

DCW

LEONARD G. HOROWITZ, in pro per
P. O. Box 75104
Honolulu, HI 96836
Email: editor@medicalveritas.org
310-877-3002

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

APR 07 2017
at 2 o'clock and 02 min. PM
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

1:16-CV-00549-DKW-KSC

LEONARD G. HOROWITZ
Appellant-debtor,
vs.

PAUL J. SULLA, JR. an
individual; PAUL J. SULLA JR.,
ATTORNEY AT LAW A LAW
CORPORATION, a corporation

Defendants

) Bankruptcy Case No: 16-00239
) (Chapter 13)
) Related Case: Adv. No. 16-90015
) (Chapter 13)
)
) APPELLANT'S REPLY BRIEF
) [FRAP Rule 28(c)]; AFFIDAVIT
) OF LEONARD G. HOROWITZ;
) DECLARATION OF
) MARGARET WILLE;
) EXHIBITS "1" THRU "8";
) CERTIFICATE OF
) COMPLIANCE; CERTIFICATE
) OF SERVICE
)
) JUDGES: HONORABLE
) DERRICK K. WATSON
) (and KEVIN S. CHANG)

APPELLANT'S REPLY BRIEF

APPELLANT'S REPLY BRIEF TABLE OF CONTENTS

Table of Contents.....	i
Table of Authorities.....	ii
I. INTRODUCTION / PRELIMINARY MATTERS / SULLA'S PATTERN OF WRONGDOING BEARING ON WILLFULNESS IN DEFRAUDING THE COURT AND VIOLATING THE STAY TO POSSESS THE PROPERTY.....	1
A. Overview and Standards of Review.....	1
B. Sulla's AB Compounds His Pattern of Wrongdoing for Unjust Enrichment; Fraudulently Conceals Sulla's Conflicting Interest and "Client" Hester's Invalid Standing, for Which the Honorable Court has a Duty to Intercede for Justice, Horowitz's Equity, and Society.....	4
C. Sulla Falsely Claims the "Hearing on Motion to Show Cause" Was Conducted on July 7, 2016, When It Was <i>Not Conducted at All</i> , Only Pre-empted and Precluded, Depriving Horowitz of his Civil Right to Due Process and the Property.....	6
II. SULLA'S JURISDICTION OPPOSITION IS A RED HERRING.....	9
III. THIS APPEAL IS NOT MOOTED BY THE BK DISMISSAL.....	10
IV. SULLA'S PAGE LENGTH OBJECTION NEGLECTS RULE 8015(a)(7)	11
V. SULLA EVIDENCES HIS FRAUD AND BAD FAITH BY OMISSIONS AND MISREPRESENTATIONS IN HIS "STATEMENT OF CASE"	11
VI. SULLA'S WRONGFUL ACTIONS WERE <i>WILLFUL</i>	16
VII. SULLA MISREPRESENTS, OMITS AND NEGLECTS TO ANSWER SUBSTANTIVELY TO THE ISSUES AND ALLEGATIONS DETAILED IN THE OB.....	17
A. Issue #1—Stay Violation.....	18
B. Issue #2—Defying Disqualification.....	18
C. Issue #3—Rule 11 Motion.....	19
D. Issue #4-- Denying the hearing deprived the Appellant of	

his due process right.....	20
E. Issue #5-- The court's aforementioned actions gives an impression of impropriety.....	21
F. Issue #6-- The court neglected State and Federal Victim's Rights Laws.....	22
VIII. CONCLUSION.....	22
AFFIDAVIT OF LEONARD G. HOROWITZ.....	23
CERTIFICATE OF COMPLIANCE.....	27

III. TABLE OF AUTHORITIES

CASES

<i>Accord Knaus</i> , 889 F.2d.....	16
<i>Bell v. Hood</i> , 327 U. S. 678 (1946),.....	8
<i>Bivens v. Six Unknown Fed. Narcotics Agents</i> , 403 US 388.....	8
<i>Bloom</i> , 875 F.2d.....	16
<i>Business Guides, Inc. v. Chromatic Communications Enterprises, Inc.</i> , 498 US 533 - Supreme Court 1991.....	20, 21
<i>Cusano v. Klein</i> , 264 F.3d 936, 945-946 (9th Cir. 2001).....	3
<i>Gas-A-Tron, supra</i> , 534 F.2d at 1325.....	18
<i>In re Abrams</i> , 127 BR 239 - Bankr. Appellate Panel, 9th Circuit 1991.....	2,3,16
<i>In re Ball</i> , 185 BR 595 - Bankr. Appellate Panel, 9th Circuit 1995.....	8,18
<i>In re Bishop Trust Co.</i> , 35 Haw. 816, 825 (1941).....	12
<i>In re Coordinated Pretrial Proceedings, Etc.</i> 658 F. 2d 1355.....	18
<i>In re Davis</i> , 177 BR 907 -Bankr. Appellate Panel, 9th Circuit 1995.....	10
<i>In re First Alliance Mortgage Company</i> , 471 F. 3d 977 - Court of Appeals, 9th Circuit 2006.....	11
<i>In re Moberg Trucking, Inc.</i> , 112 B.R. 362, 363 (9th Cir. BAP 1990).....	10
<i>In re Perl</i> (811 F.3d 1120 (2016)).....	22
<i>In re Roderick Timber Co.</i> , 185 BR 601 - Bankr. Appel. Pan., 9th Circuit 1995....	9
<i>In re Xebec</i> , 147 B.R. 518, 522 (9th Cir. BAP 1992).....	9
<i>Knaus</i> , 889 F.2d at 775.....	2
<i>Maui Land & Pineapple Co. v. Infiesto</i> , 879 P. 2d 507 – Haw: Supreme Court 1994....	12
<i>Miller v. McDougal Bros. Investments</i> , Bankr. Court, D. Oregon 2008.....	2
<i>Mauna Kea Anaina Hou et al vs BLNR</i> , SCAP 14-0000873, December 2, 2015.....	16
<i>Norton Bankr. Code Pamphlet</i> 209 (1990-91 ed.).....	2
<i>Ocwen Loan Servicing LLC v. Lum</i> 2015 WL 1808955 at 4 (US Dist. Haw. 2015)...	12,16
<i>RG v. Koller</i> , 415 F. Supp. 2d 1129 – Dist. Court, D. Hawaii 2006.....	11
<i>Richardson v. Hamilton International Corp.</i> , 469 F.2d 1382 (1972).....	18,19
<i>Santiago v. Tanaka</i> , Supreme Court of Hawaii, SCWC-11-0000697 (D. Haw. Dec 29, 2015).....	misc.
<i>Shilts v. Young</i> , 643 P.2d 686, 689 (Alaska 1981).....	12
<i>Skaggs v. HSBC Bank USA, N.A.</i> 2010 WL 5390127 (US Dist. Haw.2010).....	13,16
<i>Takaba v. Comm'r</i> , 119 T.C. 285, 295, 2002 WL 31818000.....	5
<i>United States vs. Arthur Lee Ong</i> , Cr. No. 09-00398 DAE,.....	5

<i>United States ex rel. Bilokumsky v. Tod</i> , 263 US 149, 154 - Supreme Court 1923.....	22
<i>United States vs. Bruce Robert Travis</i> , U.S. Court of Appeals, 9th Circuit. No. 10-15518.....	5-6
<i>Woods v. Covington Cty. Bank</i> , 537 F.2d 804 (5th Cir. 1976).....	18

STATUTES

11 U.S.C. §§ 362(a)(h).....	1-4,16
28 USC § 158(b).....	10
42 U.S.C. § 1985(3).....	5

RULES

FRCP 8(b)(2)and(6).....	3
FRAP 28.....	2
FRBP 8003(c).....	9
FRBP 9011(c).....	19
MRPC 8.4(c)(d).....	21

CANONS

Canon 9.....	2
Canon 10.....	1

TABLE OF EXHIBITS

Reply Brief Exhibit page #

Exhibit 1. Appeal Dkt # 10, Appellant's Motion for Judicial Notice.....1

Exhibit 2. Dkt # 165, ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS LEONARD G. HOROWITZ AND SHERRI KANE'S MOTION TO DISQUALIFY CO-COUNSEL PAUL J. SULLA, JR. AND PHILLIP L. CAREY FROM REPRESENTING SHAM PLAINTIFF JASON HESTER.....47

Exhibit 3. County of Hawaii Tax Office Public Record61

Exhibit 4. ORDER GRANTING DEFENDANTS' MOTION FOR STAY PENDING APPEAL [HRCP 62(D)] AND FOR THE SETTING OF SUPERSEDEAS BOND SECURITY DURING THE PERIOD OF THE APPEAL, filed in Civ.No. 14-1-0304 on May 19, 2016.....70

Exhibit 5. TRANSCRIPT OF CONFIRMATION HEARING SECOND AMENDED PLAN WITH A MOTION TO DISMISS CASE; MOTION FOR CONTEMPT VIOLATION OF THE AUTOMATIC STAY RE: OBJECTION TO PLAN CONFIRMATION BEFORE THE HONORABLE ROBERT J. FARIS UNITED STATES BANKRUPTCY JUDGE.....73

Exhibit 6. Declaration of Beth Chrisman, Forensic Document and Handwriting Expert,
Pursuant to Analysis of Articles of Incorporation of Sulla's Foreclosing Mortgagee,
"Gospel of Believers"90

Exhibit 7. E-mail sent by attorney Margaret Wille, to Sheriff Kenneth D.
Kauwe, on March 24, 2016 to avert further Stay violations.....106

Exhibit 8. Letter to Lt. Patrick Kawai of the County of Hawaii Sheriff Division
securing cooperation in defense against Stay violations and theft of
Property.....108

LEONARD G. HOROWITZ, in pro per
P. O. Box 75104
Honolulu, HI 96836
Email: editor@medicalveritas.org
310-877-3002

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

1:16-CV-00549-DKW-KSC

LEONARD G. HOROWITZ Appellant-debtor, vs. PAUL J. SULLA, JR. an individual; PAUL J. SULLA JR., ATTORNEY AT LAW A LAW CORPORATION, a corporation Defendants) Bankruptcy Case No: 16-00239) (Chapter 13)) Related Case: Adv. No. 16-90015) (Chapter 13)) APPELLANT'S REPLY BRIEF) [FRAP Rule 28(c)]; AFFIDAVIT OF) LEONARD G. HOROWITZ;) DECLARATION OF MARGARET) WILLE; EXHIBITS "1" THRU "8";) CERTIFICATE OF) COMPLIANCE; CERTIFICATE) OF SERVICE) JUDGES: HONORABLE) DERRICK K. WATSON) (and KEVIN S. CHANG)
--	---

APPELLANT'S REPLY BRIEF

COMES NOW Appellant LEONARD G. HOROWITZ, pro se (hereafter, “Horowitz”) filing this Reply Brief after filing “Appellant’s Motion for Judicial Notice” (on January 12, 2017; Dkt #10; **Exhibit 1**) containing newly discovered public records evidencing fraudulent concealment of conversion of the Subject Property (hereafter, the “Property”) by attorney Appellee PAUL J. SULLA, JR.

(hereafter, “Sulla”) to himself—in the name of his newly formed HALAI HEIGHTS, LLC (hereafter, “HHLLC”) judgment-proof shell entity; concealed from the Bankruptcy Court wherein Sulla disguised his interests as “Hester’s” to convert the Property in violation of ethics rules and laws. Herein, Horowitz responds to Sulla’s Answering Brief (hereafter, “AB”) filed March 8, 2017 (Dkt# 18), that similarly conceals Sulla’s personal conflicting interest in the evidenced illegal and void taking/conversion of the Property central to Sulla’s violation of Stay, ejectment actions, damages to Horowitz and issues raised in this Appeal. This Reply is filed in accordance with Federal Rules of Appellate Procedure (“FRAP”) Rule 28(c), and the Honorable Court’s Order of February 6, 2017, (Dkt# 17) setting time of April 10, 2017 by which this Reply is timely.

I. INTRODUCTION / PRELIMINARY MATTERS / SULLA’S PATTERN OF WRONGDOING BEARING ON WILLFULNESS IN DEFRAUDING THE COURT AND VIOLATING THE STAY TO POSSESS THE PROPERTY.

A. Overview and Standards of Review

Bankruptcy Code § 362(a)(3) protects debtors from, “(3) any act to obtain possession of property of the estate or of property from the estate or to *exercise control over property of the estate*. . . . (emphasis added). Section 362(h) states: “(h) An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.” Moreover, ABA CANONS OF PROFESSIONAL ETHICS, Canon 10 prohibits lawyers from “Acquiring Interest in Litigation. The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.” Hence, Horowitz

argues and evidences Sulla committed willful violations of ethics rules, laws, and the Automatic Stay, and seeks to recover actual damages, including costs and attorneys' fees, and punitive damages, since the automatic stay extends to any exercise of control over property of the estate. *Norton Bankr. Code Pamphlet* 209 (1990-91 ed.), quoted in *In re Abrams*, 127 BR 239 - Bankr. Appellate Panel, 9th Circuit 1991. Sulla acted "to obtain possession of property of the estate or of property from the estate," (*Id.*) and exercised "control over property of the estate" during the Stay period, by perjury, fraud, fraudulent concealments, and violations of § 362(a)(3); all in defiance of his Disqualification from acting as Hester's attorney pursuant to Sulla's filed quiet title and ejectment action, Civ. No. 14-1-0304 (hereafter, "0304"), wherein Sulla is not a party, but concealed his conflicting interests and was precluded from representing Hester by Order of Judge Puglisi, (**Exhibit 2**) pursuant to facts intimately intertwined with Sulla's Stay violations, conversion scheme, and AB assertions.

Standards of review include *In re Abrams* and *Knaus*, 889 F.2d at 775, concurring that the failure to fulfill the duty to turn over property of the estate to the Trustee during the Stay period, constituted a prohibited attempt to "'exercise control over property of the estate' in violation of the automatic stay." *Id.* at 775. "That interest in the real property became property of the estate when the Plaintiff filed bankruptcy and was protected from creditors by the automatic stay. 11 U. S.C. § 362(a)." *Miller v. McDougal Bros. Investments*, Bankr. Court, D. Oregon 2008. Horowitz never abandoned the Property, and when the bankruptcy case was closed the Property continued to remain property of the estate and subject to administration

by the Trustee. Id. citing *Cusano v. Klein*, 264 F.3d 936, 945-946 (9th Cir. 2001)(internal citations omitted).

Sulla's AB advances two main fraudulent defenses against the precedent established in *In re Abrams*: (1) that the Property was never part of Horowitz's estate to be secured and/or repossessed by the Trustee pursuant to § 362 (avoidance power); and (2) if Sulla had violated § 362, then Sulla's violation(s) was(were) not willful, thus not susceptible to 362(h) sanction.

However, Sulla's AB is steeped with omissions, misrepresentations, and diversions from required responsive pleading (producing “tacit admissions” according to FRCP Rule 8(b)(2) and (6) [“Failing to Deny” by “Responding to the Substance” of Horowitz’s allegations]), thus cuts against Sulla’s fraud, and compounds Sulla’s pattern of perjury and frivolous unmeritorious arguing, stonewalling, diverting, showing *willful* and malicious intent to defraud the Court to permit possession of the Property to Sulla, and secure extended immunity against prosecution (which is Sulla’s pattern), despite Horowitz’s valid ownership of the Property as part of the estate subject to the Trustee’s avoidance power.

During the Stay, Sulla acted to possess the Property sold to Horowitz et. al. by Sulla’s predecessor-in-interest. “Appellees' repossession of the debtors' [property], . . . became a willful violation of the automatic stay when appellees failed to take any reasonable steps to remedy their violation upon learning of the debtors' bankruptcy.” *Id. In re Abrams*’ quotation undercuts the Rule 9011 “safe harbor” argument raised in this Appeal by Sulla. Rather than turning over the Property illegally gotten, Sulla

acted willfully and recklessly to dispossess and deprive Horowitz of his estate Property central to the “Reorganization Plan,” certainly during the third week of March, 2016, in violation of the Stay. “We thus REVERSE and REMAND this case, and direct the trial court to consider and determine the damages recoverable by the debtors under the standards provided under § 362(h).” *Id.*

B. Sulla’s AB Compounds His Pattern of Wrongdoing for Unjust Enrichment; Fraudulently Conceals Sulla’s Conflicting Interest and “Client” Hester’s Invalid Standing, for Which the Honorable Court has a Duty to Intercede for Justice, Horowitz’s Equity, and Society.

Sulla’s actions in this case extend a pattern of damaging wrongdoings reflecting poorly on the judiciary and accommodations granted Sulla by defrauded courts. Sulla’s Answering Brief (“AB”) seeks to similarly gain this Honorable Court’s sympathy and complicity in Sulla’s real Property conversion and enrichment scheme by falsely asserting “Hester’s ownership,” while neglecting **Exhibit 1**—Sulla-possession public records—and Horowitz’s judicially-validated rights and interests.¹ Sulla’s AB concealments and failure to Answer responsively to the evidence of “Fraudulent Assignments” of the Mortgage and Note, and fraudulent concealments of Sulla’s personal interest before this Court, defy the integrity of this Honorable Court, and invalidate Sulla’s illegally-recorded interests (Dkt. #10 and 10-1), as well as Sulla’s falsely-claimed interests of Sulla’s strawman, Jason

¹ Horowitz’s interests are verified by the res judicata case Civ. No. 05-1-0196, March 4, 2016, Fifth Amended Final Judgment (OB, p. 15; Exhibit 1, p. 5, footnote 1 [OB Exhibits p. 42]; and Exhibit 17, [OB Exhibits p. 164], “FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING DECREE OF FORECLOSURE AGAINST ALL DEFENDANTS” securing Horowitz’s valid interests in the Property as “Individual” co-signer on the Note, personal Mortgage guarantor, and substantial equity holder.

Hester. In other words, Sulla stands in contempt of 42 U.S.C. § 1985(3), on the premises of this Honorable Court, disguised as Hester's advocate.

The chain of public records now before the Court vet Sulla's wrongdoing and controvert his defenses. The Judicially Noticed Public Records (Exhibit 1; Dkt. #10 and 10-1) filed January 12, 2017, and OB (pp. 15-16) provide prima facie evidence of Sulla's fraudulent concealment of his own real party interest in the Property, and Sulla's conversion of Horowitz's Property to Sulla by manufacturing three sham Property title transferees—(1) the "Gospel of Believer's" ("GOB") sole corporation; (2) Jason Hester as GOB's "Overseer"; and (3) Halai Heights, LLC ("HHLLC")—each *judgment-proof* and used to indemnify Sulla against discovery and liability. (OB pp. 15-16.)

Sulla's scam and "religious trust" conversion scheme harms many people beyond Horowitz, and extends Sulla's pattern of committing similar torts and crimes for tax evasion, "religious trust" money laundering, and defrauding the federal government in *United States vs. Arthur Lee Ong*, Cr. No. 09-00398 DAE;² also *United States vs. Bruce Robert Travis*, U.S. Court of Appeals, Ninth Circuit. No. 10-15518; and also in *Takaba v. Comm'r*, 119 T.C. 285, 295, 2002 WL 31818000. Those earlier cases parallel this instant matter since Sulla was disqualified as a necessary witness for the government against real estate agent Travis, filed for Travis a fraudulent tax return, and conspired to launder money for gun dealer Ong and convicted tax evasion guru Lamar Hardy, all after being

² In *United States vs. Arthur Lee Ong*, Cr. No. 09-00398 DAE, SULLA was named as a co-conspirator in the "Superseding Indictment" issued July 28, 2010. Unlike his three convicted co-defendants, Sulla escaped trial evidencing qualified immunity.

sanctioned for frivolous and reckless arguing in favor of tax resister Takaba. (See: Opening Brief [“OB”] **Exhibit 4**, containing “Exhibit 13,” pp. 130, 131, and 135]) Thus, in this instant case, Sulla pleads to blind the Court from seeing Sulla’s pattern of corruption and willful criminal recidivism using a “religious” trust money-laundering scheme to secure Sulla’s concealed control over Horowitz’s Property.

In his AB, Sulla feigns confusion and diverts from defending evidenced wrongdoing. Yet he justifies his *willful* stay violations by arguing that his Disqualification in the ejectment action would not preclude Sulla’s ejectment of Horowitz from the Property during the automatic Stay, the week of March 21, 2016.

In other words, Sulla’s “condition-of-mind” justifies his Disqualification-defying Stay violations, paralleling Sulla’s condition-of-mind to defraud the Treasury Department for which he was disqualified in *United States v Travis*.

C. Sulla Falsely Claims the “Hearing on Motion to Show Cause” Was Conducted on July 7, 2016, When It Was Not Conducted at All, Only Pre-empted and Precluded, Depriving Horowitz of his Civil Right to Due Process and the Property.

Sulla misrepresents the subject Hearing (on AB p. 11) thusly: “A hearing was held July 7, 2016 and the matter was taken under advisement,” whereas the “Motion to Show Cause” was *not heard on July 7, or at any time*. The Transcript of July 7 (Sulla’s AB Exhibit 5), is titled “CONFIRMATION HEARING/AMENDED PLAN BEFORE THE HONORABLE ROBERT J. FARIS.” That hearing did not adjudicate the merits argued by Horowitz in the Subject Motion. It is unreasonable to presume or conclude Sulla’s “bait-n-switch” misrepresentation here was made in good faith. Sulla repeatedly demonstrates in

his Motion to Dismiss and his AB that he attends technical details, page counts, expert analyses of court filings and dates. Sulla's transparent "error" here is a calculated material falsehood—no "mistake"—that undermines his credulity. The absence of any hearing transcript on the Motion to Show Cause corroborates the "railroading"³ Horowitz objected to during that July 7 hearing. (AB, Exhibit 5) The Transcript of September 15, 2016 (OB, Exhibit 6) records Judge Faris apologizing for precluding the subject Hearing on Motion. (Exhibit 5, Exhs. pp. 87-88)

Horowitz asked "What happened to my motion to compel, which was supposed to be heard today. Mr. Sulla--" The BK Court interrupted, "I'm sorry, I skipped that. Pardon me. Pardon me. Thanks for pointing that out. . ." Judge Faris's subsequent "advisement" then accommodated Sulla's non-response to the Motion, and railroaded Horowitz.³ The BK Court disregarded or justified Sulla's aforementioned shady criminally-complicit history, and Sulla's Disqualification defiance. In step with Sulla, the Court neglected/disregarded the 0196 res judicata case final judgment(s), and the subject Motion "Evidentiary Hearing Requested" (Dkt# 97). The BK Court thus violated Horowitz's Fourteenth Amendment rights to adjudication on the merits. Such "railroading", disregarding stare decisis and res judicata doctrines, demonstrated unjust, unreasonable, and inexplicable favor for

³ *Black's Law Dictionary*, Eight Edition, 2004, p. 1287, defines "railroad[ing]" as: "2. To send (a measure) hastily through a legislature so that there is little time for consideration and debate. 3. To convict (a person) hastily, esp. by the use of false charges or insufficient evidence." The preemption of the subject Hearing gave zero "time for consideration and debate." This deprivation of due process, in effect, hastily convicted Horowitz as a presumed Mortgage defaulter and trespasser on his own Property, by the use of Sulla's false charges and insufficient evidence accepted and vicariously affirmed by the BK Court.

the predicate-perjurer — Sulla—defying and dishonoring the judicial duties of the BK Court, and sending a clear impression of impropriety damaging the Appellant, his privies-in-interest, creditors, community, and public perceptions.

The preempted/precluded “Motion to Show Cause” sought to pierce Sulla’s “disguise,” to compel Sulla to show cause for violating the Stay while falsely alleging Hester’s standing, interest, and the court’s jurisdiction over Hester. The “untoward surprise” Horowitz received from Judge Faris’s deprivation of due process rights permitted Sulla’s fraud to prevail in violation of, *inter alia*, the Supreme Court’s advisement recited in *In re Ball*, 185 BR 595 - Bankr. Appellate Panel, 9th Circuit 1995.⁴ The railroading also defied 11 U.S. Code § 558; and the Fourteenth Amendment that states in Section 1:

[N]or shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The BK Court’s backing of Sulla also defied the U.S. Supreme Court (1971) holding in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 US 388, and violated “[t]he right of the people to be secure in their . . . houses . . . against unreasonable . . . seizures . . .” *Id.* In *Bell v. Hood*, 327 U. S. 678 (1946), the Supreme Court held liable “a federal agent acting under color of his authority . . . for damages consequent upon his unconstitutional conduct.” The BK Court’s accommodation of

⁴ “[C]ourts should not lightly overrule past decisions. . . . furthering fair and expeditious adjudications by eliminating the need to relitigate every relevant proposition in every case;” such as Sulla’s Disqualification in the BK proceeding, “and the necessity of maintaining public faith in the judiciary as a source of impersonal and reasoned judgments.” Quoting the U.S. Supreme Court in *In re Ball*, *Op. cit at 598*.

Sulla's blatant misrepresentations, omissions, and criminal conversion, shames justice and unreasonably multiplies processes at the expense of the parties, legitimate creditors, and taxpayers.

II. SULLA'S JURISDICTION OPPOSITION IS A RED HERRING

Sulla asserts: "This Court does not have jurisdiction to hear Appellant's appeal because the appeal is interlocutory and Appellant never sought leave to file an interlocutory appeal as required by Rule 8004, Fed. R. Bank. P. 28 U.S.C. § 158(a)(3) provides that this court only has jurisdiction to hear appeals from interlocutory orders with leave of the court."

Horowitz replies: Sulla's diversions do not preclude the Court's jurisdiction. Sulla's AB jurisdiction argument differs dramatically from Sulla's earlier Motion to Dismiss that purposely confused ruling(s) appealed and the timeliness of the Appeal filing. Now Sulla opposes jurisdiction, alternatively claiming interlocutory appeal and no leave of the court.

In re Roderick Timber Co., 185 BR 601 - Bankr. Appellate Panel, 9th Circuit 1995, "The Rodericks did not move for leave to appeal. However, in their reply brief, they ask the Panel to treat their notice of appeal as such a motion,^[2b]" as Horowitz does here, if necessary. But there is no need, because "[i]f an order is interlocutory, and no motion for leave to appeal has been filed, the Panel can consider a timely notice of appeal to be a motion for leave. Fed.R.Bankr.P. 8003(c); *In re Xebec*, 147 B.R. 518, 522 (9th Cir. BAP 1992)." Moreover, this Appeal was filed timely, and Horowitz does not believe this Appeal is interlocutory by definition in *Roderick Timber*, since the court issued its final order(s) on September 26, 2016 (Dkt 150) denying Motion to Reconsider, thereby denying Horowitz's rights and remedies sought. The Notice of Appeal was filed October 4, 2016. "The Panel has jurisdiction to hear appeals of final orders, and,

with leave of the Panel, interlocutory appeals. 28 U.S.C. § 158(b). A final order is one that finally determines the rights of the parties in securing the relief they seek in that suit. *In re Moberg Trucking, Inc.*, 112 B.R. 362, 363 (9th Cir. BAP 1990)."

Furthermore, Horowitz was expressly instructed by the Clerk of the BK Court that no Motion for Leave to Appeal was needed in that court, immediately after Horowitz filed such a Motion for Leave to Appeal the Relief of Stay granted Hester (Dkt # 39). That Appeal was considered interlocutory and denied as moot on October 17, 2016. (Dkt # 35)

III. THIS APPEAL IS NOT MOOTED BY THE BK DISMISSAL

Contrary to Sulla's pleading, this Appeal is not mooted by the bankruptcy and adversary proceeding dismissals. Sulla argues, "the court still lacks jurisdiction because the appeal was mooted when the Bankruptcy petition was dismissed and the Appellant failed to appeal the dismissal of the underlying bankruptcy." Contrariwise, "The principal question raised in this appeal is whether Appellant's action alleging willful violation of the automatic stay was rendered moot by dismissal of the underlying bankruptcy case. We conclude that the action was not rendered moot and reverse the bankruptcy court's order dismissing the action." *In re Davis*, 177 BR 907 - Bankr. Appellate Panel, 9th Circuit 1995.

In the interest of justice, the Court maintains the capacity to rule compensatory, statutory, and punitive damages in favor of Horowitz for Sulla's contempt of court, willful violations of the Stay, and/or the Bankruptcy Court's further proceedings in this regard. The lower court's decision is reversible and

remedies are available, precluding Sulla's mootness argument. “[T]he test for mootness is especially “stringent” . . . [I]t must be ‘absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur. . . . Second, the defendant must demonstrate that ‘interim relief or events have completely and irrevocably eradicated the effects of the alleged violation.’” RG v. Koller, 415 F. Supp. 2d 1129 – Dist. Court, D. Hawaii 2006. Both elements are not satisfied in the case at bar.

IV. SULLA'S PAGE LENGTH OBJECTION NEGLECTS RULE 8015(a)(7).

Contrary to Appellee's pleading (pg. 1), the Opening Brief complies with the Federal Rules of Bankruptcy Procedure, Part VIII, Appeals to District Court . . . Rule 8015(a)(7) *Length* provision. The 13,932 words in the OB is below the 14,000 permitted “Type-volume limitation” in exception paragraph “(B)”; and the paragraph “(C) Certificate of Compliance” was provided as required.

V. SULLA EVIDENCES HIS FRAUD AND BAD FAITH BY OMISSIONS AND MISREPRESENTATIONS IN HIS “STATEMENT OF CASE”

“**Fraud**” means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.” In re First Alliance Mortgage Company, 471 F. 3d 977 - Court of Appeals, 9th Circuit 2006.

Sulla's AB falsely states (p. 8): “1) Appellant did not ever own the Subject Property, 2) Appellant did not live on the Subject Property, 3) the foreclosure occurred almost six years ago, and 4) the foreclosure was against an entity that Appellant admits no longer exists and has been dissolved since 2012.

[AA 4:1-18] Appellant appeared to be using the Subject Property via caretakers for vacation rental income only.” [AA 5:9; 8:3]

Horowitz argues “Fraud!”: 1) Horowitz still owns the Subject Property in accordance with the Fifth Amended Final Judgment in the res judicata case, Civ. No. 05-1-0196 (OB, p. 15; Exhibit 1, p. 5, footnote 1 [OB Exhibits p. 42]; and Exhibit 17, [OB Exhibits p. 164], “FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING DECREE OF FORECLOSURE AGAINST ALL DEFENDANTS”) Horowitz also retains ownership of the Property by operations of law,⁵ appeals pending to resolve the 0304/0196 conflicting final judgments; invalid transfers voided by Sulla’s fraud, wrongful default claim against Horowitz/RBOD deprived trial on the merits, lack of the court’s jurisdiction over Hester, and Sulla’s fraudulent concealments.

⁵ *Maui Land & Pineapple Co. v. Infiesto*, 879 P. 2d 507 – Haw: Supreme Court 1994 (at 513) “While it is not necessary for the plaintiff to have perfect title to establish a prima facie case, he must at least prove that he has a substantial interest in the property and that his title is superior to that of the defendants. *Shilts v. Young*, 643 P.2d 686, 689 (Alaska 1981). Sulla’s title as Hester’s successor-in-interest based on fraud is *void*. Each of Sulla’s transfers were *illegal* and *void*, beginning with the “Fraudulent Assignment” of the Mortgage from original Mortgagee to GOB (which Sulla-administered prior to the formation of that corporate entity by Sulla. GOB was formed by Sulla using “altered” and “unauthentic signatures” in the documents of incorporation which also contain one or more altered dates. *OB 6-7,31-33. (Exhibit 6)* “[A] case of simple forgery or false authority . . . result[s] in void documents under Hawai‘i law.” *Ocwen Loan Servicing LLC v. Lum* 2015 WL 1808955 at 4 (US Dist. Haw. 2015) “Certificates of title must be scrupulously observed . . . except in cases of fraud to which he is a party.” .] *In re Bishop Trust Co.*, 35 Haw. 816, 825 (1941).

Fraud is established by the following elements: (1) false representations were made by defendants, (2) with knowledge of their falsity (or without knowledge of their truth or falsity), (3) in contemplation of plaintiff's reliance upon these false representations, and (4) plaintiff did rely upon them. *Shoppe v. Gucci America, Inc.*, 14 P. 3d 1049 - Haw: Supreme Court 2000.

Sulla's *fraud* is evidenced by Sulla having: (1) disguised his interests as Hester's, and falsely represented "Hester's ownership" of the Property; (2) knowing Hester's claimed ownership was/is voided by Sulla's "Fraudulent Assignments" of Horowitz's Mortgage and Note into a sham "Foreclosing Mortgagee"-- "Gospel of Believers" incorporation-- controlled exclusively by Sulla, who conducted the void and fraudulent non-judicial foreclosure upon which Sulla's claim of "Hester's ownership" is based;⁶ (3) in contemplation that Horowitz and the courts would rely upon these false representations of "Hester's ownership;" causing (4) the BK Court to rely on Sulla's representation(s), grant Hester standing to relieve the Stay, and permit Sulla to convert the Property subsequently to himself as the concealed real party in interest, damaging Horowitz, the integrity of the judiciary, and breaking laws.

More Sulla fraud in the AB includes: (a) willful neglect of the judicial foreclosure case and final judgment(s) in Horowitz's favor, to feign the exclusive validity of Sulla's fraudulent non-judicial foreclosure; (b) falsely stating (p. 8) "Appellant's bankruptcy and adversary proceeding were filed in effort to stay and/or

⁶ *Skaggs v. HSBC Bank USA, N.A.* 2010 WL 5390127 (US Dist. Haw.2010) (Unpublished) (mortgage note may be void even against a holder of due course based on fraud).

thwart state court decisions granting Appellee post-foreclosure ejectment of Appellant” when, the opposite is true by reason of the conflicting final judgments in the 0304 and 0196 cases currently in appeals (CAAP 16-0000162 and 0163) justifying the bankruptcy filing and Stay to secure the 0196 res judicata final judgment(s); (c) falsely stating (pp. 8-9) “Appellant did not live on the Subject Property” contrary to Horowitz’s BK Court testimony (AB Exhibit 5, p. 10, lines 3-6) “I was dispossess of my home and ability to live there under the circumstances of being a victim of this crime.” In fact, the 64-year-old Horowitz put his life-savings as a retired dentist into this Property, lived there regularly since 2010, developed its landscaping, fixtures, agriculture, and more that Sulla confiscated by concealment of the 0196 conflicting judgments and foreclosure mischief; (d) also falsely stating Horowitz “did not ever own the Subject Property,” controverted also by: (i) the 0196 final judgments; (ii) the Warranty Deed issued Horowitz as the “body corporate” in the name of his sole corporation; and (iii) Horowitz’s signature as an “Individual” co-signer and personal guarantor on the Note; (e) misrepresenting “the foreclosure was against an entity that Appellant admits no longer exists and has been dissolved since 2012” when Horowitz’s RBOD was dissolved under Sulla’s duress, remains in “winding up,” and shall be restored when its rights and properties are secured; (f) misrepresenting (on p. 13) the BK Court’s “allowing Appellee to proceed with and complete . . . forcible eviction/ejectment, incident to the interest held in real [P]roperty....” The BK Court, in fact, purposely denied Sulla the in rem relief “Hester” sought to gain by Motion for Relief From Automatic Stay, expressly stating the grant was based exclusively on comity, respecting ongoing State

proceedings; (g) fraudulently stating (on p. 13) “As soon as he became aware of [the Bankruptcy Automatic Stay], he ceased all activities in relation to ejectment and instead brought a Motion for Relief from Stay on March 18, 2016 . . .” In fact, evidence before the Court proves Sulla did not “cease all activities in relation to ejectment,” but continued the week of March 21, 2016 to promote the Appellant’s ejectment. (OB, p. 3 ; Dkt # 97-4) The e-mail to Sheriff Kauwe from Attorney Wille of March 24, 2016, and Wille’s invoice for it (**Exhibit 7**), records Sulla’s ejectment actions continued that week; (h) misrepresenting (on AB p. 13), “Appellant . . . continually claimed to have an interest in the Property despite repeated Findings, Orders and Judgments in prior State actions that he had none,” when, this statement is controverted by the neglected/omitted Fifth Amended Final Judgment in the 0196 case, dated March 4, 2016, denying foreclosure granting Horowitz the Property. (OB p. 15) Sulla’s fraudulent hearsay alleges the existence of “repeated Findings, Orders and Judgments in prior State actions,” yet Sulla provides none because such “Findings” (plural) do not exist. Even the contested and conflicting 0304 final judgment currently in appeal had no “Findings” issued justifying the summary dispossession. (OB p. 20, Exhibit 21. OB Exhibits p. 177); (i) misrepresenting (AB, p. 14) that Horowitz “held no record title interest” when Horowitz/RBOD hold the Warranty Deed; and misrepresenting (p. 14) “never has paid . . . tax to the County of Hawaii” when monthly payments are still being made exclusively by Horowitz et. al. on the tax burden;⁷ (**Exhibit 3**) and (j) falsely writing (p. 15) “The entry of the

⁷ **Exhibit 3** Tax records show \$250 or more per month being paid exclusively by Horowitz et. al., continuously since May, 2013, per written contract dated 4-8-13

Circuit Court's Final Judgment and Writ of Ejectment divested any interest of the Appellant." Not so because that Judgment and Writ was based on fraud, was thus void, not simply voidable,⁸ and is also being appealed. Sulla is *not at liberty* to "put the cart before the horse" in presuming the 0304 court decision being appealed is "final." *Mauna Kea Anaina Hou et al vs BLNR*, SCAP 14-0000873, December 2, 2015; and finally, (k) Sulla falsely added, "Appellant had already requested a stay of the ejectment proceedings in state court several times, all of which were denied." In fact, Sulla purposely omitted Order Granting Defendants' Motion for Stay Pending Appeal in which Judge Melvin Fujino set "the supersedeas bond amount at \$588,374.91"—unaffordable to Horowitz under the duress of Sulla's malicious prosecutions, abuse of processes, and this Sulla-caused Bankruptcy.

VI. SULLA'S WRONGFUL ACTIONS WERE *WILLFUL*.

Sulla's AB compounds Sulla's pattern of false pleadings and *willful* violations of ethics rules and laws, including § 362(a)(3); with "willful" defined in this circuit as follows:

A "**willful violation**" does not require a specific intent to violate the automatic **stay**. Rather, the statute provides for damages upon a finding that the defendant knew of the automatic stay and that the defendant's actions which violated the stay were intentional. Whether the party believes in good faith that it had a right to the property is not relevant to whether the act was "willful" or whether compensation must be awarded. *Bloom*, 875 F.2d at 227 (citation omitted). A

stamped by County of Hawaii official, "Shelley"; yet Sulla's Halai Heights, LLC is fraudulently listed as the exclusive "owner."

⁸ *Ocwen Loan Servicing LLC Op. cit.* (no title passes if the document is found to have been forged including by alteration); *Skaggs v. HSBC Bank USA, N.A.* 2010 WL 5390127 (US Dist. Haw.2010) (Unpublished)(mortgage note may be void even against a holder of due course based on fraud). (See confirmed evidence of Sulla's forgery in **Exhibit 6**.)

violation of the stay is thus willful when a creditor acts intentionally with knowledge of the bankruptcy. *Accord Knaus*, 889 F.2d at 775. Excerpt from *In re Abrams*, 127 BR 239, 243 - Bankr. Appellate Panel, 9th Circuit 1991.

Accordingly, even though Sulla argues his Stay violation committed on Saturday night, March 12, 2016, was not intentional following notice received by his office that morning; and even if the Court were to accept Disqualified attorney Sulla's disguise and false claim of "Hester's entitlement" for Sulla to serve the Writ of Ejectment that night, then compensation for Attorney Wille's fees of \$300, plus punitive damages, are still due for Sulla's willful violations of the Stay during the third week in March.

Sulla's Stay Violation March 21-24 was tacitly admitted by Sulla, since his AB neglects to deny this express, solidly-evidenced, ejectment action/Stay violation that compelled Horowitz's lawyer, Margaret Wille, to intercede to protect Horowitz and his Property rights. (OB, p. 3 ; Dkt # 97-4. See: E-mail to Sheriff Kauwe and Invoice from Attorney Wille in **Exhibit 7**)

In fact, Sulla's filing of Dkt# 13, on March 18, 2016, "Motion for Relief of Automatic Stay," evidences Sulla's knowledge of the Stay and un-interrupted self-serving advocacy that week, albeit in disguise as "Hester's" Disqualified lawyer still working feverishly to control and possess the Property Sulla had illegally converted. According to *In re Abrams* Op. cit. and *Knaus*, Op. cit., Sulla, disqualified or not, was to have discontinued ejectment actions and turned over this estate Property to the Trustee. Sulla willfully neglected these duties to violate Canon 10, to currently possess and control the Property.

VII. SULLA MISREPRESENTS, OMITS AND NEGLECTS TO ANSWER SUBSTANTIVELY TO THE ISSUES AND ALLEGATIONS DETAILED IN THE OB.

A. **Issue #1—Stay Violation.** Sulla neglects to Answer to the evidence and allegation of willful Stay Violation the week of March 21, 2017, thereby tacitly admits to the violation as aforementioned (and as further detailed in the OB).

B. **Issue #2—Defying Disqualification.** Sulla pleads confusion. (AB, pp. 21-23) He argues contrary to stare decisis doctrine and the U.S. Supreme Court quoted in *In re Ball*, (Op. cit at 598). Sulla argues (p. 22) “if an attorney is disqualified in one case, he is [not] automatically disqualified for all other cases involving the same parties.” Sulla’s argument also cuts against the Model Rules of Professional Conduct, Rule 8.5 addressing consistency between jurisdictions. Sulla neglected to Answer to the disparities raised in the OB.

Sulla’s justification for defying Judge Puglisi’s Disqualification Order conflicts with the wisdom of the courts in *In re Coordinated Pretrial Proceedings, Etc.* 658 F. 2d 1355 (OB p. 6, footnote 5) also citing the Ninth Circuit in *Gas-A-Tron, supra*, 534 F.2d at 1325 and *Woods v. Covington Cty. Bank, supra*, 537 F.2d at 813 (quoting Third Circuit in *Richardson v. Hamilton International Corp.*, 469 F.2d 1382 (1972), “It is the duty of the district court to examine the charge[s]”. In this instant case, the “charges” include Sulla’s conflicting interests, fraudulent concealments, and Fraudulent Assignments of Mortgage and Note (securities), supplemented by unlawful debt collection practices intertwined with Stay Violations to possess the Property. This examination and inquiry reasonable is required since the “court . . . is authorized to supervise the conduct of the members of its bar. The courts, as well as the bar, have a responsibility to

maintain public confidence in the legal profession. This means that a court may disqualify an attorney for not only acting improperly but also for failing to avoid the appearance of impropriety.” *Id.*

Sulla justifies his defiance of the Disqualification Order without case law.

Sulla evaded Answering to the ethical issues raised by his Disqualification defiance, fraudulent concealments to acquire possession of the Property for himself, and now claims to hold title in HHLLC in direct violation of Canon 10. Moreover, Canon 9 provides that a lawyer should avoid even the appearance of professional impropriety. The Ethical Considerations under these Canons provide for, *inter alia*: “Every lawyer owes a solemn duty . . . to strive to avoid not only professional impropriety but also the appearance of impropriety.”.” *Richardson v. Hamilton International Corporation*, 469 F. 2d 1382 - Court of Appeals, 3rd Circuit 1972. In the instant case, Sulla is evidenced being guilty on both counts.

C. Issue #3—Rule 11 Motion. Sulla misrepresents Rule 11, and again fails to answer to the substance of the allegations in the OB. Sulla wrote (AB, p. 26), “Appellant must have served his Rule 11 motions 21 days before filing them with the Court. . . . Appellee was never properly served . . .” By neglecting to answer substantively, Sulla tacitly admitted: (a) the Rule 9011(c)(1)(A) “false representation” exception that Horowitz noted precludes the “safe harbor” provision. Thus, Sulla should be sanctioned; and (b) “9011(c)(1) says nothing about serving ‘an unfiled copy of the motion on the alleged wrongdoer.’ Nor do the local rules, as Sulla and the accommodating BK Court both asserted.

Nor would such notice be effective (or appropriate) under the circumstances. In *Business Guides, Inc. v. Chromatic Communications Enterprises, Inc.*, 498 US 533 - Supreme Court 1991, it was agreed that “[t]he standard of conduct under Rule 11 is one of objective reasonableness.” Applying this standard to the circumstances at bar, it is certain that Sulla violated this Rule 11 that requires an *inquiry reasonable under the circumstances*, and Sulla’s withdrawal of false filings. 119 F. R. D. 685, 688-689 (ND Cal. 1988). Under the instant circumstances, it is unreasonable to impose a “safe harbor” to afford Sulla what he was actually given by the Clerk of the BK Court and Horowitz—that is, more than “70-days” notice to withdraw his pleadings and turn over the Property to the Trustee. Sulla’s lacking candor, concealed conflicting interests, pattern of fraudulent concealments, million-dollar-property conversion, and “far more than ‘21-days’ to withdraw his multiple bad faith petitions” (OB, p. 35) make “objectively unreasonable” the BK Court’s clearly erroneous ruling that directly conflicts with the Supreme Court’s holding in *Business Guides. Id.*

D. Issue #4-- Denying the hearing deprived the Appellant of his due process right. Sulla’s AB avoids this issue, and clear question raised, to stonewall. He completely “reframes” the issue to ask and answer his own decoy question (AB, p. 27): “Did the court err in stating that Dr. Horowitz has not established that he suffered quantifiable damage from the alleged violation of stay?” Then, Sulla recklessly diverts further, complaining about numerous State court filings, and blaming Horowitz’s lawyer, Margaret Wille, for over-charging Horowitz, and filing motions needlessly in State. At this point, Sulla’s AB

becomes a travesty; and his failure to deny responsively to the OB allegations and questions, tacitly admits Horowitz's due process rights were violated when the hearing on the Motion was pre-empted/precluded, thus deprived.

E. Issue #5-- The court's aforementioned actions gives an impression of impropriety. Sulla confounds and muddies the clear question raised here also, effectively making a mockery out of these proceedings. Sulla reframes this issue and substitutes his own completely false "counterstatement" (AB, p. 29): "Did the court err when it heard the Appellant's Motion to Show Cause"? In fact, as aforementioned, *the Court never heard the Motion* that requested an "Evidentiary Hearing". Judge Faris apologized—"I'm sorry, I skipped that." (**Exhibit 5**, pp. 87-88) The Court provided no hearing whatsoever on this Motion. Then, Sulla's AB justifies his neglect in "not having filed a Memorandum in Opposition". "I see Mr. Sulla did not file a response," the BK Court recorded. (**Exhibit 5**, p. 88)

Summarily, Sulla defends (AB p. 30), "Eventually a motion has to slip by the radar and go unopposed but, even if it does, because the motion has no merit it does not matter."

Such an "Answer," rationalizing Sulla's failure to file a responsive pleading or deny factual allegations, evidences unscrupulous contempt for due process, and presents a clear example of Sulla's "conduct that is prejudicial to the administration of justice" (MRPC Rule 8.4(d)) "involving dishonesty, fraud, deceit [and] misrepresentation. (MRPC Rule 8.4(c)). In other words, Sulla's AB on Issue #5 records Sulla's moral turpitude and protection racket. "Conduct which forms a basis for inference is evidence. Silence is often evidence of the most persuasive

character." *United States ex rel. Bilokumsky v. Tod*, 263 US 149, 154 - Supreme Court 1923.

F. Issue #6-- The court neglected State and Federal Victim's Rights Laws

Sulla mistakenly substitutes (at AB pp. 6 and 32), "Did the court err in its application of *In re Perl?*"—that is, the last of six (6) alleged errors the BK Court made to deprive Horowitz's rights to due process and the Property, as clearly stated and listed in the OB's Table of Contents within Section A, pursuant to the first Issue on Appeal, in contrast to Section F that designates the issue (#6), the alleged violation of Horowitz's Crime Victim's Rights completely neglected in Sulla's "silence."

VIII. CONCLUSION

Under the circumstances, and given the Honorable Court's prudent analysis of the Record and the parties pleadings, relief in favor of Horowitz is proper in accordance with reason, justice, rules and statutes.

Respectfully submitted.

Dated: Honolulu, HI: April 7, 2017

Signed:



LEONARD G. HOROWITZ, Appellant pro se

LEONARD G. HOROWITZ, in pro per
P. O. Box 75104
Honolulu, HI 96836
Email: editor@medicalveritas.org
310-877-3002

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII
1:16-CV-00549-DKW-KSC**

LEONARD G. HOROWITZ	)	Bankruptcy Case No: 16-00239
Appellant-debtor,	)	(Chapter 13)
vs.	)	Related Case: Adv. No. 16-90015
	)	(Chapter 13)
PAUL J. SULLA, JR. an individual; PAUL)	
J. SULLA JR., ATTORNEY AT LAW A	)	AFFIDAVIT OF
LAW CORPORATION, a corporation	)	LEONARD G. HOROWITZ
Defendants	)	In Support of
	)	Reply Brief
)	
	)	JUDGES: HONORABLE
	)	DERRICK K. WATSON
	)	(and KEVIN S. CHANG)

AFFIDAVIT OF LEONARD G. HOROWITZ

STATE OF HAWAII)
COUNTY and CITY OF HONOLULU	) SS:
United States of America)

Leonard G. Horowitz (hereafter “Horowitz,” “me,” “I,” or “my”), being first duly sworn, on oath deposes and says:

1. That I am the affiant herein.
2. I am an individual over the age of twenty-one (21) years, an “after resident” of the State and County of Hawai‘I, domiciled in California.
3. I am a Debtor/victim of Mr. Paul J. Sulla, Jr.’s organized crimes who filed for bankruptcy in this proceeding on March 9, 2016, and at the same time filed related Adversary Proceeding 16-90015.
4. I declare that the attached “**REPLY BRIEF**” contains true and correct pleadings to the best of my knowledge and belief.
5. I declare that Exhibit “1” is a true and correct copy of “Appellant’s Motion for Judicial Notice [Federal Rules of Evidence 201], filed by me on Jan. 12, 2017, containing true and correct copies of public records material to this Appeal.
6. I declare that Exhibit “2” is a true and correct copy of the ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS LEONARD G. HOROWITZ AND SHERRI KANE’S MOTION TO DISQUALIFY CO-COUNSEL PAUL J. SULLA, JR. AND PHILLIP L. CAREY FROM REPRESENTING SHAM PLAINTIFF JASON HESTER, filed 1-5-15 in CV 0413-JMS-RLP, disqualifying Sulla from representing Hester in his ejectment action(s).
7. I declare that Exhibit “3” is a true and correct copy of the Hawaii County Online Real Property Tax Payments record as of March 17, 2017 showing: (1) Paul J. Sulla, Jr.’s company Halai Heights, LLC as the purported owner of my Property located at 13-3775 Pahoa Kalapana Road in Pahoa, HI 96778 with attachments showing monthly tax payments of at least \$250 paid exclusively by me and my domestic partner, Sherri Kane as per the terms of the attached written Contract dated April 8, 2013. We are still paying taxes on the Property that Mr. Sulla currently possess illegally.
8. I declare that Exhibit “4” is a true and correct copy of ORDER GRANTING DEFENDANTS’ MOTION FOR STAY PENDING APPEAL [HRCP 62(D)] AND FOR THE SETTING OF SUPERSEDEAS BOND SECURITY DURING THE PERIOD OF THE APPEAL, filed in Civ.No. 14-1-0304 on 5-19-16, contrary to Sulla’s claim that we did not receive a grant of Stay pending Appeal.
9. I declare that Exhibit “5” is a true and correct copy of the TRANSCRIPT OF CONFIRMATION HEARING SECOND AMENDED PLAN WITH A

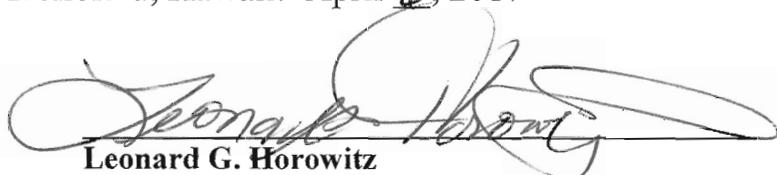
MOTION TO DISMISS CASE; MOTION FOR CONTEMPT VIOLATION
OF THE AUTOMATIC STAY RE: OBJECTION TO PLAN
CONFIRMATION BEFORE THE HONORABLE ROBERT J. FARIS
UNITED STATES BANKRUPTCY JUDGE, a caption that appears to
misrepresent or confuse my Motion to Show Cause as related to Mr. Sulla's
violations of the Automatic Stay with Mr. Sulla's bad faith objection to my
"reorganization plan" concealing Sulla's own conflicting interests. This
Transcript Caption is also misleading as the actual hearing on this Motion never
happened as evidenced in the transcript as detailed this Reply Brief.

10. I declare that Exhibit "6" is a true and correct copy of forensic document and handwriting expert Beth Chrisman's bio, professional analysis, and sworn (notarized) Declaration signed on June 12, 2015, attesting to the fact that Sulla altered the Articles of Incorporation, and forged at least one, and probably two, signatures of the deceased Property Seller and Mortgagee, Cecil Loran Lee. Additional alterations of these Articles include altered date(s) and pagination. Sulla used this false filing with the State to extort money from me, or steal my Property under color of law. (See *prima facie* evidence of forgery in **Exhibit 6**.)
11. I declare that Exhibit "7" is a true and correct copy of the E-mail sent by my lawyer, Margaret Wille, to Sheriff Kenneth D. Kauwe, on March 24, 2016, that was compelled by Mr. Sulla during the early part of that week when he was soliciting the sheriffs, and contracting with them, to administer my ejection from my Property while the Stay was in effect. I learned about Mr. Sulla's continuing violation of the Automatic Stay directly from the sheriffs, beginning with chief Hilo Sheriff, Lieutenant Patrick Kawai, who informed me that Sulla had telephoned the Sheriff's Department that week of March 21, 2016, and had contracted with officials to serve the Writ of Ejectment. This information caused me and Ms. Kane severe distress, and we notified our attorney Wille, requesting that she intervene. She did so. Ms. Wille spent time on the telephone speaking with Sheriff Kauwe to inform him that he should not be speaking with Mr. Sulla during that time, since the Stay was in effect, and Mr. Sulla was not supposed to be acting as attorney for Jason Hester in that ejection action. Ms. Wille charged us \$300 for the hour she spent dealing with Sulla's Stay violation that week. This fact is evidenced in the attached **Exhibit 7** e-mail, invoice, and Declaration.
12. I declare that **Exhibit 8** is a true and correct copy of the letter I sent to Lt. Patrick Kawai on March 16, 2016 after he informed me that Mr. Sulla was still contacting his officers to arrange for my ejection, giving me and Ms. Kane absolutely no break from the distress Sulla caused in his efforts to possess the Property under the guise of acting as Hester's attorney in the ejection.

This Affidavit is based upon my personal knowledge and I am competent to testify as to the truth of the statements contained herein.

FURTHER AFFIANT SAYETH NAUGHT

Dated: Honolulu, Hawaii: April 6, 2017



Leonard G. Horowitz
(Victim of Paul J. Sulla, Jr.'s Organized Crime)

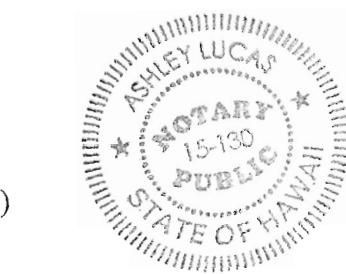
Subscribed and sworn to before me this
6 day of April, 2017



(SEAL)

My commission expires: **APR 05 2019**

Doc. Date: not dated # Pages: 4
Name: Ashley Lucas 1st Circuit
Doc. Description: affidavit of Leonard
g. horowitz
Notary Signature  Date 4-6-17



LEONARD G. HOROWITZ, in pro per
P. O. Box 75104
Honolulu, HI 96836
Email: editor@medicalveritas.org
310-877-3002

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

1:16-CV-00549-DKW-KSC

LEONARD G. HOROWITZ	)	Bankruptcy Case No: 16-00239
Appellant-debtor,	)	(Chapter 13)
vs.	)	Related Case: Adv. No. 16-90015
	)	(Chapter 13)
PAUL J. SULLA, JR. an individual;)	
PAUL J. SULLA JR., ATTORNEY AT	)	DECLARATION OF
LAW A LAW CORPORATION, a	)	ATTORNEY MARGARET
corporation	)	WILLE, EXHIBITS 1 AND 2
Defendants)	
	)	JUDGES: HONORABLE
	)	DERRICK K. WATSON
	)	(and KEVIN S. CHANG)
)	
)	
)	

DECLARATION OF ATTORNEY MARGARET WILLE

I, MARGARET (DUNHAM) WILLE, under pain of perjury of law, do hereby state and declare as follows:

- 1) I am an individual over the age of twenty-one (21) years, a resident of the State and County of Hawai‘i.
- 2) I am licensed to practice law before the Courts of Hawai‘i.

- 3) As of June 29, 2015, I have been the attorney for Defendant-Appellants LEONARD G. HOROWITZ and SHERRI KANE and THE ROYAL BLOODLINE OF DAVID and am representing these Defendants in State related cases, Civ. 14-1-0304, Civ. 05-1-0196, and respectively their appeals, ICA CAAP 16-0000162 and 163.
- 4) I am not however involved in the current proceedings before the Bankruptcy Court.
- 5) With regard to statements made in Attorney Sulla's Answering Brief in the current proceedings, I disagree with any insinuation that I filed any motion or memorandum unnecessarily in my effort to obtain a stay of the subject ejection writ that was posted during the period of the automatic stay;
- 6) My efforts to stop Attorney Sulla activities from having the Sheriff execute the Writ of Ejectment included a brief conversation with Sheriff Kenneth Kauwe on March 24, 2016 during which he stated that Paul Sulla's posting of the ejection notice was improper procedure and that it was Paul Sulla and only Paul Sulla who was now seeking to have the Sheriff-arrangement for ejection;
- 7) Following that conversation on the same day I emailed Sheriff Kauwe a copy of my letter to the Court, and a copy of the motion seeking a stay of the writ of ejection, and based on the Sheriff's response my understanding was that he would accordingly not carryout the ejection until the Motion was heard and ruled upon;
- 8) In my billing at \$300 per hour, I do not bill for brief phone calls or brief emails, and did not separately bill for the time I spent on March 24, 2016 briefly talking with Sheriff Kauwe and sending him two brief emails, copies of which are attached.
(Copies of the emails to Sheriff Kauwe are attached as Exhibits 1 and 2)
- 9) I did however bill my client for two hours on March 25th as part of my review of my client's draft reply in the bankruptcy case which included discussing with my client Attorney Sulla's efforts to have my clients ejected and my efforts to deter Sheriff Kauwe from carrying out the writ of ejection (estimated charge \$300.)

FURTHER DECLARANT SAYETH NAUGHT

This Declaration is based upon my personal knowledge and I am competent to testify as to the truth of the statements contained herein.

Dated: Waimea Hawai'i April 7, 2017

Signed: /s/ MARGARET WILLE

Margaret (Dunham) Wille
Appellant Horowitz's Attorney in State cases
Civ. No. 05-1-0196 and 14-1-0304.

Margaret Wille
Attorney at Law
65-1316 Lihipali Road
Kamuela, Hawaii 96743
Tel: 808-854-6931
margaretwille@mac.com

FILED

2016 MAR 14 PM 3:39

March 13, 2016 (to be filed on March 14, 2016)

L. MOCK CHEW, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

Honorable Melvin Fujino
Circuit Court of the Third Circuit
Keakealani Bldg., Rm. 240
79-1020 Haukapila Street
Kealakekua, HI 96750

Hester et al v. Horowitz et. al. Civ. No. 14-1-0304
Re: Writ of Execution

Dear Judge Fujino:

My clients, Defendants Leonard Horowitz and Sherri Kane, advised that Saturday night March 12th they found a Writ of Ejectment signed by you and dated January 29, and entered by the Clerk on March 1, 2016, on the gate to their property that has been the subject of the above referenced litigation. Attorney Stephen Whittaker's name is on the upper left hand corner of the document. As the attorney for Defendants Horowitz and Kane, I should have immediately received a copy of the proposed Writ when it was submitted to the Court by Attorney Whittaker. There is no certificate of service showing that I was served a copy of the proposed Writ - stamped as filed on February 29, 2016. THERE IS CLEARLY THE APPEARANCE OF IMPROPRIETY IN THIS CASE.

Likewise I should have immediately been provided a copy of the signed Writ when that was returned by the Court to Attorney Whittaker for processing and service to me. Instead I received copies of the related Orders on March 4, 2016, but still did not receive a copy of the Writ —IN FACT I HAVE YET TO BE SERVED A COPY OF THE WRIT!

WHAT IS UP WITH DUE PROCESS PROCEDURES HERE?

Note that since my clients have in the past not been timely served documents to be provided by Attorney Whittaker, they have been checking Ho'ohiki to make sure a Writ was not signed and issued without their knowledge. It was not until Friday March 11, 2016 that the Orders and proposed Writ filed by Attorney Whittaker was posted on Ho'ohiki. Further the Court's issuance of the signed Writ has yet to be posted on Ho'ohiki.

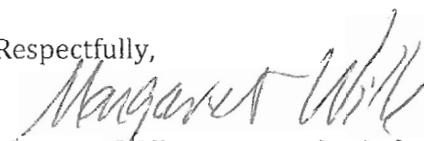
On March 2, 2016, I filed for a stay pending appeal pursuant to Hawaii Rules Civil Procedure 62(d) – within 10 days of your having denied Defendants' Motion for Reconsideration or Alternatively for New Trial on February 29, 2016 (along with the related Rule 62(b) Motions). A hearing on the March 2nd filed HRCP Rule 62(d) motion is

EXHIBIT 1

scheduled for April 21, 2016. In light of the due process violations, the Writ of Ejectment should not be carried out until after a ruling on that March 2, 2016 filed Motion

Please also be advised that this matter is now subject to an automatic stay in light of the March 10, 2016, filing of Bankruptcy by Leonard Horowitz No. 16-00239.

Respectfully,



Margaret Wille, Attorney for Defendants

cc: Stephen Whittaker, Esq. Attorney for Plaintiff

Margaret (Dunham) Wille #8522
Attorney at Law
65-1316 Lihipali Road
Kamuela, Hawaii 96743
Tel: 808-854-6931
margaretwille@mac.com

Attorney for Defendants

**IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
KONA DIVISION, STATE OF HAWAII**

JASON HESTER, an individual Plaintiff,	)	CIV. NO. 14-1-0304 (Other Civil Action)
v.)	
LEONARD G. HOROWITZ, an individual; SHERRI KANE, an individual; MEDICAL VERITAS INTERNATIONAL, INC, a California nonprofit corporation;	)	STIPULATION FOR CHANGE OF DATE FOR MOTION HEARING
THE ROYAL BLOODLINE OF DAVID, a Washington Corporation Sole; JOHN DOES, 1-10, JANE DOES 1-10, DOE ENTITIES 1-10, DOE PARTNERSHIPS 1-10, DOE GOVERNMENTAL UNITS 1-10.	)	NOW SCHEDULED FOR APRIL 21, 2016 AT 8 A.M.; PROPOSED REVISED DATE: APRIL 28, 2016 AT 8:30 A.M.
Defendants	)	Judge: Honorable Melvin H. Fujino

STIPULATION FOR CHANGE OF DATE FOR MOTION HEARING

IT IS HEREBY STIPULATED AND AGREED TO by and between the Parties herein, through their respective counsel, as follows:

1. A hearing on Defendants/Counterclaimants' Motion for A Stay Pending Appeal [HRCP 62(d)] is now scheduled before Judge Melvin Fujino on April 21, 2016 at 8 a.m.
2. Defendants/Counterclaimants LEONARD G. HOROWITZ, SHERRI KANE, and THE ROYAL BLOODLINE OF DAVID (RBOD) and Plaintiff Counter-Defendant Jason Hester

EXHIBIT Z

all agree to change the date of the hearing to April 28, 2016 at 8:30 a.m.

3. The reason for requesting this change of date is that Defendants' Attorney, Margaret Wille, has been directed to attend a federal bankruptcy proceeding that is scheduled at 9:30 a.m. on that same date, April 21, 2016, in Hilo, Hawaii.

4. Counsel for all parties are available and agreeable to reschedule this Motion hearing to April 28, 2016, at 8:30 a.m.

5. Counsel for Jason Hester, Stephen Whittaker Esquire, has agreed to sign this Stipulation and is asked to promptly return it to Defendants' attorney Margaret Wille for filing in the Court.

6. Margaret Wille, Counsel for Defendants, agrees to then promptly file this Stipulation with all original signature pages attached.

Dated: Waimea, 96743 March 18, 2016

Stephen D. Whittaker

Stephen D. Whittaker, Esq.

Attorney for Plaintiff Jason Hester

Dated: Kailua-Kona March 23, 2016

Margaret Wille

Margaret Wille, Esq.

Attorney for Defendants Horowitz,
Sherri Kane, and Royal Bloodline
of David.

Hester vs Horowitz Civ. 14-1-0304, Stipulation

LEONARD G. HOROWITZ, in pro per
P. O. Box 75104
Honolulu, HI 96836
Email: editor@medicalveritas.org
310-877-3002

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

1:16-CV-00549-DKW-KSC

LEONARD G. HOROWITZ	)	Bankruptcy Case No: 16-00239
Appellant-debtor,	)	(Chapter 13)
vs.	)	Related Case: Adv. No. 16-90015
	)	(Chapter 13)
PAUL J. SULLA, JR. an individual; PAUL)	
J. SULLA JR., ATTORNEY AT LAW A	)	CERTIFICATE OF COMPLIANCE
LAW CORPORATION, a corporation)	
Defendants	)	JUDGES: HONORABLE
	)	DERRICK K. WATSON
	)	(and KEVIN S. CHANG)
)	

CERTIFICATE OF COMPLIANCE

I certify under the pains and penalties of perjury that there are 6,329 words in this Reply Brief according to my “Word Count” text tool, and that this count, visible on the following page screen shot, complies with the 6,500 “Type-volume limitation” of **FRBAP Rule 8015(a)(7)(B) and (C)**.

DATED, Honolulu, HI: April 7, 2016



LEONARD G. HOROWITZ, Appellant pro se

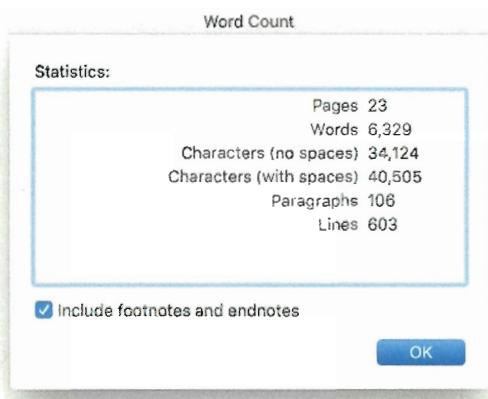
LEONARD G. HOROWITZ, in pro per
P. O. Box 75104
Honolulu, HI 96836
Email: editor@medicalveritas.org
310-877-3002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

1:16-CV-00549-DKW-KSC

LEONARD G. HOROWITZ
Appellant-debtor,
vs.

PAUL J. SULLA, JR. an individual; PAUL
J. SULLA JR., ATTORNEY AT LAW A
LAW CORPORATION, a corporation
Defendants



) Bankruptcy Case No: 16-00239
) (Chapter 13)
) Related Case: Adv. No. 16-90015
) (Chapter 13)

) **APPELLANT'S REPLY BRIEF**
[FRAP Rule 28(c)]; AFFIDAVIT OF
LEONARD G. HOROWITZ;
DECLARATION OF MARGARET
WILLE; EXHIBITS "1" THRU "8";
CERTIFICATE OF
COMPLIANCE; CERTIFICATE
OF SERVICE

) JUDGES: HONORABLE
DERRICK K. WATSON
(and KEVIN S. CHANG)

INDEX OF EXHIBITS FOR APPELLANT'S REPLY BRIEF

Ex: Title:	Page:
Exhibit 1. Appeal Dkt # 10, Appellant's Motion for Judicial Notice.....	1
Exhibit 2. Dkt # 165, ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS LEONARD G. HOROWITZ AND S HERRI KANE'S MOTION TO DISQUALIFY CO-COUNSEL PAUL J. SULLA, JR. AND PHILLIP L. CAREY FROM REPRESENTING SHAM PLAINTIFF JASON HESTER.....	47
Exhibit 3. County of Hawaii Tax Office Public Record	61
Exhibit 4. ORDER GRANTING DEFENDANTS' MOTION FOR STAY PENDING APPEAL [HRCP 62(D)] AND FOR THE SETTING OF SUPERSEDEAS BOND SECURITY DURING THE PERIOD OF THE APPEAL, filed in Civ.No. 14-1-0304 on May 19, 2016.....	70
Exhibit 5. TRANSCRIPT OF CONFIRMATION HEARING SECOND AMENDED PLAN WITH A MOTION TO DISMISS CASE; MOTION FOR CONTEMPT VIOLATION OF THE AUTOMATIC STAY RE: OBJECTION TO PLAN CONFIRMATION BEFORE THE HONORABLE ROBERT J. FARIS UNITED STATES BANKRUPTCY JUDGE.....	73
Exhibit 6. Declaration of Beth Chrisman, Forensic Document and Handwriting Expert, Pursuant to Analysis of Articles of Incorporation of Sulla's Foreclosing Mortgagee, "Gospel of Believers"	90
Exhibit 7. E-mail sent by attorney Margaret Wille, to Sheriff Kenneth D. Kauwe, on March 24, 2016 to avert further Stay violations.....	106
Exhibit 8. Letter to Lt. Patrick Kawai of the County of Hawaii Sheriff Division securing cooperation in defense against Stay violations and theft of Property.....	108