UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

In re: eToys et al.,	**)**	
	)	**Case no. 01-706 thru 01-709 (MFW)**
Debtor in Possession	**)**	
	)	**Jointly Administrated Chapter 11**
Motion by party of interest	**)**	
Steven ("Laser") Haas 'Pro Se'	**)**	**Objection Deadline: 11/02/2012 4:00 p.m.**
	)	**Hearing Date: To Be Declared**

EMERGENCY MOTION BY PRO SE LASER STEVEN HAAS PETITIONING THE COURT TO PAY THIS EMPLOYEE OF ETOYS PER THE COURT APPROVED CONTRACTS OF COLLATERAL LOGISTICS INC AND OR UNDER § 503(b) SUBSTANTIAL CONTRIBUTION AND OR SUA SPONTE AND TO ADDRESS NOVEL ISSUES OF FRAUD ON THE COURT AND ADDITIONAL ACTS OF PERJURY AND TO REMOVE PLAN ADMINISTRATOR AND DISQUALIFY BAD FAITH SECRET AGENTS OF GOLDMAN SACHS AND BAIN CAPITAL FOR RACETEERING AND FOR THIS COURT TO REPORT FELONY VIOLATIONS TO AN INDEPENDENT PROSECUTOR UNDER 18 U.S.C. § 3057(a) DUE TO COMPROMISED FEDERAL AGENTS

I Opening Remarks

Bain Capital's Toys R Us entity is in the possession of the stolen property of eToys. Prior to this time, MNAT (*as eToys debtor's counsel*) and Paul Traub (*as eToys Creditors' counsel*), confessed lying thirty (30) times to this court deliberately to conceal their conflicts of interest to multiple parties. The Code & Rule of Law under Section **327(a)** *unambiguously* dictates their *disqualification.* However, *due to corruption,* the court was unwittingly duped to pardon them. They took the pearl of leniency and trampled over this court with further lies. Hiding the fact that they all (*secretly*) work for Mitt Romney's Bain Capital in their sinful quest to destroy the eToys public company. A neon elephant in the room that no one, *thus far,* has been able to see, is Bain Capital CEO's wicked desire to be "*retroactively*" resigned from the eToys crimes in 2001.

Colm Connolly was a MNAT partner from the spring of 1999 to August 2001. They tried to buy me off. When I reported their criminal intents, Colm Connolly became the U.S. Attorney in August 2001; who then refused to investigate and / or prosecute Bain Capital for 7 years.

Enigmatically, even after ***Smoking Gun*** evidences forced (*some*) confessions, the court approved attorneys for Collateral Logistics realized justice was a ghost in this case and joined the dark side. Every single counsel, upon all sides of the eToys case, earnestly hopes Mitt Romney will become the President of the United States and reward them. Thy staunchly refused to inform federal authorities about their knowledge of statutory violations *before*, **during** and *after the fact*, (violating **18 U.S.C. § MisPrison of a Felony)**. Seeking to bully this whistleblower, who is also a witness/ victim; this petitioner's very own counsel for Collateral Logistics, Inc., did email a threat from Bain Capital's Paul Traub's firm that I must "***back off***". Therefore I, Steven Haas (*also known as Laser Haas*), the sole, 100% owner of Collateral Logistics, Inc., due to crimes of counsels in eToys and rogue federal agents betrayal of their oaths to the Constitution of these United States, *left with no other choice*, must address this court as a whistleblower "*pro se*".

Whereas this petitioner avers that the attestations of additional frauds are true and correct. That during and ***after*** this honorable body ordered the bad faith parties to *come clean* and granted leniency; Goldman Sachs & Bain Capital cronies continued their fraud on this court by Perjury.

This court's Opinion established that it is wrong to reward conflicted attorneys while punishing plaintiffs. Thus this petitioner respectfully requests the compensation equitably due and/ or that the court pay this petitioner by **§ 503 Substantial Contribution**, and/ or *sua sponte*. Within this Court's Opinion of October 4, 2005 the court was jurisprudent enough to provide a "*comfort order*" protection against any further deceitful acts. Therefore, this activist also prays this court disqualify the parties and remove the Administrator Barry Gold for "***cause***" under **Plan Section 5.2** and reinstate petitioner to preserve/ secure eToys and "*wind-down*" the estate?

This supplicant also humbly requests this court address the matters of additional *deceits* profuse and that the court assist the quest for justice by "*officially*" **Notifying & Referring** this case to a clearly *independent*[1] federal prosecutor, the Public Integrity Section, and the Inspector General under Section **18 U.S.C. § 3057(a)?** Also, since the New York Supreme Court *eToys versus Goldman Sachs case has just re-opened,* it is also appropriate to inform them as well.

II Jurisdiction

1. The Court has jurisdiction over this Motion pursuant to **28 U.S.C. §§ 157** and **1334**. Venue of these cases and the Motion in this district is proper pursuant to **28 U.S.C. §§ 1408** and **1409**. This is a core proceeding pursuant to **28 U.S.C. § 157(b)(2)(A)** in that it is a matter concerning the administration of the eToys Debtors' estates from 2001 until now.

III Background

2. In 1999, Goldman Sachs *pump-n-dumped* eToys when it went public ("IPO"). Litigation in the New York Supreme Court has just been "*re-opened*" by appeal concerning the issue of the IPO share prices soaring above $78 and eToys only receiving approximately $18.

3. In short order, after the sky rocketing IPO, *while only doing around $200 million in annual sales,* eToys Goldman Sachs and Bain Capital arranged for eToys to appear insolvent and a bankruptcy petition was filed on March 7, 2001 (DE Bankr. 01-706 (2001)) (the "Debtor").

4. Morris Nichols Arsht & Tunnel ("MNAT") confessed (*4 years later*) that the firm lied to the court fifteen (15) times the firm could be approved as the eToys Debtor counsel.

5. Also, Paul Traub and his firm of Traub, Bonacquist & Fox ("TBF") (*admitting it was deliberate)* confessed lying to the court (*4 years after 2001*) in order to become the court approved attorney for the eToys Official Committee of Unsecured Creditors (the "Creditors").

[1] It was learned, subsequent to this Court's ruling, finding of fact and conclusion of Law Opinion of October 4, 2005 that the DE Dept of Justice has a conflict of interest issue concerning the Morris Nichols Arsht & Tunnel Law firm http://www.usdoj.gov/olp/colmconnollyresume.htm necessitating a need to refer this to the Public Integrity Section

6. A predesigned plan to do a fire sale of the Debtor's entire estate, to Bain Capital/ Kay Bee, was scheduled for the middle of March 2001. MNAT utilized their lies with Goldman Sachs (*as sales agent*), to achieve a projected sales price to Bain Capital of $3.5 to $5.4 million.

7. Good faith parties of the Debtor sought this petitioner' professional assistance to obtain greater results. Collateral Logistics, Inc., ("CLI"), an entity solely owned by this petitioner Steven [Laser] Haas ("Haas"), became the court authorized Liquidation Consultant to "*maximize returns and minimize expense*" in the winding-down of the eToys estate.

8. CLI became aware of bizarre efforts to bilk the Debtor's estate, beyond the paltry fire sale efforts. Incredibly, the salary of over 1000 employees was doubled during bankruptcy. Vanishing asset issues by pre-bankruptcy petition filing *bad faith* sales to specious parties were uncovered and secreted cash deposits overseas, in the millions of dollars, were also exposed.

9. Despite the deviousness, this activist was initially able to push Bain Capital to pay tens of millions of dollars for the eToys assets. MNAT and TBF then sought to protect their (secret) clients and began to ostracize this petitioner. Acting malicious, they unnecessarily complicated sales issues. Finding fault with this movant every chance they could for discovering millions in hidden cash deposits; which they audaciously stated was nobody else's business.

10. When CLI's staff discovered that the books of eToys might be purposely baked, to make it appears as if eToys was insolvent and that eToys may actually have not needed to file bankruptcy; then the bad faith parties had the Books & Records ***destroyed***. Around that same time, the eToys founder and all senior executives subsequently abandoned the public company; stating that it was due to this petitioners dismissing of the *double salaried* personnel.

11. MNAT and TBF then suggested for Barry Gold to become (*the post-bankruptcy petition*) President/ CEO of eToys Purportedly Gold could handle what they stated were the complexities of public companies. *Such as* the arrangement to drop eToys.com domain prices

from $10 million to $3 million *for Bain Capital's sake*! (*Mr. Gold was **secretly** Paul Traub's partner and a Mitt Romney/ Bain Capital worker from cases like Jumbo Sports & Stage Stores*).

IV Previous Confessions of Undisclosed Conflicts of Interest

12. Because they had been successful in tossing out CLI & Haas and inserting their secret cohort Barry Gold, the parties became lax in their paper trail due diligence. Though it took three (3) years to find proof of subterfuge, this petitioner finally found a ***Smoking Gun***. A *gaffe* in the case of *In re Bonus Sales* (DE Bankr 03-12284), was a 2003 affidavit by the bad faith parties. The vanity stationary of Asset Disposition Advisors ("ADA") provided proof that Paul Traub had been lying to the court and good faith parties of interest for several years. It states Gold and Traub were actually, (*secretly*) partners of ADA. Formed in Delaware in April 2001 (*a month prior to Barry Gold becoming President/ CEO of eToys*), the ADA entity is a foreign held corporation and it was registered at the New York office of TBF.

13. CLI's very own attorney (Henry Heiman), also a Trustee in Delaware, refused to submit the proof of Perjury and Fraud to the court. Mr. Heiman then threatened his own client CLI and this petitioner by emailing a warning from Susan Balaschak of the TBF law firm.

14. Rejecting the threats, armed with the irrefutable ***Smoking Gun,*** we petitioned for an Emergency Hearing (scheduled on December 22, 2004). The Director of the Department of Justice's Executive Office of United States Trustee's ("EOUST") in Washington D.C., did promise this solicitor that his office was capable of handling the matters. Pacifying this activist's requests for justice, *on the very same day of the December 22, 2004 Emergency hearing*, the EOUST announced that a seasoned fraud prosecutor (Kelley B Stapleton) would replace the Region 3 Trustee (Roberta DeAngelis). During that hearing, the Assistant United States Trustee remarked that Paul Traub had improperly failed to disclose serious conflicts of interest. As a

result of the only halfway decent federal agent in this case (Perch) and his good faith note, the court ordered the parties to respond to the allegations, *on or before*, January 25, 2005. (The transcript of this hearing is within the public docket record as Docket Item ("D.I.") (2151).

15. Paul Traub, MNAT and Barry Gold responded on January 25, 2005 (TBF by D.I. 2171), (Mr. Gold by D.I. 2169) and (MNAT by D.I. 2173). The parties confessed that the allegations were true. Then, *inadvertently*, as a *defensive* maneuver, Gold's counsel was trying to protect him and provided us with another ***Smoking Gun***. That of a clandestine Hiring Letter (both *TBF & MNAT deny drafting*); which provides illegal permissions for Mr. Gold to choose, of his own volition, *whether or not* to apply to this court for approval to be a eToys Professional.

16. They claimed that Barry Gold did not have to apply, as a "***mere***" officer of the Debtor. But he was not "***merely***" involved. Gold is the *sole 100% totally autonomous authority* over all eToys bankruptcy matters. Upon the success of the these structures and in order to seal the success of their schemes, Goldman Sachs and Bain Capital's cohorts arranged for Barry Gold to become the Confirmed Plan Administrator. The eToys estate was renamed "ebc1, inc." and the Creditors Post Effective Date Committee ("PEDC") was formed. The PEDC is represented by Paul Traub and his local counsel in Delaware is Frederick Rosner.

17. In TBF's response, Paul Traub admits to TBF's deliberate *fraud on the court* by their decision to allow the erroneous **Rule 2014/ 2016** Affidavits to stay in place – *unchanged* - because the Plan *had worked* thus far (TBF Response ¶10). Then, on February 1, 2005, another hearing transpired before the court (transcript D.I. 2191). At that time the CLI claim issue was postponed (*as you can't take monies from confessed felons*). Then the eToys shareholders (*who had joined this petitioner in the fall of 2004*) along with Haas; were permitted *by the court*, to depose Barry Gold and Paul Traub on February 9, 2005. Mysteriously, MNAT's counsel of the day volunteered that MNAT could be deposed also. The Assistant United States Trustee then

stated he was going to be traveling on February 16, 2005 and he would make the Government's position on the deceit issues known to the court – prior to that date of travel.

18. On February 9, 2005, due to various threats received, the depositions were held at the Wilmington Delaware federal courthouse. MNAT admitted the firm had an *un-disclosed* relationship to Goldman Sachs. Traub and Michael Fox of TBF admitted to their *non-disclosure* about Gold. It was also admitted by Mr. Gold that he gets many opportunities from Jack Bush (*a senior executive of Bain Capital's IdeaForest*). None of them ever came clean on Bain Capital.

V United States Trustee's Motion to Disgorge TBF for $1.6 Million

19. Keeping his promise to the court, armed with copious confessions to "*non-disclosures*" of serious *conflicts of interest*; the Assistant United States Trustee emailed attentive parties and submitted to the court the "United States Trustee's Motion for Entry of Order Directing Disgorgement of Fees Paid to Traub Bonacquist & Fox LLP for services rendered as Counsel to Official Committee of Unsecured Creditors" (D.I. 2195) (the "Disgorge Motion")

20. The Disgorge Motion reflected that TBF admitted that they planted Barry Gold inside the Debtor (see the January 25, 2005 response of TBF's Objection [*TBF's Objection, ¶10 and ¶11*]) (D.I. 2171) (and pages 60-69 of March 1, 2005 hearing (D.I. 2228)

21. Then the United States Trustee's office also presented a shocking issue. That the parties were "***forewarned***" in advance, not to do the statutory violations they are now known to have done secretly. The *Disgorge Motion* stipulates in ¶19 verbatim;

> "*They [**TBF**] are not strangers to the court or the retention process, nor are they strangers to the comprehensive and ongoing relationships analysis that any professional must perform when it seeks to be employed by a trustee or official committee in a bankruptcy case. More significantly, TBF was specifically aware in this matter, from discussions with the Office of the United States Trustee, of the UST's concerns about replacing corporate officers with individuals related to any of the retained professionals in the case*".

22. Part 25 of the Disgorge Motion concluded that the insertion of Barry Gold as CEO had probable, other, *material adverse* effects. Denoting the recognizable fact that Barry Gold had a fiduciary duty to the estate and others as well (*such as the eToys stockholders*);

> "*Additionally, TBF's relationship with Gold may have impaired Gold's ability to perform fiduciary duties to the debtors' constituents other than the general unsecured creditors*".

23. Fraud upon the court, by *officers of the court*, is "***the***" most extensively heinous and egregious offense there is in a civil realm. So much so, that the United States Supreme Court has specified that there's no statute of limitations on such (please see case of *In re Hazel Atlas-Glass Co., v Hartford Empire Co*., 322 U.S. 238, 239, 245 (1944)). Inexplicably, the court and the United States Trustee both mention Hazel-Atlas; and yet they totally ignore how egregious it is that TBF deceived this court *after being* ***forewarned***. In its conclusion, the U.S. Trustees' Disgorge Motion states in part ¶35, reiterating the fact that the parties were aware. Concluding that TBF's deeds of transgressions were purposeful acts of *fraud upon the court*;

> *"TBF's partners are well-versed in the comprehensive and ongoing relationships analysis required of a professional employed at estate expense. And as discussed earlier in this Motion, TBF had engaged in discussions with the Office of the United States Trustee about replacement officers of the debtors, and was aware of the UST's concern that the replacement officers not be related to any of the professionals employed in the case. This, it is respectfully submitted, is all of the intent needed to demonstrate that TBF's Rule 2014 disclosure violation was a fraud upon the court".*

VI Wilmington Delaware Department of Justice Numerous Breaches of Fiduciary Duty

24. Less than ten (10) days after the Disgorge Motion was submitted, on February 24, 2005, a contrary Stipulation to Settle, (D.I. 2201), was proffered. Incredibly, the U.S. Trustee made moot its very own *Disgorge Motion* and granted the parties illegal protections. Doing a violation of the Law and **Breaching their Fiduciary Duty**, the federal Police of the system promised to forgo their obligation to get to the truth (such as *Bain Capital and its Liquidity Solutions dealings*), with a Stipulation to Settle that malevolently declares;

"***WHEREAS*** *the United States Trustee shall not seek to compel TBF to make additional disclosures*"

25. This boggles the mind, until you become aware (*several years later*) that a Bain Capital/ MNAT law firm partner was arranged to become the United States Attorney handling the eToys examination. The court's October 4, 2005 approval of this *ostensible* Settlement upset this petitioner and the eToys shareholders *immensely*. We were (*properly*) expecting follow up Motions by the U.S. Trustee's office against MNAT and the mandatory disqualification motions.

26. This petitioner was stunned, but motivated at the same time. The obvious question that begged was - "*What other issues existed of such importance, that made it necessary for the United States Trustee's Office to promise* ***willful*** *blindness and* ***Breach their Fiduciary Duty*** *in order to hide the items TBF would* – customarily – *be required to disclose*"?

27. Further investigation led to the discovery that the parties, (*while purportedly being handled for bad faith in the eToys case*); were actually engaging in more frauds and deceptions in both eToys and Kay Bee (DE Bankr. 04-10120 (2004) at the same time. An email was immediately sent to various federal agencies and the Deputy Director of the EOUST. Corroborating our contention that things are way out of control within the Delaware federal justice system, upon their learning of the *specific* details of rogue federal person's *duplicity* and receiving our proof of another $100 million preferential fraud, the *Disgorge Motion* U.S. Trustee (Perch) and the EOUST Director above him (Friedman), subsequently resigned their posts.

28. Bain Capital had acquired Kay Bee in late 2000 and MNAT now represents Bain Capital in the Kay Bee case. About the *probable fraudulent conveyance* that was paid *pre-bankruptcy petition* filing, by the CEO to himself ($18 million) and Bain Capital ($83 million).

29. This debacle was compounded further when Paul Traub, (*while being admonished by the Disgorge Motion*), had the unmitigated gall to ask that court's leave, to be the prosecutor

of Kay Bee's CEO Michael Glazer and Bain Capital. Paul Traub was also deceiving that court, *of the fact that*, he and Barry Gold had worked with Michael Glazer within Mitt Romney's / Bain Capital's bankruptcy case of Stage Stores (S TX Bankr. 00-35078 (2000)). The controlling shareholder of Stage Stores stock with 800,000 (+) shares was Mitt Romney. Jack Bush and Michael Glazer were his co-directors. Barry Gold was their *assistant*.

30. Mr. Gold hired Paul Traub's law firm for Stage Stores and they got "*caught*" there too. TBF failed to disclose his relationships to Barry Gold, Ronald Sussman and Jack Bush. A Supplemental **Rule 2016** Affidavit was submitted by Paul Traub in Stage Stores (*with far better details than anything supplicated by the scheming parties in the eToys case*). Including confessions of failures to disclose the issues relevant to eToys (*Bain Capital/ Jumbo Sports*).

31. Of the proofs most germane, the novel item of the Stage Stores bankruptcy being a *co-debtor* with *Liquidity Solutions*, is apropos. Indubitably, the issue of MNAT's failure to disclose its connection to Goldman Sachs is compounded by the fact that their other *secret* client Bain Capital (*Liquidity Solutions*), on the sly, actually began to buy up the eToys claims - after the clandestine insertion of Barry Gold within the Debtor as eToys President/ CEO.

32. This petitioner did not learn until 2007, of the fact that Colm Connolly, (*a MNAT partner in 2001*), had been nominated to become the Delaware United States Attorney in August 2001. Connolly's resume showing MNAT partnership (*coincidently from early 1999 to August 2001*) and Former President George W Bush's August 2001 nomination of Mr. Connolly is federally archived (*http://www.usdoj.gov/olp/colmconnollyresume.htm*). *Enigmatically*, the Colm Connolly resume denotes the fact that he was a MNAT partner *the same exact time period Bain Capital's CEO (*Romney*) seeks to be retroactively retired from.*

33. Informing authorities as required by Law under **18 U.S.C. § 4 – MisPrison of a Felony**; this petitioner submitted a brief to that court about the Kay Bee case dishonesty. The

Delaware Department of Justice obstructed justice there by successfully having this petitioner's brief, along with the Chairman of the Creditors' Committee Affidavit, *stricken* and *expunged* from the record. (See **Kay Bee** Toys case 04-10120 - docket item 2228).

34. MNAT assisted both Goldman Sachs desires to *pump-n-dump* eToys and Bain Capital's quest is to monopolize the entire independent retail toy industry (*as a cash cow*), under the Toys R Us umbrella, by cheekily seeing for the *Destruction* of the eToys Books n Records (D.I. 300) - that the Court approved (D.I. 375). As highly unusual as it is to seek the destruction of evidence, *especially in the very beginning of the case*; the absurd request, was not objected to *(as it should have been)* by the Delaware Department of Justice's personnel.

35. When this petitioner and the eToys shareholders appealed the refusal to address these items to the Delaware District Court and the Third Circuit Court; rogue federal elements kept up their duplicity. In the very 1st footnote of the U.S. Trustee's brief to the Third Circuit concerning this matter (3rd Circuit case 07-2360), the removed Region 3 Trustee over Delaware, steps in as General Counsel for the EOUST, along with the Wilmington Delaware Department of Justice Attorney (Mark Kenney). Then they stipulate in their very first footnote - that they did not and will not address MNAT issues. Almost as if they are stating to the powers that be (or "*will*" be) - "*See, we are letting them get away with it all* - **entirely**"!

36. The crap just never ends. MNAT nominated Paul Traub to be the party to prosecute Goldman Sachs in the New York Supreme Court case of eToys (renamed ebc1) vs. Goldman Sachs (case # 601805/2002). They seek to hide their deceptions in that case by putting the entire docket Under Seal while the bad faith Department of Justice personnel refused to notify any of the courts that Goldman Sachs is, *in essence,* suing Goldman Sachs.

37. The DE Bankruptcy Court approved TBF's working on Goldman Sachs issue (D.I. 922). As a result of the success of their patterns, Kay Bee and eToys were in bankruptcy

multiple times; stiffing old and new creditors again and again. Both winding back up at Bain Capital under the Toys R Us body. In the Kay Bee, FAO and eToys cases, Paul Traub was the Creditors attorney each time. However, Traub never informed those courts of his prior relations to Mitt Romney/ Bain Capital and the cohorts' MNAT, Michael Glazer and Barry Gold. Surely, had the courts known in advance, they never would have provided their blessings to the spurious dealings? As is evident by this court's own remarks in its Order (D.I. 922). Where the court approved (MNAT's) nomination of TBF to prosecute the parties – by stating;

> "***AND*** *this Court being satisfied that TB&F continues to represent and hold no interest adverse to the Committee or the Debtors and that TB&F will not represent any other entity in connection with the within cases*--".

38. After confessing part of their lies and deceits, the parties then punish CLI and Haas by lying to the court and saying Haas "*waived*" the rights for CLI's administrative claim to be paid. Knowing that they could never – ***ever*** – be punished for their schemes, they also stated this activist (*a Victim, Witness and Whistle-Blower*), was no longer a party of interest in the case. This petitioner then went to the Department of Justice's **Public Corruption Task Force** in CA. It was shut down and career employees were *allegedly* threatened to keep their mouths shut! (Google/ Bing 2008 Los Angeles Times story by Glover - "*Shake-up roils federal prosecutors*").

39. Both CLI contracts were approved in two separate Orders (D.I. 253 & 523). They seek to stymie justice by *arbitrary & capricious* efforts in "***Color of law"*** *(which refers to an* ***appearance*** *of legal power to act but which may actually operate in violation of law*"). The FBI is the leading agency to handle *Color of Law* abuses and has a web page dedicated to the issue http://www.fbi.gov/hq/cid/civilrights/color.htm . Oddly the FBI closed its case in 2006- (*before we found the* ***proof*** *of federal corruption*). Obviously it's "*color of law*" when Gold, MNAT, TBF and their Bain Capital DOJ cohorts tell this court that Haas can't inform the court about the Perjury & Fraud; because he simply waived CLI's rights to be paid approximately $3.7 million.

VII **Petitioner standing as "**person aggrieved**" and/ or Rights to be heard under § 503(b)**

40. MNAT's fraudulent supplication to the Court stating the *Haas Affidavit* (D.I. 816) is a **Waiver** of all CLI fees is absolutely absurd. It is axiomatic that bad faith parties who have confessed to thirty (30) (+) acts of lying under oath and deliberate *fraud on the court*, should "***not***" be allowed the perverse extra of retaliating against the victim/ witness. But this is exactly what is transpiring in this eToys case. It is due to "*color of law*" and surreptitiousness that no counsel will represent CLI. This petitioner cannot obtain new counsel even though this court has ordered legal fees are to be paid by the Debtor.

41. The Court endorsed the stipulation that the MNAT firm would bring CLI's paperwork to the court for processing, of the fees and expenses. This is corroborated by the DE Bankruptcy Court approved contracts of CLI through its two court Orders concerning same. Stating verbatim with the "*assistance of Debtor's counsel*" (please see ¶6 Court Order signed July 9, 2001 (D.I. 523) (original NIBS Docket Entry 448). Therefore, MNAT is the actual irresponsible party who has failed to process CLI's paperwork to the court!

42. Thus, the *parties who confessed lying* are now saying that Haas has enough standing to waive CLI payments; but that Haas ***does not*** have ***any*** standing to inform the court about their frauds and/ or that the purported "*waiver*" is a forgery. Even the *purported* waiver itself is a testimony against their scheme. MNAT's supplication of the Haas Affidavit (D.I. 816) ("Exhibit 1") is entitled "*Affidavit of Steven Haas in Support of Collateral Logistics Request for payment of Expenses*". Evidently the court never had time to read the 2 page document that *purports* to be a waiver. It actually *grants the rights to compensation!* The Haas Affidavit states in **part 11** thereof - that the one thing that CLI may seek to recover is success fees. The Court denied CLI's newly obtained counsel from speaking the very day of the August 22, 2005 hearing

that the perpetrators had set up to permanently expunge the CLI claims (Michael Kennedy *conveniently neglected* to put in his *pro hac vice*) (see Transcript of hearing (D.I.2322).

43. *Inexplicably*, this petitioner' is forbidden to inform the court that MNAT's forged the Haas Affidavit. This abstract *denial of due process* was followed up with another "*color of law*" order stating "*A to X*" impish reasons why the CLI claim was erased because [Haas]/ CLI's ***failure*** to pursue payment? (Please see the Order (D.I. 2312).

44. The court accepted the premise that Haas tossed away CLI monies by concluding CLI did not ever seek to be paid and that CLI never did file any fee application paperwork? This is totally incongruous with the facts. MNAT is the party who failed to do that court ordered task.

45. Contradictorily, the court then stated CLI filed "***bare bones***" paperwork. Again, this is the court absorbing the babbling hyperbole of MNAT as true, *when it is in fact, a lie*. In the court's original Orders for CLI, drafted by MNAT/ TBF, (Docket Items 253 & 523), it states that CLI only needed to "*identify general project categories*". As per the court's order;

> "*CLI is excused from the requirements of **Rule 2016-29(d)** of the Local Rules of Practice and Procedures for the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), except as to the portion of **Local Rule 2016-2(d)** that requires CLI to indentify the general project categories in which provided services*".

46. Both CLI contracts have concrete obligations of eToys to CLI and CLI parties. Plainly the **Indemnification** clause states the Debtor must ***indemnify*** and hold harmless CLI and its officers, etc., from ***willful misconduct*** and/or ***gross negligence*** of the Debtor - stipulating;

> CLI Contract 1 – **MAINTANCE And LIQUIDATION SERVICES**
>
> Part 6 **Indemnification**. "*eToys shall defend, indemnify and hold CLI and its affiliates and the officers, directors, agents and employees of such, harmless from and against any and all claims, suits, damages, losses, liabilities, obligations, fines, penalties, costs and expenses (whether based on tort, breach of contract, product liability, patent or copyright infringement or otherwise), including reasonable legal fees and expenses, of whatever kind or nature, arising out of or based on any loss of the Collateral other than any such loss arising out of CLI's negligence or intentional misconduct*".

47. Recertified in the 2nd CLI Contract the AMENDMENT to COLLATERAL MAINTAINCE, negotiated by Barry Gold, then drafted by Michael Fox, Susan Balaschak & Paul Traub of TBF, along with MNAT's Greg Werkheiser. The indemnification clause reiterates;

> Part 10 **Indemnification**. "*In regard to performance under this Amendment Agreement, each party shall defend, indemnify and hold harmless the other party, and the other party's directors, officers employees and agents, from and against any and all claims, suits, damages, losses, liabilities, obligations, fines, penalties, judgments, costs and expenses, including reasonable attorney's fees and disbursements arising out of or relating to; (i) the death or personal injury of any person resulting from the negligence or willful misconduct of itself, its employees, agents or contractors (or their employees, agents or contractors); (ii) the loss of or damage to any property resulting from the negligence or willful misconduct of itself. Its employees, agents or contractors (or their employees, agents or contractors); or (iii) the material breach of this Amendment Agreement by such parties or its employees, agents or contractors (or their employees agents or contractors)*". (*emphasis* added)

48. The court approved contracts also clearly states that CLI agents [Haas] are to be paid directly by the Debtor. Thus this court already ***granted pecuniary interest*** to the petitioner per the court approved 2nd CLI contract - Section 6 **Additional Obligations of Parties**,

> **4(b)(i)** -- "*Except as provided in Section 4(a)(i), the Debtors shall be obligated to provide all staff, employee(s) and/or other personal (and/or to pay the expenses of such persons provided by CLI or others at the Debtors' request) that may be required (as agreed among the Debtors, the Committee and CLI) to manage, move, provide security and sell the Remaining Collateral. The expenses, including but not limited to payroll and benefits, for providing these employees shall be paid by the Debtors*".

49. As for the issue that CLI was without counsel, this too is incongruous. CLI always had representation in the eToys case. The very moment that MNAT, Paul Traub and Barry Gold refused to give Haas the final actual amounts received for the sale of the Debtor's assets, this petitioner then hired Chuck Kunz for the task (*but his senior partner stated they were not experts in such matters*). This petitioner then immediately hopped on a plane and found Heiman Aber Goldust and Baker. Henry Heiman took the case for a flat fee and boasted of his experience as a Trustee before this very court. **However**, in the latter part of 2004, after this petitioner found the ***Smoking Gun***, Heiman adamantly refused to submit it. Heiman emailed a threat from Balaschak

of TBF, warning *that if Haas did not "**back off**" - CLI and Haas would not get payment for the Court approved work, the professional career of Haas would demise and worse would transpire.*

50. Then petitioner obtained the counsel of Michael Weiss, (*who worked for a financier of Haas's*). Instead of guaranteed billable hours by the court, Weiss desired a basis of contingency. Weiss then asked for $10,000 out of the blue and his security guard threw me out when I brought cash (*his local counsel was Fox Rothschild* (Region 3 Trustee DeAngelis's firm).

51. CLI then hired the California area firm of Brad Brook and he too wanted to take the case on a lucrative contingency. Brook utilized the local Delaware counsel of The Bayard Firm. Brad moved me into his office in Santa Monica California, not far away from the eToys new offices, and assisted this petitioner to contact the EOUST in D.C. Also Brad Brook did instruct this petitioner on the Bankruptcy Code & Rules and gave me Norton case cite books.

52. Brook was the counsel that informed this petitioner that blowing the whistle was mandated by Congress. Thus, *as an established matter of law*, this petitioner could "**Not**" "*back off*". The edict clearly commands a party to report (blow the whistle) of any knowledge before, during or after the fact - of a felony violate act. See **18 U.S.C. § 4 - MisPrison of a Felony**. Where the statute stipulates verbatim;

> "*Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both"*

53. Then Brad Brook informed this petitioner that the case was going to be settled straightaway. That he was so sure, he was going to drop what he was doing and fly to Aruba to meet with the parties and negotiate the settlement. That is when darkness found a way to forever more reign over this petitioner and CLI. It was scheduled for CLI to have a hearing on February 4, 2005, about the amounts the Debtor would pay, (*arguing amid $2.9 and $3.7 million because*

the estate was going to sell everything for $3.5 to $5.4 million and CLI, managed by this suitor, was able to help get the bids up into the tens of millions of dollars to be paid by Bain Capital/ Kay Bee). Then, all of sudden, the CLI Administrative Claims hearing of February 4, 2005 was put off **by** Brad Brook. He stated that it would still be considered Bribery, for this petitioner to take a payment from parties, who were confessing to acts of deliberate fraud and Perjury.

54. Flip flopping on the issue, *Brad Brook stipulated later*, that it was wrong to have put off the CLI claims hearing. Brook became inexplicably upset when this petitioner conveyed to Washington D.C. of Paul Traub/ MNAT's $100 million dollar fraud in the Kay Bee case. The Bayard Firm, was involved in the Kay Bee Toys case as counsel for Back Bay Capital Funding. Brook then lied to the court stating that this petitioner had simply vanished.

55. The issue of the ability for this petitioner to have standing does not stop there. There's also the Bankruptcy Code Section **503(b) Substantial Contribution**. The crux of **503(b)** is to award parties the cost of their efforts for bringing returns (*substantial contribution*) to a bankrupt estate that otherwise might not have occurred, due to inadvertency, neglect or fraud. Barry Gold himself, utilized **503(b)** with Bain Capital's executive Jack Bush and Paul Traub in a previous case. Even if you throw out CLI's claims, any CLI employee, (*or janitor, a snowman or anyone in China*) has the right to be "*heard*" on the issue of *substantial contribution by* **Code 503(b).** Including, *but not limited to*, the fact that the Stipulation to Settle proffered by the US Trustee and signed by the TBF law firm agreeing to give back to the Debtor $750,000; (*if nothing else*), this is a direct result of this petitioners ferreting out the ***Smoking Gun*** evidence.

VIII Additional Bad Faith Acts Compelling this Court's Intervention

56. MNAT and TBF proffer the erroneous notion that Barry Gold did not have to apply per Section **327(a) -** as a *mere* executive officer of the Debtor. This contention is silly. As the sole, 100% authority, over all bankruptcy matters, Barry Gold was not "*merely*" involved.

57. This court has never addressed the fact that Gold and Traub were questioned, *on the stand*, by eToys shareholders in 2002 (*who expressed deep concerns that bad parties not receive a* "Get out of jail free card"), about Gold's connections to Traub and TBF. It is clear that Barry Gold committed Perjury on the stand; because his Declaration, *with the many lies therein,* was already recorded in the docket record *(Transcript of Nov. 1, 2002 hearing (D.I. 2152), transcript of Nov. 18, 2002 (D.I. 2153) and transcript of October 16, 2002 hearing (D.I. 1394)).*

58. An Affidavit of the former Chairman of the Creditors Committee (*that Paul Traub was representing in eToys*), stipulates that he was deceived by the Creditor's counsel arranging for Barry Gold to become eToys CEO and that he is dismayed at the apparent lack of desire to rectify Traub's subterfuge. Proof of this stratagem is the Confirmed Plan Agreement Declaration part **(c) 20 -** Barry Gold remarked *"The Creditors' Committee has designated me to Serve as the Plan Administrator" - "The Debtors have consented to that designation".* Gold and MNAT are the "*Debtors*" and Paul Traub (*Barry Gold's partner*) was the *Creditor's* designator who deceived his own client (please see Chairman's Affidavit ¶17) ("Attachment 1").

59. But the deceptions do not halt there either. Barry Gold has harmed this petitioner, the eToys company, the Creditors (*not party to the scheme*) of Fedex, the Post Office etc., and equity holders (*whom Barry Gold, MNAT and TBF schemed to deny protections for*). As the President and CEO of a public company Mr. Gold has a fiduciary duty to those he is employed of, including the shareholders. Barry Gold states so in the PLAN **Section 7. Selection Of Officers And Directors Section 1123(a)(7)** that;

> "*I [Barry Gold] understand that section **1123(a)(7)** of the Bankruptcy Code requires that the Plan's provisions with respect to the manner of selection of any director, officer or trustee, or any successor thereto, be "consistent with the interests of creditors and equity security holders and with public policy -- The Plan satisfies this requirement*. --" (*emphasis* added)

60. Barry Gold continues babbling malarkey throughout the Declaration, stating it is done, "*under penalty of perjury*", then he commits mendacity, within **Plan - Part C. Plan Proposed In Good Faith Section 1129(a)(3)**. Paul Traub offered his *secret* partner, in a *bad faith* manner. Their [real] "*purpose*" appears to be a plan to enrich Bain Capital and destroy the eToys public company for Goldman Sachs & Bain Capital's benefit. In **Part C,** sub part **44,** there is a bold face lie that is an impossible contention for Barry Gold to achieve. He states, *in a mocking,* world record lying manner, - verbatim;

> "**44.**-- *The Plan represents* ***extensive*** *arms' length negotiations among the Debtors' the Creditors' Committee, and other significant parties in interest, as well as their advisors. The Debtors proposed the Plan in good faith in order to achieve the greatest distribution for their unsecured creditors, and to avoid delay and unnecessary cost in making such distributions. The Plan was proposed in good faith in so far as it is the logical and best method for administering the consideration received by the debtors from their sale of substantially all their assets*" (***emphasis*** added)

61. While **Rule 1144** does stipulate that a Confirmed Plan cannot be changed, even for Fraud, after 180 days, the eToys Plan does contain a provision for the removal of the Plan Administrator for "***Cause***" as per S**ection 5.2**. Applicable to the issue of being removed are his inexorable and extensive damages. The United States Trustee's Disgorge Motion denotes the fact that TBF was paid $1.9 million after the Plan was confirmed (*thus by Barry Gold*) violating Plan section **Transactions with Related Persons**;

> **Section 3.12** – "*Notwithstanding any other provisions of the Agreement, the Plan Administrator shall not knowingly, directly or indirectly, sell or otherwise Transfer all or any part of the assets of the Estate(s') to, or contract with, (a) any relative, employee or agent (acting in their individual capacities) of the Plan Administrator or (b) any Person of which any employee or agent of the Plan is an affiliate by reason of being a trustee, director, officer, partner or direct or indirect beneficial owner of five percent (5%) --"*

62. Of serious cause for concern is the Confirmed Plan's stipulation that the Administrator is permitted to settle all issues under $1 million without the need to seek this Court's approval (Plan Administrator agreement **Section 4.3(d)(i)**) - by the Bankruptcy Court

Order part 2 (D.I.1385). The only approval needed was that of the PEDC [the Creditors] who are represented by Barry Gold's *secret* partner Paul Traub. As Section **4.3(d)(i)** states;

> *"If the proposed amount --- less than or equal to $1,000,000 --- the Plan Administrator shall be authorized and empowered to settle --- upon the Plan Administrator's receipt of the PEDC's consent or the Bankruptcy Court approval"*

63. Speciously, right after Barry Gold was illegitimately planted within the Debtor, the entity *Liquidity Solutions* began to acquire many of the Claims of the eToys Creditors. This is germane as Stage Stores was co-debtor with *Liquidity Solutions*, connected to Sankaty, Romney, Bain Capital, Glazer, Traub and Gold (*and thus* MNAT). All claims purchased by Liquidity Solutions (*and/ or its affiliated party Madison Liquidity*) were required to disclose their various "*insider*" connections. They are "forbidden" by Law to profit a single penny. At the barest of minimums (*by the established doctrine to punish schemes via* **Equitable Subordination** under **Rule 510(c)),** every single penny paid out (possibly $40 million dollars) - to a *Liquidity Solutions* eToys claim - is a *probable*, *rescindable transaction* in need of a fully, independent, audit.

64. TBF confesses they "*consciously*" decided to keep their links secret (See TBF Objection (D.I. 2171 ¶38) (*and see Disgorge Motion ¶18*). The Court permitted the depositions and other confessions to be entered into the evidence hearing record. At that time the court itself *deposed* Paul Traub on this issue that the TBF firm paid Barry Gold $30,000 per month from January 2001 to May 2001. (See March 1, 2005 hearing Transcript (eToys D.I. 2228) pages 60-69). Gold was thus an admitted, *de facto* paid associate of the Paul Traub's TBF law firm.

65. Beyond the fact that, *arguably*, Gold and Traub are already connected to Goldman Sachs as cohorts of MNAT, they also *cunningly* continue to fail to disclose the Goldman Sachs owned entity Cosmetics Plus (*In re Cosmetics Plus* a bankruptcy case (SDNY Bankr 01-14471)); which Paul Traub and Barry Gold worked during the tenure of this eToys case.

66. Instead of pointing out the bad faith acts of the (*purported*) opposing parties and seeking the return of *ill-gotten gains* to benefit their respective clients; they circled the wagons to defend each other. Such as the bogus remarks Mr. Gold was an employee or Ordinary Course Professional ("OCP"). The United States Trustees are the police of **Professional Persons** and cites cases apropos; *In re Kraft v Aetna Casualty & Security Co.,* 43 B.R. 119 (Bankr. M.D. Tenn. 1984) ("*appraiser cannot bypass Section **327(a)** by stating mere mechanical services*"). One of the reasons MNAT, TBF and Barry Gold work so hard to defend their crimes and refuse to protect their respective clients, are their many violations of **18 U.S.C. § 155 Scheme to Fix Fees**. They illegally agreed to pay each other millions of dollars in fees & expenses.

67. Barry Gold then conspired with MNAT and TBF to deny the eToys shareholders their rights to have a "*Committee*" status and objected to any independent counsel for them.

68. Research shows that Paul Traub has been working along with Mitt Romney/ Bain Capital issues since NeoStar, decades ago. He has also confessed, by his *Supplemental* in the Stage Stores case, that he had prior case relationships with Barry Gold and Jack Bush (*who is a senior executive of Bain Capital*). Traub and Gold have "***never***" informed this court of their relationships to Romney, Stage Stores and Glazer all connected to Bain Capital and Kay Bee Toys. The Code presumes material adversity transpires by the mere fact of their lying and yet Paul Traub, MNAT and Barry Gold had to show off by tumbling down the sale prices to Bain Capital every chance they could. Including a reduction of the price of the eToys.com domain name asset from $10 million to only $3 million. There's ***no*** proof the $3 million was ever paid!

69. Xroads LLC is the court approved financial consultant of the Debtor, in charge of the bank accounts and audit of the Debtors records. Xroads LLC, along with Paul Traub and Barry Gold, all have ***undisclosed*** Wells Fargo/Foothill Capital relationships. This is germane as Foothill Capital gave the $40 million dollar pre-petition loan to the Debtor with instructions that

Wells Fargo was to receive the payments. This loan originated in November 2000 and was paid off, *just prior to the eToys Debtor's bankruptcy filing in 2001*, handling more than $100 million. There has been no independent review on the correctness of these preferential cash dealings.

70. The Wells Fargo/ Foothill Capital issue of TBF, Barry Gold and Xroads LLC *undisclosed connections* is a preferential treatment fraud. As documented by the prior case of *In re Bucyrus* 94-20786 (E.D. Wisc. (1994)). In the *Bucyrus* case, the NY bankruptcy attorney John Gellene was incarcerated for not disclosing his connection to a $35 million pre-petition loan (*coincidently by a Goldman Sachs former*). The firm of Gellene (Milbank & Tweed) had to disgorge their entire $1.9 million and later suffered the hard side of a lawsuit (losing over $25 million). You can read much of the story online by esteemed Law Professor Milton C Regan[2], in his book entitled "*Eat What you Kill*" 'The fall of a Wall Street Lawyer' (here). Surely given the nature of the extent of the statutory violations, the continuous lying and larceny in this case, with *documented* confessions; this Debtor would receive at least as much or maybe even a much more substantial settlement of any Foothill Capital/ Wells Fargo litigation!

71. Mitt Romney was controlling owner of Stage Stores and Bain Capital, with his director Jack Bush and co-director Michael Glazer. TBF working Stage Stores submitted a Supplemental **Rule 2016** Affidavit detailing Traub's prior connection to Jack Bush (*a senior executive of Bain's Ideaforest*). Barry Gold, not realizing we would find out about Stage Stores, testified in his February 9, 2005 deposition that Jack Bush gets him employment opportunities often. Denoted above and reported on by a recent Rolling Stone cover story "Greed & Debt", Bain Capital was paid $83 million as *bought off* executive, Michael Glazer paid himself $18 million; prior to filing KB Toys 1st Bankruptcy case 04-10120. Failing to disclose their Bain Capital connections, *during the tenure of this eToys case*, TBF slyly sought to prosecute this

[2] http://www.google.com/search?hl=en&q=eat+what+you+kill+gellene&aq=f&oq=

$100 million preferential and MNAT represents Bain Capital in that matter. When this petitioner, armed with an Affidavit from the Creditors former Chairman, did try to inform that court; the bad faith parties in the Delaware Department of Justice had the evidence stricken & expunged.

72. MNAT, Barry Gold and TBF also nixed many beneficial deals to the Debtor's estate. Including a pending merger of Scholastic and other public entities with eToys. Paul Traub also scuttled CLI's efforts to merge the online retailer eToys with the brick & mortar stores of Playco. That deal would have netted a potential 100% on the dollar return to the Debtor of some $50 million dollars in assets. Traub's other secret party of Wells Fargo was involved in Playco. TBF failed to inform this petitioner he was working Playco when he was nixing the deals. The perpetrators yelled at this petitioner and stated that Haas sought those deals only because CLI would get more success fees due to the greater cash returns to the Debtor's estate. (*Duh*!). Traub was actually doing fraud to both Playco and eToys at the same time, to benefit secret agendas.

73. One of the eToys bondholders was Fir Tree Value Fund. Its key person was Scott Henkin (a Committee member). When Haas tried to discuss the matters with Mr. Henkin, he informed Haas that Fir Tree Value Fund had given its' "*off the record*" permission to the *conflict* of Traub and Gold. Then Bain Capital sold eToys to D E Shaw. It is most certainly alarming that eToys.com, was destroyed as a public entity, then relisted on NASDQ under the symbol KIDS with an estimated worth of $295 million. As if all this were not enough to *shock the conscience*, Scott Henkin was rewarded for his bad faith, in a *bought off* manner, like Michael Glazer, He became a senior executive at D E Shaw; which owned eToys – (*before it went bankrupt again*)!

IX Legal Arguments for Emergency Adjudication of Fraud on the Court

74. United States Trustees are the "*police*" of the bankruptcy system. They are commanded by **28 U.S.C. § 586(a)(3)(F**) and **18 U.S.C. § 3057(a)** to **Notify & Refer** all matters of possible felony violations to the U.S. Attorney's office. There are more than one-hundred

crimes transpiring that they have failed to report or arrest. Including, but not limited to, attempted Bribery, **Collusion**, Intimidation of Victim/ Witness, **MisPrison of a Felony**, Wire/ Mail Fraud, **Hiding of Bankruptcy Assets**, Destruction of a Public Company, **Federal Corruption**, False Oath/ Declaration, **Scheme to Fix Fees**, Grand Larceny, **Conspiracy**, SEC Frauds (the IPO pump-n-dump) and **Fraud upon many** State & Federal Courts. There are many parties, doing many millions in frauds for many years in multiple states; that is **Racketeering**.

75. In Barry Gold's Response (D.I. 2169) he provides the previous hidden Hiring Letter that both MNAT and TBF deny drafting. It states that Barry Gold can "*waive*" **clause (i)**. As stated on page 36 of D.I. 2169; **¶ (i)** "*the approval of your employment as an officer of the Company by order of the U.S. Bankruptcy Court for the District of Delaware* --". So the contention that the parties didn't even consider that Barry Gold had to apply is utterly bogus. Combine that with the fact that the *Disgorge Motion* gives the court testimony by the United States Trustee (twice), in both ¶19 & ¶35 – that the parties asked to pull this stunt and were told not to; makes their continuous rebuke of this federal authority and their mockery of this court by their relentless acts of breaking the law in this eToys case "***extensively** heinous & egregious*"!

76. It is an established principal within the Circuits that once a person is guilty of false witness; all subsequent testimony is to be extensively suspect. Under the U.S. Supreme Court decision in *Giglio v United States* 405 U.S 150, 154-55 92 S. Ct. 763, 766 31 L.Ed.2d 104 (1972) states that once a party is found unfaithful by false declarations, *all other testimony is not worth a grain of salt*. (Akin to the similar issues of *Brady disclosure* materials). The 11th Circuit stipulated to a Trustee falsities that Lying under Oath is fraud; as stated by Her Honor Kravitch *In re James Walker* (11th Circuit 06-11743) - *"lying under oath is Lying Under Oath"*!

77. There's recognized precedents, affirmed within the Third Circuit, on the issue that the person who has *any* autonomy / authority over bankruptcy decisions has stepped beyond the

boundaries of OCP and must apply by Section **327(a**). In re: First Merchants Acceptance Corp., No. 97-1500(JJF), 1997 WL 873551, at*2 and at*3 (DE Dec. 15, 1997) establishing the "*quantitative*" and "*qualitativ*e" standards for who is defined as a professional. Delaware Courts also cited In re: Stahl v Bartley Lindsay 137 B.R. 305, 309 (D. Minn. 1991) "*Courts have concluded that financial advisors must be retained under **11 USC § 327(a).*** See also In re Martin 817 F 2d 175 180 (1st Cir 1987) addressing both the "*unclean hands*" doctrine and listing the 12 factors to consider in application of who must apply and disclose by § **327(a)** and In re Seatrain Lines, Inc., 13 B.R. 980, 981 (S.D.N.Y. 1981) and In re Fretheim, 102 B.R. 298, 299 (D. Conn. 1989). In re Twinton Properties 27 B.R. 817 Bankr. (CCH) 69096 (MD. Tenn. 1983) listing the 9 elements to be clear convincing of no conflict.

78. Congress and the Circuit Courts have ruled that the Code is "*unambiguous"* upon the mandate to disqualify *bad faith* parties who fail to disclose (In re Middleton Arm's 934 F.2d 723 (6th Cir 1991) "*courts cannot use equitable [**any**] principals to circumvent the clear and "unambiguous" language of Section **327(a)***". Extensive cases within the 3rd Circuit and this court has acknowledged the doctrine that any failure to disclose **must** result in disqualification. In re BH&P, Inc., 949 F.2d 1300 (3rd Cir. 1991) - In re Marvel Entertainment Group, Inc., 140 F.3d 463 (3rd Cir1998), this Courts' ample references of Rome v Braunstein 19 F.3d 54, 58 (1st Cir 1994) (conflicts can be "*patently inappropriate*") –- In re Price Waterhouse v US Trustee (93-3337) 19 F.3d 138 62 USLW 2638, 25 Bankr.Ct.Dec. 618, Bankr. L. Rep. P 75, 763 (3rd Cir 1994) "*non-disclosure of conflicts of interest must result in disqualification as the statute is unambiguous*", also cited by In re First Jersey Securities 180 F 3d 504 (3rd Cir 1999)) (*the Price Waterhouse case was cited by this Court, the U.S. Trustee and the 3rd Circuit during eToys*).

79. Had the Delaware Department of Justice not had its own nefarious reasons to perpetrate a *fraud on this court* for veiled agendas; the court would not have been swayed to be

lenient. The 3rd Circuit denotes, in its' Opinion of *In re United Artists* (3rd Cir 01-3533) that one should not need go to the level of "*conscience shocking*" offenses in order to prompt a reaction. As referenced by the 3rd Circuit's case of In re United Artists citing the U.S. Sup. Ct. case of *Sacramento v Lewis* 523 U.S. 833, 846 (1998) - c*onscious-shocking* levels are obviously any bad faith efforts of government persons to engage in "*Conduct intended to injure in some way* [unjustifiable] *by any government interest is most likely to rise to a conscience-shocking level*".

80. In a *legitimate* case, when you catch a "***forewarned***" bank robber, G-men don't tell a judge it is no big deal and give the thieves the keys to the vault. Upon confessions about Traub inserting Gold, the proper adjudication of the issue should have been voiding him "*ab initio*" and inserting this petitioner. The U.S. Trustee is widely educated in these and knows that;

> "*The classic definition of professional person for purposes of **11 U.S.C. § 327(a)** limits the term to "persons in those occupations which play a central role in the administration of the debtor proceeding." In re Marion Carefree Ltd. Partnership, 171 B.R 584 (Bankr. N.D. Ohio 1994); In re Seatrain Lines, Inc., 13 B.R. 980, 981 (Bankr. S.D.N.Y. 1981). The degree of autonomy and discretion exercised by the firm/ individual in question is also a relevant consideration in determining whether the requirements of 11 U.S.C. § 327(a) apply. In re Bicoastal Corp., 149 B.R. 216 (Bankr. M.D. Fla. 1993); In re Park Ave. Partners Ltd. Partnership, 95 B.R. 605 (Bankr. E.D. Wis. 1988)".*

81. The U.S. Trustees betrayal of their oath and breaking the Law of Section **327(a)** is the specious top of the logic tree indicating *improper motive*. Disqualification of all parties who fail to disclose any *conflict of* interest is mandatory. (In re BH&P, Inc., 949 F.2d 1300 (3rd Cir. 1991). The 3rd Circuit denotes that the United States Supreme Court remarked upon "*improper motive*" of government personnel *See* United Artists, 2003 U.S. App. LEXIS 515 at *18-19 (*collecting cases*); id. At (35-38) (same) see also Sacramento U.S. at 849 ("*Historically, this guarantee of due process has applied to deliberate decisions of government officials to deprive a person of life, liberty or property*." (Quoting with approval from *Daniels v Williams*, 474 U.S. 327, 331 (1986) (emphasis in original). CLI and the innocent credits are being deprived so.

82. If you look at the case of *In re Arkansas Co.*, 798 F.2d 645 (3rd Cir. 08/13/1986) – the 3rd Circuit has already remarked upon sophisticated attorney efforts to nefariously seize control of bankruptcy estates for their own sake. The Arkansas case articulacy cited Congress and appropriately denotes the perversion that transpires for the benefit of attorneys;

> *"*In fact, the House Report noted - *"in [bad] practice . . . the bankruptcy system operates more for the benefit of attorneys than for the benefit of creditors." H.R. No. 595, 95th Cong., 2d Sess. 92, reprinted in 1978 U.S. Code Cong. & Ad. News 5963, 6053"*

83. Another discernment provided from *In re Arkansas*, is that the reason parties are required to seek court approval is to eliminate the *bad faith*, by wayward attorney cronyism; which allows counsels to form sophisticated efforts into a ***Bankruptcy Ring*** of offenders;

> *It is significant that Congress chose to place the requirement of court approval for the employment of an attorney, accountant, or other professional by the creditors committee directly in the **Bankruptcy Code** in 1978. **11 U.S.C. § 1103(a)**. The legislative history makes clear that the **1978 Code** was designed to eliminate the abuses and **detrimental practices** that had been found to prevail. Among such practices was the cronyism of the "**bankruptcy ring**" and attorney control of bankruptcy cases. (**emphasis** added)*

84. In another court (E.D. Mich. 2007) *In re M.T.G., Inc.*, 366 B.R. 730 (Matrix Technology Group) a justice resisted capricious cries to not address *fraud on the court* issues. The M.T.G. case is akin to eToys as, *for many years*, the courts refused to admit that fraud upon the court did happen. Justice Tucker vetoed their refusal to see the elephant in the room restating in bold - "**For Publication" -** observing that *Courts have a duty to address obvious fraud*. The fact of the matter remains, fraud on the courts being ignored are "**still**" *Frauds upon the Court*!

85. Even this Court, dealing with small portions of the deceit, stated in its Opinion (pg. 15) that if "*extra-ordinary circumstances*" exist in eToys, it would oblige a review of "*fraud on the court*" items, lest conflicted attorneys be compensated and claimant's get punished;

> "*To hold otherwise would only serve to penalize the* [Plaintiff] *for delay that was beyond his control and to reward conflicted attorneys for failing to disclose their conflicts beyond the one-year period*".

86. Obviously, Barry Gold does have secrets, schemes and issues of *non-disclosure* of extremely material adverse, *conflicts of interests*. According to the "*bare bones*" Gold reports, there was $40 million+ in cash in the Debtor's coffers in 2004. That money is gone now. Possibly going back to Bain Capital through Liquidity Solutions "*claims*" million $ settlements. Gold circumvented the *auspice* of this court by MNAT & TBF arranging that, as Administrator, he could pay out monies by only needing approval of the Creditor's Committee ("PEDC"); which is represented by Barry Gold's (& *Bain Capital's*) **secret partner in crime** – Paul Traub.

87. Other courts are already citing eToys to address *Fraud on the Court*. The Florida District Ct cites eToys to reopen the previously closed case of Baron's (S FL 07-60770), due to *Fraud upon the Court* issues. The New York case of the *US Trustee Paul Banner v Cohen Estis and Assoc*, (In matter of Balco Equities S.D.N.Y. Ct case 04-35777) cited the eToys case as precedent for total disqualification and the disgorgement of all fees for non-disclosure in violation of the Code. Other venues quote eToys to sort out what this case has declined to fix.

88. The court gave the parties many chances to "*totally come clean*" and its authority was mocked during the Confirmed Plan hearings when Gold and Traub lied while questioned, *on the stand*, by the shareholders, about their relationships. Also this court ordered the parties to respond ("***come clean***") by January 25, 2005. Though this court remains ensnared by federal agents bogus contentions that Gold need not apply (*by the way he* DID *apply as Administrator*), the court provided its' own ***forewarning*** in its Opinion of October 4, 2005 stating on page 50;

> *In this case, Gold acknowledges that he failed to disclose to the Debtors, their counsel or any other party his relationship with TBF, Traub and ADA at the time he was hired by the Debtors. Unlike TBF and MNAT, as an officer of the Debtors Gold was not required at the time to disclose that relationship. In the future, however, the failure of an officer of a debtor to disclose such relationships will subject that officer to review and possible disgorgement of compensation if the Court concludes that the relationship constitutes an actual conflict of interest.*

X Summations of Bad Faith and Notes of Enigmatic Events

89. In its Opinion, this court denotes MNAT became aware of Goldman Sachs issues during May 2001. Therefore, this court should be alarmed and *infuriated* to now absorb the fact MNAT submitted the request to Destroy Books & Records (D.I. 300) **in May 2001**. Neither Barry Gold, TBF *nor the Delaware Department of Justice objected* to that bizarre request.

90. It is a fact that MNAT, TBF and Barry Gold have already confessed lying under oath & failing to disclose conflicts of interest. Traub admitted he deliberately deceived this court about Gold and furtively planting him in eToys after being "***forewarned***" by the United States Trustee not to replace ***key*** executives of the eToys estate with anyone connected to the approved Professionals. (*Thus the U.S. Trustee footnote signifying Barry Gold is a **mere** officer is fairy-tale*). MNAT confessed failing to inform the court that it had connections to both Goldman Sachs and GE. Section **327(a)** mandates, ***unambiguously***, that MNAT and TBF are to be disqualified.

91. But this court was duped into extraordinary leniency; *due to the corruption of the federal system of justice* by Colm Connolly as U.S. Attorney in **Collusion** with U.S. Trustee Roberta DeAngelis and their local Mark Kenney (*whom this petitioner was unsuspectingly providing evidences to*). Colm Connolly's resume denotes that he was a partner of the MNAT law firm from 1999 to August 2001 (*the very span of time Mitt Romney desires to be "*retroactive*" from*). These facts are cemented in stone as federal archives.

92. As is denoted by **18 USC § 3057(a)** "any judge - -" must **Notify & Refer** any possible violations of the Law to the US Attorney's office. There's no allowable discretion;

> ***3057(a)*** *- "Any **judge**, receiver, **or trustee** having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed*".

93. U.S. Trustees must **Notify & Refer** per **28 USC § 586(a)(3)(F), -** the law states**;**.

> **(a)** Each United States trustee, within the region for which such United States trustee is appointed, shall— ***"(a)(3)(F)*** *notifying the appropriate United States attorney of matters which relate to the occurrence of any action which may constitute a crime under the laws of the United States and, on the request of the United States attorney, assisting the United States attorney in carrying out prosecutions based on such action;"*

94. Crooks and corruption have caused eToys to lose hundreds of millions, if not billions of dollars. MNAT also nominated Paul Traub (*their cohort in crime*) to be the person to prosecute Goldman Sachs in the New York Supreme Court. Successfully scheming to obstruct justice by *destroying books & records* and placing that entire docket *under Seal from view*. With a new chance for justice, the N.Y. Supreme Court of Appeals has freshly re-opened that case and that court should be informed the plaintiff and defendants are *covertly* connected.

95. Given the detail that the eToys public company is being purposefully destroyed and was in bankruptcy multiple times, zigzagging to and fro, only to land back to Bain Capital under Toys R Us. With the additional facts that eToys also has TBF, Barry Gold, MNAT, Irell & Manella, Frederick Rosner, Marc Dreier, Tom Petters issues, disgorgements and malpractice claims. As well as the matters of Goldman Sachs IPO litigation and fraud upon the court New York Supreme court litigations. If only a mere fraction of the vast millions of fleeced eToys assets are returned to the estate; then this *Debtor can be made whole again*. Such a likelihood and the doctrine of *equitable justice* - warrants a whole new mindset by the court.

96. America has just become aware of the hollow habit, when it comes to Mitt Romney issues, of *destruction of evidence*. Both his Olympic paperwork's and Governor hard drive records were demolished. To prevent Haas from further finding out about Goldman Sachs and/ or Bain Capital/ schemes. In May 2001, MNAT realized that their Goldman Sachs and Bain Capital connections were exposed and that CLI/ Haas learned the fact that eToys may have not actually be insolvent. Therefore MNAT had many reasons to destroy the books and records.

97. MNAT then conspired with TBF to ostracize CLI/ Haas by planting the duplicate *Barry Gold* inside the Debtor. In continuance of the plot to defraud; $44 million has vanished from the eToys estate. Plan **Section 3.17 <u>Reporting Requirements</u>**; state the Administrator (*Barry Gold*) is to provide **meticulous reports**; but they're clearly totally void of *details*.

98. Brazenly they denied eToys shareholders both committee and counsel. Betraying their respective clients. Doing so even after the eToys shareholders questioned Gold and Traub *on the stand*, immediately before the PLAN was confirmed, about the fact that Barry Gold and Paul Traub might be connected. They had to lie since Gold's Administrator's Application was already a docket record and is, *in essence,* a **§327(a) Application of Professional Persons**. His **Declaration**, *<u>under penalty of perjury</u>*, is equivalent to a **Rule 2014 Affidavit**. Thus, Barry Gold should be voided, *ab initio*, due to the contemptible lie in his **<u>Declaration</u>**, where he distorted the facts by stating that the - <u>Plan was negotiated in</u> "*extensive*" <u>arm's length parleys - between Debtor (Barry Gold) and Creditors, represented by Paul Traub</u> (*who is Gold's partner*).

99. What has really transpired in this case, is that this petitioner was the one person silly enough to refuse their briberies. That is when the Bain Capital CEO panicked and resigned in August 2001. That very same month Connolly was then *organized* to become the United States Attorney who declined to investigate and/ or prosecute his partners/ clients/ cronies during his entire tenure of 7 years. Colm may have even worked the eToys IPO, or for Goldman Sachs and/ or Mitt Romney or Bain Capital issues. Whatever Connolly's reason are for his betrayals, it is readily apparent that no proper federal investigation into the eToys case ever occurred!

100. A super Madoff/*Capone* gets away with Bain Capital frauds for a decade, due to "*harvestings*" of federal agents and continuously expanding their ***Bankruptcy Ring*** Empire. Paul Traub was partners, (*after he was given* illegitimate *immunity in eToys*), with fraudster Marc Dreier and Ponzi schemer Tom Petters. They attempted to buy good will by giving (*stolen)*

monies to charities. Traub & Gold arranged for an eToys settlement with Fingerhut, then he bought Fingerhut with Petters Ponzi. Prior to the 2008 FBI raid of Petters Ponzi, he arranged for Goldman Sachs & Bain Capital to loan $50 million to Fingerhut and changed the ownerships.

101. A tiger doesn't change his stripes. While Dreier & Petters are doing 20 years and 50 years in Prison; Paul Traub, along with Michael O'Shaughnessy and other cohorts of their Bain Capital ***Bankruptcy Ring****, have gotten away with their schemes so profusely,* that Paul Traub **still owns Polaroid** that was acquired by Petters Ponzi. No eToys claims were submitted by MNAT or TBF, into the Dreier and Petters cases, though they were involved in eToys (*Dreier/Traub as partners working the eToys case and Fingerhut/ Traub/ Petters Ponzi issues*). An Abbey was given monies from Traub/ Petters and put in a handicapped elevator. Fingerhut was not seized in the Petters raids and Polaroid was sold in a sham auction to Traub's other clients. A Nunnery's handicap elevator is RICO'd - but Traub keeps Polaroid and Fingerhut.

102. Both this court's Opinion of October 4, 2005 (pg15) and the United States Trustee Disgorge Motion in ¶29, did cite the Supreme Court case of In Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 64 S. Ct. 997 (1944), which states; "*Surely it cannot be that preservation of the integrity of the judicial process must always await upon the diligence of litigants* -- [that justice may not] *always be mute and helpless victims of deception and fraud*".

103. Yet, due to the court being duped by rogue agents, this court is a victim (*but it is **Not** helpless).* It's the law, (**§ 4 MisPrison of a Felony)** that this movant blow the whistle and report felony violations. At least one person should actually do the task that the court did order to be completed. This movant *prays* this court observe the mandate to ***Notify & Refer*** per the statute **18 U.S.C. & 3057(a)**, and ***PLEASE***, "*officially*" report these statutory violations?

104. It is also important to denote the "*real*" human tragedies connected here. Those involved in Petters Ponzi, who did try to provide me inside info, are many, including Mr. Marty

Lackner who was part of the Petters Ponzi Illinois/ Lancelot efforts. His brother was J. Lackner (*an Assistant United States Attorney in MN).* While being only in his forties, having a wife and kids, *leaving NO note,* Marty *purportedly* committed *suicide* in his closet? If Traub had been properly disqualified and referred for investigation, thorough due diligence may have greatly reduced Dreier & Petters schemes and six others plus Marty Lackner might be alive today.

105. After losing others to suicide and (*ehr*) natural causes. The admired John ("*Jack*") Wheeler *purportedly* visited Colm Connolly's building, right before he wound up dead in a dumpster. When this activist tried to seek the answers to the events and published a story; Mr. Connolly, *as Wheeler's family counsel* counters with a notice of a $25K *reward* for information. Thus the info now goes to Colm instead of Laser Haas. If the public was aware of Connolly's true nature; then the police would not laugh at Colm subjects and a real inquiry could begin.

106. CLI's (*and thus this petitioner*) original court ordered task is to secure the eToys assets and *wind-down* the estate. A job that I have been continuously trying to do against nearly insurmountable odds. The court's Opinion, on page 15, citing the apropos case of "*Benjamin's-Arnold*, 1997 WL 86463, at *10" - denotes the fact that it is wrong to reward conflicted attorneys and punish plaintiffs. The bandits indicated this petitioner **had standing** by proffering a forged Haas Affidavit, informing the court Haas "*waived*" CLI's right to be paid; then they flip flop on the issue to state that this **petitioner does not have standing** *to inform this court of frauds* and that the court should forbid this petitioner to inform it that the MNAT submission is visibly bogus (*the very document in question even states in* **¶11** *that CLI has the right to success fees).*

107. This court's approval of the CLI contracts also provides that the Debtor is to ***Indemnify*** CLI and its agents. It is therefore MNAT who is failing that task of both defending and indemnifying the Debtor/ Haas/ CLI. This court's own orders approving the CLI contracts, drafted by MNAT, TBF and Barry Gold, states the "***Debtor***" is directly pay CLI/ agents (***Supra***

¶48). Thus the court has granted ***standing*** *to this petitioner*, long ago. This activist also has the same rights as anyone else would, under Section **503(b) Substantial Contribution** (*it was this petitioner who ferreted out the ADA Affidavit forcing TBF to confess and disgorge $750,000).*

108. Although this petitioner is obviously sentient of the icky "*suicides*" and surreptitiousness surrounding Marty Lackner and Jack Wheeler's untimely demise. While I have learned their ways and see docket record destructions of evidences, connections to federal corruption and benefactors of Racketeering who are powerful enough to be able to have a real chance to become the President of our country. I've never given up the quest for justice. For posterity's sake, this petitioner has the record of every email, online DOJ & FBI notifications, all Fedex, registered mail and hard drive copies – just in case – placed in several secure locations. The one thing the seditious parties and their culprits cannot kill – is the truth!

109. As a matter full disclosure, it would be bad faith for this petitioner not to warn all potential counsels of the federal corruption and untimely deaths. This petitioner believes that this court is as much a victim as are shareholders, CLI, the various innocent creditors and Haas. Due to the strife by Traub and his proven threats that he has undue control of federal persons, no common sense Attorney would dare touch this case with a 10 foot pole; as anyone can plainly see the obvious venality denoting that the "*fix*" is "*in*". This court can readily demonstrate to the nation, that there are places Mitt Romney's powers can't count upon to be willfully blind.

110. This petitioner has won some battles during this civil war. Marc Dreier and Tom Petters frauds ended and several law firms have closed down. Paul Traub is now backed into a corner praying Mitt Romney fleeces the Presidency. It is not this movants fault that many federal agents and various federal agencies are failing the American people. This activist is not a person seeking to stop a politician. Mitt Romney was not a Presidential candidate in 2004/ 2005, when some confessions originally came forth. In the apparent hopes of getting a great reward, *it's*

roguish federal persons who are betraying their oath of office, doing a President wannabe a favor. They are the real fiends. This petitioner is a court appointed fiduciary, simply doing my job. That task mandates that this petitioner report all crimes to federal authorities. I am trying to halt the massive frauds and federal corruption in the eToys case. Mitt Romney just happens to be the name of the guy in charge of the entity that benefited from the organized crimes.

111. There's so much more to this case. Beyond the fact that the mayhem. We have the OSC and SEC destroyed case files causing real damage. Larry Reynolds was a Las Vegas partner of Petters/ Traub, who laundered $12 Billion dollars. Doing so while under investigation by the IRS, SEC and FDIC. But that is not all! He was able to do all of this – while in the WISTEC (*Witness Protection*) Program! Larry is now in prison and his real name is Reservitz.

112. If you take away the names of the parties and substitute "John Doe" and "Entity ABC"; then nobody could ever argue that the felony violations occurring here are not in need of an immediate investigation. Though it is true, *as far as I'm concerned*, that Mitt Romney should not even be permitted to be able to walk the streets freely; much less be permitted the ***obscene*** ability to run for President of these United States. The fact of the matter is, I don't believe that the sentence of 50 years in the Petters case or 125 years in Madoff's case, serves anything but media headlines. People get less time for murder and that is absurd. However, there's no greater evil than that of those who take public salary and swear an oath to protect the Constitution of the United States; who then betray that oath. Such *manifest injustice* is one of the greatest evils. The turncoats are the real "*devil*" in the details and must be punished harshly to send a clear message.

XI Conclusion and Final Prayers for Relief

113. Bain Capital and their cohorts' cruel *mugging* of the Constitution of the United States must be halted. We have to start some place, lest we wind up with Paul Traub as Director of the United States Trustees and/ or a Colm Connolly Attorney General of the United States. If

you understand how preposterous such a notion would be; then you are (*finally*) fully aware that great wrongs are transpiring here and something must be done to stop the depraved insanity.

114. The period of time the crimes became official, is upon the very moment MNAT filed the case on March 7, 2001. There's no question as to, *whether or not,* felony violations have transpired. They have already confessed to lying under oath and admitted it was intentional. We also have the U.S. Trustees' Disgorge Motion testimonial that they did the scheme of (*secretly*) planting Paul Traub's partner Barry Gold in eToys as President/ CEO and as the Confirmed Plan Administrator. Doing so "*after*" they were ***forewarned*** not to do that offense! What MNAT as Debtor's counsel, Paul Traub as Creditors' counsel and their implanted Barry Gold (*as the sole, 100% totally autonomous authority over all Chapter 11 bankruptcy matters of eToys*) are all failing to inform this court about – is the fact that they are ***ALL*** linked to Bain Capital!

115. When this activist turned down their bribes and reported the crimes around August 2001, the Bain Capital CEO resigned in a panic *(retroactively back to February 1999*). To make sure their organized criminal treacheries were completely buried from any investigation - Colm Connolly (*a partner of MNAT in March 1999*) was arranged to be made the Delaware United States Attorney in August 2001; refusing to examine and/ or prosecute them for 7 years.

116. Of the many issues they seek to conceal, *germane to this motion today*, is the fact that MNAT, TBF and Barry Gold sold eToys for cut-rate prices to their Bain Capital/ Kay Bee/ Glazer associates. Paul Traub/ Barry Gold are both linked to Goldman Sachs's thru Cosmetics Plus. They also openly have their ADA entity working the Kay Bee Toys case. This works out perfectly for MNAT in multiple ways. They need the eToys public company to evaporate, in order for the Goldman Sachs IPO *pump-n-dump* scheme to be 100% successful. Also Bain Capital planned to monopolize the independent retail (*cash cow*) toy industry. MNAT handled Romney's / Bain Capital merger of The Learning Company with Mattel Toys in 1999. Now

MNAT openly represents Bain Capital in the $100 million preferential (*probable fraudulent conveyance*) that Michael Glazer paid himself and Bain Capital. Paul Traub did further those schemes & artifices to defraud by pretending to prosecute his cohorts. Then, very sinful and corrupt federal agents had our evidences of those plots & ploys – stricken from the record.

117. MNAT and Traub designed the PLAN to allow Barry to settle any issue, of $1 million at a time, to be paid by Gold only needing the permission of the PEDC (*his partner in crime Paul Traub*). The parties are ruthlessly violating **18 U.S.C. § 155 Fee Fixing** by nonstop lying to the court to maintain their positions of [*sic*] trust! Barry Gold paid his numerous cohorts/ secret clients and himself millions of dollars in stolen monies from the eToys estate.

118. Thus they are engaging in *forbidden* **Transactions with Related Persons.** Proof of this is the United States Trustees *Disgorge Motion* (¶11), pointing out that Traub was paid $1.9 million [by Administrator], after the Plan was confirmed. Paul Traub, Barry Gold and their cohort Xroads LLC, continuously fail to inform this court of the $100 million Wells Fargo/ Gellene type fraud they are involved in. They are also able to siphon off the rest of the $40 million + in cash from eToys, by claims schemes of Romney's Bain/ Stage/ *Liquidity Solutions*.

119. The *Disgorge Motion* placed a mock argument that Gold did not have to apply, in the footnotes; because it is a deviation from the Law. Contradicting itself, the U.S. Trustees' Motion twice iterated the importance of links to execs and ***forewarned*** them "*not*" to replace officials with anybody connected to the retained professionals of the estate. Gold's response of January 25, 2005 (D.I. 2169) provides a Hiring Letter ***Smoking Gun*** detail - indicating the parties knew he should apply. Then, *by fine print*, – After Being ***Forewarned*** - they intentionally bypassed this court's authority. The Disgorge Motion U.S. Trustee (Perch) testified (*without the knowledge of these other 101 statutory violations now readily apparent*) – that the deceits of the parties were ***deliberate*** acts of *fraud on the court* (Disgorge Motion ¶ 35).

120. It's also a bogus contention that Gold did not have to apply to this court; because Barry **did apply** to become the Confirmed Plan Administrator **[§ 327(a)]**. He submitted a [**Rule 2014** type] **Declaration** *deceitfully testifying* that the Debtor had "*extensive*" arm's length's negotiations with Creditors. This contention of "*arm's length*" is an impossible duty to achieve as Barry Gold is the Debtor and Paul Traub (*Gold's secret partner*) is counsel for the Creditors.

121. This court's own "*comfort order*" plus its reference to cases such as *In re Hazel Atlas Glass* (Opinion pg. 15) (*also mentioned in the U.S. Trustees'* Disgorge Motion ¶29), along with the M.T.G. Precedent that "*courts have a duty to address fraud on the court*", pooled with *In Middleton Arm's* and the many other precedents that any and all failures to disclose "***must***" result in disqualification (***Supra*** ¶78). All such doctrines provides sufficient ***causes*** warranting this court to, *sua sponte,* remove Gold as Plan Administrator for "***cause***", (per **Plan Section 5.2**).

122. The N.Y. eToys case is a sham proceeding needing help too. The very first task of this suitor, *upon Gold's removal*; is to hire various new "***good faith counsels***" to go after the hundreds of millions in litigation settlements (*after all the parties have already confessed in part and Gellene settled very* **BIG**) - and *this estate has causes of actions against a dozen* Gellenes. Thus this Debtor can be made whole and such warrants a totally different mindset by the court!

123. Al Capone cannot be allowed to benefit from Obstruction of Justice by the elimination of books, records and evidences. Neither should we tolerate his *arranging for a legal cohort to become the prosecutor* over Bain Capital. Nor would any ethical body grant license for organized criminals to "*retroactively*" resign simply because Frank Nitti (*Bain, MNAT, Gold or Traub*) try to exonerate their [CEO] "*boss*" in 2001, with *hollow* testimony that, *"he" was not really there* when the crimes occurred! We need this court to be our Eliot Ness to stop them.

124. One would be extremely hard pressed to find a case with more malfeasance. The Congressional intent to assure a diametrically opposed creditor v. debtor setting has been entirely

obliterated by continuous lies, deceits and crude federal corruption in the eToys saga. Is there a greater mockery of authority than that of the police "***forewarning***" the parties to *not* do a crime – only to see them go ahead and do it anyway (*secretly*)? Can our stock markets hope to thrive if an IPO agent can do a classic pump-n-dump scheme and get away with it all; because their *secret* MNAT law firm gets in, *by Perjury*, as the *dumped* entity's counsel? Is it a good thing that this victim/ witness/ whistle-blower's own attorneys emailed threats to their client to "***back off***"?

125. It's illogical to accept any testimony of those that have admitted lying under oath and then permit them to hide more schemes by lying again. They are in essence persuading the court *to assist the culprits to destroy this witness*. This supplicant therefore prays this court pay this suitor per the court's ***grant of standing*** in the CLI contracts orders - that the Debtor is to pay CLI employees direct and *also appoint movant* as Administrator. If *for no other reason*, the court may pay petitioner *sua sponte* via **§ 503(b) Substantial Contribution.** Judiciously, when this court grants this suitor's right to payment, I cannot accept recompense from the swindlers. Thus Barry Gold must be removed and "***they***" cannot be allowed to pick his replacement!

126. This court can restore the *integrity of the judicial process*; which has thus far been wounded horrifically by forces beyond its control. The elephant in the room has been the ***neon sign*** that no one was willing to see of why the Bain Capital CEO wishes to be *retroactive* (*in order to hide from the 2001 eToys Perjury & Frauds*). This court should now pick up and wield the inflexible sword of truth and slay the Bain Capital *harvesting* monster. This movant prays the court will officially report the crimes & corruption by **18 U.S.C. § 3057(a)?** To Washington D.C. - as it's obvious the Delaware Federal Justice units have great needs to cover up their duplicity.

127. Petitioner provided the evidences to Colm Connolly until we found his Resume in 2007 (*proof he was an MNAT law firm partner*). Where does one go when one and all *habitually* believes in the integrity of the valued, *but actually 100% corrupt*, federal prosecutor? This sole

activist, went all the way to the Los Angeles, CA, U.S. Attorney's office, only to be shocked to see the **Public Corruption Task Force** shut down and career assistant prosecutors ***threatened***!

128. As anyone can see, a whistleblower suffers greatly for trying to do the right thing. But what's right is right. Doing the correct thing as a service to the country, Vice President Joe Biden while still representing the State of Delaware as a United States Senator, did apparently have a gut instinct that Colm Connolly was a rotten apple. Though he had no authority over Department of Justice investigative matters, mercifully Senator Biden protected America by flatly refusing to sign the nomination slip for Colm Connolly to become a DE federal justice.

129. This petitioner believed it was wrong to be "*bought off*" and blew the whistle. Then the attorneys' threatened me, stating Paul Traub [Bain Capital] controls all outcomes. This forces movant to come here as a '*pro se'*. It appears more suitable to punish this activist, instead of doing a federal RICO of Bain Capital billions; so pirates can get their *flip-flop* pathological, *retroactive* CEO, (*who puts racketeering monies off shore*), to be elected as the 1st Bain Capital hooligan President of the United States? What does this say about who we are as a nation?

130. Is it crazy to for one to seek the court's relief from organized criminal elitists? Am I wrong for trying to halt deliberate plans to destroy the eToys public company? Although their cronies of MNAT, Barry Gold and Paul Traub have publicly confessed to intentional *frauds on the court* by thirty (30) acts of Perjury are Goldman Sachs and Bain Capital so powerful that they really are *Above the Law?* Does anyone else find it intolerable that they continuously mock the federal court's authority, in order to conceal their Bain Capital criminal relationships? *This movant prays the court puts a stop to the depraved insanity and find a way to make things right*?

Signed **Under Penalty of Perjury** this 21st day of October 2012

/s/ *Steven Haas* (a/k/a Laser Haas) "*Pro se"*