders issued in the Dominican Republic.

7. If the parties so desire to submit a briefing on each of the issues listed in paragraph 2 above, which are to be addressed at the hearing, the parties are invited to do so by 5:00 p.m. on Monday, June 8, 2009.
8. If the parties have objections to Thomas E. Scott as the Special Master in these proceedings, a Motion should be filed with the Court within ten (10) days of the June 5, 2009, hearing. The objections issue shall be determined and ruled on by Judge Gold.
9. The Special Master will not engage in any *ex parte* communications until further determination by the Court.

**DONE AND ORDERED** in Miami, Florida, this 8th day of June, 2009.



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SPECIAL MASTER THOMAS E. SCOTT

Copies furnished to:

All counsel of Record (via CM/ECF)  
U.S. District Judge Alan S. Gold