

CAUSE NO. DC-12-02789
(Consolidated)

LLOYD REGNER, ET AL,

Plaintiffs,

v.

DAVID GLENWINKEL, ET AL

Defendants,

NISCO ENTERPRISES, LLC and
KEVIN DEVOTO,

Plaintiffs,

v.

LLOYD REGNER, ABC
ADMINISTRATIVE SERVICES, LLC,
CRLK, LLC, LRKD AUTO, LLC, R&D
MARKET DEVELOPMENT, LLC,
REGDEV, LLC, ABC DEBT RELIEF,
LTD. CO., THE DEBT ANSWER, LLC,
and STEPHANIE CHERWIN

Defendants

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

193RD JUDICIAL DISTRICT

PLAINTIFFS' FIRST AMENDED PETITION

COMES NOW Plaintiffs NISCO Enterprises, LLC and Kevin Devoto and file this their Plaintiffs' First Amended Petition, complaining of the actions of Defendants Lloyd Regner, ABC Administrative Services, LLC, CRLK, LLC, LRKD Auto, LLC, R&D Market Development, LLC, REGDEV, LLC, ABC Debt Relief, Ltd. Co., The Debt Answer, LLC, and Stephanie Cherwin, and would respectfully show this Court as follows:

I.

DISCOVERY CONTROL PLAN

1. Plaintiffs intend to conduct discovery under a Level 3 Discovery Control Plan.

II.

JURISDICTION AND VENUE

2. Jurisdiction and venue are both proper in this District Court of Dallas County, Texas.

III.

PARTIES

3. Plaintiff NISCO Enterprises, LLC ("NISCO") is a Nevada Limited Liability Company.

4. Plaintiff Kevin Devoto ("Devoto") is a resident of Collin County, Texas.

5. Defendant Lloyd Regner ("Regner") has already appeared in this action.

6. Defendant ABC Administrative Services, LLC has already appeared in this action.

7. Defendant CRLK, LLC has already appeared in this action.

8. Defendant LRKD Auto, LLC has already appeared in this action.

9. Defendant R&D Market Development, LLC has already appeared in this action.

10. Defendant REGDEV, LLC has already appeared in this action.

11. Defendant ABC Debt Relief, Ltd. Co. has already appeared in this action.

12. Defendant The Debt Answer, LLC has already appeared in this action.

13. Defendant Stephanie Cherwin ("Cherwin") is believed to be a resident of Dallas County, Texas and may be served at 12655 North Central Expressway, Suite 800, Dallas, TX 75243

IV.

INTRODUCTION

14. This case involves an unlawful seizure of the control of businesses by Regner, the 50% owner, to the exclusion of the other owner, and the systematic looting and mismanagement of these businesses by Regner with the active assistance of Cherwin, his once estranged but now apparently reconciled spouse. Cherwin filed an Original Petition for Divorce with the 302nd Judicial District Court, Dallas County, Texas (Cause No. DF-11-17266) on October 4, 2011 citing "marriage unsupportable due to conflict and discord of personalities." The businesses in question were owned 50% each by Devoto and Regner. Devoto sought to sell his interests to NISCO and Regner agreed. Regner then reneged on his promise and took active steps to exclude both NISCO and Devoto from the management of the businesses. As set forth below, Regner and Cherwin have caused the businesses to defraud and steal from a law firm which whom the Companies once worked, and have violated numerous civil and criminal statutes.

15. By this action, NISCO and Devoto seek damages against Regner and Cherwin for breach of fiduciary duty and civil conspiracy. Further NISCO and Devoto seek a judgment of specific performance against Regner requiring him to execute all documents necessary for NISCO to become a full equity member of the businesses (limited liability companies) as he promised. Finally, NISCO and Devoto request this

Court appoint a receiver over the businesses due to the deadlock in control and to prevent further waste and misappropriation.

V.

FACTUAL BACKGROUND

16. Devoto first met Regner in 2005 at USA Card Services. At the time, Devoto was VP of Sales and Regner was hired as an entry level sales representative. Regner had just moved back to the U.S. from Costa Rica, where he ran an illegal offshore gambling operation. It was in Costa Rica where he met, Cherwin, who at the time was a married woman with one daughter. Cherwin worked for Regner as a customer service representative, they had an interoffice affair and supposedly married after she divorced her then husband. Cherwin is a Costa Rican native and has kept a dual citizenship which has enabled her to make undetected deposits in Swiss and other foreign banks.

17. After his offshore gambling operation failed, Regner moved back to the U.S. where he worked various jobs before being hired by Devoto at USA Card Services. Regner was fired just two months after being hired for poor sales performance at his entry sales position job at USA Card Services. It was later discovered that he was running an illegal sports-book website called "TinyTuna" in the workplace.

18. At USA Card Services, Devoto had grown the sales production from 10 to 150 sales representatives in four years. However, by late 2006 Devoto saw greater opportunities and thus started up a debt settlement business. Devoto formed The Debt Answer LLC, a Texas limited liability company. After several months of working both a full-time day job and starting his new business, Devoto believed he had enough clients

to devote himself fulltime to his new business. Soon, The Debt Answer LLC had hundreds of debt settlement clients and was a thriving new company.

19. Regner had remained in contact with Devoto after his firing at USA Card Services. Regner learned that Devoto had started his own debt settlement business and was very successful. Regner explained to Devoto that he was still struggling to find work and that his wife, Cherwin, was supporting him and their family financially through her father's inheritance and odd jobs at T-Mobile & Troy Aikman Ford. Devoto as a favor, helped Regner get a job at USA Vs Debt (a debt settlement company) as a debt sales consultant. While still working as a debt sales consultant at USA Vs Debt, Regner formed ABC Debt Relief Ltd. Co., a Texas limited liability company in 2007.

20. Regner's efforts to grow ABC Debt Relief Ltd. Co were unsuccessful, so he approached Devoto for help (again) and offered to invest \$150,000 in Devoto's new debt settlement business. At the time, Regner claimed the funds were his own money, but it was later determined that the \$150,000 came from Cherwin's inheritance from her father. Thus, despite the fact that ownership was taken in Regner's name, she holds equitable title to the member interests as separate property. Cherwin's ownership may become particularly relevant in that she filed an Original Petition for Divorce with the 302nd Judicial District Court, Dallas County, Texas (Cause No. DF-11-17266) stating that she "owns certain separate property that is not part of the community estate of the parties and ... requests the Court to confirm that separate property as [her] separate property and estate."

21. In exchange for the \$150,000 seed money, Devoto offered Regner a 50% ownership in his debt settlement business. Although Devoto did not need that capital to

continue to grow his business, he believed that the infusion of cash into marketing for new business leads could take his new company to a higher level in sales. As part of the \$150,000 investment, Devoto & Regner agreed to split 50% - 50% their individually owned LLC companies: The Debt Answer LLC and ABC Debt Relief Ltd. Co. Devoto's The Debt Answer LLC was already a thriving and profitable business whereas Regner's ABC Debt Relief Ltd. Co. was a start-up with zero business. Devoto's choice to partner with Regner would come back to haunt him.

22. Eventually, other companies were formed, with Devoto and Regner becoming a 50% owner in the other's company as well as the following entities:

- a. ABC Administrative Services, LLC, formed to manage staffing and payroll for a group of limited liability companies involved in telephone call center direct to public marketing;
- b. REGDEV, LLC, formed to channel customer care and debt negotiation work to 3rd party providers;
- c. R&D Market Development LLC, formed to incubate new call center sales programs;
- d. CRLK LLC, formed solicit tax mitigation and IRS offer and installment payment programs; and
- e. LRKD Auto LLC, formed to solicit after market auto warranty programs.

These seven limited liability companies are hereinafter referred to as the "Companies."

23. During the period that Devoto actively managed the Companies between 2007 through January 2012, Regner and Cherwin were essentially absentee owners.

Devoto was the driving force and collectively grew the debt settlement business, tax settlement business, credit repair business and auto warranty business to tens of millions of dollars in annual sales, single-handedly achieving the Companies success. Meanwhile, Regner and Cherwin spent virtually no time at the office and were completely uninvolved with any of the businesses.

24. Regner is an avid subscriber to conspiracy theories, believing (among other things) that the financial and political order of the world is directed by the Illuminati. Thus, Regner insisted upon collecting his distributions in \$25,000 checks, which he would then cash and have Cherwin, using her Costa Rican citizenship, deposit the cash in overseas Costa Rican bank accounts and transfer gold to Swiss banks. Regner and Cherwin would fly out of the US with hundreds of thousands in gold and cash, moving it on their person undetected to Costa Rican bank accounts. Those monies and medals would subsequently be transferred to Swiss bank accounts. Cherwin and Regner made these trips at least a dozen times a year; amounting to millions in unreported dollars. Cherwin's family was also instrumental in transporting cash and gold into foreign bank accounts on their behalf.

25. Disputes frequently arose between Devoto, who wanted to pour the Companies' profits back in the business, and Regner, who was primarily interested in receiving greater distributions. During this time, Regner's behavior became increasingly erratic. His absences from the office were more and more frequent. Often when he did show up, he smelled of alcohol and typically would simply walk in his office and shut the door behind him. During his appearances at the office, he often behaved belligerently and abusive to employees. Melanie Bixler, former HR director, complained of sexual

harassment by Regner and intends to pursue that complaint formally. And, Regner's comments and viewpoints have been a point of contention and offense with employees in the office.

26. In 2011, the CFO of the Companies, Mr. Rick Longo, expressed concerns to Devoto regarding the sketchy manner in which Regner was collecting his distributions (\$25,000 checks being cashed and delivered to off-shore accounts) and also with the types of expenses he was billing through the businesses. Some of Regner's invoices submitted through Companies expenses appeared to be related to gambling. And there were a significant number of invoices for Dallas Men's clubs with costly "upstairs upgrades" for Regner and the IT Manager, AJ Mulligan, as well as Vegas strip clubs.

27. In 2010, Mr. David Glenwinkel ("Glenwinkel") of Executive Management Solutions met with Devoto and Regner concerning setting up a different business structure. To this end, Glenwinkel formed Lone Star Management, Inc. to manage the Companies.

28. Also in 2010, ABC Debt Relief Ltd., Co. and The Debt Answer LLC retained the services of attorney Lloyd Ward who operated as Lloyd Law Group. ABC Debt Relief Ltd., Co. and The Debt Answer LLC provided marketing and advertising for Lloyd Ward Group, provided some personnel training and oversight, while any activities considered legal services were provided by Lloyd Ward Group. This association was necessary due to changing state laws which required debt settlement/management companies to affiliate with a licensed attorney. State regulatory laws in approximately half the US required that debt settlement businesses be run by a law firm and that the debt settlement client engage the services of the attorney of the law firm. Regner and

Devoto aligned with Lloyd Ward Group to be in compliance with all US states regulatory laws as they pertained to the debt settlement/management industry.

29. In 2011, Devoto tired of Regner's disruptive behavior, negative energy, and the dishonesty of Regner and Cherwin's depositing of unclaimed money and gold offshore. Thus, he decided to sell his interest in the Companies to Glenwinkel. To this end, Glenwinkel formed NISCO for the purpose of acquiring Devoto's 50% interest in the Companies. Devoto met with Regner, who agreed to consent to the transfer as required by the operating agreements of the Companies and to make NISCO a full member of the Companies.

30. On or about January 1, 2012, NISCO and Devoto executed a Member Certificate Purchase Agreement, and needed Regner to execute the necessary documents to accept NISCO as a member of the Companies as he promised. However, Regner stalled and never ultimately executed any of the required transfer and consent documents.

31. Under the arrangement agreed to between Devoto, Glenwinkel and Regner, although NISCO would be the new member of the Companies, Devoto would remain as President, and receive \$10,000 a month from NISCO. During or about June 1, 2011, Devoto and CFO Rick Longo approached Regner with the idea of returning the Companies to selling debt settlement, however, Regner was not interested. So, during or about August 1, 2011 Glenwinkel formed Global Marketing Development Corporation and brought Devoto on as an Independent Marketing Consultant. The operating agreements of the Companies expressly permitted members to engage in other businesses, including those in competing businesses such as debt settlement.

32. In February of 2012, Regner learned that he was not included in this new business between Devoto and Glenwinkel, he threw an juvenile temper tantrum, and was enraged with jealousy because of not being included. Regner had grown wealthy off of Devoto's hard-work and apparently developed a false sense of entitlement over Devoto. In retaliation, Regner then refused to acknowledge the transfer of member interest to NISCO and took the following actions:

- Regner disabled Devoto's building access code.
- Regner instructed IT Manager AJ Mulligan (who upon belief is currently the subject of a federal investigation for cyber crimes he committed under the direction of Regner) to disable all Devoto's email accounts.
- Regner also instructed building security that Devoto was not allowed on the office premises and to tow Devoto's vehicle if seen.
- Regner also contacted all lead vendors who worked with Devoto (and who had no relationship with Regner), telling them that Devoto was no longer with the Companies and would no longer be able to speak to anyone on behalf of the Company.
- Regner further contacted all employees and management of the Companies (most of which had no significant dealings with Regner outside Companies holiday parties and occasionally Regner went to sales dinners for that month's top sales performers who Devoto managed on a daily basis), told them that Devoto was no longer an owner or involved with the Companies, and instructed them to have no further communication with Devoto.

- Regner told the employees that they would be fired if caught communicating with Devoto.
- Regner also emailed Devoto, telling him to speak to no one at the office and only deal with the "corporate counsel."
- Regner specifically ordered CFO Rick Longo to "never pay Devoto another dime."

33. Remembering CFO Rick Longo's criticisms concerning his questionable expenses and his belief that Longo was assisting on the side of Glenwinkel and Devoto, Regner promptly fired him. Out of paranoia, Regner also purged the Companies of employees who he perceived as being loyal to Devoto. For example, Kylie Britt, marketing analyst and an employee of 2 ½ years; Melanie Bixler, human resources director and employee of 3 ½ years; Vanessa Ortiz, finance manager and an employee of 3 ½ years; David Robinson, sales representative and an employee on and off for 5 years; Marcy Skingel, accounting manager and an employee of 1 ½ years; Cristina Ortiz, debt negotiator and an employee of 1 year; Mark Richardson, sales representative and an employee for less than 6 months. Regner refused to pay thousands of dollars in outstanding invoices to lead providers for marketing leads they had already provided to the Companies who he believed were loyal to Devoto as well. For example, Truman Hedding of TruInteractive Media and West Harris of Digital Tree Top, who both have active claims to collect from Regner.

34. Cherwin replaced Melanie Bixler as the human resources director, but she is believed to have a much greater role in managing the affairs of the Companies. While acting as human resources director on February 22, 2012 Cherwin improperly and

illegally gave Cameron Knox, an employee of the Companies, Devoto's human resources employee file. Cameron Knox took Devoto's personal information, including his social security and date of birth to commit identify theft against Devoto. This offense was reported to the Plano police department Offense Report Number: 2012-035033 on March 06, 2012 and it was reported to the Federal Trade Commission.

35. Further, Regner unlawfully caused stock certificates in Lone Star Management and Development, Inc. to be issued in his name. This corporation was formed in late 2010 by Glenwinkel to manage the Companies. Without any authority, Regner caused 1,000 shares to be issued to him and now purports to control this company. Regner subsequently removed approximately \$400,000 from Lone Star's accounts.

36. During or about February 1, 2012, the Lloyd Ward Group terminated its relationship with Regner and the Companies. The Companies possessed a database of Lloyd Ward Group clients which Lloyd Ward Group requested be returned. Regner refused.

37. In January of 2012, Lloyd Ward learned that Regner had registered the domain name "lloydwardlawfirm" and was using it on the Companies emails and letterhead. Lloyd Ward sent Regner a cease and desist letter concerning the use of his name in any advertising or communications, including emails. This cease and desist letter was ignored.

38. Lloyd Ward then discovered that Regner was using the Lloyd Ward Group client database for marketing purposes. Regner and Cherwin were causing the Companies to send Lloyd Ward Group clients advertisements for tax relief, and

extended auto warranty. These advertisements were sent under Lloyd Ward Group letter head, making it appear that Lloyd Ward Group approved of the services. Lloyd Ward sent another cease and desist letter which was likewise ignored.

39. Regner and Cherwin then caused employees of the Companies, especially the Director of Debt Customer Service, Kervin Jackson, to improperly access data of the Lloyd Ward Group, obtain customer information and contact clients of the Lloyd Ward Group, falsely claiming to be Lloyd Ward Group employees. Regner and Cherwin instructed employees of the Companies to request the Lloyd Ward Group clients to fill out new account applications with the independent third-party payment processors, so that the commissions will be redirected from the Lloyd Ward Group to the Companies. The Lloyd Ward Group has sent cease and desist letters to Regner which have been ignored. The new agreements are not FTC compliant and require monthly payment of fees. Moreover, by doing this, Regner and Cherwin are causing the Companies to violate the laws of multiple states, for the Companies are not licensed to operate in any state as a debt settlement/management company.

40. Regner and Cherwin have also established new companies, such as ABC Debt Solutions Ltd and, upon information and belief, transferred funds of the Companies into accounts held by his new companies. Also upon belief, Regner, aided by Cherwin, has transferred Company funds offshore, out of the reach of the U.S. government.

41. Over the last months, the actions of Regner and Cherwin have put the Companies on a collision course towards financial disaster. Regner and Cherwin have deceived thousands of Lloyd Ward Law Group clients, thus exposing the Companies to significant liability to Lloyd Ward Law Group. Regner and Cherwin have deceived

Companies employees by hiding the fact that Lloyd Ward Group was not in approval of the Companies business activities and furthermore, that the business activities they are performing are against the law.

42. The Companies cannot sustain the incompetence displayed by Regner and Cherwin as neither have ever had any material involvement in any of the Companies businesses – and very little true business background beyond running an illegal offshore gambling processing center in Costa Rica. Also, the Oregon Attorney General filed an investigative demand against ABC Debt Relief LTD for case DOJ file no: 137420/FF0124-12 on May 8, 2012. The Oregon Attorney General Department of Justice versus ABC Debt Relief LTD for alleged violations of Unlawful Trade Practices Act. If Regner and Cherwin continue to loot the Companies and mismanage the sales performance of the Companies there would be no money in the Companies to pay for any damages incurred from pre-existing cases if lost; nether for, future liabilities that will most likely result from Regner and Cherwin's present violations of numerous civil and criminal statutes.

43. NISCO and Devoto have asked Regner for all Companies financial statements, profit & loss reports, sales production reports, distribution reports, expense reports etc. However, when Veritas, the third party accounting firm, contacted Regner to schedule a date to review the financials, Regner refused the auditor access to the Companies' books and records. NISCO and Devoto have now been forced to request those same documents through the discovery process in this litigation. Upon information and belief, these records will confirm Regner's embezzlement, looting and waste of funds of the Companies.

VI.

CAUSES OF ACTION

A. Breach of Contract – Specific Performance

1. NISCO and Devoto re-allege the factual allegations set forth above.
2. As described above, Regner, as a member of the Companies, agreed to execute all documents necessary for NISCO to become a full member of the Companies. Relying on this agreement, Devoto and NISCO executed the transfer agreement. By refusing to comply with his agreement, the ownership of the Companies is left in a transitory position. Devoto essentially has legal title to the member interests, while NISCO has equitable title.
3. By refusing to comply with his agreement, Regner is in breach of his agreement. NISCO and Devoto requests this Court enter a judgment of specific performance, ordering Regner to execute all documents necessary to effectuate the transfer of member interest from Devoto to NISCO in furtherance of his agreement.

B. Breach of Fiduciary Duty

4. NISCO and Devoto re-allege the factual allegations set forth above.
5. Regner, as manager of the Companies owes the members fiduciary duty. Because of Regner's refusal to execute the consents, Devoto essentially has legal title to the member interests, while NISCO has equitable title; accordingly, both have standing to assert this claim. Upon information and belief, Regner has breached his duty by: transferring money of the Companies into unidentified accounts; paying his personal lawyers from funds of the Companies; engaging the Companies in new business without the required member approval; refusing to pay distributions to the

other 50% member, while paying himself; refusing to grant the other 50% owner access to the books and records of the Companies; and paying himself unauthorized distributions.

6. NISCO and Devoto requests this Court enter judgment against Regner for all damages suffered as a result of these breaches.

C. Civil Conspiracy

7. NISCO and Devoto re-allege the factual allegations set forth above.

8. Regner and Cherwin engaged in a civil conspiracy to breach Regner's fiduciary duties. In particular, Cherwin, upon information and belief, assisted Regner in transferring funds of the Companies to offshore accounts in violation of his fiduciary duties.

9. As a proximate result of this conspiracy, NISCO and Devoto have suffered actual damages, and request judgment against Regner and Cherwin for all damages sustained as a result of this conspiracy.

D. Money Had and Received

10. NISCO and Devoto re-allege the factual allegations set forth above.

11. Regner and Cherwin hold money that in equity and good conscience belongs to NISCO and Devoto.

12. NISCO and Devoto hereby sue for said amounts due to them based upon the above from Regner and Cherwin, jointly and severally.

E. Application for a Receiver

13. NISCO and Devoto re-allege the factual allegations set forth above.

14. Pursuant to §11.404 of the Texas Business Organizations Code, NISCO and Devoto requests this Court appoint a receiver over the Companies. Because of Regner's refusal to execute the consents, Devoto essentially has legal title to the member interests, while NISCO has equitable title; accordingly, both have standing to assert this claim.

15. Grounds for the appointment of a receiver exists pursuant to §11.404(a)(1)(A) of the Texas Business Organizations Code in that the Companies are insolvent or in imminent danger of insolvency.

16. Further grounds for the appointment of a receiver exists pursuant to §11.404(a)(1)(B) of the Texas Business Organizations Code in that the governing persons of the Companies are deadlocked in the management of the Companies' affairs, the members of the Companies are unable to break the deadlock and irreparable injury to the Companies are being suffered or is threatened because of the deadlock.

17. Further grounds for the appointment of a receiver exists pursuant to §11.404(a)(1)(C) of the Texas Business Organizations Code in that the actions of Regner in operating the Companies is illegal, oppressive or fraudulent.

18. Further grounds for the appointment of a receiver exists pursuant to §11.404(a)(1)(D) of the Texas Business Organizations Code in that the property of the Companies are being misapplied or wasted.

19. Accordingly, NISCO and Devoto requests this Court appoint a neutral receiver to rehabilitate the Companies until this dispute is resolved, or alternative to liquidate the Companies.

F. Audit

20. NISCO and Devoto re-allege the factual allegations set forth above.

21. Pursuant to TEX.R.CIV.PROC. 172, NISCO and Devoto requests this Court to appoint an independent auditor.

WHEREFORE, PREMISES CONSIDERED, Defendants Kevin Devoto and NISCO Enterprises, LLC, respectfully request this Court grant all relief sought herein and for such other and further relief as to which they may be justly entitled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been sent via certified mail, return receipt requested, to the below counsel of record on this 2nd day of July, 2012:

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