

At IAS Part 60 of the Supreme Court of the State of New York, held in and for the County of New York at the Courthouse, 60 Centre Street, New York, New York on the ___ day of May, 2008.

PRESENT: Honorable Justice Bernard J. Fried

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FICUS INVESTMENTS, INC. and PRIVATE
CAPITAL GROUP, LLC,

Plaintiffs,

v.

PRIVATE CAPITAL MANAGEMENT, LLC,
THOMAS B. DONOVAN, GERARD M.
BAMBRICK, ESQ., BAMBRICK & RYAN, P.C.,
CHRISTOPHER CHALAVOUTIS,
CHALAVOUTIS & CO. CPA'S P.C., VIRGINIA
DONOVAN, PAMELA DONOVAN, MICHAEL
BODE, ESQ., SCOTT BURGWIN, ALISSA
GLADSTONE, PETER KAMRAN, JOHN KILEY,
FIRST REO CORP., KIRBY ENTERPRISES I
CORP., LANDPORT EQUITIES, LTC REALTY
CORP., M&O ENTERPRISES, PGA EQUITIES,
PLAZA EQUITIES, PLAZA INVESTMENTS,
PRIVATE CAPITAL CORP., PRIVATE CAPITAL
SERVICING CORP., PRIVATE LENDER
SERVICES CORP., PRIVATE LENDER
WAREHOUSE CORP., PRIVATE CAPITAL
MANAGEMENT GROUP OF NY LLC, AND
JOHN DOES 1-10,

Defendants.

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: Index No. 600926/07
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**ORDER TO SHOW CAUSE
WITH
TEMPORARY RESTRAINTS**

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THOMAS B. DONOVAN, individually and
derivatively on behalf of PRIVATE CAPITAL
GROUP, LLC, PRIVATE CAPITAL
MANAGEMENT, LLC, and PRIVATE CAPITAL
MANAGEMENT CORP.,

Counterclaim Plaintiffs,

v.

FICUS INVESTMENTS, INC. and PRIVATE
CAPITAL GROUP, LLC,

Counterclaim Defendants,

PRIVATE GROUP, LLC, PRIVATE CAPITAL
MANAGEMENT, LLC, and PRIVATE CAPITAL
MANAGEMENT CORP.,

Nominal Defendants.

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THOMAS B. DONOVAN, individually and
derivatively on behalf of PRIVATE CAPITAL
GROUP, LLC, and PRIVATE CAPITAL
MANAGEMENT, LLC,

Third-Party Plaintiffs,

v.

JOSEPH C. LEWIS, JEFFERSON R. VOSS,
TYLER V. PERCY, THOMAS B. YOUTH,
LAWRENCE A. CLINE, and PETER
SCHANCUPP,

Third-Party Defendants,

PRIVATE CAPITAL MANAGEMENT, LLC, and
PRIVATE CAPITAL MANAGEMENT CORP.,

Nominal Defendants.

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Upon the accompanying affidavit of of Lawrence A. Cline sworn to May 14, 2008 and
the affirmation of Craig Carpenito dated May 15, 2008; and upon all the pleadings and
proceedings heretofore had herein, it is hereby:

ORDERED that the Defendant Thomas B. Donovan (“Donovan”) show cause before this
Court at IAS Part 60, at Room 248, 60 Centre Street, in the City, County and State of New York,
on May ____, 2008, at _____ o’clock in the _____ noon thereof, or as soon thereafter as

counsel may be heard, why an order, pursuant to Article 31 of the CPLR, should not be issued as follows:

1. dismissing the complaints, counterclaims, and third-party complaints filed by Donovan and all parties in privity with him in this action, as well as in *New York Holding Corp. and Thomas Donovan v. Ficus Investments, Inc., et al.*, (Index no. 602795/07), *422 East 84th Street Holding Corp. and Thomas Donovan v. Ficus Investments, Inc., et al.*, (Index no. 602839/07); and *Thomas B. Donovan, et al. v. Ficus Investments, Inc., et al.*, (Index no. 602715/07) (collectively, the “New York County Actions”).

2. temporarily, preliminarily, and permanently restraining the use, disclosure or dissemination of any information obtained from Cline’s e-mail account;

3. directing expedited discovery related to the illegal misappropriation, use and dissemination of attorney-client privileged and otherwise confidential information obtained by Donovan and those parties in privity with him from Cline’s e-mail account;

4. directing the preservation of all evidence related to the unauthorized access of Cline’s e-mail account;

5. directing the immediate preservation and production of all computers used to access Cline’s e-mail account;

6. staying the prosecution of all claims asserted by Donovan and those in privity with him against Lawrence A. Cline and Susan Cline in this action and the related New York County Actions pending resolution of this motion; and

7. granting such other and further relief as the Court may deem just and proper.

ORDERED that any written opposition shall be filed electronically on or before May ____, 2008; and it is further

ORDERED that any written reply by the moving parties shall be filed electronically on or before _____, 2008; and it is further

ORDERED that electronic filing of a copy of this Order and all supporting papers, on or before _____ o'clock in the _____ noon on May _____, 2008, shall be deemed good and sufficient service thereof on all Defendants.

SUFFICIENT CAUSE APPEARING,

IT IS HEREBY FURTHER ORDERED that, pending the hearing and determination of this motion Donovan is:

1. enjoined from using, disclosing or disseminating any information obtained from Cline's e-mail account;
 2. directed to preserve all evidence related to the access of Cline's e-mail account;
- and
3. enjoined from prosecuting all claims asserted by Donovan and those in privity with him in this action and the related New York County Actions against Lawrence A. Cline and Susan Cline.

ENTER:

J.S.C.