

BADGER FLATS GAZETTE

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EYE ON THE GOOD OL' BOYS

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Across the next few months, I'll be writing articles about the Cedar Funding debacle. They'll be keeping an eye on the Good ol' Boys of Monterey County and The Monterey County Herald.

If you haven't read The Badger's, "The Wormhole Preface (56 Pgs.)" I suggest you get your paws on a copy and do so. Then, you can decide if your kitty pans should be lined with The Badger or The Herald.

It's not my mission to prove David Nilsen of Cedar Funding guilty or innocent of an alleged Ponzi Scheme. But, I firmly believe that if he is ever criminally charged, he should be entitled to a fair and just tribunal.



From my perspective, until I entered into the picture, Nilsen and Cedar Funding Investors didn't have a snowball's chance in hell if under siege by the Good ol' Boys as I suspect.

Sorry, but I'm not Mother Teresa.

So, if you would like to receive the next 4 Badgerlossal 56-pagers I ask that you kindly ante up a total of \$35.00.

Issues come out as always when the Good ol' Boys least expect them. --Forte



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-Badger Bites -

SWISS CHEESE PARSONS

"Does Monterey County Herald reporter Larry Parsons put the perfect amount of holes in his story to mislead readers?"



PREFACE: Just before dropping the Badger's Wormhole Preface in the mail to Badger Pups and frazzled Cedar Funding Investors, One Side (Larry) Parsons of The Monterey County Herald came out with an article on November 8th, 2008, entitled, "Cedar Funding Chief files slander lawsuit."



Based upon what was reported, I suggest with tongue in cheek that a new pet name for Parsons should be, "Swiss Cheese Parsons." I would also like to say that Parsons should not take all of the blame or all of the credit for the holes in the story.



More than likely, one of the bigger rats poking holes in Parsons' stories is Monterey Herald editor Royal Calkins.

Mr. Boris Badenov and Ms. Natasha Fatale, those two Pottsylvania nogooodniks, refer to Calkins, along with Ms. Virginia Hennessey and George Sanchez, as their Comrade Smut Troopers. It is a well deserved title.

Let's take a quick romp down the Badger Trail while it tries to fill in some of the holes in Swiss Cheese Parsons' story.

MISSING: THE PIECE OF THE PIE?

(MONTEREY, CA.) The crux of Swiss Cheese Parsons' article of November 8th, 2008, was informing citizens that David A. Nilsen, owner of Cedar Funding, Inc. had



filed a defamation lawsuit on October 6th, 2008 against R. Todd Neilson, who also happens to be the trustee for the Cedar Funding Bankruptcy.

The Badger doesn't need its fur stroked, but it would have been nice if

Swiss Cheese Parsons would have mentioned it was The Badger that broke the story on November 5th, 2008 and emailed him a copy of the complaint. (See "The Wormhole Preface")



But, what does bristle the Badger's fur is that on November 7th, 2008, a very significant document was voluntarily filed by Nilsen which Swiss Cheese Parsons should have included in his article.

The document was an **Assignment of Proceeds** in the case of **Nilsen v. Neilson**, M94117. It means that any and all money collected from Neilson would be distributed to Cedar Funding Inc. investors.



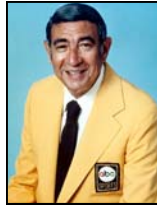
Nilsen firmly believes that he and his investors were caught up in an orchestrated run on the fund. He feels it was triggered by some opportunistic attorneys yelling Ponzi Scheme when there was none.

By Nilsen assigning the proceeds to investors, they then can share in a piece of the pie if and when he proves his case.

(SWISS CHEESE, see page 2)

(SWISS CHEESE, from page 1)

Now, why in the Wide, Wide World of Badgers would The Monterey Herald not want citizens to know about that very important little ditty?



Could it be that it doesn't make Nilsen out to be the Ponzi scheme operator he has been profiled as so far in the press?

The lawsuit of *Nilsen v. Neilson*, alleges that that Neilson defamed Nilsen by stating conclusively such things as: (taken directly from the complaint)

- a. "Mr. Nilsen was knowingly operating a Ponzi scheme"
- b. "The continuation of the business would only mean more investors would lose their life savings in a hopeless vortex of fraud."
- c. "Mr. Nilsen's fraud would have mercifully come to a grinding halt."
- d. "following the inescapable exposure of Mr. Nilsen's incompetence and greed..."
- e. "...all of the funds he [Nilsen] misappropriated..."
- f. "...participated in the financial looting of Cedar Funding.."
- g. "Mr. Nilsen has refused both avenues of involvement and instead has gone directly to the investors with an untruthful recitation of the facts. He should be ashamed."
- h. "...I [R. Todd Neilson] am simply trying to do my job – to provide the highest possible return to you as a defrauded investor."

"There hasn't been any criminal charges filed against me for anything. I haven't even been contacted by the DA's office", says Nilsen.

Nilsen claims, "The people that have said I was running a Ponzi Scheme are the attorneys Larry Lichtenegger, Tom Duffy, Ralph Guenther, and R. Todd Neilson that are making money from this whole mess."

Swiss Cheese Parsons also quoted some far reaching conclusions of law from his speaking with Ms. Cecily Dumas, attorney for Neilson.



Dumas told Swiss Cheese Parsons that she was aware of the defamation lawsuit and will move to have it dismissed.

Dumas contends that "under the law, bankruptcy trustees have absolute immunity for their conduct in handling matters under their purview."



There appears to be a couple of half truths by Dumas. The first one is that what Dumas has done according to court files is ask for the State defamation case of Nilsen to be removed to the Federal Court.



Dumas has not asked for the case to be dismissed. It may come to that but as of the time of her interview with

Swiss Cheese Parsons, such had not been done and Swiss Cheese Parsons should have known that.

The other matter is that even though I am not an attorney and cannot provide any legal advice or legal opinions, common sense told me the idea of "absolute immunity" was really a stretch.



It just didn't sound quite right.

I will say that I have had quite a bit of personal experience in trying to pin Judge O'Farrell and some other judicial cowboys' ears back in Monterey County.



Even though I am just a humble lowly lay person, I do have somewhat of a grasp as to where and when "absolute judicial immunity" applies or not.

Trust me on this one, absolute judicial immunity is far reaching and ludicrous in application.

Did you know that a judge could actually openly admit to taking a bribe to fix a case against you, and you still could not sue him for it, or hold him liable?

Sound crazy? Ask an attorney.

If he says something different, refer him to *Stump vs. Sparkman* 435 U.S. 349 (1978). It doesn't concern a bribe but something much worse.

Stump vs. Sparkman 435 U.S. 349 (1978) is the leading United States Supreme Court decision on judicial immunity. It involves an Indiana judge who was sued by a young woman. The judge had ordered the woman to be sterilized.



Well, I hopped on the internet highway and found a plethora of cases that contradict Dumas' staunch representation of "absolute immunity" for a trustee that did things outside the "purview of the proceeding."

Just for the heck of it, see the OPINION OF THE COURT of a UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT NO. 96-1299, *KENNETH DAVIS V. REICHARD GLANTON*, Individually and as Trustee of the Barnes Foundation. (See page 3, bottom).



The case has some very close similarities between Nilsen's alleged defamation by Neilson and why Nilsen's case should not be moved to Federal Court Case and clumped together with the bankruptcy proceedings.



The complaint of *Nilsen v. Neilson* specifically alleges that:

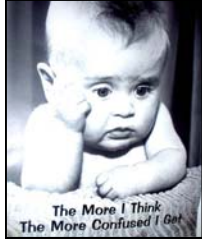
"17. R. Todd Neilson's actions and statements in defaming Plaintiff [David Nilsen] were not judicial, were beyond the scope of the court's jurisdiction, and

(SWISS CHEESE, see page 3)

(SWISS CHEESE, from page 2)

were not pursuant to the orders of the appointing judge.” (First Amended Complaint Pg 4., ¶ 17, Ins. 19-22)

Granted, Neilson may have quasi judicial immunity in situations when he is performing acts that are within the judicial nature of the court and proceedings of the bankruptcy.



But, it doesn't make sense that Neilson would have "absolute immunity" for damages caused by his publicly declaring that a person is guilty of a criminal act when a court has not determined it, and certainly not before the person (Nilsen) is charged with a crime.

If that were the case, there should be no need for any investigation, the filing of charges against Nilsen by the DA, or even having a trial.



Heck, according to Neilson/Dumas, they should just be able to string Nilsen up out at Tarp Flats like they did Matt Tarp.

Calls by the Badger to the Monterey County District Attorney's Office were not returned which is par for the course.

THAT'S A LOT OF CASH!



Here's another hole that paints an inaccurate picture of the staggering amount of money being racked up by Neilson as bankruptcy trustee.

Swiss Cheese Parsons reported,

“The report (monthly operation reports filed by Neilson) also shows the trustee's team of legal, financial, and real estate experts has run up professional fees of \$1.2 million since being appointed by the bankruptcy court.”

Swiss Cheese Parsons didn't mention:

Neilson and his cohorts racked up that \$1,200,000.00 in fees between June 13th, 2008-August 31st, 2008.



That's a daily average of roughly \$15,000.00 including Sundays.

When that hole is filled it means that at an estimated tally of \$15,000.00 a day since August 31st, 2008 until the writing of the Parsons' article that:

Neilson and team might very well have bilked, oh sorry, I meant billed an additional \$1,020,000.00 in fees bringing the quasi grand total up to \$2,220,000.00

◆ Cecily (Neilson's got absolute immunity) Dumas has gotten a pretty healthy cut of the loot: June/\$51,087.40, July/\$159,147.01, and August/\$136,110.00.



◆ To save Cedar Funding Investors searching for their calculators that's a whopping total of \$346,344.41 till the end of August!

Without those holes filled in, Swiss Cheese Parsons' article gives the wrong impression. It leads readers and Cedar Funding Investors into thinking Neilson and his crew may be working pro bono for September-October.

Who knows? That may be the case but probably as likely as passing an elephant through the eye of a needle.



R. Todd Neilson agreed to be interviewed by The Badger several months ago, but once he received the questions, he has not been heard from since.

It's my position that I'll ask once but not twice when some joker says they're going to do one thing and does another. I certainly don't want anyone to say I'm being vexatious. (See "The Wormhole" for the inside joke)



OPINION OF THE COURT

This is an appeal by certain trustees of the Barnes Foundation, who are also African-American citizens.

It requires us to determine whether a state court defamation action filed against them by certain commissioners of Lower Merion Township, alleging that the Trustees had falsely accused the Commissioners of racist official conduct, is removable to federal district court pursuant to the civil rights removal statute, 28 U.S.C. § 1443(1), on the ground that the defamation action represents an attempt to retaliate against the Trustees for exercising their



federally protected right to assert, in a federal lawsuit, that they were discriminated against by the Commissioners on racial grounds.

Although the Trustees present an emotionally appealing argument for removal, we conclude that they have failed to satisfy the narrow and well-defined requirements for § 1443(1) removal as explicated in State of Georgia v. Rachel, 384 U.S. 780 (1966), and City of Greenwood v. Peacock, 384 U.S. 808 (1966).



We will therefore affirm the order of the district court remanding the removed action to the state court from whence it came. **END OF OPINION**

CHEAP DIME STORE NOVEL

Nilsen's filing of the lawsuit of Nilsen vs. Neilson, the untimely and curious death of Nilsen's bankruptcy attorney, Mr. Charles Logan, nefarious Good ol' Boys lurking in the background, and a Monterey Herald that excludes information from readers have all the makings of a cheap dime store novel.



(SWISS CHEESE, see page 4)

(SWISS CHEESE, from page 3)

It's like a combination of *Tomorrow Never Dies* with a crazed media mogul controlling public opinion, *Erin Brockovich* leading a charge, and *The Firm* putting hits on people.



Is Nilsen's filing of the lawsuit just a PR ploy, or is it the act of a man who believes that he has been truly wronged trying to do what he can to recoup money for himself and investors?



It certainly is a David v. Goliath(son) battle. No attorney in their right mind would ever take on the good ol' boys if they are the ones that started a run on Cedar Funding.

Logan was found dead outside of his car on a deserted road. Over a week went by before there was even a mention of it in a San Jose Newspaper.



Confidential sources have revealed to The Badger that Logan was found with a bullet hole in him outside of his burned up car. Whether that is true or not is still trying to be ascertained from the police.

The PD report at right says there was nothing suspicious. Well, I guess there is nothing suspicious about a bullet hole killing a person, if the confidential source I have is accurate.

It seems that The Monterey Herald made no mention of Logan's death. Logan was a key player who filed for bankruptcy protection for Nilsen.

Was there a disgruntled Cedar Funding investor that was really ticked? Were there attorneys who perhaps thought Logan figured out that there was no evidence of a Ponzi Scheme?

At this point, it is conjecture. The Badger will be digging deeper for the truth in the shadows.



Stay Tuned.....

San Jose - Unattended Death - Charles E. Logan

DISCLAIMER - Any Charges Reported in these Press Releases are Merely Accusations and the Defendants are Presumed Innocent Unless and Until Proven Guilty. Read Full Disclaimer

By Inland Empire • Sep 24th, 2008 • Category: Other California News

[Email This Link](#)

A sheriff's deputy was dispatched to investigate a possible fire complaint near Uvas Reservoir in Morgan Hill. When the deputy arrived on scene he discovered a vehicle fully engulfed in flames. The vehicle was parked approximately 100 yards from the roadway on a dirt access road. The deputy immediately requested the fire department to respond and extinguish the fire.

Shortly after Santa Clara County Fire Department personnel arrived they located a deceased person near the burning vehicle. The area was immediately isolated to allow for a thorough investigation. The initial investigation revealed that the fire was not the cause of death but the investigation remains open at this time. It appears that there is nothing suspicious about the death.

The deceased has been identified as Charles E. Logan, age 59 of San Martin.

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PRESS RELEASE

Office of the Sheriff

55 West Younger Avenue

San Jose, CA 95110

408-808-4900

Prepared by: Sgt. Don Morrissey #1689

Public Information Officer

Pager 408-280-8886

TYPE OF CRIME: Unattended Death

CASE NUMBER: 08-256-0229G

LOCATION: Uvas Road near Uvas Dam, Morgan Hill

DATE: September 12, 2008 TIME: 12:09 P.M.

DETAILS:

Prepared By: Sgt. Morrissey #1689 Date / Time Prepared: 09/23/08 @ 1600

Approved By: Undersheriff Hirokawa Date / Time Approved: 09/23/08 @1605

Cedar Funding, Inc. Professional Fees

Professional Firm	June-08		Total for Period	Cumulative Case to Date
	Fees	Expenses		
R. Todd Neilson, Trustee	\$ 47,726.00	\$ -	\$ 47,726.00	\$ 47,726.00
LECG, LLC - Accountants	62,491.50	10,435.85	72,927.35	72,927.35
Friedman, Dumas Springwater, LLP	51,005.50	81.90	51,087.40	51,087.40
Scott Mckinlay	-	-	-	-
	-	-	-	-
	-	-	-	-
Total	\$ 161,223.00	\$ 10,517.75	\$ 171,740.75	\$ 171,740.75

Professional Firm	July-08		Total for Period	Cumulative Case to Date
	Fees	Expenses		
R. Todd Neilson, Trustee	\$ 75,227.50	\$ -	\$ 75,227.50	\$ 122,953.50
LECG, LLC - Accountants	214,952.00	28,830.70	243,782.70	316,710.05
Friedman, Dumas Springwater, LLP	152,602.50	6,544.51	159,147.01	210,234.41
Scott Mckinlay	88,536.00	5,107.17	93,643.17	93,643.17
	-	-	-	-
	-	-	-	-
Total	\$ 531,318.00	\$ 40,482.38	\$ 571,800.38	\$ 743,541.13

Professional Firm	August-08		Total for Period	Cumulative Case to Date
	Fees	Expenses		
R. Todd Neilson, Trustee	\$ 48,751.50	\$ 2,734.85	\$ 51,486.35	\$ 174,439.85
LECG, LLC - Accountants	204,560.25	29,565.69	234,125.94	550,835.99
Friedman, Dumas Springwater, LLP	126,445.50	9,664.50	136,110.00	346,344.41
Scott Mckinlay	60,781.00	1,095.68	61,876.68	155,519.85
	-	-	-	-
	-	-	-	-
Total	\$ 440,538.25	\$ 43,060.72	\$ 483,598.97	\$ 1,227,140.10

Unattended Death (Top): Logan was found dead on September 12th, 2008. Why did it take 11 days for the Sheriff's report to be generated? **Misleading Figures (Bottom):** Why didn't Swiss Cheese Parsons mention that the Neilson fees of \$1,227,140.10 were as of August 31st, 2008, and didn't include fees up to November 8th, 2008?