

EXHIBIT A

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF RHODE ISLAND

In re:

CUMBERLAND INVESTMENT  
CORPORATION

Debtor

BK No. 89-11051

ORDER

On or about May 21, 1991, Harold F. Chorney filed a Motion to Hold Examiner in Contempt, and after notice to interested parties a hearing was held on May 22, 1991, whereat Chorney was represented by counsel who cross-examined Michael Weingarten, the Examiner, and who argued on behalf of Chorney. Based upon the evidence presented at said hearing, and after recalling and upon consideration of the record in this case of numerous earlier hearings attended by Chorney and others, including without limitation the Examiner, the Court finds as a fact and concludes as a matter of law that:

1. Chorney's Motion to Hold the Examiner in Contempt is frivolous and not well founded;
2. Chorney has deliberately and continuously acted in bad faith to obstruct and to hinder the efficient administration of the estate, which action has been very damaging, expense-wise, to the estate and its creditors;
3. These findings as to abuse of the process apply as well to Gerald Aubin.

Based on the foregoing...

At the show cause hearing, the Trustee, John Cullen, Esq., described what was unfortunately an already too familiar pattern of obstructionist behavior by Mr. Chorney.<sup>2</sup> For example: he continued, post-petition, to advertise fraudulently after both agreeing to and being ordered to desist; to cure a glaring security problem, the Trustee moved for and obtained a Court order to physically eject Chorney from the Debtor's business premises (where he was actually living),<sup>3</sup> after repeated broken promises to vacate;<sup>4</sup> CIC records were allegedly concealed and/or destroyed; coin and other inventory values were grossly and fraudulently overstated to the Court, the Trustee, and to creditors; many frivolous pleadings were filed and extensively litigated, with the intent and effect of impeding the administration of an estate already left in shambles by Chorney; information concerning the identity of redemption coin holders was wrongfully withheld on the baseless

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<sup>2</sup> As the result of the many pleadings and ensuing hearings both during and after the debtor-in-possession period, the Court was already acquainted with much of what the Trustee had to say, and we find his testimony to be accurate, but by no means all-inclusive of Chorney's legal and ethical transgressions. A more complete recital of Chorney's misbehavior throughout this case is chronicled in the case docket, annexed as Appendix A.

<sup>3</sup> Chorney's apartment was literally surrounded by inventory, allowing a real-life "fox-guarding-the-chicken-coup" scenario. His bed was literally within inches of the vault and its contents.

<sup>4</sup> The Court order was ignored, however, and the Trustee ended up, instead, moving the assets to another location, at a cost to the estate of approximately \$95,000.

ground of "confidentiality," even after disclosure was ordered by the Court, and so on.

The most damaging consequence of Chorney's incomprehensible behavior, however, is the incredible amount of needless expense that has been heaped upon the estate, and ultimately, of course, upon the creditors. The Trustee's and the Examiner's duties (and their fees and expenses) have been increased; secured creditors, long-delayed in exercising their rights, have seen the interest part of their claims escalate; and the likelihood of a meaningful distribution to hundreds of unsecured creditors and redemption coin holders has been practically eliminated. All of this waste has been caused unnecessarily by Harold Chorney.

The time records submitted by the Trustee, the Examiner, and Eastland Bank indicate that fees and expenses directly attributable only to the unnecessary litigation and/or extra-judicial work generated by Mr. Chorney, as of September 1991, total \$381,463, broken down as follows: Trustee - \$19,461.50;<sup>5</sup> Counsel to Trustee and Examiner - \$20,905; Examiner - \$250,000; Eastland Bank - \$90,844. Based upon the entire record, which need not be

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<sup>5</sup> Although expense summaries submitted to the Court indicate the amount of \$19,713, our compilation of the entries submitted totals \$19,461.50.

recited here,<sup>6</sup> we adjudge Harold Chorney to be in continuous, willful contempt, and order him to pay \$200,000 to the Trustee, as partial reimbursement for the deliberate post-petition damage he has done to creditors. Allowing Chorney the benefit of any possible doubt, the above-ordered sanction is a low-end estimate of the financial harm he has caused, and will not even begin to compensate creditors for behavior which seems designed by Chorney to bring everybody<sup>7</sup> down with him, including former customers upon whom he had already inflicted great pre-petition financial harm.

Finally, our actions herein are purposefully crafted to be compensatory and not punitive in nature, and in that regard feel that we have ruled conservatively, and mindful of the District Court's recent discussion of the parameters of Bankruptcy Court authority in the areas of sanctions and civil contempt, in In re Microbiological Sciences, Inc., C.A. No. 91-0341 P, slip op. at 5 (D.R.I. October 8, 1991). See In re Power Recovery Systems, Inc., 950 F.2d 798, 802-03 (1st Cir. 1991) (bankruptcy courts clearly have civil contempt authority to compensate for losses sustained or to coerce compliance with court orders); see also In re Magwood,

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<sup>6</sup> For the details of Mr. Chorney's persistent efforts to stonewall these proceedings, see Appendix A.

<sup>7</sup> Ironically it is the professionals in the case, against whom Mr. Chorney exhibits his most vehement hostility, who will ultimately benefit the most, financially, from his conduct.

785 F.2d 1077, 1081 (D.C. Cir. 1986); In re Kave, 760 F.2d 343, 351  
(1st Cir. 1985).

Enter Judgment consistent with this opinion.

Dated at Providence, Rhode Island, this 2<sup>nd</sup> day of  
July, 1992.



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Arthur N. Votolato  
U.S. Bankruptcy Judge