

1 time are gone, Judge.

2 MR. OSTER: I'm looking for -- for the -- how he
3 keeps his records in terms of the original entry records.

4 MR. BERTOZZI: We'll show a sample Daytimer.

5 THE COURT: Well, I -- why don't you just have Mr.
6 Weingarten hang onto those that are out of this time period
7 but for future reference.

8 MR. BERTOZZI: Fine.

9 THE COURT: I would just say as a matter of prudence
10 and, you know, so that we won't be -- you won't be facing the
11 same accusation the next time. "Here are my damn records,"
12 you know. Do we need this in writing, this order?

13 MR. OSTER: We'll prepare it, yes, Your Honor.

14 THE COURT: Okay. So that would be on your motion
15 for discovery.

16 MR. OSTER: Please, Judge. Please.

17 THE COURT: Okay, what happens next?

18 MR. FURNESS: Your Honor, Mr. Weingarten addressed
19 Eastland's objection. I'd just like to reference a few of
20 those. My objections substantially go to Mr. Baberstan's
21 time, Your Honor, and I've set them forth -- set forth
22 number of the objections on my written objection and I'
23 reference them now. Eastland Bank objects specifically
24 what was referenced as 125 hours spent by Mr. Baberstan
25 sort and grade the coins, and I don't think that anyone wi

OB + 1 ind.

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June 20, 1991

VIA TELECOPIER AND
REGULAR MAIL

U.S. Bankruptcy Court
380 Westminster Street
Providence, RI 02903
Attn: Lucinda Corey

Re: Cumberland Investment Corporation
Chapter 11
C.A. #89-11051

Dear Cindy:

I enclose a proposed form of order relating to discovery which Jon Oster wished to conduct of Michael Weingarten, the Examiner, with regard to the Examiner's pending fee application.

Very truly yours,



Edward J. Bertozzi, Jr.

cc: Jon Oster
Hershel Smith
John Cullen
Michael Weingarten
Michael Silverstein

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Cost and Investment
Collection

:
:
:
:
:

C.A. No. 90-0514

ORDER

Harold Chorney having filed a Motion to Compel Discovery relating to the fee application herein of Michael Weingarten, the Examiner, for services through January 31, 1991, a hearing having been held thereon on May 7, 1991, it is hereby

ORDERED

1. That the Examiner produce to Chorney's attorney within seven (7) days after written request by such attorney the Examiner's time records or true copies thereof for work done for Park Lane Associate through January 31, 1991; the description of said work may be redacted.
2. That within fourteen (14) days after such production, Chorney's attorney produce to the Examiner a complete list of the time entries on the Examiner's said fee application for which an explanation is requested.
3. That at the request of Chorney's attorney, the Examiner attend a deposition to be conducted by Chorney's attorney and scheduled by mutual agreement of Chorney's attorney and the Examiner no sooner than twenty-one (21) days and no later than thirty-five (35) days after the production of the list by Chorney's attorney, the subject of the deposition being the Examiner's fee application.
4. That the Examiner produce to Chorney's attorney within seven (7) days after written request by such attorney all of the Examiner's daytimers covering the period of time covered by the said fee application of the Examiner, or if none exist, a sample of the kind of daytimers used during such period by the Examiner.

Arthur N. Votolato, Jr.
United States Bankruptcy Judge
June , 1991

EXHIBIT B-3

1 and this is in the same spirit.

2 MR. PELLIZZARI: Your Honor, I have no further
3 questions with regard to the motion on contempt, but would
4 ask that you would allow me to go further and ask and inquire
5 into the specifics of the plan in this context of motion on
6 -- motion for contempt, if that's appropriate, or I could do
7 it at the conclusion of this hearing on the motion on con-
8 tempt, Your Honor.

9 THE COURT: We'll do these things one at a time.
10 Are you through on your --

11 MR. PELLIZZARI: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. PELLIZZARI: I take it both exhibits have been
14 entered; Your Honor?

15 THE COURT: I don't need to hear any cross-examina-
16 tion or direct, whatever it would amount to, redirect. The
17 motion to adjudge in contempt -- step down, Mr. Weingarten --
18 is denied. The motion is frivolous, was not founded well at
19 all, and the question of sanctions will be determined after a
20 hearing on that issue with due notice so that Mr. Oster can
21 maybe be here, if he chooses to do that. In ruling on this
22 motion I was curious to see whether there would be further --
23 let's be blunt and call it waste of the Court's time, par-
24 ties, expense to the estate. I was not disappointed. By
25 some coincidence, maybe -- I don't think it was coincidence

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1 by now, I think it was probably long overdue -- the Court has
2 probably put the Trustee, the Examiner, and a couple of
3 secured creditors in a difficult position by its overindul-
4 gence of Mr. Chorney's interest in this case. At the times
5 that the Court has indicated that input should be received
6 from Mr. Chorney that was probably improper but an overreac-
7 tion to his civil and economic and creditors' -- alleged
8 creditors' rights in this case. I can see, and probably
9 should have seen much earlier in the case that that was all a
10 mistake. With hindsight the Court takes full responsibility
11 and blame, if that's what it's called, because his participa-
12 tion up to now in the case has been very damaging to cred-
13 itors expense-wise. There's no telling how much Mr. Chorney
14 and Mr. Aubin -- incidentally, he's included in everything I
15 say now about Mr. Chorney, except to a lesser degree -- that
16 the Court is satisfied that it was mistaken and has reeval-
17 ated, sua sponte, by the way, Mr. Chorney's standing and his
18 right to participate and actually obstruct the proceedings as
19 he has been allowed to do from the inception. It's my inten-
20 tion right now to terminate Mr. Chorney's participation, and
21 including Mr. Aubin, in any further we'll call it insider
22 negotiations or entitlement to extra notices. From now on
23 he's an alleged general creditor. I don't know if his claim
24 has been filed; I don't know if it's been objected to, but
25 his standing is nothing more than a general creditor in this

1 case. He's a principal, insider, so he's very probably less
2 than a general creditor. The Trustee is representing the
3 interest of general creditors in this case. That's a suffi-
4 cient representation for Mr. Chorney's interests. Any prior
5 orders that I've signed that are inconsistent with what I'm
6 saying right now are vacated as of right now. Any prior --
7 all prior records and proceedings and findings and conclu-
8 sions about Mr. Chorney's obstructionist and bad faith, lack
9 of good faith, and I call it intentional harm to this estate,
10 are incorporated and support the reasoning for my action this
11 morning. I think I've said it all. I would expect somebody
12 to try to remember what I've said and reduce it to writing.

13 MR. PELLIZZARI: Your Honor, if --

14 THE COURT: You have an objection to everything
15 I've said.

16 MR. PELLIZZARI: Yes, Your Honor. If I have in-
17 sulted the Court --

18 THE COURT: No, no, you haven't and I would --

19 MR. PELLIZZARI: -- or wasted the Court's time in
20 any way, or my firm has wasted your time, you have my apol-
21 ogies. I don't believe that's the case.

22 THE COURT: It's not you or your firm. You notice
23 that I hardly ever mentioned counsel. I understand that
24 lawyers work for their clients, and for your own piece of
25 mind exactly the same thing would have happened this morning

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currently a grand jury investigation going on in connection with this matter. I think Mr. Chorney is aware of that. That grand jury matter will probably necessitate using some number of former customers of CIC. I don't think, from a criminal standpoint, legally it would be appropriate for Mr. Chorney to be precluded from contacting potential witnesses in a criminal case.

THE COURT: You think that would hurt your prosecution?

MR. POSNER: I think it would almost be unconstitutional. First of all, these witnesses don't belong to anybody. The Supreme Court and the Circuits have said witnesses don't belong to either side. They're witnesses, and they're free to talk to or not talk to either side. I appreciate what has gone on from what I've been told, and I understand that some of these people may not wish to talk to Mr. Chorney. That is their prerogative. They can talk to him or not talk to him. But to preclude him by court order from at least attempting to talk to these people who may or may not be witnesses, I think down the road could effectively hamper if not completely prejudice the government in its attempt -- either in the investigation or if the investigation culminates in an indictment, in the prosecution of the case. All he has to say is, "Your Honor, I could never talk to these people. I was precluded by a court order of the Bankruptcy

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Court from ever talking to these potential witnesses. I have a right to talk to them." And he does have a right to try to talk to them. Whether they will talk to him or not, that's up to them. But I think this order, as it's written, in subsection A prohibits him from talking to them at all. And I -- the only thing I would suggest is that if he does talk to them about historical, in other words, anything that occurred from the time of the appointment of the trustee, going backwards. Anything after that, first of all, we would not be part of, and second of all, that's CIC, not himself, that's the Trustee representing CIC. So I think, from a legal point of view and from our point of view, we would join in the request that A be amended -- not deleted but amended. If Your Honor wishes to put in words about they're not to be harassed, if that was what Your Honor found, anything like that, fine, but he has -- certainly has a right to attempt to speak to them. That's all I would ask the Court to be aware of.

THE COURT: And I -- the Trustee is in agreement with U.S. Attorney's --

MR. BERTOZZI: Yes, Your Honor.

THE COURT: Yeah. All right. I'll leave the amendment language up to the parties, the U.S. Attorney, the Trustee, and Mr. Chorney, all right?

MR. CHORNEY: Fine.

MR. BERTOZZI: Yes, Your Honor.

MR. POSNER: Do you wish us to file an amended order, or an amendment -- an order amending this portion of it?

THE COURT: Right. And --

MR. CHORNEY: Will I get to review that prior --

THE COURT: Oh, yeah. Before it's signed you'll get to see it.

MR. CHORNEY: Let's get back to the mail, also, Your Honor. I think that --

THE COURT: Okay. Before we leave this, if you decide, for whatever reasons, that there's no more U.S. Attorney or grand jury involvement and we're back to strictly civil, let me know, because then we'll go back to civil --

MR. POSNER: Understood.

THE COURT: -- attitudes, okay?

MR. POSNER: Understood. Thank you.

MR. CHORNEY: On the mail, Your Honor, I guess they're going to put it into three categories, which is what I can see, a gray area, which I believe you'll let me review, and then a black area. And I think it's the black area that we're -- we're going to have probably the most disagreements on, because not knowing what's in that area it's difficult for me to say what would or would not have been of a personal nature. And one of the reasons why I subpoenaed the witness

8/15 COIN INVENTORY ESTIMATE

	TOTAL	EASTLAND COLLATERAL	NON- COLLATERAL	REDEMPTION
CRANSTON CIC VAULT	3,609		3,609	
EASTLAND COLLATERAL AT CRANSTON	1,113	1,113		
EASTLAND COLLATERAL AT WOONSOCKET	6,877	6,877		
CIRCULATED SILVER DOLLARS	- 3,184		3,184	
BOX 945 (APPROX)	2,000		2,000	
REDEMPTION COINS (APPROX)	6,700			6,700
TOTAL	23,483	7,990	8,793	6,700
ex circulated			5,609	
VALUE @ \$20/COIN	\$469,660	\$159,800	\$175,860	\$134,000
OTHER INVENTORY (ROUGH ESTIMATE)	\$50,000		\$50,000	
TOTAL VALUE	\$519,660	\$159,800	\$225,860	\$134,000
% TO TRUSTEE (EASTLAND DEAL)		0%	100%	50%
NET TO TRUSTEE (EASTLAND DEAL)	\$292,860	\$0	\$225,860	\$67,000