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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

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SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff.

V.

TRAFFIC MONSOON, LLC, a Utah Limited  
Liability Company, and CHARLES DAVID  
SCOVILLE, an individual,

Defendants.

**REPLY IN SUPPORT OF RECEIVER'S  
MOTION SEEKING AUTHORIZATION  
(1) TO TERMINATE MONTH-TO-  
MONTH SERVICES OF SNOORK LLC  
AND RETURN SERVERS TO SNOORK  
LLC; AND (2) TO PAY SNOORK LLC**

2:16-cv-00832-JNP

The Honorable Jill N. Parrish

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Peggy Hunt (the "Receiver"), the Receiver of the receivership estate (the "Receivership Estate") of Traffic Monsoon, LLC ("Traffic Monsoon") and the assets of Charles David Scoville ("Scoville"), files this Reply in support of the *Receiver's Motion Seeking Authorization (1) to Terminate Month-to-Month Services of Snoork LLC and Return Servers to Snoork LLC; and (2)*

to Pay Snoork LLC [Dkt. No. 75] (the “Motion”).<sup>1</sup> As set forth below, the Receiver requests that the Court grant the Motion by entering the revised Order, attached hereto as Exhibit A.

### **BACKGROUND**

1. The Receiver filed the Motion on February 24, 2017, requesting Court authority to (a) terminate the month-to-month services of Snoork for leasing and hosting the Snoork Servers and return the Snoork Servers to Snoork after wiping the Servers of all data and information thereon; and (b) use Receivership Estate funds to pay Snoork its monthly fees (other than Snoork’s asserted late fees) through the date Snoork’s services have been terminated.<sup>2</sup>

2. The Motion represents that the Receiver retained Epiq to secure Traffic Monsoon’s electronic information, including making and maintaining a mirror image of the data on the Snoork Servers (the “Mirror Image”). Epiq made the Mirror Image in early September 2016 from the Snoork Servers located in Atlanta, Georgia and Los Angeles, California.

3. On March 10, 2017, Scoville filed the *Defendants’ Opposition to Receiver’s Motion Seeking Authorization (1) to Terminate Month-to-Month Services of Snoork LLC; and (2) to Pay Snoork LLC [Dkt. No. 76]* (the “Response”). The Response “does not object to the main relief the Receiver asks for . . . but merely asks that the Court explicitly require protections beyond what is covered in the Receiver’s motion and the Receiver’s proposed order.”<sup>3</sup>

4. Specifically, Scoville requests that (a) the data on the Snoork Servers be maintained “in a manner that ensures that all data on the Snoork Servers at the time the

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<sup>1</sup> All capitalized terms used but not defined herein have the meanings ascribed to such terms in the Motion.

<sup>2</sup> See Motion at pp. 1–2, 5–6.

<sup>3</sup> Response at p. 2.

Receivership Order was entered be preserved as they were at the time the Order was entered”<sup>4</sup>; and (b) if the Court returns control of the Receivership Estate to Scoville, in whole or part, “the Receiver will . . . provide Scoville with the data from the Snoork Servers in a format that will allow Scoville to operate the Traffic Monsoon business without cost or improper delay.”<sup>5</sup>

### **REPLY**

For the reasons set forth herein and in the Motion, the Receiver requests that the Court grant the Motion and enter the revised Order attached hereto as Exhibit A. The Receiver’s request to terminate Snoork’s services and wipe the Snoork Servers clean is reasonable given the assurances the Receiver has made in the Motion and the cost-savings to the Receivership Estate. Additionally, Scoville has not objected to paying Snoork as set forth in the Motion.

#### **I. The Receiver Cannot Obtain a Mirror Image as of July 27, 2016**

Scoville argues that the data on the Snoork Servers be maintained as it was when the Court entered the Receivership Order on July 27, 2016. This is not realistic. As set forth above and as testified by the Receiver at earlier proceedings before the Court, Epiq did not make the Mirror Image of the Snoork Servers until early September 2016. This delay was largely because Snoork was initially unwilling to grant Epiq access to the Snoork Servers. While the Receiver has been informed that the data and information on the Snoork Servers did not materially change from the date the Court entered the Receivership Order and the date Epiq made the Mirror Image, she cannot guarantee that fact. Thus, the Receiver can only, and should only be required

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<sup>4</sup> *Id.* at p. 4.

<sup>5</sup> *Id.*

to, maintain the Mirror Image of the Snoork Servers as of the date the Mirror Image was made. This is what the Receiver requested in the Motion, and thus the Motion should be granted.

**II. The Receiver Will Comply With this Court's Orders**

Scoville also requests that if the Court returns control of the Receivership Estate to Scoville in any way, the Receiver must provide Scoville with all data on the Snoork Servers to allow Scoville to operate the Traffic Monsoon site without cost or delay. Again, this request is too broad and premature. The Receiver will comply with this Court's Orders and, if that includes providing data to Scoville, she will do so in compliance with any Order that the Court enters. Accordingly, Scoville's request is without merit and should be overruled.

**III. Scoville Has Not Objected to Paying Snoork**

In his Response, Scoville did not object to paying Snoork as set forth in the Motion. Because there is no objection to this request for relief, the Receiver requests that the Court grant the Motion.

**CONCLUSION**

For the reasons set forth above, the Receiver requests that the Court overrule the requests made by Scoville in his Response, grant the Motion, and enter the revised Order, attached hereto as Exhibit A.

DATED this 22nd day of March, 2017.

**DORSEY & WHITNEY LLP**

          /s/ Michael F. Thomson  
Peggy Hunt  
Michael F. Thomson  
Nathan S. Seim  
*Attorneys for Receiver, Peggy Hunt*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of March, 2017, I caused the foregoing *Reply in Support of Receiver's Motion Seeking Authorization (1) to Terminate Month-to-Month Services of Snoork LLC and Return Servers to Snoork LLC; and (2) to Pay Snoork LLC* to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all counsel of record in this case.

/s/ Michael F. Thomson