

that *both* Defendants — Ben Barnes *and* Ben Barnes Group, LP — received fraudulent transfers from Stanford. *See* Doc. 1 at 1, 7. These allegations are to be accepted as true at the motion-to-dismiss stage. *See Gonzalez v. Kay*, 577 F.3d 600, 603 (5th Cir. 2009). Thus, the Court need not rely upon or even consider the Exhibits in ruling on the Motion to Dismiss, and Defendants’ Motion to Dismiss should be denied regardless of the Court’s decision regarding the Exhibits and Defendants’ objections thereto.¹

CONCLUSION

For the foregoing reasons, the Receiver respectfully requests that the Court overrule Defendants’ Objections to Proffered Exhibits and deny their Motion to Strike [Doc. 13]. Further, the Receiver requests that the Defendants’ Motion to Dismiss [Doc. 8] be denied, no matter what the Court decides regarding the Exhibits and the Defendants’ objections thereto. The Receiver also requests any further relief to which he may be entitled.

¹ Defendants’ hearsay objection is meritless because the Exhibits are not offered to establish the truth of the matter asserted, but simply to show the content of the declarant’s statement. *See* FED. R. EVID. 801(c).

Dated: June 7, 2010

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Kevin M. Sadler

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CERTIFICATE OF SERVICE

On June 7, 2010, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I will serve Ben Barnes and Ben Barnes Group, L.P. individually or through their counsel of record, electronically, or by other means authorized by the Court or the Federal Rules of Civil Procedure.

/s/ Kevin M. Sadler
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