

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

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SECURITIES AND EXCHANGE COMMISSION :

Plaintiff,

vs.

Case No. 09-C-506
Hon. William C. Griesbach

WEALTH MANAGEMENT LLC; JAMES
PUTMAN and SIMONE FEVOLA

Defendants, and

vs.

WML GRYPHON FUND LLC; WML WATCH
STONE PARTNERS, L.P.; WML PANTERA
PARTNERS, L.P.; WML PALISADES
PARTNERS, L.P.; WML L3, LLC; and WML
QUETZAL PARTNERS, L.P.

Relief Defendants.

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**RULE 7.4 EXPEDITED NON-DISPOSITIVE MOTION OF RIEK & ASSOCIATES, LLC
TO CLARIFY OR MODIFY FREEZE ORDER**

Pursuant to Civil L.R. 7.4, Riek & Associates, LLC. (“Riek & Associates”), an interested party, hereby moves the Court for an order clarifying the scope of the ORDER FREEZING ASSETS, entered May 20, 2009, and extended by ORDER EXTENDING ASSET FREEZE entered May 26, 2009. In support of its motion, movant states as follows:

1. This action was commenced by the filing of a complaint on May 20, 2009 by the United States Securities and Exchange Commission against Defendants Wealth

Management LLC (“Defendant WM”), James Putnam and Simone Fevola, and Relief Defendants WML Gryphon Fund LLC, WML Watch Stone Partners, L.P., WML Pantera Partners, L.P., WML Palisade Partners, L.P., WML L3 LLC, and WML Quetzal Partners, L.P.

2. On May 20, 2009, on emergency motion of the SEC, this Court entered an Order Freezing Assets (“Freeze Order”). The Freeze Order was extended by order entered May 26, 2009.

3. The Brown Investment Fund LP (the “Brown LP”) is a limited partnership organized under the laws of the State of Delaware.

4. Wood, Hat and Silver LLC (“WHS”) is a limited liability company organized under the laws of the State of Delaware.

5. WHS is the general partner of Brown LP.

6. Riek & Associates is a Wisconsin limited liability company, with its principal place of business at W 1903 Belle Mapps Court, Green Lake, Wisconsin.

7. Riek & Associates is neither a “creditor” or “investor” of any of the Defendants or Relief Defendants, as the terms “creditor” and “investor” are defined in the Receiver’s Second Amended Proposed Plan for the Allocation of Assets filed in this action (Docket #164) (“Receiver’s Allocation Plan”) at p. 19.

8. Brown LP is the maker, and Riek & Associates is the holder, of a 2-year promissory note dated September 1, 2007, in the principal amount of \$300,000.00, with an interest rate of 12% (the “Note”). A copy of the Note is attached as Exhibit 1.

9. The Note was fully due and payable as of September 1, 2009.

10. Brown LP has refused to pay the Note, despite the fact that the Note is fully due and payable, and demand for payment has been made on Brown LP and its general partner, WHS, by Riek & Associates.

11. The Freeze Order, as extended, states, in pertinent part, as follows:

IT IS HEREBY ORDERED that, **Defendant WM, and Relief Defendants the WM Funds**, . . . hold and retain within their control, and otherwise prevent any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment, or other disposal of any corporate, partnership, or funds, or other properties (including money, real or personal property, securities, chose in action or property of any kind whatsoever) of Defendant WM or Relief Defendants the WM Funds currently held by them or under their control . . .

(emphasis in original)

12. WHS has cited the existence of the Freeze Order as the reason why WHS is not paying the Note. WHS has also indicated that the Receiver in this action has advised it that the Freeze Order precludes WHS from paying the Note.

13. Riek & Associates respectfully contends that the Freeze Order, by its own terms, does not in any way preclude Brown LP from paying the Note.

14. Brown LP is not a Defendant or Relief Defendant in this proceeding, and Riek & Associates is neither a “creditor” nor “investor” of any of the Defendants or Relief Defendants.

15. The prohibitions set forth in the Freeze Order, as extended, do not prohibit Brown LP from paying obligations owed to persons who are not Defendants, Relief Defendants or investors or creditors of Defendants or Relief Defendants.

The moving party, Riek & Associates, LLC, respectfully moves the Court for an order clarifying and declaring that the Freeze Order, as extended, does not preclude Brown LP from paying obligations owed to persons who are not Defendants, Relief Defendants, or

investors or creditors of Defendants or Relief Defendants, which obligations of Brown LP include the repayment of the Note. In the alternative, should the Court find that the Freeze Order does apply to freeze the assets of Brown LP, Riek & Associates respectfully moves the Court for an order modifying the Freeze Order to allow Brown LP to pay the amount due Riek & Associates, as a secured creditor of Brown LP, before Brown LP makes any distributions to its unsecured creditors or equity holders. In support of this motion, Riek & Associates refers the Court to the Brief in Support of Motion of the Joanne Miller Trust to Clarify Asset Freeze Order filed herein on December 18, 2009. (Docket #185.)

Dated this 21st day of December, 2009.

HERRICK, FEINSTEIN LLP

By: s/David M. Rosenfield
David M. Rosenfield, Esq.
2 Park Avenue
New York, NY 10016
(212) 592-1513
Attorneys for Movant Riek & Associates, LLC

Email address: drosenfield@herrick.com

PROMISSORY NOTE

\$300,000.00

September 1, 2007

FOR VALUE RECEIVED, the undersigned, The Brown Investment, LP, a Delaware limited partnership with its principal place of business at 557 Third Street East, Sonoma, CA 95476 ("Borrower"), promises to pay to the order of the Riek & Associates, LLC, a Wisconsin limited liability company, with its principal place of business at 104 E. Summit Street, Markesan, WI 53946, ("Lender"), at Lender's principal office or such other address as Lender shall designate from time to time in lawful money of the United States of America and in immediately available funds, the principal sum of THREE HUNDRED THOUSAND Dollars even (\$300,000.00), together with interest from the date hereof on the unpaid balance hereof remaining unpaid.

1. Interest. Interest shall accrue on the outstanding principal amount of this Note at a simple rate equal to 12% per annum computed on the basis of a 360-day year.

2. Principal.

(a) Payments. The principal balance of this Note, and all accrued and unpaid interest thereon, shall be due and payable on September 1, 2009 (the "Maturity Date"). If the Maturity Date is not a day on which banks are open for business in the state of California (a "Business Day"), Borrower shall make such payment on or before the next day that is a Business Day.

(b) Prepayments. Upon five (5) days prior notice to Lender, Borrower may, at any time, from time to time without premium or penalty, prepay all or any portion of the outstanding principal amount of the Note; *provided, however,* that any prepayment will be applied first to accrued and unpaid interest, then to outstanding principal.

3. Default. Notwithstanding anything to the contrary contained herein, if any of the following conditions or events (each, an "Event of Default" and collectively, the "Events of Default") shall occur and be continuing:

(a) Involuntary Bankruptcy; Appointment of Receiver, Etc. (1) A court having jurisdiction in the premises shall enter a decree or order for relief in respect of Borrower in an involuntary case under the United States Bankruptcy Code or any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, which decree or order is not stayed; or (2) an involuntary case is commenced against Borrower under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect in which a decree or order of a court having jurisdiction in the premises for the appointment of a receiver shall have been entered and continues for sixty (60) days unless dismissed, bonded, stayed, vacated or discharged; or

(b) Voluntary Bankruptcy; Appointment of Receiver, Etc. Borrower shall have an order for relief entered with respect to it or commence a voluntary case under the United States Bankruptcy Code or any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, or shall consent to the appointment of or taking possession by a receiver for all or a substantial part of its property; or the making by Borrower of any assignment for the benefit of creditors; or in the event of any liquidation, dissolution or winding up of Borrower, either voluntary or involuntary; or

Exhibit 1

1725061.01

(c) Failure to Make Payment. Borrower fails to pay the principal balance and all accrued and unpaid interest thereon on the Maturity Date.

THEN, upon the occurrence of any Event of Default described in this Section 3, upon written notice to Borrower by Lender, (a) Lender may declare the principal amount, and accrued but unpaid interest thereon, to be forthwith due and payable in cash, and (b) Lender may exercise any or all rights and remedies available to it hereunder or under applicable law or otherwise.

4. Security. The repayment of the principal amount, and accrued interest thereon, is secured by the Borrowers collateral as more particularly described on Exhibit A hereto.

5. Presentment; Demand. Borrower hereby waives any right to presentment, demand, protest or notice of dishonor and protest of this Note and any other notice, and any set-off against sums due and payable under this Note that Borrower may have or claim to have against Lender.

6. Unconditional Payment. Borrower is and shall be obligated to pay principal and any and all other amounts which become payable hereunder absolutely and unconditionally and without any abatement, postponement, diminution or deduction and without any reduction for counterclaim or setoff.

7. Usury. If, from any circumstances whatsoever, the fulfillment of any provision of this Note involves transcending the limit of validity prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then the obligation to be fulfilled will be reduced to the limit of such validity as provided in such statute or law so that in no event shall any exaction of interest be possible under this Note in excess of the limit of such validity. In no event shall Borrower be bound to pay interest of more than the legal limit for the use, forbearance or detention of money and the right to demand any such excess is hereby expressly waived by Lender.

8. Governing Law. This Note shall be governed by and construed under the laws of the State of California applied to contracts between residents of said State and executed and wholly performed in said State.

9. Notices. Except as otherwise expressly provided herein, any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given or delivered (as the case may be) upon personal delivery (professional courier permissible) or when mailed by registered or certified United States mail, three (3) business days after deposit in the United States mail. Such notice may be personally delivered or sent to the addresses of the parties set forth herein above, or to such other addresses of which the parties shall have given notice pursuant hereto.

10. Amendments. Any term of this Note may be amended only with the written consent of Borrower and Lender.

11. Severability. If one or more provisions of this Note are held to be unenforceable under applicable law, such provision shall be excluded from this Note and the balance of this Note shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

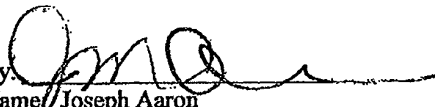
12. Attorneys' Fees. If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of this Note the prevailing party shall be entitled to reasonable attorneys' fees, costs and disbursements in addition to any other relief to which such party may be entitled.

13. Assignment. Borrower shall not be entitled to assign all or any portion of Borrower's performance obligations under this Agreement without the prior written consent of Lender or its

successors or assigns, which consent may not be unreasonably withheld. Lender shall not be entitled to assign its right to receive payment under this Note to another corporation or business entity without the prior written consent of Borrower or its successors or assigns, which consent may not be unreasonably withheld. Subject to the preceding sentences, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

The undersigned has executed this Promissory Note as of the date first set forth above.

The Brown Investment Fund, LP
By Wood, Hat & Silver, LLC, its General
Partner

By: 
Name: Joseph Aaron
Title: Managing Member

Agreed and Accepted by:

Riek & Associates, LLC

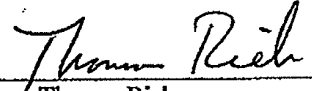
By: 
Name: Thomas Riek
Title: President

Exhibit A

Pledged Assets

Note Receivable from The Betty S. Perell Irrevocable Insurance Trust \$486,314