

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

SECURITIES AND EXCHANGE COMMISSION, §

Plaintiff, §

vs. §

Civil Action No.  
3:07-CV-1188-D

AMERIFIRST FUNDING, INC. aka AMERI-FIRST §  
FUNDING, INC. aka AMERI FIRST FUNDING, §  
INC., AMERIFIRST ACCEPTANCE CORP., §  
JEFFREY C. BRUTEYN, DENNIS W. BOWDEN, §

Defendants, §

and, §

AMERICAN EAGLE ACCEPTANCE CORP., §  
HESS FINANCIAL CORP., INTERFINANCIAL §  
HOLDINGS CORP., HESS INTERNATIONAL §  
PROPERTIES, LLC, HESS INTERNATIONAL §  
INVESTMENTS, S.A., UNITED FINANCIAL §  
MARKETS, INC. AND GERALD KINGSTON §

Relief Defendants. §

**MOTION FOR ISSUANCE OF BENCH WARRANTS FOR  
THE ARRESTS OF LOIS WHITCRAFT AND JEFFREY BRUTEYN**

TO THE HONORABLE JUDGE OF SAID COURT:

William D. Brown (“Receiver”), the court-appointed Temporary Receiver for Defendants AmeriFirst Funding, Inc. aka Ameri-First Funding, Inc. aka AmeriFirst Funding, Inc., AmeriFirst Acceptance Corp., Jeffrey C. Bruteyn, Dennis W. Bowden, and Relief Defendants American Eagle Acceptance Corp., Hess Financial Corp., InterFinancial Holdings Corp., Hess International Properties, LLC, Hess International Investments, S.A., United Financial Markets, Inc. and Gerald Kingston, files this Motion for Issuance of Bench Warrants for the Arrests of Lois Whitcraft and Jeffrey Bruteyn, as follows:

## I.

On February 1, 2008, the Court issued a Memorandum Opinion and Order (the “Contempt Order”) holding, among others, Lois Whitcraft and her son Jeffrey Bruteyn in contempt of court for violation of the Court’s freeze orders. As found by the Court, Whitcraft distributed approximately \$431,000 in proceeds from the sale of a Picasso print in Bruteyn’s possession as follows: (i) \$150,000 to pay down the mortgage on her Pennsylvania home; (ii) \$150,000 to Bruteyn’s then criminal attorney, Martin LeNoir; (iii) \$70,000 to Bruteyn’s then civil attorney, Phillip Offill; (iv) \$7,000 to Bruteyn for living expenses; and (v) the balance of \$74,161 for various personal expenses. Both Bruteyn and Whitcraft were to have purged themselves of their contempt within thirty (30) days of the court’s order (March 3, 2008). They have not done so. Thus, the issuance of bench warrants for their immediate arrests is appropriate.

## II.

### A. Lois Whitcraft

Whitcraft was ordered to “return the sum of \$224,161.00 to the Receiver within 30 days of the date this memorandum opinion and order is filed.” [Contempt Order at p. 45]. If she failed to do so, the Court specifically stated that it would “order the United States Marshals Service to arrest Lois and hold her in custody until she purges herself of the contempt by paying the Receiver the sum of \$224,161.00.” [*Id.*]. Moreover, “for each calendar day that Lois is late in paying the sum of \$224,161.00 to the Receiver, Lois must pay to the clerk of court a fine in the sum of \$500.” [*Id.*].

On March 3, 2008, *the last day* for her compliance with the Contempt Order, Whitcraft’s counsel delivered to the Court and opposing counsel a letter from Fulton Bank *dated*

*February 29, 2008*, advising that it had approved a loan for the Whitcrafts “up to \$250,000” *subject to two conditions*: (i) “[a] current satisfactory appraisal with an acceptable value to support this loan request,” and (ii) “[a] current satisfactory lien search.”

Whitcraft had thirty days to comply with the Contempt Order, and it appears she only took the Court’s order seriously when it became clear her Motion to Stay Pending Appeal would be denied. A belated *application* for a loan does not constitute compliance with the Court’s order, and there is no indication of when the loan might fund.

For these reasons, the Receiver requests that the Court issue a bench warrant for the arrest of Lois Whitcraft, and direct the United States Marshals Service to take her into custody immediately.

**B. Jeffrey Bruteyn**

Bruteyn was ordered to “return the sum of \$7,000 to the Receiver within 30 days of the date this memorandum opinion and order is filed.” [Contempt Order at p. 44]. If he failed to do so, the Court specifically stated that it would “order the United States Marshals Service to arrest Bruteyn and hold him in custody until he purges herself of the contempt by paying the Receiver the sum of \$7,000.” [*Id.* at p. 45]. Moreover, “for each calendar day that Bruteyn is late in paying the sum of \$7,000 to the Receiver, Bruteyn must pay to the clerk of court a fine in the sum of \$500.” [*Id.*].

The Receiver is aware that Bruteyn was arrested by FBI agents on February 27, 2008 for suspected passport fraud, and has been incarcerated since that time. After Bruteyn voluntarily surrendered his passport to the U.S. Attorney’s office, he applied for a replacement passport stating on the application that his old passport “was accidentally removed from my office with old documents.” *See Exhibit A.* Bruteyn’s arrest, however, does not forgive his failure to

comply with the Contempt Order; he is ably represented by counsel, and apparently had enough money to travel to Lake Tahoe, take a week-long Caribbean cruise, and schedule a trip abroad in the 19 days between the issuance of the Contempt Order and his arrest. See Exhibit B.

For these reasons, the Receiver requests that the Court issue a bench warrant for the arrest of Jeffrey Bruteyn, and direct the United States Marshals Service to take him into custody immediately.

### III.

For the reasons stated herein, the Receiver respectfully requests that the Court issue bench warrants for the arrests of Lois Whitcraft and Jeffrey Bruteyn, and direct the United States Marshals Service to take them into custody immediately.

Respectfully submitted:

/s/ Spencer C. Barasch

Spencer C. Barasch  
State Bar No. 00789075  
Suzanne B. Campbell  
State Bar No. 24027547  
Matthew G. Nielsen  
State Bar No. 24032792  
ANDREWS KURTH LLP  
1717 Main Street, Suite 3700  
Dallas, Texas 75201  
Telephone: (214) 659-4400  
Facsimile: (214) 659-4401

Joe C. Holzer  
Texas State Bar No. 09933800  
ANDREWS KURTH LLP  
600 Travis, Suite 4200  
Houston, Texas 77002  
Telephone: (713) 220-4172  
Facsimile: (713) 238-7278

**COUNSEL FOR RECEIVER  
WILLIAM D. BROWN**

**CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2008, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case files system of the court. The electronic case files system sent a "Notice of Electronic Filing" to the following individuals who have consented in writing to accept this Notice as service of this document by electronic means:

Phillip W. Offill, Jr.  
3131 McKinney Avenue, Suite 535  
Dallas, Texas 75204

John H. Carney  
John H. Carney and Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

Ed Tomko  
Curran Tomko Tarski LLP  
1700 Pacific Avenue, Suite 4545  
Dallas, Texas 75201

I hereby certify that I have served the foregoing document by mailing a copy to the following individuals:

Dennis W. Bowden  
10220 Marsh Lane  
Dallas, Texas 75229

William M. Ravkind  
William Ravkind & Associates, LLC  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

*/s/ Spencer C. Barasch* \_\_\_\_\_

Spencer C. Barasch