

MANNING CURTIS BRADSHAW  
& BEDNAR LLC

David C. Castleberry [11531]

[dcastleberry@mc2b.com](mailto:dcastleberry@mc2b.com)

Aaron C. Garrett [12519]

[agarrett@mc2b.com](mailto:agarrett@mc2b.com)

170 South Main, Suite 900

Salt Lake City, UT 84101-1655

Telephone (801) 363-5678

Facsimile (801) 364-5678

Attorneys for Plaintiff R. WAYNE KLEIN, the  
Court-Appointed Receiver

---

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

---

U.S. COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff,

v.

U.S. VENTURES LC, a Utah limited liability  
company, WINSOME INVESTMENT  
TRUST, an unincorporated Texas entity,  
ROBERT J. ANDRES and ROBERT L.  
HOLLOWAY,

Defendants.

**THE RECEIVER'S MOTION  
TO COMPEL PRODUCTION OF  
DOCUMENTS ON HARD DRIVE  
OF ROBERT ANDRES**

Case No. 2:11CV00099 BSJ

Judge Bruce S. Jenkins

---

R. Wayne Klein, the Court-Appointed Receiver<sup>1</sup> (the "Receiver"), by and through his  
counsel of record, hereby moves for a Court order granting him permission to review electronic

---

<sup>1</sup> The Receiver has been appointed over U.S. Ventures LC ("USV"), Winsome Investment Trust ("Winsome"), and all the assets of Robert J. Andres ("Andres") and Robert L. Holloway ("Holloway").

files on a Winsome computer which Andres has claimed are privileged.

The Motion should be granted for three reasons. First, the computer and files contained in the computer are the property of the Receivership Estate and were required to be delivered to the Receiver pursuant to the Court order appointing the Receiver (dkt. no. 15). Second, Mr. Andres has not met his burden of establishing that the documents he is withholding from the Receiver are privileged. Third, the attorney-client privilege cannot apply when the communications at issue were made for the purpose of committing a crime or tort. As explained in the indictment of Robert J. Andres, the Declaration of R. Wayne Klein supporting this Motion and the Second Status Report of R. Wayne Klein, Receiver submitted on June 15, 2011, the Receiver makes a prima facie showing that the documents at issue relate to a crime or fraud. The Receiver needs access to these documents so he may fulfill his mandate from the Court to recover assets for the Receivership Estate and to gather information relating to the affairs of the entities placed in receivership.

This motion is brought pursuant to the Court's January 25, 2011 order appointing a receiver (dkt. no. 15) and is supported by the accompanying memorandum in support.

DATED this 23rd day of December, 2011.

MANNING CURTIS BRADSHAW  
& BEDNAR, LLC

/s/ David C. Castleberry  
David C. Castleberry,  
Aaron C. Garrett,  
*Attorneys for R. Wayne Klein, Court-Appointed  
Receiver*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of December, 2011, I caused to be served in the manner indicated below a true and correct copy of the attached and foregoing **THE RECEIVER'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS ON HARD DRIVE OF ROBERT ANDRES** upon the following:

- VIA FACSIMILE
- VIA HAND DELIVERY
- VIA U.S. MAIL
- VIA FEDERAL EXPRESS
- VIA EMAIL
- VIA ECF

Kevin S. Webb  
James H. Holl, III  
Gretchen L. Lowe  
U.S. Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581  
[kwebb@cftc.gov](mailto:kwebb@cftc.gov)  
[jholl@cftc.gov](mailto:jholl@cftc.gov)  
[glowe@cftc.gov](mailto:glowe@cftc.gov)

- VIA FACSIMILE
- VIA HAND DELIVERY
- VIA U.S. MAIL
- VIA FEDERAL EXPRESS
- VIA EMAIL
- VIA ECF

Jeannette Swent  
US Attorney's Office  
185 South State Street, Suite 300  
Salt Lake City, UT 84111  
[Jeannette.Swent@usdoj.gov](mailto:Jeannette.Swent@usdoj.gov)  
*Attorneys for Plaintiff*

- VIA FACSIMILE
- VIA HAND DELIVERY
- VIA U.S. MAIL
- VIA FEDERAL EXPRESS
- VIA EMAIL
- VIA ECF

R. Wayne Klein  
299 South Main, Suite 1300  
Salt Lake City, UT 84111

- VIA FACSIMILE
- VIA HAND DELIVERY
- VIA U.S. MAIL
- VIA FEDERAL EXPRESS
- VIA EMAIL
- VIA ECF

Robert L. Holloway  
7040 Avenida Encinas #104-50  
Carlsbad, CA 92011  
[vribob@gmail.com](mailto:vribob@gmail.com)

VIA FACSIMILE  
 VIA HAND DELIVERY  
 VIA U.S. MAIL  
 VIA FEDERAL EXPRESS  
 VIA EMAIL  
 VIA ECF

Robert J. Andres  
10802 Archmont Dr.  
Houston, TX 77070  
[Rja0418@gmail.com](mailto:Rja0418@gmail.com)

/s/ David C. Castleberry\_\_\_\_\_