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7 Attorneys for Plaintiff R. Todd Neilson,
8 Trustee of the Estate of Reed E. Slatkin
9 and Substantively Consolidated Affiliates Topsight
10 Oregon, Inc., and Reed Slatkin Investment Club,
11 L.P. Liquidating Trust

12 **UNITED STATES BANKRUPTCY COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **NORTHERN DIVISION**

15 In re)
16 REED E. SLATKIN and Substantively)
17 Consolidated Affiliates TOPSIGHT OREGON,)
18 INC., and REED SLATKIN INVESTMENT)
19 CLUB, L.P.,)
20 Reorganized Debtors.)

21 R. TODD NEILSON, Trustee of the Estate of)
22 Reed E. Slatkin and Substantively)
23 Consolidated Affiliates Topsight Oregon, Inc.,)
24 and Reed Slatkin Investment Club, L.P.)
25 Liquidating Trust,)
26 Plaintiff,

27 v.

28 DARLENE SLAMEN, an individual; and)
DOES 1-10, Inclusive,)
Defendants.)

Bk. No.: ND 01-11549-RR

CHAPTER 11

Adv. No. _____

**COMPLAINT ON CLAIMS TO SET
ASIDE AND RECOVER
FRAUDULENT TRANSFERS [WITH
EXHIBIT]**

**[Date and time to be set by
Court.]**

DATE:

TIME:

PLACE:

**1415 State Street
Courtroom 201
Santa Barbara, CA 93101
[Judge Riblet]**

1 Plaintiff R. Todd Neilson (“Mr. Neilson”), in his capacity as the Trustee (the
2 “Trustee”) of the “Estate of Reed E. Slatkin and Substantively Consolidated Affiliates
3 Topsight Oregon, Inc., and Reed Slatkin Investment Club, L.P. Liquidating Trust” (the
4 “Liquidating Trust”), the successor-in-interest to the chapter 11 bankruptcy estate (the
5 “Estate”) of Reed E. Slatkin and substantively consolidated affiliates Topsight Oregon, Inc.,
6 and Reed Slatkin Investment Club, L.P., alleges as follows:

7 JURISDICTION AND VENUE

8 1. This Court has jurisdiction under 28 U.S.C. §§ 157 and 1334(b) of the subject
9 matter of this proceeding because the claims asserted herein are related to a case pending
10 under title 11 of the United States Code in the United States Bankruptcy Court for the Central
11 District of California, Northern Division (the “Bankruptcy Court”). That case is In re Reed E.
12 Slatkin, Bk. Case No. ND 01-11549-RR (the “Slatkin Case”). The Ninth Circuit has ruled
13 that a civil proceeding is related to a bankruptcy case if the “outcome of the proceeding could
14 conceivably have any effect on the estate being administered in bankruptcy.” In re Fietz, 852
15 F.2d 455, 457 (9th Cir. 1988). The outcome of this proceeding will have a direct effect on the
16 amount of money that the Trustee can distribute to the creditors in the Slatkin Case and is
17 therefore “related to” the Slatkin Case.

18 2. This is a non-core proceeding under 28 U.S.C. § 157(b). Consent is hereby
19 given to the entry of final orders and judgment by the Bankruptcy Court.

20 3. Pursuant to 28 U.S.C. § 1409, venue is proper in the Central District of
21 California, Northern Division because the Slatkin Case is pending in this district and division.

22 PARTIES

23 4. The plaintiff is Mr. Neilson in his capacity as the Trustee of the Liquidating
24 Trust. Except for those matters asserted below as having occurred in the Slatkin Case, the
25 Trustee does not have personal knowledge of the facts alleged in this Complaint and therefore
26 alleges those facts on information and belief.

27 5. Defendant Darlene Slamen (“Slamen”) is an individual and resident of
28 Birmingham, Alabama.

1 **10.** On or about May 16, 2001, Mr. Neilson was appointed as trustee (the “Chapter
2 11 Trustee”) of the Estate.

3 **Confirmation of the Plan and Creation of the Liquidating Trust**

4 **11.** On June 20, 2003, the Bankruptcy Court entered an order approving the
5 “Chapter 11 Trustee and Creditors’ Committee’s Second Amended Joint Plan of
6 Reorganization Dated June 18, 2003” (the “Plan”).

7 **12.** Pursuant to ¶ 6.3 of the Plan, the Liquidating Trust was created as successor-
8 in-interest to the Estate, with R. Todd Neilson as Trustee.

9 **13.** Pursuant to ¶ 6.3.3 of the Plan, all property of the Estate was transferred to
10 and vested in the Liquidating Trust; and pursuant to ¶¶ 2.1.43, 6.3.3, and 6.3.5 of the Plan, all
11 of the Estate’s claims, rights, causes of action, counterclaims, objections and defenses arising
12 under §§ 541 through 548, inclusive, of the Bankruptcy Code were transferred to and vested
13 in the Liquidating Trust, including the Estate’s claims against Anthony and Margaret
14 Hitchman (collectively, the “Hitchmans”)

15 **Trustee’s Adversary Proceeding and Judgments Against the Hitchmans**

16 **14.** Prior to Slatkin’s bankruptcy, the Hitchmans invested in Slatkin’s Ponzi scheme
17 and received distributions from Slatkin in the form of fictitious profits on their purported
18 investment with Slatkin.

19 **15.** On July 20, 2002, in his capacity as the Chapter 11 Trustee, Mr. Neilson
20 filed an adversary proceeding against the Hitchmans, to avoid as fraudulent transfers and
21 recover certain payments that Slatkin made to the Hitchmans or for their benefit. That
22 adversary proceeding was Adv. No. AD 02-01111-RR (the “Adversary Action”) in the
23 Bankruptcy Court.

24 **16.** On December 3, 2004, the Bankruptcy Court entered judgments (the
25 “Judgments”) in the Adversary Action in favor of the Trustee and against the Hitchmans as
26 follows: **(a)** judgment against Margaret Hitchman in the principal amount of \$2,291,156.40
27 (plus pre-judgment interest at 7% per annum of \$361,626.08 and post-judgment interest at the
28 rate of 2.22%), and **(b)** judgment against Anthony Hitchman (“A. Hitchman”) in the principal

1 amount of \$2,661,156.40 (plus pre-judgment interest at the rate of 7% per annum of
2 \$1,199,696.26 and post-judgment interest at 2.22%). The Judgments are final orders and, to
3 date, no part of the principal amount of the Judgments has been paid.

4 **Slamen's Knowledge of A. Hitchman's Legal Problems**

5 17. The Trustee is informed and believes that, at all relevant times, Slamen knew
6 about A. Hitchman's legal problems related to Slatkin's Ponzi Scheme and his resulting
7 bankruptcy. Specifically, no later than December 2006 Slamen knew that: (a) Slatkin had
8 filed bankruptcy, (b) Slatkin had perpetrated a fraud and negatively affected a lot of people,
9 and (c) A. Hitchman had a judgment against him as a result of his investment in Slatkin's
10 fraudulent investment scheme.

11 **Slamen's Relationship to A. Hitchman**

12 18. Slamen was first introduced to A. Hitchman in the fall of 2005, in Clearwater,
13 Florida. Within a few months of that encounter, in or about March 2006, Slamen agreed to let
14 A. Hitchman stay at a guest house (the "Guest House") located at her family residence at 4616
15 Old Leeds Road in Birmingham, Alabama.

16 19. In April 2006, A. Hitchman moved into the Guest House and continues to live
17 there.

18 20. A. Hitchman has never paid Slamen for his use of the Guest House, but he
19 periodically reimbursed Slamen for his telephone and cable usage.

20 21. Slamen's assistance to A. Hitchman included more than just furnishing free
21 housing. No later than January 2007 Slamen opened a bank account (the "Bank Account") in
22 her name alone, but for A. Hitchman's benefit. Among other things: (a) Slamen never made
23 any deposits into the Bank Account; (b) all of the money deposited into the Bank Account is
24 money that belonged to the Hitchmans and, at all relevant times, Slamen believed that to be
25 the case; (c) Slamen wrote checks on the Bank Account at A. Hitchman's direction for the
26 benefit of the Hitchmans; (d) Slamen provided A. Hitchman with a bank debit card linked to
27 the Bank Account; (e) Slamen caused the statements for the Bank Account to be sent to her at

28 ///

1 her home, but did not look at the statements; (f) instead, Slamen gave those statements to A.
2 Hitchman.

3 22. A. Hitchman described his unfettered use of the Bank Account in a January 30,
4 2007 letter, prepared at Slamen's request. Slamen obtained the letter from A. Hitchman as
5 proof, in case of a tax audit, that the money flowing through the Bank Account does not
6 belong to her. **Exhibit 1** is a copy of that letter.

7 23. Within the four years before filing of this Complaint, at least \$165,506.83 of A.
8 Hitchman's money was transferred into the Bank Account (the "Transfers").

9 24. In addition to providing shelter to A. Hitchman and facilitating his banking
10 needs, within a few months after A. Hitchman moved into the Guest House, Slamen arranged
11 for A. Hitchman's telephone service under her name.

12 25. Slamen's establishment and maintenance of the Bank Account, and all of the
13 transactions conducted through that account, were designed by Slamen and A. Hitchman to
14 make it appear that Slamen was the sole record and beneficial owner of the money in that
15 account, and to hinder, delay, or defraud the Hitchmans' creditors, including the Liquidating
16 Trust, by enabling the Hitchmans to maintain their concealed, beneficial ownership of that
17 money and to utilize that money for their personal benefit.

18 **FIRST CLAIM FOR RELIEF**

19 **(Against All Defendants: To Avoid Intentionally Fraudulent Transfers of Money** 20 **and Other Property under Ala. Code §§ 8-9A-4(a) and 8-9A-7)**

21 26. The Trustee incorporates by reference and realleges ¶¶ 1-25 of this
22 Complaint.

23 27. Within the four years of the filing of this Complaint, A. Hitchman made, or
24 caused to be made, Transfers, including but not limited to those transfers mentioned in ¶ 23
25 above, to Slamen for less than reasonably equivalent value. At this time, the Trustee lacks
26 sufficient information to identify or specify the total value of all of the Transfers. The Trustee
27 will seek leave to amend this Complaint when he has additional information concerning the
28 Transfers or their proceeds.

1 **36.** To the extent that Slamen and/or the other defendants are not the initial
2 transferees of the Transfers, each such defendant is a subsequent transferee of the initial
3 transferee of such transfer(s).

4 **37.** To the extent that Slamen and/or the other defendants are subsequent transferees
5 of the initial transferee of the Transfers, they did not take those transfers in good faith, for a
6 reasonably equivalent value, or without knowledge of the voidability of such transfers.

7 **38.** Each of the Transfers is recoverable from Slamen and/or the other defendants as
8 subsequent transferees of the fraudulent transfers that A. Hitchman made to others.

9 **WHEREFORE**, the Trustee prays for judgment against the defendants as follows:

10 **A.** On the first and second claims for relief, for a judgment against the defendants,
11 jointly and severally that:

12 **(i)** avoids the Transfers;

13 **(ii)** imposes a constructive trust and/or an equitable lien on the Transfers and
14 any proceeds thereof; and

15 **(iii)** requires the defendants to convey the Transfers and their proceeds, or
16 their value, to the Trustee;

17 **B.** On the third claim for relief for a judgment against all defendants that requires
18 them to return to the Trustee all transfers avoided by this Complaint;

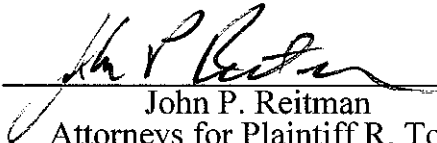
19 **D.** For interest at the legal rate on all damages and sums awarded to the Trustee;
20 and

21 **E.** For such other relief as the Court deems proper.

22
23 DATED: August 19, 2008

GUMPORT | REITMAN

24
25 By: _____


John P. Reitman
Attorneys for Plaintiff R. Todd Neilson,
Trustee of the Estate of Reed E. Slatkin and
Substantively Consolidated Affiliates
Topsight Oregon, Inc., and Reed Slatkin
Investment Club, L.P. Liquidating Trust

ORIGINAL IN WACHOVIA FILE

ANTHONY HITCHMAN
P.O. BOX 1199
CLEARWATER, FL 33757

TO WHOM IT MAY CONCERN.

Mrs Darlene Slamen has opened an account at Wachovia bank in Birmingham, AL, in her name in order to deposit funds belonging to me and my wife, Margaret.

Margaret and I will be using this account to pay bills and obtain cash for our personal use. We have been traveling back and forth between the U.S. and South Africa and need to have funds available to us in the U.S.

All amounts deposited in the Wachovia account # 1010159990144 will come from existing funds belonging Margaret and me, and on which income taxes and state taxes have already been paid.

I attest the above is correct,


ANTHONY HITCHMAN

30th January, 07

EXHIBIT 1

00008

ADVERSARY PROCEEDING COVER SHEET (Instructions on Page 2)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
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PLAINTIFFS R. TODD NEILSON, Trustee of the Estate of Reed E. Slatkin and Substantively Consolidated Affiliates Topsight Oregon, Inc., and Reed Slatkin Investment Club, L.P. Liquidating Trust	DEFENDANTS DARLENE SLAMEN, an individual; and DOES 1-10, inclusive
ATTORNEYS (Firm Name, Address, and Telephone No.) John P. Reitman (Bar No. 80579) (213) 452-4900 Gumpert Reitman 550 South Hope Street, Suite 825, Los Angeles, CA 90071	ATTORNEYS (If Known)
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Recovery of Fraudulent Transfers, 28 USC § 157, 1334 and 1409.


NATURE OF SUIT
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input checked="" type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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(continued next column)

<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 165,506.00

Other Relief Sought

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR IN RE REED E. SLATKIN and Substantively Consolidated Affiliates TOPSIGHT OREGON, INC., and REED SLATKIN INVESTMENT CLUB, L.P.		BANKRUPTCY CASE NO. ND 01-11549-RR
DISTRICT IN WHICH CASE IS PENDING CENTRAL DISTRICT OF CALIFORNIA	DIVISIONAL OFFICE NORTHERN DIVISION	NAME OF JUDGE HON. ROBIN RIBLET
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 8/19/08	PRINT NAME OF ATTORNEY (OR PLAINTIFF) JOHN P. REITMAN, Counsel to Plaintiff, R. Todd Neilson, Trustee	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number John P. Reitman (Bar No. 80579) Gumport Reitman 550 South Hope Street, Suite 825 Los Angeles, CA 90071 Telephone: (213) 452-4900 Facsimile: (213) 623-3302 <i>Attorney for Plaintiff R. Todd Neilson, Trustee</i>	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: REED E. SLATKIN and Substantively Consolidated Affiliates TOPSIGHT OREGON, INC., and REED SLATKIN INVESTMENT CLUB, L.P., <div style="text-align: right;">Debtor.</div>	CHAPTER <u>11</u> CASE NUMBER ND 01-11549-RR ADVERSARY NUMBER
R. TODD NEILSON, Trustee of the Estate of Reed E. Slatkin and Substantively Consolidated Affiliates Topsight Oregon, Inc., and Reed Slatkin Investment Club, L.P. Liquidating Trust, <div style="text-align: center;">vs.</div> DARLENE SLAMEN, an individual; and DOES 1-10, inclusive, <div style="text-align: right;">Plaintiff(s), Defendant(s).</div>	<div style="text-align: center;"> <i>(The Boxes and Blank Lines below are for the Court's Use Only) (Do Not Fill Them In)</i> SUMMONS AND NOTICE OF STATUS CONFERENCE </div>

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend yourself, you must file with the Court a written pleading, in duplicate, in response to the Complaint. You must also send a copy of your written response to the party shown in the upper left-hand corner of this page. Unless you have filed in duplicate and served a responsive pleading by _____, the Court may enter a judgment by default against you for the relief demanded in the Complaint.

A Status Conference on the proceeding commenced by the Complaint has been set for:

Hearing Date:	Time:	Courtroom:	Floor:
<input type="checkbox"/> 255 East Temple Street, Los Angeles		<input type="checkbox"/> 411 West Fourth Street, Santa Ana	
<input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills		<input checked="" type="checkbox"/> 1415 State Street, Santa Barbara	
<input type="checkbox"/> 3420 Twelfth Street, Riverside			

PLEASE TAKE NOTICE that if the trial of the proceeding is anticipated to take less than two (2) hours, the parties may stipulate to conduct the trial of the case on the date specified, instead of holding a Status Conference. Such a stipulation must be lodged with the Court at least two (2) Court days before the date set forth above and is subject to Court approval. The Court may continue the trial to another date if necessary to accommodate the anticipated length of the trial.

Date of Issuance: _____

JON D. CERETTO
Clerk of the Bankruptcy Court

By: _____
Deputy Clerk

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

In re REED E. SLATKIN and Substantively Consolidated Affiliates TOPSIGHT OREGON, INC., and REED SLATKIN INVESTMENT CLUB, L.P., Debtor.	CHAPTER <u>11</u> CASE NUMBER ND 01-11549-RR
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF _____

1. I am employed in the County of _____, State of California. I am over the age of 18 and not a party to the within action. My business address is as follows:
2. **Regular Mail Service:** On _____, I served the foregoing Summons and Notice of Status Conference (and any instructions attached thereto), together with the Complaint filed in this proceeding, on the Defendant(s) at the following address(es) by placing a true and correct copy thereof in a sealed envelope with postage thereon fully prepaid in the United States Mail at _____, California, addressed as set forth below.
3. **Personal Service:** On _____, personal service of the foregoing Summons and Notice of Status Conference (and any instructions attached thereto), together with the Complaint filed in this proceeding, was made on the Defendant(s) at the address(es) set forth below.
4. Defendant(s) and address(es) upon which service was made:

Names and Addresses continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: _____

Type Name

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.