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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JAN 12 2017
at 3 o'clock and 29 min. P M
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NINTH CIRCUIT

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 MOTION FOR
JUDICIAL NOTICE [FRAP Rule 27;
FRE 201];
EXHIBITS "A" THRU "G";
CERTIFICATE OF SERVICE**

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

**APPELLANT'S MOTION FOR JUDICIAL NOTICE
[Federal Rules of Evidence 201]**

COMES NOW Appellant LEONARD G. HOROWITZ, (hereafter, "Horowitz," or "Appellant") in propria persona, filing this Motion for Judicial Notice pursuant to newly discovered evidence material to this dispute. This Motion is brought in accordance with Federal Rules of Appellate Procedure ("FRAP") Rule 27, and Federal Rules of Evidence (HRE) Rule 201, noticing this Honorable Court of public record documents revealing Appellee's concealments material to Appellant's damages for which relief is requested in this legal action as listed below.

Exhibit 1

Reply Brief Exhibits pg. # 1

I. THE DOCUMENTS SOUGHT TO BE JUDICIALLY NOTICED

The seven documents for which Appellant requests judicial notice are labeled Exhibits “A” through “G” and include the following:

A. Documents filed with the State of Hawaii Bureau of Conveyances relating to the current status and title of the subject property, virtually entire bankruptcy estate of the Appellant.

As will be more fully discussed in the accompanying memorandum, these documents directly relate to the issue of showing cause for Appellee’s misrepresentations before the court pursuant to first degree theft of the Appellant’s real property, detailed in Appellant’s Opening Brief and pending Appellee’s Answering Brief. These documents evidence that the title to the subject property, TMK (3)-1-3-001-043/049, located at 13-3775 Pahoa-Kalapana Road, Pahoa, HI, is as of this date in the name and possession of Appellee—Paul J. Sulla—in the capacity of a limited liability corporate entity registered as Halai Heights, LLC (hereafter “HLLC”) that Paul Sulla exclusively created on February 1, 2016, and that Paul Sulla is the sole organizer, member, manager, and agent for HLLC.

Exhibit A. WARRANTY DEED dated September 6, 2016, from JASON HESTER, as an individual, to HALAI HEIGHTS, LLC, by PAUL J. SULLA, JR. conveying the subject property, TMK (3)-1-3-001-043/049, located at 13-3775 Pahoa-Kalapana Road, Pahoa, HI, on September 6, 2016, by JASON HESTER, an individual, to HALAI HEIGHTS, LLC. (HLLC) This public record is available at the State of Hawaii Bureau of Conveyances. A copy of a Certified Copy of the original document is attached as Exhibit A in the accompanying Memorandum.

Exhibit B. Articles of Organization HALAI HEIGHTS, as a Limited Liability Company, State of Hawaii Department of Commerce and Consumer Affairs,

Business Registration Division, filed February 1, 2016, with Paul J. Sulla listed as organizer, manager, and agent, addressed at: 106 Kamehameha Avenue, Hilo, 96720, and P.O. Box 5358, Hilo, HI 96720. This document is available on-line through the DCCA's website and business search service. A copy of **Exhibit B** is attached to the accompanying Memorandum.

B. Documents on file with the State Judiciary in the related cases

Civ. No. 14-1-0304 and Civ. No. 05-1-0196.

As will be more fully discussed the accompanying memorandum, the following four documents for which Appellant seeks judicial notice are from the related case of *Hester vs Horowitz and Kane*, Civ. 14-1-0304, and its pending appeal as CAAP 16- 0000163. This related case evidences the contested transfer of GOB Overseer Hester's purported interest in the subject Property and the related mortgage, and as such related to Appellee's argument that *inter alia* Hester is simply Appellee's "client" who seeks to possess the property. These documents are available at Third Circuit State of Hawaii Judiciary located in Kealahou, Hawaii.

Exhibit C: The Final Judgment in Civ. No. 14-1-0304, dated December 30, 2015, granting Jason Hester quiet title to the subject Property.

Exhibit D: The Writ of Ejectment issued March 1, 2016, authorizing the Defendants/Appellants to be ejected from the subject property based on the Circuit Court's final judgment in Civ. 14-1-0304.

Exhibit E: The Notice of Appeal in Civ. 14-1-0304 filed March 13, 2016 as CAAP 16-0000163.

Exhibit F: The Fifth Amended Final Judgment in Civ. 05-1-0196 filed March 5, 2016.

C. EXHIBIT G. Document on file in the State of Hawaii Probate Court; Court Minutes from December 11, 2009 in probate proceeding for Jason Hester 3LP09-0000166

As will be more fully discussed in the accompanying memorandum, this document is relevant to Appellee's argument on standing of Hester, and jurisdiction of the Court to relieve the automatic stay in Hester's favor, as well as the credibility of Paul Sulla, to counter Appellant's position that Hester has no valid standing as Paul Sulla's strawman, and the real party in interest concealed is attorney Sulla. Appellant in its Opening Brief opposes Appellee's argument that Hester acquired the Property lawfully by Assignments of Mortgage and Note between the Seller, Cecil Lee (hereafter, "Lee"), and a now dissolved "church" verified and administered exclusively by Sulla—"THE OFFICE OF OVERSEER, A CORPORATE SOLE AND ITS SUCCESSOR, OVER AND FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS" (hereafter, "GOB") devised to circumvent scrutiny by the probate court that would have otherwise followed Lee's July 27, 2009 death, and the termination of litigation in the res judicata case of Civ. No. 05-1-0196, now pending appeal before the ICA in CAAP No. 16=000162.

Exhibit G: These Court Minutes are from State of Hawaii Probate case 3LP09-1-000166, from December 11, 2009, 1:07 pm where it is recorded: "BY SUL[L]A – STATEMENT REGARDING ASSETS KNOWN TO HIM THAT CECIL LEE DOESN'T OWN ANYMORE; DUE TO FORECLOSURE, NO JUDGMENT CAN BE ENFORCED AND MR. LEE IS CERTAINLY OUT OF IT." This document is available on line through the Hawaii State Judiciary's Public Access to Court Information, searching 3LP09-1-000166, under "Court Minutes List" entry of 12/11/2009, described as "Petition for Appointment of Special Administrator for the Estate of Cecil Loran Lee." A copy of this online record is

presented in **Exhibit G** attached to the accompanying Memorandum.

II. THE RELEVANT RULE OF EVIDENCE

Hawaii Revised Statutes (HRS) § 626-1, and Federal Rule of Evidence (HRE) 201, provides that judicial notice is permissible at any stage in the litigation and is mandatory when requested by a party upon supplying the necessary information. Specifically, Hawaii HRE 201 “Judicial Notice” provides in pertinent part:

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court’s territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.


(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard. *(emphasis added)*

III. JUDICIAL NOTICE IS APPROPRIATE FOR EACH OF THE REQUESTED PUBLIC RECORDS

As more fully discussed in the attached Memorandum in support of this Motion, all of the above documents being public records and being relevant to the issues being argued in Appellee’s pending Answering Brief, Appellant asks that the Court judicially notice each of said public records.

(Signature page below.)

DATED: Honolu, HI, 96836; January 12, 2017



LEONARD G. HOROWITZ,
Appellants, In propria persona

LEONARD G. HOROWITZ vs. PAUL J. SULLA, JR. and PAUL J. SULLA JR.,
ATTORNEY AT LAW A LAW CORPORATION; 1:16-CV-00549-DKW-KSC;
Appellant's Motion For Judicial Notice; EXHIBITS "A" thru "G"

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII *Ad W*
FOR THE NINTH CIRCUIT

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 MEMORANDUM IN**
) **SUPPORT OF MOTION FOR**
) **JUDICIAL NOTICE [FRAP Rule 27];**
) **EXHIBITS "A" THRU "G";**
) **CERTIFICATE OF SERVICE**

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

APPELLANT'S MEMORANDUM IN SUPPORT OF
MOTION FOR JUDICIAL NOTICE
[FEDERAL RULES OF EVIDENCE RULE 201]

This Memorandum is filed in support of Appellant LEONARD G. HOROWITZ's "APPELLANTS' MOTION FOR JUDICIAL NOTICE (pursuant to FRAP Rule 27 and FEDERAL RULES OF EVIDENCE RULE 201), that moves this Honorable Court for Judicial Notice of the pubic record documents relating to this legal action, including Exhibits "A" through "G" described below.

As set forth in the accompanying Motion, Appellant seeks judicial notice of six public documents: 1) a 2016 Deed recorded in the Hawaii Bureau of Conveyances; 2) 2016 Articles of Incorporation recorded in the State of Hawaii Department of Commerce and Consumer Affairs; 3) Exhibits “C” thru “F”—the Final Judgment, Writ of Ejectment, Notice of Appeal in a related circuit court case in appeal at this time; and the conflicting Fifth Amended Final Judgment in the res judicata case, Civ. No. 05-1-1096; and 4) Hawaii Probate Court Record Minutes from 2009 which is a public record accessible on line at the State of Hawaii Judiciary website “Ho‘ohiki”, as discussed below.

I. THE RELEVANT LEGAL FRAMEWORK:

The Federal Rules of Evidence (FRE) 201, provides that judicial notice is permissible at any stage in the litigation and is mandatory when requested by a party upon supplying the necessary information. Specifically, FRE 201 “Judicial Notice” provides in pertinent part:

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court’s territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.

(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard. *(emphasis added)*

II. THE DOCUMENTS SOUGHT TO BE JUDICIALLY NOTICED.

The six documents listed below, here sought to be judicially noticed, are public records readily available to the public and are relevant to the Appellee's arguments relating to the issue of showing cause for Appellee's misrepresentations before the court pursuant to his alleged first degree theft (under color of law and by securities fraud) of the Appellant's real property as detailed in Appellant's Opening Brief, now pending Appellee's Answer. These documents evidence that the title to the subject Property, TMK (3)-1-3-001-043/049, located at 13-3775 Pahoia-Kalapana Road, Pahoia, HI, is as of this date in the name and possession of Appellee—Paul J. Sulla—in the capacity of a limited liability corporate entity registered as Halai Heights, LLC (hereafter "HHLLC") that Paul Sulla exclusively created on February 1, 2016, and that Paul Sulla is the sole organizer, member, manager, and agent for HHLLC.

A. EXHIBITS A and B: **Exhibit A.** The September 6, 2016 warranty conveying the subject property from Jason Hester, as an individual and attorney Sulla's purported "client," to Halai Heights, a Limited Liability Company (HHLLC), by Paul J. Sulla, Jr., and **Exhibit B,** HHLLC's Articles of Organization

These documents directly related to the issue of Hester's alleged standing to be granted relief of the automatic stay during the bankruptcy proceeding, and Mr. Sulla's representation of Hester without disclosing conflicting interests, as addressed in Appellant's Opening Brief. This public record evidences that the title to the subject Property, TMK (3)-1-3-001-043/049, located at 13-3775 Pahoia-Kalapana Road, Pahoia, HI, is as of September 9, 2016, in the name and possession of Paul J. Sulla, in the capacity of a corporate entity that Paul Sulla exclusively created on February 1, 2016, registered as HHLLC for which Paul Sulla is the sole organizer, member, manager, and agent.

These documents evidence the current status of the title to the subject Property, and evidence that the Property is in the possession of Paul Sulla as the Appellant

informed the Bankruptcy Court, along with knowledge that Sulla participated in the res judicata case, Civ. No. 05-1-0196, as the attorney for original plaintiff Lee in 2009. At that time the Mortgage was claimed by Sulla to have been transferred to an instantly incorporated “church”—THE OFFICE OF OVERSEER, A CORPORATE SOLE AND ITS SUCCESSOR, OVER AND FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS (hereafter, “GOB”). Attorney Sulla represented GOB, and “Overseer Hester” since that time. In addition, based on the irregularities and discrepancies that have appeared since that time, attorney Sulla appears to be the mastermind of a property grab scheme to acquire the subject Property for himself, or his affiliated entity or person. “Red flags” include the Declaration of FBI-trained forensic document and handwriting expert, Beth Chrisman, who, as detailed in the Appellant’s Opening Brief (OB p. 15; Exhibit 5, Dkt #97, p. 6, ¶¶ “17-19”; and Exhibit 4, Dkt #16, p. 7, ¶ 1) verified that GOB’s Articles of Incorporation, wired by Sulla in two parts on May 26, 2009 and May 28, 2009 to the State of Hawaii Bureau of Conveyances, purportedly executed by the Seller/Mortgagee Cecil Lee on May 15, 2009, contained “altered” sequences and photocopied signature(s) of Lee. This record, coupled with Lee’s death certificate, indicates that as Lee was dying in Arizona, Sulla in Hawaii fraudulently transferred the Appellant’s Mortgage and Note into the not-yet-legally-existing GOB “religious” trust manufactured using a set of altered and forged Articles of Incorporation. These facts compound evidence of Sulla’s conflicting interest now certified by **Exhibits “A” and “B,”** hereto attached.

By way of these documents, Appellant counter’s Appellee’s defense that Sulla exclusively represents Hester’s interests, and that Hester had prudential standing to be granted the relief of stay provided by Judge Faris, resulting in the Appellant’s ejectment from his Property.

Moreover, it is clear from this record that Paul Sulla's HHLLC is not an unaffiliated third party good faith bona fide purchaser of the Appellant's Property.

Exhibit A. WARRANTY DEED dated September 6, 2016, from JASON HESTER, as an individual, to HALAI HEIGHTS, LLC, by PAUL J. SULLA, JR. conveying the subject Property, TMK (3)-1-3-001-043/049, located at 13-3775 Pahoa-Kalapana Road, Pahoa, HI, on September 6, 2016, by JASON HESTER, an individual, to HALAI HEIGHTS, LLC. This public record is available at the State of Hawaii Bureau of Conveyances. Exhibited here is a copy of a Certified Copy of the original document on file with said Bureau. A copy of said HHLLC Articles of Incorporation, is attached hereto as **Exhibit A.**

Exhibit B. The Articles of Organization for HHLLC filed with the State of Hawaii Department of Commerce and Consumer Affairs, Business Registration Division on February 1, 2016, with Paul J. Sulla listed as organizer, manager, and agent, addressed at: 106 Kamehameha Avenue, Hilo, 96720, and P.O. Box 5358, Hilo, HI 96720. This document is available on-line through the DCCA's website and business search service. A copy of a Certified copy said Articles of Organization, is attached hereto as **Exhibit B.**

B. EXHIBITS C, D, E and F: Court Entries in Related Cases Civ. 14-1-0304 and Civ. No. 05-1-0196, Jason Hester vs RBOD, Leonard G. Horowitz and Sherri Kane

In the context of Appellee's and Hester's standing argument (*OB 5 footnote, 4*) Appellant also requests judicial notice of the two conflicting final judgments issued by the same Ibarra Court in State. That is, the December 30, 2015 Final Judgment in *Hester vs RBOD, Leonard Horowitz, and Sherri Kane*, Civ. 14-1-0304--a quiet title/ejectment action—and the later filed Fifth Amended Final Judgment in the res judicata case, Civ. No. 05-1-1096 (filed March 4, 2016). Exhibit D, the Writ of Ejectment was issued on March 1, 2016—three days before Judge

Ibarra filed his Fifth Amended Final Judgment denying foreclosure in favor of Horowitz et. al. These filing immediately preceded the Appellant's bankruptcy filing on March 9, 2016, confirming the subject Property was clearly part of the Appellant's bankruptcy estate. And these records precluded the ceding of the Property to Hester (really Sulla) by the subsequent bankruptcy court's lifting of the automatic stay for Hester (really Sulla).

In other words, the BK Court's "presumptively correct discretionary abstention" that included presuming Hester's standing, and presuming the validity of Sulla's pleadings neglecting altogether the March 4, 2016 judicial foreclosure denied ruling; alternatively presuming the validity of Sulla's non-judicial foreclosure auction and associated "0304" court-issued Final Judgment and Writ of Ejectment to remove Horowitz and Kane from the Property – all while that case, and the res judicata case, were both on appeal, was in error.

These documents speak directly to the Appellant's objections to being deprived his Fourteenth Amendment rights to Property and due process, but for Sulla's fraudulent concealments of his conflicting interests, and misrepresentation of Hester's presumed interest and standing before the BK court. "To obtain relief in federal court, a party must meet both the constitutional requirements (standing) and the prudential requirements (including real party in interest). *Morrow v. Microsoft Corp.*, 499 F.3d 1332, 1339 (Fed.Cir.2007); . . . a party may be the real party in interest, but lack standing [as Hester and Sulla both do in this case]. *See, e.g., Davis v. Yageo Corp.*, 481 F.3d 661 (9th Cir.2007) "This case is thus different from *In re Hayes*, 393 B.R. 259 (Bankr.D.Mass.2008), where the movant seeking relief from stay failed to show that it ever had any interest in the note at issue. In that case, the court found that the movant lacked standing altogether to bring the motion because it failed to show that the note was ever transferred to it, and thus it had no rights of its own to assert. *See id.* at 266-68; *accord, In re Maisel*, 378 B.R. 19, 20-22

(Bankr.D.Mass.2007) (denying standing where movant did not acquire note until after filing motion for relief from stay).

Comparing the instant case, although Sulla held concealed interest and purported possession of the Note as Hester's lawyer, neither Sulla nor Hester were ever assigned the Note, and were not signatories on the Note; nor was the Assignment of the Note valid to the sham intermediary transferee--the GOB trust abused and verified exclusively by Sulla as the "Foreclosing Mortgagee."

In addition, Appellant seeks federal judicial notice of the Intermediate Court of Appeals Notice of Appeal in CAAP 16-000163 (**Exhibit "E"**) to evidence that Appellant did appeal the "0304" case Final Judgment and Writ of Ejectment that followed from Sulla defying the Third Circuit State court's foreclosure DENIED ruling in Civ. No. 05-1-0196 (**Exhibit "F"**). In that case, Sulla justified alleged contempt of court by reason of the erroneous grant of Lee's untimely Motion for Judgment As a Matter of Law in that res judicata case. The Appellant, in that case, HOROWITZ is appealing the erroneous reversal of the Appellant's award of \$200,000 in damages, falsely claimed by Sulla to be HOROWITZ's default on the Mortgage.

The aforementioned evidence shows that Hester's standing in those cases is invalid, and it was Hester, in his individual capacity under Sulla's administration, that conveyed the subject Property title to Sulla in the limited liability company capacity as HLLC. In those ongoing State appeals—"162" and "163"—the Intermediate Court of Appeals has jurisdiction over Hester as an individual, albeit as a Sulla strawman (or "sham plaintiff" and "sham appellee").

These four documents are public records available at the Third Circuit State of Hawaii Judiciary located in Kealahou, Hawaii.

Exhibit C: The Final Judgment in Civ. No. 14-1-0304, dated December 30, 2015, granting Jason Hester quiet title to the subject Property, is attached hereto as **Exhibit C**.

Exhibit D: The Writ of Ejectment issued March 1, 2016, authorizing the Appellant to be ejected from his Property based on the Circuit Court's Final Judgment in Civ. 14-1-0304, is attached hereto as **Exhibit D**.

Exhibit E: The Notice of Appeal in Civ. 14-1-0304 filed March 13, 2016 as CAAP 16-0000163, is attached hereto as **Exhibit E**.

Exhibit F: The Fifth Amended Final Judgment in the res judicata case Civ. 05-1-0196 filed March 4, 2016, is attached hereto as **Exhibit F**.

C. EXHIBIT G: Related Probate Court Minutes

Exhibit G: Probate Court proceeding, Court Minutes of December 11, 2009, 1:07 pm in Probate Case 3LP09-1-000166, where it is recorded: "BY SUL[L]A – STATEMENT REGARDING ASSETS KNOWN TO HIM THAT CECIL LEE DOESN'T OWN ANYMORE; DUE TO FORECLOSURE, NO JUDGMENT CAN BE ENFORCED AND MR. LEE IS CERTAINLY OUT OF IT." is attached hereto as **Exhibit G**.

This document is relevant to Appellant's argument on controverting Hester's supposed standing, and the credibility of Paul Sulla to counter Appellee's position that "client" Hester obtained his interest from Lee, despite Lee being "certainly out of it" and no longer "own[ing] anymore" of the subject Property. This document proves that Lee was the exclusive real party in interest; and that Sulla

manufactured from nothing Hester's interest by fraudulent Mortgage and Note Assignment from Lee to GOB. (*OB 5, footnotes 3 and 4*). Contrariwise, Appellant's position is that GOB "Overseer Hester" does not have standing, that the Assignment of Appellant's Mortgage and Note was *void*, and in light of all the numerous irregularities and discrepancies (including as evidenced in this document, as well as Chrisman's Declaration), consideration must be given to the issue of GOB Overseer Hester's standing, justified at any stage in these proceedings.

Appellant recently learned of this probate court public record in the Cecil Loran Lee estate related proceeding of December 11, 2009 at which, according to the Court Minutes, Paul Sulla falsely represented to the Probate Judge that Lee's estate had no assets "due to foreclosure". It appears that Sulla sought to avoid informing the Probate Court that Lee no longer had any assets because Lee purportedly assigned, and Sulla certainly administered, them to someone other than Lee's immediate family—GOB and Jason Hester—on May 15, 2009; which representation might likely have elicited further inquiry by the Probate Judge.

Appellant refers to this document, not for the misrepresentation in what was said, and not as to the omission of Sulla having administered the transfer of Lee's interests while Lee was on his death bed having lost his entire estate to judgment creditors, including the Appellant. Rather, this document raises additional "red flags" that justifies consideration of GOB Overseer Hester's standing.

Sulla's omissions and misrepresentations reflects on the lack of credibility on the part Paul Sulla. Based on this public record, and other irregularities in Appellee's pleadings, Sulla appears to be the mastermind of the complex scam to acquire the Appellant's Property, with nominal named "Substitute Plaintiff," Jason Hester, only a strawman for Sulla.

This document is available on line through the Hawaii State Judiciary's Public

Access to Court Information, searching 3LP09-1-000166, under “Court Minutes List” entry of 12/11/2009, described as “Petition for Appointment of Special Administrator for the Estate of Cecil Loran Lee.” A copy of this online record is attached to this Memorandum.

III. DISCUSSION: Consistent with FRE 201, all of the above seven documents are public records that are readily accessible to the public, and therefore are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” **Exhibits “A” through “F”** are documents evidencing Sulla’s concealed conflicting interests as GOB Overseer Hester’s counsel administering transfers of the subject Property and Mortgage by conveyances from Lee, to GOB, to Hester and finally to Sulla in the name of Sulla’s Halai Heights limited liability company formed by Paul Sulla in February, 2016. This entity and Sulla now holds title to Hester’s interest in the Property and the Appellant’s interest in the Property. The chain of title from GOB/Hester to the present is relevant to the Motion to Show Cause averted hearing, Hester’s standing arguments, and the BK court’s erroneous lifting of the automatic stay for purportedly Hester. These documents also evidence that the Property is not in the hands of any unaffiliated good faith bona fide purchaser.

Exhibit G relates to Sulla’s representations concerning the disposition of the subject Property, and amounts to a “red flag” with respect to Sulla’s fraud before the courts, and the “standing” issue. It points to the lack of credibility of Paul Sulla, who appears to be the mastermind behind a scam to acquire the subject Property in his name or that of an affiliated party, HHLLC, now evidenced to be a bad faith “buyer.”


Because these documents are public records that relate to the matters on appeal in the instant case, Judicial Notice is appropriate. *Kaho'ohanohano v. State*,

114 Haw. 302, 328, 162 P.3d 696, 722 (2007) (the court may take judicial notice of public records) See e.g. *In re Thomas H. Gentry Revocable Trust*, 138 Haw. 158, 172, 378 P.3d 874, 888, *reconsideration denied*, 138 Haw. 50, 375 P.3d 1288 (2016) (wherein the Court granted judicial notice in the context of rebutting the opposing party's claim the case was moot for a warranty deed, because it was "a matter of public record and easily verifiable, and germane to the issues in this appeal").

III. CONCLUSION:

For the above reasons, Judicial Notice is appropriate for each of the requested public records.

DATED: Honolulu, HI, 96836; January 12, 2017



LEONARD G. HOROWITZ,
Appellants, In propria persona

LEONARD G. HOROWITZ vs. PAUL J. SULLA, JR. and PAUL J. SULLA JR.,
ATTORNEY AT LAW A LAW CORPORATION; 1:16-CV-00549-DKW-KSC;
Appellant's Motion For Judicial Notice; EXHIBITS "A" thru "G"

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I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances,

Kobata
Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii



STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

September 09, 2016 3:29 PM
Doc No(s) A-60960740



1 1/1 OFC
B-32865326

/s/ LESLIE T. KOBATA
ACTING REGISTRAR

Conveyance Tax: \$675.00

orig.

Regular System

After Recordation, Return by Mail (X) Pickup () To:

Paul J. Sulla, Jr.
PO Box 5258
Hilo, HI 96720

TOTAL NO. OF PAGES:

TITLE OF DOCUMENT:

WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: **JASON HESTER**, an individual, whose address is PO Box 748, Pahoa,
HI 996778

GRANTEE: **HALAI HEIGHTS, LLC**, a Hawaii limited liability company, whose
mailing address is P.O. Box 5258, Hilo, HI 96720

PROPERTY DESCRIPTION:

TAX MAP KEY: (3) 1-3-001-043/049

Exhibit A

Reply Brief Exhibits pg. # 19

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

JASON HESTER, an individual, whose mailing address is PO Box 748, Pahoa, Hawaii 96778, hereinafter referred to as the "**Grantor**", for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration paid by **HALAI HEIGHTS, LLC**, a Hawaii Limited Liability Company, whose mailing address is PO Box 5258, Hilo, Hawaii 96720, hereinafter referred to as "**Grantee**", receipt whereof is hereby acknowledged, does hereby grant, sell and convey unto the Grantee, all of said interest in that certain real property as particularly designated on the tax maps of the Third Taxation District, State of Hawaii, as **Tax Map Key (3) 1-3-001-043/049**, more particularly described in **Exhibit "A"** attached hereto and made a part hereof, subject to the encumbrances noted therein.

TOGETHER WITH ALL and singular the buildings, improvements, rights, tenements, easements, privileges, and appurtenances thereunto belonging, appertaining or held and enjoyed in connection therewith.

TO HAVE AND TO HOLD the same unto the Grantee, **as Tenant in Severalty**, and the Grantee's successors and assigns in fee simple forever.

AND THE SAID GRANTOR does hereby covenant with the Grantee that the Grantor is lawfully seised in fee simple of said granted premises and that the said premises are free and clear of all encumbrances made or suffered by said Grantor, except as aforesaid, and except for assessments for real property taxes. And the said Grantor further covenants and agrees that the Grantor has good right to sell

and convey the said premises in the manner aforesaid; that Grantor will **WARRANT AND DEFEND** the same unto the Grantee against the lawful claims and demands of all persons claiming by or through said Grantor, except as mentioned herein.

IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee," as and when used hereinabove or herein below shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations or partnerships, and their and each of their respective successors in interest, heirs, executors, personal representatives, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more grantors, or by two or more grantees, all covenants of such parties shall be and for all purposes deemed to be their joint and several covenants.

IN WITNESS WHEREOF, the Grantor has executed these presents on the 6 day of September, 2016.

GRANTOR



JASON HESTER

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 6th day of September 2016, before me personally appeared **JASON HESTER**, GRANTOR, to me known to be the person described in and who executed the foregoing instrument, entitled Warranty Deed, dated September 6, 2016 consisting of 8 pages in the Third Circuit, and acknowledged that **HE** executed the same as **HIS** free act and deed.

Gloria Emery

Print Name: Gloria Emery
Notary Public, State of Hawaii
My commission expires: July 18, 2018



EXHIBIT "A"

-PARCEL FIRST:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at Kamaili, District of Puna, Island and County of Hawaii, State of Hawaii, being LOT 15-D-1, being a portion of Lot 15, of the "Kamaili Homesteads" and thus bounded and described as per survey dated January 29, 2004:

Beginning at the west corner of this parcel of land, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, and on the east side of Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HEIHEIAHULU" being 6,281.64 feet north and 16,203.34 feet east and running by azimuths measured clockwise from true South:

1. 197° 55' 15" 958.02 feet along Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1));
2. 239° 28' 30" 326.15 feet along Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1)) and Lot 19, Grant 5661 to Chas. Elderts;
3. 304° 03' 30" 220.00 feet along Lot 19, Grant 5651 to Chas. Elderts;
4. 347° 21' 30" 54.00 feet along Lot 15-D-2 (Government Road);
5. 334° 00' 250.69 feet along Lot 15-D-2 (Government Road);
6. Thence along Old Pahoa-Kalapana Road and Remnant "A" (Portion of Old Pahoa-Kalapana Road) on a curve to the right with a radius of 1016.74 feet, the chord azimuth and distance being:

20° 16' 17" 719.46 feet;

7. 40° 59' 30" 275.69 feet along Remnant "A" (Portion of Old Pahoa-Kalapana Road);
8. 114° 43' 30" 494.98 feet along Lot 2, Grant 4330 to C. L. Wight to the point of beginning and containing an area of 16.276 acres, more or less.

-PARCEL SECOND:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at District of Puna, Island and County of Hawaii, State of Hawaii, being REMNANT "A", being a portion of Old Pahoa-Kalapana Road at Kamaili and thus bounded and described:

Beginning at the southwest corner of this parcel of land, being also the south corner of Lot 15-D, portion of Grant 5005 to J. E. Elderts, and the northwest corner of Grant S-23,403 to AMFAC, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Heiheiahulu" being 6,074.61 feet north and 16,652.94 feet east, and running by azimuths measured clockwise from true South:

1. 220° 59' 0" 275.69 feet along Lot 15-D, portion of Grant 5005 to J. E. Elderts;
2. Thence along Lot 15-D, portion of Grant 5005 to J. E. Elderts, on a curve to the left with a radius of 1016.74 feet, the chord azimuth and distance being:
208° 29' 45" 439.98 feet;
3. 286° 00' 50.00 feet along the remainder of Old Pahoa-Kalapana Road;
4. Thence along Lot 15-B and Lot-A, portions of Grant 5005 to J. E. Elderts, on a curve to the right with a radius of 1066.74 feet, the chord azimuth and distance being:
28° 29' 45" 461.62 feet;

5. 40° 50' 30" 261.10 feet along Lot 15-A, portion of Grant 5005 to J.E. Elderts;
6. 114° 43' 30" 52.08 feet along Grant S-23,403 to AMFAC to the point of beginning and containing an area of 36,140 square feet or 0.830 acre, as shown on Final Plat approved by Hawaii County Planning Director on January 27, 2004 as subdivision Number 7763

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR: THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSOR OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaii corporation sole

GRANTEE: JASON HESTER, an individual

DATED: June 9, 2011

RECORDED: Document No. 2011-093772

SUBJECT TO THE FOLLOWING:

1. FINAL JUDGMENT

AGAINST: Leonard G. Horowitz, Sherri Kane, individually, Medical Veritas International, Inc. and Royal Bloodline of David, a Washington non-profit corporation

IN FAVOR OF: Jason Hester, individually

DATED: December 29, 2015

FILED: Circuit Court of the Third Circuit, State of Hawaii, #14-1-304

RECORDED: Document No. _____

2. AFFIDAVIT OF LEONARD G. HOROWITZ

DATED: June 6, 2016
RECORDED: Document No. A-60010681 on
June 6, 2016

3. NOTICE OF INVALID LIEN

AGAINST: Leonard G. Horowitz
IN FAVOR OF: Jason Hester, individually
REGARDING: Affidavit of Leonard G. Horowitz
RECORDED: Document No. A-60190688 on
June 24, 2016

END OF EXHIBIT "A"

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS



THE DIRECTOR'S OFFICIAL CERTIFICATION
APPEARS ON THE BACK OF THE FIRST PAGE OF THE
ATTACHED DOCUMENT.

(The name must contain the words *Limited Liability Company* or the abbreviation *L.L.C.* or *LLC*)

II

The mailing address of the initial principal office is:
PO BOX 5258, HILO, HI 96720 USA

III

The company shall have and continuously maintain in the State of Hawaii a registered agent who shall have a business address in this State. The agent may be an individual who resides in this State, a domestic entity or a foreign entity authorized to transact business in this State.

- a. The name (and state or country of incorporation, formation or organization, if applicable) of the company's registered agent in the State of Hawaii is:

PAUL J SULLA

(Name of Registered Agent)

(State or Country)

- b. The street address of the place of business of the person in State of Hawaii to which service of process and other notice and documents being served on or sent to the entity represented by it may be delivered to is:

106 KAMEHAMEHA AVE, HILO, HI 96720 USA

IV

The name and address of each organizer is:

PAUL J SULLA

~~PO BOX 5258~~, PO BOX 5258, HILO, HI 96720 USA

Exhibit B

Reply Brief Exhibits pg. # 27

02/01/201648616



ARTICLES OF ORGANIZATION FOR LIMITED LIABILITY COMPANY
(Section 428-203 Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, for the purpose of forming a limited liability company under the laws of the State of Hawaii, do hereby make and execute these Articles of Organization:

I

The name of the company shall be:

HALAI HEIGHTS LLC

(The name must contain the words *Limited Liability Company* or the abbreviation *L.L.C.* or *LLC*)

II

The mailing address of the initial principal office is:

PO BOX 5258, HILO, HI 96720 USA

III

The company shall have and continuously maintain in the State of Hawaii a registered agent who shall have a business address in this State. The agent may be an individual who resides in this State, a domestic entity or a foreign entity authorized to transact business in this State.

- a. The name (and state or country of incorporation, formation or organization, if applicable) of the company's registered agent in the State of Hawaii is:

PAUL J SULLA

(Name of Registered Agent)

(State or Country)

- b. The street address of the place of business of the person in State of Hawaii to which service of process and other notice and documents being served on or sent to the entity represented by it may be delivered to is:

106 KAMEHAMEHA AVE, HILO, HI 96720 USA

IV

The name and address of each organizer is:

PAUL J SULLA

~~PO BOX 5258~~, PO BOX 5258, HILO, HI 96720 USA

I HEREBY CERTIFY that this is a true and correct copy of the official record(s) of the Business Registration Division.



Catherine P. Awah-Colon

DIRECTOR OF COMMERCE AND
CONSUMER AFFAIRS

Date: December 23, 2016

The period of duration is (check one):

V

☒ At-will☐ For a specified term to expire on: _____

(Month Day Year)

The company is (check one):

VI

a. ☒ Manager-managed, and the names and addresses of the initial managers are listed in paragraph "c", and the number of initial members are: 2b. ☐ Member-managed, and the names and addresses of the initial members are listed in paragraph "c".c. List the names and addresses of the initial managers if the company is Manager-managed, or
List the names and addresses of the initial members if the company is Member-managed.

PAUL J SULLA

PO BOX 5258, HILO, HI 96720 USA

The members of the company (check one):

VII

☒ Shall not be liable for the debts, obligations and liabilities of the company.☐ Shall be liable for all debts, obligations and liabilities of the company.☐ Shall be liable for all or specified debts, obligations and liabilities of the company *as stated below*, and have consented in writing to the adoption of this provision or to be bound by this provision.

We certify, under the penalties set forth in the Hawaii Uniform Limited Liability Company Act, that we have read the above statements, I am authorized to sign this Articles of Organization, and that the above statements are true and correct to the best of our knowledge and belief.

01

Signed this _____ day of _____

FEBRUARY 2016

PAUL J SULLA

(Type/Print Name of Organizer)

PAUL J SULLA

(Signature of Organizer)

(Type/Print Name of Organizer)

(Signature of Organizer)

FILED

cc: S. Whittaker, Esq. S. Kane
M. Wille, Esq. L. Horowitz

2015 DEC 30 PM 4:26

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

L. KITAOKA, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

JASON HESTER,) Civil NO. 14-1-304
)
Plaintiff,) FINAL JUDGMENT
)
vs.) Judge Ronald Ibarra, Division 4
)
LEONARD G. HOROWITZ, ET AL.,)
)
Defendants.)
)
_____)

FINAL JUDGMENT

Pursuant to the (1) *Entry of Default Against Defendants Medical Veritas International, Inc. and the Royal Bloodline of David* filed on September 17, 2014; (2) *Order Granting Plaintiff's Motion to Dismiss Counterclaims*, filed March 27, 2015, and (3) *Order Granting in Part and Denying in Part Plaintiff's Motion for Summary Judgment*, filed August 28, 2015, final judgment pursuant to Rule 58, Hawai'i Rules of Civil Procedure is hereby entered as follows:

1) On Plaintiff Jason Hester's Complaint filed August 11, 2014

- a. As to Count I, Quiet Title, judgment is entered in favor of Plaintiff Jason Hester pursuant to H.R.S. Section 669-1, et seq. and against the Defendants Medical Veritas International, Inc.; The Royal Bloodline of David; Leonard G. Horowitz; and Sherri Kane;
- b. As to Count II, Tenants at Sufferance, judgment is entered in favor of Plaintiff Jason Hester and against Defendants Medical Veritas

Exhibit C

I hereby certify that this is a full, true and correct
copy of the original on file in this office.
Reply Brief Exhibits pg. # 31

Clerk, Third Circuit Court, State of Hawaii

International, Inc.; The Royal Bloodline of David; Leonard G. Horowitz;
and Sherri Kane;

- c. As to Count III, Trespass, pursuant to Rule 41, Hawai'i Rules of Civil Procedure and the Order Granting Plaintiff Jason Hester's Motion for Voluntary Dismissal of Trespass Claim, filed August 28, 2015, this claim is dismissed;
- d. As to Plaintiff's request that Judgment for Possession be entered giving Plaintiff exclusive possession of the Property, judgment is entered in favor of Plaintiff Jason Hester and a Writ of Ejectment shall issue against Defendants Medical Veritas International, Inc.; The Royal Bloodline of David; Leonard G. Horowitz; and Sherri Kane pursuant to H.R.S. Section 667-33(b)(4);

2) On Defendants Leonard Horowitz and Sherri Kane's Counterclaim filed August 21, 2014 as to all claims including:

Count I, Slander of Title;

Count II, Quiet Title;

Count III, Unfair and Deceptive Acts and Practices;

Count IV, Malicious Prosecution in Criminal Contempt;

Count V, Abuse of Process Tort;

Count VI, Tort of Conversion/Theft in Conspiracy to Deprive Citizens' Rights and Properties;

Count VII, Tortious Interference with Consortium;

Count VIII, Tortious Interference with Prospective Business (Economic) Advantage;
Count IX, Breaches of Two Contracts;
Count X, Breach of Duty to Protect/Negligence/"Duty-Public Duty Doctrine" and/or
"Failure to Enforce" Laws Including HRS §480-2 HRS §480D-3(2)(3)(6)(8)(11) and HRS
§480D-4(a)(b);
Count XI, Breach of Standard of Care/Malpractice;
Count XII, Trespass to Chattels;
Count XIII, Defamation;
Count XIV, Criminal Negligence;
Count XV, Gross Negligence;
Count XVI, Intentional Infliction of Emotional Distress;
Count XVII, Negligent Infliction of Emotional Distress;
Count XVIII, Fraud and/or Misrepresentation;
Count XIX, Comparative Negligence, Secondary Liability and/or Vicarious Liability; and
Count XX, Civil RICO,

these claims are dismissed pursuant to the Order Granting Plaintiff's Motion to Dismiss
Counterclaims, filed on March 27, 2015.

Any remaining claims or counterclaims not specifically addressed herein are dismissed
with prejudice. This Final Judgment resolves all claims as to all parties in this action.

DATED: Kealahou, Hawaii, DEC 29 2015.

RONALD IBARRA (SEAL)

JUDGE OF THE ABOVE-ENTITLED COURT

FILED

cc: S. Whittaker, Esq. S. Kane
M. Wille, Esq. L. Horowitz

2015 DEC 30 PM 4:27

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

L. KITAOKA, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

JASON HESTER,

Plaintiff,

vs.

LEONARD G. HOROWITZ, ET AL.,

Defendants.

) Civil NO. 14-1-304
)
) NOTICE OF ENTRY OF JUDGMENT
)
) Judge Ronald Ibarra, Division 4
)
)
)
)
)
)

NOTICE OF ENTRY OF JUDGMENT

In accordance with the Hawai'i Rules of Civil Procedure, Rule 77(d), please note that the FINAL JUDGMENT has been entered in this case.

DATED: Kealahou, Hawaii, DEC 30 2015.

FRANCINE VICTOR (SEAL)

CLERK OF THE ABOVE-ENTITLED COURT

ISSUED

Stephen D. Whittaker, AAL (SBN #2191)
73-1459 Kaloko Drive
Kailua Kona, HI 96740
Phone: 808-960-4536

2006 MAR -1 PM 4:05

Attorney for Plaintiff
Jason Hester

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

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

JASON HESTER, an individual,

Plaintiff

vs.

**LEONARD G. HOROWITZ, an
individual; SHERRI KANE, an
individual; MEDICAL VERITAS
INTERNATIONAL, INC., a California
nonprofit corporation; THE ROYAL
BLOODLINE OF DAVID, a
Washington Corporation Sole; JOHN
DOES 1-10; JANE DOES 1-10; DOE
PARTNERSHIPS 1-10; DOE
CORPORATIONS 1-10; DOE
ENTITIES 1-10 and DOE
GOVERNMENTAL UNITS 1-10,**

Defendants.

**Civil No. 14-1-0304
(Other Civil Action)**

WRIT OF EJECTMENT;

**RETURN OF SERVICE ON WRIT
OF EJECTMENT**

WRIT OF EJECTMENT; RETURN OF SERVICE ON WRIT OF EJECTMENT

THE STATE OF HAWAII

**TO: THE DIRECTOR OF PUBLIC SAFETY OF THE STATE OF HAWAII,
HIS/HER DEPUTY, THE CHIEF OF POLICE OF THE HAWAII POLICE
DEPARTMENT, OR HIS DEPUTY, OR TO ANY POLICE OFFICER OF THE**

Exhibit D

**I hereby certify that this is a full, true and correct
copy of the original on file in this office.**

Reply Brief Exhibits pg. # 35
L. Mock Chew
Clerk, Third Circuit Court, State of Hawaii

COUNTY OF HAWAII OR PERSON AUTHORIZED BY THE LAWS OF THE
STATE OF HAWAII.

Pursuant to the Final Judgment Filed 12-30-2015
~~Order Granting In Part And Denying In Part Plaintiff's Motion For~~
~~Summary Judgment filed herein~~, Plaintiff JASON HESTER is entitled to the issuance of a
Writ of Ejectment against the above-named Defendants LEONARD G. HOROWITZ, an
individual; SHERRI KANE, an individual; MEDICAL VERITAS INTERNATIONAL,
INC., a California nonprofit corporation; THE ROYAL BLOODLINE OF DAVID, a
Washington Corporation Sole; JOHN DOES 1-10; JANE DOES 1-10; DOE
PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10; DOE ENTITIES 1-10 and DOE
GOVERNMENTAL UNITS 1-10 for possession of the premises located at 13-3775 Pahoa
Kalapana Road, Pahoa, Hawaii 96778-7924, TMK Nos. (3) 1-3-001:049 & 043.

THEREFORE, EFFECTIVE IMMEDIATELY, FROM THE ISSUANCE DATE
OF THIS WRIT, YOU ARE COMMANDED TO REMOVE the said above-named
Defendants LEONARD G. HOROWITZ, an individual; SHERRI KANE, an individual;
MEDICAL VERITAS INTERNATIONAL, INC., a California nonprofit corporation; THE
ROYAL BLOODLINE OF DAVID, a Washington Corporation Sole; JOHN DOES 1-10;
JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10; DOE
ENTITIES 1-10 and DOE GOVERNMENTAL UNITS 1-10 and all persons holding
under or through said Defendants from the premises above-mentioned, including their
personal belongings and properties, and put Plaintiff JASON HESTER, or his nominee, in
full possession thereof; and make due return of this Writ with what you have done endorsed
thereon.

Dated:

Kealahou, Hawaii

FEB 29 2016

MELVIN H. FUJINO (SEAL)

JUDGE OF THE ABOVE-ENTITLED COURT

Re: Civil No. 14-1-0304; *Jason Hester v. Leonard G. Horowitz, et al.*; Writ of Ejectment;
Return of Service on Writ

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

Attorney for:
Defendants/Counterclaimants
Leonard G. Horowitz and
the Royal Bloodline of David

Electronically Filed
Intermediate Court of Appeals
CAAP-16-0000163
13-MAR-2016
11:59 PM

INTERMEDIATE COURT OF APPEALS
STATE OF HAWAII

JASON HESTER,
Plaintiff-Counter-claimant -Appellees,
v.

LEONARD G. HOROWITZ, an
individual; SHERRI KANE, an
individual; MEDICAL VERITAS
INTERNATIONAL, INC, a
California nonprofit corporation; 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.
Defendants-Counterclaimant-
Appellants

) CIV. NO. 14-1-0304
) (quiet title)
)
) NOTICE OF APPEAL;
) EXHIBIT "A";
) CERTIFICATE OF SERVICE
)
)
)
)
)
)

NOTICE OF APPEAL with EXHIBITS A,

NOTICE IS HEREBY GIVEN that Defendant/Counterclaimant/Appellant LEONARD
GEORGE HOROWITZ (hereafter Horowitz) and THE ROYAL BLOODLINE OF DAVID
(hereafter RBOD) by and through their attorney, Margaret Wille, pursuant to section 641-1 of

Exhibit E

the Hawai'i Revised Statutes, and Rules 3 and 4(a)(1) and 4(a)(3) of the Hawai'i Rules of Appellate Procedure, appeal to the Intermediate Court of Appeals of the State of Hawai'i from the December 29, 2015 Final Judgment of the Third Circuit Court in the above named case (Exhibit A); including with respect to the Court's failure to vacate the default judgment of RBOD and the Court's failure to deny summary judgment based on additional errors in not granting standing to Defendants Horowitz and Kane independent of the standing of RBOD; the court's allowance of Plaintiff Hester to pursue non-judicial foreclose and seek quiet title on behalf of the claims of Seller-mortgagee Cecil Loran Lee despite failure to qualify as a substitute successor mortgagee - proper party; as well as the Court's failure to grant Defendants' counterclaims against Plaintiff for misrepresentation and fraud, abuse of process and malicious prosecution and deprivation of Defendants rights to due process and adjudication on the merits; and well as Plaintiff's failure to comply with the applicable notice requirements of HRS 667-5 in the underlying non-judicial foreclosure action that the instant quiet title action seeks to enforce; along with the Circuit Court's January 20, 2016 "Order Denying Defendants/Counterclaimants' Motion for Reconsideration or Alternatively for New Trial" and the Circuit Court's January 20, 2016 "Order Denying Defendant's Motion for Stay Pending the Disposition of Final Judgment ("Defendants' Motion to Stay Judgment Pending Finality in Related Action Civ. 05-1-0196"), and such other matters as the Court deems appropriate.

Respectfully submitted.

DATED: Waimea, HI, 96743 March 13, 2016


MARGARET WILLE,

Attorney for Defendants – Counterclaimants - Appellants

Jason Hester vs. Leonard G. Horowitz et al, Civ. 14-1-0304; *NOTICE OF APPEAL*
with *EXHIBITS A*.

cc: Margaret Wille, Esq.
Steven Whittaker, Esq.

2016 MAR -4 PM 2: 07

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

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

JASON HESTER, OVERSEER THE
OFFICE OF OVERSEER, A CORPORATE
SOLE AND HIS SUCCESSORS,
OVER/FOR THE POPULAR ASSEMBLY
OF REVITALIZE, A GOSPEL OF
BELIEVERS,

Plaintiff,

vs.

LEONARD GEORGE HOROWITZ,
JACQUELINE LINDENBACH HOROWITZ,
AND THE ROYAL BLOODLINE OF DAVID,
JOHN DOES 1-10, JANE DOES 1-10, DOE
PARTNERSHIPS 1-10, DOE ENTITIES,
DOE GOVERNMENTAL UNITS,

Defendants,

and

PHILIP MAISE

Intervenor.

LEONARD GEORGE HOROWITZ,
JACQUELINE LINDENBACH HOROWITZ,
AND THE ROYAL BLOODLINE OF DAVID,

Counterclaimants,

vs.

JASON HESTER, OVERSEER THE
OFFICE OF OVERSEER, A CORPORATE
SOLE AND HIS SUCCESSORS,
OVER/FOR THE POPULAR ASSEMBLY

Civil No. 05-1-196

FIFTH AMENDED FINAL
JUDGMENT

Jury Trial: February 12-14, 2008
February 20-21, 2008

JUDGE RONALD IBARRA

I hereby certify that this is a full, true and correct
copy of the original on file in this office:

L. Mock Chew
Clerk, Third Circuit Court, State of Hawaii

Exhibit F

OF REVITALIZE, A GOSPEL OF)
 BELIEVERS,)
)
 Counterclaim Defendant.)
 _____)

FIFTH AMENDED FINAL JUDGMENT

This matter comes before the above-referenced Court pursuant to the Order Dismissing Appeal for Lack of Appellate Jurisdiction, E-filed into CAAP-15-0000658 on January 20, 2016 by the Intermediate Court of Appeals ("ICA"). The ICA in its January 20, 2016 Order, decided the Fourth Amended Final Judgment does not satisfy the requirements for an appealable judgment under HRS § 641-1(a), HRCP Rule 58, or the holding in Jenkins v. Cades Schutte Fleming & Wright, Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

On October 24, 2007, the *Order Granting Intervenor's Motion To Strike and/or Dismiss, With Prejudice Counterclaim/Cross Claim Against Intervenor Philip Maise Filed July 25, 2007, Filed On August 24, 2007*, was filed. On February 12, 2008 a jury trial in this matter commenced, finishing February 21, 2008. Pursuant to the *Order Awarding Attorney's Fees and Costs* filed March 25, 2008; the *Findings of Facts, Conclusions of Law, and Order Denying Decree of Foreclosure against all Defendants*, filed April 2, 2008; the *Order Granting Plaintiff's Motion for Judgment as a Matter of Law or Alternatively New Trial on the Issue of Defendant's July 6, 2006 Counterclaim for Fraud and Misrepresentation*, filed October 15, 2008; The *Second Amended Final Judgment* filed December 11, 2009; The *Third Amended Final Judgment* filed September 12, 2013 and The *Fourth Amended Final Judgment* Filed June 19, 2015;

This Court Having fully reviewed the record and files herein, and for good cause shown;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

I. That Final Judgment on the Complaint for foreclosure filed June 15, 2005 is hereby entered pursuant to HRCP Rule 58 as follows:

a. As to the waste claims for unlicensed business activities and additions to the home or construction of buildings on the property, judgment is entered in favor of Defendants Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David and against Plaintiff, Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers.

b. As to the claim for breach of contract/covenant for failure to keep property insurance, judgment is entered in favor of the Plaintiff, Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers and against Defendants Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David; Defendants Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David are required to obtain property insurance.

c. As to the claims for conspiracy by Defendant Horowitz, Defendant Royal Bloodline of David and co-conspirator Intervenor Phillip Maise, to deprive Plaintiff of receipt of mortgage payments and defrauding plaintiff, judgment is entered in favor of the Defendants Leonard George Horowitz, Jacqueline Lindenbach Horowitz, Defendant The Royal Bloodline of David, and Intervenor Phillip Maise and against Plaintiff, Jason

Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers.

d. As to the claim for trespass to chattels based on destruction of Plaintiff [Lee's] trailer, judgment is entered in favor of Plaintiff, Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers and against Defendants Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David, and Judgment for damages of \$400.00 is entered in favor of Plaintiff, Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers and against Defendant Leonard Horowitz and the Royal Bloodline of David.

e. As to the claim for fraud and misrepresentation against Defendant Leonard Horowitz and the Royal Bloodline of David for changing the DROA (deposit receipt offer and acceptance), judgment is entered in favor of Plaintiff, Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers and against Defendants, Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David.

f. As to the claim for foreclosure, judgment is entered in favor of Defendants, Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David and against Plaintiff, Jason Hester Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of

Revitalize, A Gospel of Believers, but equitable relief was granted requiring Defendants to carry insurance.¹

II. **IT IS FURTHERED ORDERED** that Final Judgment on the Defendants' Counterclaims filed July 6, 2006 is hereby entered pursuant to HRCP Rule 58 as follows:

a. As to Defendants, Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David, Counterclaims filed July 6, 2006, Claim A, for Misrepresentation and Fraud; Judgment is entered in favor of Plaintiff/Counterclaim Defendant Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers and against Defendants/Counterclaimants Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David as Defendants/Counterclaimants. The Jury's award to the Defendants in the amount of \$200,000 is VACATED.²

b. As to the Defendants Counterclaim filed July 6, 2006, Claim B, for Abuse

¹ Foreclosure was requested on the basis that Defendants committed waste on the property, failed to keep insurance on the property, conspiracy, trespass to chattels, and for fraud/misrepresentation, not because of default on the promissory note and mortgage. The equities involved with the timely payment, property improvements, balloon payment, and misleading statements by plaintiff, make foreclosure unjust. Foreclosure having been denied the request for a joint and several deficiency judgment was not necessary nor the appointment of a commissioner.

² Pursuant to the Jury's verdict on February 21, 2008, the count for fraud and misrepresentation, judgment was entered in favor of the Defendants and against Plaintiff, but this relief was vacated by the Order Granting Plaintiff's Motion for Judgment as a Matter of Law or Alternatively New Trial on the issue of Defendants' July 6, 2006 Counterclaim for fraud and Misrepresentation filed October 15, 2008, the Third Amended Final Judgment filed September 12, 2013, and The Fourth Amended Final Judgment Filed June 19, 2015, as a result, the \$200,000.00 award to Defendants, Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David was VACATED.

of Process and Malicious Prosecution; Judgment is entered in favor of Plaintiff/Counterclaim Defendant Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers and against Defendants/Counterclaimants Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David.

III. **IT IS FURTHERED ORDERED** that Final Judgment is hereby entered pursuant to HRCP Rule 58 as follows:

a. Pursuant to the *Order Awarding Attorney's Fees and Costs*, filed on March 25, 2008, judgment is entered in the sum of nine hundred and seven dollars and ninety-eight cents (\$907.98) for attorney fees and costs in favor of Defendants, Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David and against Plaintiff, Jason Hester, Overseer the Office of Office of Overseer, A Corporate Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers.

IV. **IT IS FURTHER ORDERED:** that Final Judgment is hereby entered pursuant to HRCP Rule 58 as follows:

a. Pursuant to *Order Granting Intervenor's Motion To Strike And/Or Dismiss, With Prejudice Counterclaim/Cross Claim Against Intervenor Philip Maise Filed July 25, 2007, Filed On August 24, 2007 Filed October 24, 2007*; The Counterclaim/Crossclaim filed by Defendant Jason Hester, Overseer the Office of Office of Overseer, A Corporate

Sole and his Successors, Over/For the Popular Assembly of Revitalize, A Gospel of Believers Against Intervenor Philip Maise filed July 25, 2007 is DISMISSED.

V. **IT IS FURTHER ORDERED:** that Final Judgment is hereby entered pursuant to HRCP Rule 58 as follows:

a. Philip Maise's Complaint In Intervention filed October 27, 2005 is DISMISSED.³

VI. All other claims, counterclaims, and cross-claims are dismissed.

DATED: Kealahou, Hawai'i; MAR - 3 2016

/s/ Ronald Ibarra (seal)
The Honorable Ronald Ibarra

³ Foreclosure having been denied, Intervenor Maise's complaint in intervention, filed October 27, 2005 is moot.



Hawai'i State Judiciary Ho'ohiki

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Court Minutes Text

Case Title: THE ESTATE OF CECIL LORAN LEE

3LP09-1-000166

Div.: 3CK4 CV DATE: 12-11-2009

Time: 0107P

Priority: 0 Judge I.D.: JESTRANC

Video No.:

Audio No.:

Minutes:.

BY SULA - STATEMENT REGARDING ASSETS KNOWN TO HIM THAT CECIL LEE DOESN'T OWN ANYMORE; DUE TO FORECLOSURE, NO JUDGMENT CAN BE ENFORCED AND MR. LEE IS CERTAINLY OUT OF IT.

.
**BY COURT - INASMUCH AS NO PARTY APPEARED IN THIS CASE, COURT DENIES PETITION FOR SPECIAL ADMINISTRATOR AND COURT WILL ISSUE ORDER.

Exhibit G

More Minutes
Text

Next Court
Date

Court Minutes
List

Case Info.

Reply Brief Exhibits pg. # 46

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JASON HESTER,	)	CIVIL NO. 14-00413 JMS-RLP
)	
Plaintiff,	)	ORDER GRANTING IN PART AND
	)	DENYING IN PART DEFENDANTS
vs.	)	LEONARD G. HOROWITZ AND SHERRI
	)	KANE'S MOTION TO DISQUALIFY CO-
LEONARD G. HOROWITZ, ET AL.,	)	COUNSEL PAUL J. SULLA, JR. AND
	)	PHILLIP L. CAREY FROM
Defendants.	)	REPRESENTING SHAM PLAINTIFF JASON
	)	HESTER

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

Before the Court is 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 on November 24, 2014 ("Motion"). See ECF No. 33. Plaintiff filed his Opposition to the Motion on December 8, 2014. ECF No. 36. Defendant Horowitz and Defendant Kane did not file a Reply. The Court found this matter suitable for disposition without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice for the United States District Court for the District of Hawaii. ECF No. 34. After careful consideration of the submissions of the parties and the relevant legal authority, the Court GRANTS IN PART and DENIES IN PART the Motion.

BACKGROUND

Plaintiff filed his Complaint to Quiet Title and For Summary Possession and Ejectment on August 11, 2014, in the

Circuit Court of the Third Circuit, State of Hawaii. ECF Nos. 1-7, 25-2. Defendant Horowitz and Defendant Kane removed this action to federal court on September 12, 2014. ECF No. 1.

This action relates to certain real property located at 13-3775 Kalapana Road, Pahoa, Hawaii ("subject property"). According to Plaintiff's Complaint, Defendant The Royal Bloodline of David ("TRBD")¹ acquired title to the subject property from Loren Lee, a.k.a. Cecil L. Lee, in 2004, secured by a note and mortgage in the amount of \$350,000. ECF No. 25-2 ¶ 13. The note and mortgage were signed by Defendant Horowitz individually and as the "overseer" of Defendant TRBD. ECF No. 25-2 at 28, 42. Plaintiff alleges that the term of the note and mortgage expired on January 2009, with an outstanding balance still due and owing to Mr. Lee. Id. ¶ 14. In May 2009, Mr. Lee assigned his interest in the note and mortgage to himself as Overseer of the Office of the Overseer, a Corporate Sole and his Successor Over/For the Popular Assembly of Revitalize, a Hawaii corporate sole ("Overseer of Revitalize"). Id. ¶ 15. Plaintiff alleges that he succeeded Mr. Lee as Overseer of Revitalize when Mr. Lee passed away on June 27, 2009. Id. ¶ 16.

Plaintiff alleges that Defendant TRBD thereafter defaulted in the payments on the note and mortgage and Defendant Horowitz, as "guarantor," also failed to make the delinquent

¹ Default was entered against Defendant TRBD on September 24, 2014. ECF No. 11.

remaining payments under the note and mortgage. Id. ¶ 17. Plaintiff alleges that Notice of Mortgagee's Non-Judicial Foreclosure Under Power of Sale was served on Defendant TRBD and Defendant Horowitz in March 2010. Id. Plaintiff alleges that the foreclosure sale occurred on April 20, 2010, at which time the Overseer of Revitalize executed a quitclaim deed to the highest bidder, also the Overseer of Revitalize. Id. ¶ 18. Plaintiff obtained ownership of the subject property through a quitclaim deed from the Overseer of Revitalize to Plaintiff in June 2011. Id. ¶ 19.

Plaintiff alleges that on June 28, 2012, Defendant TRBD transferred an alleged interest in the subject property to Defendant Horowitz and Defendant Kane through a quitclaim deed. Id. ¶ 20. Plaintiff alleges that Defendant Horowitz and Defendant Kane executed a lease to Defendant Medical Veritas International, Inc.² in 2013 purporting to grant the right to use the subject property. Id. ¶¶ 22-23. Plaintiff alleges that Defendant Horowitz, Defendant Kane, and Defendant Medical Veritas International, Inc. are still occupying the subject property without Plaintiff's consent or permission and continue to unlawfully withhold possession of the subject property against Plaintiff's rights. Id. ¶ 24. Plaintiff alleges that a process server posted written notice to vacate on the subject property,

² Default was entered against Defendant Medical Veritas International, Inc. on September 24, 2014. ECF No. 11.

but Defendants are still in possession of the subject property. Id. ¶ 25. Plaintiff asserts claims for quiet title, tenancy by sufferance, and trespass. Id. ¶¶ 28-36.

For purposes of the present Motion, it is relevant to note that Mr. Sulla recorded the assignment of the note and mortgage from Mr. Lee to Mr. Lee as Overseer of Revitalize in 2009. ECF No. 25-2 at 47. Mr. Sulla also executed the Mortgagee's Affidavit of Foreclosure Under Power of Sale, filed with the State of Hawaii Bureau of Conveyances on May 11, 2010. See ECF No. 25-2 at 19-22. In that affidavit, Mr. Sulla states that he provided the required notices, conducted the foreclosure sale of the subject property to Plaintiff as "Overseer of The Office of Overseer for \$175,00.000," and attests to the fact that at the time of sale the default remained uncured. Id. at 20-21; see also id. at 53 (letter from Mr. Sulla to Defendant Horowitz regarding the foreclosure sale). Mr. Sulla recorded the quitclaim deed in May 2010 following the foreclosure sale between the Overseer of Revitalize to the Overseer of Revitalize. Id. at 74. Finally, Mr. Sulla recorded the quitclaim deed in June 2011 between the Overseer of Revitalize and Plaintiff. Id. at 81.

In their Answer to the Complaint, Defendant Horowitz and Defendant Kane assert several affirmative defenses including that the foreclosure sale was conducted fraudulently and that Plaintiff lacks standing to bring this action. See ECF No. 25-6 at 10-11. In their "First Amended Counter Complaint," Defendant

Horowitz and Defendant Kane assert twenty-nine counterclaims: slander of title, quiet title, unfair and deceptive acts and practices, malicious prosecution in criminal contempt, abuse of process tort, conversion in conspiracy to deprive, tortious interference with consortium, tortious interference with prospective business, breaches of two contracts, breach of duty to protect/negligence, breach of standard of care/malpractice, trespass to chattels, defamation, criminal negligence, gross negligence, intentional infliction of emotional distress, negligent infliction of emotional distress, fraud and/or misrepresentation, comparative negligence, secondary liability and/or vicarious liability, Racketeer Influenced and Corrupt Organization Act violations, mail fraud, treason, sedition, and conspiracy to interfere with civil rights. See ECF No. 10.³

Defendant Horowitz and Defendant Kane allege that Mr. Sulla and others, including Plaintiff, unlawfully foreclosed on the subject property and unlawfully attempted to evict Defendant Horowitz and Defendant Kane. See id. at 14-20. Defendant Horowitz and Defendant Kane allege that they bought the subject

³ Plaintiff filed a motion to dismiss the counterclaims on October 21, 2014. See ECF No. 17. Defendant Horowitz and Defendant Kane filed an opposition to that motion on November 12, 2014. ECF No. 30. The motion to dismiss the counterclaims is pending before United States District Judge J. Michael Seabright, who ordered that the court would not address the motion to dismiss the counterclaims until after the present Motion to Disqualify is decided. See ECF No. 37.

property in 2003 from Mr. Lee. Id. at 16. Defendant Horowitz and Defendant Kane allege that Defendant Horowitz was involved in state court litigation with Mr. Lee from 2005 to 2008 regarding the subject property, and that Defendant Horowitz was ordered by the state court to make a final mortgage payment to Mr. Lee. Id. at 16-17. Defendant Horowitz and Defendant Kane allege that Defendant Horowitz made that final mortgage payment to Mr. Lee, but Mr. Lee and Mr. Sulla repeatedly refused to release the mortgage. Id. at 17.

Defendant Horowitz and Defendant Kane allege that Mr. Sulla "schemed" with Mr. Lee to establish a "sham church" and transferred the mortgage for the subject property, which they allege was paid off, to that church in 2009. Id. at 17. Defendant Horowitz and Defendant Kane allege that Mr. Sulla then conducted an illegal nonjudicial foreclosure sale of the subject property in 2010. Id. at 18-19. Defendant Horowitz and Defendant Kane allege that Mr. Sulla then brought two improper ejectment actions against them in state court. Id. at 30.

Defendant Horowitz and Defendant Kane allege that Mr. Sulla issued Plaintiff a \$50,000 mortgage encumbering the subject property on June 9, 2011, with "Paul J. Sulla Jr. AAL, A Law Corporation," as the lender. Id. at 20; ECF No. 10-30. Defendant Horowitz and Defendant Kane allege that Mr. Sulla was responsible for many of the documents related to the subject

property, including the assignment of Defendants' mortgage to the "sham church" and the quitclaim deeds issued and filed in 2010 and 2011. Id. at 17-19. Defendant Horowitz and Defendant Kane also allege that Mr. Sulla conspired with others, including Plaintiff, to engage in assault, extortion, defamation, trespass, forgery, and theft against Defendant Horowitz and Defendant Kane. Id. at 21-23. Defendant Horowitz and Defendant Kane state in their First Amended Counter Complaint that Mr. Sulla "will be a necessary witness at trial." ECF No. 10 at 13.

In the present Motion, Defendant Horowitz and Defendant Kane ask the Court to disqualify Mr. Sulla and Mr. Carey from representing Plaintiff in this action. ECF No. 33.

DISCUSSION

Motions for disqualification of counsel are subject to strict judicial scrutiny because of the potential for abuse. Optyl Eyewear Fashion Int'l Corp. v. Style Cos., 760 F.2d 1045, 1050 (9th Cir. 1985). Therefore, the party seeking disqualification "carries a heavy burden and must satisfy a high standard of proof." White v. Time Warner Cable, Civ. No. 12-00406 JMS-BMK, 2013 WL 772848, at *1 (D. Haw. Feb. 27, 2013) (citation omitted). A motion for disqualification must be supported by substantial evidence and should not be decided on the basis of general and conclusory allegations. Id.

As an initial matter, the Court DENIES Defendant Horowitz and Defendant Kane's request to disqualify Mr. Carey from representing Plaintiff. See ECF No. 33. Mr. Carey has not entered an appearance as an attorney of record for Plaintiff in this action. To the extent Defendant Horowitz and Defendant Kane are asking the Court to prohibit Mr. Carey from entering an appearance in the future, such request is DENIED.

Regarding Mr. Sulla, Defendant Horowitz and Defendant Kane argue that Mr. Sulla should be disqualified on three bases: 1) because there is a conflict of interest; 2) because he engaged in criminal and fraudulent acts; and 3) because he is a necessary witness at trial. See ECF No. 33.

First, the Court rejects Defendant Horowitz and Defendant Kane's arguments regarding conflict of interest. Although not entirely clear from the Motion, it appears that Defendant Horowitz and Defendant Kane contend that Mr. Sulla should be prohibited from representing Plaintiff in this action because he represented Plaintiff in other state court actions related to the subject property. See ECF No. 33 at 11-12. Hawaii Rule of Professional Conduct 1.7 addresses conflicts of interest arising from representing clients with opposing interests. Haw. R. Prof. Cond. 1.7. There is no indication that Mr. Sulla is attempting to represent another client with opposing interests. To the extent Defendant Horowitz and Defendant Kane

are arguing that Mr. Sulla should be disqualified because it appears that he hold a financial interest in the subject property, see ECF No. 33-4, such a business transaction with a client is governed by Hawaii Rule of Professional Conduct 1.8(a) and is permissible so long as certain procedures were followed between Mr. Sulla and Plaintiff. See Haw. R. Prof. Cond. 1.8(a).

Second, Defendant Horowitz and Defendant Kane have failed to demonstrate that disqualification is appropriate based on Mr. Sulla's alleged criminal and fraudulent activity. Although Defendant Horowitz and Defendant Kane have made allegations regarding Mr. Sulla's conduct, such allegations are insufficient to satisfy the substantial evidence standard applicable to requests for disqualification. There has been no finding by any court that Mr. Sulla has acted inappropriately or illegally related to the foreclosure of the subject property.

Third, Defendant Horowitz and Defendant Kane argue that Mr. Sulla is a necessary witness at trial. ECF No. 33 at 7-8. Hawaii Rules of Professional Conduct Rule 3.7 provides:

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case;
or

(3) disqualification of the lawyer would work substantial hardship on the client.

Haw. R. Prof. Cond. 3.7. Rule 3.7(a) prohibits lawyers from acting as both advocate and witness because "[i]t may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof." Haw. R. Prof. Cond. 3.7, cmt. 2. Additionally, the comments to Rule 3.7 state that "a balancing is required between the interests of the client and those of the opposing party." Haw. R. Prof. Cond. 3.7, cmt. 4. In balancing these interests, the Court may consider "the nature of the case, the importance [] of the lawyer's testimony, and the probability that the lawyer's testimony will conflict with that of other witnesses." Id.

Defendant Horowitz and Defendant Kane contend that Mr. Sulla will be a necessary witness regarding "a) [the] securities instruments; b) [his] administration of his 'religious' racketeering enterprise; c) his conflicting interests in acquiring the Property; d) his commission of the illegal non-judicial foreclosure; e) prima facie crime featuring fraudulent transfers of the Mortgage and Promissory Notes; f) slandering Title; g) subsequently issuing [Plaintiff] an illegal mortgage 'loan' contract [] evidencing [Mr.] Sulla's concealed surety; h) malpractices in the Third Circuit Court as a concealed collection agent for extorting [Defendant Horowitz] to pay false debt without leave of the courts; and i) his and [Plaintiff's]

malicious and extortionate prosecutions damaging the Defendants." ECF No. 33 at 8.

Based on the pleadings in this case and the arguments made by the parties, the Court finds that Mr. Sulla will likely be a necessary witness in this case. In proving Plaintiff's quiet title claim against Defendants, Plaintiff will have to demonstrate that he is the rightful owner of the subject property. Defendant Horowitz and Defendant Kane assert that they have rightful title because Defendant Horowitz satisfied the note and mortgage to Mr. Lee. As noted above, Mr. Sulla executed the Mortgagee's Affidavit of Foreclosure Under Power of Sale, which includes Mr. Sulla attesting to the fact that at the time of foreclosure sale the default remained uncured. Mr. Sulla's testimony is likely to conflict with the testimony of Defendants' witnesses. As noted above, Mr. Lee passed away in 2009, so it is unlikely that there is other evidence available regarding the payment of the note. The Court rejects Plaintiff's argument that Mr. Sulla's testimony on these subjects falls under the exception listed in Rule 3.7(a)(2). See ECF No. 36 at 6. Testimony regarding whether Defendants' mortgage on the subject property was in default does not relate to the "nature and value of legal services" rendered in this case. See Haw. R. Prof. Cond. 3.7(a)(2).

In addition to finding that Mr. Sulla is a necessary witness regarding Plaintiff's quiet title claim, the Court also

finds that Mr. Sulla is a necessary witness regarding several of Defendant Horowitz and Defendant Kane's counterclaims. Plaintiff did not address the substance of the counterclaims in his Opposition. See ECF No. 36 at 3. Although the counterclaims are subject to a pending motion to dismiss, they have not been dismissed from this case to date. Defendant Horowitz and Defendant Kane's counterclaims raise several disputed material issues related to the assignment of Defendant Horowitz's mortgage from Mr. Lee to the Overseer of Revitalize and the transfer of the subject property to Plaintiff. Additionally, Defendant Horowitz and Defendant Kane allege that Plaintiff conspired with Mr. Sulla and others to engage in assault, extortion, defamation, trespass, forgery, and theft against them. Mr. Sulla would be a necessary witness to testify regarding the substance of these claims and his testimony is likely to conflict with the testimony of Defendants' witnesses on these claims.

Defendant Horowitz and Defendant Kane may be prejudiced if Mr. Sulla is permitted to remain as counsel for Plaintiff because Mr. Sulla's status as counsel and as witness may unduly complicate discovery and his dual role may create an improper inference that his testimony is more credible than that of Defendants' witnesses. Plaintiff argues that disqualification of Mr. Sulla would create substantial hardship for Plaintiff because Plaintiff would be unable to afford new counsel and would be unable to represent himself adequately if he proceeded pro se.

ECF No. 36 at 6-7. Although the Court is sympathetic to the fact that Plaintiff may have difficulty securing new counsel, the Court finds that the potential prejudice to Plaintiff does not outweigh the prejudice to Defendants. This case is in its early stages, giving Plaintiff ample time to find substitute counsel or choose to proceed pro se. Defendant Horowitz and Defendant Kane's request to disqualify Mr. Sulla is GRANTED.

CONCLUSION

In accordance with the foregoing, the Court GRANTS IN PART AND DENIES 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. Defendants' request to disqualify Phillip L. Carey is DENIED. Defendants' request to disqualify Paul J. Sulla, Jr. is GRANTED.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, JANUARY 5, 2015.




Richard L. Puglisi
United States Magistrate Judge

HESTER V. HOROWITZ, ET AL.; CIVIL NO. 14-00413 JMS-RLP; 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

Orders on Motions1:14-cv-00413-JMS-RLP Hester v. Horowitz et al**U.S. District Court****District of Hawaii****Notice of Electronic Filing**

The following transaction was entered on 1/5/2015 at 5:48 PM HST and filed on 1/5/2015

Case Name: Hester v. Horowitz et al**Case Number:** 1:14-cv-00413-JMS-RLP**Filer:****Document Number:** 46**Docket Text:**

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 re: [33].

Signed by JUDGE RICHARD L. PUGLISI on 1/5/2015.

"Defendants' request to disqualify Phillip L. Carey is DENIED. Defendants' request to disqualify Paul J. Sulla, Jr. is GRANTED."

(afc)

CERTIFICATE OF SERVICE

Participants registered to receive electronic notifications received this document electronically at the e-mail address listed on the Notice of Electronic Filing (NEF). Participants not registered to receive electronic notifications will be served by first class mail on January 6, 2014.

1:14-cv-00413-JMS-RLP Notice has been electronically mailed to:

Paul J. Sulla, Jr psulla@aloha.net

1:14-cv-00413-JMS-RLP Notice will not be electronically mailed to:

Leonard G. Horowitz
13-3775 Pahoa-Kalapana Road
Pahoa, HI 96778

Sherri Kane
P.O. Box 75104
Honolulu, HI 96836

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1095854936 [Date=1/5/2015] [FileNumber=1837798-0]
[bf9b64ac6cda15dd2ac085036bf692cf891f56578baa42977e86f5ebc4761688e8f9
4b5cb65a8f4094aa8fb6803c7f58fb68689bc17c0d33ca849979e67216e6]]

Reply Brief Exhibits pg. # 60



Online Real Property Tax Payments

PROPERTY TAX BILL as of March 17, 2017

Your payment may not be reflected on this web site for up to 10 working days from the date of payment transaction.

130010490000
RP 3-1-3-001-049-0000-000
HALAI HEIGHTS LLC

Property Address:
13 3775 PAHOA KALAPANA ROAD

PO BOX 5258
HILO, HI 96720-8258

PARCEL ID / TMK	PENALTY AND INTEREST CALCULATED TO	PRIOR YEAR(S)	CURRENT YEAR	TOTAL	AMOUNT DUE NOW
RP 3-1-3-001-049-0000-000	March 31, 2017	\$11,105.72	\$5,219.05	\$16,324.77	\$16,324.77

DESCRIPTION	YEAR / CYCLE	TAX DUE DATE	TAX	PENALTY	INTEREST	OTHER	TOTAL
REAL PROPERTY TAX	2016-1	Aug 22, 2016	\$2,281.06	\$228.11	\$175.63	\$0.00	\$2,684.80
REAL PROPERTY TAX	2016-2	Feb 21, 2017	\$2,281.05	\$228.11	\$25.09	\$0.00	\$2,534.25
REAL PROPERTY TAX	2015-1	Aug 20, 2015	\$1,785.72	\$178.57	\$373.19	\$0.00	\$2,337.48
REAL PROPERTY TAX	2015-2	Feb 22, 2016	\$1,785.71	\$178.57	\$255.35	\$0.00	\$2,219.63
REAL PROPERTY TAX	2014-1	Aug 20, 2014	\$2,089.58	\$208.96	\$712.65	\$0.00	\$3,011.19
REAL PROPERTY TAX	2014-2	Feb 20, 2015	\$2,089.58	\$208.96	\$574.71	\$0.00	\$2,873.25
REAL PROPERTY TAX	2013-2	Feb 20, 2014	\$651.15	\$0.00	\$13.02	\$0.00	\$664.17

ONLINE PAYMENT HISTORY

Payments made on returns may not be listed here.

Online E-Check Payment of \$500.00	Received on Mar 25, 2017
Online E-Check Payment of \$250.00	Received on Jan 28, 2017
Online E-Check Payment of \$250.00	Received on Dec 30, 2016
Online E-Check Payment of \$250.00	Received on Nov 30, 2016
Online E-Check Payment of \$250.00	Received on Nov 2, 2016
Online E-Check Payment of \$250.00	Received on Sep 30, 2016
Online E-Check Payment of \$250.00	Received on Aug 30, 2016

Exhibit 3

Online E-Check Payment of \$500.00	Received on Jul 3, 2016
Online E-Check Payment of \$250.00	Received on May 30, 2016
Online E-Check Payment of \$250.00	Received on Apr 26, 2016
Online E-Check Payment of \$250.00	Received on Mar 29, 2016
Online E-Check Payment of \$250.00	Received on Feb 29, 2016
Online E-Check Payment of \$250.00	Received on Jan 31, 2016
Online E-Check Payment of \$250.00	Received on Dec 28, 2015
Online E-Check Payment of \$250.00	Received on Nov 25, 2015
Online E-Check Payment of \$250.00	Received on Oct 23, 2015
Online E-Check Payment of \$250.00	Received on Sep 17, 2015
Online E-Check Payment of \$250.00	Received on Aug 24, 2015
Online E-Check Payment of \$250.00	Received on Jul 30, 2015
Online Credit Card Payment of \$500.00	Received on May 2, 2015
Online E-Check Payment of \$250.00	Received on Mar 10, 2015
Online E-Check Payment of \$250.00	Received on Feb 16, 2015
Online E-Check Payment of \$250.00	Received on Jan 15, 2015
Online E-Check Payment of \$250.00	Received on Dec 21, 2014
Online E-Check Payment of \$250.00	Received on Nov 23, 2014
Online E-Check Payment of \$250.00	Received on Oct 26, 2014
Online E-Check Payment of \$250.00	Received on Sep 25, 2014
Online E-Check Payment of \$1,524.17	Received on Feb 23, 2010

PAYMENT OPTIONS

SELECT ONE: ☒ Credit Card ☐ E-Check

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Support is not available on Hawaii state holidays or weekends.

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Reply Brief Exhibits pg. # 62



Online Real Property Tax Payments

PROPERTY TAX BILL as of August 1, 2014



Your payment may not be reflected on this web site for up to 10 working days from the date of payment transaction.

130010490000
 RP 3-1-3-001-049-0000-000
 HESTER,JASON

Property Address:
 13 3775 PAHOA KALAPANA ROAD

PO BOX 2105
 PAHOA, HI 96778-2105

PARCEL ID / TMK	PENALTY AND INTEREST CALCULATED TO	PRIOR YEAR(S)	CURRENT YEAR	TOTAL	AMOUNT DUE NOW
RP 3-1-3-001-049-0000-000	August 20, 2014	\$16,018.91	\$4,179.16	\$20,198.07	\$18,108.49

DESCRIPTION	YEAR / CYCLE	TAX DUE DATE	TAX	PENALTY	INTEREST	OTHER	TOTAL
REAL PROPERTY TAX	2014-1	Aug 20, 2014	\$2,089.58	\$0.00	\$0.00	\$0.00	\$2,089.58
REAL PROPERTY TAX	2014-2	Feb 20, 2015	\$2,089.58	\$0.00	\$0.00	\$0.00	\$2,089.58
REAL PROPERTY TAX	2013-1	Aug 20, 2013	\$1,975.34	\$197.53	\$260.76	\$0.00	\$2,433.63
REAL PROPERTY TAX	2013-2	Feb 20, 2014	\$1,975.34	\$197.53	\$130.38	\$0.00	\$2,303.25
REAL PROPERTY TAX	2012-1	Aug 20, 2012	\$1,768.12	\$176.81	\$466.79	\$0.00	\$2,411.72
REAL PROPERTY TAX	2012-2	Feb 20, 2013	\$1,768.11	\$176.81	\$350.10	\$0.00	\$2,295.02
REAL PROPERTY TAX	2011-1	Aug 22, 2011	\$1,764.78	\$176.48	\$698.82	\$0.00	\$2,640.08
REAL PROPERTY TAX	2011-2	Feb 21, 2012	\$1,764.77	\$176.48	\$582.35	\$0.00	\$2,523.60
REAL PROPERTY TAX	2010-2	Feb 22, 2011	\$1,397.63	\$0.00	\$13.98	\$0.00	\$1,411.61

ONLINE PAYMENT HISTORY



Payments made on returns may not be listed here.

Online E-Check Payment of \$1,524.17

Received on Feb 23, 2010

COL
2012 - 2013 RE
FISCAL YEAR

COUNTY OF HAWAII
REAL PROPERTY TAX DIVISION
AUPUNI CENTER, 101 Pauahi Street, Suite 4
HILO, HI 96720-4224
TELEPHONE: (808) 961-8282
 * **www.hawaiipropertytax.com**

3-1-3-001-049-0000-000
HESTER, JASON
PO BOX 758
PAHOA HI 96778 0758



TAX MAP KEY / PARCEL ID	PAYMENT DUE DATE	PRIOR YEAR(S)
3-1-3-001-049-0000-000	04/04/2013	\$10,080.61

Period	Description	Due Date	TAX AMOUNT	PENALTY
2012 - 1 RP Tax		08/20/2012	1,768.12	17
2012 - 2 RP Tax		02/20/2013	1,768.11	17
2011 - 1 RP Tax		08/22/2011	1,764.78	17
2011 - 2 RP Tax		02/21/2012	1,764.77	17
2010 - 1 RP Tax		08/24/2010	1,951.40	19
2010 - 2 RP Tax		02/22/2011	1,951.40	19
TOTAL:			10,968.58	1,096

PROPERTY OWNER: HESTER, JASON
PROPERTY ADDRESS: 13 3775 PAHOA KALAPANA ROAD
Kamali

County of Hawaii
 101 Pauahi St. Ste
 Hilo, Hawaii 96720-4224
 BUSINESS ACTUAL TIME
 4/08/2013 4/04/2013 14:53:15
 REG WS01 CASHIER 44 MC

TAX PAYER CHANGED

Tmk: 130010490000
 Org Reg WS01 Receipt 270448
 IAS pymt # 3110999
 OLD TENANCY 0 NEW TENANCY 0

OLD PAYER
 MEDICAL VERITAS INTL INC
 FOR SHERI KANE AND
 LEONARD HOROWITZ

NEW PAYER
 MEDICAL VERITAS INTL INC
 FOR SHERRI KANE &
 LEONARD HOROWITZ

County of Hawaii
 101 Pauahi St. Ste 4
 Hilo, HI 96720-4224
 ACTUAL TIME
 4/2013 14:51:07
 44 MC
 4/04/2013 AUTO UPDT
 ts
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100
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\$100.00
 \$100.00
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 \$100.00
 \$100.00

\$100.00

PAYMENT!

COUNTY OF HAWAII
2012 - 2013 REAL PROPERTY TAX BILL
FISCAL YEAR JULY 1, 2012 TO JUNE 30, 2013

COUNTY OF HAWAII
REAL PROPERTY TAX DIVISION
AUPUNI CENTER, 101 Pauahi Street, Suite 4
HILO, HI 96720-4224
TELEPHONE: (808) 961-8282
www.hawaiipropertytax.com

3-1-3-001-043-0000-000
HESTER, JASON
PO BOX 758
PAHOA HI 96778 0758



PARTIAL PAYMENT



KEEP THIS PORTION FOR YOUR RECORDS
IMPORTANT INFORMATION ON REVERSE SIDE
This tax bill is for the entire amount due on the property
and is not prorated according to ownership.

GENERAL PAYMENT INSTRUCTIONS:

1. **MAKE CHECK PAYABLE TO:**
DIRECTOR OF FINANCE.
2. **TO MAIL REMITTANCE:**
Enclose bottom portion and keep upper section for
your records.
3. **TO PAY IN PERSON:**
Bring entire notice to the COUNTY OF HAWAII,
REAL PROPERTY TAX DIVISION.
4. **TO PAY ONLINE GO TO:**
<http://payments.ehawaii.gov/propertytax/hawaii>
NOTE: The online vendor charges additional fees.
Credit cards are not accepted at our Hilo or Kona
offices.

TAX MAP KEY / PARCEL ID		PAYMENT DUE DATE	PRIOR YEAR(S)	CURRENT YEAR	TOTAL	AMOUNT DUE NOW
3-1-3-001-043-0000-000		04/04/2013	\$128.70	\$115.50	\$244.20	\$244.20

Period	Description	Due Date	TAX AMOUNT	PENALTY	INTEREST	OTHER	TOTAL
2012 - 1 RP Tax		08/20/2012	50.00	5.00	4.40	0.00	59.40
2012 - 2 RP Tax		02/20/2013	50.00	5.00	1.10	0.00	56.10
2011 - 1 RP Tax		08/22/2011	50.00	5.00	11.00	0.00	66.00
2011 - 2 RP Tax		02/21/2012	50.00	5.00	7.70	0.00	62.70
TOTAL:			200.00	20.00	24.20	0.00	244.20

PROPERTY OWNER: HESTER, JASON
PROPERTY ADDRESS: PAHOA-KALAPANA ROAD
Kamali

and Clerk

CLAUSE OF TITLE

To Reorder Call 1-800-355-8123

**COUNTY OF HAWAII
REAL PROPERTY TAX DIVISION
AUPUNI CENTER, 101 Pauahi Street, Suite 4
HILO, HI 96720-4224
TELEPHONE: (808) 961-8282
www.hawaiipropertytax.com**



1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

2. The second step is to gather relevant information and data. This can involve research, consultation with experts, or collecting data from various sources.

3. The third step is to analyze the information and data collected. This involves identifying patterns, trends, and relationships that can help in understanding the problem.

4. The fourth step is to develop a solution or answer. This involves applying the knowledge and skills gained from the previous steps to create a response that addresses the problem.

5. The fifth step is to evaluate the solution or answer. This involves checking the results against the original problem and requirements to ensure that the solution is effective and accurate.

6. The sixth step is to communicate the solution or answer. This involves presenting the findings in a clear and concise manner, using appropriate language and format.

7. The seventh step is to reflect on the process. This involves thinking about what was learned from the experience and how it can be applied to future problems.

8. The eighth step is to seek feedback. This involves asking others for their thoughts and suggestions on the solution and the process used to develop it.

9. The ninth step is to implement the solution. This involves putting the solution into practice and monitoring its effectiveness over time.

10. The tenth step is to review the results. This involves evaluating the outcomes of the implementation and making any necessary adjustments to improve the solution.

County of Hawaii
101 Pauahi St. Ste 4
Hilo, Hawaii 96720-4224
BUSINESS ACTUAL TIME
4/08/2013 4/04/2013 14:52:40
REG WSO1 CASHIER 44 MC

TAX PAYER CHANGED

Tmk: 130010430000
Org Reg WS01 Receipt270447
IAS pymt # 3110998
OLD TENANCY 0 NEW TENANCY 0

OLD PAYER	18
MEDICAL VERITAS INTL INC	
FOR SHERI KANE &	1.30
LEONARD HOROWITZ	

NEW PAYER	7.00
MEDICAL VERITAS INTL INC	
FOR SHERRI KANE &	.70
LEONARD HOROWITZ)
	10

1168	\$100.00
MEDICAL VERITAS INTL INC	
FOR SHERI KANE &	
LEONARD HOROWITZ	
Total remitted	\$100.00

THANK YOU FOR YOUR PAYMENT!

MEDICAL VERITAS INTERNATIONAL INC
1778 ALA MOANA BLVD SUITE 4005
HONOLULU HI 96815

1168

59-102/1213
17

808 965 2112

4.4.13

Date:

Pay to the
Order of

Director of Finance \$100.00
One hundred + xx/xx - Dollars

h Bank of Hawaii

ALA MOANA BRANCH
HONOLULU, HAWAII 96814

AS
GOODWILL PAYMENT TO MITIGATE
DAMAGES FROM TAX FRAUD, EXTORTION
AND SECURITIES FRAUD OF PAUL J. SULLA JR.
PURSUANT TO BUREAU OF CONVEYANCES DOC NO 2011-093773
1:121301028: 0007 556535 1:168 PG 4 PARAGRAPH 3
FORECLOSURE FRAUD/CLAUSE IN MFG. PAGE 4 PARAGRAPH 3
SLANDER OF TITLE

RE:

Harland Clarke

To Reorder Call 1-800-355-8123

TMK (3) 1-3-001-043

MEDICAL VERITAS INTERNATIONAL INC
1778 ALA MOANA BLVD SUITE 4005
HONOLULU HI 96815

1170

59-102/1213
17

808 965 2112

4.4.13

Date:

Pay to the
Order of

Director of Finance \$100.00
One hundred + xx/xx - Dollars

h Bank of Hawaii

ALA MOANA BRANCH
HONOLULU, HAWAII 96814


AS
GOODWILL PAYMENT TO MITIGATE DAMAGES FROM
TAX FRAUD, EXTORTION, SECURITIES FRAUD
OF PAUL J. SULLA JR. AND JASON HESTER
PURSUANT TO BUREAU OF CONVEYANCES DOC NO (S) 2011-093773
1:121301028: 0007 556535 1:170
FORECLOSURE FRAUD/CLAUSE IN MFG. PAGE 4 PARAGRAPH 3
SLANDER OF TITLE

Harland Clarke

To Reorder Call 1-800-355-8123

TMK (3) 1-3-001-049

To: County of Hawaii
101 Pauahi Street, Suite 4
Hilo, Hawaii 96720-4224


ATTN: SHELLEY
COUNTY OF HAWAII
REAL PROPERTY TAX DIVISION
AUPUNI CENTER
101 PAUAAHI ST., SUITE 4
HILO, HI 96720-4224

4/8/13

961-8401

Dear Shelley,

Please send tax notices for TMK# 3-1-3-001-049 and TMK# 3-1-001-043 to the addresses and parties below.

Leonard Horowitz
13-3775 Kalapana Hwy
Pahoa, HI 96778

And

Sherri Kane
Po Box 75104
Honolulu, HI 96778

Mahalo!

Sherri Kane
808 965 2112
editor@medicalveritas.org

I agree to pay 250.00 per month beginning may 2013, and will pay more IF I can in a month.



FILED

Stephen D. Whittaker, AAL (SBN #2191)
73-1459 Kaloko Drive
Kailua Kona, HI 96740
Phone: 808-960-4536

Attorney for Plaintiff
Jason Hester

2016 MAY 19 PM 2: 03

L. KITAOKA, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

JASON HESTER, an individual,

Plaintiff

vs.

LEONARD G. HOROWITZ, an individual; SHERRI KANE, an individual; MEDICAL VERITAS INTERNATIONAL, INC., a California nonprofit corporation; THE ROYAL BLOODLINE OF DAVID, a Washington Corporation Sole; JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10; DOE ENTITIES 1-10 and DOE GOVERNMENTAL UNITS 1-10,

Defendants.

Civil No. 14-1-0304
(Other Civil Action)

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

Hearing Date: May 11, 2016

Hearing Time: 8:30 a.m.

Judge: Hon. Melvin H. Fujino

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

Defendants' "MOTION FOR STAY PENDING APPEAL [HRCP 62(d)] AND FOR THE SETTING OF SUPERSEDEAS BOND SECURITY DURING THE PERIOD OF THE APPEAL" was filed March 3, 2016 by and through Margaret (Dunham) Wille, as attorney for Defendants LEONARD G. HOROWITZ; SHERRI KANE; MEDICAL VERITAS INTERNATIONAL, INC.; and THE ROYAL BLOODLINE OF DAVID pursuant to Rules 7(b)

I hereby certify that this is a full, true and correct copy of the original on file in this office.

1

Exhibit 4

Exhibit Brief Exhibits pg. # 70

Clerk, Third Circuit Court, State of Hawaii

MW
5-13-16

and 62(b) of the Hawaii Rules of Civil Procedure (“HRCP”) as well as Rules 3,7,7.1, and 7.2 of the Rules of the Circuit Court.

Through their Motion, Defendants sought to stay execution of the Final Judgment herein dated December 30, 2015 and the resulting Writ of Ejectment during the pendency of their appeal of the judgment.

An Opposition to this motion was filed by Plaintiff by and through his attorney on May 2, 2016. The matter came for hearing on May 11, 2016 at 8:30 a.m. with attorney Stephen D. Whittaker appearing in person on behalf of Plaintiff JASON HESTER and attorney Margaret (Dunham) Wille appearing in person on behalf of Defendants LEONARD G. HOROWITZ; SHERRI KANE; MEDICAL VERITAS INTERNATIONAL, INC.; and THE ROYAL BLOODLINE OF DAVID.

The Court, having considered the motion, memorandum in opposition, and the arguments and statements of the parties at the May 11, 2016 hearing, and the record and file herein, and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

Defendants’ “MOTION FOR STAY PENDING APPEAL [HRCP 62(d)] AND FOR THE SETTING OF SUPERSEDEAS BOND SECURITY DURING THE PERIOD OF THE APPEAL” filed March 3, 2016 is **GRANTED** upon the condition that the bond amount set forth below is posted on or before May 18, 2016.

The Court finds that Defendants have advertised on the internet to rent rooms in the Subject Property as vacation rentals and sets the supersedeas bond amount based on the rates and availability stated in the internet advertisements. Defendants’ own publicly-available internet website www.heavenlykingdom.net/Accommodations.html shows rooms for rent on the Subject Property for \$100-\$150 per night and that there are four rooms available.

Thus the court sets the bond amount based on a rental value of an average of \$125/night and using the following formula which is based on an appeal that may take up to three years:

MW
C-13-16

\$546,000.00 use and occupancy value
nets
+

[4 rooms rented @ \$125 a night = \$500/day
\$182,000/year X 3 yrs = \$546,000)]

\$12,394.71 property taxes
+

[the real property taxes are \$4,124.97/year;
total property tax for 3 yrs = \$12,394.71]

\$30,000.00 attorneys' fees and costs

[estimate fees and costs takes into account
that the current record in this case is large
with 17 volumes]

\$588,374.91 total bond amount required.

The Court rejects Defendants argument that they have not been able to rent rooms due to this lawsuit and have not been able to obtain a Use Permit, and have only received occasional donations.

Based on the above formula the court sets the supersedeas bond amount at **\$588,374.91**. The bond must be posted and approved by the Circuit Court of the Third Circuit on or before May 18, 2016. Once the bond is posted, a stay of enforcement of the Writ of Ejectment issued in this matter will be effective beginning May 18th, 2016 and will continue in effect until the Intermediate Court of Appeals matter no. CAAP-16-0000163 is terminated.

Dated: Kealahou, Hawaii on May 18th, 2016



[Signature]
JUDGE OF THE CIRCUIT COURT

APPROVED AS TO FORM:

[Signature]
Margaret (Dunham) Wille (SBN # 8522)

5/13/16

Hester v. Horowitz Civil No. 14-1-0304

*Order Granting Defendants "DEFENDANTS' MOTION FOR STAY PENDING
APPEAL [HRCP 62(D)] AND FOR THE SETTING OF SUPERSEDEAS BOND
SECURITY DURING THE PERIOD OF THE APPEAL"*

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

IN RE	)	CASE NO. 16-00239
	)	(Chapter 13)
LEONARD G. HOROWITZ,)	
)	
	)	September 15, 2016
Debtor.	)	12:08 p.m.
)	
)	
	)	U.S. Bankruptcy Court
	)	1132 Bishop Street
	)	Suite 250
	)	Honolulu, Hawaii 96813
)	

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

APPEARANCES:

Debtor Pro Se:	LEONARD GOERGE HOROWITZ P.O. Box 75104 Honolulu, HI 96836
Trustee:	HOWARD M.S. HU 1132 Bishop Street, Suite 301 Honolulu, HI 96813
For Howard M.S. Hu, Trustee:	BRADLEY R. TAMM, ESQ. P.O. Box 3047 Honolulu, HI 96801

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

Maukele Transcribers LLC
Jessica B. Cahill, CET**D-708
P.O. Box 1652
Wailuku, Maui, Hawaii 96793
Telephone: (808)244-0776

APPEARANCES: (Continued)

Unsecured Judgment Creditor:
Appearing telephonically

PAUL J. SULLA, JR.
P.O. Box 5258
Hilo, HI 96720

1 SEPTEMBER 15, 2016

12:08 P.M.

2 MR. HU: And in the matter of Leonard Horowitz, case
3 16-00239.

4 THE COURT: Okay.

5 THE CLERK: Your Honor, we have counsel on line.
6 Please, Mr. Sulla.

7 MR. SULLA: Yes, good morning, Your Honor, this is Paul
8 Sulla on behalf of the Creditor.

9 THE COURT: Okay.

10 MR. HOROWITZ: Good morning, Your Honor, Leonard
11 Horowitz on behalf of the Debtor and the adversary proceeding
12 Plaintiff.

13 THE COURT: All right.

14 MR. TAMM: Good morning, Your Honor, Bradley Tamm for
15 the Trustee.

16 THE COURT: All right. Well, I want to thank everybody
17 for their patience. This has been a long calendar. And I would
18 like to ask that -- we've had very extensive briefing all around.
19 I think I have a pretty good understanding of the issues.

20 My inclination is to take this under advisement and
21 provide a written decision, because I want to make sure that my
22 thinking and my reasons are clearly expressed.

23 If anybody has anything to say that they haven't
24 already said, which is hard to imagine, but possible, or anything
25 they particularly want to emphasize I would invite that, but I

1 would remind everybody that I have read the papers. So anything
2 you would like to add or emphasize, Dr. Horowitz.

3 MR. HOROWITZ: Thank you, Your Honor. I've prepared a
4 response for specifically the main false arguments that the
5 Trustee has advanced. I would for the sake, just like the
6 attorney had stated for the record and potentially for an appeal,
7 to get these on the record --

8 THE COURT: Okay.

9 MR. HOROWITZ: -- to make it clear what our position is
10 and our concerns, if that would be --

11 THE COURT: If you do it briefly that's fine.

12 MR. HOROWITZ: I'll try my best.

13 THE COURT: Okay. All right.

14 MR. HOROWITZ: Thank you. We object -- I object to the
15 Trustee's bad faith neglect of the Trustee's estate
16 administrations duties, the Debtor's due process rights, and real
17 property rights. I seek a remedy of an expedited trial on the
18 merits that has been prejudicially and repeatedly denied by
19 courts precluding adjudication of the pending claims brought in
20 the related adversary proceeding.

21 This proceeding is, in effect, a summary dismissal
22 hearing with meritorious claims outstanding thereby no answers
23 provided by the Defendant to the prima facie evidence of forgery
24 and fraud, for closure fraud, fraudulent concealments and that
25 the Trustee is ceding the fraudulently foreclosed property of the

1 Estate to Mr. Hester, Mr. Sulla's purported client.

2 There is no valid standing nor had the Court
3 jurisdiction to grant Hester anything without jurisdiction,
4 including a stay of relief vicariously ceding the Estate's main
5 asset, the property upon which this entire bankruptcy was based,
6 along with the initial plan. Once the initial plan was vacated
7 by the Court, I did my best to do exactly what the Court had
8 instructed me to do.

9 The main asset of this property is valued at
10 approximately \$600,000 with \$6 million in pending claims and of
11 damages misrepresented by the Trustee as \$6 million in estate
12 assets.

13 THE COURT: When you say \$600,000 for the property, you
14 mean the property that was, in your view, improperly foreclosed
15 on, not the smaller adjacent lot; is that correct?

16 MR. HOROWITZ: That's correct, Your Honor.

17 THE COURT: Okay. Go ahead.

18 MR. HOROWITZ: To clarify, the smaller adjacent lot, I
19 purchased for \$175,000 with the full intention to commercialize
20 it as appropriate. And that the value, I overpaid, but
21 significantly so when you consider the fact that the lava flow
22 totally deteriorated the property values, so that --

23 THE COURT: I understand your plan --

24 MR. HOROWITZ: Okay.

25 THE COURT: -- that's in the papers. Thank you.

1 MR. HOROWITZ: Yeah, thank you. So the issue is that
2 the Trustee is arguing in this motion that the Estate value is
3 the value of what is pending in the claims that we have yet to
4 try. So that is -- I think given the fact that the Trustee and
5 his attorney are not ignorant people, this is an obvious
6 misrepresentation, and I believe that it's done in bad faith, and
7 I further feel very uncomfortable that it favors only one of the
8 Creditors, that is Mr. Sulla.

9 The allegations have been made that all of the Debtor
10 -- all of the Creditors are opposed to this plan or that the plan
11 is no good, that's not the case. There's only one Creditor, Mr.
12 Sulla, who is favored and who the other two Creditors have
13 already said that they would be going -- happy to go along with
14 this, under the circumstances.

15 So I'm going to just go over four main points that are
16 falsehoods, false arguments that the Trustee is advancing to
17 dismiss a viable plan.

18 Number one, the Trustee states that the Debtor, after
19 having two prior plans denied at confirmation -- and this is a
20 quote -- "continues with many of the same failings and proposes a
21 plan, which does not meet the minimum requirements of 11 U.S.C.
22 1325." That is not true at all for two reasons.

23 First, I went paragraph by paragraph through 11 U.S.C.
24 1325 and have complied with every element of that law, developed
25 by Congress, to secure bankruptcy debtor's fair chances to

1 recover from bankruptcy. The Trustee's misrepresentation about
2 the "same failings" diverts from his own failings to follow his
3 own laws and requirements to administer the Debtor's Estate
4 property lawfully, with competence based on an inquiry reasonable
5 under the circumstances that in this case include forgery of
6 securing the instruments, fraudulent assignment of the mortgage
7 and notes -- my mortgage and notes, into a sham incorporation by
8 Mr. Sulla, negligently avoided by the Trustee to aid and abet --

9 THE COURT: I want to correct you on one of part of
10 that and that is -- feel free to have some water if you like, of
11 course -- I wish that Chapter 13 Trustees weren't called
12 Trustees, because their role and their duty is so different from
13 a Chapter 7 Trustee.

14 I mean a Chapter 13 Trustee, basically collects the
15 money that you pay the Chapter 13 Trustee, and pays it out to the
16 other creditors. It also gets to comment on plans and so forth,
17 but a Chapter 13 Trustee doesn't really have any role or power
18 when it comes to property of the Estate other than the money you
19 pay over to him. Completely different from a Chapter 7 role.

20 And a Chapter 13 Trustee also generally doesn't have a
21 duty to challenge claims, that's up to the Debtor. If a party
22 files a proof of claim, the Trustee's job is to pay that unless
23 somebody objects to it and gets it disallowed.

24 So I think you're -- and because you're not a lawyer,
25 it's understandable -- but I think you're confusing the role of a

1 Chapter 7 Trustee and a Chapter 13 Trustee.

2 MR. HOROWITZ: Your Honor, I would find it very
3 difficult to believe that the United States Congress would look
4 at the document -- my objection clearly with the documentation of
5 evidence of fraud and crime, and then permit any judicial officer
6 to permit this kind of malfeasance operating within the court of
7 law. It dishonors everything.

8 THE COURT: My only point is, at this point at least,
9 is that it's not the Chapter 13 Trustee's job to bring up those
10 issues. A Chapter 7 case is completely different and your role
11 is completely different also, but the Chapter 13 Trustee is
12 actually a fairly passive role and that's the way Congress did
13 set it up. Anyway, please go ahead.

14 MR. HOROWITZ: Well, thank you. Yes, again, I think
15 I've made it excruciatingly clear venomously (phonetic sic) that
16 these are the issues on the table. It comes down to the illegal
17 conversion with prima facie evidence of forgery and altered
18 documentation to foreclose illegally and that is the issue.

19 So number two, the Trustee goes further stating, "The
20 recently amended schedules demonstrates Debtor has insufficient
21 assets to pay his Creditors in full" -- oh, I'm sorry -- has
22 "sufficient assets to pay his creditors in full with interest,
23 yet he only offers to pay a fraction of that amount."

24 Your Honor, this is hearsay and false innuendo. Where
25 are those sufficient assets? It can only be in two places.

1 Number one, in the property the Trustee has neglected to recover
2 from Sulla and Hester; and, number two, in pending court action
3 obtain compensation for the stolen property or damage awards for
4 the \$6 million in damages that we claim. Bad faith is the only
5 explanation for the Trustee's argument of "sufficient assets."

6 Number three, the Trustee also states in bad faith that
7 "Debtor has failed to commit to the plan his full disposable
8 income." The Trustee objects here to \$39.29 disparity between
9 what I, the Debtor, can afford to pay under the circumstances to
10 Ms. Wille in a plan proposed, on a monthly basis, and what his
11 projected disposable income concerns are.

12 So for a \$39.29 projected disparity, the Trustee
13 encourages the Court to dismiss this bankruptcy. Now, I've sat
14 here as well as you have and heard in other cases that those
15 kinds of minor discrepancies could be easily worked out by a
16 simple phone call or a communication between counsel.

17 Well, under -- I understand it -- 1981, I'm supposed to
18 be treated equally and fairly under the law, and I don't see why
19 I'm being prejudiced in this way. The Trustee doesn't extend the
20 same courtesy granted in this court today to his brother lawyers,
21 and yet he doesn't flinch. \$39.29 is a big deal for him, but he
22 doesn't flinch at all about Sulla fraudulently transferring 588
23 thousand plus of our assets in this Estate. This is outrageous
24 by any stretch of any imagination.

25 So essentially -- on top of that, the Trustee is

1 arguing in his motion that he needs \$30,000 in commissions to
2 satisfy this deprivation of my rights and my property. Your
3 Honor, when we began this bankruptcy, we had understood clearly
4 that a ten percent commission was fair and appropriate. We were
5 not, at all, opposed to paying up to 50,000, because the property
6 was valued, as I mentioned, over \$500,000.

7 So the Trustee certainly, if he does his job, should be
8 paid. So the challenge here is that this property and the whole
9 commission basis is ridiculous.

10 Number four. At last, the Trustee states that the
11 Debtor "continues to attempt to impermissibly force special plan
12 provisions on his Creditors." Plural, Creditors. The Trustee
13 obviously misrepresents who the Creditors displeased with the
14 amended plan actually are. There is only one, as I mentioned,
15 Mr. Sulla. The only contested Creditor favored by the Trustee,
16 to the point of depriving two other Creditors of their rights in
17 compensation, Creditors Kane and Wille, who agreed with the terms
18 of the special amended plan provisions.

19 Moreover, the Trustee falsely alleges that I, the
20 Debtor, included special provisions in the plan, contrary to what
21 you had asked -- what the Court had instructed, but he neglects
22 citing where or what. In fact, there are no such special plan
23 provisions precluded by the Court.

24 The Court directed me, as you know, to make special
25 inclusions that clarify what it is that we're proposing and why

1 it is we're proposing it, which is what we did. And I did go
2 through, and I extracted argument -- anything that I could
3 conceive of that would offend the Court or the plan's publishing
4 and acceptance I excluded.

5 There are a set, however, of exhibits objected to by
6 the Trustee that are neither referenced in the plan nor part of
7 the plan that were submitted at the same time for the Court's
8 consideration as instructed, not required inclusion with the
9 plan. So the Trustee misrepresents the special provisions.

10 In summary, Your Honor, the Trustee has purposely
11 neglected his duties under 11 U.S.C. §§541 and 548. Also, I
12 believe that is consistent with a Chapter 13. It's under a
13 Chapter 11, but I don't think it's exclusive of a Chapter 7 or a
14 Chapter -- precluding the Chapter 13 application.

15 Also neglecting his oath and responsibility under
16 U.S.C. 3771(a)(6), (7), and (8), and misprision of felony law,
17 Title 18 U.S.C. §4, beginning with his neglecting to perform an
18 inquiry reasonable, under the circumstances and which violation
19 of his ethics, rules, and competence requirements are called to
20 task in this circumstance.

21 The Trustee and the Court must also accord with Crime
22 Victims' Rights Law, 18 U.S.C. §3771(a)(6), (7), and (8), and
23 return the Debtor's Estate property to the Estate by this law 18
24 U.S.C. 3057 and the Standing Trustee is obligated to refer
25 suspected violations -- just suspected violations -- to federal

1 criminal law, to the appropriate United States Attorney.

2 Further, under 18 U.S.C. §3771(a)(5), a federal
3 attorney must confer with yours truly, the Debtor victim. And,
4 in addition, pursuant to misprision of felony law, 18 U.S.C. §4,
5 the Trustee is compelled, "Having knowledge of the actual
6 commission of a felony cognizable by a Court of the United
7 States" to "make known the same to the judge." Otherwise, the
8 Trustee "shall be fined under this Title or imprisonment of not
9 more than three years or both."

10 In re Cochise College Park, Inc., the Ninth Circuit
11 held that a Trustee was subject to personal liability not only
12 for intentional acts, but also for negligently violating his
13 statutorily imposed duties, references to McCullough and citing
14 Hall v. Perry, Ninth Circuit 1983.

15 To date, the Trustee has grossly neglected the prima
16 facie evidence of Sulla's fraud and crimes, repeatedly made known
17 to the Trustee by the Debtor and has neglected his duty to secure
18 the Debtor's Estate to enable the plan -- any plan to succeed and
19 compensate the valid Creditors. Thank you, Your Honor.

20 THE COURT: Okay. Thank you. Let me turn next to Mr.
21 Tamm. Anything you feel you should -- need to say in addition to
22 what's been filed.

23 MR. TAMM: Your Honor, I think I would like to make a
24 couple of comments just to preserve the record.

25 THE COURT: Okay. I'll ask you to be brief also.

1 MR. TAMM: I will do my best. This is a Chapter 13
2 case and in a Chapter 13 case, you get to keep all your property.

3 THE COURT: Please address the Court.

4 MR. TAMM: The Debtor gets to keep all of the Debtor's
5 property. The Debtor operates almost like a Debtor-in-
6 possession. The Debtor has the obligation to pursue recoveries.
7 The Chapter 13 Trustee has no obligation under §548, because he
8 has no power under §546. It's the Debtor's job to pursue the
9 property.

10 The Debtor schedules and says what his Estate is worth.
11 The Trustee is entitled to rely upon those schedules. Here, the
12 Debtor filed schedules. He said he's got \$6 million in assets.
13 The Trustee relies upon that. Okay. So, therefore, your plan
14 has to pay at \$6 million worth of claims. If there's fewer than
15 \$6 million worth of claims, you're okay, but you've got to pay
16 all of the claims up to that \$6 million amount.

17 The Trustee, as the Court pointed out, acts as a
18 disbursing agent, simply. The Debtor brings in the money, the
19 Trustee pays out the claims. Mr. Horowitz here keeps referring
20 to the fact that there's only one Creditor, Mr. Sulla. However,
21 looking at the claims register, I see four claims filed there. A
22 claim is allowed unless it's objected to, §502. Therefore, we
23 have four Creditors.

24 The Trustee demands that Mr. Horowitz's plan pay Mr.
25 Sulla in full, because Mr. Sulla, based on his claim, has a

1 perfected security interest. Therefore, it needs to be paid in
2 full. Also --

3 THE COURT: Unless it's successfully objected to.

4 MR. TAMM: Unless it's successfully objected to. As
5 far as the claims of Ms. Wille and Ms. Kane, because the Debtor
6 says he had \$6 million in assets, those claims have to be paid in
7 full. Ms. Kane gets \$220,000, Ms. Wille gets 78,000. Ms. Wille
8 is unsecured, and so is Ms. Kane. Mr. Horowitz says that Ms.
9 Kane is a secured creditor, because she is a co-owner of the
10 property. Well, I don't see a security interest, I don't see
11 perfection, therefore, she gets paid as an unsecured creditor.

12 It really doesn't make any difference in this case,
13 because remember the Debtor told us he has \$6 million in assets.
14 Therefore, that's the funding that's got to come in. The Trustee
15 has only done his job in looking at what the Debtor puts in his
16 schedules and based upon those schedules demanded that money in.

17 Let's talk also about this income disparity, the \$39 he
18 points out between the 375 he wants to pay in and the 423 that he
19 lists in his schedules as disposable income, that's a requirement
20 of law. Congress says that these below median income debtors
21 have to pay in their monthly disposable income. The \$39,000 is
22 just a factual predicate that has been established by the
23 Debtor's schedules.

24 I also note, in footnotes, that looking back at the
25 original schedules, looking at his royalties, income, and

1 everything else, we suspect that there's quite a bit more money
2 that's available here; however, it's not necessary to go there
3 today. We've been at this for a long time. This is our third
4 plan. He continues to pile on hundreds of pages every time.

5 Simply -- the solution to the problem has always been
6 simple, do what you say and say what you do. It comes out on the
7 plan, it's fairly straightforward and simple. The Trustee has
8 been through this, this is our third time around. It's time to
9 dismiss the case under the Local Bankruptcy Rules. Thank you,
10 Your Honor.

11 THE COURT: Okay. Thank you. Mr. Sulla, anything you
12 would like to add to what's been filed?

13 MR. SULLA: No, Your Honor.

14 THE COURT: Okay. I'm going to take the matter under
15 advisement and provide a written decision. I think -- I don't
16 think it's necessary for me to give you an opportunity to
17 respond. I think you've stated your position in response to what
18 Mr. Tamm said. So the matter is under advisement, and I'll
19 provide a written decision as soon as I can.

20 MR. HOROWITZ: Your Honor --

21 THE COURT: Yes.

22 MR. HOROWITZ: -- what happened to my motion to compel,
23 which was supposed to be heard today. Mr. Sulla --

24 THE COURT: I'm sorry, I skipped that. Pardon me.
25 Pardon me. Thanks for pointing that out. I'm going to take that

1 under advisement also. I see Mr. Sulla did not file a response.
2 I think I have everything I need to deal with that and that will
3 be included in my written decision also.

4 MR. HOROWITZ: Thank you, Your Honor.

5 THE COURT: Okay. Thank you.

6 THE COURT: Court's in recess.

7 MR. SULLA: Thank you, Your Honor.

8 (Proceedings Concluded)

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CERTIFICATE

I, Jessica B. Cahill, court approved transcriber, certify that the foregoing is a true and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Dated: October 17, 2016



Jessica B. Cahill, CETD**-708

Beth Chrisman
Forensic Document Examiner
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CURRICULUM VITAE

I am, Beth Chrisman, a court qualified Forensic Document Examiner. Beginning my career in 2006, I have examined over 500 document examination cases involving over 6500 documents. I trained with the International School of Forensic Document Examination and have apprenticed under a leading court-qualified Forensic Document Expert.

Forensic Examination Provided For:

Disputed documents or signatures including: wills, checks, contracts, deeds, account ledgers, medical records, and autograph authentication. Investigation and analysis including: questioned signatures, suspect documents, forgeries, identity theft, anonymous letters, alterations, obliterations, erasures, typewritten documents, altered medical records, graffiti, handwritten numbers, and computerized and handwritten documents.

Education

- Bachelor of Science Specializing in Prosthetics and Orthotics from the University of Texas Southwestern Medical Center at Dallas
- International School of Forensic Document Examination: Certified Forensic Document Examination, Graduation Date July 2008

Specific Areas of Training:

Handwriting Identification and Discrimination, Signature Comparison, Techniques for Distinguishing Forged Signatures, Disguised Handwriting, Altered Numbers, Anonymous Writing, Laboratory Procedures, Forensic Microscopy and Forensic Photography, Identifying Printing Methods, Papers and Watermarks, Factors that Affect Writing, Demonstrative Evidence Training, Demonstrative Evidence in the High-Tech World, Forgery Detection Techniques, Detection of Forged Checks, Document Image Enhancement, Graphic Basis for Handwriting Comparison, Ethics in Business and the Legal System, Mock Courtroom Trails

- American Institute of Applied Science; 101Q Questioned Documents course completed
- 3 year on-the-job apprenticeship with Bart Baggett, a court qualified document examiner and the president of the International School of Forensic Document Examination, October 2006 – October 2009.

Apprenticeship Included:

Gathering documents, setting up case files, scanning and photographing documents, assisting with on-site examinations, interacting as client liaison with attorneys and clients, accounting and billing, peer reviews, preparing court exhibits, directed and witnessed client hand written exemplars, as well as reviewed and edited official opinion letters and reports for Mr. Baggett's office. I managed 204 cases consisting of 2157 documents during this time period.

Furthermore, I began taking active individual cases that were mentored and/or peer reviewed by Bart Baggett.

- ACFEI Conference October 2009, Las Vegas, NV. (American College of Forensic Examiners International) Attended specific lectures on ink and paper counterfeiting by FBI personnel.

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CURRICULUM VITAE Cont.

Further Qualifications:

I am the Director of the International School of Forensic Document Examination; creating curriculum, choosing textbooks, creating schedules and overseeing student apprentice qualifications for students worldwide. I teach and mentor students worldwide, including students in the United States, New Zealand, Australia, India and Slovakia. I also peer review cases for other working document examiners.

Laboratory Equipment:

Numerous magnifying devices including 30x, 20x and 10x loupes, Light Tracer light box, protractor, calipers, metric measuring devices, slope protractor and letter frequency plate, handwriting letter slant and comparison plate, typewriter measurement plate, type angle plate, digital photography equipment, zPix 26x-130x zoom digital hand-held microscope, zOrb 35x digital microscope, an illuminated stereo microscope, Compaq Presario R3000, HP PC, 2 high resolution printers, 2 digital scanners, 1 high resolution facsimile machine, and a copy machine.

Library

Numerous forensic document examination titles and other handwriting reference materials.

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LEVELS OF OPINION-BASED ON ASTM GUIDELINES FOR EXPRESSING CONCLUSIONS

Since the observations made by the examiner relate to the product of the human behavior there are a large number of variables that could contribute to limiting the examiner's ability to express an opinion confidently. These factors include the amount, degree of variability, complexity and contemporaneity of the questioned and/or specimen writings. To allow for these limitations a scale is used which has four levels on either side of an inconclusive result. These levels are:

- **Identification / Elimination**

May be expressed as 'The writer of the known documents wrote / did not write the questioned writing.' This opinion is used when the examiner denotes no doubt in their opinion; this is the highest degree of confidence expressed by a document examiner.

- **Strong Probability**

May be expressed as 'There is a strong probability the writer of the known documents wrote / did not write the questioned writing.' This opinion is used when the evidence is very persuasive, yet some critical feature or quality is missing; however, the examiner is virtually certain in their opinion.

- **Probable**

May be expressed as 'It is probable the writer of the known documents wrote / did not write the questioned writing.' This opinion is used when the evidence points strongly toward / against the known writer; however, the evidence falls short of the virtually certain degree of confidence.

- **Evidence to Suggest**

May be expressed as 'there is evidence to suggest the writer of the known documents wrote / did not write the questioned writing.' This opinion is used when there is an identifiable limitation on the comparison process. The evidence may have few features which are of significance for handwriting comparisons purposes, but those features are in agreement with another body of writing.

- **Inconclusive**

May be expressed as 'no conclusion could be reached as to whether the writer of the known documents wrote / did not write the questioned writing.' This is the zero point of the confidence scale. It is used when there are significantly limiting factors, such as disguise in the questioned and/or known writing or a lack of comparable writing and the examiner does not have even a leaning one way or another.

DECLARATION OF BETH CHRISMAN

I, BETH CHRISMAN, hereby declare as follows:

1. I am an Expert Document Examiner and court qualified expert witness in the field of questioned documents in the State of California. I am over the age of eighteen years, am of sound mind, having never been convicted of a felony or crime of moral turpitude; I am competent in all respects to make this Declaration. I have personal knowledge of the matters declared herein, and if called to testify, I could and would competently testify thereto.

2. I have studied, was trained and hold a certification in the examination, comparison, analysis and identification of handwriting, discrimination and identification of writing, altered numbers and altered documents, handwriting analysis, trait analysis, including the discipline of examining signatures. I have served as an expert within pending litigation matters and I have lectured and taught handwriting related classes. A true and correct copy of my current Curriculum Vitae ("C.V.") is attached as "Exhibit A".

3. **Request:** I was asked to analyze a certified copy of the ARTICLES OF INCORPORATION, CORPORATION SOLE FOR ECCLESIASTICAL PURPOSES for the Corporation Sole of THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS filed with the State of Hawaii Department of Commerce and Consumer Affairs. I have attached this document as EXHIBIT B, Pages 1 through 8.

4. **Basis of Opinion:** The basis for handwriting identification is that writing habits are not instinctive or hereditary but are complex processes that are developed gradually through habit and that handwriting is unique to each individual. Further, the basic axiom is that no one person writes exactly the same way twice and no two people write exactly the same. Thus writing habits or individual characteristics distinguish one person's handwriting from another.

1 Transferred or transposed signatures will lack any evidence of pressure of a writing
2 instrument. Additionally, due to modern technology in the form of copiers, scanners, and computer
3 software that can capture documents as well as edit documents and photos it has become quite easy
4 to transfer a signature from one document to another. However, there will always be a source
5 document and in many cases the signature will remain unchanged. The fact that there is more than
6 one signature that is exactly the same is in direct opposition to one of the basic principles in
7 handwriting identification.
8

9 A process of analysis, comparison and evaluation is conducted between the document(s).
10 Based on the conclusions of the expert, an opinion will be expressed. The opinions are derived
11 from the ASTM Standard Terminology for Expressing Conclusions for Forensic Document
12 Examiners.

13 **5. Observations and Opinions:**

14 PAGE NUMBERING:

15 a. This is an 8 page document with the first six pages having a fax footer dated May 26, 2009
16 and the last 2 pages having a fax footer of May 28, 2009.

17 b. Further, the first four pages are numbered as such, the fifth page has no original number
18 designation, the sixth page has the numeral 2, and the last two pages are labeled 1 and 2.

19 c. There is not one consistent page numbering system or text identification within the
20 document pages that indicates all pages are part of one document.

21 DOCUMENT PAGES:

22 d. Page 6 and Page 8 are both General Certification pages and contain the same text, exact
23 same signature and exact same handwritten '8' for the day. Since no one person signs their name
24 exactly the same way twice, one of these documents does not contain an authentic signature.
25
26
27
28

1 Additionally, no one person writes exactly the same way twice thus the numeral '8' is also not
2 authentic on one of the documents.

3 e. It is inconclusive if one of the documents is the source or if neither is the source document.

4 f. There is no way to know if the signature of Cecil Loran Lee was an original prior to faxing
5 or if it was a copy of a copy or the generation of the copy if a copy was used to fax the form.

6 PAGES 5 AND 6

7 g. Page 6 is a General Certification appearing to be attached to the previous page, however,
8 Page 5 of this set of documents references a Gwen Hillman and Gwen Hillman clearly is not the
9 signature on the Certification. Additionally, there is no Page number on the Certificate of Evidence
10 of Appointment that actually links it to the next page, the General Certification of a Cecil Loran
11 Lee.
12

13 h. Further, the fax footer shows that Page 5 is Page 13 of the fax, where page 4 is Faxed page
14 5 and page 6 is fax page 7; so there is inconsistency in the overall document regarding the first six
15 pages.
16

17 i. There is no way to know based on the fax copy and limited handwriting if the same person
18 wrote the '8' on pages 5 and 6. There's no real evidence these pages go together outside the order
19 they were stapled together in the Certified Copy.

20 PAGE 8.

21 j. Page 8 does have an additional numeral '2' added to the original numeral 8 to make '28.'

22 a. The Please see EXHIBIT 3 for levels of expressing opinions.

23
24 6. **Opinion:** EXHIBIT B, The ARTICLES OF INCORPORATION, CORPORATION SOLE
25 FOR ECCLESIASTICAL PURPOSES for the Corporation Sole of THE OFFICE OF THE
26 OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR
27 ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS filed with the State of Hawaii
28

1 Department of Commerce and Consumer Affairs contains page(s) that are not authentic in nature
2 but have been duplicated, transferred and altered. Further, the lack of proper page numbering and
3 consistency within the page number makes the document suspicious.

4 **7. Declaration:**

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct and that this declaration was executed on the 12th day of June, 2015,
7 in Sherman Oaks, California.
8

9 
10 BETH CHRISMAN
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1 ACKNOWLEDGMENT

2 A notary public or other officer completing this certificate verifies only the identity of the
3 individual who signed the document to which this certificate is attached, and not the truthfulness,
4 accuracy, or validity of that document.

5
6 State of California

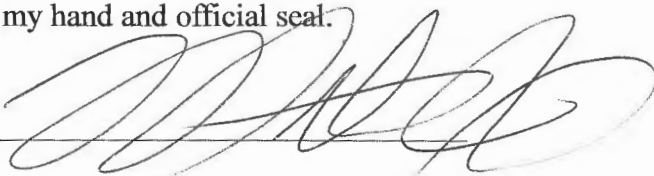
7 County of Los Angeles
8

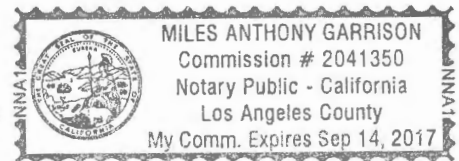
9 On June 30, 2015 before me, Miles Anthony Garrison, Notary Public personally appeared Beth Chrisman,
10 who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed
11 to the within instrument and acknowledged to me that she executed the same in her authorized
12 capacity, and that by her signature on the instrument the person, or the entity upon behalf of which
13 the person acted, executed the instrument.
14

15 I certify under PENALTY OF PERJURY under the laws of the State of California that the
16 foregoing paragraph is true and correct.
17
18

19 WITNESS my hand and official seal.

20
21 Signature







STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
Business Registration Division
1010 Richard Street
PO Box 40, Honolulu, HI 96810

**ARTICLES OF INCORPORATION
CORPORATION SOLE FOR ECCLESIASTICAL PURPOSES**
(Section 419, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned desires to form a Corporation Sole for Ecclesiastical purposes under the laws of the State of Hawaii and does certify as follows:

Article I

The name of the Corporation Sole is:

**THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS
SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF
REVITALIZE, A GOSPEL OF BELIEVERS**

Article II

Cecil Loran Lee of 13-811 Malama Street, Pahoa, HI 96778, duly authorized by the rules and regulations of the church **REVITALIZE, A GOSPEL OF BELIEVERS**, a Hawaiian non-profit corporation in the nature of Ecclesia, hereby forms **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** and is the initial holder the office of Overseer hereunder.

Article III

The principal office of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITLIZE, A GOSPEL OF BELIEVERS** is 13-811 Malama Street Pahoa, HI 96778. The Island of Hawaii is the boundary of the district subject to the ecclesiastical jurisdiction of the Overseer.

Article IV

The period of duration of the corporate sole is perpetual.

05/29/200920052

Article V

The manner in which any vacancy occurring in the incumbency of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**, is required by the discipline of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**, to be filled, through an appointment of Jason Hester of Pahoa, Hawaii as designated successor, and if said designated successor is unable or unwilling to serve, then through an appointment by the support and blessings by a formal "Popular Assembly" of clerical staff and the general membership of **REVITALIZE, A GOSPEL OF BELIEVERS**, as to the named designated successor. The corporate sole shall have continuity of existence, notwithstanding vacancies in the incumbency thereof, and during the period of any vacancy, have the same capacity to receive and take gifts, bequests, devise or conveyance of property as though there were no vacancy.

Article VI

THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS shall have all the powers set forth in HRS c. 419-3 and 414D-52 including the power to contract in the same manner and to the same extent as any man, male or female, and may sue and be sued, and may defend in all courts and places, in all matters and proceedings whatsoever, and shall have the authority to appoint attorneys in fact. It has in any venue and jurisdiction authority to borrow money, give promissory notes therefore, to deal in every way in prime notes, noble metals, planchets, commercial liens, stamps, mortgages, all manner of banking, and to secure the payment of same by mortgage or other lien upon property, real and person, enter into insurance and assurance agreements, own life insurance policies, and purchase and sell contracts and other commercial instruments. It shall have the authority to buy, sell, lease, and mortgage and in every way deal in real, personal and mixed property in the same manner as a "natural person" or covenant child of God. It may appoint legal counsel, licenses and/or unlicensed, but any professional or nonprofessional account services, legal or other counsel employed shall be utilized in a capacity never greater than subordinate co-counsel in any and all litigious matters whether private, corporate, local, national or international, in order to protect the right of the corporation sole to address all courts, hearings, assemblies, etc., as superior co-counsel.

05/29/200920052

Article VII

The presiding Overseer of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** can be removed by a 2/3 vote at a meeting of the Popular Assembly of **REVITALIZE, A GOSPEL OF BELIEVERS**, a Hawaiian non-profit corporation in the nature of Ecclesia, duly called for that purpose, provided that a successor Overseer is selected at that meeting.

The presiding Overseer may not amend or alter this Article VII without the 2/3 vote at a meeting of the Popular Assembly of **REVITALIZE, A GOSPEL OF BELIEVERS** duly called for that purpose.

Article VIII

The presiding Overseer, after prayers and counsel from The Popular Assembly of **REVITALIZE, A GOSPEL OF BELIEVERS**, may at any time amend these Articles, change the name, the term of existence, the boundaries of the district subject to its jurisdiction, its place of office, the manner of filling vacancies, its powers, or any provision of the Articles for regulation and affairs of the corporation and may by Amendment to these Articles, make provision for any act authorized for a corporate sole under HRS c. 419. Such Amendment shall be effective upon recordation with the State of Hawaii.

Article IX

The purpose of this corporation sole is to do those things which serve to promote Celestial values, the principles of Love, Harmony, Truth and Justice, the love of our brothers and sisters as ourselves, the comfort, happiness and improvement of Man and Woman, with special emphasis upon home church studies, research and education of those rights secured by God for all mankind and of the laws and principles of God for the benefit of the Members of the Assembly and the Community at large. This corporate sole is not organized for profit.

Article X

All property held by the above named corporation sole as **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITLIZE, A GOSPEL OF BELIEVERS**, shall be held for the use, purpose, and benefit of **REVITLIZE, A GOSPEL OF BELIEVERS**, a Hawaiian non-profit corporation in the nature of Ecclesia.

I certify upon the penalties of perjury pursuant to Section 419 of the Hawaii Revised Statutes that I have read the above statements and that the same are true and correct.

Witness my hand this 8 day of May, 2009.

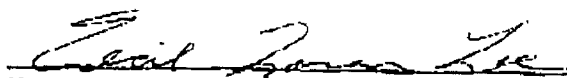
CECIL LORAN LEE

Cecil Loran Lee

General Certification

I, Cecil Loran Lee, the named Overseer in The Office of the Overseer a corporation sole and his successors, over/for The Popular Assembly of REVITALIZE, a Gospel of Believers the Affiant herein, certify, attest and affirm that I have read the foregoing and know the content thereof and that it is true, correct, materially complete, certain, not misleading, all to the very best of my belief, and this I solemnly pledge declare and affirm before my Creator.

In witness whereof, said Cecil Loran Lee, The Overseer, of a corporation sole, has herewith set his hand and seal, on this, the 8 day of May in the Year of Jesus Christ our Lord, the Redeemer, two thousand nine.



Affix Seal

Here.

Cecil Loran Lee, the Overseer
The Office of the Overseer
a corporation sole and his successors,
over/for The Popular Assembly of REVITALIZE, A GOSPEL OF
BELIEVERS an incorporated Church assembly,
in the nature of Ecclesia

STATEMENT OF INCUMBENCY

**THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS
SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A
GOSPEL OF BELIEVERS.**

BE IT KNOWN BY THESE PRESENTS that Cecil Loran Lee of 13-811 Malama Street Pahoa, HI 96778 is the current incumbent OVERSEER for the corporation sole known as **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**. This Statement of Incumbency is provided pursuant to Hawaii Revised Statutes c.419-5.

Pursuant to Cecil Loran Lee's right to worship Almighty God, in accordance with the dictates of his own conscience, and having, humbly, taken possession of The Office of OVERSEER on the 28 day of May in the year two thousand nine, the OVERSEER does hereby certify, and adopt this "Statement of Incumbency".

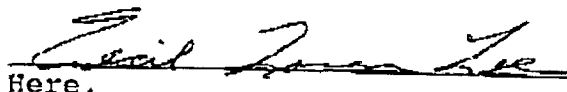
In accordance with the disciplines of REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaiian non-profit corporation, in the nature of Ecclesia located in Pahoa, County and State of Hawaii having established said corporation sole **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** and by this Statement of Incumbency hereby notifies the State of Hawaii that Cecil Loran Lee is the duly appointed incumbent OVERSEER.

THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS, does hereby establish that Cecil Loran Lee is the duly appointed incumbent OVERSEER of this corporate sole created for the purposes of administering and managing the affairs, property, and temporalities of REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaiian non-profit corporation in the nature of Ecclesia.

General Certification


I, Cecil Loran Lee, the named Overseer in The Office of the Overseer a corporation sole and his successors, over/for The Popular Assembly of REVITALIZE, a Gospel of Believers the Affiant herein, certify, attest and affirm that I have read the foregoing and know the content thereof and that it is true, correct, materially complete, certain, not misleading, all to the very best of my belief, and this I solemnly pledge declare and affirm before my Creator.

In witness whereof, said Cecil Loran Lee, The Overseer, of a corporation sole, has hereunto set his hand and seal, on this, the 28 day of May in the Year of Jesus Christ our Lord, the Redeemer, two thousand nine.



Affix Seal

Here.
Cecil Loran Lee, the Overseer
The Office of the Overseer
a corporation sole and his successors,
over/for The Popular Assembly of REVITALIZE, A GOSPEL OF
BELIEVERS an incorporated Church assembly,
in the nature of Ecclesia

From: MARGARET WILLE 
<margaretwille@mac.com>
Subject: Fwd: Civ. 14-1- 0304 change date of hearing on
stay pending appeal
Date: March 24, 2016 12:32:41 PM HST
To: Leonard Horowitz 1 <len15@mac.com>, Sherri
Kane <sherrikane@gmail.com>

1 Attachment, 772 KB

Begin forwarded message:

From: MARGARET WILLE <margaretwille@mac.com>
Subject: **Civ. 14-1- 0304 change date of hearing on stay
pending appeal**
Date: March 24, 2016 at 12:32:05 PM HST
To: kenneth.d.kauwe@hawaii.gov

Here is the Stipulation by both attorneys agreeing to postpone the hearing on the stay pending appeal in Civ. 14-1-0304. Please note that Stephen Whittaker is the attorney of record for Plaintiff Jason Hester. The federal court disqualified attorney Paul Sulla from continuing as the attorney in this case because of his conflict of interest.

Judge Fujino's clerk has tentatively noted this change of date (to April 28th) -subject to receiving the original signed stipulation - which is now in the mail to the Court to confirm

agreement among all parties.

I would appreciate an email confirming your receipt of this email. Thank you.

Much aloha, Margaret Wille, attorney for Len Horowitz and Sherry Kane



[Stip chge da...pdf \(772 KB\)](#)

MARGARET WILLE
margaretwille@mac.com
808-854-6931

MARGARET WILLE
margaretwille@mac.com
808-854-6931

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

April 3, 2016

To: Leonard Horowitz and Sherri Kane
STATEMENT FOR LEGAL SERVICES for Civ. 05-1-0196 and Civ. 14-1-0304, ICA 16-0000162, ICA 16-0000163, related review in Bk 16-00239
From March 16, 2016 through March 31, 2016
Previous Billing **\$77,265.19**
Paid since last billing: 0
Outstanding Past Balance: **\$77,265.19**
Charges as set forth below: **\$7788.**
TOTAL NOW DUE: \$85,053.19

Civ. 304

Hours: Date: Activities:

1.5	3/17	304 Communications w/Court, atty Whittaker and clients re schedule, drafting stipulation
2.5	3/18	Finalizing Stipulation and related docs, comm. with court, filing Req. for FF/CL with Circuit Ct
1.0	3/24	Corresponding w/COH sheriffs, and e-mailing Sheriff Kauwe

SUBTOTAL: 5 HOURS

Civ. 163

3	3/17	Review LH draft and drafting documents to submit ICA notice of bankruptcy case; drafting request for FF/CL to submit to trial court
3	3/18	Drafting Notice of Points of Error and Certificate of No Transcripts Requested and related documents
1	3/19	Editing Points of Error
1	3/20	Finalizing documents
1	3/22	Filing docs in ICA, comm. with clients

SUBTOTAL: 9 HOURS

ICA 162

3	3/19	Drafting Notice of Points of Error and Certificate of No Transcripts Requested and related documents
2	3/20	Finalizing ICA documents
1	3/22	Filing ICA documents, comm. with clients
1	3/31	Review of Pl's filing, comm. with clients

SUBTOTAL: 7 HOURS

Bankruptcy 239 (as relates to representation in 162 and 163)

2	3/25	Review portions of LH draft Reply that relate to 162/163
2	3/27	Further review of LH draft Reply that relate to 162/163

SUBTOTAL: 4 HOURS

Total hours March 16, 2016 through March 31, 2016: 24 hours

24 hours x \$300 hour = \$7200 x .04(GET) = \$288
(no charge for out of pocket expenses)

Total due for this period: **\$7788.**



Leonard G. Horowitz

13-3775 Kalapana Highway
Pahoa, HI 96778
USA
Phone: 808-965-2112
Email: len15@mac.com
Website: DrLenHorowitz.com

March 16, 2016

**SHERIFF DIVISION FOR THE COUNTY OF HAWAII
STATE OF HAWAII, DEPARTMENT OF PUBLIC SAFETY**

Lt. Patrick Kawai
75 Aupuni Street
Hilo, HI 96720
Telephone: 808-933-8833
and
1177 Alakea Street., Room #418
Honolulu, Hawaii 96813

**RE: AUTOMATIC STAY OF “WRIT OF EJECTMENT” BY CHAPTER 13
BANKRUPTCY STATUTE 11 USC § 362 AND PENDING “EMERGENCY MOTION”
FILED MARCH 14, 2016, WITH THE THIRD CIRCUIT COURT OF HAWAII, CIVIL
CASE NO. 14-1-0304.**

Dear Lt. Kawai (Sheriff of the County of Hawaii):

Thank you for taking the time to meet with me on Monday morning regarding the attached exhibits showing that there is a current stay in effect that enjoins any execution by the County of Hawaii Sheriff, or anyone else, of a “Writ of Ejectment” issued by the Clerk of the Third Circuit Court in Kona on March 1, 2016, in the above named State action pursuant to my real property located at:

**13-3775 Pahoa-Kalapana Road
Pahoa, HI 96778
(TMK (3) 1-3-001:049 and 043)**

This letter is in follow-up to our discussion and the information you provided regarding 11 USC Chapter 13 Bankruptcy Code § 362 that provides an “Automatic stay” of that Writ of Ejectment, stating in relevant part as follows:

“[A] petition filed under section [301](#), [302](#), or [303](#) of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

Exhibit 8

Reply Brief Exhibits pg. # 110

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(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;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

Please be advised that attorneys PAUL J. SULLA, JR. and STEPHEN D. WHITTAKER (whose name is on the Writ) know, or should know, that Section 362 requires any execution on the Writ to be stayed during pending litigation; and that should either of these lawyers, or anyone else, attempt to contract with you or anyone else to enforce the enjoined Writ, violators may be liable for breaking the law and depriving me of my due process rights and Property.

Mr. SULLA, Mr. WHITTAKER, and their shill—JASON HESTER—each know, or should know, that the automatic stay is truly "automatic," in that it takes effect instantly upon the filing of a bankruptcy petition; is effective against most entities, including the debtor¹ and regardless of whether the entity is aware of the filing.² A creditor acting in reliance on any exception to this law does so at its own peril.³ One consequence of violating the automatic stay is that the courts must reverse the effects of the violation on the stay's beneficiaries. The majority rule seems to be that any act or occurrence that violates the stay is "void ab initio."⁴

Anyone violating the automatic stay may be liable for damages under section 362(h) of the Bankruptcy Code if their violation was "willful."⁵ Section 362(h) provides that "an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorney's fees and, in appropriate circumstances, may recover punitive damages."⁶

¹ *In re Shapiro*, 124 B.R. 974, 981 (Bankr. E.D. Pa. 1991)

² *Epstein et al.* at 78

³ *Matter of Cortez*, 16 B.R. 481 (W.D. Mo. 1981), *aff'd* 691 F.2d 390 (8th Cir. 1982) (a creditor acting in reliance on such an exception does so at its own peril).

⁴ *In re Schwartz*, 954 F.2d 569, 571 (9th Cir. 1992); *In re Shamblin*, 890 F.2d 123, 125 (9th Cir. 1989), *inter alia*;

⁵ 11.U.S.C. § 362(h).

⁶ *Id.*

Should anyone in your office be solicited to execute the stayed Writ in violation of the aforementioned law(s), then I ask that you please contact me and my lawyer, Margaret Wille, immediately at the following contact numbers:

Leonard G. Horowitz contacts: 310-877-3002 (cell); 808-946-6999 (office in Honolulu); and 808-965-2112 (home Property); E-mail: len15@mac.com.

Margaret Wille contact: 808-854-6931; E-mail: margaretwille@mac.com.

Please be advised that I am a victim of organized crime that has been committed under “color of law” by the aforementioned lawyers acting to steal my Property after I paid off (in full on February 27, 2009) my mortgage; and that Mr. SULLA’s and Mr. WHITTAKER’s theft scheme and related damaging actions satisfy the elements of a “racketeering enterprise” against which, to my knowledge, there is: (1) an FBI investigation proceeding; and (2) a grand jury investigation proceeding as well, in which I expect to be summoned to testify on these matters.

Thank you very much, in advance, for complying with, and enforcing, the laws of the State of Hawaii and the United States of America.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Leonard G. Horowitz", written in dark ink on a light background.

Leonard G. Horowitz DMD, MA, MPH, DNM (hon.) DMM (hon.)
Editor-in-Chief, *Medical Veritas* online journal.

Cc: M. Wille

Attachments: Letter to Judge Fujino from Attorney Wille;
Proof of Bankruptcy filing and local Emergency Stay Motion