

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BANK OF AMERICA, N.A.	)	
	)	Case No. 4:10 - cv - 00563
Plaintiff,	)	
	)	
vs.	)	
	)	
ANALYTICS, INC., et. al.	)	
	)	
Defendants.	)	
	)	

**RESPONSE TO RECEIVER’ S MOTION FOR ORDER AUTHORIZING PLACEMENT OF RESEARCH ANIMALS IN ANIMAL SANCTUARIES AND INDEMNIFYING PARTIES FROM ANY FURTHER LIABILITY ASSOCIATED THEREWITH**

COME NOW, Analytics, Inc.; Chemir Analytical Services, LLC; Azopharma Contract Phramaceutical Services, LLC; Aniclin Preclinical Services, LLC; Avivoclin Clinical Services, LLC; and CAS-MI Laboratories, LLC (hereinafter the “ Receivership Entities” ), by and through their undersigned counsel and in response to the ***Motion for Order Authorizing Placement of Research Animals in Animal Sanctuaries and Indemnifying Parties From any Further Liability Associated Therewith*** (the “ Motion” ) filed by Receiver state to this honorable Court as follows:

1. The Receivership Entities admit the allegations in the first four (4) paragraphs of the Motion. Further responding, the Receivership Entities note that the Receiver was appointed to maintain the status quo with respect to the property of the Receivership Entities and to protect and preserve said assets. See, e.g., pars. 3 and 4(m) of the Receivership Order identified in the Motion.

2. Almost immediately upon his appointment, Receiver closed the animal testing facility operated by AniClin in New Jersey. The Receivership Entities respectfully submit that such action may in fact have *reduced* the value of the AniClin business and assets, to the detriment of the Receivership Entities and their creditors and made it more difficult to sell AniClin as a going concern.

3. The Motion seeks to place approximately 120 dogs and 55 monkeys in animal sanctuaries for no compensation. The Receiver, in connection with the Motion, does not address what efforts, if any, it has undertaken to sell the animals. Upon information and belief, the Receivership Entities acquired the animals for the approximate values set out as follows: (a) approximately \$200 - \$500 for each dog; and (b) approximately \$3,000 - \$7,000 for each monkey (these records should be in possession of the Receiver). As such, the value of the animals could have a range of between \$189,000.00 to \$445,000.00. The Motion does not indicate whether Receiver has taken any action to sell the animals (i.e. to another testing facility) for the benefit of the creditors.

4. The Motion seeks approval of an indemnification of all entities ***other than*** the Receivership Entities. To the extent that there is authority for such an indemnification or release, the Receiver fails to argue why any such indemnification or release should not apply to the Receivership Entities as well.

5. The effect of the Motion is to diminish the value of the assets of the Receivership Entities, to diminish the ultimate recovery for creditors, and to saddle the Receivership Entities with potential liabilities for the actions of the Receiver, actions over which the Receivership Entities have no control.

WHEREFORE, the Receivership Entities respectfully pray that this honorable Court deny the Motion. Alternatively, the Receivership Entities request that the Receiver disclosed what efforts Receiver has undertaken to sell the animals and direct that, the Receivership Entities be granted indemnification and releases of the same nature, extent, and character as those granted to Receiver. The Receivership Entities further request that the Court grant them such additional and further relief as is just and proper.

**GOLDSTEIN & PRESSMAN, P.C.**

By: /s/ Robert A. Breidenbach

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing was served this 15<sup>th</sup> day of June, 2010, by first-class mail, postage prepaid, to the following parties, excepting the parties who have received notice by electronic means:

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Defendants.

/s/ Robert A. Breidenbach

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