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C&M Investment Group, Ltd. v. Campbell Clerk's Record Dckt. 44719

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IN THE SUPREME COURT OF THE STATE OF IDAHO

C&M INVESTMENT GROUP, LTD., and)
KARLIN HOLDINGS LIMITED PARTNERSHIP,)
)
Plaintiffs/Petitioners/Respondents,)
)
vs.)
)
NEIL DAVID CAMPBELL, individually,)
)
Defendant/Respondent/Appellant)
)
and)
)
PHILIP RICHARD POWERS, individually;)
POWERS INVESTMENTS AND)
MANAGEMENT, INC., S.A., a corporation;)
GUANANA GRIS, S.A., a corporation;)
PROTECCION FORESTAL DE TECA, S.S.,)
A corporation; and DOES 1 through 50)
Inclusive,)
)
Defendants.)
)
_____)

Supreme Court No. 44719

RECORD ON APPEAL

Appeal from the District Court of the Fifth Judicial District
of the State of Idaho, in and for the County of Blaine.

HONORABLE ROBERT J. ELGEE, DISTRICT JUDGE

NEIL DAVID CAMPBELL
PO Box 3372
Ketchum, ID 83340

ERIN CLARK
PO Box 3310
Ketchum, ID 83340

Attorney for Defendant/Respondent/
Appellant

Attorney for Plaintiffs/Petitioners/
Respondents

Other Claims

Date		Judge
6/1/2012	Notice Of Filing foreign judgment	Robert J. Elgee
	Affidavit in support of filing foreign judgment	Robert J. Elgee
	Clerks Notice Of Filing Foreign Judgment	Robert J. Elgee
6/6/2012	New Case Filed - Other Claims	Robert J. Elgee
	Filing: K7 - Filing a foreign judgment Paid by: Lawson Laski Clark Pogue Receipt number: 0004508 Dated: 6/6/2012 Amount: \$7.00 (Check) For: C&M Investment Group, LTD (plaintiff)	Robert J. Elgee
	Plaintiff: C&M Investment Group, LTD Appearance Erin F. Clark	Robert J. Elgee
	Plaintiff: Karlin Holdings Limited Partnership Appearance Erin F. Clark	Robert J. Elgee
	Civil Disposition entered for: Campbell, Neil David, Defendant; Guanana Gris S.a., Defendant; Powers Investments And Management, Inc. S.A., Defendant; Powers, Philip Richard, Defendant; Proteccion Forestal De Teca S.S., Defendant; C&M Investment Group, LTD, Plaintiff; Karlin Holdings Limited Partnership, Plaintiff. Filing date: 6/6/2012	Robert J. Elgee
	STATUS CHANGED: Closed	Robert J. Elgee
	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Lawson Laski Clark Pogue Receipt number: 0004511 Dated: 6/6/2012 Amount: \$6.00 (Check)	Robert J. Elgee
6/19/2012	Motion for Issuance of Order of Domestication	Robert J. Elgee
6/21/2012	Order of Domestication	Robert J. Elgee
6/25/2012	Miscellaneous Payment: For Comparing And Conforming A Prepared Record, Per Page Paid by: lawson laski clark pogue Receipt number: 0005023 Dated: 6/25/2012 Amount: \$3.00 (Check)	Robert J. Elgee
	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: lawson laski clark pogue Receipt number: 0005023 Dated: 6/25/2012 Amount: \$2.00 (Check)	Robert J. Elgee
	Abstract of Judgment	Robert J. Elgee
7/22/2013	Miscellaneous Payment: Writs Of Execution Paid by: Lawson Laski Clark & Pogue, PLLC Receipt number: 0005279 Dated: 7/22/2013 Amount: \$2.00 (Check)	Robert J. Elgee
	Affidavit For Amount Due on Writ of Execution	Robert J. Elgee
	Writ of Execution	Robert J. Elgee
	Writ: Document Service Issued: on 7/22/2013 to Neil David Campbell; Assigned to Returned to Counsel for Service. Service Fee of \$0.00.	Robert J. Elgee
8/30/2013	Motion Contesting Claim of Exemption	Robert J. Elgee
	Memorandum in Support of Motion Contesting Claim of Exemption	Robert J. Elgee
	Affidavit of Erin F. Clark in Support of Motion Contesting Claim of Exemption	Robert J. Elgee
9/3/2013	Notice Of Hearing on Motion Contesting Claim of Exemption	Robert J. Elgee
9/4/2013	Amended Notice Of Hearing on Motion Contesting	Robert J. Elgee
9/6/2013	Hearing Scheduled (Motion 09/09/2013 03:00 PM) Contest Claim of Exemption	Robert J. Elgee
	STATUS CHANGED: Closed pending clerk action	Robert J. Elgee

Other Claims

Date		Judge
9/9/2013	Court Minutes Hearing type: Motion Hearing date: 9/9/2013 Time: 3:00 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee
	Hearing result for Motion scheduled on 09/09/2013 03:00 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: Contest Claim of Exemption less 100	Robert J. Elgee
	STATUS CHANGED: closed	Robert J. Elgee
9/12/2013	Order Granting Motion Contesting Claim of Exemption	Robert J. Elgee
10/16/2013	Writ: Document Returned Served on 8/13/2013 to Neil David Campbell; Assigned to Returned to Counsel for Service. Service Fee of \$0.00.	Robert J. Elgee
	Unsatisfied Return of Service	Robert J. Elgee
3/20/2015	Motion for Judgment Debtor's Examination	Robert J. Elgee
3/23/2015	Order Granting Motion for Judgment Debtor's Examination	Robert J. Elgee
	Hearing Scheduled (Debtors Examination 05/04/2015 01:30 PM)	Robert J. Elgee
	STATUS CHANGED: Closed pending clerk action	Robert J. Elgee
4/1/2015	Continued (Debtors Examination 05/11/2015 01:30 PM)	Robert J. Elgee
	Amended Order Granting Motion for Judgment Debtor's Examination	Robert J. Elgee
4/23/2015	Motion for order finding Neil Campbell in contempt	Robert J. Elgee
	Affidavit of Erin F. Clark in support of motion for order finding Neil David Campbell in contempt	Robert J. Elgee
4/24/2015	Notice Of Hearing	Robert J. Elgee
4/27/2015	Hearing Scheduled (Motion 05/18/2015 11:30 AM) Motion for Order finding Neil David Campbell in Contempt	Robert J. Elgee
4/30/2015	Notice Vacating Hearing on Plaintiffs' Motion for Judgment Debtor's Examination	Robert J. Elgee
	Hearing result for Debtors Examination scheduled on 05/11/2015 01:30 PM: Hearing Vacated	Robert J. Elgee
5/18/2015	Court Minutes Hearing type: Motion Hearing date: 5/18/2015 Time: 11:32 am Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee

Other Claims

Date		Judge
5/18/2015	Hearing result for Motion scheduled on 05/18/2015 11:30 AM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: Motion for Order finding Neil David Campbell in Contempt less 100	Robert J. Elgee
8/3/2015	Second amended order granting motion for judgment debtor's examination	Robert J. Elgee
8/4/2015	Hearing Scheduled (Debtors Examination 08/24/2015 02:00 PM)	Robert J. Elgee
8/24/2015	Court Minutes Hearing type: Debtors Examination Hearing date: 8/24/2015 Time: 1:49 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee
	Hearing result for Debtors Examination scheduled on 08/24/2015 02:00 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: less 100	Robert J. Elgee
	STATUS CHANGED: closed	Robert J. Elgee
11/3/2015	Motion for Order Finding Neil David Campbell in Contempt and Notice of Hearing Thereon	Robert J. Elgee
	Hearing Scheduled (Motion for Contempt 12/07/2015 02:00 PM) Neil David Campbell	Robert J. Elgee
	Memorandum in Support of Motion for Order Finding Neil David Campbell in Contempt	Robert J. Elgee
	Affidavit of Erin F. Clark in Support of Motion for Order Finding Neil David Campbell in Contempt	Robert J. Elgee
	Affidavit of Shaun Paisley in Support of Motion for Order Finding Neil David Campbell in Contempt	Robert J. Elgee
11/4/2015	STATUS CHANGED: Closed pending clerk action	Robert J. Elgee
11/23/2015	Opposition and Declaration of Neil Campbell to Motion for Contempt	Robert J. Elgee
12/2/2015	Supplemental Affidavit of Shaun Paisley in support of motion for order finding Neil David Campbell in contempt	Robert J. Elgee
12/7/2015	Court Minutes Hearing type: Motion for Contempt Hearing date: 12/7/2015 Time: 2:23 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee

Other Claims

Date		Judge
12/7/2015	Hearing result for Motion for Contempt scheduled on 12/07/2015 02:00 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: Neil David Campbell less 100	Robert J. Elgee
12/9/2015	Hearing Scheduled (Hearing Scheduled 12/21/2015 03:00 PM) Admit / Deny Notice Of Hearing	Robert J. Elgee Robert J. Elgee
12/21/2015	Court Minutes Hearing type: Admit/Deny Hearing Hearing date: 12/21/2015 Time: 2:57 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee
12/22/2015	Hearing result for Hearing Scheduled scheduled on 12/21/2015 03:00 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: Admit / Deny less 100	Robert J. Elgee
2/1/2016	Hearing result for Clerk's Status scheduled on 02/01/2016 04:59 PM: Hearing Vacated Notice Of Admit/Deny Hearing Hearing Scheduled (Hearing Scheduled 02/22/2016 04:00 PM) Admit/deny Charging Affidavit of Erin F. Clark in Support of Motion for Order Finding Neil David Campbell in Contempt	Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee
2/22/2016	Court Minutes Hearing type: Hearing Scheduled Hearing date: 2/22/2016 Time: 3:58 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell Hearing result for Hearing Scheduled scheduled on 02/22/2016 04:00 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: Admit/deny less 100	Robert J. Elgee
2/23/2016	Advisement of Rights Regarding Contempt Notification of Rights	Robert J. Elgee Robert J. Elgee

Other Claims

Date		Judge
2/25/2016	Hearing Scheduled (Court Trial 05/04/2016 09:00 AM) 1 day Hearing Scheduled (Pretrial Conference 04/11/2016 01:30 PM) Notice Of Trial Setting, Pre-trial Conference, and Order Governing Futher Proceedings	Robert J. Elgee Robert J. Elgee Robert J. Elgee
3/10/2016	Affirmative Defenses to Plaintiffs' Motion for Order Finding Neil David Campbell in Contempt	Robert J. Elgee
3/17/2016	Objection to Affirmative Defenses	Robert J. Elgee
3/24/2016	Amended Certificate Of Service of Objection to Affirmative Defenses	Robert J. Elgee
4/4/2016	Civil Case Scheduling Order, Notice of Trial Setting and Initial Pretrial Order	Robert J. Elgee
4/11/2016	Court Minutes Hearing type: Pretrial Conference Hearing date: 4/11/2016 Time: 1:36 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee
	Hearing result for Pretrial Conference scheduled on 04/11/2016 01:30 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: less 100	Robert J. Elgee
4/20/2016	Affidavit of Erin F. Clark in Support of Motion Striking Affirmative Defenses Filed by Defendant Neil Campbell	Robert J. Elgee
	Motion for Order Striking Affirmative Defenses Filed by Defendant Neil Campbell and Notice of Hearing	Robert J. Elgee
	Hearing Scheduled (Motion 05/02/2016 02:00 PM) to Strike Affirmative Defenses	Robert J. Elgee
4/22/2016	Plaintiffs' Request for Judicial Notice	Robert J. Elgee
4/27/2016	Plaintiffs' Exhibit List	Robert J. Elgee
4/28/2016	Motion for admission pro hac vice	Robert J. Elgee
5/2/2016	Notice of vacating hearing on motion for order striking affirmative defenses filed by Defendant Neil Campbell	Robert J. Elgee
	Hearing result for Motion scheduled on 05/02/2016 02:00 PM: Hearing Vacated to Strike Affirmative Defenses	Robert J. Elgee
	Stipulation to continue hearing and trial dates	Robert J. Elgee
5/5/2016	Order continuing hearing and trial dates	Robert J. Elgee
	Continued (Court Trial 05/25/2016 09:00 AM) 1 day	Robert J. Elgee
	Hearing Scheduled (Motion to Strike 05/23/2016 04:00 PM) strike def's affirmative defenses	Robert J. Elgee
	Order granting motion for pro hac vice admission	Robert J. Elgee
	Plaintiff: C&M Investment Group, LTD Appearance Luke L. Dauchot	Robert J. Elgee

Other Claims

Date		Judge
5/5/2016	Plaintiff: Karlin Holdings Limited Partnership Appearance Luke L. Dauchot	Robert J. Elgee
5/11/2016	Court Minutes Hearing type: Hearing Scheduled Hearing date: 5/11/2016 Time: 10:00 am Courtroom: Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: Neil Campbell	Robert J. Elgee
	District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: less 100	Robert J. Elgee
	Application For Appointment Of Attorney	Robert J. Elgee
	Document sealed	
5/12/2016	Defendant: Campbell, Neil David Order Appointing Public Defender Public defender R. Keith Roark (for Criminal Contempt portion of the case only)	Robert J. Elgee
	Order Appointing Public Defender	Robert J. Elgee
5/17/2016	Hearing Scheduled (Hearing Scheduled 05/18/2016 11:00 AM) public defender application review	Robert J. Elgee
5/18/2016	Court Minutes Hearing type: Hearing Scheduled Hearing date: 5/18/2016 Time: 11:04 am Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: Neil Campbell, Attorney: R. Keith Roark	Robert J. Elgee
	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Lawson & Laski Receipt number: 0003128 Dated: 5/18/2016 Amount: \$4.00 (Cash)	Robert J. Elgee
	Hearing result for Hearing Scheduled scheduled on 05/18/2016 11:00 AM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: public defender application review less 100	Robert J. Elgee
	Motion for Admission Pro Hac Vice for Lauren Schweitzer	Robert J. Elgee
	Order Granting Motion for Pro Hac Vice Admission	Robert J. Elgee
	Plaintiff: C&M Investment Group, LTD Appearance Lauren Schweitzer	Robert J. Elgee
	Order Revoking Appointment	Robert J. Elgee
	Plaintiffs' trial brief	Robert J. Elgee
	Plaintiffs' Revised Exhibit List	Robert J. Elgee

Other Claims

Date		Judge
5/23/2016	Court Minutes Hearing type: Motion to Strike Hearing date: 5/23/2016 Time: 4:03 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee
	Hearing result for Motion to Strike scheduled on 05/23/2016 04:00 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: strike def's affirmative defenses less 100	Robert J. Elgee
5/26/2016	Hearing result for Court Trial scheduled on 05/25/2016 09:00 AM: Hearing Vacated 1 day	Robert J. Elgee
	Hearing Scheduled (Scheduling Conference 06/13/2016 10:30 AM)	Robert J. Elgee
	Notice Of Hearing	Robert J. Elgee
	Defendant: Campbell, Neil David Order Appointing Public Defender Public defender Lee Philip Ritzau	Robert J. Elgee
	Ex Parte Affidavit of Lee Ritzau	Robert J. Elgee
	Document sealed	
	Ex Parte Affidavit of Neil Campbell	Robert J. Elgee
	Document sealed	
6/1/2016	Order Regarding Appointment	Robert J. Elgee
	Notice of intent to appear by telephone	Robert J. Elgee
6/2/2016	Notice of intent to appear by telephone	Robert J. Elgee
6/13/2016	Court Minutes Hearing type: Scheduling Conference Hearing date: 6/13/2016 Time: 8:29 am Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: ANDREA Tape Number: Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Karlin Holdings Limited Partnership, Attorney: Erin Clark Party: Neil Campbell, Attorney: Lee Ritzau	Robert J. Elgee
	Hearing result for Scheduling Conference scheduled on 06/13/2016 10:30 AM: Hearing Held Erin Clark to appear by telephone Ritzau to appear by telephone	Robert J. Elgee
	Hearing Scheduled (Motion 07/18/2016 03:30 PM) motion to strike, motion enlarge time	Robert J. Elgee
	Hearing Scheduled (Court Trial 07/26/2016 09:00 AM) 2 days	Robert J. Elgee
	Notice Of Hearing	Robert J. Elgee

Other Claims

Date		Judge
6/13/2016	District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: less 100	Robert J. Elgee
6/20/2016	Supplemental Notice of Affirmative Defenses	Robert J. Elgee
6/21/2016	Motion to Enlarge Time to Assert Affirmative Defenses	Robert J. Elgee
	Memorandum in Support of Motion to Enlarge Time to Assert Affirmative Defenses	Robert J. Elgee
6/30/2016	Motion to Dismiss Contempt of Court Charges and Notice of Hearing thereon	Robert J. Elgee
	Memorandum in Support of Motion to Dismiss Contempt of Court Charges	Robert J. Elgee
	Hearing Scheduled (Motion to Dismiss 07/18/2016 03:30 PM) contempt of court charges	Robert J. Elgee
7/1/2016	Ex Parte Affidavit of Lee Ritzau	Robert J. Elgee
	Document sealed	
7/11/2016	Notice of vacating motion for order striking affirmative defenses	Robert J. Elgee
	Hearing result for Motion scheduled on 07/18/2016 03:30 PM: Hearing Vacated motion to strike, motion enlarge time	Robert J. Elgee
	Opposition To motion to enlarge time to assert affirmative defenses	Robert J. Elgee
	Opposition To motion to dismiss contempt charges	Robert J. Elgee
7/13/2016	Reply memorandum to petitioners' opposition to motion to enlarge time to assert affirmative defenses	Robert J. Elgee
	Reply memorandum to petitioners' opposition to motion to dismiss contempt charges	Robert J. Elgee
7/18/2016	Court Minutes Hearing type: Motion to Dismiss Hearing date: 7/18/2016 Time: 3:34 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Diana Weinberger Minutes Clerk: Crystal Rigby Tape Number: DC	Robert J. Elgee
	Hearing result for Motion to Dismiss scheduled on 07/18/2016 03:30 PM: District Court Hearing Held Court Reporter:Diana Weinberger Estimated Number of Transcript Pages for this hearing: contempt of court charges	Robert J. Elgee
7/20/2016	Ex Parte Affidavit of Lee Ritzau Dated July 19, 2016	Robert J. Elgee
	Respondent's Exhibit List	Robert J. Elgee
7/21/2016	Respondent's supplemental exhibit list	Robert J. Elgee
	Respondent's trial Brief	Robert J. Elgee
7/22/2016	Plaintiffs' revised trial brief	Robert J. Elgee
	Plaintiffs Amended Request for Judicial Notice	Robert J. Elgee
7/25/2016	Order Denying Motion to Enlarge Time to Assert Affirmative Defenses and to Dismiss Contempt Charges	Robert J. Elgee

Other Claims

Date		Judge
7/26/2016	Court Minutes Hearing type: Court Trial Hearing date: 7/26/2016 Time: 9:06 am Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell, Attorney: Lee Ritzau	Robert J. Elgee
7/27/2016	Court Minutes Hearing type: Court Trial Hearing date: 7/27/2016 Time: 9:00 am Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell, Attorney: Lee Ritzau Hearing result for Court Trial scheduled on 07/26/2016 09:00 AM: District Robert J. Elgee Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: 2 days more than 500	Robert J. Elgee
	Exhibit/Witness List	Robert J. Elgee
8/1/2016	Ex Parte Affidavit of Lee Ritzau Dated August 1, 2016	Robert J. Elgee
8/12/2016	Ex parte Affidavit of Lee Ritzau Dated August 12, 2016 Requesting Funds to Pay for a Copy of the Trial Transcript	Robert J. Elgee
8/17/2016	Order Granting Funds to pay for a copy of the trial transcript	Robert J. Elgee
8/19/2016	Plaintiffs' proposed Findings Of Fact And Conclusions Of Law	Robert J. Elgee
	Neil Campbell's Findings Of Fact And Conclusions Of Law	Robert J. Elgee
8/30/2016	Order Granting Funds to Pay for Attorney's Fees Submitted in the Ex Parte Affidavit of Lee Ritzau Dated August 1, 2016	Robert J. Elgee
9/1/2016	Ex Parte Affidavit of Lee Ritzau Dated September 1, 2016	Robert J. Elgee
9/2/2016	Neil Campbell's Response to Petitioners' Proposed Findings of Fact and Conclusions of Law	Robert J. Elgee
	Plaintiffs' Objection to Defendant Neil Cambell's Proposed Finding of Fact and Conclusions of Law	Robert J. Elgee
9/12/2016	Order Granting Funds to Pay for Attorney's Fees Submitted in the Ex Parte Affidavit of Lee Ritzau Dated September 1, 2016	Robert J. Elgee
9/28/2016	Case Taken Under Advisement	Robert J. Elgee
11/3/2016	Findings Of Fact And Conclusions Of Law Re: Civil and Ciminal Contempt	Robert J. Elgee
	No Longer U/A	Robert J. Elgee
	Hearing Scheduled (Sentencing 11/28/2016 01:30 PM)	Robert J. Elgee
11/14/2016	Affidavit of Lee Ritzau regarding information for sentencing hearing	Robert J. Elgee

Other Claims

Date		Judge
11/14/2016	Points of Law for Sentencing hearing	Robert J. Elgee
11/21/2016	Plaintiff's Response to Defendant's Sentencing Brief	Robert J. Elgee
11/22/2016	Motion to Reconsider, Clarify, Terminate Appointment, and Require Reimbursement	Robert J. Elgee
11/28/2016	Court Minutes Hearing type: Sentencing Hearing date: 11/28/2016 Time: 1:28 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell, Attorney: Lee Ritzau Hearing result for Sentencing scheduled on 11/28/2016 01:30 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: less 100	Robert J. Elgee
12/1/2016	Sentencing Orders Regarding Civil and Criminal Contempt Judgment STATUS CHANGED: Closed Civil Disposition entered for: Campbell, Neil David, Defendant; C&M Investment Group, LTD, Plaintiff; Karlin Holdings Limited Partnership, Plaintiff. Filing date: 12/1/2016	Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee
12/5/2016	Ex Parte Affidavit of Lee Ritzau Dated December 1, 2016	Robert J. Elgee
12/8/2016	Order Granting Funds to Pay for Attorney's Fees Submitted in the Ex Parte Affidavit of Lee Ritzau dated December 1, 2016	Robert J. Elgee
12/14/2016	Notice Of Appeal Motion for Order Recommending Waiver of the Appellate Filing Fee, the Reporter's Transcript Fee, and the Clerk's Record Fee Affidavit of Neil Campbell Regarding Inability to Pay Fees Motion to Continue Appointment of Lee Ritzau as Appellate Public Defender for Neil Campbell and Notice of Hearing Thereon Memorandum in Support of Motion to Continue Appointment of Lee Ritzau as Appellate Public Defender for Neil Campbell Motion to Stay Execution of Judgment and Notice of Hearing Thereon Memorandum in Support of Motion to Stay Execution of Judgment Affidavit of Lee Ritzau in Support of Motion to Stay Execution of Judgment	Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee Robert J. Elgee
12/15/2016	Appealed To The Supreme Court STATUS CHANGED: Inactive Hearing Scheduled (Motion to Stay 01/09/2017 04:30 AM)	Robert J. Elgee Robert J. Elgee Robert J. Elgee
12/16/2016	Order Recommending Waiver of Appellate Filing Fee, Reporter's Transcript Fee and Clerk's Record Fee	Robert J. Elgee

Other Claims

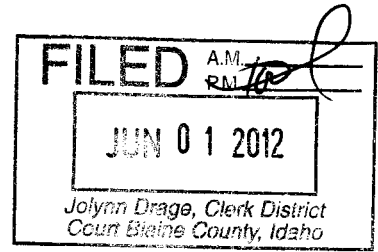
Date		Judge
12/29/2016	Second Motion to Terminate Appointment of Public Defender, Clarify Scope of Representation, and Require Reimbursement	Robert J. Elgee
	Affidavit of Timothy K. Graves in Support of Second Motion to Terminate Appointment of Public Defender, Clarify Scope of Representation, and Require Reimbursement	Robert J. Elgee
12/30/2016	Notice Of Hearing	Robert J. Elgee
	Hearing Scheduled (Motion 01/09/2017 04:30 PM) Second Motion to Terminate Appointment of Public Defender, Clarify Scope of Representaiton, and Require Reimbursment	Robert J. Elgee
	Plaintiffs' Opposition To Defendant Neil David Campbell's Motion to Stay Execution of Judgment	Robert J. Elgee
	Plaintiffs' Request to Supplement the Clerk's Record on Appeal	Robert J. Elgee
	Plaintiff's Opposition To Defendant Neil David Campbell's Motion to Continue Appointment of Lee Ritzau as Appellate Public Defender for Neil Campbell	Robert J. Elgee
1/3/2017	Supplemental Affidavit of Lee Ritzau in Support of Motion to Stay Execution of Judgment	Robert J. Elgee
1/9/2017	Court Minutes Hearing type: Motion to Stay Hearing date: 1/9/2017 Time: 4:32 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell, Attorney: Lee Ritzau	Robert J. Elgee
	Hearing result for Motion to Stay scheduled on 01/09/2017 04:30 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: less 100	Robert J. Elgee
1/10/2017	Ex Parte Affidavit of Lee Ritzau dated January 10, 2017	Robert J. Elgee
1/12/2017	Hearing result for Motion scheduled on 01/09/2017 04:30 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: Second Motion to Terminate Appointment of Public Defender, Clarify Scope of Representaiton, and Require Reimbursment less 100	Robert J. Elgee
	Hearing Scheduled (Status 03/13/2017 01:30 PM) re civil contempt	Robert J. Elgee
	Order Re: Defendant's Motion to Stay Execution of Judgment	Robert J. Elgee
	Order Terminating Appointment of Public Defender	Robert J. Elgee
	Hearing Scheduled (Status 01/25/2017 03:00 PM)	Robert J. Elgee
	Notice Of Hearing	Robert J. Elgee

Other Claims

Date		Judge
1/25/2017	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Campbell, Neil David (defendant) Receipt number: 0000496 Dated: 1/25/2017 Amount: \$129.00 (Cashiers Check) For: Campbell, Neil David (defendant)	Robert J. Elgee
	Bond Posted - Cash (Receipt 497 Dated 1/25/2017 for 100.00)	Robert J. Elgee
	Bond Posted - Cash (Receipt 498 Dated 1/25/2017 for 200.00)	Robert J. Elgee
	Hearing result for Status scheduled on 01/25/2017 03:00 PM: Hearing Vacated	Robert J. Elgee
1/26/2017	Order Granting Funds to Pay for Attorney's Fees Submitted in the Ex Parte Affidavit of Lee Ritzau Dated 1/10/17	Robert J. Elgee
2/1/2017	Bond Converted (Transaction number 48 dated 2/1/2017 amount 200.00)	Robert J. Elgee
2/7/2017	Motion to Resume Judgent Debtor's Examination	Robert J. Elgee
2/8/2017	Bond Posted - Cash (Receipt 832 Dated 2/8/2017 for 212.55)	Robert J. Elgee
	Hearing Scheduled (Debtors Examination 04/03/2017 01:30 PM)	Robert J. Elgee
	Order Granting Motion to Resume Judgent Debtor's Examination	Robert J. Elgee
2/23/2017	Miscellaneous Payment: For Making Copies Of Clerk's Record For Appeal Per Page Paid by: Campbell, Neil David Receipt number: 0001162 Dated: 2/23/2017 Amount: \$189.15 (Check)	Robert J. Elgee
3/6/2017	Affidavit of Lee Ritzau Providing Information for Status Conference	Robert J. Elgee
3/13/2017	Court Minutes Hearing type: Status Hearing date: 3/13/2017 Time: 1:38 pm Courtroom: District Courtroom-judicial Bldg Court reporter: Susan Israel Minutes Clerk: Crystal Rigby Tape Number: DC Party: C&M Investment Group, LTD, Attorney: Erin Clark Party: Neil Campbell	Robert J. Elgee
	Hearing result for Status scheduled on 03/13/2017 01:30 PM: District Court Hearing Held Court Reporter: Susan Israel Estimated Number of Transcript Pages for this hearing: re civil contempt Ms. Clark appearing by phone less 100	Robert J. Elgee
3/27/2017	Hearing Scheduled (Status 05/15/2017 02:00 PM)	Robert J. Elgee
	Notice Of Hearing	Robert J. Elgee
3/29/2017	Notice Of Lodging Transcript On Appeal	Robert J. Elgee
	Bond Converted (Transaction number 175 dated 3/29/2017 amount 212.55)	Robert J. Elgee
	Bond Converted (Transaction number 176 dated 3/29/2017 amount 100.00)	Robert J. Elgee

ORIGINAL

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**NOTICE OF FILING FOREIGN
JUDGMENT**

ROBERT J. ELGEE

TO: NEIL DAVID CAMPBELL, and his attorneys of record.

NOTICE IS HEREBY GIVEN THAT PLAINTIFFS, C&M INVESTMENT GROUP,
LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP, by and through their counsel of
record, Erin F. Clark of the law firm Lawson Laski Clark & Pogue, PLLC has filed that certain
JUDGMENT AGAINST DEFENDANT NEIL DAVID CAMPBELL against you that was

entered on December 13, 2011, in Superior Court of the State of California in and for the County of Los Angeles pursuant to I.C. § 10-1302.

The name and post office address of the judgment creditors are C&M Investment Group, c/o Karlin Holdings Limited Partnership, 11755 Wilshire Blvd., Suite 1600, Los Angeles, CA 90025 and Karlin Holdings Limited Partnership, 11755 Wilshire Blvd., Suite 1600, Los Angeles, CA 90025.

The name and post office address of the judgment creditors' lawyer in the State of Idaho is Erin F. Clark, Lawson Laski Clark & Pogue, PLLC, P.O. Box 3310, Ketchum, Idaho 83340.

DATED: May 31, 2012

LAWSON LASKI CLARK & POGUE, PLLC



Erin F. Clark
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 31, 2012, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

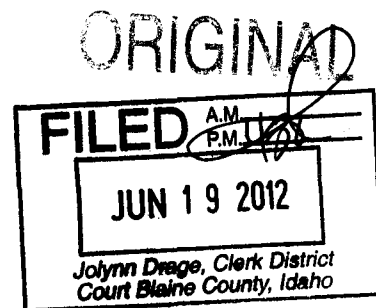
Neil David Campbell
P.O. Box 6214
2804 Summit Drive
Sun Valley, Idaho 83353

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy



Erin Clark

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**MOTION FOR ISSUANCE OF
ORDER OF DOMESTICATION**

COMES NOW, Plaintiffs C&M INVESTMENT GROUP, LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP (collectively "Plaintiffs"), by and through their counsel of record, and moves this Court for an Order of Domestication of the Judgment entered against Defendant NEIL DAVID CAMPBELL ("Defendant") on December 13, 2011, in Superior Court of the State of California in and for the County of Los Angeles (the "Judgment"). The basis for

this Motion is that the Court files on this case establish that a certified copy of the Judgment was filed with the Court pursuant to I.C. § 10-1302 on June 1, 2012 through the Affidavit in Support of Filing Foreign Judgment, Notice of the Filing of Foreign Judgment was served on Defendant by Plaintiffs on May 31, 2012, Notice of the Filing of Foreign Judgment was served on Defendant by the Deputy Clerk on June 6, 2012 and more than five days have passed since the filing of the judgment pursuant to I.C. § 10-1306A.

DATED: June 18, 2012

LAWSON LASKI CLARK & POGUE, PLLC

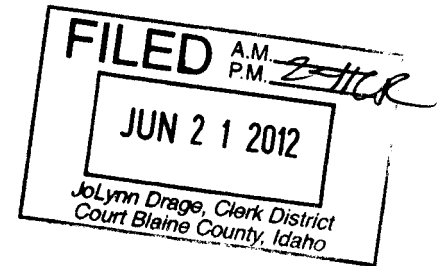


Erin F. Clark
Attorneys for Plaintiffs

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

ORIGINAL



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.


Case No.: CV-12-407

ORDER OF DOMESTICATION

Pursuant to Plaintiffs' C&M INVESTMENT GROUP, LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP motion for Issuance of Order of Domestication and the Certified Judgment on file herein, the Affidavit in Support of Filing Foreign Judgment, and good cause appearing, the Court orders as follows.

IT IS HEREBY ORDERED that the JUDGMENT AGAINST DEFENDANT NEIL DAVID CAMPBELL entered on December 6, 2011 in Superior Court of the State of California in and for the County of Los Angeles is hereby domesticated to be a judgment in the State of Idaho.

DATED this 21 day of June 2012.



ROBERT J. ELGEE
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 21, 2012, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:


Neil David Campbell
P.O. Box 6214
2804 Summit Drive
Sun Valley, Idaho 83353

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy

Erin F. Clark
Lawson Laski Clark & Pogue
P.O. Box 3310
Ketchum, ID 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy

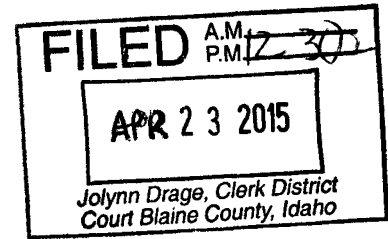
CLERK OF THE COURT



Deputy Clerk

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**MOTION FOR ORDER FINDING
NEIL DAVID CAMPBELL IN
CONTEMPT**

COMES NOW, Plaintiffs C&M INVESTMENT GROUP, LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP (collectively "Plaintiffs"), by and through their counsel of record, and moves this Court to issue an Order finding Defendant Neil David Campbell ("Judgment Debtor") in contempt for failure to comply with this Court's March 23, 2015 Order granting Plaintiff's Motion for Judgment Debtor's Examination.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 21, 2015, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Neil David Campbell
340 River Street East, Unit 124
Ketchum, Idaho 83340

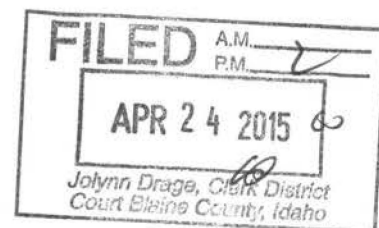
- U.S. Mail, Postage Prepaid
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- Overnight Mail
- Telecopy
- Fed Express



Erin Clark

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
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Telephone: (208) 725-0055
Facsimile: (208) 725-0076

ORIGINAL



Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**NOTICE OF HEARING ON
PLAINTIFFS' MOTION FOR
ORDER FINDING NEIL DAVID
CAMPBELL IN CONTEMPT**

PLEASE TAKE NOTICE that the above-named Plaintiffs C&M INVESTMENT GROUP, LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP (collectively "Plaintiffs"), by and through their counsel of record, will call up for hearing its Motion for Order Finding Neil David Campbell in Contempt on the 18th day of May, 2015, at 11:30 a.m., or as

soon thereafter as counsel may be heard in the Blaine County Courthouse, 1st and Croy Streets,
Hailey, Idaho.

DATED: April 22, 2015

LAWSON LASKI CLARK & POGUE, PLLC



Erin F. Clark
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 22, 2015, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Neil David Campbell
340 River Street East, Unit 124
Ketchum, Idaho 83340

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy
 Federal Express

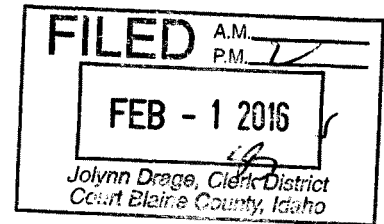


Erin Clark

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

ORIGINAL



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**NOTICE OF ADMIT/DENY
HEARING**

PLEASE TAKE NOTICE that the above-named Plaintiffs C&M INVESTMENT GROUP, LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP (collectively "Plaintiffs"), by and through their counsel of record, will call up for hearing to have Defendant Neil David Campbell admit or deny the civil and contempt charges set forth in the contemporaneously filed Charging Affidavit of Erin F. Clark on the **22nd day of February 2016**

at 4:00 p.m. or as soon thereafter as counsel may be heard in the Blaine County Courthouse, 1st and Croy Streets, Hailey, Idaho.

DATED: January 28, 2016

LAWSON LASKI CLARK & POGUE, PLLC



Erin F. Clark
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on ^{Jun.} ~~April~~ 28, 2015, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Neil David Campbell
340 River Street East, Unit 124
Ketchum, Idaho 83340

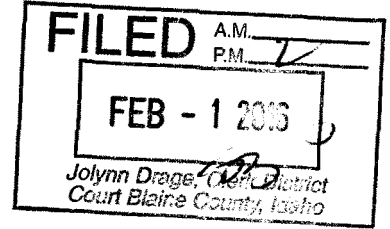
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- Overnight Mail
- Telecopy
- Federal Express



Erin Clark

ORIGINAL

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMETNS AND
MANAGEMENT, INC., S.A., a corporation;
GUANNANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**CHARGING AFFIDAVIT OF ERIN
F. CLARK IN SUPPORT OF
MOTION FOR ORDER FINDING
NEIL DAVID CAMPBELL IN
CONTEMPT**

Erin F. Clark, being first duly sworn upon oath, deposes and states:

1. I am one of the attorneys for the Plaintiffs, C&M Investment Group, Ltd. and Karlin Holdings Limited Partnership ("Plaintiffs") in the above-entitled action.
2. On March 18, 2015, I caused Defendant Neil David Campbell ("Campbell") to be served by federal express with Plaintiffs' Motion for Judgment Debtor's Examination.

AFFIDAVIT OF ERIN F. CLARK IN SUPPORT OF MOTION
FOR ORDER FINDING NEIL DAVID CAMPBELL IN CONTEMPT - 1

11259-001

3. On March 23, 2015, the deputy clerk served the Order Granting Motion for Campbell's Examination on Judgment Debtor. This Order was later amended so as to change the date for the examination. Therefore, on April 1, 2015, the deputy clerk served the Amended Order Granting Motion for Campbell's Examination ("Amended Order") on Judgment Debtor. Attached hereto as Exhibit A is a true and correct copy of the Amended Order.

CIVIL CONTEMPT CHARGES

4. Part of the April 1, 2015 Amended Order required Campbell to produce "all documents evidencing any payments made by Defendant to any legal counsel over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments." To date, Campbell has produced no documents whatsoever that are responsive to this portion of the Amended Order.

5. In Campbell's November 20, 2015 Opposition and Declaration, Campbell testified that he has employed six attorneys over the last several years, including David Flyer, Michael Taiteman, Robert Turffs, Jonathan Michaels, Steve Thompson and Dyke Huish. At his Debtor's Examination, Campbell also identified Susan Roy as an attorney that he engaged during the relevant time period.

6. Another part of the April 1, 2012 Amended Order required Campbell to produce "all records relating to financial accounts (savings accounts, checking accounts, or otherwise) maintained in Defendant's name or to which Defendant has access for the time period commencing January 1, 2012 to the present date, including but not limited to documents that identify any deposits made into and/or any disbursements of funds made from said account(s)."

7. In Campbell's August 24, 2015 Debtor's Examination, he admitted that he had opened an account with HSBC in Hong Kong and that he deposited \$300,000 into this account.

To date, Campbell has not produced any documentation evidencing this bank account, or where the \$300,000 was used or transferred.

8. Campbell also failed to produce the canceled checks from his Bank of America account. Instead, he merely produced records that show withdrawals by checks, but with no notation of the payee on the checks.

9. Campbell also failed to produce all of the Bank of America account records. The first month's records for this account that was produced is the June 2012 account statement. This statement, however, states that the interest paid to date is \$2.11, yet the interest paid during that month was only \$1.23. Therefore, the account had to have been open and earning interest prior to June 2012.

10. Under Idaho Code § 7-601(5), Idaho courts have the constitutional, statutory, and inherent authority to compel obedience to their lawful orders. Campbell, therefore, is in contempt of this court for his refusal to produce the documents responsive to this order. The charges of civil contempt are as follows:

COUNT ONE: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to David Flyer over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

COUNT TWO: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Michael Taiteman over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

COUNT THREE: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Robert Turffs over the period of 2009 to

present, including documents evidencing the source of the funds used to make those payments.

COUNT FOUR: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Jonathan Michaels over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

COUNT FIVE: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Steve Thompson over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

COUNT SIX: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Dyke Huish over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

COUNT SEVEN: Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Susan Roy over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

COUNT EIGHT: Campbell is in civil contempt for his failure to produce all records relating to his HSBC bank account, including documents that identify any deposits made into and any disbursements of funds from that account.

COUNT NINE: Campbell is in civil contempt for his failure to produce all records relating to his Bank of America account, including records evidencing the payee on the checks written out of that account.

COUNT TEN: Campbell is in civil contempt for his failure to produce all of the statements for his Bank of America account, specifically all records for the account pre-June 2012.

11. Under Idaho Code § 7-611, the court is authorized to incarcerate Campbell until he has performed the act(s) he was ordered to perform. Therefore, Campbell should be incarcerated until he has produced all documents evidencing the payments, and the source of those funds, to each of the seven attorneys he engaged during the 2009 to present time frame, as well as all records relating to the bank accounts he opened with HSBC and Bank of America.

CRIMINAL CONTEMPT CHARGES

12. I took the debtor's examination of Campbell on August 24, 2015 ("Examination") after the court had Campbell put under oath. A true and correct copy of the Examination is attached hereto as Exhibit B.

13. In advance of the debtor's examination, Campbell did produce some bank records from two accounts: (1) a Bank of America account that was opened in June 2012 and closed February 2013; and (2) a Zion's Bank account with records from December 2011 through May 2015. These documents contained information regarding Campbell's receipt of funds and his monthly spending.

14. During the examination, Campbell repeatedly testified that "he did not know the answer" to questions related to the source(s) of large sums of cash that he deposited into his accounts, or how he paid he paid his bills when his bank account records failed to evidence their payment. No reasonable person would think his testimony was truthful given his admissions that he has no income other than his monthly social security payment of just under \$1600/month.

15. Under Idaho Code § 7-601(4), deceit by a party to a special proceeding constitutes

a contempt of court. The charges of criminal contempt are as follows:

COUNT ELEVEN: Campbell committed criminal contempt when he testified untruthfully in his debtor's examination about the source of the June 2012 opening balance in his Bank of America account as follows:

Q. So this is the statement from June 8th, 2012, through July 9th, 2012: correct?

A. Correct.

Q. And in there they have the beginning balance on June 8th, 2012, as being \$24,715.35; correct?

A. Correct.

Q. Where did that money come from?

A. I have no idea at this point.

Id. at 33:22-34:4.

COUNT TWELVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you opened an account and you put nearly \$25,000 into it. Did it come from your Zions account?

A. I don't remember.

Id. at 34:5-7.

COUNT THIRTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What would the possibilities be for the origination of this money?

A. I don't understand the question.

Q. What possibly – where possibly could this money have come from?

A. I don't remember.

Q. I understand you don't remember. I want to know what the possibilities were.

A. I don't know.

Id. at 34:17-25.

COUNT FOURTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own any assets at that time that you sold?

A. I don't remember.

Id. at 35:1-3.

COUNT FIFTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own a car at that time?

A. I don't remember.

Q. You don't remember if you owned a car in 2012?

A. No, I don't.

Id. at 35:4-7.

COUNT SIXTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where were you living?

A. In 2012?

Q. June of 2012.

A. I don't remember.

Id. at 35:12-15.

COUNT SEVENTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Clearly, you were living in Idaho when you opened up the Bank of America account; correct?

A. Yes.

Q. And you had moved from Florida; right?

A. Correct.

Q. What assets of a more than \$10,000 value did you bring with you from Florida?

A. I didn't.

* * *

Q. So, again, if you had no assets worth more than \$10,000 and you were living solely off of Social Security, what were the possible sources for you to be able to put \$24,000 into a bank account in June of 2012?

A. I don't remember where the funds came from.

* * *

Q. Well, Mr. Campbell, I'm just going to remind you again that you are here under penalty of perjury.

A. Um-mm.

Q. And to say that you don't remember where \$24,000 came from when you're saying that you have no assets and no income other than Social Security, it just does not ring true.

A. Well, I don't remember where the \$24,000 came from.

Id. at 35:25-37:22.

COUNT EIGHTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. And that on November 30, 2012, you deposited \$3,410; right?

A. That's what it states, yes.

Q. Where did that money come from?

A. I have no idea.

Q. Where could it have come from?

A. I don't know.

Id. at 38:18-24.

COUNT NINETEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What was the name of the company that had the bank account with HSBC?

A. I don't remember.

Q. You don't remember the name of a company that you set up a bank account and put \$300,000 into it?

A. No, I don't remember.

Id. at 41:15-22.

COUNT TWENTY: Campbell committed criminal contempt when he testified untruthfully regarding cash deposits he made in his Zion's bank account as follows:

Q. Well, it's almost \$10,000 in cash in one month. Where could this have come from?

A. I don't remember.

Q. Did someone give you \$10,000 in cash?

A. I don't remember how this was set up. This was back in 2011.

Id. at 49:10-15.

COUNT TWENTY-ONE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you already testified that you didn't have any asset that was worth more than \$10,000 other than what was in the storage units, correct?

A. Well, I -- to answer your question, I don't -- I didn't bring anything with me that I would liquidate unless it was liquidated in Florida.

Q. Were things being liquidated in Florida at this time?

A. I was living on things that were being liquidated in that time.

Q. Who was liquidating items in Florida?

A. I was.

Q. So you were in Idaho but liquidating items in Florida?

A. No, I was doing that in Florida.

Q. So everything had been liquidated before you moved to Idaho?

A. I don't remember.

Id. at 49:24-50:16.

COUNT TWENTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So, clearly, your expenses were exceeding your income; correct?

A. Correct.

Q. So, how did you make up the difference?

A. I told you, I liquidated – I had liquidated assets that I had. I believe some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with.

* * *

Q. Did you sell it before or after the judgment was entered against you by my client?

A. Before.

Q. So, in 2000 – end of 2011 what assets were you still liquidating?

A. I don't remember.

Id. at 52:8-54:5.

COUNT TWENTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month, correct?

A. You say "this month"?

Q. This month of January, 2012.

A. I believe this was part – I believe this was – and I don't know for sure, but I think this was part of that stock settlement.

* * *

Q. How was the stock sale money provided to you?

A. I believe in the form of a check. I can't remember.

Q. So why is there no record of the check being deposited?

A. Well, that was far – that was earlier than this particular date.

Q. How much prior to that date?

A. I don't remember.

Id. at 54:24-55:25.

COUNT TWENTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Why would you have held this money from the liquidating your stock – why were you holding it in cash?

A. I don't remember.

Q. Did you just cash the check and keep tens of thousands of dollars in cash in your condo in Elkhorn?

A. Did I hold money? No.

Q. But you're making cash deposits, right?

A. I made cash deposits, yes.

Id. at 56:21-57:3

COUNT TWENTY-FIVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. You know, you walked into a bank four times with cash to deposit in one month. And if you're telling me that that money came from a stock sale, that would mean that you were having that cash from the stock sale somewhere within your reach; isn't that right?

A. I can't answer that question. I don't know.

Q. How else would have gotten it if the money weren't in your reach?

A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.

Q. So where – if it wasn't from the stock sale, where would that cash have come from?

A. I had liquidated assets in Florida.

Q. Okay. And then – you liquidated them, and then you just had a wad of cash that you came to Idaho with?

A. I don't remember how that came about or how I ended up coming up with these deposits at this particular time.

Id. at 57:17-58:10.

COUNT TWENTY-SIX: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Then let's move to the next tab, and this is the Zions statement dated February 21st, 2012; right.

* * *

Q. And on this one it's showing deposits of three separate times; a \$1,000 deposit, a \$2,000 deposit, and a \$2,500 deposit. Right?

A. Correct.

Q. And, again, \$5,500 in cash deposits in one month after the previous month of \$10,000 in cash deposits, and you don't remember where the cash came from?

A. No, I do not.

Id. at 58:12-59:1.

COUNT TWENTY-SEVEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Was somebody regularly providing you with cash each month?

A. I don't know how to answer that question.

Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Id. at 59:2-8.

COUNT TWENTY-EIGHT: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you had that much cash in your possession in February of 2012; right?

A. Obviously, I did.

Q. And you had \$10,000 in your possession in January; right?

A. Correct.

Q. So all you – so in January you had \$15,000 at least in cash; right?

A. I don't remember the exact amounts, but that's what it says that I made deposits of, yes.

Q. So you had within your reach thousands and thousands of dollars all in cash at the beginning of 2012; right?

A. Well, I had at least what I deposited, yes.

Q. Did you make a deposit one month, deplete all the cash you had in your possession at that point, and then the next month deposit all the cash you had in your possession that month?

A. I don't remember.

Id. at 60:2-20.

COUNT TWENTY-NINE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. How would have obtained additional cash if not somebody providing it to you?

A. Like I say, I had liquidated assets.

Q. I understand that. And when you say you liquidated assets, that gives you one piece of cash.

A. Um-mm.

Q. One pile of ash; right? Because you liquidated everything when you were in Florida; correct?

A. I don't understand that question.

Q. Did you liquidate all of your assets that were worth more than \$10,000 while you were in Florida and before you moved to Idaho other than what was in your storage unit?

A. I don't remember.

Q. Well, you've already testified that you didn't come to Idaho with any assets worth more than \$10,000 other than what was in the storage unit, right?

A. Nothing that was worth more than \$10,000 to my recollection, yeah.

Q. Did you own anything still in Florida once you moved to Idaho?

A. I don't remember.

Id. at 60:21-61:17.

COUNT THIRTY: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. They're – on February 22nd there's a \$1,500 deposit and on February 27th a \$2,600 deposit; right?

A. Correct.

Q. And, again, no idea where that cash came from?

A. No.

Id. at 62:5-9.

COUNT THIRTY-ONE: Campbell committed criminal contempt when he testified untruthfully about why his bank records no longer showed him paying his rent with a check as he had done for the previous five months. Specifically, Campbell testified untruthfully as follows:

Q. So was your rent being paid at that time?

A. I assume so.

Q. Who was paying your rent?

A. I don't know – I was, I assume.

Q. And how were you paying it?

A. I don't remember.

Id. at 65:9-14.

COUNT THIRTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. But you testified that you had never paid your rent in cash.

A. That's correct.

Q. So you didn't pay it in cash and you didn't pay it through a check from the two bank accounts that you had. So what possible source of money paid your rent?

A. I don't remember.

Id. at 71:17-20.

COUNT THIRTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where could you have gotten – what source of funds could you have possibly used to pay the rent?

A. I don't remember how that was being paid at this time. I don't remember.

Q. Did you have access to any other source of money with which you could have paid the rent?

A. I don't remember.

Q. Well, that's pretty important because this is all about your assets and your expenses, and we're talking about \$1,500 every month that

you're saying that you didn't pay in cash and you didn't pay with checks from the two bank accounts that you're telling us are the only bank accounts that you have.

A. Oh, it was being paid. I just don't remember how it was being paid at that time.

Id. at 71:23-72:4.

COUNT THIRTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Q. And how would you have obtained a money order?

A. Through Atkinson's.

Q. So you go in with cash to Atkinson's and purchase a money order?

A. I don't remember if that's how this was done, but you're asking me is there any other possible ways. That's the only other possible way I can understand that it was being done.

Q. Okay. So have you done that before, have you gone to Atkinson's with cash to obtain a money order?

A. I have.

* * *

Q. And, again, the cash with which you used to buy the money order to pay for it, that came from cash that was sitting around in your condo at that time?

A. It was either that or a liquidation of – no, it was liquidation of either – that stock that I referred to earlier.

Q. So that's the only source, it could only be this stock?

A. As I remember, yes.

Q. So why didn't you take the money from the stock sale and put it into your Zion's account and then write a check to pay your rent instead of –

A. I don't remember why I did that.

Id. at 72:16-74:6.

16. Under Idaho Code § 7-610, the court is authorized to incarcerate Campbell for a period not exceeding five (5) days for each finding of guilt on the criminal contempt charges. As such, Campbell can be incarcerated up to 120 days for the 24 criminal contempt charges.

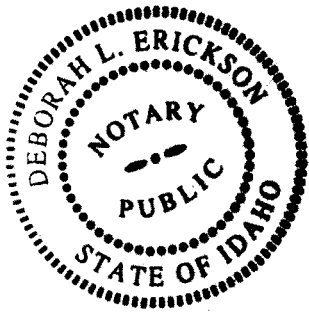
I declare under penalty of perjury under the laws of the United States and the State of Idaho that the foregoing is true and correct to the best of my knowledge and belief.



Erin F. Clark

STATE OF IDAHO)
) ss.
County of Blaine)

SUBSCRIBED AND SWORN before me this 28 day of January 2016.



Deborah Erickson
Name: Deborah Erickson
Notary Public
Residing at Hailey ID
My commission expires 10-09-16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 28, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Neil David Campbell
P.O. Box 3372
Ketchum, Idaho 83340

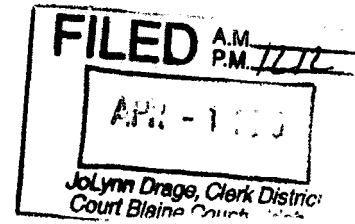
- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy
- Federal Express



Erin Clark

COPY

Erin F. Clark, Esq. ISB 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
Post Office Box 3310
Ketchum, Idaho 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076
efc@lawsonlaski.com



Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**AMENDED ORDER GRANTING
MOTION FOR JUDGMENT
DEBTOR'S EXAMINATION**

This matter came before the Court on Plaintiffs C&M INVESTMENT GROUP, LTD.
and KARLIN HOLDINGS LIMITED PARTNERSHIP's Motion for Debtor's Examination,
requesting an Amended Order directing that Defendant Neil Campbell, the judgment debtor
herein, appear and testify under oath concerning the extend and whereabouts of his non-exempt

AMENDED ORDER GRANTING MOTION FOR DEBTOR'S EXAMINATION - 1

11259-001

EXHIBIT A

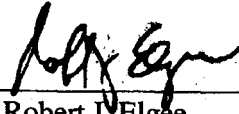
property that may be used to satisfy the outstanding judgment entered against him on December 6, 2011 by the Superior Court of the State of California in and for the County of Los Angeles, and domesticated by this court on June 21, 2012 to be a judgment of the State of Idaho. The Court, being fully advised, and good cause appearing therefore,

IT IS HEREBY ORDERED as follows:

1. Plaintiffs' Motion for a Debtor's Examination is GRANTED.
2. Defendant Neil Campbell, residing in Blaine County, shall appear pursuant to the jurisdiction of this Court for a debtor's examination on the **11th day of May, 2015 at the hour of 1:30 p.m.** at the Blaine County Courthouse, 201 2nd Ave. S., Hailey, Idaho to be examined under oath concerning any property Defendant may have, as well as any money or property that may be owed to Defendant, or which Defendant may owe to others.
3. Thirty (30) days prior to the date of the examination referred to in Paragraph 2 above, Defendant shall produce true and correct copies of the following documents to Plaintiffs' counsel of record:
 - a. All filings in Defendant's current divorce proceeding that relate to or evidence any assets purporting to belong to Defendant or the marital community.
 - b. All documents evidencing any payments made by Defendant to any legal counsel over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.
 - c. All financial statements prepared by Defendant or on behalf of Defendant and/or given at the request of any bank, financial institution, taxing authority, or any other creditor on behalf of Defendant during the time period commencing January 1, 2012 to the present date.

- d. All records relating to financial accounts (savings accounts, checking accounts, or otherwise) maintained in Defendant's name or to which Defendant has access for the time period commencing January 1, 2012 to the present date, including but not limited to documents that identify any deposits made into and/or any disbursements of funds made from said account(s).
- e. All documents, including any rental or other agreements, related to Defendant's occupancy of the property at 340 River Street, Unit 124, Ketchum, ID.
- f. All documents related to the California Franchise Tax Board's tax lien for \$133,208.91 filed against Defendant in Orange County, California (Certificate No. 14015388391), including any communications with the California Franchise Tax Board about the lien.
- g. All federal and state income tax returns and supporting schedules and documentation for Defendant for 2012 and 2013. If the filing of the 2014 return is pending but the return has been prepared or the information is available, that information is to be provided as well.
- h. All certificates of title of any vehicles owned by Defendant.
- i. Records of all personal property owned by Defendant including but not limited to stocks, ownership of any interest in partnerships or limited liability companies, trusts, notes, judgments, U.S. bonds, equipment, machinery, tools and computers.
- j. Any documents evidencing the sale of any personal property owned by Defendant since January 2010.
- k. All records of any real property, or portion of real property, owned by Defendant.

DATED this 31 day of March, 2015.



Honorable Robert J. Elgee

12-407

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1 day of ~~March~~ ^{April}, 2015, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Neil David Campbell
340 River Street East, Unit 124
Ketchum, ID 83340

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy
 Federal Express

Erin F. Clark, Esq.
Lawson Laski Clark & Pogue, PLLC
P.O. Box 3310
Ketchum, ID 83340

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy



Deputy Clerk

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD.,)
and KARLIN HOLDING LIMITED)
PARTNERSHIP,)
)
Plaintiffs,)
)
vs.)
)
PHILIP RICHARD POWERS,)
individually; NEIL DAVID)
CAMPBELL, individually;)
POWERS INVESTMENTS AND)
MANAGEMENT, INC., S.A., a)
corporation; GUANANA GRIS,)
S.A., a corporation;)
PROTECCION FORESTAL DE TECA,)
S.S., a corporation, and DOES)
1 through 50, inclusive,)
)
Defendants.)
)

Case No. CV-2012-407

EXAMINATION OF NEIL DAVID CAMPBELL
(JUDGMENT DEBTOR)

Testimony taken on Monday, August 24, 2015, at the
Blaine County Courthouse, Hailey, Idaho.

APPEARANCES:

For the Plaintiffs: ERIN F. CLARK, ESQ.
Lawson Laski Clark & Pogue, PLLC
675 Sun Valley Road, Suite A
P. O. Box 3310
Ketchum, Idaho 83340

Susan P. Israel, CSR No. 244
P. O. Box 1379
Ketchum, ID 83340

EXHIBIT 700 B

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I N D E X

<u>MONDAY, AUGUST 24, 2015</u>	<u>PAGE</u>
Examination of Neil David Campbell	3
Reporter's Certificate	95

E X H I B I T S

1 - Second Order Granting Judgment Debtor's Examination	4
2 - Order Granting Judgment Debtor's Examination	21
3 - Bank of America Records	31
4 - Zions Bank Records	46
5 - Letter of Understanding	79

1 MONDAY, AUGUST 24, 2015

2 1:57 P.M.

3
4

5 NEIL DAVID CAMPBELL,

6 called as a witness at the instance of the Plaintiffs,
7 having been first duly sworn, was examined and testified as
8 follows:

9 MS. CLARK: Okay. Well, today is August 24th,
10 2015. We're here for the debtor's examination of Neil
11 Campbell.

12 My name is Erin Clark, counsel for the
13 plaintiffs in this case.

14 EXAMINATION

15 BY MS. CLARK:

16 Q. Mr. Campbell, would you state your full name
17 for the record?

18 A. Neil David Campbell.

19 Q. And do you go by any other name?

20 A. No.

21 Q. Have you ever gone by --

22 A. No.

23 Q. -- any other name?

24 If you could wait to answer until I finish
25 speaking, otherwise it will be very hard for the person

1 transcribing the tape to understand.

2 I would like to show you what we'll mark as
3 Exhibit 1.

4 So Exhibit 1 is the amended order -- second
5 amended order granting motion for judgment debtor's
6 examination and it was ordering you to appear today, the
7 24th of August, 2015, at 2:00.

8 Now, you understand that you're here to answer
9 questions regarding your income and assets; right?

10 A. Yes.

11 Q. And that you were put under oath by Judge
12 Elgee; right?

13 A. That's correct.

14 Q. So this is -- testifying here today, although
15 it's an informal setting, it is the same as testifying in
16 court. Okay?

17 A. Yes.

18 Q. That means you have to tell the whole truth and
19 that if you don't, then you could be at risk of being held
20 under penalty of perjury.

21 Do you understand that?

22 A. Yes.

23 Q. Do you have any questions about your obligation
24 to tell the whole truth?

25 A. No.

1 Q. All right. So if you don't understand any of
2 my questions, please just let me know and I will restate
3 them. Okay?

4 A. Yes.

5 Q. And if you do answer a question, then I'm going
6 to assume that you did understand the meaning of it. Is
7 that all right?

8 A. Yes.

9 Q. Where do you currently live?

10 A. 2804 Summit in Elkhorn, Idaho.

11 Q. Is there a unit number or is that the unit
12 number?

13 A. That is the unit number.

14 Q. Okay.

15 How long have you lived there?

16 A. Not quite two months.

17 Q. Do you live with anybody else?

18 A. My daughter.

19 Q. How old is she?

20 A. Seven.

21 Q. And what is your current mailing address?

22 A. I've given that, too; 3372, I believe it is,
23 Post Office Box.

24 Q. Still in Ketchum?

25 A. Correct.

1 Q. Do you pay rent for your current housing?
2 A. It's being subsidized with help, but, yes.
3 Q. So what is the rental on the condo in Elkhorn?
4 A. I believe 1500 a month.
5 Q. Who is subsidizing it?
6 A. It's in a friend of mine's name.
7 Q. Do you have a lease agreement?
8 A. I do not.
9 Q. What friend -- so your friend has a lease
10 agreement with the owners?
11 A. Correct.
12 Q. Who is the friend?
13 A. Robert Duringer.
14 Q. Have you ever seen a copy of the lease?
15 A. No.
16 Q. Who are the owners?
17 A. Saralynn and Allan. I don't remember their
18 last name.
19 Q. How much of the \$1,500 a month do you pay?
20 A. A portion. I don't -- it's, I believe, less
21 than -- I believe it's less than a thousand.
22 Q. Have you had conversations with Mr. Duringer
23 about how long he will continue to subsidize your rent?
24 A. It's coming to a close. I don't know how much
25 longer.

1 Q. Have you had any conversations with
2 Mr. Durringer about that issue?

3 A. Yes. He's been kind enough to let me get
4 established and that's -- but I don't have a time frame,
5 no.

6 Q. When was the last time you had a discussion
7 with Mr. Durringer about his subsidizing your rent?

8 A. A few months ago.

9 Q. And what was the content of that conversation?

10 A. That he was going to help me get on my feet.

11 Q. And he, in fact, has been subsidizing your rent
12 for many months; right?

13 A. Yes.

14 Q. How long has he been subsidizing your rent?

15 A. Since December of last year.

16 Q. So December of 2014; right?

17 A. Correct.

18 Q. Do you pay the gas bill for this rental?

19 A. I -- it's being paid by Durin -- Mr. Durringer.

20 Q. What about the electric bill?

21 A. He's paying the electric bill.

22 Q. Do you see the bills?

23 A. No, I do not.

24 Q. How long have you known Mr. Durringer?

25 A. Quite a while. I don't know the exact date.

1 Q. Are we talking ten years? Twenty years?
2 A. At least fifteen years.
3 Q. And how did you meet him?
4 A. Through work through South -- when I was
5 working for South Bay Lexus.
6 Q. When you were working -- I'm sorry, I didn't
7 catch that.
8 A. Through South Bay Lexus.
9 Q. South --
10 A. Bay Lexus, L-E-X-U-S.
11 Q. What was your role with South Bay Lexus?
12 A. Sales manager.
13 Q. And what was Mr. Durringer's association with
14 South Bay Lexus?
15 A. He was covering their advertising.
16 Q. When did you stop working together?
17 A. I don't have the exact date. It was when I
18 left South Bay Lexus. I don't know the date.
19 Q. Was it in the 2000s?
20 A. Yes.
21 Q. Then did you have any more work relationship
22 with Mr. Durringer after you left South Bay Lexus?
23 A. Not working relation, no.
24 Q. Just a friendship?
25 A. Correct.

1 Q. What does Mr. Durringer do now for a living?
2 A. I'm not sure what he's doing.
3 Q. Is he still working at South Bay Lexus?
4 A. No.
5 Q. Did he leave at the same time as you did?
6 A. No, he continued much longer, but I don't know
7 how long.
8 Q. And where does he live now?
9 A. In Colorado.
10 Q. What's his address?
11 A. I do know -- I don't know.
12 Q. Do you have a mobile phone?
13 A. No, not with me.
14 Q. Do you have a mobile phone?
15 A. Yes, I do.
16 Q. Is there a reason you didn't bring it with you
17 today?
18 A. I don't carry it.
19 Q. I'm going to need his address and phone number,
20 so you can either voluntarily provide that to me after
21 today or we can schedule another one of these and you can
22 come down with that information with you.
23 So, how would you like to proceed in that area?
24 A. I can give you the information.
25 Q. Okay.

1 So you have no idea what he does for a living
2 now?

3 A. I don't know what role he's playing in
4 advertising. I know that he's expanded, but I have no idea
5 what he's doing at the present time.

6 Q. When you say "expanded," does he own his own
7 advertising firm?

8 A. Did, yes.

9 Q. In Colorado?

10 A. Yes.

11 Q. Do you know the name of it?

12 A. No, I do not.

13 Q. Have you ever been to Colorado to visit him?

14 A. Yes, I have.

15 Q. Did you go to his place of business?

16 A. No.

17 Q. Have you ever seen one of his business cards?

18 A. Not in some time, no.

19 Q. Do you have his work number on your cell phone?

20 A. No, I do not.

21 Q. What city in Colorado does he live?

22 A. Larkspur.

23 Q. Is he married?

24 A. Yes.

25 Q. How long has he been married?

1 A. I don't know.
2 Q. Does he have children?
3 A. He does.
4 Q. How many?
5 A. He has a son.
6 Q. Is that all?
7 A. Yes.
8 Q. Is his son younger than 18?
9 A. No.
10 Q. How old is Mr. Durringer?
11 A. I don't know.
12 Q. Is he around your age?
13 A. Younger.
14 Q. Younger.
15 Does Mr. Durringer -- has he been to Idaho to
16 visit with you or been to Idaho to your knowledge in the
17 past four years?
18 A. Not to my -- I don't know. I don't know.
19 Q. He hasn't been out to visit you in four years?
20 A. No.
21 Q. Who found the apartment -- or the condo in
22 Elkhorn that you are currently living in?
23 A. I did.
24 Q. Has Mr. Durringer had any conversations at all
25 with the owners?

1 A. I don't know.

2 Q. How -- to your knowledge how did the lease
3 agreement get executed?

4 A. I don't know.

5 Q. Did you have conversations with the owners of
6 the condo prior to you renting it?

7 A. They're friends of mine.

8 Q. Did you give them Mr. Durringer's contact
9 information so that they could get in touch with him to get
10 a lease executed?

11 A. I don't remember.

12 Q. So Mr. Durringer has never seen the condo that
13 he's on the lease for?

14 A. I don't know that. I don't know.

15 Q. Would Mr. Durringer come to Blaine County and
16 not visit you, do you think?

17 A. I don't believe -- I don't believe so, but I
18 don't know if he's seen this on the Internet or -- has seen
19 the property on the Internet or not.

20 Q. How long is the lease that you get to live in
21 the place subsidized by Mr. Durringer?

22 A. I don't know.

23 Q. Have you had conversations with the owners
24 regarding how long you plan to stay?

25 A. They've asked me, yes, and I don't know yet.

1 Q. How big is the condo?
2 A. I don't know the square footage.
3 Q. How many bedrooms?
4 A. There's three.
5 Q. Have they ever rented it to your knowledge to
6 anybody before they rented it to you?
7 A. Yes.
8 Q. Who came up with the \$1,500 rent amount?
9 A. I don't know.
10 Q. How did you learn that the rent would be \$1,500
11 a month?
12 A. Saralynn had -- that was the rent that I was
13 paying on the unit prior to -- it's the same unit that I
14 was into when I first moved to Idaho.
15 Q. Okay. So now you're renting the same place?
16 A. Correct.
17 Q. When you rented it before, you paid your rent
18 to -- it was an agency, wasn't it? High Country?
19 A. Correct.
20 Q. Are you paying rent to High Country now?
21 A. I'm not paying rent to High Country, no.
22 Q. Who do you pay rent to?
23 A. Mr. Duringer.
24 Q. And do you write checks to Mr. Duringer for
25 your portion of the rent?

1 A. No.

2 Q. How do you pay him?

3 A. It's being covered through another entity.

4 Q. What entity is that?

5 A. Jonathan Michaels.

6 Q. Who's Jonathan Michaels?

7 A. He's my attorney.

8 Q. So Mr. Michaels is writing a check to

9 Mr. Durringer?

10 A. I don't know how that's being covered.

11 Q. So what money is John -- Mr. Michaels using in

12 order to pay your portion of the rent to Mr. Durringer?

13 A. He has made a loan to me.

14 Q. How much of a loan?

15 A. I don't know.

16 Q. Did you sign any loan documents?

17 A. I have, yes.

18 Q. Okay. Do you have copies of those loan

19 documents?

20 A. No, I don't.

21 Q. Where are the loan documents?

22 A. In Mr. Michaels' office.

23 Q. Why do you not have a copy of the loan

24 documents?

25 A. I don't know.

1 Q. Did you ever have a copy of the loan documents?

2 A. I can't remember if I did or not, but I don't
3 have any at the present time.

4 Q. Is it your testimony that you have a loan with
5 Mr. Michaels of no set amount of money?

6 A. There is not -- there is no set amount of
7 money.

8 Q. And there -- I'm sorry.

9 There's no ceiling on the amount of money that
10 he's willing to lend to you?

11 A. You would have to ask Mr. Michaels. I don't
12 know. He's helping me at the present time, yes.

13 Q. Mr. Michaels, what city does he live in -- or
14 does he work in?

15 A. Newport Beach.

16 Q. How did he come to be your attorney?

17 A. He was a friend of mine.

18 Q. When did you first meet him?

19 A. I don't know.

20 Q. One decade ago? Two decades ago?

21 A. Within one decade.

22 Q. I'm sorry, did I ask you, how did you meet him,
23 do you remember?

24 A. I don't remember how we met.

25 Q. Did you pay Mr. Michaels for the services that

1 he provided to you, legal services?

2 A. Yes.

3 Q. And from what time frame to what time frame was
4 he your lawyer?

5 A. He handled the criminal defense, that
6 particular segment of time, and was helping me prior to
7 that, but I don't know how long it was before that.

8 Q. Did you provide Mr. Michaels with a retainer?

9 A. I don't remember.

10 Q. Did you make payments to Mr. Michaels in order
11 to pay the legal bills?

12 A. You would have to find out from Mr. Michaels
13 because this was taken care of while I was in -- while I
14 was in jail.

15 Q. Well, in fact, we did ask for all of the
16 documents showing any payments you made to any of your
17 lawyers, and you didn't provide any documents, did you?

18 A. I explained that completely in my statement to
19 you about that.

20 Q. You did not provide any documents, did you?

21 A. No, I did not.

22 Q. Who pays your cell phone?

23 A. That's being covered through Mr. Michaels.

24 Q. Does Mr. Michaels pay -- who is your carrier?

25 A. I don't know.

1 Q. You don't know who the carrier on your phone is?
2 A. No, I don't.
3 Q. Do the bills come to you?
4 A. No.
5 Q. The bills go to Mr. Michaels?
6 A. Correct.
7 Q. When was the last time you had a discussion
8 with Mr. Michaels regarding how much money you currently
9 owe him?
10 A. I don't remember.
11 Q. Have you had a conversation in the past month?
12 A. I don't think it's been in the last month, no.
13 Q. Last two months?
14 A. Probably within the last two months.
15 Q. And what amount did he tell you that you owed
16 at that point?
17 A. I don't think he gave me a full dollar amount,
18 just the -- I don't remember.
19 Q. Do you pay any child support?
20 A. No.
21 Q. Do you pay for your daughter's child expenses?
22 A. Yes.
23 Q. What camps did she go to this summer?
24 A. She went to the -- I think it's the
25 St. Joseph's Camp; she went to Mountain Adventures; and I

1 think she went to Galena Camp.

2 Q. How much was the St. Joseph's Camp?

3 A. I don't remember.

4 Q. Did you pay for that?

5 A. Yes.

6 Q. How did you pay for it?

7 A. Social Security.

8 Q. Did you pay with a check? Did you pay in cash?

9 A. I paid in cash.

10 Q. Why did you not write a check?

11 A. I just decided that I wanted to pay in cash.

12 Q. How long was the St. Joseph Camp?

13 A. Two weeks.

14 Q. How long was the Mountain Adventures Camp?

15 A. I don't remember.

16 Q. How did you pay for that?

17 A. I paid that in cash as well.

18 Q. How long was the Galena Camp?

19 A. I don't remember if it was four days or five

20 days.

21 Q. Did you pay for the entire amount of that camp?

22 A. I did, yes.

23 Q. Did you pay in cash?

24 A. I don't remember how I paid that.

25 Q. Does your daughter also participate in ballet?

1 A. She is not presently, no.

2 Q. Does she intend to -- does that intend to start
3 up again in the fall?

4 A. I don't know yet.

5 Q. Does she participate in any skiing?

6 A. Yes.

7 Q. Does she ski with any team?

8 A. No.

9 Q. Do you have any expenses whatsoever relating to
10 her skiing?

11 A. For this coming season?

12 Q. Yes.

13 A. No.

14 Q. In the past have you?

15 A. Yes.

16 Q. Who pays for her ski pass?

17 A. I think that was -- if I remember right, I
18 think that was covered by Mr. Durringer.

19 Q. Have you spoken with Mr. Durringer about paying
20 for her ski pass again this year?

21 A. No, I have not.

22 Q. Do you buy your daughter clothing?

23 A. I've bought her a few things, yes.

24 Q. And how do you pay for her clothing?

25 A. I don't remember how it was paid for. Probably

1 by cash I'm assuming.

2 Q. Who's responsible for paying for her health
3 insurance?

4 A. Her mother and myself.

5 Q. And how do you -- have you made those payments
6 for the health insurance?

7 A. We're supposed to be splitting that, yes.

8 Q. And how do you make those payments, by cash or
9 by check?

10 A. I can't remember if it was done by cash or
11 check.

12 Q. How much is the insurance for you and for your
13 daughter?

14 A. I have no insurance. For her I think it was
15 right around a hundred dollars.

16 Q. Okay.

17 How do you pay for food, grocery store,
18 restaurants?

19 A. Well, food is -- I pay in cash.

20 Q. And do you ever go out to restaurants?

21 A. Very seldom.

22 Q. How much a month do you spend on food?

23 A. I don't know.

24 Q. Do you have any other -- do you have ongoing
25 legal bills?

1 A. I don't know that as of yet.

2 Q. Is there anything else that you pay for on a
3 monthly basis?

4 A. If it is, I don't know. I can't -- I don't
5 know.

6 Q. I would like to show you Exhibit 2. Exhibit 2
7 is the original order granting the motion for the judgment
8 debtor's examination, and this order has all of the
9 documents that you were ordered to produce in this case.

10 Looking on the second page of this exhibit,
11 under 3(b) it's ordering you to produce all documents
12 evidencing any payments made by you to any legal counsel
13 from 2009 to present, including documents evidencing the
14 source of the funds used to make those payments.

15 What did you do to comply with that portion of
16 the order?

17 A. I did everything that I could possibly do.

18 Q. What did you do to comply with that portion of
19 the order?

20 A. Well, I contacted each of the attorneys to ask
21 them for help in obtaining this, and I gave you my answer
22 on how that was stated.

23 Q. When you -- how did you -- I believe that you
24 presented me with a list of the people that were your legal
25 counsel. The first is Michael Taitelman. What state is he

1 in?

2 A. California.

3 Q. Who did you -- how did you contact
4 Mr. Taitelman?

5 A. By phone.

6 Q. Did you speak with Mr. Taitelman?

7 A. No, I did not.

8 Q. Who did you speak to?

9 A. I left a message for him.

10 Q. What did you say in your message?

11 A. I explained exactly what is stated here.

12 Q. Did you read the category of documents you were
13 ordered to produce?

14 A. Correct, I did.

15 Q. Did you ever hear back from Mr. Taitelman?

16 A. No, I did not.

17 Q. Did you call him back again?

18 A. I did.

19 Q. When?

20 A. Shortly after that -- shortly after that period
21 of time and before this was due.

22 Q. Okay. And when you called him again, did you
23 speak with Mr. Taitelman?

24 A. No, I did not.

25 Q. Did you speak to anybody else in his office?

1 A. I don't remember.
2 Q. Okay.
3 And did you leave another message?
4 A. Yes, I did.
5 Q. Okay.
6 What happened then? Did you get a call back
7 from Mr. Taitelman?
8 A. Nothing.
9 Q. Did you call back again?
10 A. No, not a third time.
11 Q. Did you ever ask anybody in his office, his
12 assistant, a paralegal, for these documents?
13 A. I can't remember the conversation, but -- I
14 don't remember.
15 Q. So you left two messages and then that was it;
16 is that correct?
17 A. That's correct.
18 Q. Did you ever write him a letter saying that you
19 wanted the documents sent to you?
20 A. Did I write -- no, I did not.
21 Q. Did you ever send him an email, putting it in a
22 writing that you needed these documents?
23 A. I didn't have his email.
24 Q. Do you have access to a computer?
25 A. Yes, I do.

1 Q. Have you ever gone onto the firm website that
2 he works for?

3 A. I have, yes.

4 Q. Is it -- to your knowledge is his email address
5 there on the website?

6 A. I don't remember.

7 Q. Did you do anything else other than leave two
8 messages for Mr. Taitelman?

9 A. I don't remember.

10 Q. So Mr. Taitelman never told you that he would
11 not provide you with those documents, did he?

12 A. I never had a conversation with Mr. Taitelman.

13 Q. Okay. So he never said anything about not
14 sending you the documents?

15 A. No, he did not.

16 Q. You also stated that you worked with David
17 Flyer; is that correct?

18 A. That's correct.

19 Q. Where is he located?

20 A. In California.

21 Q. What part of California?

22 A. I think Newport.

23 Q. What did he represent you in connection with?

24 A. He was handling the civil case.

25 Q. And Mr. Taitelman, what was he helping you

1 with?

2 A. The civil case.

3 Q. Did you contact Mr. Flyer and ask him to send
4 you these documents?

5 A. I did.

6 Q. So when did you contact Mr. Flyer?

7 A. I don't have the exact date.

8 Q. How did you contact him?

9 A. By telephone.

10 Q. Did you speak with Mr. Flyer?

11 A. Eventually, yes.

12 Q. Did you read to him the category of documents?

13 A. I did.

14 Q. What did he say to you?

15 A. He said this was work related, that this was
16 a -- how is it put? -- attorney-client privilege, and he
17 refused to send me those documents.

18 Q. He said that although you were the client --

19 A. Um-mm.

20 Q. -- that he would not send you documents because
21 there is the attorney-client privilege?

22 A. I'm just telling exactly what he said. He said
23 it was work related and he would not do it.

24 Q. Okay.

25 What firm does Mr. Flyer work with?

1 A. I have no idea.

2 Q. Did you inform Mr. Flyer that you are the one
3 that possesses the privilege?

4 A. I'm not an attorney, I don't have that
5 expertise, but I explained to him what I needed, and he
6 adamantly refused.

7 Each one of the attorneys that I talked to
8 basically stated that if you want that information,
9 subpoena them, go after them, ask them, your firm or
10 Michelson's firm.

11 Q. You asked your lawyer to send you these
12 documents; correct?

13 A. Correct.

14 Q. You said I need them to comply with an order;
15 correct?

16 A. Correct.

17 Q. And they refused to provide them to you?

18 A. Correct.

19 Q. Okay.

20 A. Again, they stated it was work related and that
21 there was an attorney-client privilege based upon that
22 reasoning.

23 Q. What does it -- work related, what does that
24 mean?

25 A. I don't know. I would think that that would be

1 something you would understand. I'm not an attorney.

2 Q. No, none of this makes sense, Mr. Campbell.

3 A. All right. I'm just telling you exactly what I
4 was told by --

5 Q. Mr. Campbell, what makes sense is that if a
6 client calls a lawyer and says I want these documents, the
7 documents are sent. That's what happens. They don't say
8 it's work related. They don't say, oh, I can't send my
9 client the documents because they're privileged. That
10 doesn't make any sense.

11 A. Again, that's exactly what they told me.

12 Q. The other person you said was Jonathan
13 Michaels?

14 A. Correct.

15 Q. And he's the one who is lending you money?

16 A. Correct.

17 Q. When did you speak with him about providing you
18 these documents?

19 A. At the same time I had talked to Taitelman and
20 to David Flyer.

21 Q. Tell me exactly the words that you used with
22 Mr. Michaels to ask him for these documents.

23 A. I don't remember.

24 Q. Did you inform him that you were under an order
25 to produce these documents?

1 A. Yes.

2 Q. And that you would be in violation of this
3 order if you did not provide the documents; correct?

4 A. I don't know.

5 Q. What about Dyke Huish, H-U-I-S-H, did you speak
6 with Mr. Huish?

7 A. No, Mr. Michelson [sic] spoke to Mr. -- to
8 Dyke.

9 Q. Do they work in the same office?

10 A. No.

11 Q. So you never spoke to Mr. Huish?

12 A. No, I did not.

13 Q. You never made a request for the documents with
14 Mr. Huish?

15 A. I made the request through Michelson [sic] for
16 him. They were co-counsels on the criminal case.

17 Q. Is there somebody named Michelson or is it
18 Michaels?

19 A. It's Michaels.

20 Q. How do you know that Mr. Michaels contacted
21 Mr. Huish?

22 A. He told me.

23 Q. But you have no independent knowledge that he
24 actually did contact him; right?

25 A. Other than the fact that he told me that he did.

1 Q. The next person you list is Turffs,
2 T-U-R-F-F-S; is that right?

3 A. That's correct.

4 Q. What did he represent you in connection with?

5 A. The civil case in Florida.

6 Q. Did you speak with Mr. Turffs?

7 A. I did -- well, I left a message.

8 Q. And did he return your call?

9 A. He -- I can't remember how -- I can't remember
10 if he returned it or how he contacted me. I don't remember
11 at this point.

12 Q. What was Mr. Turffs' response to your request
13 that he --

14 A. The same as the others.

15 Q. What did he say?

16 A. Client privilege, work related.

17 Q. Anything else?

18 A. I can't remember.

19 Q. So the only reason that people are not
20 providing you documents is because of the attorney-client
21 privilege?

22 A. I don't know. They said it was work related.
23 Again, I don't know what that means.

24 Q. Anything else? Any other reason provided to
25 you for why they won't provide you with the documents that

1 you requested from your lawyers?

2 A. Not that I remember.

3 Q. You wrote in that memo to me on May 28th, 2015,
4 that they said that they would not provide you the
5 documents because you're no longer their client. Was that
6 accurate?

7 A. I think -- I think that that's what I wrote. I
8 don't remember.

9 Q. You don't know if anybody ever said that to
10 you?

11 A. I can't remember who said it. It was said to
12 me by one of the attorneys, but I don't remember which one.
13 I think it was by David Flyer, but I'm not sure.

14 Q. Did you receive any response in writing from
15 any of these attorneys?

16 A. I can't remember.

17 Q. Do you use email?

18 A. I do.

19 Q. Do you communicate with your lawyers through
20 email?

21 A. At times.

22 Q. Do you save the records relating to your
23 communications with your lawyers?

24 A. I do not.

25 Q. How -- what is your protocol for deleting

1 messages?

2 A. I don't understand the question.

3 Q. Do you have a set rule for when you delete
4 emails from your email system?

5 A. I don't keep emails if that's what -- as far as
6 deleting, I delete them at the time -- at that time.

7 Q. You read and delete?

8 A. Correct.

9 Q. So you don't save any emails?

10 A. No.

11 Q. Looking at Exhibit 2, on the next page under
12 subcategory (d) you were ordered to provide all records
13 relating to financial accounts maintained in your name or
14 to which you had access for the time period from January
15 1st, 2012, to the present.

16 You provided documents from Bank of America and
17 Zions Bank; correct?

18 A. Correct.

19 Q. So Exhibit 3 are the Bank of America records
20 that you provided to me. These documents are for the
21 period of June of 2012 to February of 2013; correct?

22 A. I believe so.

23 Q. When did you open this account?

24 A. I don't remember.

25 Q. Did you ever -- did you open it before June of

1 2012?

2 A. You have my complete records, so I'm assuming
3 it was at that -- at that time frame.

4 Q. How did you obtain these documents, these Bank
5 of America records?

6 A. Through the bank.

7 Q. What did you ask the bank for?

8 A. I just gave them a copy of what you were
9 requesting, and they complied.

10 Q. So you provided them actually with the order?

11 A. Correct.

12 Q. At the time you opened this account you already
13 had an account with Zions Bank; correct?

14 A. Can you repeat that?

15 Q. At the time you opened this Bank of America
16 account you were working -- or you already had an account
17 with Zions; correct?

18 A. I don't know which one was first.

19 Q. The order stated that you were to produce all
20 documents from January 1st, 2012, to the present; correct?

21 A. Correct.

22 Q. And --

23 A. That's what I did.

24 Q. So then the bank gave you documents starting
25 from June of 2012 until February of 2013; correct?

1 A. Correct.

2 Q. Do you have any reason to believe that your
3 account was opened prior to 2012?

4 A. I don't -- I don't remember.

5 Q. You gave -- you produced to me everything the
6 bank gave you; right?

7 A. That's correct.

8 Q. And the bank knew that you needed everything
9 from your records from January 1st, 2012, on; correct?

10 A. Correct.

11 Q. So this account is now closed; isn't that
12 right?

13 A. The Zions Bank account or --

14 Q. The Bank of America account.

15 A. No, the Bank of America account is still open.

16 Q. Why did you not --

17 A. Oh, wait a second. No, I'm sorry. No, it's
18 closed. I'm sorry.

19 Q. If you would go to, on Exhibit 3, the second
20 tab on that document, that pink tab that I put on, the
21 second one.

22 So this is the statement from June 8th, 2012,
23 through July 9th, 2012; correct?

24 A. Correct.

25 Q. And in there they have the beginning balance on

1 June 8th, 2012, as being \$24,715.35; correct?
2 A. Correct.
3 Q. Where did that money come from?
4 A. I have no idea at this point.
5 Q. Well, you opened an account and you put nearly
6 \$25,000 into it. Did it come from your Zions account?
7 A. I don't remember.
8 Q. Did you put that balance in through cash or a
9 check?
10 A. I don't remember.
11 Q. As of 2012, you owed my client money, didn't
12 you?
13 A. I don't know what you mean by owing him money.
14 Q. There was a judgment entered against you.
15 A. I don't know the exact day, but there was a
16 judgment, yes.
17 Q. What would the possibilities be for the
18 origination of this money?
19 A. I don't understand the question.
20 Q. What possibly -- where possibly could this
21 money have come from?
22 A. I don't remember.
23 Q. I understand you don't remember. I want to
24 know what the possibilities were.
25 A. I don't know.

1 Q. Did you own any assets at that time that you
2 sold?
3 A. I don't remember.
4 Q. Did you own a car at that time?
5 A. I don't remember.
6 Q. You don't remember if you owned a car in 2012?
7 A. No, I don't.
8 Q. In 2012 what were your sources of income?
9 A. Social Security.
10 Q. Anything else?
11 A. That was it.
12 Q. Where were you living?
13 A. In 2012?
14 Q. June of 2012.
15 A. I don't remember.
16 Q. When did you move to Idaho?
17 A. From this date, it would have to be roughly
18 right around four years ago. I'm guessing.
19 Q. So in 2011 you moved to Idaho?
20 A. I don't know. I don't remember, but it's in --
21 I'm trying to backdate. I lived in Idaho for almost two
22 years before I was arrested, and I was in jail for almost
23 17 months, and I've been out since November, so you just
24 backtrack from there.
25 Q. Clearly, you were living in Idaho when you

1 opened up the Bank of America account; correct?

2 A. Yes.

3 Q. And you had moved from Florida; right?

4 A. Correct.

5 Q. What assets of a more than \$10,000 value did
6 you bring with you from Florida?

7 A. I didn't.

8 Q. So you didn't have any assets worth more than
9 \$10,000 when you moved to Idaho?

10 A. With me?

11 Q. Anywhere.

12 A. You took my storage areas. So I had that.

13 Q. Okay. So you had what was ever in the storage
14 unit. Did you have any other asset that was worth more
15 than \$10,000 at the time that you moved to Idaho?

16 A. Not that I remember.

17 Q. Did you own a car?

18 A. At that time I had a leased vehicle that was in
19 my wife's name.

20 Q. So, again, if you had no assets worth more than
21 \$10,000 and you were living solely off of Social Security,
22 what were the possible sources for you to be able to put
23 \$24,000 into a bank account in June of 2012?

24 A. I don't remember where the funds came from.

25 Q. Would Mr. Durringer have lent you that much

1 money?

2 A. No.

3 Q. Would Mr. Michaels have lent you that much
4 money?

5 A. No.

6 Q. Was this money that you brought with you in
7 cash from Florida?

8 A. No.

9 Q. Was this money that you had in cash and then
10 you put into a checking --

11 A. You know, you're asking the same question over
12 and over again. I told you I don't remember. I don't
13 know. You can ask it 15 different ways, I don't know.

14 Q. Well, Mr. Campbell, I'm just going to remind
15 you again that you are here under penalty of perjury.

16 A. Um-mm.

17 Q. And to say that you don't remember where
18 \$24,000 came from when you're saying that you have no
19 assets and no income other than Social Security, it just
20 does not ring true.

21 A. Well, I don't remember where the 24,000 came
22 from.

23 Q. Okay.

24 A. Or how I obtained that.

25 Q. If you could move to the other tabbed page,

1 this is Page 2 of 3 of the November 7, 2012, through
2 December 6th, 2012, Bank of America statement; right?

3 A. Can you repeat that?

4 Q. This is Page 2 of 3 --

5 A. Okay.

6 Q. -- of the Bank of America statement.

7 A. Correct.

8 Q. And this is for November through December,
9 2012. And at the top it says that there's a counter
10 credit. That's a deposit; correct?

11 A. I don't know.

12 Q. Well, it's in the deposits --

13 A. I see the counter credit. I don't know what
14 that means.

15 Q. It's in the section under Deposits and Other
16 Additions; correct?

17 A. Deposits and Other Additions, yes.

18 Q. And that on November 30th, 2012, you deposited
19 \$3,410; right?

20 A. That's what it states, yes.

21 Q. Where did that money come from?

22 A. I have no idea.

23 Q. Where could it have come from?

24 A. I don't know.

25 Q. Did you have just cash lying around?

1 A. No.

2 Q. Did you -- you testified that you went into
3 Bank of America and you showed them the order and requested
4 all the responsive documents; right?

5 A. Well, Bank of America doesn't exist in Idaho as
6 far as my knowledge, it doesn't exist in Ketchum, but I
7 went to the -- they -- I had -- I gave them this order,
8 yes, and this is what they -- and they gave me all the
9 documents.

10 Q. So how did you go about doing that? Where did
11 you physically go?

12 A. There's a -- Bank of America has now become
13 another entity, and I don't remember the name of it, the
14 bank, but they obtained that.

15 Q. So you went to Washington Federal and --

16 A. Correct.

17 Q. -- showed that bank the order?

18 A. If that's -- I think that was it, from
19 Washington Federal.

20 Q. Okay. And then were they able to produce those
21 documents right away or did they need a few days to get it
22 to you?

23 A. No, on both Zions and the others, it took a
24 couple weeks.

25 Q. What other banks did you visit or did you

1 inform of this order in order to get responsive documents?

2 A. You have the other one; Zions.

3 Q. Did you contact any other bank?

4 A. I don't have any other bank.

5 Q. Now, you see that this says that you were to
6 produce all records of any bank account you had from
7 January 1st, 2012, to the present; right?

8 A. Correct.

9 Q. And did you contact HSBC in Hong Kong to obtain
10 those bank records?

11 A. That's virtually -- I mean, I have no
12 documents. When I did try to contact them, they -- it was
13 virtually impossible to try to get anything from them.

14 Q. When did you contact HSBC?

15 A. The same time that you had given me these
16 documents, this order.

17 Q. How did you contact them?

18 A. I believe by -- I don't remember now. I don't
19 know if it was by telephone or -- I don't remember.

20 Q. Did you keep notes?

21 A. No, I did not.

22 Q. Do you know what the response was when you
23 contacted HSBC?

24 A. They asked me for my account numbers, and I
25 don't have those.

1 Q. That account was under the name of a company;
2 correct?

3 A. (No response.)

4 Q. It was under the name of a company, wasn't it?

5 A. Yes, it was.

6 Q. Did you ask them to search under the name of
7 the company?

8 A. I did give them that information, but that
9 became -- again, that became very problematic.

10 Q. Why problematic?

11 A. I didn't have -- I didn't have anything
12 identifying me as far as account numbers that they asked
13 for, but it was very difficult to try to obtain any
14 information from this entity.

15 Q. What was the name of the company that had the
16 bank account with HSBC?

17 A. What was the name of the company?

18 Q. Yes.

19 A. I don't remember.

20 Q. You don't remember the name of a company that
21 you set up a bank account and put \$300,000 into it?

22 A. No, I don't remember.

23 Q. How did you obtain the HSBC phone number?

24 A. I believe off their -- I believe off their
25 website.

1 Q. And who did --

2 A. But then that, again, presents a problem

3 because there's two different entities. There's one here

4 in the United States and there's another in Hong Kong.

5 Q. HSBC has facilities here in the states?

6 A. Correct.

7 Q. And did you contact them in the states?

8 A. No, I tried contacting them in Hong Kong.

9 Q. Did you try -- why didn't you try contacting

10 them in the United States?

11 A. It's two separate entities.

12 Q. Okay. So you knew that already, so you didn't

13 bother trying to call the entity in the United States?

14 A. It's -- I wish you would try to obtain any

15 information from these -- from this bank. It's virtually

16 impossible.

17 Q. How many times did you try?

18 A. Several times.

19 Q. So -- and how did you contact them, on a

20 landline or on your cell phone?

21 A. I can't remember.

22 Q. Do you have a landline?

23 A. No.

24 Q. Okay. So then it would have to be by your cell

25 phone?

1 A. Unless I was in one of the offices that I
2 was -- I can't remember if we did this -- that I tried to
3 do this at -- I can't remember. I don't know.

4 Q. So your cell phone bill should show the call to
5 HSBC in Singapore several times?

6 A. No. I told you, I don't remember if I made it
7 from my cell phone.

8 Q. Okay. So your cell phone bill won't show any
9 call; right?

10 A. I don't know.

11 Q. And what other place would you have made that
12 call from?

13 A. Jonathan Michaels' office.

14 Q. Anywhere else?

15 A. I don't know if I used a friend's landline or
16 not. I don't remember.

17 Q. What friends would let you make an
18 international call?

19 A. I don't remember how I did that. You're asking
20 me a question I don't remember.

21 Q. You provided the documents to me in May, 2015;
22 correct?

23 A. I'm sorry?

24 Q. You provided these documents, your banking
25 records, in May, 2015; right?

1 A. I think that was it, right in that area.

2 Q. So you were making those calls to the banks in
3 May of 2015?

4 A. I don't remember.

5 Q. Did you call them before I wrote to you, I
6 wrote a letter to you stating that you needed to provide
7 these documents to me?

8 A. I don't remember.

9 Q. Had you done anything to contact the banks
10 prior to the date that you arrived here in court for the
11 motion on the contempt?

12 A. I don't understand the question.

13 Q. Had you contacted any bank to obtain the
14 banking records before the court hearing on the motion for
15 contempt?

16 A. I was just complying with your order to get the
17 bank records. I don't remember when it was done or the
18 time frame, what month it was in. I don't remember. And I
19 supplied those for you.

20 Q. You provided some documentation to us, but not
21 everything. You didn't get the HSBC documents.

22 A. I don't have access to that. I don't have
23 account numbers, and it's -- again, I supplied what I could
24 get and what was available to me to obtain.

25 Q. Did you give HSBC your name and Social Security

1 number and ask them to search?

2 A. I don't remember.

3 Q. You testified in a -- on February 20th, 2015,
4 in a debtor's exam in Los Angeles; right?

5 A. Correct.

6 Q. And in that examination you had stated that you
7 didn't know -- you didn't know how the \$300,000 was
8 transferred out; is that right?

9 A. At that time, no.

10 Q. Do you know now?

11 A. I believe it was transferred to Jonathan
12 Michaels.

13 Q. It was wired to Mr. Michaels?

14 A. I don't know.

15 Q. Why do you believe it was?

16 A. It was paying -- it was paid for legal fees, I
17 believe.

18 Q. So that's what happened to the \$300,000?

19 A. Correct.

20 Q. Is that \$300,000 now being loaned to you by
21 Mr. Michaels?

22 A. That was used for legal fees.

23 Q. Okay. How much in legal fees in total did you
24 pay to Mr. Michaels?

25 A. I don't know.

1 Q. Was it more than a hundred thousand?

2 A. I don't know.

3 Q. You don't have any idea about how much money
4 you spent in legal fees with Mr. Michaels?

5 A. Well, this goes back to where we are as far as
6 privileged information, as far as client privileged
7 information.

8 Q. No, that's not privileged information, how much
9 money was spent.

10 A. Okay. Well, I don't know.

11 Q. Exhibit 4 are the Zions Bank records that you
12 provided to me. And did you obtain these the same way that
13 you did the Bank of America documents, by going into the
14 Zions branch, showing the branch person the order, and then
15 this is what was produced?

16 A. Yes.

17 Q. Okay. So in here we have documents dated from
18 December 19th, 2011, until May 18th, 2015; right?

19 A. I believe so, yes.

20 Q. So looking at the first page, under the section
21 called Deposit/Credits --

22 A. Yes.

23 Q. -- it shows that on November 21st, 2011, you
24 deposited \$4,000, and then on November 30th you deposited
25 \$2,000; correct?

1 A. I don't see where you're seeing that.

2 Q. Do you see the section called 3, Deposits/Credits,
3 on the very first page?

4 A. On the very first page?

5 Q. Yes.

6 A. Oh, I'm sorry, I thought you said the first
7 (unintelligible).

8 Q. Do you see those two deposits, \$4,000 on
9 November 21st and 2,000 on November 30th, 2011?

10 A. 11-21 I see a deposit of 4,000.
11 And what was the other date?

12 Q. 11-30.

13 A. Correct.

14 Q. Were those deposits made in cash?

15 A. I don't remember.

16 Q. If you could move to the first tabbed page,
17 then. Oh, I'm -- yes, let's go to the first tabbed page.
18 This is the statement for the next month, so it's January
19 18th, 2012; right?

20 A. January 18, 2012, correct.

21 Q. And in the Deposits/Credits section it shows a
22 \$5,000 deposit, a \$2,500 deposit, a \$700 deposit, and a
23 \$1,500 deposit; correct?

24 A. Correct.

25 Q. Do you know if those were made in cash?

1 A. I do not.

2 Q. Okay.

3 If you could move to the second tabbed page,
4 these are -- this is the Page 5 of 6 of that January 18,
5 2012, statement. And the top four items are the copies of
6 the deposit slips that you made for those four cash
7 deposits; right?

8 A. Um-mm.

9 Q. So each one of those deposits was made in cash;
10 correct?

11 A. I don't know.

12 Q. If you look at the deposit slip that's been
13 copied, and it says under Cash, \$5,000?

14 A. I don't see where you're saying you see that.

15 Q. Do you see where the 5,000 is written up top on
16 the very first mimeographed one?

17 A. I do.

18 Q. And directly to the left of that it says Cash;
19 right?

20 A. It does, yes.

21 Q. And that's because the deposit was cash; right?

22 A. I would assume so, yes.

23 Q. And each one of those four deposits was in
24 cash; correct?

25 A. I don't know.

1 Q. Well, if they had been checks, they would have
2 been written under the Check section, wouldn't they?

3 A. I don't know. I don't know how that works, but
4 I just assume that what you're saying is correct.

5 Q. You filled these deposit slips out, didn't you?

6 A. I believe so.

7 Q. Where did the cash come from to make these
8 deposits?

9 A. I don't remember.

10 Q. Well, it's almost \$10,000 in cash in one month.
11 Where could this have come from?

12 A. I don't remember.

13 Q. Did somebody give you \$10,000 in cash?

14 A. I don't remember how this was set up. This was
15 back in 2011.

16 Q. Right, this is in 2011, after you had moved to
17 Idaho from Florida. Did you come to Idaho from Florida
18 with cash?

19 A. No.

20 Q. So you have no explanation for how \$10,000 was
21 deposited into your account?

22 A. I must have sold off some type of assets, but I
23 don't remember what it was or how it was done.

24 Q. Well, you already testified that you didn't
25 have any asset that was worth more than \$10,000 other than

1 what was in the storage units; correct?

2 A. Well, I -- to answer your question, I don't --
3 I didn't bring anything with me that I would liquidate
4 unless it was liquidated in Florida.

5 Q. Were things being liquidated in Florida at this
6 time?

7 A. I was living on things that were being
8 liquidated in that time.

9 Q. Who was liquidating items in Florida?

10 A. I was.

11 Q. So you were in Idaho but liquidating items in
12 Florida?

13 A. No, I was doing that in Florida.

14 Q. So everything had been liquidated before you
15 moved to Idaho?

16 A. I don't remember.

17 Q. So the first deposit slip is to -- or not
18 deposit slip, the first check on this page is to High
19 Country for \$1,500. That's your rent; correct?

20 A. Correct.

21 Q. Do you remember what your Social Security
22 payments were at that time?

23 A. No, I don't.

24 Q. If you could move back to the previous tab on
25 this exhibit, so it's the first statement [sic] of the

1 January 18th, 2012, statement.

2 A. Um-mm.

3 Q. I think you're looking at the very first page.
4 I said to the first tab. And down under the deposits and
5 credits, on January 1st, 2011, it shows a payment of
6 \$1,561. Is that your Social Security payment?

7 A. I believe so.

8 Q. So you were receiving just a little under
9 \$1,600 a month from Social Security at that time?

10 A. Correct.

11 Q. And your condo that you were renting was \$1,500
12 a month?

13 A. Correct.

14 Q. So you had approximately \$70 to pay for the
15 rest of your expenses?

16 A. Correct.

17 Q. Now, your expenses each month were clearly far
18 more than \$70, weren't they?

19 A. Yes.

20 Q. In fact, the check for 375 to the Yarnall
21 Company, Y-A-R-N-A-L-L, what is that?

22 A. I don't remember.

23 Q. We cango through all these records, but you
24 made that payment to the Yarnall Company every month for
25 \$375.

1 A. Correct.

2 Q. And you're saying that you don't remember what
3 it was for?

4 A. No, I don't remember.

5 Q. Are you still making payments to the Yarnall
6 Company?

7 A. No, I'm not.

8 Q. So, clearly, your expenses were exceeding your
9 income; correct?

10 A. Correct.

11 Q. So how did you make up the difference?

12 A. I told you, I liquidated -- I had liquidated
13 assets that I had. I believe some of it came from stock
14 that I was holding in Florida that was part of a venture
15 capital group that we were involved with.

16 Q. What stock was that?

17 A. It was part of a venture capital group.
18 Michelson was in the same group. He can give you all the
19 information.

20 Q. Well, apparently not, because he won't provide
21 you with the information when you request it; correct?

22 A. Michelson, your client.

23 Q. Okay.

24 A. We were both in the same venture capital.

25 Q. So explain to me what this venture capital

1 group was.

2 A. You can get that information from Mr. Michelson.

3 Q. Well, I'm asking you.

4 A. I don't -- he's the one that set me up in that.

5 Q. So you invested money with this group --

6 A. Correct.

7 Q. -- who would then go and invest in other --

8 A. Correct.

9 Q. Did you sell your stock in that?

10 A. Yes, I did.

11 Q. When did you sell it?

12 A. I don't remember.

13 Q. How much did you obtain?

14 A. I don't understand the question.

15 Q. How much money did you get in return for

16 selling your stock?

17 A. I don't remember.

18 Q. Did it exceed the investment that you made in

19 it?

20 A. I don't think so.

21 Q. When did you make this investment?

22 A. Again, you could get those dates from Dr. Michelson.

23 Q. Just give me a ballpark date.

24 A. I don't know.

25 Q. Did you sell it before or after the judgment

1 was entered against you by my client?

2 A. Before.

3 Q. So in 2000 -- end of 2011 what assets were you
4 still liquidating?

5 A. I don't remember.

6 Q. You already testified you didn't own a car, you
7 were leasing one; correct?

8 A. I was leasing it -- I was not leasing one. My
9 wife was leasing the car.

10 Q. So you had no car at that point?

11 A. I had my wife's car.

12 Q. Which was being leased?

13 A. Correct.

14 Q. Did you have any pieces of art in 2011 that
15 were worth more than \$10,000?

16 A. Well, that was -- you saw what was -- my
17 artwork was all in storage and you handled that sale.

18 Q. Okay.

19 So just to be clear on that, I'm going to
20 exclude everything that was in the storage units. Did you
21 have any other piece of art, other than what was in the
22 storage unit, that was worth more than \$10,000 in 2011?

23 A. Not to my knowledge.

24 Q. So you can't remember any asset that you would
25 have been liquidating to enable you to make nearly \$10,000

1 in deposits this month; correct?

2 A. You say "this month"?

3 Q. This month of January, 2012.

4 A. I believe this was part -- I believe this
5 was -- and I don't know for sure, but I think this was part
6 of that stock settlement.

7 Q. And then the stock settlement was enabling you
8 to live with expenses far exceeding your Social Security
9 payment?

10 A. Correct.

11 Q. So your stock sale must have been a hundred
12 thousand dollars?

13 A. I don't remember.

14 Q. Well, you did live beyond your Social Security
15 for many, many months, didn't you?

16 A. Correct.

17 Q. How was the stock sale money provided to you?

18 A. I believe in the form of a check. I can't
19 remember.

20 Q. So why is there no record of the check being
21 deposited?

22 A. Well, that was far -- that was earlier than
23 this particular date.

24 Q. How much prior to that date?

25 A. I don't remember.

1 Q. Do you remember when the judgment was issued
2 against you?

3 A. No, I do not.

4 Q. Because the stock sale took place prior to
5 that; right?

6 A. Correct.

7 Q. Did you use any of those funds to pay for the
8 civil attorneys that you had?

9 A. Yes, I did.

10 Q. How much was your initial investment in that
11 venture capital group?

12 A. I don't remember.

13 Q. Was it a hundred thousand? Was it a million
14 dollars?

15 A. Less than a million.

16 Q. Was it more than a hundred thousand?

17 A. I believe so.

18 Q. But you received less than what you invested;
19 right?

20 A. I believe so.

21 Q. Why would you have held this money from the
22 liquidating your stock -- why were you holding it in cash?

23 A. I don't remember.

24 Q. Did you just cash the check and keep tens of
25 thousands of dollars in cash in your condo in Elkhorn?

1 A. Did I hold money? No.

2 Q. But you're making cash deposits; right?

3 A. I made cash deposits, yes.

4 Q. Large cash deposits, \$5,000 in one deposit;

5 right?

6 A. In one deposit, yes.

7 Q. So you had to walk in with a roll of money to

8 the bank; correct?

9 A. Are you saying that 5,000 is a roll of money?

10 Q. Yes.

11 A. Again, I don't know -- I don't know where that

12 particular \$5,000 came from. I'm assuming it was part of

13 that, but I don't remember.

14 Q. And then -- so you made a deposit of 5,000 on

15 December 20th, 2011, and then eight days later -- or, I'm

16 sorry, that was not right.

17 You know, you walked into a bank four times

18 with cash to deposit in one month. And if you're telling

19 me that that money came from a stock sale, that would mean

20 that you were having that cash from the stock sale

21 somewhere within your reach; isn't that right?

22 A. I can't answer that question. I don't know.

23 Q. How else would you have gotten it if the money

24 weren't in your reach?

25 A. Well, you're asking me if that came directly

1 from the stock sale. I don't remember if it did or not.

2 Q. So where -- if it wasn't from the stock sale,
3 where would that cash have come from?

4 A. I had liquidated assets in Florida.

5 Q. Okay. And then -- you liquidated them, and
6 then you just had a wad of cash that you came to Idaho
7 with?

8 A. I don't remember how that came about or how I
9 ended up coming up with these deposits at this particular
10 time.

11 Q. Okay.

12 Then let's move to the next tab, and this is
13 the Zions statement dated February 21st, 2012; right?

14 A. What was the date?

15 Q. February 21st, 2012.

16 A. The next tab I have is January 18th, 2012.

17 Q. Okay. Then go to the next tab.

18 A. Okay.

19 Q. And on this one it's showing deposits of three
20 separate times; a \$1,000 deposit, a \$2,000 deposit, and a
21 \$2,500 deposit. Right?

22 A. Correct.

23 Q. And, again, \$5,500 in cash deposits in one
24 month after the previous month of \$10,000 in cash deposits,
25 and you don't remember where the cash came from?

1 A. No, I do not.

2 Q. Was somebody regularly providing you with cash
3 each month?

4 A. I don't know how to answer that question.

5 Q. Did anybody ever provide you with cash at this
6 time frame?

7 A. Unless it was something I was selling at that
8 time, I don't remember.

9 Q. Okay. So Mr. Durringer was not --

10 A. No.

11 Q. -- providing you with envelopes of cash?

12 A. No.

13 Q. No one else was providing you with cash?

14 A. No.

15 Q. And yet you still say that you didn't have a
16 box somewhere filled with cash from the liquidation of the
17 items in Florida?

18 A. I don't remember the -- where this money was
19 coming from directly, if it was from that stock sale. I
20 don't remember. This is back in 2012.

21 Q. Right. And I don't know if it came from the
22 stock sale, either, but you're dealing with large amounts
23 of cash, and yet you're telling me that the cash is not
24 being given to you by somebody. So that means that you had
25 that cash in your possession.

1 A. I made the deposit, yes.

2 Q. So you had that much cash in your possession in
3 February of 2012; right?

4 A. Obviously, I did.

5 Q. And you had \$10,000 in your possession in
6 January; right?

7 A. Correct.

8 Q. So all you -- so in January you had \$15,000 at
9 least in cash; right?

10 A. I don't remember the exact amounts, but that's
11 what it says that I made deposits of, yes.

12 Q. So you had within your reach thousands and
13 thousands of dollars all in cash at the beginning of 2012;
14 right?

15 A. Well, I had at least what I deposited, yes.

16 Q. Did you make a deposit one month, deplete all
17 the cash you had in your possession at that point, and then
18 the next month deposit all the cash you had in your
19 possession that month?

20 A. I don't remember.

21 Q. How would you have obtained additional cash if
22 not somebody providing it to you?

23 A. Like I say, I had liquidated assets.

24 Q. I understand that. And when you say you
25 liquidated assets, that gives you one piece of cash.

1 A. Um-mm.

2 Q. One pile of cash; right? Because you
3 liquidated everything when you were in Florida; correct?

4 A. I don't understand that question.

5 Q. Did you liquidate all of your assets that were
6 worth more than \$10,000 while you were in Florida and
7 before you moved to Idaho other than what was in your
8 storage unit?

9 A. I don't remember.

10 Q. Well, you've already testified that you didn't
11 come to Idaho with any assets worth more than \$10,000 other
12 than what was in the storage unit; right?

13 A. Nothing that was worth more than \$10,000 to my
14 recollection, yeah.

15 Q. Did you own anything still in Florida once you
16 moved to Idaho?

17 A. I don't remember.

18 Q. I would think you would remember something if
19 it was worth more than \$10,000; right?

20 A. I'm trying to remember if I had anything -- not
21 to my knowledge.

22 Q. If you can go to the next tab, this is dated
23 March 19th, 2012, the Zions Bank record. And, again, on
24 this one it shows two separate cash deposits, one of 1,500
25 and one of 2,600; right?

1 A. Where are you?
2 Q. On the deposits. This is Page 1 of 5 with the
3 March date.
4 A. What date are you referring to?
5 Q. They're -- on February 22nd there's a \$1,500
6 deposit and on February 27th a \$2,600 deposit; right?
7 A. Correct.
8 Q. And, again, no idea where that cash came from?
9 A. No.
10 Q. If you move a few pages in, maybe it's the
11 next -- where the canceled checks are, it shows that you're
12 still paying that Yarnall Company \$375; right?
13 A. Correct.
14 Q. And you're still paying \$1,500 to High Country
15 for your rent?
16 A. Correct.
17 Q. And you've got Idaho Power, Blue Cross Blue
18 Shield, Cox Communications, all those bills; right?
19 A. Correct.
20 Q. Let's go to the next one. Is that the April
21 18th, 2012?
22 A. Correct.
23 Q. Now we have three separate deposits; one of
24 \$4,000, one of \$1,600, and one of \$3,000. Right?
25 A. Correct.

1 Q. So we're now up to well over \$20,000 in the
2 four-month period that has been deposited into your
3 account; correct?

4 A. I don't know the exact amount, but that sounds
5 correct (unintelligible).

6 Q. And all in cash; right?

7 A. I don't know about that.

8 Q. Okay.

9 Well, then, let's go to the next tab. You have
10 the three deposit slips up at the top; right?

11 A. Correct.

12 Q. And they're all saying that all the money was
13 deposited in cash; right?

14 A. Correct.

15 Q. Yet no one was providing you with cash each
16 month; right?

17 A. Well, obtaining -- as I go back before, I had
18 liquidated assets and made deposits.

19 Q. And, again, on this page it's showing your
20 typical bills, Cox Communications, Idaho Power, High
21 Country, the Yarnall Company; is that right?

22 A. Correct.

23 Q. Now we go to the next tab. That's the
24 statement -- the first page of the May 18th, 2012,
25 statement; right?

1 A. Yes.

2 Q. And now there are no cash deposits, are there?

3 It's just your Social Security; right?

4 A. Correct.

5 Q. And if you go to the canceled checks page for

6 May 18th, 2012, there's no check for your rent, is there?

7 A. I don't know.

8 Q. There's no canceled check for the rent, is

9 there?

10 A. Are you talking about where it says Volkswagon

11 Credit and Corrock?

12 Q. Yes.

13 A. No.

14 Q. And there's no payment for any health

15 insurance, is there?

16 A. There's only the two checks there.

17 Q. So no Idaho Power, no Cox Communications, no

18 mobile phone payment, nothing like that; right?

19 A. Not on that page, no.

20 Q. Okay.

21 Let's go to the next tab. This is the June 18,

22 2012, statement; right?

23 A. Correct.

24 Q. And, again, the only deposit is your Social

25 Security; right?

1 A. Correct.

2 Q. And if we go to the next tab, those are the
3 canceled checks. And, again, there's no payment for your
4 rent, no Idaho Power, no Blue Cross; is there?

5 A. There's five checks here.

6 Q. And there's no rent payment, no Idaho Power, no
7 Blue Cross; right?

8 A. No.

9 Q. So was your rent being paid at that time?

10 A. I assume so.

11 Q. Who was paying your rent?

12 A. I don't know -- I was, I assume.

13 Q. And how were you paying it?

14 A. I don't remember.

15 Q. Did you ever make your rent payments in cash?

16 A. Not to my knowledge, no.

17 Q. So if we spoke to your landlord there, they
18 would confirm that you never made a rent payment in cash?

19 A. Correct.

20 Q. Now, who possibly would be paying your rent at
21 this point?

22 A. I don't remember what -- why they -- I don't
23 know.

24 Q. Did you ever pay your Idaho Power bill in cash?

25 A. Not to my knowledge.

1 Q. Do you know who was paying the Idaho Power bill
2 this month?
3 A. Are you talking about in 2012?
4 Q. Yes.
5 A. No, I don't remember.
6 Q. Let's go to the next one. This is the July
7 18th, 2012, statement and, again, the only deposit is your
8 Social Security; right?
9 A. (No response.)
10 Q. On the first page of that statement is July
11 18th, 2012?
12 A. Correct.
13 Q. And the only deposit is your Social Security;
14 right?
15 A. Correct.
16 Q. And then we go to the canceled check page of
17 that one and you wrote out a check for cash for \$1,500.
18 Why would you have done that?
19 A. I don't remember.
20 Q. But there's no canceled check for your rent, is
21 there?
22 A. Not here, no.
23 Q. Well, how else were you going to be paying your
24 rent if not through this account?
25 A. I don't remember. Was it on the other account?

1 I don't know.

2 Q. You didn't have the other account open -- or
3 you had just opened it at this time.

4 A. Okay.

5 Q. You can check the records. Did you pay --

6 A. I don't remember. You've gone through it.

7 Q. Well, take a look at it.

8 A. Well, this was going -- some of this might have
9 been paid through this account. I don't remember. I was
10 using both accounts. I'm assuming that checks were written
11 on this account as well.

12 Q. And this is the account that you don't know
13 where the \$24,000 came from to open it, the Bank of America
14 account?

15 A. Correct.

16 Q. Looking at the Exhibit 4, which is the Zions
17 Bank, still on that canceled check page, these are the July
18 payments that you made; correct?

19 A. July 18, 2012, Page 3 of 3?

20 Q. Yes.

21 A. Correct.

22 Q. So -- and then looking at Exhibit 3, your BofA
23 account records, on the July 10th - August 9th statement,
24 so it's pretty far to the end, have you found that?

25 A. No.

1 Q. It's near the end, July 10th through August
2 9th, 2012.

3 A. What's your question?

4 Q. I just want you to get to that page.

5 A. July 9th, 2012?

6 Q. July 10th through August 9th.

7 A. No, I don't -- I've got July 9th, 2012;

8 correct? Daily balance summary?

9 Q. Okay. So you're on Page 2 of 3.

10 A. I'm on Page 3 of 4 -- 2 of 4.

11 Q. Are you on the last tabbed page?

12 A. Yes.

13 Q. Okay. Then you need to move forward -- move
14 backwards one, two, three, four pages.

15 A. Page 2 of 3?

16 Q. Yes.

17 A. Yes.

18 Q. So these are the checks that you wrote on the
19 Bank of America account for this statement period; right?

20 They show two checks, one for \$315 and one for
21 \$1,000; right?

22 A. I have no idea what you're -- I don't see the
23 315. I see a check for \$1,000, Check 1016.

24 Q. Check 1016 in the amount of \$315; Check 1017 in
25 the amount of \$1,000; right?

1 A. Okay. Yes, I see that.
2 Q. Okay.
3 So there's no \$1,500 check being written from
4 the BofA account; right?
5 A. At that particular date, no.
6 Q. Okay.
7 And if you look at the previous month -- or the
8 later month, August -- it goes the opposite direction,
9 actually -- Page 2 of 3 of the August 10th through
10 September 6, 2012, statement.
11 A. Page 2 of 3, statement 8-10-12?
12 Q. Yes.
13 A. Yes.
14 Q. And if you go down to where the checking
15 subtractions are, there's no check for \$1,500, is there?
16 A. Not on this page, no.
17 Q. Okay.
18 So you weren't using the BofA account to pay
19 the rent of \$1,500 each month, were you?
20 A. Not for those two months, no.
21 Q. Okay.
22 Well, let's go to September, then.
23 A. All right.
24 Q. Have you gotten to the Page 2 of 3 of the
25 September 7, 2012, statement?

1 A. Yes.

2 Q. And there's no check for \$1,500 showing that
3 you paid your rent out of this bank account; right?

4 A. No.

5 Q. And, in fact, the balance in this -- at the end
6 of this statement period, your ending balance is \$75.75;
7 right?

8 A. Correct.

9 Q. So you weren't going to be able to pay the rent
10 the following month out of this account, either; right?

11 A. Out of the September [sic] account, no.

12 Q. And how would this account get additions to it?
13 What were the source of funds? You had the Social Security
14 going to your Zions account. Where would you get money to
15 then put into this Bank of America account?

16 A. At that time?

17 Q. Yes.

18 A. I don't remember.

19 Q. Well, you've already testified that you had no
20 other source of income; right?

21 A. I had no income coming in at that time, no.

22 Q. Other than Social Security?

23 A. Correct.

24 Q. And it's still your testimony that nobody was
25 handing you money?

1 A. That's correct.

2 Q. So this money just would show up miraculously?

3 A. I don't remember.

4 Q. Did you ever get any statements from your
5 landlords at this time stating that you had not paid your
6 rent?

7 A. No.

8 Q. Yet you have no proof of paying your rent;
9 right?

10 A. Not here, no.

11 Q. And what other proof would there be that you
12 paid your rent?

13 A. I wasn't evicted.

14 Q. But you testified you had never paid your rent
15 in cash.

16 A. That's correct.

17 Q. So you didn't pay it in cash and you didn't pay
18 it through a check from the two bank accounts that you had.
19 So what possible source of money paid your rent?

20 A. I don't remember.

21 Q. I want to know what's possible, what could it
22 have been, not what you remember doing.

23 Where could you have gotten -- what source of
24 funds could you have possibly used to pay the rent?

25 A. I don't remember how that was being paid at

1 this time. I don't remember.

2 Q. Did you have access to any other source of
3 money with which you could have paid the rent?

4 A. I don't remember.

5 Q. Well, that's pretty important because this is
6 all about your assets and your expenses, and we're talking
7 about \$1,500 every month that you're saying that you didn't
8 pay in cash and you didn't pay with checks from the two
9 bank accounts that you're telling us are the only bank
10 accounts that you have.

11 A. Oh, it was being paid. I just don't remember
12 how it was being paid at that time.

13 Q. So what are my possibilities on how it was
14 paid?

15 A. I don't know.

16 Q. Well, for months you weren't paying your rent,
17 so either somebody was paying it for you, you were paying
18 it in cash or you have another bank account out there;
19 right? Those are my only options that I can think of.

20 Can you think of any other?

21 A. It might have been a money order. I don't
22 remember.

23 Q. And how would you have obtained a money order?

24 A. Through Atkinson's.

25 Q. So you go in with cash to Atkinson's and

1 purchase a money order?

2 A. I don't remember if that's how this was done,
3 but you're asking is there any other possible way. That's
4 the only other possible way I can understand that it was
5 being done.

6 Q. Okay. So have you done that before, have you
7 gone to Atkinson's with cash to obtain a money order?

8 A. I have.

9 Q. Okay. So it's possible that you went into
10 Atkinson's with \$1,500 in cash and got a money order with
11 which to pay your rent?

12 A. I don't remember if that's what happened, but
13 you're asking me if that was a possibility.

14 Q. Okay. So how many times have you done that, do
15 you think, used Atkinson's to get a money order?

16 A. I don't know.

17 Q. More than five times?

18 A. I don't know.

19 Q. And, again, the cash with which you used to buy
20 the money order to pay for it, that came from cash that was
21 sitting around in your condo at that time?

22 A. It was either that or a liquidation of -- no,
23 it was liquidation of either -- that stock that I referred
24 to earlier.

25 Q. So that's the only source, it could only be

1 this stock?

2 A. As I remember, yes.

3 Q. So why didn't you take the money from the stock
4 sale and put it into your Zions account and then write a
5 check to pay your rent instead of --

6 A. I don't remember why I did that.

7 Q. So you took the course of keeping cash
8 somewhere in your condo and then going down to Atkinson's,
9 buying a money order, and then using that to pay your rent?

10 A. I don't remember.

11 Q. But that was the only other way it could have
12 been paid; right?

13 A. I don't know.

14 Q. If you could go to the -- it's several tabs,
15 I've skipped over a few of these, but go to the July 18th,
16 2013, statement.

17 A. July 18th what?

18 Q. 2013.

19 A. July 18th, 2013?

20 Q. Yes.

21 And, actually, before we get to this point, in
22 your February 20th, 2015, examination you testified that
23 you provided your lawyer, Susan Roy, with a \$10,000
24 retainer, and that was prior to your arrest; right?

25 A. I don't know if it was prior to my arrest or

1 not.

2 Q. That's what you testified to.

3 Would you have been able to pay the retainer
4 after your arrest?

5 A. I don't remember if it was before or after the
6 arrest.

7 Q. Okay.

8 How did you make that payment?

9 A. I don't remember.

10 Q. I'll represent to you that I've searched the
11 records all around, near, close to, before, and after the
12 time of your arrest. I can't find a \$10,000 check to Susan
13 Roy or a \$10,000 wire to anybody.

14 If it did not come out of one of these bank
15 accounts, where would that money have come from?

16 A. I don't remember.

17 Q. Did you go down to Atkinson's with \$10,000 and
18 buy a money order?

19 A. I don't remember.

20 Q. Is that possible that you would have done that?

21 A. I don't know.

22 Q. Did you provide \$10,000 in cash to Ms. Roy?

23 A. I don't remember.

24 Q. And, again, this is just money that you had
25 lying around from having liquidated assets in Florida?

1 A. I don't remember.

2 Q. So at this July 18th, 2013, statement, was this
3 the first payment that you got, the Social Security
4 deposit, after you were in jail?

5 A. Can you repeat that question?

6 Q. Was this the first Social Security payment that
7 you received after being incarcerated?

8 A. Well, I was incarcerated in June, so I don't
9 know if there was a payment in June or not.

10 Q. If you go to the statement before, just a
11 couple pages prior, you were still -- in this one you were
12 still paying bills; right?

13 A. Are you talking about the statement of June
14 18th, 2013?

15 Q. Yes.

16 A. Correct.

17 Q. Okay. And, actually, your Social Security
18 payment at that time was 1482; right?

19 A. Correct.

20 Q. Did it go down as a result of being incarcerated?

21 A. I don't know.

22 Q. You don't know why your Social Security went
23 down?

24 A. No.

25 Q. Well, if you just look over the next few

1 months, while you're in jail none of -- your balance just
2 kept increasing; right? You were getting Social Security
3 payments but no expenses; correct?

4 A. I wasn't drawing anything out of that account,
5 no.

6 Q. Okay. So you're just getting your Social
7 Security deposit of almost \$1,500 put in each month?

8 A. Correct.

9 Q. Okay.

10 Now if you can go to the next tab after that
11 one, this is the January 20th, 2015, statement?

12 A. Correct.

13 Q. So this is now you're out of jail; right?

14 A. Correct.

15 Q. And it shows that the balance in the account as
16 of January 20th, 2015, is just a little over \$30,000;
17 right?

18 A. Correct.

19 Q. Okay.

20 If you can go to the next tab, and these are
21 two checks written to yourself?

22 A. Correct.

23 Q. One on January 29th, one on February 12th,
24 2015, each for a thousand dollars in cash; right?

25 A. Correct.

1 Q. Why would you write checks out to yourself for
2 cash?

3 A. I needed the money.

4 Q. I don't -- why would you not spend -- just
5 write a check where you went? Why do you need to have
6 cash?

7 A. I needed the money.

8 Q. Okay. But you don't have any -- you had,
9 what -- you had moved into a different condo in Ketchum at
10 that point; right?

11 A. Yes.

12 Q. And the rent there was how much?

13 A. I don't remember.

14 Q. Let me show you Exhibit 5. So Exhibit 5 is a
15 letter of understanding between you and Johnny Ellison --

16 A. Correct.

17 Q. -- about a 5-month rental of a Horizons 4 unit;
18 is that correct?

19 A. Correct.

20 Q. And the monthly rent was \$1,200; right?

21 A. Monthly rent was 1,200, correct.

22 Q. Was Robert Durringer with you at the time that
23 you signed -- is that your signature at the middle of the
24 page?

25 A. Yes.

1 Q. And is that Mr. Durringer's signature below
2 yours?

3 A. Correct.

4 Q. Did he sign it in front of you?

5 A. Yes.

6 Q. So he was in Ketchum at that time?

7 A. No.

8 Q. Where were you located?

9 A. We were in Colorado.

10 Q. So you traveled to Colorado in November of 2014?

11 A. Yes.

12 Q. And this was -- did you live anywhere in
13 Ketchum prior to moving into the Horizons 4 unit?

14 A. No.

15 Q. How did -- had you been to Idaho -- returned to
16 Idaho at all before November 26, 2014?

17 A. No.

18 Q. So how did you come to learn about this rental?

19 A. I believe through a friend, if I remember right.

20 Q. Who created this letter of understanding?

21 A. It would be Mr. Ellison.

22 Q. Had you -- so you were the actual tenant under
23 this lease agreement; right?

24 A. It had me as tenant and cosigner for tenant was
25 Robert -- Mr. Durringer.

1 Q. So he was not the tenant, he was just a
2 guarantor for you; right?

3 A. Correct.

4 Q. When did you move into this unit?

5 A. I believe it was right in the middle of
6 December.

7 Q. So you would have started paying rent
8 mid-December?

9 A. If I remember right; correct.

10 Q. Looking back at this statement on the Zions
11 Bank records and going to the statement dated December
12 18th, 2014 -- are you there?

13 A. No, I don't know where you're at.

14 Q. December 18th, 2014.

15 A. December 18th, 2014.

16 Q. Okay. So up to December 18th, 2014, you didn't
17 write a check to Johnny Ellison for your rent; right?

18 A. That's correct.

19 Q. And then let's go to the next month's
20 statement. This is the January 20th, 2015. And, again,
21 this is where you have \$30,000 in the account, but there's
22 no check written to the rent; right?

23 A. That's correct.

24 Q. So who was paying the rent?

25 A. Mr. Duringer.

1 Q. Why was he paying for your rent if you had
2 \$30,000?

3 A. There was -- he was helping me. That's all I
4 can tell you.

5 Q. So you have \$30,000, but he's going to pay your
6 rent, that was the deal you had with him?

7 A. The rent was -- basically, it's in his name and
8 mine.

9 Q. Well, actually, the lease agreement says that
10 you are the tenant and he is the cosigner, so that if you
11 don't pay the rent, then he's responsible for it.

12 A. That's correct.

13 Q. So why were you not writing the check out for
14 your rent?

15 A. Again, Mr. Durringer was helping me out.

16 Q. Okay.

17 Let's go to the next -- the next tab we've
18 already talked about.

19 Let's go to the tab after that. These are the
20 checks and deposit slips for the March 18th, 2015, Zions
21 Bank statement; right?

22 A. Correct.

23 Q. And in that you wrote a check out on February
24 12th, 2015, to Robert Durringer in the amount of \$7,500 and
25 another check to him for \$9,000 on February 19th, 2015;

1 right?

2 A. I don't know where you're at.

3 Q. I'm on Page 3 of 3 of the March 18th, 2015,
4 statement.

5 A. Correct.

6 Q. Why did you write these checks out to him?

7 A. He had covered a bunch of expenses of mine
8 while I was incarcerated.

9 Q. What expenses did you have when you were
10 incarcerated?

11 A. He put money on my banks on a monthly basis.
12 He covered my daughter's expenses while I was incarcerated.
13 I don't remember if he had -- I think he covered some of
14 her medical insurance. He supplied me with books. I can't
15 remember all the expenses that he covered; quite a few.

16 Q. Okay. So he put money in your bank on a
17 monthly basis. Is that a bank in the jail?

18 A. Yes.

19 Q. How much money did he put in on a monthly
20 basis?

21 A. I don't remember.

22 Q. A hundred dollars? Two hundred dollars?

23 A. Several hundred every month.

24 Q. Okay.

25 And then when he covered your daughter's

1 expenses, how was that facilitated? Would he send money to
2 your ex-wife? Would he pay bills directly?

3 A. I don't remember how that was done.

4 Q. When you paid him \$17,000 in one month, what
5 was that based on? Did you have an accounting done of the
6 money that he had provided you while you were incarcerated?

7 A. Yes.

8 Q. Okay. So where is that document?

9 A. He just told me that that's how much money that
10 he put out.

11 Q. So you never saw an accounting?

12 A. No.

13 Q. Why would you pay him back for those funds
14 instead of just paying your rent?

15 A. It was just the way it was done.

16 You have to understand something about
17 perception and reality. Maybe I should do this off the
18 record.

19 Q. I don't need to know anything about perception
20 and reality. All I need are the answers to my questions.

21 A. All right.

22 Q. So you made these transfers of \$17,000 in the
23 days before you were to be deposed in your debtor's exam
24 with Mr. Paisley; right?

25 A. I don't remember.

1 Q. The first debtor's exam was February 20th,
2 2015; right?

3 A. (No response.)

4 Q. I can show you the transcript if you would
5 like.

6 A. Okay.

7 Q. Here's a copy of the transcript. Were you
8 deposed on February 20th, 2015?

9 A. Yes.

10 Q. And you made a transfer of \$9,500 the day
11 before you were deposed?

12 A. I guess I was, yes.

13 Q. Did you make that transfer to Mr. Durringer so
14 that you could testify that you were penniless at the time
15 of your examination?

16 A. No.

17 Q. I'm sorry, what was that?

18 A. I don't understand. I was penniless? They
19 knew that I -- I don't -- go back and -- I don't understand
20 the question.

21 Q. You testified in your February 20th, 2015,
22 examination that you couldn't even afford to fly to Los
23 Angeles; isn't that right?

24 A. No, they asked me if I -- how I paid for that
25 flight.

1 Q. And then you testified that Mr. Tomati allowed
2 you to use his --

3 A. Mr. Tomati.

4 Q. Tomati, T-O-M-A-T-I?

5 A. That's correct. I think so.

6 Q. That he gave you airline miles so that you
7 could have a ticket?

8 A. Correct. Correct.

9 Q. And didn't you also testify that if he hadn't
10 done that, you would have had to have taken the bus to
11 arrive in Los Angeles for the examination?

12 A. I don't remember I stated that.

13 Q. If you could turn to Page 52 of the
14 examination, of the transcript, and on Line 4 the question
15 was, "But did you tell him that you had no money to pay for
16 the flight? ANSWER: I had planned on taking a bus out
17 here and he was the one that allowed me to use his miles."

18 Did I read that correctly?

19 A. That's correct.

20 Q. So you were testifying that you didn't have
21 enough money to even purchase a flight to Los Angeles, that
22 you would have had to have taken the bus if you hadn't
23 gotten the mileage; right?

24 A. I don't know how this was being signified, but
25 at that time I definitely was under close scrutiny on every

1 dollar that I had, that's correct.

2 Q. Okay.

3 And if you could also turn to Page 59 of the
4 transcript, and on Line 9 of Page 59 the question was,
5 "You're basically saying that you're penniless today;
6 correct? ANSWER: Correct."

7 And isn't it true that you were penniless
8 because you had just transferred \$17,000 to Mr. Durringer in
9 the week before?

10 A. I had no idea what -- what I had as far as
11 assets and what I owed at that particular time.

12 Q. Well, you testified under oath that you were
13 penniless, didn't you?

14 A. At that particular time I thought that I was.

15 Q. You knew that you had at least \$13,000 in your
16 account and that you had just transferred \$17,000 to your
17 friend; right?

18 A. But I still didn't know at the time how much I
19 still owed. I was going through a divorce, I was still
20 trying to get -- I was still trying to get established, I
21 had no idea how much more legal fees I was going to have,
22 and I had -- and at that time, based upon what I thought, I
23 was close to being penniless, yes.

24 Q. Yet in your -- again, on February 20th, on Page
25 71 of the transcript you testified that you were not aware

1 of anybody that you owed money to other than the plaintiffs
2 in this case; isn't that right?

3 A. At that particular time I was not -- I did not
4 know at that particular time.

5 Q. Okay.

6 And since February 20th have there been any
7 other people, individuals, corporations, firms, that you
8 have come to owe money to?

9 A. I am -- as I explained to you, with -- with
10 Jonathan Michaels.

11 Q. When did Mr. Michaels start lending you money?

12 A. I don't know the particular day. It was after
13 I got out of jail.

14 Q. Was it before you testified on February 20th,
15 2015?

16 A. I don't remember.

17 Q. If it had been before February 20th, 2015, then
18 your testimony was not accurate; was it?

19 A. I don't remember what date that he started
20 helping me, no.

21 Q. Do you own a vehicle?

22 A. No, I do not.

23 Q. Now, you testified in February that you borrow
24 Mr. Durringer's Mercedes; is that right?

25 A. Yes.

1 Q. Are you still borrowing it?
2 A. Yes.
3 Q. What year is it?
4 A. I think it's a 2015.
5 Q. So it was new when you started borrowing it?
6 A. Yes.
7 Q. Did he buy it or lease it?
8 A. I believe he leased it.
9 Q. Has he ever driven it?
10 A. Yes.
11 Q. How often has he been in Idaho since he leased
12 the car?
13 A. He has not.
14 Q. So when did he ever drive it?
15 A. I'll take that back. He's never driven the
16 car, that is correct.
17 Q. Where is it registered?
18 A. It's -- I believe in California.
19 Q. Why would it be leased in Cal -- I mean
20 registered in California?
21 A. I believe that's where Mr. -- Doc -- where
22 Mr. Durringer purchased the vehicle.
23 Q. But he lives in Colorado?
24 A. That's correct.
25 Q. Does he have a California address?

1 A. You would have to ask Doc -- Mr. Durringer.
2 Q. Whose name is it registered under?
3 A. Mr. Durringer's.
4 Q. And what address is on the registration?
5 A. I believe his Colorado address.
6 Q. Who pays the insurance?
7 A. Mr. Durringer paid the first insurance. I think
8 I paid the second, but I'm not sure.
9 Q. So his Colorado address, is that his business
10 address or his home address?
11 A. His home address.
12 Q. Okay.
13 Did you drive the Mercedes here today?
14 A. I did.
15 Q. Okay. Why don't we just take a quick break,
16 you can run out, grab the registration, because then I can
17 get his address.
18 A. All right.
19 Q. Okay. And then we'll just finish up.
20 A. Do you want to finish up and then I'll get it?
21 Q. No, actually, I would rather -- let's do it now
22 and then I'll finish up.
23 (Short interruption at 4:01 p.m.; reconvene at
24 4:05 p.m.)
25 A. 4299 Cheyenne Drive, Larkspur, Colorado.

1 Q. (By Ms. Clark) 4299?
2 A. Correct.
3 Q. Cheyenne Drive?
4 A. Correct.
5 Q. Okay.
6 Now, at the February 20th examination you
7 testified that you were aware of the auction of the items
8 in the storage units that you had down in Bellevue; right?
9 A. Correct.
10 Q. And you knew that your ex-wife attended the
11 sale?
12 A. Yes.
13 Q. But you did not know whether or not your friend
14 Kim Page attended that sale; right?
15 A. I know now that she did, yes.
16 Q. So she did attend?
17 A. Yes.
18 Q. And Page is P-A-I-G-E?
19 A. I think it's P-A-G-E.
20 Q. Now, did you have any conversations with Kim
21 Page prior to the auction regarding the upcoming auction?
22 A. I don't remember.
23 Q. Did you speak with her while you were in jail?
24 A. I did.
25 Q. And how often did you speak with her?

1 A. I don't remember how often. There was some
2 time that I didn't speak to her at all. I don't know.

3 Q. Would you speak to her approximately once a
4 week?

5 A. I don't believe it was that often.

6 Q. So you've had conversations with her about the
7 auction since the auction happened; right?

8 A. Since the auction happened, yes.

9 Q. Okay. When was the -- when was the -- how many
10 conversations have you had with her regarding the auction?

11 A. I don't like to talk about it so I don't bring
12 it up, but I think only once.

13 Q. Okay. When was that?

14 A. Oh, that was after I was out of jail. I don't
15 know. It would have been within 30 days after I was out of
16 jail probably.

17 Q. Okay. And what was the content of the
18 conversation?

19 A. That she attended, that you were there, that it
20 was a pretty sad scene.

21 Q. Did she tell you why she attended?

22 A. I think she just was curious.

23 Q. Well, you know she bought items; right?

24 A. I understand that she did.

25 Q. Now, you had quite a few paintings by a single

1 artist, didn't you? Somebody with the initials BKB?
2 A. Yes.
3 Q. What does that stand for?
4 A. You could get that information from Julie. I
5 don't remember -- it's Brenda, but I don't remember the --
6 Q. So the artist's name is Brenda?
7 A. Her first name.
8 Q. And did you ever have Brenda paint works
9 specifically for you, commission works?
10 A. Specifically, I think she did one.
11 Q. And that was one for your daughter; right?
12 A. Yes.
13 Q. And it has her name on it?
14 A. I don't remember if it has her name on it or
15 not.
16 Q. Did you instruct Kim to purchase that painting
17 at the auction?
18 A. No, not that I remember.
19 Q. Do you have possession of that painting now?
20 A. No, I do not.
21 Q. Does Kim have possession of that painting
22 now --
23 A. I have no idea.
24 Q. -- to your knowledge?
25 So it's not in your condo in Elkhorn?

1 A. Do you want to come over and take a look?
2 Q. I'm asking the questions here.
3 A. No, it's not there.
4 Q. Okay.
5 A. Is any of my artwork in your house?
6 Q. And so prior to the auction did you have a
7 cradle that had been in your family for a while?
8 A. I did.
9 Q. And did you instruct Kim to purchase that
10 cradle?
11 A. I don't remember.
12 Q. Do you have possession of that cradle now?
13 A. I do not.
14 Q. Did you speak with Kim at all about the cradle?
15 A. I don't remember.
16 Q. What does Kim do for a living?
17 A. I don't know.
18 Q. You don't know what she does for a living?
19 A. No, I do not.
20 Q. Where does she live?
21 A. She lives in Idaho.
22 Q. What city?
23 A. I don't have her address.
24 Q. Is it in your phone?
25 A. No.

1 Q. Do you have her phone number in your phone?

2 A. I don't -- I don't know.

3 Q. So is it your belief that Kim is going to
4 testify under oath that you did not instruct her to
5 purchase those items?

6 A. I don't remember talking to Kim about
7 purchasing any items.

8 Q. Okay. Well, we'll ask her.

9 All right. That's it for today. You can leave
10 all those documents there.

11 (WHEREUPON, the proceedings were concluded at
12 4:10 p.m.)

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1 REPORTER'S CERTIFICATE

2
3 I, SUSAN P. ISRAEL, CSR #244, Official Court
4 Reporter, Fifth Judicial District, State of Idaho, do
5 hereby certify that the foregoing transcript, consisting of
6 Pages 1 to 94, inclusive, is a true and accurate record of
7 the proceedings had on the date and at the time indicated
8 therein as stenographically reported by me from a digital
9 recording to the best of my ability and contains all of the
10 material requested.

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 7th day of September, 2015.

13
14
15
16 _____
17 SUSAN P. ISRAEL, CSR NO. 244
18
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22
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24
25

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS BLA WIE
 MAGISTRATE DIVISION

C + M Invest Group)
)
 Plaintiff,)
)
 vs.)
Neil David Campbell)
)
 Defendant,)
)

CASE NO. CV-12-407

**ADVISEMENT OF RIGHTS
 REGARDING CONTEMPT**

FILED AM. 4:20 P.M.
 FEB 23 2016
 JoLynn Drage, Clerk District
 Court Blaine County, Idaho

A Motion And Affidavit seeking to hold you in contempt of court for allegedly violating an order of this court has been filed against you. The maximum penalty for each contempt of court is a fine of \$5,000 and/or five (5) days in jail, except that the jail sentence can be up to thirty (30) days if the contempt is for failing to obey an order or judgment for the support of minor children. Sanctions for multiple contempts of court can be ordered to be served consecutively. 75(f)(1)(b); 75(g)(1)(b)

RIGHTS

The purpose of the initial appearance is to advise you of both the charge(s) against you and your rights. You are advised that:

- You have the right to be informed of the nature of the charge(s). 75(f)(1)(b); 75(g)(1)(a)
- You have the right to remain silent (often called the privilege against self-incrimination). You are not required to make a statement and any statement you make can be used as evidence against you at trial. 75(f)(1)(c)
- You have the right to the presumption of innocence. 75(h)(2)
- You have the right to be represented by an attorney. If you desire an attorney but cannot afford one, an attorney will be appointed to represent you at public expense. You may be required to reimburse the county for the cost of that attorney. 75(f)(2); 75(h)(2); 75(l)
- You have the right to a public trial on the issue of whether or not you are in contempt of court. At the trial, you can watch the witnesses as they testify, and you have the right to confront the witnesses testifying against you by asking them questions. 75(f)(1)(d); 75(h)(2)
- You have the right to testify yourself, as well as the right to call witnesses on your behalf. You have the right to compulsory process (subpoenas) to compel the presence of witnesses at trial. 75(h)(2)
- You have the right to the protection of the exclusionary rule, and you can seek to exclude evidence that was obtained in violation of your Fourth Amendment rights. 75(h)(2)
- You have the right to the protection of the Double Jeopardy Clause. *Camp v. East Fork Ditch Co.*
- If you have been arrested under a warrant of attachment, you have the right to bail. 75(f)(1)(f)

EFFECT OF ADMITTING THE CONTEMPT

If you choose to admit you are in contempt of the court's order, you waive your right to silence, the right to a trial, the right to call or confront witnesses at trial, and your right to testify at trial. 75(g)(1)(d)

EFFECT OF DENYING THE CONTEMPT

If you choose to deny that you are in contempt of the court's order, the matter will be set for trial. You will be given at least fourteen (14) days to prepare for trial, unless otherwise ordered by the court. 75(g)(2)

AFFIRMATIVE DEFENSES

In order to assert an affirmative defense at trial to the contempt charge, you must file and serve a written response stating such defense, including any of the following:

- You were unable to comply with the court order at the time of the alleged violation (only a defense to a criminal sanction).
- You lacked the present ability to comply with a court order (only a defense to a civil sanction).
- You were unaware of the order allegedly violated.
- The court lacks personal jurisdiction over you.
- The court lacked jurisdiction to issue the order allegedly violated.

The written response must be filed within seven (7) days after entering a plea denying the contempt charged, unless otherwise ordered by the court. 75(h)

SENTENCING

If you admit to the contempt or the court finds after trial that you committed the contempt, the matter will be set for sentencing. At sentencing, you have the right to call witnesses in mitigation of the sanction and the right to speak to the court in order to present matters in mitigation or to otherwise attempt to make amends with the court. 75(1)(2)

ACKNOWLEDGMENT OF RIGHTS

I have read this entire document and I understand it.

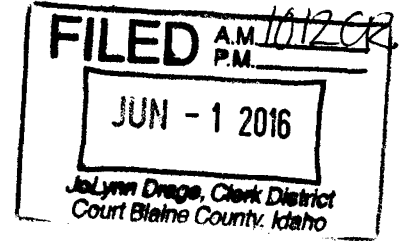
2/22/16

Date



Respondent's signature

Lee P. Ritzau
LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.
460 Sun Valley Road, Suite 205
P.O. Box 1172
Ketchum, Idaho 83340
Tel: 208/726-8219
Fax: 208/726-3750
ISB No. 5239



Attorneys for Defendant, Neil David Campbell

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP,	)	Case No. CR-2012-407
LTD., and KARLIN HOLDINGS)	
LIMITED PARTNERSHIP,	)	ORDER REGARDING APPOINTMENT
)	
Plaintiffs,)	
)	
v.)	
)	
PHILIP RICHARD POWERS,)	
individually; NEIL DAVID)	
CAMPBELL, individually;)	
POWERS INVESTMENTS AND)	
MANAGEMENT, INC., S.A., a)	
corporation; GUANANA GRIS,)	
S.A., a corporation; PROTECCION)	
FORESTAL DE TECA, S.S., a)	
corporation; and DOES 1 through)	
50 inclusive,)	
)	
Defendants.)	

This matter came before the Court on May 23, 2016, the Honorable Robert Elgee presiding. Erin Clark of LAWSON LASKI CLARK & POGUE, PLLC represented the Plaintiffs,

ORDER REGARDING APPOINTMENT/1

and Mr. Neil Campbell represented himself. Lee P. Ritzau provided the Court with the Ex Parte Affidavit of Lee Ritzau and the Ex Parte Affidavit of Neil Campbell addressing topics addressed at the May 23, 2016 hearing.

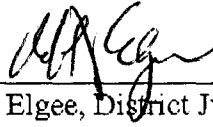
IT IS HEREBY ORDERED that Lee P. Ritzau of Luboviski, Wygle, Fallowfield and Ritzau, P.A. is appointed to represent Mr. Neil Campbell in this case. Mr. Ritzau's representation of Mr. Campbell shall be of a hybrid nature consisting of two parts. First, Mr. Ritzau will represent Mr. Campbell at his customary rate of \$275.00 per hour until the retainer provided by Mr. Campbell and identified in the Ex Parte Affidavit is exhausted. Second, if the retainer provided to Mr. Campbell is exhausted, Mr. Ritzau will bill Blaine County at the rate of \$135.00 per hour for payment of necessary legal services required in representing Mr. Campbell. This appointment is made under the Blaine County Public Defender Contract and/or I.C. § 19-851 and/or I.C. § 19-852, as the Court determines Mr. Campbell is a needy person and facing a serious crime. Judge Robert Eglee shall determine what legal services provided by Mr. Ritzau are necessary and thus required to be paid by Blaine County. Mr. Ritzau shall present his billings, in the form of an affidavit, to Judge Robert Elgee on or before the 10th of the month, and payment of necessary legal expenses shall be due to Mr. Ritzau from Blaine County on or before the 30th of the same month.

If Mr. Ritzau is not being paid by either Mr. Campbell or Blaine County as discussed above, then Mr. Ritzau shall be free to withdraw from this case after meeting the requirements of Idaho law relating to withdrawing from representing a client.

If there is any need to request Blaine County provide the payment of funds or expenses not covered in this order, the request for payment by Mr. Campbell shall be submitted ex parte.

ORDER REGARDING APPOINTMENT/2

DATED this 31 day of May, 2016.



Robert Elgee, District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of May, 2016, I served a true and correct copy of the within and foregoing document upon the attorney named below, in the manner noted:

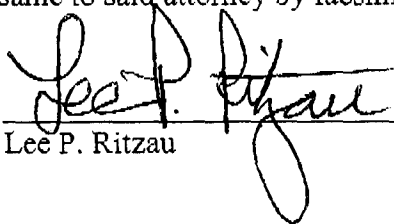
Erin F. Clark
Lawson Iaski Clark & Pogue, PLLC
P.O. Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

Luke L. Dauchot
Kirkland & Ellis LLP
333 South Hope Street
Los Angeles, CA 90071
Fax: 213-680-8500

By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Ketchum, Idaho.

By hand delivering copies of the same.

By transmitting copies of the same to said attorney by facsimile machine process.



Lee P. Ritzau

ORDER REGARDING APPOINTMENT/3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1 day of ^{June}~~May~~, 2016, I served a true and correct copy of the within and foregoing document upon the attorney named below, in the manner noted:

Erin F. Clark
Lawson Laski Clark & Pogue, PLLC
P.O. Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

Luke L. Dauchot
Kirkland & Ellis LLP
333 South Hope Street
Los Angeles, CA 90071
Fax: 213-680-8500

Lee P. Ritzau
Luboviski, Wygle, Fallowfield & Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340
Fax: 208-726-3750

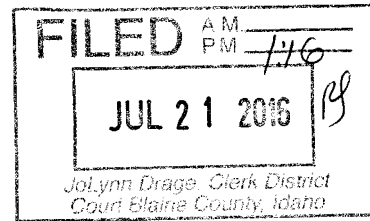
By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Hailey, Idaho.

By hand delivering copies of the same.

By transmitting copies of the same to said attorney by facsimile machine process.


Clerk of the Court

Lee P. Ritzau
LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.
 460 Sun Valley Road, Suite 205
 P.O. Box 1172
 Ketchum, Idaho 83340
 Tel: 208/726-8219
 Fax: 208/726-3750
 ISB No. 5239



Attorneys for Respondent Neil David Campbell

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP,)
 LTD., and KARLIN HOLDINGS)
 LIMITED PARTNERSHIP,)
)
 Plaintiffs,)
)
 v.)
)
 PHILIP RICHARD POWERS,)
 individually; NEIL DAVID)
 CAMPBELL, individually;)
 POWERS INVESTMENTS AND)
 MANAGEMENT, INC., S.A., a)
 corporation; GUANANA GRIS,)
 S.A., a corporation; PROTECCION)
 FORESTAL DE TECA, S.S., a)
 corporation; and DOES 1 through)
 50 inclusive,)
)
 Defendants.)
)

Case No. ^{CV} CR-2012-407
 RESPONDENT'S TRIAL BRIEF

Comes now, Neil Campbell, by and through his attorney of record, Lee P. Ritzau of
 Luboviski, Wygle, Fallowfield & Ritzau, P.A., and hereby submits his Trial Brief.

RESPONDENT'S TRIAL BRIEF/1

I. INTRODUCTION.

Petitioners', C&M Investment Group, LTD and Karlin Holdings Limited Partnership filed a Charging Affidavit with the Court seeking to find Mr. Neil David Campbell in contempt of court on ten counts of civil contempt and twenty-four counts of criminal contempt.

II. LAW AND ARGUMENT.

A. Idaho Law Regarding Contempt of Court.

1. "Criminal contempt is the commission of a disrespectful act directed at the court itself which obstructs justice. A criminal contempt proceeding is maintained solely and simply to vindicate the authority of the court or to punish otherwise for conduct offensive to the public in violation of an order of the court." *Camp* at 862.

2. "... contempt is an extraordinary proceeding and should be approached with caution. This Court has recognized contempt is an extraordinary proceeding. Phillips 95 Idaho at 405, 509 P.2d at 1326. This inherent power must be exercised with great caution. . . . The contempt power is readily susceptible of abuse and fraught with danger not only to personal liberties but to the respect and confidence which our courts must maintain. Although such a power is universally recognized as essential to an orderly and effective administration and execution of justice, it should be exercised with utmost caution. . . . Since a contempt citation is a 'potent weapon, . . . courts rightly impose it with caution. . . . Imposing a willful standard ensures that courts cannot abuse their inherent contempt power. It also ensures that courts only impose such an extraordinary remedy when the alleged contemnor has wrongfully disobeyed a court order." *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005).

3. “If a party does not obey a court order requiring a certain act, and no longer has the present ability to comply with that order, then only criminal contempt sanctions are available.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 281 (2005).

4. Willful means, “‘an indifferent disregard of duty’ or ‘a remissness and failure in performance of a duty’ but not a ‘deliberately and maliciously planned dereliction of duty’—applies to contempt proceedings under I.C. § 7-601(5)” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 281 (2005).

B. The Civil Contempt Charges.

Petitioners are seeking civil contempt of court charges under Idaho Code § 7-601(5). Idaho Code § 7-601(5) states, “disobedience of any lawful judgment, order or process of the court.” *I.C. § 7-601(5)*.

“(1) Civil Sanction. In order to impose a civil sanction, the court must find, by a preponderance of evidence, that all of the elements of contempt have been proved and that the contemnor has the present ability to comply with the order violated, or with that portion of it required by the sanction.” *IRCP 75(j)(1)*.

“(k) Nonsummary proceedings; Findings of fact. If the contempt allegation is tried to the court without a jury, the court must make specific findings of fact. In order to impose either a civil sanction or a conditional (civil) provision as part of a criminal sanction, the findings must include the facts upon which the court bases its determination that the contemnor has the present ability to comply with the order violated, or with that portion of it required by the sanction.” *IRCP 75(k)*.

“(2) Burden of proof regarding affirmative defenses. In order to prevent a civil sanction from being imposed, the respondent must prove the affirmative defense by a preponderance of the evidence. . .” *IRCP 75(h)(2)*.

“(3) Written Order. The court must issue a written order reciting the conduct upon which the contempt conviction rests; adjudging that the contemnor is guilty of contempt; and setting forth the sanction for that contempt. If the sanction is civil or includes a condition provision, the order must specify precisely what the contemnor must do in order to avoid that sanction or have it cease.” *IRCP 75(l)(3)*.

The Charging Affidavit sets forth ten counts of alleged civil contempt. The alleged civil contempt charges are as follows:

1. Count One alleges Mr. Campbell is in civil contempt for his failure to produce documents evidencing payments he made to David Flyer over the period of 2009 to the present, including documents evidencing the source of the funds used to make those payments;

2. Count Two alleges Mr. Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Michael Taiteman over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments;

3. Count Three alleges Mr. Campbell is in contempt for his failure to produce documents evidencing payments he made to Robert Turffs over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments;

4. Count Four alleges Mr. Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Jonathan Michaels over the period 2009 to present, including documents evidencing the source of the funds used to make those payments;

5. Count Five alleges Mr. Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Steve Thompson over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments;

6. Count Six alleges Mr. Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Dyke Huish over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments;

7. Count Seven alleges Mr. Campbell is in civil contempt for his failure to produce the documents evidencing the payments he made to Susan Roy over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments;

8. Count Eight alleges Mr. Campbell is in civil contempt for his failure to produce all records relating to his HSBC bank account, including documents that identify any deposits made into and any disbursements of funds from that account;

9. Count Nine alleges Mr. Campbell is in civil contempt for his failure to produce all records relating to his Bank of America account, including records evidencing the payee on the checks written out of that account; and

10. Count Ten alleges Mr. Campbell is in civil contempt for his failure to produce all of the statements for his Bank of American account, specifically all records for the account pre-June 2012.

In Respondent's Exhibits 501 through 510, Mr. Campbell provided Petitioners a limited power of attorney to obtain the records which form the subject matter of the civil contempt charges set forth in counts one through ten.

IRCP 75(a)(6) Civil Sanction. A civil sanction is one that is conditional. The contemnor can avoid the sanction entirely or have it cease by doing what the contemnor had previously been

ordered by the court to do. A civil sanction can only be imposed if the contempt consist of failing to do what the contemnor had previously been ordered by the court to do.

“The district court has the authority to impose sanctions for failure to timely comply with a court order, but it also has the discretion to not impose sanctions once the order has been complied with.” *Chavez v. Canyon County*, 152 Idaho 297.

Given Exhibits 501 through 510, Mr. Campbell has complied with the Amended Order by giving Petitioners a Limited Power of Attorney which will permit them to obtain the records they are seeking in counts one through ten. Even if Mr. Campbell is found to have committed civil contempt of court, no sanction should be imposed given the language in IRCP 75(a)(6) stating, “the contemnor can avoid the sanction entirely or have it cease by doing what the contemnor had previously been ordered by the court to do.” Mr. Campbell has done this by providing Petitioners exhibits 501 through 510.

For these reasons, Mr. Campbell asserts that, first, he has not acted in a manner consistent with finding him liable for civil contempt of court, and second, that if he has acted in a manner consistent with finding him liable for civil contempt of court, that no sanction be imposed upon him as he has provided Petitioners exhibits 501 through 510 which will permit them to obtain the records covered in the Amended Order and requested in counts one through ten.

C. The Criminal Contempt Charges.

In their May 18, 2016 Trial Brief, Petitioners argue Idaho Code § 7-601(4) is the basis for the alleged criminal contempt they pursue in this case. Idaho Code § 7-601(4) states, “deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding.” *I.C. 7-601(4)*.

“(2) Criminal Sanction. In order to impose a criminal sanction, the trier of fact must find that all of the elements of contempt have been proved beyond a reasonable doubt.” *IRCP 75(j)(2)*.

“Perjury and treason. Perjury and treason must be proved by testimony of more than one (1) witness. Treason by the testimony of two witnesses to the same overt act; and perjury by the testimony of two (2) witnesses, or one (1) witness and corroborating circumstances.” *I.C. 9-501*.

“(2) Burden of proof regarding affirmative defenses. . . . In order to prevent a criminal sanction from being imposed, there need only be a reasonable doubt as to whether the respondent is guilty of the contempt.” *IRCP 75(h)(2)*.

“(1) Nonsummary proceedings; Imposition of sanctions. If the respondent . . . is found in contempt following a trial, the court may impose sanctions as permitted by law, under the following conditions: . . . (2) Right to call witnesses and speak regarding the sanction. The court cannot impose a criminal sanction without first giving the contemnor the right to call witnesses in mitigation of the sanction and the right to be heard in order to present matters in mitigation or otherwise attempt to make amends with the court.” *IRCP 75(l)(2)*.

Petitioners also seek to have Mr. Campbell found guilty of twenty-four counts of criminal contempt of court. Of the twenty four alleged counts of criminal contempt, all twenty four are as a result of Mr. Campbell answering he didn't know the answer or he does not remember the information sought by the answer. Additionally, all twenty four counts of alleged criminal contempt of court involve situations more than three years old at the time his August 24, 2015 deposition was taken. The alleged criminal contempt charges are as follows:

COUNT ELEVEN: Campbell committed criminal contempt when he testified untruthfully in his debtor's examination about the source of the June 2012 opening balance in his Bank of America account as follows:

Q. So this is the statement from June 8th, 2012, through July 9th, 2012: correct?

A. Correct.

Q. And in there they have the beginning balance on June 8th, 2012, as being \$24,715.35; correct?

A. Correct.

Q. Where did that money come from?

A. I have no idea t this point.

Id. at 33:22-34:4.

COUNT TWELVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you opened an account and you put nearly \$25,000.00 into it. Didn't come from your Zions account?

A. I don't remember.

Id. At 34:5-7.

COUNT THIRTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What would the possibilities be for the origination of this money?

A. I don't understand the question.

Q. What possibly - where possibly could this money have come from?

A. I don't remember.

Q. I understand you don't remember. I want to know what the possibilities were.

A. I don't know.

Id. at 34:17-25.

COUNT FOURTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own an assets at that time that you sold?

A. I don't remember.

Id. at 35:1-3.

COUNT FIFTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own a car at that time?

A. I don't remember.

Q. You don't remember if you owned a car in 2012?

A. No, I don't.

Id. at 35:4-7.

COUNT SIXTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where were you living?

A. In 2012?

Q. June of 2012.

A. I don't remember.

Id. at 35:12-15.

COUNT SEVENTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Clearly, you were living in Idaho when you opened up the Bank of America account; correct?

A. Yes.

Q. And you had moved from Florida; right?

A. Correct.

Q. What assets of a more than \$10,000.00 value did you bring with you from Florida?

A. I didn't.

Q. So, again, if you had no assets worth more than \$10,000.00 and you were living solely off of Social Security, what were the possible sources for you to be able to put \$24,000 into a bank account in June of 2012?

A. I don't remember where the funds came from.

Q. Well, Mr. Campbell, I'm just going to remind you again that you are here under penalty of perjury.

A. Um-mm.

Q. And to say that you don't remember where \$24,000 came from when you're saying that you have no assets and no income other than Social Security, it just does not ring true.

A. Well, I don't remember where the \$24,000 came from.

Id. at 35:25-37:22.

COUNT EIGHTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. An that on November 30, 2012, you deposited \$3,410; right?

A. That's what it states, yes.

Q. Where did that money come from?

A. I have no idea.

Q. Where could it have come from?

A. I don't know.

Id. at 38:18-24.

COUNT NINETEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What was the name of the company that had the bank account with HSBC?

A. I don't remember.

Q. You don't remember the name of a company that you set up a bank account and put \$300,000 into it?

A. I don't remember.

Id. at 41:15-22.

COUNT TWENTY: Campbell committed criminal contempt when he testified untruthfully regarding cash deposits he made in his Zion's bank account as follows:

Q. Well, it's almost \$10,000 in cash in one month. Where could this have come from?

A. I don't remember.

Q. Did someone give you \$10,000 in cash?

A. I don't remember how this was set up. This was back in 2011.

Id. at 49:10-15.

COUNT TWENTY-ONE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you already testified that you didn't have any asset that was worth more than \$10,000 other than what was in the storage units, correct?

A. Well, I - to answer your question, I don't - I didn't bring anything with me that I would liquidate unless it was liquidated in Florida.

Q. Were things being liquidated in Florida at this time?

A. I was living on things that were being liquidated in that time.

Q. Who was liquidating items in Florida?

A. I was.

Q. So you were in Idaho but liquidating items in Florida?

A. No, I was doing that in Florida.

Q. So everything had been liquidated before you moved to Idaho?

A. I don't remember.

Id. at 49:24-50:16.

COUNT TWENTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So, clearly, your expenses were exceeding your income; correct:

A. Correct.

Q. so, how did you make up the difference?

A. I told you, I liquidated - I had liquidated assets that I had. I believe some of it came from stock that I was holding in florida that was part of a venture capital group that we were involved with.

Q. Did you sell it before or after the judgment was entered against you by my client?

A. Before.

Q. So, in 2000 - end of 2011 what assets were you still liquidating?

A. I don't remember.

Id. at 52:8-54:5.

COUNT TWENTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month, correct?

A. You say "this month"?

Q. This month of January, 2012.

A. I believe this was part - I believe this was - and I don't know for sure, but I think this was part of that stock settlement.

Q. How was the stock sale money provided to you?

A. I believe in the form of a check. I can't remember.

Q. So why is there no record of the check being deposited?

A. Well, that was far - that was earlier than this particular date.

Q. How much prior to that date?

A. I don't remember.

Id. at 54:24-55:25.

COUNT TWENTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Why would you have held this money from the liquidating your stock - why were you holding it in cash?

A. I don't remember.

Q. Did you just cash the check and keep tens of thousands of dollars in cash in your condo in Elkhorn?

A. Did I hold money? No.

Q. But you're making cash deposits, right?

A. I made cash deposits, yes.

Id. at 56:21-57:3.

COUNT TWENTY-FIVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. You know, you walked into a bank four times with cash to deposit in one month. And if you're telling me that that money came from a stock sale, that would mean that you were having that cash from the stock sale somewhere within your reach; isn't that right?

A. I can't answer that question. I don't know.

Q. How else would have gotten it if the money weren't in your reach?

A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.

Q. So were - if it wasn't from the stock sale, where would that cash have come from?

A. I had liquidated assets in Florida.

Q. Okay. And then - you liquidated them, and then you just had a wad of cash that you came to Idaho with?

A. I don't remember how that came about or how I ended up coming up with these deposits at this particular time.

Id. at 57:17-58:10.

COUNT TWENTY-SIX: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Then let's move to the next tab, and this is the Zions statement dated February 21st, 2012; right.

Q. And on this one it's showing deposits of three separate times; a \$1,000 deposit, a \$2,000 deposit, and a \$2,500 deposit. Right?

A. Correct.

Q. And, again, \$5,500 in cash deposits in one month after the previous month of \$10,000 in cash deposits, and you don't remember where the cash came from?

A. No, I do not.

Id. at 58:12-59:1.

COUNT TWENTY-SEVEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Was somebody regularly providing you with cash each month?

A. I don't know how to answer that question.

Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Id. at 59:2-8.

COUNT TWENTY-EIGHT: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you had that much cash in your possession in February of 2012; right?

A. Obviously, I did.

Q. And you had \$10,000 in your possession in January; right?

A. Correct.

Q. So all you - so in January you had \$15,000 at least in cash; right?

A. I don't remember the exact amounts, but that's what it says that I made deposits of, yes.

Q. So you had within your reach thousands and thousands of dollars all in cash at the beginning of 2012; right?

A. Well, I had at least what I deposited, yes.

Q. Did you make a deposit one month, deplete all the cash you had in your possession at that point, and then the next month deposit all the cash you had in your possession that month?

A. I don't remember.

Id. at 60:2-20.

COUNT TWENTY-NINE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. How would have obtained additional cash if not somebody providing it to you?

A. Like I say, I had liquidated assets.

Q. I understand that. And when you say you liquidated assets, that gives you one piece of cash.

A. Um-mm.

Q. One pile of ash; right? Because you liquidate everything when you were in Florida; correct?

A. I don't understand that question.

Q. Did you liquidate all of your assets that were worth more than \$10,000 while you were in Florida and before you moved to Idaho other than what was in your storage unit?

A. I don't remember.

Q. Well, you've already testified that you didn't come to Idaho with any assets worth more than \$10,000 other than what was in the storage unit, right?

A. Nothing that was worth more than \$10,000 to my recollection yeah.

Q. Did you own anything still in Florida once you moved to Idaho?

A. I don't remember.

Id. at 60:21-61:17.

COUNT THIRTY: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. They're - on February 22nd there's a \$1,500 deposit and on February 27th a \$2,600 deposit; right?

A. Correct.

Q. And, again, no idea where that cash came from?

A. No.

Id. at 62:5-9.

COUNT THIRTY-ONE: Campbell committed criminal contempt when he testified untruthfully about why his bank records no longer showed him paying his rent with a check as he had done for the previous five months. Specifically, Campbell testified untruthfully as follows:

Q. So was your rent being paid at that time?

A. I assume so.

Q. Who was paying your rent?

A. I don't know - I was, I assume.

Q. And how were you paying it?

A. I don't remember.

Id. at 65:9-14.

COUNT THIRTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. But you testified that you had never paid you rent in cash.

A. That's correct.

Q. So you didn't pay it in cash and you didn't pay it through a check from the two bank accounts that you had. So what possible source of money paid your rent?

A. I don't remember.

Id. at 71:17-20.

COUNT THIRTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where could you have gotten - what source of funds could you have possibly used to pay the rent?

A. I don't remember how that was being paid at this time. I don't remember.

Q. Did you have access to any other source of money with which you could have paid the rent?

A. I don't remember.

Q. Well, that's pretty important because this is all about your assets and your expenses, and we're talking about \$1,500 every month that you're saying that you didn't pay in cash and you didn't pay with checks from the two bank accounts that you're telling us are the only bank accounts that you have.

A. Oh, it was being paid. I just don't remember how it was being paid at that time.

Id. at 71:23-72:4.

COUNT THIRTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, for month you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Q. And how would you have obtained a money order?

A. Through Atkinson's.

Q. So you go in with cash to Atkinson's and purchase a money order?

A. I don't remember if that's how this was done, but you're asking me is there any other possible ways. That's the only other possible way I can understand that it was being done.

Q. Okay. So have you done that before, have you one to Atkinson's with cash to obtain a money order?

A. I have.

Q. And, again, the cash with which you used to buy the money order to pay for it, that came from cash that was sitting around in your condo at that time?

A. It was either that or a liquidation of - no, it was liquidation of either - that stock that I referred to earlier.

Q. So that's the only source, it could only be this stock?

A. As I remember, yes.

Q. So why didn't you take the money from the stock sale and put it into your Zion's account and then write a check to pay your rent instead of -

A. I don't remember why I did that.

Id. at 72:16-74:6.

Counsel for Mr. Campbell was unable to locate any Idaho case law analyzing "I don't know" or "I don't remember" as a basis for a finding of criminal contempt.

Petitioners cite two cases as authority for the proposition the “I don’t know” answers or the “I don’t remember” answers are sufficient for a finding of criminal contempt. These case are *Ohio Department of Taxation v. Kunkel*, 179 Ohio App.3d 747 (Ohio App. 2008) and *In Re Gitkin*, 164 F. 71 (District Court, E.D. Pennsylvania, 1908). Petitioners use of the cases cited above, illustrates Mr. Campbell is not guilty of criminal contempt given the answers provided in his deposition.

Regarding *Ohio Department of Taxation v. Kunkel*, 179 Ohio App.3d 747, Petitioners cite the case as standing for the proposition “debtor was held in contempt for evasive and false answers regarding his assets.” *Plaintiff’s Trial Brief* dated May 18, 2016 at page 8. This case actually has no relevance to evasive answers like “I don’t know” or “I don’t remember.” The holding in *Ohio Department of Taxation* stated, “a review of the record and proceedings below reveals that at the debtor’s examination of July 19, 2004, appellant blatantly lied about his interest in real property. . .” *Ohio Department of Taxation* at 753 and 754. There is no holding in *Ohio Department of Taxation* that answers similar to “I don’t know” or “I don’t remember” are sufficient to establish criminal contempt of court. To the contrary, the *Ohio Department of Taxation* Court stated, “a well-founded belief of the testimony’s untruthfulness is not sufficient.” *Ohio Department of Taxation* at 753. This holding in *Ohio Department of Taxation* ties into Idaho case law requiring willfulness and cautioning that contempt is an extraordinary proceeding and should be approached with caution.

As stated above, “. . . contempt is an extraordinary proceeding and should be approached with caution. This Court has recognized contempt is an extraordinary proceeding. Phillips 95

Idaho at 405, 509 P.2d at 1326. This inherent power must be exercised with great caution. . . .

The contempt power is readily susceptible of abuse and fraught with danger not only to personal liberties but to the respect and confidence which our courts must maintain. Although such a power is universally recognized as essential to an orderly and effective administration and execution of justice, it should be exercised with utmost caution. . . . Since a contempt citation is a ‘potent weapon, . . . courts rightly impose it with caution. . . . Imposing a willful standard ensures that courts cannot abuse their inherent contempt power. It also ensures that courts only impose such an extraordinary remedy when the alleged contemnor has wrongfully disobeyed a court order.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005).

Additionally, willful means, “‘an indifferent disregard of duty’ or ‘a remissness and failure in performance of a duty’ but not a ‘deliberately and maliciously planned dereliction of duty’—applies to contempt proceedings under I.C. § 7-601(5)” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 281 (2005). The willful element would appear to apply to the different subparagraphs on contempt contained in Idaho Code § 7-601.

I don’t know or I don’t remember is not “deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding” as required by I.C. § 7-601(4) which would lead to a conviction for criminal contempt of court. This is especially true for events that happened more than three years prior to his debtors examination.

Deceit is “a fraudulent and cheating misrepresentation, artifice, or device, used by one or more persons to deceive and trick another, who is innocent of the true facts, to the prejudice and damage of the party imposed upon.” BLACK'S LAW DICTIONARY, (Revised 4th Edition 1968).

Abuse is “to make excessive or improper use of a thing, or to employ it in a manner contrary to the natural or legal rules for its use; to make an extravagant or excessive use, as to abuse one’s authority.” BLACK'S LAW DICTIONARY, (Revised 4th Edition 1968).

Convicting Mr. Campbell for criminal contempt of court for responding “I don’t know” or “I don’t remember” is contrary to the Idaho Supreme Court’s guidance stating, “contempt is an extraordinary proceeding and should be approached with caution.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005).

“Criminal contempt is the commission of a disrespectful act directed at the court itself which obstructs justice. A criminal contempt proceeding is maintained solely and simply to vindicate the authority of the court or to punish otherwise for conduct offensive to the public in violation of an order of the court.” *Camp* at 862. If the Court uses the Camp Court’s definition of criminal contempt (a disrespectful act directed at the court itself which obstructs justice) it appears there is no plausible circumstance in this case which would lead to Mr. Campbell’s conviction.

Regarding Petitioners’ reliance on *In Re Gitkins*, 164 F. 71 (District Court, E.D. Pennsylvania, 1908) is also misplaced. Petitioners use the language stating, “he presented to be ignorant of facts which obviously would have been known to anyone who had sufficient intellect

to perform the most ordinary duties of life, and the evasion and falsity of the answers are so palpable, so clear, and so persistent as to establish beyond any possibility of a doubt the findings as reported by the referee.” *In Re Gitkins* at 73 & 74.

The testimony provided by Mr. Campbell is factually distinguishable from the testimony provided by Mr. Gitkins.

First, the events involved in the alleged criminal contempt were more than three years old at the date of the debtor’s examination.

Second, criminal contempt of court counts eleven through thirty-four have been set forth above. Mr. Campbell testified as follows:

A. “Q. So, clearly, your expenses were exceeding your income; correct? A. Correct. Q. So how did your make up the difference? A. I told you, I liquidated - - I had liquidated assets that I had. I believe some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with. Q. What stock was that? A. It was part of a venture capital group. Michelson was in the same group. He can give you all the information.” Exhibit 1, 52:8 through 52:15.

B. “Q. Was this money that you had in cash and then you put it into a checking -
- A. You know, you’re asking the same question over and over again. I told you I don’t remember. I don’t know. You can ask it 15 different ways, I don’t know.” Exhibit 1, 37:9 through 37:19.

C. “So what money is John - - Mr. Michaels using in order to pay your portion of the rent to Mr. Durringer? He has made a loan to me.” Exhibit 1, 14:11 through 14:13.

There is further testimony about the liquidation of assets that Petitioners actually cite in the criminal contempt of court counts they seek. Mr. Campbell’s testimony provides a general description of the source of funds at his disposal.

“If a party does not obey a court order requiring a certain act, and no longer has the present ability to comply with that order, then only criminal contempt sanctions are available.”

In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell, 142 Idaho 275, 279 (2005). Mr. Campbell provided his testimony regarding liquidating assets prior to the conclusion of his debtor’s examination, thus he complied with the Amended Order.

Petitioners’ also seek to convict Mr. Campbell of criminal contempt of court for failing to remember if he owned a car in 2012 (count 15), where he lived in June of 2012 (count 16), and what assets he was still liquidating in 2011 (count 22). In the *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, case cited by Petitioners, the Ohio Department of Taxation Court states, “in order to sustain a conviction for contempt for giving false testimony, it must be shown that the false testimony had an obstructive effect, that the court had judicial knowledge of the falsity of the testimony, and that the questions were pertinent to the issues in the case.” *Ohio Department of Taxation* at 753. None of the questions or answers discussed in counts 15, 16, and 22 were false testimony that had an obstructive effect on issue pertinent to the case. This

proposition would also apply to other counts of the criminal contempt charges they seek in this case.

DATED this 21st day of July, 2016.

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.

By Lee P. Ritzau
Lee P. Ritzau
Attorneys for Respondent, Neil David Campbell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of July, 2016, I served a true and correct copy of the within and foregoing document upon the attorney named below, in the manner noted:

Erin F. Clark
Lawson Laski Clark & Pogue, PLLC
P.O. Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

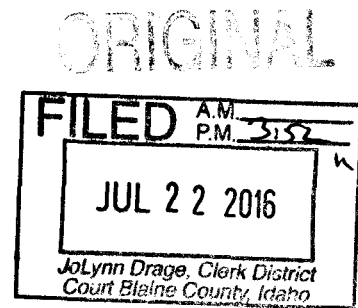
By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Ketchum, Idaho.

By hand delivering copies of the same.

By transmitting copies of the same to said attorney by facsimile machine process.

Lee P. Ritzau
Lee P. Ritzau

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Luke L. Dauchot, CA Bar No. 229829, OH Bar No. 0039935, IL Bar No. 6193611
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

**PLAINTIFFS' REVISED TRIAL
BRIEF**

COMES NOW, Plaintiffs C&M INVESTMENT GROUP, LTD. and KARLIN HOLDINGS LIMITED PARTNERSHIP (collectively “Plaintiffs”), and respectfully submit their Trial Brief.

I. INTRODUCTION

“If the credibility of court orders and the integrity of our judicial system are to be maintained, a litigant cannot ignore court orders with impunity.” *Kihl v. Pfeffer*, 94 N.Y.2d 118, 123 (1999). Neil David Campbell (“Campbell”) has a long, proven history of lying and evading his legal obligations. On December 13, 2011, the Los Angeles Superior Court found Campbell guilty of fraud and entered judgment against him for over \$24 million, which includes damages for fraud and sanctions for discovery abuses. Request for Judicial Notice (“RJN”) Exs. F & G. In the more than four years since judgment was entered, Campbell has continued his pattern of obfuscation, lies, and flouting the discovery process. Plaintiffs now bring both criminal and civil contempt charges against Campbell because, yet again, he has defied a court order and lied.

Campbell continues to play games, even as Plaintiffs have tried in good faith to settle the current contempt proceeding: Campbell induced Plaintiffs to agree to a continuance by, *inter alia*, consenting to sit for an informal interview regarding his finances. Ex. 33. Then, after the original trial date was continued, Campbell cancelled the interview at the last minute. *Id.* Campbell did not provide any explanation or offer to reschedule—he simply said that he “will not be attending tomorrow’s meeting.” *Id.* Moreover, in his latest maneuver, Campbell now tries to put the onus on Plaintiffs to go about collecting his documents for him. This Court ordered *Campbell* to produce *his* documents. This he did not do. In light of Campbell’s antics, Plaintiffs have no choice but to proceed with trial.

Campbell committed criminal contempt and made a farce of his sworn debtor’s examination by responding to numerous questions with lies. Campbell testified under oath that

he did not know or remember the answers to questions regarding: (1) the source of thousands of dollars in cash that he admittedly deposited into his bank accounts during the relevant time period; (2) the name of the company he founded and in whose name he deposited \$300,000 in an offshore account; or (3) how he paid his rent during times when his bank records do not show any such payments being made. Ex. 1 at 33:22–38:24, 41:15–22, 49:10–50:16, 52:8–60:20, 62:5–9, 65:9–14, 71:17–74:6. These claims are demonstrably false. For example, Campbell recently admitted that he stashed “less than 100K” of cash in boxes that his movers delivered to Idaho. Ex. 5. Moreover, the sum of the basic information that Campbell—a man of supposedly limited means—claims he does not know about his own finances reveals beyond any reasonable doubt that his testimony is patently false.

Campbell is guilty of civil contempt because he refuses to produce certain bank records and attorney payment records responsive to the Court’s April 1, 2015 Amended Order (the “Amended Order”) directing him to do so. Ex. 13. Prior to April 25, 2016, Campbell did not produce a single attorney payment record. He also failed to produce *any* records regarding a bank account with HSBC Hong Kong (the “HSBC Hong Kong account”) and failed to produce complete records as to another bank account with Bank of America. Notwithstanding his cries of impossibility, on the eve of the previously scheduled May 4, 2016 trial, Campbell produced *a portion* of the responsive documents that Plaintiffs have sought for over a year. Exs. 4, 6, 32.

Even now, Campbell continues to play games. Based on this (incomplete) production, Plaintiffs offered to drop civil contempt Counts Two through Seven and Count Nine if Campbell executed and filed an affidavit of compliance certifying that he has produced all existing documents relating to these Counts. Campbell signed and served the affidavit on Plaintiffs, but

inexplicably refuses to file it. Ex. 34. Nevertheless, Plaintiffs remain willing to drop these Counts if he will do so.

Not including these counts, Plaintiffs assert three civil contempt charges against Campbell for his failure to produce documents, and twenty-four criminal contempt charges for his lies. Campbell's most recent document production, considered against his long and consistent history of obfuscation, makes clear that Campbell only responds to threats of prison. Campbell will continue to play games unless this Court imprisons him until he fully complies with his discovery obligations. Moreover, Campbell's flagrant discovery abuses and blatant lies warrant the most severe punishment allowable. As to their civil charges, Plaintiffs therefore respectfully ask that this Court imprison Campbell until he complies fully with the Amended Order. Plaintiffs also respectfully ask that this Court imprison Campbell for five days per charge for each of their twenty-four criminal contempt charges.

During this trial, the Court must decide the following issues:

1. Campbell claimed under oath that he did not know the answer to twenty-four basic questions about his finances and payment of living expenses. Is there any reasonable doubt that Campbell was lying?
2. What are the elements, and the burden of proof, for establishing civil contempt?
3. This Court ordered Campbell to produce bank records and attorney fee payment records. Campbell failed to produce all records responsive to the Amended Order. Is Campbell guilty of civil contempt for violating the Amended Order?

II. RELEVANT FACTS AND PROCEDURAL HISTORY

A. Campbell's History of Fraud and Discovery Abuses

This proceeding is the latest chapter in a saga that began with a fraud case against Campbell's partner-in-crime, Philip Richard Powers ("Powers"). In October 2007, Plaintiffs

sued Powers and his corporate entities in Los Angeles Superior Court for fraud and related claims (the “California suit”). RJN Ex. A. Plaintiffs alleged that Powers cheated them out of millions of dollars in connection with a Costa Rican teak farm business, with which Campbell was also involved. *Id.* at 16–26, Ex. A.

In the summer of 2008, with the fraud case pending, Dr. Gary Michelson (“Dr. Michelson”)—the co-owner of plaintiff C&M Investment Group Ltd. (“C&M”) and Campbell’s close friend—bought Campbell’s ownership stake in C&M for \$500,000. Ex. 10 at 142:9–23. Unbeknownst to Dr. Michelson, however, Campbell had secretly received millions of dollars in improper kickbacks from Powers. When Plaintiffs discovered the kickbacks in late 2008, they amended the complaint to add Campbell as a defendant. RJN Ex. B.

On February 4, 2010, the California court entered partial summary judgment against Campbell for over \$1.5 million—the amount of secret profits Plaintiffs were able to prove *at that time*. RJN Ex. C; RJN Ex. F at 2.

Undeterred by the \$1.5 million judgment, Campbell flouted the discovery process related to Plaintiffs’ remaining claims. Between February and November 2010, Campbell’s discovery abuses were sufficiently egregious that the California court imposed terminating sanctions, struck his answer, and entered a default against him. RJN Ex. D; RJN Ex. F. at 2.

Still undaunted, Campbell again failed to respond to written discovery and did not attend his deposition. RJN Ex. E. The California court thus imposed monetary sanctions. *Id.*

On December 13, 2011, the California court granted summary judgment in Plaintiffs’ favor, finding Campbell liable for fraud and related claims. RJN Ex. F. The Court entered judgment against Campbell for over \$24 million. RJN. Ex. G. On June 21, 2012, after filing the

California Judgment in Idaho, Plaintiffs obtained an order from this Court domesticating the Judgment. Ex. 12. And so began the next phase of Campbell's evasive maneuvers.

B. Recent Procedural History

Plaintiffs bring the current contempt charges because Campbell has again abused the discovery process—thwarting Plaintiffs' efforts to collect on their judgment against him. On June 18, 2016, this Court denied Campbell's motion to dismiss the Charging Affidavit. The Court also denied Campbell's request to file three untimely supplemental affirmative defenses based on sufficiency of service, ruling that Campbell may only assert the two (also untimely) affirmative defenses that Plaintiffs stipulated that Campbell could file: past inability to comply with the Court's order (as to the criminal counts) and present inability to comply with the Court's order (as to the civil counts).

III. ISSUES FOR TRIAL

A. Elements of Criminal Contempt

A party's "[d]eceipt or abuse of the process or proceedings of the court" is punishable as a contempt. Idaho Code § 7-601. Under Idaho Rule of Civil Procedure 75(j), criminal contempt must be proven beyond a reasonable doubt. Idaho R. Civ. Proc. 75(j). Reasonable doubt "is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt." Idaho Crim. Jury Instr. 1707. Instead, "it is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge." *Id.*

Plaintiffs' criminal contempt charges arise from Campbell's false testimony given under oath during his August 24, 2015 Debtor's Examination.

B. Campbell Lied Under Oath

During his Debtor's Examination, Campbell repeatedly testified that he did not know or did not remember the answer to questions that any reasonable person would be able to answer.

These questions include:

- Where the \$24,715.35 in Campbell's Bank of America account as of June 2012 came from;
- Whether the nearly \$25,000 in Campbell's Bank of America account came from his Zions bank account;
- Whether Campbell sold any assets in June 2012;
- Whether Campbell owned a car in 2012;
- Where Campbell was living in June 2012;
- The source from which Campbell obtained \$3,410 that he deposited on November 30, 2012;
- The name of the company for which Campbell set up a bank account into which he deposited \$300,000;
- The source from which Campbell obtained nearly \$10,000 in cash that he deposited into his Zions bank account as evidenced in his January 2012 statement;
- Whether all of Campbell's assets in Florida were liquidated before he moved to Idaho;
- What assets Campbell was still liquidating in the end of 2011;
- How and when the proceeds of a substantial stock sale were provided to Campbell;
- Why Campbell would have held the proceeds from liquidating a substantial amount of stock in cash;
- The source from which Campbell obtained \$5,500 in cash that he deposited in February 2012;
- Whether someone was regularly providing Campbell with cash each month;
- Whether the substantial cash deposits that Campbell made in early 2012 constituted all of his cash on hand for each of those months; and
- How Campbell paid his rent during a period of months when his bank accounts do not show any rent payments.

Ex. 1 at 33:22–38:24, 41:15–22, 49:10–50:16, 52:8–60:20, 62:5–9, 65:9–14, 71:17–74:6.

This testimony defies credulity. Campbell claimed that the only income he has received since 2012 is his monthly Social Security payment of roughly \$1,600 per month. Ex. 3 at 1; Ex. 1 at 51:8–10. Campbell also testified that he did not have any assets worth more than \$10,000 when he moved to Idaho in roughly 2011. Ex. 1 at 35:16–36:16. Nevertheless, Campbell made over \$20,000 in cash deposits into his Zions account in Idaho during the first four months of 2012. See Ex. 3 at 45–68. Campbell thus regularly had large wads of cash on hand during this

time period. He nevertheless testified that he did not know where any of this cash came from. It is inconceivable that anyone—let alone a person receiving nothing more than \$1,600 per month in Social Security—would not know or remember the source of over \$20,000 in cash.

Moreover, the documents and statements that Campbell provided on the eve of trial amply prove that all of Campbell's claims of ignorance and memory loss are false. These documents and statements prove that, contrary to his testimony, Campbell had substantial assets, a car, and sources of cash during the relevant timeframe.

First, contrary to his sworn testimony, Campbell now admits that when he moved to Idaho he concealed a *still undisclosed* sum of “less than 100K” of cash in the boxes of toys and clothes that his movers transported for him to Idaho. Ex. 5 at 2.¹ Thus, the roughly \$10,000 in cash deposits reflected on Campbell's January 2012 bank statement likely came from this trove of cash. The same is likely true of over \$5,500 in cash that Campbell deposited in February 2012.

Second, Campbell now admits that he owned a 2006 Corvette which he sold “either in 2011 or 2012.” *Id.* This was purportedly the last car that Campbell owned. *Id.* According to a canceled check that Campbell recently produced, on March 28, 2012, he received \$27,900 from a Toyota dealership in Colorado Springs. Ex. 6 at 3–6. He deposited this check into his Bank of America account on May 23, 2012. *Id.* It is unclear from the records whether this transfer is related to the sale of Campbell's Corvette or some other transaction that Campbell *still* has not disclosed. Either way, Campbell apparently possessed and liquidated a car in 2012, which is the source of the large starting balance reflected in his Bank of America account in June 2012.

¹ Campbell moved to Idaho in approximately June of 2011. *See* Ex. 1, at 35:16–24.

Third, Campbell now reveals the name of the company in whose name he opened the HSBC Hong Kong account: Mosaic Orange. Ex. 5 at 2. Campbell offers no explanation of how he now knows this information or why he couldn't obtain it over one year ago when this Court ordered him to produce bank records.

Campbell may believe that he can avoid his obligation to testify truthfully by answering questions with "I don't know" or "I don't remember." The law, however, provides otherwise. Testifying under oath that one does not know the answer to a question, when one actually does know that answer, constitutes perjury. For example, in *In re Gitkin*, 164 F. 71 (E.D. Pa. 1908), the court found that the debtor committed perjury by pretending not to know the answers to the questions posed to him by the trustee. As the court stated:

[The debtor] pretended to be ignorant of facts which obviously would have been known to anyone who had sufficient intellect to perform the most ordinary duties of life, and the evasion and falsity of the answers are so palpable, so clear, and so persistent as to establish beyond any possibility of a doubt the findings as reported by the referee.

Other courts have likewise held that blatantly evasive responses constitute a contempt of court. *See Ohio Dept. of Taxation v. Kunkle*, 179 Ohio App. 3d 747, 752 (2008) (holding debtor in contempt for evasive and false answers regarding his assets).

The same is true here: It defies credulity that during the course of one examination someone could forget or not know: (1) that he shipped himself an unspecified sum of cash "less than 100K"; (2) that he possessed a Corvette several years earlier; (3) that he sold the last car he owned and deposited the proceeds in his bank account; *and* (4) the name of a company in whose name he opened an account and deposited \$300,000. Campbell knew the answers to the questions posed to him at the debtor's exam; he simply chose to lie. This is nothing more than evasion.

Campbell's asserted defense of inability to comply with the Court's Order(s) at the time of his alleged contempts does not save him from this conclusion. First, Plaintiffs' contempt counts are based on giving false testimony under oath, not violating a Court Order. Second, to the extent that Campbell asserts that he was unable to tell the truth during his debtor's exam, the evidence discussed above conclusively shows that he could have told the truth but chose not to. Finally, Campbell bears the burden of proving his affirmative defense—which will be impossible for him to do given its inapplicability and the substantial contrary evidence.

For these reasons, Campbell should be held in criminal contempt under Idaho Code § 7-601(4) for the twenty-four charges set forth in the charging affidavit underlying these contempt proceedings.

C. Elements and Burdens of Proof Re Civil Contempt Charges

It is a contempt of court to disobey a court order. Idaho Code § 7-601(5). A civil contempt claim must be proven to a preponderance of the evidence. Idaho R. Civ. Proc. 75(j)(1). Notably, the failure to comply with a court order need not be intentional or willful to impose a civil contempt sanction. *Chavez v. Canyon County*, 152 Idaho 297, 304 (2012). Rather “[c]ivil as distinguished from criminal contempt is a sanction to enforce compliance with an order of the court or to compensate for losses or damages sustained by reason of noncompliance.” *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949). “When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it[.]” Idaho Code § 7-611.

Idaho Rule of Civil Procedure 75(j)(1) states that the court must find by a preponderance of the evidence “that the contemnor has the present ability to comply with the order violated[.]” However, Idaho Rule of Civil Procedure 75(h) establishes that present *inability* to comply is an

affirmative defense, which *the alleged contemnor must prove* to a preponderance of the evidence. Idaho R. Civ. Proc. 75(h). These rules are thus in tension.

Other courts applying similar laws put the burden regarding ability or inability to comply on the defendant. Thus, in *Lamb v. Eads*, the Iowa Supreme Court found that “the general rule holds that an applicant for a contempt citation establishes a prima facie case by proving the duty which is on the contemner and the contemner’s [*sic*] failure to perform the duty. The contemner then has the burden of showing he could not perform the duty, if he relies on that ground.” 346 N.W. 2d 830, 832 (1984); *see also Foust v. Denato*, 175 N.W.2d 403, 405 (Iowa 1970) (“[W]hen the evidence clearly shows the order of court has been disobeyed, a party who seeks to purge himself of contempt by showing his inability to comply with the order of court has the burden to prove it”).² Similarly, *Spabile v. Hunt* held that, while a court must find that a contemnor has the present ability to comply before imposing sanctions, it is *the contemnor* who bears the burden of proving his inability to comply. 360 A.2d 51 (Vt. 1976).

To satisfy his burden, an alleged contemnor must prove his defense of present inability to comply with admissible evidence. He cannot avoid his burden by claiming a Fifth Amendment privilege. *U.S. v. Rylander*, 460 U.S. 752, 761 (1983). Campbell thus bears the burden of proving his inability to comply with the Court’s order.

D. Campbell’s Civil Contempts

The Charging Affidavit asserts civil contempt charges arising from Campbell’s failure to produce attorney fee payment records and bank records in violation of this Court’s Amended

² *See also* 17 C.J.S. *Contempt* § 141 (2015) (“When the moving party in a contempt action has shown that the alleged contemnor has failed to comply with the judgment or order, the burden shifts to the alleged contemnor to show why he or she should not be held in contempt. . . . If the alleged contemnor makes a sufficient showing, the burden of proof shifts back to the party seeking a finding of contempt, who ultimately bears the burden of showing an ability to comply with the order.”)

Order. On April 1, 2015, *more than one year ago*, the deputy clerk served on Campbell the Amended Order requiring him to produce (1) documents evidencing payments to his lawyers and (2) financial records. Ex. 13 at 2–3.³

1. Campbell’s Failure to Produce Records of Payments to David Flyer (Charge One)

The Amended Order required Campbell to produce “all documents evidencing any payments made by Defendant to any legal counsel over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.” Until one week before the originally scheduled trial date, Campbell had not produced a single page evidencing a single payment to any of the seven lawyers he admittedly hired and paid during this time frame.⁴ Ex. 3 at 2; Ex. 2 at 68:7–69:3; Ex. 8 at 5–6.

Initially, Campbell asserted that he was not producing a single document related to payments to his attorneys because *he* claimed attorney client privilege. Ex. 15 at 1. Campbell then claimed that he could not produce any of these documents because he had contacted Flyer, Taitelman, Michaels, Huish, and Turffs (but not Roy or Thompson) and they each “refuse to produce documents stating two reasons, attorney work products and that [Campbell was] no longer there [*sic*] client.” Ex. 3 at 2. It is simply not credible to assert that five separate lawyers would independently refuse to provide copies of bills and/or payment records on the same

³ The Deputy Clerk served the Amended Order on Campbell at his residence via Federal Express. Ex. 13-5. As discussed in Plaintiffs’ Opposition to Campbell’s Motion to Dismiss, service by Federal Express is proper under Idaho Rule of Civil Procedure 5. It also sufficed to give Campbell actual notice of the Amended Order.

⁴ These lawyers are David Flyer, Michael Taitelman, Jonathan Michaels, Dyke Huish, Robert Turffs, Susan Roy and Steve Thompson. Ex. 3 at 2; Ex. 2 at 68:7–69:3; Ex. 8 at 5–6.

erroneous grounds—which coincidentally mirrored the invalid ground that Campbell himself originally devised.⁵

Not surprisingly, once faced with imminent incarceration, Campbell successfully obtained responsive documents from nearly all of his attorneys.⁶ Ex. 4 at 4–6, 23–25, 95–104, 153–67; Ex. 32. However, Campbell still has not produced *any* documents relating to payments he made to Flyer, nor does he provide anything beyond his frivolous “justifications” to explain this failure.

Additionally, Campbell’s recently produced documents reveal for the first time that Campbell employed *another* attorney during the relevant time period—Michael France.⁷ Ex. 4 at 153–55. It is troubling that Campbell did not disclose France until now, over one year after the Court’s Amended Order directing him to produce attorney payment records.

In sum, Campbell’s recent document production shows that responsive documents exist and that Campbell is capable of obtaining them. After a year of excuses and lies, Campbell *still* has not produced all of the documents that this Court ordered him to produce. He should therefore be held in civil contempt until he produces all documents evidencing the payments he made to David Flyer.

2. Campbell’s Failure to Produce Any Records Related to the HSBC Hong Kong Account (Charge Eight)

The Amended Order also required Campbell to produce “all records relating to financial accounts (savings accounts, checking accounts, or otherwise) maintained in Defendant’s name or to which Defendant has access for the time period commencing January 1, 2012 to the present

⁵ Attorney payment records are not work product because they are not documents “prepared in anticipation of litigation[.]” 2 Federal Evidence § 5:38 (4th ed.).

⁶ As noted above, due to this recent production, Plaintiffs will drop Charges Two through Seven as long as Campbell agrees to file the affidavit of compliance that he signed.

⁷ The records also reveal dealings with Brent Nielson, who is a member of the same firm as Susan Roy. Ex. 4 at 156–59.

date, including but not limited to documents that identify any deposits made into and/or any disbursements of funds made from said account(s).” Ex. 13. Campbell originally claimed that he had only one account, and refused to produce documents related to this account because he claimed it contained only social security funds which are exempt from judgment collection. Ex. 15. This statement proved false.

In fact, at his February 20, 2015 Debtor’s Examination, Campbell admitted that in 2010 he opened an account with HSBC in Hong Kong and deposited \$300,000 into this account (of which Campbell is the beneficiary). Ex. 2 at 23:2–32:5; Ex. 11 at No. 8. Campbell initially claimed that he cannot get records related to the HSBC Hong Kong account because he forgot the name of the corporation that he founded, of which he is an officer, and in whose name he opened the account with a \$300,000 initial deposit. Ex. 1 at 41:15–22; Ex. 2 at 24:12–18.

More than one year later, and on the eve of trial, Campbell finally disclosed that the name of the company is Mosaic Orange. *See* Ex. 5; Ex. 4 at 95–96. Campbell does not explain how he suddenly became aware of this information. Additionally, though Campbell admits that he now knows the name of the company—and thus that the purported barrier to obtaining records has been removed—Campbell *still* has not produced a single record relating to this account; nor does he claim that he even *tried* to get records since he suddenly “remembered” this company’s name.

In sum, Campbell can and must do more to obtain the HSBC Hong Kong bank account records. Campbell should therefore be held in civil contempt and jailed until he produces them.

3. Campbell’s Failure to Produce All Responsive Records from his Bank of America Account (Charges Ten)⁸

This Court ordered Campbell to produce “*all* records relating to financial accounts . . . maintained in Defendant’s name . . . for the time period commencing January 1, 2012[.]” Ex. 13.

⁸ As discussed above, if Campbell will file the affidavit of compliance, Plaintiffs will drop Count Nine relating to cancelled check images.

On the eve of the original trial date, Campbell produced (for the first time) cancelled checks from his Bank of America account. Several of these checks are from May 2012 or the first week of June 2012, and thus show that Campbell's Bank of America account was opened prior to June 8, 2012—the starting date of the earliest statement that Campbell produced. *E.g.*, Ex. 6 at 3–7, 11, 13, 18, 20, 22. Campbell thus still has not produced all of the bank statements from his Bank of America account that this Court ordered him to produce.

Furthermore, Campbell's recent document production makes plain that he has never provided Plaintiffs with the financial transparency to which they are entitled. These documents reveal that Campbell has multiple accounts that he never disclosed. First, the checks that Campbell paid to Turffs reveal that, at least as of 2010, Campbell had a checking account in his name with Comerica Bank in Florida. Ex. 4 at 97–98. Campbell has not indicated whether this account still existed during the period covered by the Amended Order. Next, Campbell produced statements from two credit cards in his name with a combined credit limit of \$6,500. Contrary to Campbell's portrayals of himself as a pauper just trying to make ends meet to take care of his daughter, these credit card statements show that in the past few years Campbell has spent *thousands* of dollars on hotels, a river rafting trip, and other personal entertainment charges. *See, e.g., id.* at 49–62, 77–82.

Campbell was ordered to produce all bank records from January 1, 2012 to the present. He still has not done so. For the aforementioned reasons, Campbell should be held in civil contempt and imprisoned until he complies with this Court's Orders.

4. Campbell's Affirmative Defenses and Irrelevant Evidence

This Court held that Campbell may only assert two affirmative defenses: Past and present inability to comply with the court's orders.⁹ Only one of these—present inability to comply with the Court's orders—is relevant to Plaintiffs' civil contempt counts. Campbell bears the burden of proving this defense as to each of Plaintiffs' civil contempt claims, which he will not be able to do. Campbell has the present ability to comply with the Order to produce payment records from Flyer because California requires attorneys in that state (including Flyer) to provide clients with their payment and billing records upon demand. RJN, Ex. K & L. Campbell has the present ability to comply with the Order to produce the Bank of America and HSBC Hong Kong Records because both American and Hong Kong banking regulations require banks to retain the type of records that Campbell was required to produce. RJN, Ex. H–J. The applicable retention periods indicate that these banks still have the records that Campbell was order to produce.

Campbell recently served on Plaintiffs documents he intends to offer as Exhibits 501–10. These documents are each a “Limited Power of Attorney” purportedly authorizing Plaintiff's counsel to obtain records from one of the lawyers or banks at issue. These documents are not relevant to Campbell's present ability to comply with the Amended Order, or any other disputed issue in this case. Instead, they are nothing more than an invalid attempt to force Plaintiffs to do what this Court ordered Campbell to do, without the benefit of Campbell's knowledge of his own documents and their whereabouts. Additionally, there is no evidence that these documents are sufficient to enable Plaintiffs to obtain the records at issue—which is particularly dubious with respect to the HSBC Hong Kong Account. It is unlikely that a foreign bank governed by foreign law would release records to a third party based on an English-language U.S. power of attorney.

⁹ Plaintiffs note that in addition to the defenses based on sufficiency of service that Campbell tried to file and which the Court rejected, Campbell also waived the affirmative defense of unawareness of the Order violated because he did not timely assert it.

Plaintiffs therefore respectfully ask the Court to exclude these documents as irrelevant. *See* Idaho R. Evid. 401, 402.

More importantly, Campbell does not deny that he himself can approach the relevant entities and request the documents. Instead, he argues that signing these powers of attorney satisfies his obligations under the Court's Order directing *him* to *produce* the documents. Contrary to Campbell's belief, it does not.

IV. CONCLUSION

Campbell has told numerous lies under oath and has defied this Court's order directing him to produce documents. The actions underlying this contempt proceeding are but the latest in Campbell's long series of lies, disobedience, and discovery abuses. To protect the integrity of this Court's orders and the judicial system, this Court must coerce Campbell to obey It and punish his lies.

Plaintiffs therefore respectfully request that Campbell be incarcerated for five days for each of the twenty-four counts of criminal contempt. Plaintiffs also respectfully ask that this Court imprison Campbell until he complies fully with the Amended Order by producing: (1) documents related to Campbell's payments to Flyer that are responsive to the Amended Order; (2) documents related to the HSBC Hong Kong Account for the time period commencing January 1, 2012 to the present date; and (3) all records related to the Bank of America account from the time period from January 1, 2012 to June 8, 2012.

DATED: July 17, 2016

LAWSON LASKI CLARK & POGUE, PLLC



Erin F. Clark
Attorneys for Plaintiffs

APPENDIX A: TESTIMONY UNDERLYING CRIMINAL CONTEMPT CHARGES

COUNT ELEVEN: Campbell committed criminal contempt when he testified untruthfully in his debtor's examination about the source of the June 2012 opening balance in his Bank of America account as follows:

Q. So this is the statement from June 8th, 2012, through July 9th, 2012; correct?

A. Correct.

Q. And in there they have the beginning balance on June 8th, 2012, as being \$24,715.35; correct?

A. Correct.

Q. Where did that money come from?

A. I have no idea at this point.

Id. at 33:22-34:4.

COUNT TWELVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you opened an account and you put nearly \$25,000 into it. Did it come from your Zions account?

A. I don't remember.

Id. at 34:5-7.

COUNT THIRTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What would the possibilities be for the origination of this money?

A. I don't understand the question.

Q. What possibly – where possibly could this money have come from?

A. I don't remember.

Q. I understand you don't remember. I want to know what the possibilities were.

A. I don't know.

Id. at 34:17-25.

COUNT FOURTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own any assets at that time that you sold?

A. I don't remember.

Id. at 35:1-3.

COUNT FIFTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own a car at that time?

A. I don't remember.

Q. You don't remember if you owned a car in 2012?

A. No, I don't.

Id. at 35:4-7.

COUNT SIXTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where were you living?

A. In 2012?

Q. June of 2012.

A. I don't remember.

Id. at 35:12-15.

COUNT SEVENTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Clearly, you were living in Idaho when you opened up the Bank of America account; correct?

A. Yes.

Q. And you had moved from Florida; right?

A. Correct.

Q. What assets of a more than \$10,000 value did you bring with you from Florida?

A. I didn't.

* * *

Q. So, again, if you had no assets worth more than \$10,000 and you were living solely off of Social Security, what were the possible sources for you to be able to put \$24,000 into a bank account in June of 2012?

A. I don't remember where the funds came from.

* * *

Q. Well, Mr. Campbell, I'm just going to remind you again that you are here under penalty of perjury.

A. Um-mm.

Q. And to say that you don't remember where \$24,000 came from when you're saying that you have no assets and no income other than Social Security, it just does not ring true.

A. Well, I don't remember where the \$24,000 came from.

Id. at 35:25-37:22.

COUNT EIGHTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. And that on November 30th, 2012, you deposited \$3,410; right?

A. That's what it states, yes.

Q. Where did that money come from?

A. I have no idea.

Q. Where could it have come from?

A. I don't know.

Id. at 38:18-24.

COUNT NINETEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What was the name of the company that had the bank account with HSBC?

A. What was the name of the company?

Q. Yes.

A. I don't remember.

Q. You don't remember the name of a company that you set up a bank account and put \$300,000 into it?

A. No, I don't remember.

Id. at 41:15-22.

COUNT TWENTY: Campbell committed criminal contempt when he testified untruthfully regarding cash deposits he made in his Zions bank account as follows:

Q. Well, it's almost \$10,000 in cash in one month. Where could this have come from?

A. I don't remember.

Q. Did somebody give you \$10,000 in cash?

A. I don't remember how this was set up. This was back in 2011.

Id. at 49:10-15.

COUNT TWENTY-ONE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you already testified that you didn't have any asset that was worth more than \$10,000 other than what was in the storage units; correct?

A. Well, I – to answer your question, I don't – I didn't bring anything with me that I would liquidate unless it was liquidated in Florida.

Q. Were things being liquidated in Florida at this time?

A. I was living on things that were being liquidated in that time.

Q. Who was liquidating items in Florida?

A. I was.

Q. So you were in Idaho but liquidating items in Florida?

A. No, I was doing that in Florida.

Q. So everything had been liquidated before you moved to Idaho?

A. I don't remember.

Id. at 49:24-50:16.

COUNT TWENTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So, clearly, your expenses were exceeding your income; correct?

A. Correct.

Q. So, how did you make up the difference?

A. I told you, I liquidated – I had liquidated assets that I had. I believe some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with.

* * *

Q. Did you sell it before or after the judgment was entered against you by my client?

A. Before.

Q. So, in 2000 – end of 2011 what assets were you still liquidating?

A. I don't remember.

Id. at 52:8-54:5.

COUNT TWENTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month; correct?

A. You say “this month”?

Q. This month of January, 2012.

A. I believe this was part – I believe this was – and I don’t know for sure, but I think this was part of that stock settlement.

* * *

Q. How was the stock sale money provided to you?

A. I believe in the form of a check. I can’t remember.

Q. So why is there no record of the check being deposited?

A. Well, that was far – that was earlier than this particular date.

Q. How much prior to that date?

A. I don’t remember.

Id. at 54:24-55:25.

COUNT TWENTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Why would you have held this money from the liquidating your stock – why were you holding it in cash?

A. I don’t remember.

Q. Did you just cash the check and keep tens of thousands of dollars in cash in your condo in Elkhorn?

A. Did I hold money? No.

Q. But you’re making cash deposits; right?

A. I made cash deposits, yes.

Id. at 56:21-57:3

COUNT TWENTY-FIVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. You know, you walked into a bank four times with cash to deposit in one month. And if you're telling me that that money came from a stock sale, that would mean that you were having that cash from the stock sale somewhere within your reach; isn't that right?

A. I can't answer that question. I don't know.

Q. How else would have gotten it if the money weren't in your reach?

A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.

Q. So where – if it wasn't from the stock sale, where would that cash have come from?

A. I had liquidated assets in Florida.

Q. Okay. And then – you liquidated them, and then you just had a wad of cash that you came to Idaho with?

A. I don't remember how that came about or how I ended up coming up with these deposits at this particular time.

Id. at 57:17-58:10.

COUNT TWENTY-SIX: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Then let's move to the next tab, and this is the Zions statement dated February 21st, 2012; right?

* * *

Q. And on this one it's showing deposits of three separate times; a \$1,000 deposit, a \$2,000 deposit, and a \$2,500 deposit. Right?

A. Correct.

Q. And, again, \$5,500 in cash deposits in one month after the previous month of \$10,000 in cash deposits, and you don't remember where the cash came from?

A. No, I do not.

Id. at 58:12-59:1.

COUNT TWENTY-SEVEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Was somebody regularly providing you with cash each month?

A. I don't know how to answer that question.

Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Id. at 59:2-8.

COUNT TWENTY-EIGHT: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you had that much cash in your possession in February of 2012; right?

A. Obviously, I did.

Q. And you had \$10,000 in your possession in January; right?

A. Correct.

Q. So all you – so in January you had \$15,000 at least in cash; right?

A. I don't remember the exact amounts, but that's what it says that I made deposits of, yes.

Q. So you had within your reach thousands and thousands of dollars all in cash at the beginning of 2012; right?

A. Well, I had at least what I deposited, yes.

Q. Did you make a deposit one month, deplete all the cash you had in your possession at that point, and then the next month deposit all the cash you had in your possession that month?

A. I don't remember.

Id. at 60:2-20.

COUNT TWENTY-NINE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. How would have obtained additional cash if not somebody providing it to you?

A. Like I say, I had liquidated assets.

Q. I understand that. And when you say you liquidated assets, that gives you one piece of cash.

A. Um-mm.

Q. One pile of cash; right? Because you liquidated everything when you were in Florida; correct?

A. I don't understand that question.

Q. Did you liquidate all of your assets that were worth more than \$10,000 while you were in Florida and before you moved to Idaho other than

what was in your storage unit?

A. I don't remember.

Q. Well, you've already testified that you didn't come to Idaho with any assets worth more than \$10,000 other than what was in the storage unit; right?

A. Nothing that was worth more than \$10,000 to my recollection, yeah.

Q. Did you own anything still in Florida once you moved to Idaho?

A. I don't remember.

Id. at 60:21-61:17.

COUNT THIRTY: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. They're – on February 22nd there's a \$1,500 deposit and on February 27th a \$2,600 deposit; right?

A. Correct.

Q. And, again, no idea where that cash came from?

A. No.

Id. at 62:5-9.

COUNT THIRTY-ONE: Campbell committed criminal contempt when he testified untruthfully about why his bank records no longer showed him paying his rent with a check as he had done for the previous five months. Specifically, Campbell testified untruthfully as follows:

Q. So was your rent being paid at that time?

A. I assume so.

Q. Who was paying your rent?

A. I don't know – I was, I assume.

Q. And how were you paying it?

A. I don't remember.

Id. at 65:9-14.

COUNT THIRTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. But you testified that you had never paid your rent in cash.

A. That's correct.

Q. So you didn't pay it in cash and you didn't pay it through a check from the two bank accounts that you had. So what possible source of money paid your rent?

A. I don't remember.

Id. at 71:14-20.

COUNT THIRTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where could you have gotten – what source of funds could you have possibly used to pay the rent?

A. I don't remember how that was being paid at this time. I don't remember.

Q. Did you have access to any other source of money with which you could have paid the rent?

A. I don't remember.

Q. Well, that's pretty important because this is all about your assets and your expenses, and we're talking about \$1,500 every month that you're saying that you didn't pay in cash and you didn't pay with checks from the two bank accounts that you're telling us are the only bank accounts that you have.

A. Oh, it was being paid. I just don't remember how it was being paid at that time.

Id. at 71:23-72:12.

COUNT THIRTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Q. And how would you have obtained a money order?

A. Through Atkinson's.

Q. So you go in with cash to Atkinson's and purchase a money order?

A. I don't remember if that's how this was done, but you're asking me is there any other possible way. That's the only other possible way I can understand that it was being done.

Q. Okay. So have you done that before, have you gone to Atkinson's with cash to obtain a money order?

A. I have.

* * *

Q. And, again, the cash with which you used to buy the money order to pay for it, that came from cash that was sitting around in your condo at that time?

A. It was either that or a liquidation of – no, it was liquidation of either – that stock that I referred to earlier.

Q. So that's the only source, it could only be this stock?

A. As I remember, yes.

Q. So why didn't you take the money from the stock sale and put it into your Zions account and then write a check to pay your rent instead of –

A. I don't remember why I did that.


Id. at 72:16-74:6.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 22, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

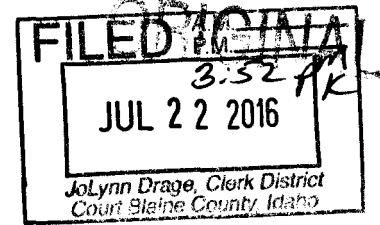
Neil David Campbell
P.O. Box 3372
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy
- email



Erin Clark

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Luke L. Dauchot, CA Bar No. 229829, OH Bar No. 0039935, IL Bar No. 6193611
Lauren Schweitzer, CA Bar No. 301654
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**PLAINTIFFS' AMENDED
REQUEST FOR JUDICIAL NOTICE**

Pursuant to Idaho Rule of Civil Procedure 44(d), Idaho Rule of Evidence 201 and Idaho Code § 9-101, Plaintiffs respectfully request that the Court take judicial notice of the following documents:

1. October 10, 2007 Complaint filed in the case captioned C&M Investment Group, Ltd. v. Philip Richard Powers et al. (Case No. BC378888). A true and correct certified copy of which is attached hereto as **Exhibit A**.

2. November 17, 2008 Amended Complaint filed in the case captioned C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership v. Philip Richard Powers et al. (Case No. BC378888). A true and correct certified copy of which is attached hereto as **Exhibit B**.

3. Los Angeles Superior Court's February 4, 2010 Order Granting Plaintiffs' Motion for Summary Adjudication Against Defendant Campbell for Constructive Fraud. A true and correct copy of which is attached hereto as **Exhibit C**.

4. Los Angeles Superior Court's November 2, 2010 Minute Order Imposing Terminating Sanctions and Entering Default as to Defendants in the case captioned C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership v. Philip Richard Powers et al. (Case No. BC378888). A true and correct certified copy of which is attached hereto as **Exhibit D**.

5. Los Angeles Superior Court's November 1, 2011 Minute Order Imposing Monetary Sanctions Against Neil David Campbell in the case captioned C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership v. Philip Richard Powers et al. (Case No. BC378888). A true and correct certified copy of which is attached hereto as **Exhibit E**.

6. Los Angeles Superior Court's December 13, 2011 Order Granting Plaintiffs' Motion for Summary Judgment Against Defendant Neil David Campbell in the case captioned C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership v. Philip Richard Powers et al. (Case No. BC378888). A true and correct certified copy of which is attached hereto as **Exhibit F**.

7. Los Angeles Superior Court's December 13, 2011 Judgment Against Defendant Neil David Campbell in the case captioned C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership v. Philip Richard Powers et al. (Case No. BC378888). A true and correct certified copy of which is attached hereto as **Exhibit G**.

8. Chapter 615—the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance, Part 3, § 20. A true and correct copy of the English version of this ordinance, obtained from the official website of the Hong Kong government, is attached hereto as **Exhibit H**.

9. 31 C.F.R. § 1010.430. A true and correct copy of which is attached hereto as **Exhibit I**.

10. 31 C.F.R. § 1020.410. A true and correct copy of which is attached hereto as **Exhibit J**.

11. Cal. Bus. & Prof. Code § 6148. A true and correct copy of which is attached hereto as **Exhibit K**.

12. Cal. Prof. Conduct Rule 3-700. A true and correct copy of which is attached hereto as **Exhibit L**.

13. Fl. St. Bar Rule 4-1.4. A true and correct copy of which is attached hereto as **Exhibit M**.

EXHIBIT A

1 Luke L. Dauchot (S.B.N. 229829)
2 Shelley D. Cordova (S.B.N. 234230)
3 KIRKLAND & ELLIS LLP
4 777 South Figueroa Street
5 Los Angeles, California 90017
6 Telephone: (213) 680-8400
7 Facsimile: (213) 680-8500
8 Email: ldauchot@kirkland.com
9 Email: scordova@kirkland.com

10 Attorneys for Plaintiff
11 C&M Investment Group, Ltd.

FILED
LOS ANGELES SUPERIOR COURT

OCT 10 2007

JOHN A. CLARKE, CLERK

BY MARY GARCIA, DEPUTY
Case assigned to Judge *D-30*
Maureen Duffy-Lewis

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

UNLIMITED JURISDICTION

BC378888

12 C&M Investment Group, Ltd., a partnership,)
13 Plaintiff,)
14 vs.)
15 Philip Richard Powers, individually; Powers)
16 Investments and Management, Inc., S.A., a)
17 corporation (a.k.a. Powers Investment and)
18 Management; Powers Management and)
19 Investment; Powers Management & Investments)
20 Inc.; Powers Investments; Powers Management)
21 & Investments Co.; Powers Investment &)
22 Management Co.; Powers Investments &)
23 Management Co.); Guanana Gris, S.A., a)
24 corporation; Protección Forestal de Teca, S.A., a)
25 corporation; and DOES 1 through 50 inclusive,)
26 Defendants.)

CASE NO.

COMPLAINT FOR:

- 1. FRAUDULENT INDUCEMENT
- 2. FRAUD AND DECEIT
- 3. CONSTRUCTIVE FRAUD
- 4. CONVERSION
- 5. BREACH OF WRITTEN CONTRACT
- 6. BREACH OF ORAL CONTRACT
- 7. UNFAIR BUSINESS PRACTICES

DEMAND FOR JURY TRIAL

ORIGINAL

23 Plaintiff C&M Investment Group, Ltd., through its undersigned attorney,
24 Complaint against Philip Richard Powers, individually, Powers Investments and Management
25 S.A., (a.k.a. Powers Investment and Management; Powers Management and Investment
26 Management & Investments Inc.; Powers Investments; Powers Management & Investments
27 Powers Investment & Management Co.; Powers Investments & Management Co.), Guanana Gris,
28

011/CASE: BC378888 LEA/DEF#:
RECEIPT #: COM 79072640
DATE PAID: 10/10/07 02:50:59
RECEIVED: 10/10/07 02:50:59
CASE # 12100
CHIEF CLERK
CASE #
CHARGE #
CASE #

1 S.A., Protección Forestal de Teca, S.A., and DOES 1 through 50 as follows:

2 **GENERAL ALLEGATIONS**

3 1. Plaintiff C&M Investment Group, Ltd. ("C&M") is a limited liability company
4 established under the laws of Costa Rica with its registered domicile in San Jose, Costa Rica.
5 C&M's principal shareholder is Karlin Holdings Limited Partnership ("Karlin Holdings"), a Limited
6 Partnership established under the laws of Nevada with its principal place of business in the City and
7 County of Los Angeles.

8 2. Dr. Gary K. Michelson ("Dr. Michelson") is an individual domiciled and doing
9 business in the City and County of Los Angeles.

10 3. Defendant Philip Richard Powers ("Powers") is a United States citizen domiciled in
11 Costa Rica. At all relevant times mentioned herein, Defendant Powers represented himself to be an
12 individual doing business as Defendant Powers Investments and Management, Inc., S.A.

13 4. Defendant Powers Investments and Management, Inc., S.A. is a Costa Rican
14 Corporation with its registered domicile in Heredia, Costa Rica. At various relevant times
15 mentioned herein, Defendant Powers referred to "Powers Investments and Management, Inc., S.A."
16 as "Powers Investment and Management," "Powers Management and Investment," "Powers
17 Management & Investments Inc.," "Powers Investments," "Powers Management & Investments
18 Co.," "Powers Investment & Management Co.," "Powers Investments & Management Co.," and
19 other variations of Powers Investments and Management, Inc., S.A. not mentioned herein.
20 Defendant Powers Investments and Management, Inc., S.A., along with all variations thereto, are
21 collectively referred to as "Powers Investments."

22 5. Defendant Guanana Gris, S.A., ("Gris") is a Costa Rican corporation with its
23 registered domicile in San Jose, Costa Rica.

24 6. Defendant Protección Forestal de Teca, S.A., ("Teca") is a Costa Rican corporation
25 with its registered domicile in San Jose, Costa Rica.

26 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
27 of DOES 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by
28 such fictitious names and will ask leave to amend the Complaint to show their true names and

1 capacities when they have been ascertained. Plaintiff is informed and believes and thereon alleges
2 that each of the Defendants designated herein as DOE is responsible in some manner for the events
3 and happenings therein referred to, and there is now due, owing, and unpaid from Defendants and
4 each of them to Plaintiff the sums alleged in this Complaint.

5 8. Plaintiff is informed and believes and thereon alleges that at all relevant times
6 mentioned herein, the Defendants, and each of them, were the agents, servants, employees and/or the
7 principals of all the other Defendants, and each of them, at all times mentioned herein, were acting
8 within the scope and course of their agency, employment, and/or other relationship by and with the
9 other Defendants, and each of them.

10 9. Plaintiff is informed and believes and thereon alleges that at all relevant times
11 mentioned herein there existed a unity of interest and ownership between Powers, Powers
12 Investments, Gris, Teca, and/or DOES 1 through 50 such that any individuality and separateness
13 between Powers, Powers Investments, Gris, Teca, and/or DOES 1 through 50 has ceased, and that
14 Powers is the alter ego of Powers Investments, Gris, Teca, and/or DOES 1 through 50.

15 10. Plaintiff is informed and believes and thereon alleges that Powers at all relevant times
16 mentioned herein has completely dominated and controlled the assets, operations, and activities of
17 Powers Investments, Gris, Teca, and/or DOES 1 through 50, failed to observe important corporate
18 formalities, and used the assets and facilities of Powers Investments, Gris, Teca, and/or DOES 1
19 through 50 for personal affairs and purposes, as if those assets and facilities belonged to Powers
20 personally.

21 11. Any adherence to the fiction of the separate existence of Powers, Powers Investments,
22 Gris, Teca, and/or DOES 1 through 50 as an entity distinct from Powers would permit the abuse of a
23 corporate privilege and would promote injustice by allowing Powers, Powers Investments, Gris,
24 Teca, and/or DOES 1 through 50 to evade liability or veil assets that should in equity be used to
25 satisfy the judgment sought by Plaintiff.

26 12. In this action, Plaintiff is suing Defendants for fraudulent inducement, fraud,
27 constructive fraud, conversion, breach of written contract, breach of oral contract, and unfair
28 business practices in connection with Defendants' theft of Plaintiff's property and Defendants'

1 purposeful concealment of such theft.

2 **JURISDICTION AND VENUE**

3 13. This Court has jurisdiction over this action in that the transactions giving rise to this
4 action occurred in substantial part in the City and County of Los Angeles, California. This Court has
5 personal jurisdiction over Defendants by virtue of Defendants': (1) solicitation of, and business with,
6 California citizens; (2) personal appearance in the City and County of Los Angeles to transact said
7 business; and (3) telephone, facsimile, and e-mail contacts with California citizens as a result of
8 Defendants' business conducted within California and within this district for more than six years.

9 **FACTS COMMON TO ALL CAUSES OF ACTION**

10 14. Dr. Michelson met Mr. Powers in the Summer of 1999 in Los Angeles, California.
11 When they met, Powers told Dr. Michelson that he was an experienced real estate investor and could
12 help Dr. Michelson in the purchase of properties in Costa Rica. The parties agreed, *inter alia*, that
13 Powers would be engaged to purchase properties, and Powers would charge no more than six percent
14 (6%) commission for purchasing the properties.

15 15. Towards this end, Powers registered "C&M Investment Group, Ltd." (Plaintiff) to be
16 the owner of the properties Powers found and negotiated. Powers had power of attorney from
17 Plaintiff in order to purchase properties on behalf of Plaintiff.

18 **A. POWERS' FRAUD, CONCEALMENT, AND SPOLIATION**

19 16. Generally from June, 2000 through March, 2006, Powers purchased on behalf of
20 Plaintiff more than 147 properties in Costa Rica, totaling more than 23,000 acres, by finding and
21 negotiating the price of the properties, representing to C&M, through Dr. Michelson, the purchase
22 price of the properties and the closing fees, and requesting C&M, through Dr. Michelson, to wire the
23 funds for the represented price and fees, with an 6% mark-up for Powers' services to a specific
24 account of Powers. Some of the accounts Powers requested the money to be sent included accounts
25 in the names of Powers Investments, Gris, and Teca. From June, 2000 through March, 2006, funds
26 in the amount of \$25,592,289 were wired to Powers on behalf of C&M to purchase the properties.

27 17. Unbeknownst to C&M, Powers was in fact marking-up the purchase prices of the
28 properties for far more than the represented 6% commission rate.

1 18. In 2005 and 2006, C&M, through Dr. Michelson and others, repeatedly asked Powers
2 to disclose adequate books and records showing the actual purchase prices of the properties, and the
3 commissions Powers charged for the property purchases. But Powers continually refused to disclose
4 records. His excuses for such conduct varied and were contradictory.

5 19. For example, Powers initially claimed that he paid for the properties in cash, and that
6 there was no documentary evidence of how much he actually paid for the properties. When C&M
7 told him that there should at least be checks made out to "cash" in the amount paid to the sellers,
8 Powers said that he destroyed his copies of such checks. Thereupon, C&M, through Dr. Michelson
9 and others, insisted that, at a minimum, Powers' bank would have records of the checks. Powers
10 refused to disclose those records, stating that the information of what he paid for the properties was
11 confidential.

12 20. Upon continued pressure from C&M, Powers finally admitted that he charged C&M
13 in excess of 6% for commissions. However, Powers refused to provide records that would show the
14 actual amount Powers marked-up the properties.

15 21. Upon information and belief, Powers marked-up the purchase prices of the properties
16 by an average no less than 506%, and Plaintiff's investigation into the amount of overcharges
17 continues (at significant expense) to date.

18 22. Despite repeated requests from C&M to disclose in full the commissions Powers
19 charged for all properties purchased from 2000 to 2006, Powers has refused to do so.

20 **B. THE PARTIES' CONTRACT AND DEFENDANTS' BREACH THEREOF**

21 23. The parties entered into a written Professional Services Agreement ("Agreement") on
22 or about October 3, 2003, a copy of which is attached hereto as Exhibit 1 and is incorporated herein
23 by reference. The Agreement was between C&M and "Richard Powers d/b/a Powers Investment
24 and Management" (Defendants) and required, among other things, that Defendants keep adequate
25 books and records in purchasing property on behalf of C&M. As alleged hereinabove, Defendants
26 breached this duty.

27 24. The contract also provided that C&M "shall have access to and the right to examine
28 any pertinent books, documents, papers and accounting records of Consultant [Defendants] which

1 pertain to transactions under this Agreement during the pendency of this Agreement and for a period
2 of three (3) years after expiration of this Agreement.” Ex. 1, Article 11. As alleged hereinabove,
3 Defendants breached this duty.

4 25. The contract further provided that Defendants must “report all . . . accounting records,
5 budgets, and projections . . .”. *Id.* at Ex. A, § 4. Defendants breached this duty, at significant
6 expense and injury to Plaintiff.

7 26. An attorney’s fees provision in the contract provides: “the prevailing party shall be
8 entitled to reasonable attorney’s fees in addition to any other relief to which it may be entitled.” *Id.*
9 at Article 18. If Plaintiff prevails on any of its claims, Plaintiff is contractually entitled to reasonable
10 attorney’s fees.

11 **FIRST CAUSE OF ACTION FOR FRAUDULENT INDUCEMENT**

12 **(Against All Defendants)**

13 27. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 26 as
14 if fully set forth herein.

15 28. As alleged hereinabove, to induce Plaintiff to engage Defendants, Defendants
16 promised to purchase properties on behalf of Plaintiff for a commission not to exceed 6%. In
17 reliance on such promises, Plaintiff engaged Defendants to purchase properties, and sent Defendants
18 more than 25 million dollars over the course of approximately five years to purchase the properties.

19 29. Defendants’ promises were false at the time that they were made. Upon information
20 and belief, Defendants intended at the time of the initial engagement to pursue a pattern and practice
21 of taking from Plaintiff far in excess of the agreed-upon commission rate.

22 30. Defendants in fact took millions of dollars from Plaintiff by charging fraudulent
23 commissions by an average no less than 506%. The investigation into the overmarking continues at
24 significant expense to date and the figure will likely be significantly higher.

25 31. Moreover, Defendants engaged in purposeful concealment to prevent Plaintiff from
26 discovering Defendants’ wrongdoing. Defendants misrepresented the purchase prices of the
27 properties to Plaintiff. And upon information and belief, Defendants refused to disclose and/or
28 destroyed books and records to prevent Plaintiff from determining the full amount Defendants

1 misappropriated.

2 32. As a direct and proximate cause of Defendants' fraud and deceit as set forth above
3 and with particularity throughout this Complaint, Plaintiff has suffered actual damages in an amount
4 no less than \$20,000,000 to be proven at trial.

5 33. The aforementioned fraud and deceit was committed through oppression, fraud, and
6 malice with intent to cause injury to Plaintiff through willful and conscious disregard of Defendants'
7 promises and Plaintiff's rights and subjecting Plaintiff to cruel and unjust hardship in conscious
8 disregard of its rights, and/or deprive it of property and legal rights through intentional
9 misrepresentation, deceit, and concealment of material facts. Therefore, Plaintiff is entitled to an
10 award of exemplary and punitive damages under California Code of Civil Procedure Section 3294 in
11 an amount to be proven at trial.

12 **SECOND CAUSE OF ACTION FOR FRAUD AND DECEIT**

13 **(Against All Defendants)**

14 34. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 33 as
15 if fully set forth herein.

16 35. As alleged hereinabove in the Facts Common To All Causes of Action, Defendants
17 misrepresented to Plaintiff the amount of money needed to purchase the properties and the
18 commissions Defendants took for purchasing the properties. Examples of Defendants'
19 misrepresentations, fraud, and deceit include:

- 20
- 21 • Representing on or about May 12, 2004 that a property cost \$127,500 when, based on
22 information available to date, the property cost approximately \$13,000, constituting a
23 fraudulent markup in excess of 970%;
 - 24 • Representing on or about March 2, 2004 that a property cost approximately \$70,000
25 when, based on information available to date, the property cost approximately \$8,600,
26 constituting a fraudulent markup in excess of 803%;
 - 27 • Representing on or about October 1, 2002 that a property cost \$130,000 when, based on
28 information available to date, the property cost approximately \$34,500, constituting a
fraudulent markup in excess of 366%;

- 1 • Representing on or about May 12, 2004 that a property cost \$183,000 when, based on
2 information available to date, the property cost approximately \$75,500, constituting a
3 fraudulent markup in excess of 232%; and
- 4 • Representing on or about August 13, 2002 that a property cost \$374,000 when, based on
5 information available to date, the property cost approximately \$216,300, constituting a
6 fraudulent markup in excess of 162%.

7 36. Such representations were false when made and made with the intention of causing
8 Plaintiff to rely thereon and send the requested sums.

9 37. Plaintiff did in fact rely on Defendants' misrepresentations and sent Defendants the
10 sums they requested in excess of \$25 million. Plaintiff's reliance on Defendants' misrepresentations
11 was justifiable.

12 38. Moreover, to conceal Defendants' fraud and misrepresentations alleged hereinabove,
13 Defendants engaged in a pattern of fraud and deception by failing to disclose to Plaintiff adequate
14 books and records with which to verify Defendants' representations, and instead gave false
15 assurances, misleading explanations, and evasive excuses to forestall the revelation of Defendants'
16 fraud, deceit, and misrepresentations.

17 39. The \$25 million in funds transmitted by Plaintiff to Defendants were excessive and
18 represented far more than what the Defendants represented they were in fact requesting (namely, the
19 purchase price plus a 6% commission). Indeed, based on information to date, Powers marked-up the
20 properties by an average no less than 506%. The investigation into the overmarking continues at
21 significant expense to date and the figure will likely be significantly higher.

22 40. As a direct and proximate cause of Defendants' fraud and deceit as set forth above
23 and with particularity throughout this Complaint, Plaintiff has suffered actual damages in an amount
24 no less than \$20,000,000 to be proven at trial.

25 41. The aforementioned fraud and deceit was committed through oppression, fraud, and
26 malice with intent to cause injury to Plaintiff through willful and conscious disregard of Defendants'
27 promises and Plaintiff's rights and subjecting Plaintiff to cruel and unjust hardship in conscious
28 disregard of its rights, and/or deprive it of property and legal rights through intentional

1 misrepresentation, deceit, and concealment of material facts. Therefore, Plaintiff is entitled to an
2 award of exemplary and punitive damages under California Code of Civil Procedure Section 3294 in
3 an amount to be proven at trial.

4 **THIRD CAUSE OF ACTION FOR CONSTRUCTIVE FRAUD**

5 **(Against All Defendants)**

6 42. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 41 as
7 if fully set forth herein.

8 43. As alleged hereinabove, Defendants induced Plaintiff to engage it to purchase
9 properties, and act as Plaintiff's power of attorney for the acquisition of the properties from June,
10 2000 through March, 2006. Such fiduciary relationship entitled Plaintiff to implicitly trust
11 Defendants and to expect absolute loyalty and full material disclosures from Defendants.

12 44. At all relevant times, Plaintiff did, in fact, place full and total trust, confidence, and
13 reliance upon Defendants, and Plaintiff justifiably relied upon the continuing integrity and fidelity of
14 Defendants.

15 45. Despite having voluntarily accepted such trust and confidence given by Plaintiff,
16 Defendants violated such trust and confidence and abused their fiduciary relationship with Plaintiff
17 as set forth above.

18 46. Plaintiff is informed and believes, and thereon alleges that Defendants engaged in the
19 wrongdoings alleged in this Complaint with specific intent to take advantage of their fiduciary
20 relationship with Plaintiff to deceive and defraud them, conceal such deceit, fraud, and other
21 material facts from it, and to induce further reliance.

22 47. As a direct and proximate consequence of Defendants' breach of fiduciary duty as set
23 forth above, Plaintiff has been damaged in an amount no less than \$20,000,000 to be proven at trial.

24 48. The aforementioned constructive fraud was committed through oppression, fraud, and
25 malice with intent to cause injury to Plaintiff through willful and conscious disregard of Defendants'
26 promises and Plaintiff's rights, and subjecting Plaintiff to cruel and unjust hardship in conscious
27 disregard of its rights, and/or deprive it of property and legal rights through intentional
28 misrepresentation, deceit, and concealment of material facts. Therefore, Plaintiff is entitled to an

1 award of exemplary and punitive damages under California Code of Civil Procedure Section 3294 in
2 an amount to be proven at trial.

3 **FOURTH CAUSE OF ACTION FOR CONVERSION**

4 49. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 48 as
5 if fully set forth herein.

6 50. As alleged hereinabove in the Facts Common To All Causes of Action, to induce
7 Plaintiff to engage Defendants, Defendants promised to purchase properties on behalf of Plaintiff for
8 a commission not to exceed 6%. In reliance on such promises, Plaintiff engaged Defendants to
9 purchase properties, and sent Defendants more than \$25 million over the course of approximately
10 five years to purchase the properties.

11 51. Unbeknownst to Plaintiff, Powers was in fact marking-up the purchase prices of the
12 properties for far more than the represented 6% commission rate. Indeed, based on information
13 available to date, Powers marked-up the properties by an average no less than 506%. The
14 investigation into the overmarking continues at significant expense to date and the figure will likely
15 be significantly higher.

16 52. All amounts Powers took in excess of the property purchase prices and his 6%
17 commission was property belonging to Plaintiff, and thus constituted a wrongful taking of Plaintiff's
18 property and interfered with Plaintiff's possession of its property.

19 53. As a direct and proximate consequence of Defendants' conduct as set forth above,
20 Defendants converted an amount no less than \$20,000,000 to be proven at trial.

21 54. The aforementioned conversion was committed through oppression, fraud, and malice
22 with intent to cause injury to Plaintiff, and subject Plaintiff to cruel and unjust hardship as a result
23 thereof. Plaintiff is therefore entitled to an award of exemplary and punitive damages under
24 California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

25 **FIFTH CAUSE OF ACTION FOR BREACH OF WRITTEN CONTRACT**

26 **(Against All Defendants)**

27 55. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 54 as
28 if fully set forth herein.

1 56. At all relevant times, Plaintiff had competence and capacity to enter into contracts,
2 and standing to bring actions thereon.

3 57. On or about October 3, 2003, Plaintiff and Defendants entered into a written
4 Agreement whereby Defendants agreed to keep adequate books and records concerning the
5 properties purchased on behalf of C&M, and make such records available to C&M upon demand.
6 *See Ex. 1.*

7 58. By virtue of Defendants' acts and omissions alleged hereinabove, Defendants
8 breached said contract by failing to keep adequate books and records, and/or refusing to disclose
9 such records, and/or destroying such records regarding the fees Defendants charged for the
10 properties they purchased on behalf of Plaintiff.

11 59. Plaintiff performed all conditions, covenants, and promises required on its part to be
12 performed in accordance with said contract, or are legally excused from doing so.

13 60. As a direct and proximate consequence of Defendants' contract breaches as set forth
14 above, Plaintiff has suffered damages in an amount to be proven at trial.

15 **SIXTH CAUSE OF ACTION FOR BREACH OF ORAL CONTRACT**

16 **(Against All Defendants)**

17 61. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 60 as
18 if fully set forth herein.

19 62. At all relevant times, Plaintiff had competence and capacity to enter into contracts,
20 and standing to bring actions thereon.

21 63. Plaintiff and Defendants entered into an oral agreement whereby Defendants agreed
22 to acquire properties for Plaintiffs for a total of no more than 6% of the actual selling price in
23 commissions.

24 64. By virtue of Defendants' acts and omissions alleged hereinabove, Defendants
25 breached said contract.

26 65. Plaintiff performed all conditions, covenants, and promises required on its part to be
27 performed in accordance with said contract, or are legally excused from doing so.

28 66. As a direct and proximate consequence of Defendants' contract breaches as set forth

1 above, Plaintiff has suffered damages in an amount to be proven at trial.

2 **SEVENTH CAUSE OF ACTION FOR UNFAIR BUSINESS PRACTICES**

3 67. Plaintiff repeats and realleges each and every allegation of paragraphs 1 through 66 as
4 if fully set forth herein.

5 68. Defendants' acts as set forth hereinabove constitute business practices that are
6 unlawful, unfair, and fraudulent in violation of California Business & Professions Code
7 Section 17200 *et seq.*

8 69. Defendants' unfair business acts and practices have caused irreparable injury and
9 other losses to Plaintiff for which it has no adequate remedy at law. Plaintiff is therefore entitled to
10 restitution from Defendants in an amount to be proven at trial.

11 **JURY DEMAND**

12 70. Plaintiff hereby demands a jury trial in this action.

13 **PRAYER**

14 71. As to the First through Sixth Causes of Action, a money judgment for general,
15 special, and consequential damages in an amount to be proven at trial;

16 72. Additionally as to the First through Fourth Causes of Action, an award of exemplary
17 punitive damages under California Code of Civil Procedure Section 3294 in an amount to be
18 established at trial;

19 73. As to the Seventh Causes of Action, restitution from Defendants in an amount to be
20 proven at trial;

21 74. An award of attorney's fees as allowed by contract and law;

22 75. Award of costs of suit as allowed by law;

23 76. Interest on damages allowed by law;

24 77. Such other and further relief as the Court deems proper, fair, equitable, and just.

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DATED: October 10, 2007

Respectfully submitted,

KIRKLAND & ELLIS LLP

By: 

Luke L. Dauchot (S.B.N. 229829)
Shelley D. Cordova (S.B.N. 234230)
KIRKLAND & ELLIS LLP
777 South Figueroa Street
Los Angeles, California 90017
Telephone: (213) 680-8400
Facsimile: (213) 680-8500
Email: ldauchot@kirkland.com
Email: scordova@kirkland.com

Attorneys for Plaintiff C&M Investment Group, Ltd.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is made as of this 3rd day of October 2003, between C&M Investment Group Limited, a limitada company formed under the laws of Costa Rica, (hereinafter referred to as "COMPANY"), and Richard Powers an individual doing business as "Powers Investment and Management" (hereinafter referred to as "Consultant").

RECITALS

WHEREAS, COMPANY and its affiliates are engaged in the business of purchasing and maintaining pasture lands for reforestation in the Guanacaste zone of Costa Rica, and COMPANY desires to engage the services of Consultant to provide the services set forth herein; and

WHEREAS, Consultant is an independent contractor able and willing to provide such services under the terms and conditions set forth herein,

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto mutually agree as follows:

AGREEMENT

Article 1. **Period of Performance.** This Agreement shall commence on the date hereof and shall remain in full force and effect until completion or termination as provided herein.

Article 2. **Character and Extent of Services.** Consultant shall perform the services described in Exhibit "A" (the "Services"), which exhibit is attached to this Agreement and incorporated herein by this reference. The Services shall be performed at the time and location set forth in Exhibit A.

Article 3. **Compensation.** The Services shall be performed for the compensation set forth in Exhibit A. Consultant shall submit invoices in duplicate to COMPANY, together with such supporting documentation as COMPANY may reasonably require, at the end of each month. Invoices shall include:

- Current Agreement Budget
- Gross Amount Invoiced to Date
- Details of the Services Provided in the Current Period Billing

COMPANY agrees to pay the amount due to Consultant for the Services on or before the thirtieth day following receipt of Consultant's invoice, properly documented as set forth above.

Article 4. **Assignment.** The obligations of either party under this Agreement are not assignable or transferable without prior written approval of the other party; provided, however, that consent shall not be required to any transfer by the Company of its rights and obligations hereunder to any person or entity succeeding to substantially all of the business of the Company.

10-03-03

EXH 1

Article 5. Responsibility Liability. Consultant warrants that it will exercise in its performance of the Services the standard of care normally exercised by recognized organizations engaged in performing comparable services using the "best commercial practices" in the management of assets such as those owned by the Company. Except as set forth in Article 6, Consultant's liability to COMPANY hereunder shall not exceed Consultant's total compensation for the Services together with any amounts received by Consultant relating to brokerage services in connection with acquisition of assets owned by the Company.

Article 6. Indemnification. Consultant specifically agrees to hold harmless and indemnify COMPANY against all claims, suits, losses, liabilities, damages and expenses arising out of injury, death or property damage if and to the extent caused by the willful misconduct or negligent acts or omissions of Consultant, its employees or agents hereunder. However, neither party shall have liability to the other under this Agreement for consequential, incidental, special or exemplary damages.

Article 7. Ownership of Work Product. All technical data, evaluations, reports and other work product of Consultant hereunder shall become the property of COMPANY and shall be delivered to COMPANY upon termination of this agreement or upon completion of the Services as authorized hereunder. Consultant may retain copies of its work product hereunder for research and other internal uses; however, no information contained therein shall be disclosed to any third party or used for the benefit of any entity other than COMPANY without COMPANY's prior written consent. Consultant shall not be liable for use by COMPANY of its work product on projects other than that covered by this Agreement.

Article 8. Independent Contractor Relationship. In the performance of the Services hereunder, Consultant shall be an independent contractor and not an employee of COMPANY, with the sole authority to control and direct the performance of the details of the work, COMPANY being interested only in the results obtained.

Article 9. Legal Requirements.

a. Consultant shall comply with all applicable domestic and foreign ordinances, laws, orders, rules and regulations pertaining to its Services hereunder, and shall obtain all necessary authority to perform such Services.

b. Consultant hereby represents and warrants that it is aware of and familiar with the provisions of the U.S. Foreign Corrupt Practices Act (the "FCPA") and its purposes, and will take no action and make no payment in violation of, or that might cause COMPANY or any of its affiliates or subsidiaries to be in violation of, the FCPA. Consultant will act in full compliance with the FCPA in connection with its engagement by COMPANY.

c. Consultant hereby represents and warrants that it has not made and will not make, directly or indirectly, any payment, loan or gift (or any offer, promise or authorization of any such payment, loan or gift) of money or anything of value to or for the use of: (i) any government official; (ii) any political party or official or any candidate for political office; or (iii)

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any other person under circumstances in which Consultant knows or has reason to know that all or any portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any person named in items (i) and (ii) above for the purpose of inducing the aforementioned person to do any act or make any decision in his official capacity (including a decision to fail to perform his official function) or use his influence with a government or instrumentality to affect any act or decision of such government or instrumentality in order to assist COMPANY in obtaining or retaining any business. For purposes of this Agreement, the term "government official" includes an employee of a government-owned or government-controlled commercial enterprise.

d. Consultant hereby represents and warrants that it is not owned or controlled, and will not become owned or controlled during the term of this Agreement, by any official of the government of the country in or as to which the Services will be performed or by any official of a political party or candidate for political office therein.

e. Consultant represents that it has fully disclosed to COMPANY, and has a continuing obligation to disclose, whether any of its officers, directors or any person known by Consultant to hold more than 10% of Consultant's outstanding shares is, or has a family relationship with, a government official, a political party official or a candidate for political office. Consultant further agrees that it will cooperate with COMPANY to ensure that COMPANY receives adequate assurances, whether in the form of a certification, a formal refusal by the relevant family member or some other form of reasonable assurance, to satisfy COMPANY that no violation of the FCPA will arise as a result of any such officer's, director's, shareholder's or family member's position. Should COMPANY determine in good faith that Consultant has failed to provide such adequate assurances, COMPANY reserves the right to terminate this Agreement immediately.

f. Consultant acknowledges and undertakes that the fees and expenses paid by COMPANY to it hereunder are intended solely as compensation for the Services provided by Consultant pursuant to this Agreement and are not to be shared with, or paid to, any other person or persons.

g. Consultant represents and warrants that the execution and implementation of this Agreement and its receipt of the fees and expenses hereunder do not violate the laws, decrees or regulations of the country in or as to which the Services will be performed and that no consent of or notice to any agency of the government of such country is required or necessary in connection therewith.

Article 10. Confidentiality. Consultant shall not, either during or for a period of three (3) years after the termination or expiration of this Agreement, disclose to any third party any Confidential Information (as defined below), or use the same for its own benefit or for the benefit of any entity other than COMPANY, without the prior written consent of COMPANY. Consultant shall limit disclosure of Confidential Information to those of its employees, agents and contractors to whom disclosure is reasonably necessary to perform the Services hereunder and who agree to hold it confidential. Consultant shall prevent its employees, agents and

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subcontractors from disclosing Confidential Information to unauthorized persons or misusing the same. As used herein, "Confidential Information" shall mean financial, technical, and business information and documentation relating to COMPANY or the Services which COMPANY designates in writing as "Confidential," "Secret," or "Proprietary" or with words of like meaning. Confidential Information shall not include information which Consultant can demonstrate: (a) is or becomes in the public domain other than by the fault of Consultant, (b) was in Consultant's possession prior to the time of disclosure, (c) is obtained from a third party which Consultant reasonably believed did not obtain the information directly or indirectly from COMPANY, or (d) is independently developed by those of Consultant's employees, agents or contractors who do not have access to the Confidential Information.

Article 11. Examination of Records; Access to Work. Consultant agrees that COMPANY or any of its duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers and accounting records of Consultant which pertain to transactions under this Agreement during the pendency of this Agreement and for a period of three (3) years after expiration of this Agreement. COMPANY's representative shall at all times have access to the work for purposes of inspecting same and determining that the Services are being performed in accordance with the terms of this Agreement.

Article 12. Insurance.

a. During the course of performance of the Services, Consultant shall maintain the following insurance coverage at no additional cost to COMPANY, and Consultant will pay the deductibles under such coverage:

Workmen's Compensation Insurance as required by law.
Automobile Liability Insurance covering claims for injuries to or death of one or more persons and damage to property caused by motor vehicles, owned or hired, with aggregate limits of not less than \$50,000.

b. Consultant shall furnish certificates showing that the above insurance coverages will be in effect during the term of this Agreement, and specifying that COMPANY must be given thirty (30) days prior written notice of cancellation, termination, or alteration of the policies evidenced by such certificates.

Article 13. Termination of the Agreement.

a. Termination for Convenience. COMPANY may upon written notice terminate this Agreement for COMPANY's convenience, with or without cause, and regardless of whether Consultant is in default.

b. Termination for Cause. COMPANY may terminate this Agreement at any time, by giving written notice to Consultant specifying the effective date of termination, if:

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(1) Consultant shall become insolvent, or make a general assignment for the benefit of creditors, or any proceeding is brought by or against Consultant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy acts or under any other applicable federal or state law or regulation, or any proceeding is brought seeking the appointment of a receiver or similar officer of court with respect to Consultant's business;

(2) Consultant repeatedly refuses or fails to supply enough properly skilled workmen or equipment or materials of the proper quality or quantity to perform the Services;

(3) Consultant disregards laws, ordinances, government rules or regulations, or repeatedly disregards instructions of COMPANY's representative which are consistent with this Agreement; or

(4) Consultant is guilty of a material breach or violation of any provision of this Agreement, and fails to remedy such breach or violation within thirty (30) days after receipt of written notice for COMPANY.

c. Consequences of Termination. In the event of termination hereof, whether for convenience or for cause:

(1) All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other materials prepared or (subject however to Consultant's nonexclusive rights to use the same as set forth in Article 7) equipment purchased by Consultant under this Agreement shall become the property of COMPANY; and

(2) Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Article 14. Amendments. This instrument constitutes the entire Agreement between the parties covering the subject matter and supersedes any and all other prior agreements and understandings, either oral or in writing, between the parties hereto with respect to the subject matter hereof. No modification or amendments to this Agreement shall be valid unless in writing and signed by the parties.

Article 15. Notices. Any notice to be given hereunder by either party to the other may be effected either by personal delivery in writing, or by certified mail, return receipt requested, postage prepaid, effective when received or on the fifth day following the date mailed, whichever is sooner. The addresses for notice shall be those set forth on the first page of this Agreement, unless such addresses are changed by written notice given in compliance with this Article 15.

Article 16. Liens.

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a. Consultant shall promptly pay all bills incurred by Consultant in performance of the Services hereunder, including, without limitation, bills for labor, services, equipment and materials.

b. Consultant shall not voluntarily permit any laborer's, materialmen's, mechanic's, or other liens to be filed or otherwise imposed on any of COMPANY's property on the behalf of Consultant or any of its employees, agents, or subcontractors. If any such lien or claim is filed and if Consultant does not cause such lien to be released and discharged forthwith, or file a bond in lieu thereof, COMPANY shall have the right to pay all sums necessary to obtain release and discharge and deduct all amounts so paid from the payments due then or thereafter hereunder.

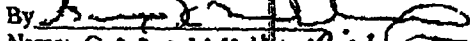
Article 17. Governing Law. By selection of the parties, this Agreement and all questions concerning the execution, validity or invalidity, capacity of the parties and the performance of this Agreement, shall be interpreted in accordance with the laws of the State of California applicable to agreements executed and to be wholly performed in such state.


Article 18. Attorneys' Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which it may be entitled.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in their respective names as of day and year first above written.

C&M INVESTMENT GROUP LIMITED

By Karlin Holdings Limited Partnership, a Nevada limited partnership

By 
Name: *GARY KARLIN*
Title: *President*


Richard Powers, doing business as
Powers Management and Investment

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Powers Management & Investments Co.

PROFESSIONAL SERVICES AGREEMENT EXHIBIT "A"

Property size: approximately 5,000 acres. (C & M) October 3, 2003

SERVICES

- 1: Powers will be responsible for the planting and maintenance of all trees on C & M's properties as well as the maintenance of the existing natural forest surrounding the plantations. This also includes all infrastructures on roads, bridges and fences.
- 2: Powers will be responsible for all employees and their compensation as well as their insurance, Social Security and vacation pay.
- 3: Powers will be responsible for loss of any new plantings as a result of hurricane, fire, disease or plague. Powers investments are responsible at his expense to replant any loss of trees in the second year to give C & M coverage of 100% of the planted area.
- 4: Powers will report all activities pertaining to the progress of the plantations as well as accounting records, budgets and projections as described further in Article 3 of this doc.
- 5: Powers investments are also responsible for the acquisition of new properties both reforested and for reforestation for C & M. Powers is also responsible to see that all related property leases whether related to government forest restrictions or otherwise are cancelled or cleaned. Powers is also responsible to report and present all documents relating to closing to the offices of Munoz and Arias.

COMPENSATION

Powers investment will receive for compensation two dollars for every new tree planted. From this compensation Powers investments will be responsible to carry out all the functions as described above. The planting cost for the first year will be approximately \$2 per tree. This includes preparation of the property (cleaning, etc.). Certified teak seedlings from nursery and transportation to site. Forest engineer who sets lines, distances and spaces and monitors trees throughout the year. Holes prepared for fertilizing (There will be three stages of fertilizing in the first and second year.) and planting. Maintenance of surrounding fences and borders. Fire lines are made in December and revised monthly. Fertilizers, insecticides and all chemicals are included in this maintenance schedule. It will not include infrastructures made on roads and bridges or its maintenance.

November 10, 2003
Page 2

Teak Tree maintenance schedule first 9 years

Year	Cost per tree	Trees per acre Based on 4mt.X4mt.	Cost per Acre.
One	\$2.00	243	\$485
Two	1.00		243
Three	.50		121
Four	.50		121
Five	.50		121
Six	.25		60
Seven	.25		60

LOS ANGELES SUPERIOR COURT

OCT 10 2007

JOHN A. CLARKE, CLERK
BY MARY GARCIA, DEPUTY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
LUKE L. DAUCHOT (S.B.N. 229829)
SHELLEY D. CORDOVA (S.B.N. 234230)
Kirkland & Ellis LLP
777 So. Figueroa Street, Suite 3400
Los Angeles, California 90017
TELEPHONE NO.: (213) 680-8400 FAX NO.: (213) 680-8500
ATTORNEY FOR (Name): C&M Investment Group, Ltd., a partnership

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: Same
CITY AND ZIP CODE: Los Angeles, CA 90012
BRANCH NAME: Central

CASE NAME: C&M Investment Group, Ltd. v. P. Richard Powers; Powers Investments and Mgt.; Guanana Gris; Proteccion Forestal de Teca

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant: (Cal. Rules of Court, rule 3.402)

CASE NUMBER: BC378888
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. Large number of separately represented parties
 - b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
 - c. Substantial amount of documentary evidence
 - d. Large number of witnesses
 - e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 - f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Seven

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 10, 2007

SHELLEY D. CORDOVA (S.B.N. 234230)
(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

ORIGINAL

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/environmental) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (not medical or legal)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
 - Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
 - Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (non-domestic relations)
 - Sister State Judgment
 - Administrative Agency Award (not unpaid taxes)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (not specified above) (42)
- Declaratory Relief Only
- Injunctive Relief Only (non-harassment)
- Mechanics Lien
- Other Commercial Complaint Case (non-tort/non-complex)
- Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
- Civil Harassment
- Workplace Violence
- Elder/Dependent Adult Abuse
- Election Contest
- Petition for Name Change
- Petition for Relief from Late Claim
- Other Civil Petition

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION.
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 5 HOURS/ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked.

For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (See Column C below)

1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 2., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4.
Non-Personal Injury/Property Damage/Wrongful Death Tort	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 2., 3.
		<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.	
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.	
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.	
Fraud (16)	<input checked="" type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.	

ORIGINAL

Non-Personal Injury/Property Damage/
 Wrongful Death Tort (Cont'd.)
 Employment
 Contract
 Real Property
 Unlawful Detainer
 Judicial Review

SHORT TITLE: C&M Investment Group, Ltd. v. P. Richard Powers; Powers
 Investments and Mgt.; Guanana Gris; Proteccion Forestal de Teca

CASE NUMBER

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer - Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer - Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer - Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

SHORT TITLE: C&M Investment Group, Ltd. v. P. Richard Powers; Powers Investments and Mgt.; Guanana Gris; Proteccion Forestal de Teca

CASE NUMBER

Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ / Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

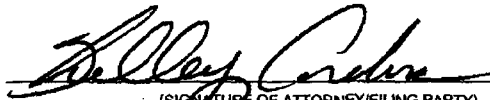
SHORT TITLE: C&M Investment Group, Ltd. v. P. Richard Powers; Powers Investments and Mgt.; Guanana Gris; Proteccion Forestal de Teca	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE:			ADDRESS:							
<input type="checkbox"/> 1.	<input type="checkbox"/> 2.	<input checked="" type="checkbox"/> 3.	<input type="checkbox"/> 4.	<input type="checkbox"/> 5.	<input type="checkbox"/> 6.	<input type="checkbox"/> 7.	<input type="checkbox"/> 8.	<input type="checkbox"/> 9.	<input type="checkbox"/> 10.	11755 Wilshire Blvd., Suite 1600
CITY: Los Angeles			STATE: CA	ZIP CODE: 90025						

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Los Angeles County Superior courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subs. (b), (c) and (d)).

Dated: October 10, 2007


 (SIGNATURE OF ATTORNEY/FILING PARTY)
 SHELLEY D. CORDOVA (SBN 234230)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

LASC

I certify that this is a true and correct copy
of the original Complaint on
file in this office



JUL 18 2013

SHERRI R. CARTER, Executive Officer/Clerk of
the Superior Court of California County of Los Angeles

By: B. Clark, Deputy
B. CLARK

EXHIBIT B

1 Luke L. Dauchot (S.B.N. 229829)
 Jeffrey S. Sinek (S.B.N. 135508)
 2 Shaun Paisley (S.B.N. 244377)
 KIRKLAND & ELLIS LLP
 3 777 South Figueroa Street
 Los Angeles, California 90017
 4 Telephone: (213) 680-8400
 Facsimile: (213) 680-8500
 5 Email: ldauchot@kirkland.com
 Email: jsinek@kirkland.com
 6 Email: spaisley@kirkland.com

FILED
 LOS ANGELES SUPERIOR COURT
 NOV 17 2008
 JOHN A. CLARKE, CLERK
 BY SHAUNYA WESLEY, DEPUTY

7 Attorneys for Plaintiffs C&M Investment
 Group, Ltd. and Karlin Holdings Limited Partnership
 8

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 10 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
 11 UNLIMITED JURISDICTION
 12

13 C&M Investment Group, Ltd., and Karlin
 Holdings Limited Partnership,)
 14)

Plaintiffs,)

15 vs.)

16 Philip Richard Powers, individually; Neil David)
 17 Campbell, individually; Powers Investments and)
 Management, Inc., S.A., a corporation (a.k.a.)
 18 Powers Investment and Management; Powers)
 Management and Investment; Powers)
 19 Management & Investments Inc.; Powers)
 Investments; Powers Management &)
 20 Investments Co.; Powers Investment &)
 Management Co.; Powers Investments &)
 21 Management Co.); Guanana Gris, S.A., a)
 corporation; Protección Forestal de Teca, S.A., a)
 22 corporation; and DOES 1 through 50 inclusive,)

23 Defendants.)
 24)
 25)

CASE NO. BC 378888

Hon. Maureen Duffy-Lewis

FIRST AMENDED COMPLAINT FOR:

- 1. CIVIL CONSPIRACY
- 2. FRAUD AND DECEIT
- 3. CONSTRUCTIVE FRAUD
- 4. UNFAIR BUSINESS PRACTICES
- 5. FRAUDULENT INDUCEMENT
- 6. CONVERSION
- 7. BREACH OF WRITTEN CONTRACT
- 8. BREACH OF ORAL CONTRACT
- 9. AIDING AND ABETTING FRAUD
- 10. BREACH OF DUTY OF LOYALTY
- 11. TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS (Against Campbell)
- 12. TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS (Against Powers)

DEMAND FOR JURY TRIAL

ORIGINAL

1 Plaintiffs C&M Investment Group, Ltd. ("C&M") and Karlin Holdings Limited Partnership
2 ("Karlin Holdings") allege for their Complaint against Philip Richard Powers, individually, Neil
3 David Campbell, individually, Powers Investments and Management, Inc., S.A., (a.k.a. Powers
4 Investment and Management; Powers Management and Investment; Powers Management &
5 Investments Inc.; Powers Investments; Powers Management & Investments Co.; Powers Investment
6 & Management Co.; Powers Investments & Management Co.), Guanana Gris, S.A., Protección
7 Forestal de Teca, S.A., and DOES 1 through 50 as follows:

8 **GENERAL ALLEGATIONS**

9 1. Plaintiff C&M is a limited liability company established under the laws of Costa Rica
10 with its registered domicile in San Jose, Costa Rica. C&M's sole shareholder is Plaintiff Karlin
11 Holdings, a Limited Partnership established under the laws of Nevada with its principal place of
12 business in the City and County of Los Angeles.

13 2. Dr. Gary K. Michelson ("Dr. Michelson") is an individual domiciled and doing
14 business in the City and County of Los Angeles. Karlin Holdings is owned almost entirely by Dr.
15 Michelson's living trust (the Gary Karlin Michelson MD Living Trust), of which Dr. Michelson is
16 the sole trustee.

17 3. Defendant Philip Richard Powers ("Powers") is a United States citizen domiciled in
18 Costa Rica. At all relevant times mentioned herein, Defendant Powers represented himself to be an
19 individual doing business as Defendant Powers Investments and Management, Inc., S.A.

20 4. Defendant Neil David Campbell ("Campbell") is now an individual domiciled in
21 Orange County and was previously domiciled in Los Angeles County. At all times relevant herein
22 and before July 23, 2008, he was a co-owner of C&M.

23 5. Defendant Powers Investments and Management, Inc., S.A. is a Costa Rican
24 Corporation with its registered domicile in Heredia, Costa Rica. At various relevant times
25 mentioned herein, Defendant Powers referred to "Powers Investments and Management, Inc., S.A."
26 as "Powers Investment and Management," "Powers Management and Investment," "Powers
27 Management & Investments Inc.," "Powers Investments," "Powers Management & Investments
28 Co.," "Powers Investment & Management Co.," "Powers Investments & Management Co.," and

1 other variations of Powers Investments and Management, Inc., S.A. not mentioned herein.

2 Defendant Powers Investments and Management, Inc., S.A., along with all variations thereto, are
3 collectively referred to as "Powers Investments."

4 6. Defendant Guanana Gris, S.A., ("Gris") is a Costa Rican corporation with its
5 registered domicile in San Jose, Costa Rica. Defendant Protección Forestal de Teca, S.A., ("Teca")
6 is a Costa Rican corporation with its registered domicile in San Jose, Costa Rica.

7 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
8 of DOES 1 through 50, inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by
9 such fictitious names and will ask leave to amend the Complaint to show their true names and
10 capacities when they have been ascertained. Plaintiffs are informed and believe and thereon allege
11 that each of the Defendants designated herein as DOE is responsible in some manner for the events
12 and happenings therein referred to, and there is now due, owing, and unpaid from Defendants and
13 each of them to Plaintiffs the sums alleged in this Complaint.

14 8. Plaintiffs are informed and believe and thereon allege that at all relevant times
15 mentioned herein there existed a unity of interest and ownership between Powers, Powers
16 Investments, Gris, Teca, and/or DOES 1 through 50 such that any individuality and separateness
17 between Powers, Powers Investments, Gris, Teca, and/or DOES 1 through 50 has ceased, and that
18 Powers is the alter ego of Powers Investments, Gris, Teca, and/or DOES 1 through 50.

19 9. Plaintiffs are informed and believe and thereon allege that Powers at all relevant
20 times mentioned herein has completely dominated and controlled the assets, operations, and
21 activities of Powers Investments, Gris, Teca, and/or DOES 1 through 50, failed to observe important
22 corporate formalities, and used the assets and facilities of Powers Investments, Gris, Teca, and/or
23 DOES 1 through 50 for personal affairs and purposes, as if those assets and facilities belonged to
24 Powers personally.

25 10. Any adherence to the fiction of the separate existence of Powers, Powers Investments,
26 Gris, Teca, and/or DOES 1 through 50 as an entity distinct from Powers would permit the abuse of a
27 corporate privilege and would promote injustice by allowing Powers, Powers Investments, Gris,
28 Teca, and/or DOES 1 through 50 to evade liability or veil assets that should in equity be used to

1 satisfy the judgment sought by Plaintiffs. Given the unity of interest of Powers, Powers Investments,
2 Gris, and Teca, Plaintiffs will refer to them collectively as the "Powers Defendants."

3 11. In this action, Plaintiffs are suing the Powers Defendants for civil conspiracy,
4 fraudulent inducement, fraud, constructive fraud, conversion, breach of written contract, breach of
5 oral contract, unfair business practices, and tortious interference with contractual relations in
6 connection with their theft of C&M's property and their purposeful concealment of such theft.
7 Plaintiffs are suing Campbell for civil conspiracy, fraud, aiding and abetting fraud, constructive
8 fraud, breach of the duty of loyalty, tortious interference with contractual relations, and unfair
9 business practices.

10 JURISDICTION AND VENUE

11 12. This Court has personal jurisdiction over the Powers Defendants by virtue of their:
12 (1) solicitation of, and business with, California citizens; (2) personal appearance in the City and
13 County of Los Angeles to transact said business; (3) telephone, facsimile, and e-mail contacts with
14 California citizens over the course of more than six years in connection with this business; and (4)
15 conspiracy with a California resident to defraud Plaintiffs over the course of more than six years.
16 This Court has personal jurisdiction over Defendant Campbell because he is a California resident
17 and was a California resident at all times relevant to the transactions at issue. Venue is proper in this
18 Court in that the transactions giving rise to this action occurred in substantial part in the City and
19 County of Los Angeles, California.

20 FACTS COMMON TO ALL CAUSES OF ACTION

21 **A. The Parties Agree That Powers Will Purchase Properties For C&M In Costa Rica.**

22 13. In the Summer of 1999, Dr. Gary Michelson met Richard Powers ("Powers") in Los
23 Angeles, California. They were introduced by a mutual friend, Neil Campbell ("Campbell").
24 Campbell and Powers met in the 1970s, and worked together as car salesmen before Powers left the
25 United States to live and work in Costa Rica.

26 14. In 1999, Powers came to Los Angeles to persuade Dr. Michelson to enter into a
27 business relationship with him related to teak farms. Powers accessed Dr. Michelson through
28

1 Campbell. In Los Angeles, Powers told Dr. Michelson that he was an experienced real estate
2 investor and expert in all aspects of teak farming. Powers represented that he had expertise in
3 identifying ideal teak properties, negotiating best possible prices for the properties, and the planting
4 and maintenance of teak farms, which under his management returned an annualized rate of return of
5 25% to 30%. It was agreed that Powers would charge no more than a six percent (6%) commission
6 for purchasing the properties on behalf of C&M.

7 15. Campbell vouched for Powers and assured Dr. Michelson that Powers was truthful in
8 his representations about his experience and generally trustworthy. As a purported show of faith in
9 Powers and the proposed venture, Campbell represented to Dr. Michelson that he would invest a
10 substantial portion of his own assets toward the venture. In reliance on these representations, Karlin
11 Holdings, through Dr. Michelson, agreed to proceed with Campbell as a partner in the venture
12 proposed by Campbell and Powers. At or about this juncture, Campbell represented that he had sent
13 to Powers 50% of the purchase price of the first property for the venture.

14 16. In or about June, 2000, Powers registered C&M Investment Group, Ltd. to be the
15 owner of the properties Powers found and negotiated to purchase. C&M stands for Campbell and
16 Michelson. Given his alleged contributions to the venture, Campbell received a share in this newly-
17 formed company. After his purported initial payment to Powers, Campbell contributed no further
18 payments to Powers and, instead, encouraged Dr. Michelson to continue to expand C&M by
19 increasing investments in teak property, through funding from Karlin Holdings. As C&M grew,
20 Campbell's interest became smaller percentage-wise, but supposedly more valuable. In July 2008,
21 Campbell asked Dr. Michelson to buy out his interest in the venture citing alleged financial hardship.
22 Dr. Michelson, who considered Campbell a dear friend, agreed to have Campbell bought out of the
23 venture at a substantial premium to Campbell.

24 17. To facilitate the property transactions, in or about June, 2000 and thereafter, C&M
25 granted Powers power of attorney to act on C&M's behalf in purchasing the properties in Costa
26 Rica. At all times relevant herein, Powers acted as the manager of C&M in Costa Rica, and
27 represented himself as such to third parties.

28 18. From June, 2000 through March, 2006, Powers purchased on behalf of Plaintiff C&M

1 more than 147 properties in Costa Rica, totaling more than 23,000 acres. Powers, on behalf of
2 C&M, was purportedly finding properties ideal for teak, and negotiating the best possible purchase
3 prices for the properties. He then faxed to Dr. Michelson and e-mailed to Campbell the purported
4 negotiated purchase price of the properties and the closing fees. Powers requested that C&M,
5 through Dr. Michelson and Karlin Holdings, wire the funds for the represented purchase price and
6 fees (with no more than a 6% mark-up for Powers' services) to a specific account of Powers. These
7 accounts included accounts in the names of Powers Investments, Gris, and Teca.

8 19. From June, 2000 through March, 2006, at the request of Powers and with the
9 encouragement of Campbell, C&M wired \$25,592,289 to Powers to purchase properties in Costa
10 Rica. Other than \$133,762 purportedly invested by Campbell, all of the funds sent to Powers came
11 from Dr. Michelson, through Karlin Holdings, on behalf of C&M.

12 20. During the period when C&M was purchasing properties through Powers in Costa
13 Rica, Campbell traveled on numerous occasions to Costa Rica on behalf of C&M to assess Powers'
14 activities and C&M's investment. Campbell made several visits to Costa Rica to look at the
15 properties and generally oversee the transactions, and would report back to Dr. Michelson.
16 Campbell represented that he had seen purchases take place, and that while the transactions were
17 complicated, Powers was honest and competent, and C&M was receiving value for money.
18 Campbell also represented that Powers was being ably assisted by Walter Suarez, whom had
19 previously been identified by Powers to Dr. Michelson as an experienced teak farmer. Specifically,
20 Powers represented—and Campbell later confirmed—that Mr. Suarez was a graduate from the
21 University of Costa Rica with a degree in silviculture, that he had been the head of reforestation for
22 the government of Costa Rica in the Guanacaste region, and that he—a native of Guanacaste—had
23 served as Powers' right-hand person in optimizing the purchase and maintenance of teak properties.
24 These representations were false.

25 **B. Powers and Campbell's Conspiracy To Defraud Dr. Michelson and C&M.**

26 21. While Campbell claimed to be looking out for the interests of C&M and Dr.
27 Michelson, he was in fact secretly in partnership with Powers. Upon information and belief, from
28 their very first meeting with Dr. Michelson, Powers and Campbell's intent was to defraud Dr.

1 Michelson out of millions of dollars. Powers and Campbell conspired to have Powers falsely
2 represent to Plaintiffs the purchase price of a property in excess of the true purchase price (plus the
3 maximum permitted 6% commission), and have Powers keep most of the remaining proceeds for
4 himself. Campbell, in return for providing false reassurances to Dr. Michelson about the value of
5 the land being bought and the legitimacy of Powers' transactions, would receive regular kickbacks
6 from Powers.

7 22. From 2000 to 2006, Powers and Campbell executed this scheme. Powers sent faxes
8 to Dr. Michelson in Los Angeles, in which he grossly exaggerated the purchase prices of properties,
9 and Karlin Holdings wired the requested funds from Los Angeles to Costa Rica. In so doing, Dr.
10 Michelson relied on Campbell's regular assurances about Powers' integrity and the legitimacy of the
11 transactions. Upon information and belief, Powers misappropriated for himself millions of dollars
12 from the more than \$25 million wired to him by Plaintiffs. For his role in and facilitation of this
13 fraudulent scheme, Campbell received kickbacks from Powers of more than \$1.3 million, over \$1
14 million of which was paid through international wire transfers from Powers to Campbell's bank
15 accounts in California.

16 23. On November 5, 2008, Campbell admitted to Dr. Michelson that he, among other
17 inappropriate behavior, wrongfully received the foregoing sums from Powers, in return for
18 encouraging Karlin Holdings and C&M to continue investing in the acquisition and management of
19 teak farms through Powers.

20 **C. Powers' Concealment of the Fraud and Spoliation of Evidence.**

21 24. Starting in late-2005 through early-2006, Dr. Michelson asked Powers for records
22 detailing how C&M's money was being spent. During this period, C&M, through Dr. Michelson
23 and others, repeatedly asked Powers to disclose adequate books and records showing the actual
24 purchase prices of the properties, and the commissions Powers charged for the property purchases.

25 25. C&M had a contractual right to inspect the books and records it requested from
26 Powers. On October 3, 2003, Powers and C&M entered into a written Professional Services
27 Agreement ("Agreement"), a copy of which is attached hereto as Exhibit 1 and is incorporated
28 herein by reference. The Agreement was between C&M and "Richard Powers d/b/a Powers

1 Investment and Management” and required, among other things, that Powers keep adequate books
2 and records in purchasing property on behalf of C&M. The Agreement provided that C&M “shall
3 have access to and the right to examine any pertinent books, documents, papers and accounting
4 records of Consultant [Defendants] which pertain to transactions under this Agreement during the
5 pendency of this Agreement and for a period of three (3) years after expiration of this Agreement.”
6 Ex. 1, Article 11. The Agreement further provided that Defendants must “report all . . . accounting
7 records, budgets, and projections . . .”. *Id.* at Ex. A, § 4.

8 26. In spite of his contractual obligations to turn over documents, Powers continually
9 refused to disclose records in response to C&M’s requests. Powers’ excuses for refusing to provide
10 documents varied and were contradictory.

11 27. For example, Powers initially claimed there was no documentary evidence of how
12 much he actually paid for the properties because he paid for the properties in cash. When C&M
13 responded that there should at least be checks made out to “cash” in the amount paid to the sellers,
14 Powers said that he destroyed his copies of such checks. Thereupon, C&M, through Dr. Michelson
15 and others, insisted that, at a minimum, Powers’ banks would have records of the checks. Powers
16 refused to disclose those records, stating that the information of what he paid for the properties was
17 confidential.

18 28. After repeated requests by C&M for records to show what he had paid for the
19 properties, Powers finally admitted that he charged C&M in excess of 6% for commissions.
20 However, Powers still refused to provide records that would show the actual amount Powers paid to
21 acquire the properties. Despite repeated requests from C&M to disclose in full the commissions
22 Powers charged for all properties purchased from 2000 to 2006, Powers has refused to do so to this
23 day.

24 29. Upon information and belief, Powers was marking up the purchase prices of the
25 properties by amounts as high as 870%. C&M’s investigation into the amount of overcharges
26 continues (at significant expense) to date.

27 30. Finally, Powers represented to Dr. Michelson that he and his entities were immune
28 from accountability in the United States—and the discovery and due process secured by its courts—

1 for any alleged wrongdoing by virtue of Costa Rican agrarian law. According to Powers and his
2 legal advisors, Costa Rican law mandated that all matters pertaining to C&M, including Powers'
3 duty to maintain records under his agreement with C&M, were exclusively subject to Costa Rican
4 agrarian law, to be adjudicated under the exclusive jurisdiction of Costa Rican "agrarian courts." In
5 a retaliatory suit filed in agrarian court in Costa Rica after the filing of the original complaint in this
6 matter, Powers took the position that he could only be held accountable for his actions relative to
7 C&M in agrarian court. In a decision dated August 29, 2008, the highest court in Costa Rica on the
8 subject of agrarian law rejected Powers' contention and ordered the case out of agrarian courts, to
9 ordinary civil courts with no claim of exclusive jurisdiction over the subject matter of the C&M
10 relationship.

11 **FIRST CAUSE OF ACTION FOR CIVIL CONSPIRACY**

12 **(Against All Defendants)**

13 31. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 30 as
14 if fully set forth herein.

15 32. Powers and Campbell agreed that Powers would grossly exaggerate the purchase
16 prices of properties to Dr. Michelson, Campbell would provide false reassurances to Dr. Michelson
17 to prevent him from inquiring further into the transactions, and Powers and Campbell would share
18 the amounts in excess of what was actually paid for the properties.

19 33. Powers and Campbell executed this agreement, inducing Karlin Holdings into
20 initiating a business relationship with Powers, and inducing C&M to wire more than \$25 million to
21 Powers with the representation that this money would go towards purchasing properties in Costa
22 Rica. In fact, Powers wrongfully kept millions of dollars for himself and/or his associated entities,
23 and gave more than \$1.3 million of C&M's money to Campbell.

24 34. As a result of this conspiracy between Powers and Campbell, C&M and Karlin
25 Holdings were defrauded, in amounts to be proven at trial.

26 35. The aforementioned conspiracy was committed through oppression, fraud, and malice
27 with intent to cause injury to Plaintiffs and subject them to cruel and unjust hardship as a result
28 thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages under

1 California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

2 **SECOND CAUSE OF ACTION FOR FRAUD AND DECEIT**

3 (Against All Defendants)

4 36. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 35 as
5 if fully set forth herein.

6 37. As alleged hereinabove in the Facts Common To All Causes of Action, the Powers
7 Defendants misrepresented to Plaintiffs the amount of money needed to purchase the properties and
8 the commissions Defendants took for purchasing the properties. Examples of the Powers
9 Defendants' misrepresentations, fraud, and deceit, made through Richard Powers, include:

- 10 • Representing on or about May 12, 2004 that a property cost \$127,500 when, based on
11 information available to date, the property cost approximately \$13,000, constituting a
12 fraudulent markup in excess of 870%;
- 13 • Representing on or about March 2, 2004 that a property cost approximately \$70,000
14 when, based on information available to date, the property cost approximately \$8,600,
15 constituting a fraudulent markup in excess of 700%;
- 16 • Representing on or about October 1, 2002 that a property cost \$130,000 when, based on
17 information available to date, the property cost approximately \$34,500, constituting a
18 fraudulent markup in excess of 270%;
- 19 • Representing on or about May 12, 2004 that a property cost \$183,000 when, based on
20 information available to date, the property cost approximately \$75,500, constituting a
21 fraudulent markup in excess of 142%; and
- 22 • Representing on or about August 13, 2002 that a property cost \$374,000 when, based on
23 information available to date, the property cost approximately \$216,300, constituting a
24 fraudulent markup in excess of 72%.

25 38. Such representations were false when made and made with the intention of causing
26 Plaintiffs to rely thereon and send the requested sums.

27 39. Plaintiffs did in fact rely on these misrepresentations and sent Defendants the sums
28 they requested in excess of \$25 million. Plaintiffs' reliance on Defendants' misrepresentations was

1 justifiable.

2 40. Moreover, to conceal Defendants' fraud and misrepresentations alleged hereinabove,
3 Defendants engaged in a pattern of fraud and deception by failing to disclose to C&M adequate
4 books and records with which to verify Defendants' representations, and instead gave false
5 assurances, misleading explanations, and evasive excuses to forestall the revelation of Defendants'
6 fraud, deceit, and misrepresentations.

7 41. The \$25 million in funds transmitted by Plaintiffs to Defendants was excessive and
8 represented far more than what the Defendants represented they would in fact request (namely, the
9 purchase price plus no more than a 6% commission). While Plaintiffs' investigation continues,
10 based on information to date, Powers marked up the properties by several times the purchase price,
11 and in some cases as high as 870%.

12 42. In addition, Defendant Campbell, with knowledge that Powers was paying far less for
13 the properties than he was representing, and that Powers did not have the experience both he and
14 Powers represented to Dr. Michelson, falsely represented to Dr. Michelson on several occasions that
15 Karlin Holdings should invest in C&M, that it and C&M were receiving value for money, and that
16 Powers should be trusted.

17 43. Campbell's statements were false when made and were designed to conceal Powers
18 and Campbell's scheme to defraud C&M out of millions of dollars, induce Karlin Holdings into
19 entering into the relationship with Powers through C&M, and induce C&M to do business with
20 Powers. C&M's and Karlin Holdings' reliance on these statements was reasonable, given that
21 Campbell had greater knowledge of the transactions from his visits to Costa Rica, and given that he
22 owed a duty to C&M and Karlin Holdings.

23 44. As a direct and proximate cause of Defendants' fraud and deceit as set forth above
24 and with particularity throughout this Complaint, Plaintiffs have suffered actual damages in an
25 amount no less than \$20,000,000 to be proven at trial.

26 45. The aforementioned fraud and deceit was committed through oppression, fraud, and
27 malice with intent to cause injury to Plaintiffs and subject them to cruel and unjust hardship as a
28 result thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages under

1 California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

2 **THIRD CAUSE OF ACTION FOR CONSTRUCTIVE FRAUD**

3 **(Against All Defendants)**

4 46. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 45 as
5 if fully set forth herein.

6 47. As alleged hereinabove, the Powers Defendants induced Karlin Holdings to engage it
7 to purchase properties through C&M. Plaintiffs granted Powers power of attorney for purposes of
8 acquiring properties for C&M from June, 2000 through March, 2006. Defendant Campbell, the co-
9 owner and agent of C&M, and partner and joint venturer with Karlin Holdings, went to Costa Rica
10 under Plaintiffs' financing, for the purposes of reporting back to Plaintiffs with information about
11 the Costa Rican transactions. These fiduciary relationships entitled Plaintiffs to implicitly trust
12 Defendants and to expect absolute loyalty and full material disclosures from Defendants.

13 48. At all relevant times, Plaintiffs did, in fact, place full and total trust, confidence, and
14 reliance upon Defendants, and Plaintiffs justifiably relied upon the continuing integrity and fidelity
15 of Defendants.

16 49. Despite having voluntarily accepted such trust and confidence given by Plaintiffs,
17 Defendants violated such trust and confidence and abused their fiduciary relationships with Plaintiffs
18 as set forth above.

19 50. Plaintiffs are informed and believe, and thereon allege, that Defendants engaged in
20 the wrongdoings alleged in this Complaint with specific intent to take advantage of their fiduciary
21 relationship with Plaintiffs to deceive and defraud them, conceal such deceit, fraud, and other
22 material facts from them, and to induce further reliance.

23 51. As a direct and proximate consequence of Defendants' breach of fiduciary duty as set
24 forth above, Plaintiffs have been damaged in an amount no less than \$20,000,000 to be proven at
25 trial.

26 52. The aforementioned constructive fraud was committed through oppression, fraud, and
27 malice with intent to cause injury to Plaintiffs and subject them to cruel and unjust hardship as a
28 result thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages under

1 California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

2 **FOURTH CAUSE OF ACTION FOR UNFAIR BUSINESS PRACTICES**

3 (Against All Defendants)

4 53. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 52 as
5 if fully set forth herein.

6 54. Defendants' acts as set forth hereinabove constitute business practices that are
7 unlawful, unfair, and fraudulent in violation of California Business & Professions Code
8 Section 17200 *et seq.*

9 55. Defendants' unfair business acts and practices have caused irreparable injury and
10 other losses to Plaintiffs C&M and Karlin Holdings for which they have no adequate remedy at law.
11 C&M and Karlin Holdings are therefore entitled to restitution from Defendants in an amount to be
12 proven at trial.

13 **FIFTH CAUSE OF ACTION FOR FRAUDULENT INDUCEMENT**

14 (Against The Powers Defendants)

15 56. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 55 as
16 if fully set forth herein.

17 57. As alleged herein, to induce C&M to engage the Powers Defendants, the Powers
18 Defendants promised to purchase properties on C&M's behalf for a commission not to exceed 6%.
19 In reliance on such promises, C&M entered into an agreement with the Powers Defendants, and sent
20 them more than \$25 million over the course of approximately five years to purchase the properties.

21 58. The Powers Defendants' promises were false at the time that they were made. Upon
22 information and belief, the Powers Defendants intended at the time of the initial engagement to
23 pursue a pattern and practice of taking from C&M far in excess of the agreed-upon commission rate.

24 59. The Powers Defendants in fact took millions of dollars from C&M by charging
25 fraudulent excessive commissions. While C&M's investigation continues, based on information to
26 date, Powers marked up the properties by several times the purchase price, and in some cases as high
27 as 870%.

28 60. Moreover, the Powers Defendants engaged in purposeful concealment to prevent

1 C&M from discovering their wrongdoing. The Powers Defendants misrepresented the purchase
2 prices of the properties to C&M. And upon information and belief, the Powers Defendants refused
3 to disclose and/or destroyed books and records to prevent C&M from determining the full amount
4 Defendants misappropriated.

5 61. As a direct and proximate cause of the Powers Defendants' fraud and deceit as set
6 forth above and with particularity throughout this Complaint, C&M has suffered actual damages in
7 an amount no less than \$20,000,000 to be proven at trial.

8 62. The aforementioned fraudulent inducement was committed through oppression, fraud,
9 and malice with intent to cause injury to C&M and subject it to cruel and unjust hardship as a result
10 thereof. Plaintiff C&M is therefore entitled to an award of exemplary and punitive damages under
11 California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

12 **SIXTH CAUSE OF ACTION FOR CONVERSION**

13 **(Against The Powers Defendants)**

14 63. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 62 as
15 if fully set forth herein.

16 64. As alleged hereinabove in the Facts Common To All Causes of Action, to induce
17 C&M to engage the Powers Defendants, the Powers Defendants promised to purchase properties on
18 behalf of C&M for a commission not to exceed 6%. In reliance on such promises, C&M engaged
19 the Powers Defendants to purchase properties, and sent them more than \$25 million over the course
20 of approximately five years to purchase the properties.

21 65. Unbeknownst to C&M, Powers was in fact marking-up the purchase prices of the
22 properties for far more than the represented 6% commission rate. While C&M's investigation
23 continues, based on information to date, Powers marked up the properties by several times the
24 purchase price, and in some cases as high as 870%.

25 66. All amounts Powers took in excess of the property purchase prices and his 6%
26 commission was property belonging to Plaintiffs, and thus constituted a wrongful taking of
27 Plaintiffs' property and interfered with Plaintiffs' possession of their property.

28 67. As a direct and proximate consequence of the Powers Defendants' conduct as set

1 forth above, the Powers Defendants converted an amount no less than \$20,000,000 to be proven at
2 trial.

3 68. The aforementioned conversion was committed through oppression, fraud, and malice
4 with intent to cause injury to Plaintiffs, and subject Plaintiffs to cruel and unjust hardship as a result
5 thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages under
6 California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

7 **SEVENTH CAUSE OF ACTION FOR BREACH OF WRITTEN CONTRACT**

8 **(Against The Powers Defendants)**

9 69. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 68 as
10 if fully set forth herein.

11 70. At all relevant times, C&M had competence and capacity to enter into contracts, and
12 standing to bring actions thereon.

13 71. On or about October 3, 2003, C&M and the Powers Defendants entered into a written
14 Agreement whereby the Powers Defendants agreed to keep adequate books and records concerning
15 the properties purchased on behalf of C&M, and make such records available to C&M upon demand.
16 *See Ex. 1.*

17 72. By virtue of the Powers Defendants' acts and omissions alleged hereinabove, the
18 Powers Defendants breached said contract by failing to keep adequate books and records, and/or
19 refusing to disclose such records, and/or destroying such records regarding the fees the Powers
20 Defendants charged for the properties they purchased on behalf of C&M.

21 73. C&M performed all conditions, covenants, and promises required on its part to be
22 performed in accordance with said contract, or are legally excused from doing so.

23 74. As a direct and proximate consequence of the Powers Defendants' contract breaches
24 as set forth above, Plaintiff C&M has suffered damages in an amount to be proven at trial.

25 **EIGHTH CAUSE OF ACTION FOR BREACH OF ORAL CONTRACT**

26 **(Against The Powers Defendants)**

27 75. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 74 as
28 if fully set forth herein.

1 76. At all relevant times, C&M had competence and capacity to enter into contracts, and
2 standing to bring actions thereon.

3 77. C&M and the Powers Defendants entered into an oral agreement whereby the Powers
4 Defendants agreed to acquire properties for C&M for a total of no more than 6% of the actual selling
5 price in commissions.

6 78. By virtue of the Powers Defendants' acts and omissions alleged hereinabove, the
7 Powers Defendants breached said contract.

8 79. C&M performed all conditions, covenants, and promises required on its part to be
9 performed in accordance with said contract, or are legally excused from doing so.

10 80. As a direct and proximate consequence of the Powers Defendants' contract breaches
11 as set forth above, Plaintiff C&M has suffered damages in an amount to be proven at trial.

12 **NINTH CAUSE OF ACTION FOR AIDING AND ABETTING FRAUD**

13 **(Against Campbell)**

14 81. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 80 as
15 if fully set forth herein.

16 82. Defendant Campbell knew that the Powers Defendants' conduct in marking up the
17 prices of properties and keeping the excess funds, as alleged herein, was fraudulent. He also knew
18 that Powers could not be trusted and did not have the qualifications he represented to have in the
19 area of teak farms.

20 83. Nevertheless, Campbell provided substantial assistance and encouragement to the
21 Powers Defendants' fraud against C&M, and actively encouraged Karlin Holdings into entering into
22 a business venture with Powers by actively concealing it in return for kickbacks.

23 84. As a result of Campbell's aiding and abetting fraud, C&M and Karlin Holdings have
24 been damaged in an amount to be proven at trial.

25 85. The aforementioned aiding and abetting fraud was committed through oppression,
26 fraud, and malice with intent to cause injury to Plaintiffs, and subject Plaintiffs to cruel and unjust
27 hardship as a result thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive
28 damages under California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

1 **TENTH CAUSE OF ACTION FOR BREACH OF THE DUTY OF LOYALTY**

2 **(Against Campbell)**

3 86. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 85 as
4 if fully set forth herein.

5 87. As an officer of C&M and an agent of C&M, Campbell owed C&M a duty of loyalty.

6 88. As a partner with Karlin Holdings in C&M, Campbell owed Karlin Holdings a
7 fiduciary duty.

8 89. Campbell, however, breached those duties by concealing the fraud perpetrated on
9 C&M by the Powers Defendants, perpetrating a fraud of his own by misrepresenting the state of
10 transactions in Costa Rica, and accepting kickbacks in the form of money that properly belonged to
11 C&M.

12 90. As a result of Campbell's breach of his duty of loyalty to C&M and Karlin Holdings,
13 C&M and Karlin Holdings have been damaged in an amount to be proven at trial.

14 91. The aforementioned breach of duty of loyalty was committed through oppression,
15 fraud, and malice with intent to cause injury to Plaintiffs, and subject Plaintiffs to cruel and unjust
16 hardship as a result thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive
17 damages under California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

18 **ELEVENTH CAUSE OF ACTION FOR TORTIOUS INTERFERENCE WITH**
19 **CONTRACTUAL RELATIONS**

20 **(Against Campbell)**

21 92. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 91 as
22 if fully set forth herein.

23 93. C&M entered into a valid contract with the Powers Defendants, whereby Powers was
24 to acquire properties for C&M in return for no more than a 6% commission.

25 94. Campbell knew about this contract, but intentionally induced its breach by entering
26 into an agreement with Powers that Powers should charge more than a 6% commission and give part
27 of the excess to Campbell.

28 95. Powers did in fact take far in excess of the agreed-upon 6% commission in breach of

1 the contract between the Powers Defendants and C&M.

2 96. Campbell's agreement with Powers was a proximate cause of the Powers Defendants'
3 breach of contract.

4 97. Campbell's conduct was independently wrongful, as alleged herein.

5 98. As a result of Campbell's tortious interference, C&M has been damaged in an amount
6 to be proven at trial.

7 99. The aforementioned tortious interference was committed through oppression, fraud,
8 and malice with intent to cause injury to Plaintiffs, and subject Plaintiffs to cruel and unjust hardship
9 as a result thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages
10 under California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

11 **TWELFTH CAUSE OF ACTION FOR TORTIOUS INTERFERENCE WITH**
12 **CONTRACTUAL RELATIONS**

13 (Against Powers)

14 100. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 99
15 as if fully set forth herein

16 101. Karlin Holdings and Campbell had a valid ownership agreement, under which they
17 were to share in the profits and losses of C&M according to their respective ownership percentages.

18 102. Powers knew about this contract, but intentionally disrupted it by conspiring with
19 Campbell to defraud C&M out of millions of dollars, and by carrying out that fraud by diverting
20 C&M's money into Campbell's and Powers' personal accounts.

21 103. Powers' conspiracy with Campbell to defraud C&M was a proximate cause of the
22 disruption of the contractual relationship between Karlin Holdings and Campbell.

23 104. Powers' conduct was independently wrongful, as alleged herein.

24 105. As a result of Powers' tortious interference, Karlin Holdings has been damaged in an
25 amount to be proven at trial.

26 106. The aforementioned tortious interference was committed through oppression, fraud,
27 and malice with intent to cause injury to Plaintiffs, and subject Plaintiffs to cruel and unjust hardship
28 as a result thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages

1 under California Code of Civil Procedure Section 3294 in an amount to be proven at trial.

2 **JURY DEMAND**

3 107. Plaintiffs hereby demand a jury trial in this action.

4 **PRAYER**

5 108. As to the First through Third and Fifth through Twelfth Causes of Action, a money
6 judgment for general, special, and consequential damages in an amount to be proven at trial;

7 109. Additionally as to the First through Third, Fifth, Sixth, and Ninth Through Twelfth
8 Causes of Action, an award of exemplary punitive damages under California Code of Civil
9 Procedure Section 3294 in an amount to be established at trial;

10 110. As to the Fourth Cause of Action, restitution from Defendants in an amount to be
11 proven at trial;

12 111. An award of attorney's fees as allowed by contract and law;

13 112. Award of costs of suit as allowed by law;

14 113. Interest on damages allowed by law; and

15 114. Such other and further relief as the Court deems proper, fair, equitable, and just.

16 DATED: November 17, 2008

Respectfully submitted,

17 KIRKLAND & ELLIS LLP

18
19
20 By: 

21 Luke L. Dauchot (S.B.N. 229829)

Jeffrey S. Sinek (S.B.N. 135508)

22 Shaun Paisley (S.B.N. 244377)

KIRKLAND & ELLIS LLP

777 South Figueroa Street

23 Los Angeles, California 90017

24 Telephone: (213) 680-8400

Facsimile: (213) 680-8500

25 Email: ldauchot@kirkland.com

Email: jsinek@kirkland.com

26 Email: spaisley@kirkland.com

27 Attorneys for Plaintiffs C&M Investment Group, Ltd.
28 and Karlin Holdings Limited Partnership

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is made as of this 3rd day of October 2003, between C&M Investment Group Limited, a limitada company formed under the laws of Costa Rica, (hereinafter referred to as "COMPANY"), and Richard Powers an individual doing business as "Powers Investment and Management" (hereinafter referred to as "Consultant").

RECITALS

WHEREAS, COMPANY and its affiliates are engaged in the business of purchasing and maintaining pasture lands for reforestation in the Guanacaste zone of Costa Rica, and COMPANY desires to engage the services of Consultant to provide the services set forth herein; and

WHEREAS, Consultant is an independent contractor able and willing to provide such services under the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto mutually agree as follows:

AGREEMENT

Article 1. **Period of Performance.** This Agreement shall commence on the date hereof and shall remain in full force and effect until completion or termination as provided herein.

Article 2. **Character and Extent of Services.** Consultant shall perform the services described in Exhibit "A" (the "Services"), which exhibit is attached to this Agreement and incorporated herein by this reference. The Services shall be performed at the time and location set forth in Exhibit A.

Article 3. **Compensation.** The Services shall be performed for the compensation set forth in Exhibit A. Consultant shall submit invoices in duplicate to COMPANY, together with such supporting documentation as COMPANY may reasonably require, at the end of each month. Invoices shall include:

- Current Agreement Budget
- Gross Amount Invoiced to Date
- Details of the Services Provided in the Current Period Billing

COMPANY agrees to pay the amount due to Consultant for the Services on or before the thirtieth day following receipt of Consultant's invoice, properly documented as set forth above.

Article 4. **Assignment.** The obligations of either party under this Agreement are not assignable or transferable without prior written approval of the other party; provided, however, that consent shall not be required to any transfer by the Company of its rights and obligations hereunder to any person or entity succeeding to substantially all of the business of the Company.

EX. 1 ✓

Article 5. Responsibility Liability. Consultant warrants that it will exercise in its performance of the Services the standard of care normally exercised by recognized organizations engaged in performing comparable services using the "best commercial practices" in the management of assets such as those owned by the Company. Except as set forth in Article 6, Consultant's liability to COMPANY hereunder shall not exceed Consultant's total compensation for the Services together with any amounts received by Consultant relating to brokerage services in connection with acquisition of assets owned by the Company.

Article 6. Indemnification. Consultant specifically agrees to hold harmless and indemnify COMPANY against all claims, suits, losses, liabilities, damages and expenses arising out of injury, death or property damage if and to the extent caused by the willful misconduct or negligent acts or omissions of Consultant, its employees or agents hereunder. However, neither party shall have liability to the other under this Agreement for consequential, incidental, special or exemplary damages.

Article 7. Ownership of Work Product. All technical data, evaluations, reports and other work product of Consultant hereunder shall become the property of COMPANY and shall be delivered to COMPANY upon termination of this agreement or upon completion of the Services as authorized hereunder. Consultant may retain copies of its work product hereunder for research and other internal uses; however, no information contained therein shall be disclosed to any third party or used for the benefit of any entity other than COMPANY without COMPANY's prior written consent. Consultant shall not be liable for use by COMPANY of its work product on projects other than that covered by this Agreement.

Article 8. Independent Contractor Relationship. In the performance of the Services hereunder, Consultant shall be an independent contractor and not an employee of COMPANY, with the sole authority to control and direct the performance of the details of the work, COMPANY being interested only in the results obtained.

Article 9. Legal Requirements.

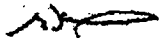
a. Consultant shall comply with all applicable domestic and foreign ordinances, laws, orders, rules and regulations pertaining to its Services hereunder, and shall obtain all necessary authority to perform such Services.

b. Consultant hereby represents and warrants that it is aware of and familiar with the provisions of the U.S. Foreign Corrupt Practices Act (the "FCPA") and its purposes, and will take no action and make no payment in violation of, or that might cause COMPANY or any of its affiliates or subsidiaries to be in violation of, the FCPA. Consultant will act in full compliance with the FCPA in connection with its engagement by COMPANY.

c. Consultant hereby represents and warrants that it has not made and will not make, directly or indirectly, any payment, loan or gift (or any offer, promise or authorization of any such payment, loan or gift) of money or anything of value to or for the use of: (i) any government official; (ii) any political party or official or any candidate for political office; or (iii)

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any other person under circumstances in which Consultant knows or has reason to know that all or any portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any person named in items (i) and (ii) above for the purpose of inducing the aforementioned person to do any act or make any decision in his official capacity (including a decision to fail to perform his official function) or use his influence with a government or instrumentality to affect any act or decision of such government or instrumentality in order to assist COMPANY in obtaining or retaining any business. For purposes of this Agreement, the term "government official" includes an employee of a government-owned or government-controlled commercial enterprise.

d. Consultant hereby represents and warrants that it is not owned or controlled, and will not become owned or controlled during the term of this Agreement, by any official of the government of the country in or as to which the Services will be performed or by any official of a political party or candidate for political office therein.

e. Consultant represents that it has fully disclosed to COMPANY, and has a continuing obligation to disclose, whether any of its officers, directors or any person known by Consultant to hold more than 10% of Consultant's outstanding shares is, or has a family relationship with, a government official, a political party official or a candidate for political office. Consultant further agrees that it will cooperate with COMPANY to ensure that COMPANY receives adequate assurances, whether in the form of a certification, a formal refusal by the relevant family member or some other form of reasonable assurance, to satisfy COMPANY that no violation of the FCPA will arise as a result of any such officer's, director's, shareholder's or family member's position. Should COMPANY determine in good faith that Consultant has failed to provide such adequate assurances, COMPANY reserves the right to terminate this Agreement immediately.

f. Consultant acknowledges and undertakes that the fees and expenses paid by COMPANY to it hereunder are intended solely as compensation for the Services provided by Consultant pursuant to this Agreement and are not to be shared with, or paid to, any other person or persons.

g. Consultant represents and warrants that the execution and implementation of this Agreement and its receipt of the fees and expenses hereunder do not violate the laws, decrees or regulations of the country in or as to which the Services will be performed and that no consent of or notice to any agency of the government of such country is required or necessary in connection therewith.

Article 10. Confidentiality. Consultant shall not, either during or for a period of three (3) years after the termination or expiration of this Agreement, disclose to any third party any Confidential Information (as defined below), or use the same for its own benefit or for the benefit of any entity other than COMPANY, without the prior written consent of COMPANY. Consultant shall limit disclosure of Confidential Information to those of its employees, agents and contractors to whom disclosure is reasonably necessary to perform the Services hereunder and who agree to hold it confidential. Consultant shall prevent its employees, agents and

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subcontractors from disclosing Confidential Information to unauthorized persons or misusing the same. As used herein, "Confidential Information" shall mean financial, technical, and business information and documentation relating to COMPANY or the Services which COMPANY designates in writing as "Confidential," "Secret," or "Proprietary" or with words of like meaning. Confidential Information shall not include information which Consultant can demonstrate: (a) is or becomes in the public domain other than by the fault of Consultant, (b) was in Consultant's possession prior to the time of disclosure, (c) is obtained from a third party which Consultant reasonably believed did not obtain the information directly or indirectly from COMPANY, or (d) is independently developed by those of Consultant's employees, agents or contractors who do not have access to the Confidential Information.

Article 11. Examination of Records; Access to Work. Consultant agrees that COMPANY or any of its duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers and accounting records of Consultant which pertain to transactions under this Agreement during the pendency of this Agreement and for a period of three (3) years after expiration of this Agreement. COMPANY's representative shall at all times have access to the work for purposes of inspecting same and determining that the Services are being performed in accordance with the terms of this Agreement.

Article 12. Insurance.

a. During the course of performance of the Services, Consultant shall maintain the following insurance coverage at no additional cost to COMPANY, and Consultant will pay the deductibles under such coverage:

Workmen's Compensation Insurance as required by law.
Automobile Liability Insurance covering claims for injuries to or death of one or more persons and damage to property caused by motor vehicles, owned or hired, with aggregate limits of not less than \$50,000.

b. Consultant shall furnish certificates showing that the above insurance coverages will be in effect during the term of this Agreement, and specifying that COMPANY must be given thirty (30) days prior written notice of cancellation, termination, or alteration of the policies evidenced by such certificates.

Article 13. Termination of the Agreement.

a. Termination for Convenience. COMPANY may upon written notice terminate this Agreement for COMPANY's convenience, with or without cause, and regardless of whether Consultant is in default.

b. Termination for Cause. COMPANY may terminate this Agreement at any time, by giving written notice to Consultant specifying the effective date of termination, if

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(1) Consultant shall become insolvent, or make a general assignment for the benefit of creditors, or any proceeding is brought by or against Consultant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy acts or under any other applicable federal or state law or regulation, or any proceeding is brought seeking the appointment of a receiver or similar officer of court with respect to Consultant's business;

(2) Consultant repeatedly refuses or fails to supply enough properly skilled workmen or equipment or materials of the proper quality or quantity to perform the Services;

(3) Consultant disregards laws, ordinances, government rules or regulations, or repeatedly disregards instructions of COMPANY's representative which are consistent with this Agreement; or

(4) Consultant is guilty of a material breach or violation of any provision of this Agreement, and fails to remedy such breach or violation within thirty (30) days after receipt of written notice for COMPANY.

c. Consequences of Termination. In the event of termination hereof, whether for convenience or for cause:

(1) All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other materials prepared or (subject however to Consultant's nonexclusive rights to use the same as set forth in Article 7) equipment purchased by Consultant under this Agreement shall become the property of COMPANY; and

(2) Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Article 14. Amendments. This instrument constitutes the entire Agreement between the parties covering the subject matter and supersedes any and all other prior agreements and understandings, either oral or in writing, between the parties hereto with respect to the subject matter hereof. No modification or amendments to this Agreement shall be valid unless in writing and signed by the parties.

Article 15. Notices. Any notice to be given hereunder by either party to the other may be effected either by personal delivery in writing, or by certified mail, return receipt requested, postage prepaid, effective when received or on the fifth day following the date mailed, whichever is sooner. The addresses for notice shall be those set forth on the first page of this Agreement, unless such addresses are changed by written notice given in compliance with this Article 15.

Article 16. Liens.

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a. Consultant shall promptly pay all bills incurred by Consultant in performance of the Services hereunder, including, without limitation, bills for labor, services, equipment and materials.

b. Consultant shall not voluntarily permit any laborer's, materialmen's, mechanic's, or other liens to be filed or otherwise imposed on any of COMPANY's property on the behalf of Consultant or any of its employees, agents, or subcontractors. If any such lien or claim is filed and if Consultant does not cause such lien to be released and discharged forthwith, or file a bond in lieu thereof, COMPANY shall have the right to pay all sums necessary to obtain release and discharge and deduct all amounts so paid from the payments due then or thereafter hereunder.


Article 17. **Governing Law.** By selection of the parties, this Agreement and all questions concerning the execution, validity or invalidity, capacity of the parties and the performance of this Agreement, shall be interpreted in accordance with the laws of the State of California applicable to agreements executed and to be wholly performed in such state.

Article 18. **Attorneys' Fees.** If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which it may be entitled.

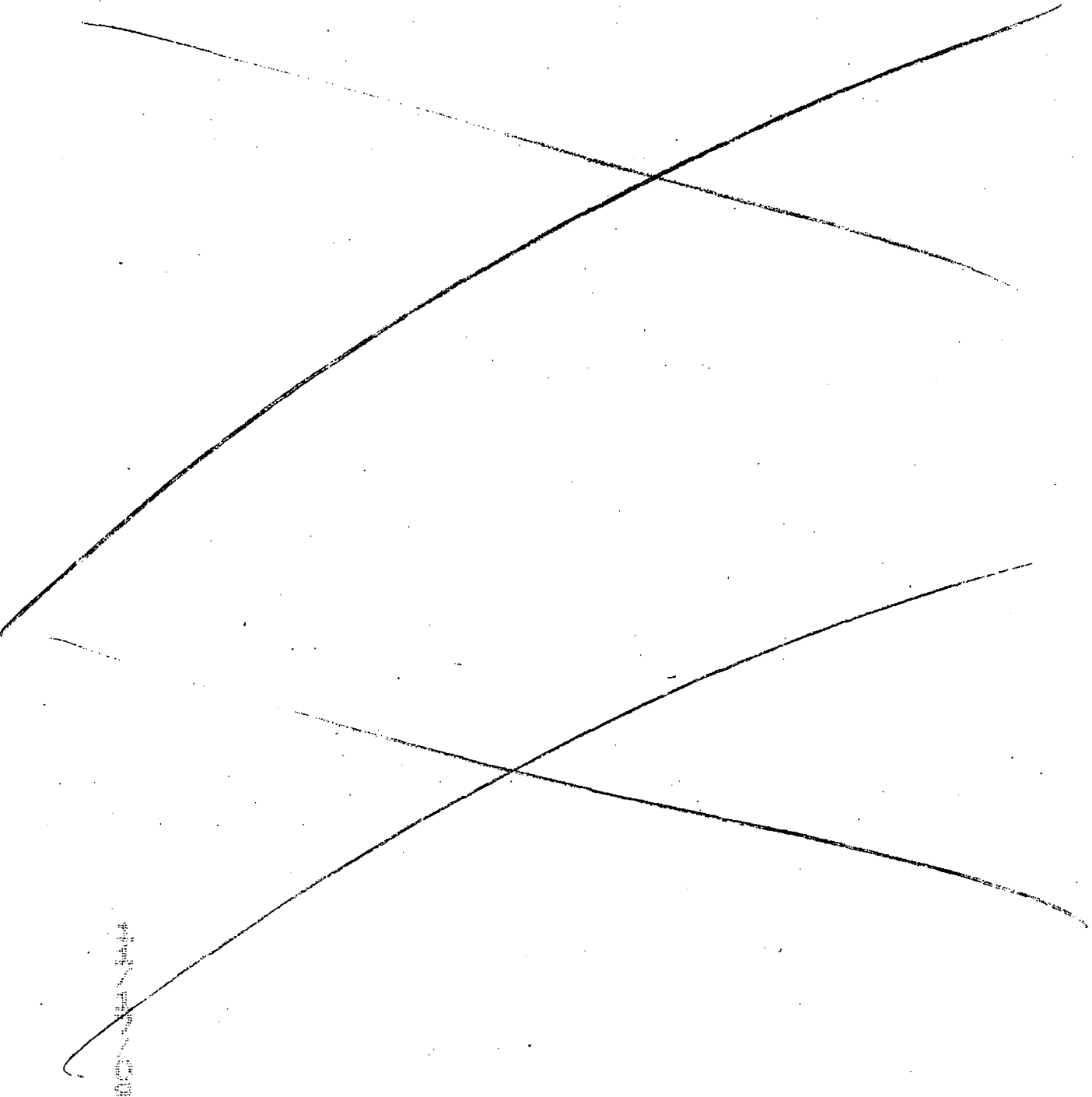
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in their respective names as of day and year first above written.

C&M INVESTMENT GROUP LIMITED

By Karlin Holdings Limited Partnership, a Nevada limited partnership

By 
Name: **GARY KAVIN MICHALSON**
Title: **President.**


Richard Powers, doing business as
Powers Management and Investment



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Exhibit A

San Jose, Costa Rica
E-mail: costarica@rocsa.co.cr
Tel: 506-203-2133
Fax: 506-203-2267

Powers Management & Investments Co.

PROFESSIONAL SERVICES AGREEMENT EXHIBIT "A"

Property size: approximately 5,000 acres. (C & M) October 3, 2003

SERVICES

- 1: Powers will be responsible for the planting and maintenance of all trees on C & M's properties as well as the maintenance of the existing natural forest surrounding the plantations. This also includes all infrastructures on roads, bridges and fences.
- 2: Powers will be responsible for all employees and their compensation as well as their insurance, Social Security and vacation pay.
- 3: Powers will be responsible for loss of any new plantings as a result of hurricane, fire, disease or blight. Powers investments are responsible at his expense to replant any loss of trees in the second year to give C & M coverage of 100% of the planted area.
- 4: Powers will report all activities pertaining to the progress of the plantations as well as accounting records, budgets and projections as described further in Article 3 of this doc.
- 5: Powers investments are also responsible for the acquisition of new properties both reforested and for reforestation for C & M. Powers is also responsible to see that all related property leases whether related to government forest restrictions or otherwise are cancelled or cleaned. Powers is also responsible to report and present all documents relating to closing to the offices of Munoz and Arias.

COMPENSATION

Powers investment will receive for compensation two dollars for every new tree planted: From this compensation Powers investments will be responsible to carry out all the functions as described above. The planting cost for the first year will be approximately \$2 per tree. This includes preparation of the property (cleaning, etc.). Certified teak seedlings from nursery and transportation to site. Forest engineer who sets lines, distances and spaces and monitors trees throughout the year. Holes prepared for fertilizing (There will be three stages of fertilizing in the first and second year.) and planting. Maintenance of surrounding fences and boards. Fire lines are made in December and revised monthly. Fertilizers, insecticide and all chemicals are included in this maintenance schedule. It will not include insurance, taxes, bonds and bridges or its maintenance.

November 10, 2003

Page 2

Teak Tree maintenance schedule first 9 years

<u>Year</u>	<u>Cost per tree</u>	<u>Trees per acre</u> Based on 4mt.X4mt.	<u>Cost per Acre</u>
One	\$2.00	243	\$485
Two	1.00		243
Three	.50		121
Four	.50		121
Five	.50		121
Six	.25		60
Seven	.25		60
Eight	.25		60
Nine	.25		60
Total Cost of Invest.	\$5.50	243	\$1,331

A breakdown of the costs expect to have from 10-20 years.

Ten-Twenty .10 122 \$12 per acre

In the tenth year if a 50% thinning is done then we will have a return on the initial investment as described in the chart below:

<u>Year</u>	<u>Thin 50%</u>	<u>Bal. of trees</u>	<u>Value of thinning p.t.</u>	<u>Value per acre.</u>	<u>Acres Planted</u>	<u>Total Value</u>
Ten	121	122	\$ 30.00	\$ 3,630	4,000	\$ 14,520,000

The above figures are based on current wholesale logs of 10 inch diameter, approx. 10-12 year old tree. The total value figure assumes all 4,000 acres of teak would be 10 years old at the same time and assumes a 50% thinning. C & M's properties have trees varying in age from new saplings to 12 years of age. The current goal for C & M is to preserve as much as the timber as possible and still maintain ideal growth rate. Future thinning would be done throughout the next 10 years until the trees reach 20 years of age. Current wholesale price of a 20 inch diameter teak log in Costa Rica is approx. \$150. Additional thinnings to compensate for maintenance will be at the discretion of C & M's executives, Gary Michaelson and Neil Campbell.

(The chart above gives yearly maintenance costs to maintain the plantation to ideal conditions for harvesting.

12/10/03

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Kirkland & Ellis LLP, 777 South Figueroa Street, Suite 3700, Los Angeles, California 90017.

On November 17, 2008 I served the foregoing document described as:

FIRST AMENDED COMPLAINT

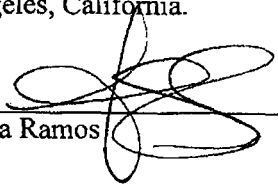
on the interested parties as follows:

BY U.S. MAIL: By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States at Los Angeles, California addressed as set forth below.

Michael L. Cypers, Esq.
Evan M. Wooten, Esq.
Mayer Brown LLP
350 South Grand Avenue, 25th Floor
Los Angeles, CA 90071-1503

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed November 17, 2008 at Los Angeles, California.



Aida Ramos

I certify that this is a true and correct copy
of the original First amended complaint
file in this office



JUL 10 2013

SHERRI R. CARTER, Executive Officer/Clerk of
the Superior Court of California County of Los Angeles

By: *N. Rhodes*, Deputy

N. RHODES

EXHIBIT C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/04/10

DEPT. 41

HONORABLE RONALD M. SOHIGIAN

JUDGE

H. ESTRADA

DEPUTY CLERK

HONORABLE
2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. KRBOYAN, CRT ASST

Deputy Sheriff

A. PARADELA, CSR #9659

Reporter

8:30 am

BC378888

C&M INVESTMENT GROUP LTD
VS
PHILIP RICHARD POWERS ET AL

Plaintiff	KIRKLAND & ELLIS LLP
Counsel	SHAUN PAISLEY (X)
	LUKE L. DAUCHOT (X)
Defendant	DAVID R. FLYER
Counsel	TELEPHONIC APPEARANCE

170.6 (deft)

NATURE OF PROCEEDINGS:

MOTION OF PLAINTIFF FOR SUMMARY ADJUDICATION AGAINST
DEFENDANT CAMPBELL FOR CONSTRUCTIVE FRAUD;

Motion comes on for hearing and is argued.

Plaintiff informs the court of the motion for Summary
Adjudication as to cause of action #4 have three
elements: prevailing fiduciary relations,
breach of fiduciary duty, and punitive damage.

Defense counsel states all elements have not been
established as to content and failure to disclose.

The Court's ruling of Summary Adjudication Motion as
to claim #4:

The Court finds binding confession on the part of
counsel. The claim of defendant, Campbell and
defendant, Powers cheated plaintiff, C&M, out of
millions of dollars in purchase. The court uses
C.C.P. 437(c) and reviews allegation and pleading
and analyzed record and rules Plaintiff's motion
for summary adjudication of the fourth cause of
action for constructive fraud is granted.

The Court further makes the following ruling as to
defense's objection regarding Shaun Paisley
declaration:

Overruled as to items: #1 through #5 and #10
Sustained as to items: #6 through #9

MINUTES ENTERED
02/04/10
COUNTY CLERK

EXHIBIT C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/04/10

DEPT. 41

HONORABLE RONALD M. SOHIGIAN

JUDGE

H. ESTRADA

DEPUTY CLERK

HONORABLE
2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. KRBOYAN, CRT ASST

Deputy Sheriff

A. PARADELA, CSR #9659

Reporter

8:30 am

BC378888

Plaintiff

KIRKLAND & ELLIS LLP

Counsel

SHAUN PAISLEY (X)

C&M INVESTMENT GROUP LTD

LUKE L. DAUCHOT (X)

VS

Defendant

DAVID R. FLYER

PHILIP RICHARD POWERS ET AL

Counsel

TELEPHONIC APPEARANCE

170.6 (deft)

NATURE OF PROCEEDINGS:

Plainiff to give notice.



I certify that this is a true and correct copy of the original min order on file in this office consisting of 2 pages.

SHERRI R. CARTER, Executive Officer / Clerk of the Superior Court of California, County of Los Angeles.

Date: JUL 20 2015 By: [Signature], Deputy

WILKERSON

EXHIBIT D

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/02/10

DEPT. 41

HONORABLE RONALD M. SOHIGIAN

JUDGE

E. GARCIA

DEPUTY CLERK

HONORABLE
#2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. KRBOYAN, CRT ASST

Deputy Sheriff

A. PARADELA, CSR #9659

Reporter

8:30 am

BC378888

Plaintiff

SHAUN PAISLEY (X)

Counsel

LUKE L. DAUCHOT (X)

C&M INVESTMENT GROUP LTD

VS

Defendant

PHILIP RICHARD POWERS ET AL

Counsel

A. ERIC BJORGUM (X)

FOR THIRD PARTY

CHAMPLAIN

170.6 (deft)

NATURE OF PROCEEDINGS:

- 1) ORDER TO SHOW CAUSE RE: CONTEMPT OF PHILIP RICHARD POWERS AND NEIL DAVID CAMPBELL;
- 2) MOTION OF PLAINTIFFS, C&M INVESTMENT GROUP, LTD. AND KARLIN HOLDINGS LIMITED PARTNERSHIP TO COMPEL PRODUCTION OF DOCUMENTS FROM NON-PARTY HARVEY CHAMPLIN;
- 3) THIRD PARTY HARVEY CHAMPLAIN'S EX PARTE APPLICATION TO STRIKE PLAINTIFFS' MOTION TO COMPEL AS UNTIMELY OR IN THE ALTERNATIVE, ORDER PLAINTIFFS TO SHOW CAUSE WHY THEIR MOTION TO COMPEL SHOULD NOT BE STRICKEN AS UNTIMELY, OR ALTERNATIVELY, CONTINUE THE HEARING ON PLAINTIFF'S MOTION TO COMPEL;

As to items 2 and 3, the Court orders Mr. Champlain to produce the Privilege log by no later than 11/30/10.

As to item number one, the Court declines to hold either citee in contempt of court, however, the Court imposes a terminating sanctions in the form of striking both Powers and Campbell's pleadings and GRANTING default as to both Power's and Campbell pursuant to Code of Civil Procedure Sections 2030.030 subsections 1 and 4.

The matter is continued to 12/17/10 to verify if the said privilege log has been turned over by Mr. Champlain.

Notice by plaintiff's counsel.

<p align="center">MINUTES ENTERED 11/02/10 COUNTY CLERK</p>
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I certify that this is a true and correct copy
of the original *minutes* on
file in this office



JUL 10 2010

SHERRI R. CARTER, Executive Officer/Clerk of
the Superior Court of California County of Los Angeles
By: *N. Rhodes*, Deputy

N. RHODES

EXHIBIT E

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/01/11

DEPT. 41

HONORABLE RONALD M. SOHIGIAN

JUDGE

E. GARCIA

DEPUTY CLERK

HONORABLE #1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. KRBOYAN, CRT ASST

Deputy Sheriff

A. PARADELA, CSR #9659

Reporter

8:30 am

BC378888

Plaintiff

C&M INVESTMENT GROUP LTD

Counsel

SHAUN PAISLEY (X)

VS

Defendant

PHILIP RICHARD POWERS ET AL

Counsel

NO APPEARANCES

NATURE OF PROCEEDINGS:

MOTION OF PLAINTIFF TO COMPEL DEFENDANT CAMPBELL'S RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION;

MOTION OF ABOVE PARTY TO COMPEL DEFENDANT NEIL DAVID CAMPBELL TO ATTEND DEPOSITION;

MOTION OF ABOVE PARTY TO MODIFY PROVISIONS OF SEPTEMBER 22, 2009 ORDER RE SEARCH OF IMAGES OF COMPUTER HARD DRIVES;

Matter is called for hearing.

The Court having read and considered the moving papers now rules as follows:

Plaintiffs Motion to Compel Campbells Responses to their Fourth Set of Special Interrogatories and Request for Production is GRANTED.

Plaintiffs Request for Monetary Sanctions is GRANTED in the amount sought of \$1470.00. Campbell to answer by 11/18/11, and produce documents on 11/30/11, by 9:30 a.m., at the offices of Plaintiff's Counsel.

Plaintiffs Motion to Compel Defendant Neil David Campbell to Attend Deposition is GRANTED.

Plaintiffs Request for Monetary Sanctions is GRANTED IN THE REDUCED AMOUNT OF \$4,000.00 (from \$4,714.00). Deposition to take place on 11/15/11.

<p align="center">MINUTES ENTERED 11/01/11 COUNTY CLERK</p>
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/01/11

DEPT. 41

HONORABLE RONALD M. SOHIGIAN

JUDGE

E. GARCIA

DEPUTY CLERK

HONORABLE
#1

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. KRBOYAN, CRT ASST

Deputy Sheriff

A. PARADELA, CSR #9659

Reporter

8:30 am

BC378888

Plaintiff

C&M INVESTMENT GROUP LTD

Counsel

SHAUN PAISLEY (X)

VS

Defendant

PHILIP RICHARD POWERS ET AL

Counsel

NO APPEARANCES

NATURE OF PROCEEDINGS:

Plaintiffs Motion to Modify Provisions of September 22
2009 Order re Search of Images of Computer Hard Drives
is GRANTED.

Moving party to give notice of all orders.

TT/RS/TE

<p align="center">MINUTES ENTERED 11/01/11 COUNTY CLERK</p>

I certify that this is a true and correct copy
of the original *Mattie Blair* on
file in this office



JUL 1 3 2003

SHERRI R. CARTER, Executive Officer/Clerk of
the Superior Court of California County of Los Angeles

By: *N. Rhodes*, Deputy

N. RHODES

EXHIBIT F

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REC'D
DEC 06 2011
FILING WINDOW

FILED
LOS ANGELES SUPERIOR COURT
DEC 13 2011
JOHN A. CLARKE, CLERK
BY E. GARCIA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT
UNLIMITED JURISDICTION

C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership,

Plaintiffs,

vs.

Philip Richard Powers, individually; Neil David Campbell, individually; Powers Investments and Management, Inc., S.A., a corporation; Guanana Gris, S.A., a corporation; Protección Forestal de Teca, S.A., a corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No. BC378888

~~PROPOSED~~ ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT NEIL DAVID CAMPBELL

[PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE § 437c(g)]

Judge: Hon. Ronald M. Sohigian
Dept.: 41

Third Am. Compl. Filed: December 17, 2010

ORIGINAL

12/14/2011

1 Plaintiffs C&M Investment Group, Ltd. and Karlin Holdings Limited Partnership (together,
2 "Plaintiffs") previously moved for, and obtained, summary adjudication against Defendant Neil
3 Campbell ("Campbell"). Based on the evidence then available to Plaintiffs, the Court found that
4 Campbell, while a co-owner of C&M, received kickbacks of at least \$1.545 million from his co-
5 defendant, Philip Richard Powers ("Powers"), C&M's on-site manager, in connection with C&M's
6 acquisition of teak farms in Costa Rica. Because Campbell never disclosed these payments to
7 Plaintiffs, in violation of his fiduciary duties, the Court concluded that Campbell was liable for
8 constructive fraud.

9 Plaintiffs now move for summary judgment as to all of the remaining causes of action they
10 assert against Campbell in the December 17, 2010 Third Amended Complaint: (1) Violation of 18
11 U.S.C. § 1962 (Civil RICO); (2) Fraud (including conspiracy to defraud); (3) Fraudulent
12 Inducement; (4) Aiding and Abetting Fraud; (5) Violation of California Business & Professions
13 Code § 17200, *et seq.*; and (6) Tortious Interference with Contractual Relations. For the reasons
14 stated below, this Court grants Plaintiffs' motion.

15 I. PROCEDURAL AND FACTUAL BACKGROUND

16 A. Procedural History

17 Plaintiff C&M first filed this action in October 2007, alleging that Powers and his corporate
18 entities (together, the "Powers Defendants") cheated C&M out of millions of dollars by
19 misrepresenting the purchase price of teak properties purchased for Plaintiff C&M, and asserting
20 claims for, *inter alia*, fraud, fraudulent inducement, and breach of contract. *See* Oct. 10, 2007
21 Compl. In late-2008, while jurisdictional motions filed by the Powers Defendants were pending
22 (those motions were later denied), C&M discovered that Campbell had been receiving secret
23 payments from Powers. On November 17, 2008, C&M and Karlin Holdings filed a First Amended
24 Complaint, including Campbell as a defendant. *See* First Am. Compl. Upon obtaining more
25 information from third party discovery, Plaintiffs again amended their complaint in July 2009 to
26 include additional details concerning the fraud, as well a claim against Powers and Campbell for
27 violations of civil RICO. *See* July 29, 2009 Second Am. Compl.

28 In November 2009, Plaintiffs moved for summary adjudication on their constructive fraud
29 claim against Campbell. *See* Nov. 20, 2009 Pls.' Mot. for Summary Adj. On February 4, 2010, the
30 Court granted Plaintiffs' motion, concluding that Campbell had breached fiduciary duties to
31 Plaintiffs, and finding Campbell liable in the amount of \$1.545 million—the amount of secret profits
32 that Plaintiffs were at that time able to prove. *See* Feb. 4, 2010 Summary Adj. Order.

1 When Plaintiffs continued to seek discovery as to their remaining causes of action, Campbell
2 improperly invoked the Fifth Amendment privilege against self-incrimination. Even when this
3 Court ruled that Campbell had waived the Fifth Amendment as to several areas of inquiry, Campbell
4 continued to refuse to provide further discovery responses. *See* June 18, 2010 Order Compelling
5 Further Discovery Responses; Aug. 26, 2010 Order to Show Cause. Eventually, the Court imposed
6 terminating sanctions for these discovery abuses, struck Campbell's answer, and entered default
7 against him. *See* Nov. 2, 2010 Order Imposing Terminating Sanctions Against Campbell. But when
8 Plaintiffs then amended their Second Amended Complaint in preparation for proving up their default
9 judgment, Campbell filed an answer to the Third Amended Complaint. *See* Jan. 13, 2011
10 Campbell's Answer to TAC. Campbell has continued to abuse the discovery process following the
11 filing of his Answer to the TAC. On November 1, 2011, this Court imposed sanctions for
12 Campbell's failure to attend a deposition and to respond to Plaintiffs' written discovery related to
13 Campbell's financial condition. *See* Nov. 1, 2011 Minute Order.

14 Plaintiffs moved for summary judgment on September 2, 2011 as to all of their remaining
15 causes of action against Campbell, and the motion came on for hearing on November 29, 2011.
16 Campbell filed no opposition.

17 **B. Factual Background**

18 **1. How the C&M venture was supposed to work.**

19 In the Summer of 1999, Campbell first urged Dr. Michelson, a surgeon, inventor and
20 philanthropist whom Campbell had recently befriended to join him in investing in teak wood farms
21 located in Costa Rica. Campbell also recommended that Dr. Michelson entrust the acquisition and
22 operation of the farms to Powers, a friend of Campbell dating back to the 1980s, when they worked
23 in a car dealership together. *See* June 2, 2008 Decl. of Philip Richard Powers in Support of Motion
24 to Quash Service of Summons ¶ 4 (Powers declaring that he met Campbell when they worked
25 together at Vasek Porsche in Los Angeles and that "he and I became fast friends"). Although Dr.
26 Michelson initially declined this offer, in the Summer of 2000, he agreed to Campbell's overtures
27 and caused Karlin Holdings (a partnership controlled by Dr. Michelson's living trust) to join with
28 Campbell in investing in teak properties. Powers formed C&M, a Costa Rican limited liability
29 company, to take title to the properties. Campbell represented that he had sent an initial payment to
30 Powers of about \$105,000 towards the initial property that C&M purchased, and received an initial
31 15% equity stake in C&M on that basis; Karlin Holdings owned the remaining shares. *See* Sept. 2,
32 2011 Declaration of Shaun Paisley ("Paisley Decl."), Exs. C & D (C&M Owners' Agreement).

1 Powers was engaged to acquire and manage the properties in which C&M invested.

2 From 2000 through 2006, Powers was responsible for acquiring and maintaining teak tree
3 properties on behalf of C&M. Powers, on behalf of C&M, would purportedly locate properties ideal
4 for teak, and negotiate the best possible purchase prices for the properties. Powers then asked Dr.
5 Michelson to wire the funds needed to acquire such properties, purportedly at the price that Powers
6 was able to negotiate for C&M (plus no more than a total 6% commission on the purchase price for
7 each property), and Karlin Holdings, on behalf of C&M, wired the money as requested. *See, e.g.*,
8 Sept. 2, 2011 Declaration of Scott Cooper ("Cooper Decl."), Ex. 4 (Jan. 6, 2003 fax from Powers to
9 Michelson). Powers also regularly requested funds from Dr. Michelson that Powers represented he
10 needed to maintain the properties, and Karlin Holdings would wire those funds as well. *Id.*
11 Campbell, someone whom Dr. Michelson then considered a best friend and co-owner of C&M,
12 served as Dr. Michelson's "eyes and ears" in Costa Rica. *See Paisley Decl., Ex. A at 16:16-20*
13 *(Campbell Oct. 22, 2008 Interview)*. He regularly travelled to Costa Rica, purportedly to inspect
14 properties that Powers was contemplating acquiring on behalf of C&M, participate in negotiations
15 for those properties, and generally observe the activities of Powers and his contractors in the
16 maintenance of the properties. Campbell reported regularly to Dr. Michelson about Powers and the
17 properties. In so doing, he confirmed the representations of Powers, offered positive reports about
18 the performance of Powers, and encouraged Dr. Michelson to continue having Powers acquire and
19 manage properties on behalf of C&M.

20 From 2000 through 2006, Michelson wired on behalf of C&M over \$32 million for property
21 acquisition and maintenance in reliance on Powers and Campbell's representations. During this
22 period, Powers submitted to Plaintiffs accounting and property reports purportedly showing Powers'
23 expenditures and acquisitions on behalf of C&M.

24 2. Campbell and Powers' fraudulent scheme.

25 The record reflects that the C&M venture was, from the very beginning, a vehicle for Powers
26 and Campbell to systematically steal millions of dollars. Powers was in fact grossly overstating the
27 prices that he had negotiated with the sellers for the properties on behalf of C&M, and keeping the
28 difference between the actual and stated purchase price for himself and his co-conspirators. While
29 Campbell was supposed to be looking out for the interests of C&M and Karlin Holdings, including
30 verifying the accuracy of representations regarding the quality of land purchased, he was in fact
31 secretly in a conspiracy with Powers, receiving a substantial cut of the fraudulent proceeds, and
32 encouraging Dr. Michelson not only to continue, but expand on, the relationship with Powers.

1 During the course of the conspiracy, Powers sent to Dr. Michelson numerous faxes in which
2 he claimed that he, along with his associate, Walter Suarez, arrived at the represented purchase price
3 of the property through tough negotiations with the property owners that led to the best possible deal
4 for C&M. *See, e.g.*, Cooper Decl., Ex. 5 (June 3, 2005 fax from Powers to Michelson) (noting that
5 “the seller has reached his bottom line for the farm, \$5,200,000”). The faxed information was false.
6 The record confirms that the prices quoted to C&M in fact included massive mark-ups. In a
7 February 2006 email exchange between Campbell and Powers, for example, Powers noted in
8 relation to one property transaction that, “I do know we raised the price to Gary about 35% over
9 what we paid[.]” *Id.*, Ex. 6 (Feb. 16, 2006 email exchange between Powers and Campbell).

10 Campbell was involved in deciding by how much to defraud his friend and business partner,
11 conferring with Powers about what price they should claim to have negotiated. The process
12 appeared to involve Campbell and Powers picking the highest possible number that they thought
13 would not arouse suspicion from Plaintiffs. In one email, Powers asked Campbell, “Can we offer
14 this [property] to Gary at \$8M?” while noting that “[w]e are pretty sure they will sell at \$6M but
15 would be nice to get it at \$5M.” *See id.*, Ex. 7 (Apr. 14, 2005 email from Powers to Campbell).
16 Campbell responded that “8 million to Gary is probably on the high side, probably around 7.5 would
17 be more like it” *Id.*; *see also id.*, Ex. 8 (June 6, 2003 e-mail from Powers to Campbell)
18 (attaching redlined document replacing \$250,000 price with \$350,000).

19 Campbell was also involved in deciding how best to communicate the fraudulent requests for
20 maintenance costs to Plaintiffs. *See, e.g., id.*, Ex. 9 (Dec. 30, 2005 e-mail from Campbell to Powers)
21 (in response to e-mail from Powers asking him to review request for maintenance costs, Campbell
22 responding with several edits). Many of the “maintenance” costs were invented, or at least wildly
23 inflated, and the money that Plaintiffs sent would often find its way directly into Campbell’s pocket.
24 *See id.*, Ex. 42 (Jan. 17, 2006 e-mail from Powers to Campbell) (Powers explaining to Campbell that
25 he was inflating maintenance expenses for the month by a smaller amount—\$14,000—to try to keep
26 them closer than usual to actual expenses, but that he “might be able to still pull out 10% a month for
27 you as well. Any more is going to be risky.”); *id.*, Ex. 43 (Feb. 8, 2006 e-mail from Powers to
28 Campbell) (“I found a way to do it. Here is the request from Walter. I added the \$20K to his
29 budget. Hopefully this will fly.”).

30 Overall, Powers and Campbell estimated that together they had pocketed approximately 25%
31 (or about \$8 million) of the money that C&M had sent to Powers to purchase and maintain
32 properties. *See id.*, Ex. 11 (July 28, 2006 e-mail string between Powers and Campbell) (Campbell

1 remarking to Powers that "Gary [Michelson] feels you took approx. 25% of all he invested in C&M
2 from commissions to marking up the cost of seeds and planting," and Powers responding that
3 "Gary's figured that out very closely," and that "25% sounds about right"). Another e-mail
4 exchange confirms the fraud and the \$8 million figure. There, Campbell complains to Powers that
5 his "worst nightmare" was coming true because he was receiving the proceeds of his fraud too
6 slowly. Powers responded by reminding Campbell of the hard work Powers had put into their years'
7 long conspiracy:

8 Neil: NO, the worst nightmare would be Gary finding out you been receiving more
9 than half of everything I made for all of the property deals he did with me. Your
10 worst nightmare was Gary getting into my bank accounts and finding out that I have
11 already wired you almost \$3M over the last 6 years in various forms and finding out
12 that he paid over \$8M in commissions between you, me, Walter and other brokers. I
13 stopped that nightmare from becoming a reality. Have you ever considered what a
14 nightmare its been for me, my family. Hearing from you almost on a daily basis for
15 the last 10 months how Gary's coming after me, his accountants are on me, his
16 lawyers are going to sue me in Federal Court, how he's going to sue me for every
17 penny I have if it cost him \$20M to do it. Try living with that fact day after day. Try
18 spending the last 10 months with accountants and lawyers 10 hours a day going over
19 and over the concept of how we can make this pan out. Then having their attorneys
20 and accountants pestering me daily for that information. The last 7 years I have been
21 busting my ass, on those farms, working every day to find another deal for us to put
22 together while your biggest job in this entire operation has been to go water skiing
23 and snow skiing with the Dr. Yes, I know it wasn't easy but it wasn't real work, at
24 least not as far as I know work to be. And it made you MILLIONS. The real work
25 has been this past year and it was only up to me, my accountants and lawyers to
26 figure out how we could all get through this without a lawsuit and the pending
27 properties transferred to C & M and to hope that with some real luck I could convince
28 Gary to purchase some of the remaining properties that was committed by him. We
29 succeeded in doing all of the above with the exception of two properties, the San
30 Roque and Rio Seco piece, value of approx. \$1.5M together. In Feb. of this year we
31 had I think \$6M worth of funds pending on committed properties that you told me in
32 so many words that Gary will Never pay for. I told you not to worry and I would
work on him and Cohen. We stalled, we confused the numbers, we changed
accountants, the lawyers we did everything we could to keep the issue going until I
could clean the properties to present them for the balance of funds owed us. I had
farmers threatening to take their farms back unless I paid them immediately, even
though Munoz's office was not accepting them at the time. I could go on and on
about the shit I had to do to SAVE all our asses but I won't go into that because it
would take me months or years to write the book and I don't think you been really
reading all my letters anyway, because if you had you would have seen all this effort
that I had put into this entire project. First to create and then to save it.

30 Cooper Decl., Ex. 3.

31 **3. Campbell keeps at least \$4.5 million of the fraudulent proceeds.**

32 As Powers described the division of labor between him and Campbell, he did all the work.
According to Powers, Campbell's "biggest job in this entire operation has been to go water skiing

1 and snow skiing with the Dr.” *Id.*, Ex. 3 (Dec. 5, 2006 e-mail from Powers to Campbell). Campbell,
2 however, was integral to the conspiracy. *See, e.g., id.*, Ex. 41 (Campbell describing the Powers-
3 Campbell fraud as a “team effort”). Campbell’s role was to travel to Costa Rica, purportedly to
4 monitor Powers’ activities and then to report back to Dr. Michelson as a trusted friend and advisor.
5 *See Paisley Decl.*, Ex. F (Further Resp. to Interrog. No. 4) (stating that he travelled to Costa Rica
6 approximately 18 times between 1999 and 2009). But while supposedly playing the role of C&M’s
7 “eyes and ears” (*see id.*, Ex. A at 16:16-20), he was doing the opposite—he was Powers’ eyes and
8 ears, going “water skiing and snow skiing” with Dr. Michelson in order to report back to Powers
9 with any concerns about the venture that Dr. Michelson expressed. *See Cooper Decl.*, Ex. 12 (Apr.
10 26, 2006 e-mail from Campbell to Powers) (“Gary wants all the faxes from you dating from the very
11 first . . . I would only send him requests pertaining to the property requests.”); *id.*, Ex. 13 (July 27,
12 2006 e-mail from Campbell to Powers) (explaining to Powers that “I hope you understand that I am
13 only trying to pass on information as it is presented to me”). Campbell advised Powers to conceal
14 information from Dr. Michelson, and sought to placate Dr. Michelson when he expressed concerns
15 about Powers’ performance. *See, e.g., id.*, Ex. 44 (Dec. 30, 2005 e-mail from Campbell to Powers)
16 (Campbell advising Powers: “Don’t call Gary and tell him that, you have to make Gary believe he is
17 getting the upper hand on you and [you’re] out of the commission all together.”); Ex. 45 (Jan. 3,
18 2006 e-mail from Campbell to Powers) (“Gary told me that I was the only person that didn’t think
19 Richard was taking advantage of him . . . I went over all the arguments that I could come up with,
20 value of the property, the personal acquisitions that I had been involved in, so on and so on . . .
21 Again I don’t know where this is going when it comes to all the options we already have.”); Ex. 14
22 (June 5, 2006 e-mail from Campbell to Powers) (Campbell stating to Powers that “I don’t know if
23 this last call from Gary was a test to see if I was giving you information. Gary had said recently why
24 I was always taking your side and standing up for you.”).

25 In exchange for introducing Dr. Michelson to Powers, and for encouraging Dr. Michelson to
26 continue sending money, Campbell received a share of the fraudulent proceeds. In a June 2004
27 memo, for example, Powers lists for Campbell several properties C&M is purchasing through
28 Powers, listing the actual price in one column, and the inflated price quoted to C&M in another. *See*
29 *Cooper Decl.*, Ex. 46 (June 29, 2004 memo from Powers to Campbell). Powers makes clear that a
30 portion of that difference will be going towards paying “commissions” to Campbell. *See id.* (“Gary
31 has advanced the funds shown in Red in the total amount of \$244,000 or a total of \$731,500 which
32 commissions to you are due from this latter amount at time of closing.”). Part of the excess proceeds

12/14/2011

1 Powers obtained from misrepresentations of maintenance costs was similarly allocated to Campbell.
2 *Id.*, Ex. 10 (Dec. 28, 2005 e-mail exchange between Powers and Campbell) (Powers noting that
3 Campbell would “receive only \$15,000 this month for the maintenance”).

4 Powers kept balance sheets of how much Campbell had been paid, and how much he was
5 still owed, for his role in the fraud. *See, e.g.*, Cooper Decl., Ex. 16 (N.D.C. accounts); *id.*, Ex. 17
6 (Dec. 1, 2005 Memo to Campbell) (noting a balance of more than \$2.1 million owed to Campbell).
7 When Campbell needed money, he would draw upon his reserve of kickbacks, contacting Powers to
8 tell him to send a wire to one of Campbell’s various bank accounts. *See, e.g., id.*, Ex. 18 (Jan. 6,
9 2006 email from Campbell to Powers) (“Rich when you get an opportunity wire \$25,000 to each
10 acct. for a total of \$50,000”); *see also id.*, Ex. 19 (May 7, 2007 email from Campbell to Powers)
11 (“Rich, are you in a position to wire between 138k and 210k today into an account in Tulsa, OK.
12 Please let me know as soon as possible”). In addition to receiving millions of dollars in cash and
13 checks over the course of the more than six years of the C&M venture, Campbell asked Powers to
14 make purchases on his behalf from this running account. For example, the kickbacks were used to
15 fund the following purchases or investments, via wires sent by Powers:

- 16 • A Ford GT, a limited edition car, for \$217,000. *See id.*, Ex. 20 (Payments to Neil);
17 Paisley Decl., Ex. H (North County Ford records).
- 18 • A “Roadster” for \$75,025. *See* Cooper Decl., Ex. 47 (Feb. 23, 2006 email from
19 Campbell to Powers) (requesting funds to be wired for 356 Roadster); *id.*, Ex. 20
(Payments to Neil).
- 20 • A vintage Corvette for \$65,200. *See id.*; Paisley Decl., Ex. I (Ed Lepelis records).
- 21 • An Agusta motorcycle for \$32,612.43. Cooper Decl., Ex. 48 (June 22, 2006 email from
22 Campbell to Powers) (Campbell requesting funds to be wired for Agusta and noting that
23 he “hope[s] you have received funds from Gary”).
- 24 • Payments into investment accounts of about \$150,000. *See, e.g., id.*, Ex. 21 (June 26,
25 2006 email from Campbell to Powers) (Campbell asking Powers to wire him \$42,220
26 into an investment account with Ibrix); *id.*, Ex. 20 (Payments to Neil) (chart reflecting
27 total of nearly \$150,000 wired to account with Ibrix); Paisley Decl., Ex. J (Ibrix records).
- 28 • An engagement ring for around \$14,000. *See* Cooper Decl., Ex. 20 (Payments To Neil);
29 *id.*, Ex. 22 (Apr. 8, 2007 e-mails between Powers and Campbell) (“Rich I need \$13,750
30 wired to the following Please let me know when it is wired. . . . Juli’s ring. . .”).
- 31 • A watch for \$7,750. *See id.*, Ex. 20 (Payments To Neil).
- 32 • Nearly \$50,000 to furnish a condo in Costa Rica. *See id.* (showing payments to Kreiss);
id., Ex. 23 (June 5, 2006 email from Campbell to Powers) (requesting “a few wires this
week for the purchase of furniture for the condo”).
- A sculpture for \$21,278.50. *Id.*, Ex. 49 (June 9, 2006 email from Campbell to Powers)
(requesting funds for Richard MacDonald sculpture).

According to Powers, by 2006, he had wired Campbell more than \$2.45 million and had paid

1 him—in a combination of wire transfers, cash, checks, and in-kind payments—in excess of \$3.6
2 million in total. See Cooper Decl., Ex. 20 (Payments To Neil). That amount did not include a
3 luxury condominium that Powers purchased for Campbell in Costa Rica, which Powers valued at
4 \$950,000. See Cooper Decl., Ex. 26 (Oct. 23, 2006 email from Campbell to Los Suenos Resort)
5 (Campbell stating that he owns a condo purchased for him by Richard Powers); *id.*, Ex. 27 (Sept. 18,
6 2006 Accounting). Powers, acting through one of the defendant corporate entities, Guanana Gris,
7 S.A., also paid the homeowners' association dues owed on the condo. See *id.*, Ex. 28 (Homeowners
8 Association Dues).

9 **4. Campbell and Powers proceed to “stall[]” and “confuse[] the numbers” to**
10 **conceal their fraud.**

11 In late-2005, Powers and Campbell's fraud started to unravel. Plaintiffs' accountants and
12 investment managers found issues with accounting information previously provided by Powers and
13 requested additional documentation of how Powers had spent the money sent to him by Plaintiffs
14 (documentation that Powers was under a contractual obligation to keep). Up until that point, Powers
15 had managed to hide evidence of the fraud, recounting to Campbell that “[w]e stalled, we confused
16 the numbers, we changed accountants, the lawyers we did everything we could to keep the issue
17 going” Cooper Decl., Ex. 3 (Dec. 5, 2006 email from Powers to Campbell). But Powers
18 understood that he could not provide the detailed documentation of the transactions that Plaintiffs'
19 accountants were now requesting without revealing that he and Campbell had been stealing money.
20 As Powers wrote to Campbell: “The request David [Cohen, Plaintiffs' investment manager] is
21 asking me . . . is a request that I will never be able to provide them without compromising our total
22 operation and its profit structure.” *Id.*, Ex. 29 (Dec. 29, 2005 email from Powers to Campbell).

23 Because of the increased scrutiny on their business practices, Powers first proposed reducing
24 the amount of money that he and Campbell were stealing: “Also the commissions Neil are going to
25 change this next month on the maintenance. I will be adding a much smaller percentage to the
26 overall maintenance program which I will still be able to pull you out 10%[.]” *Id.*, Ex. 10 (Dec. 28,
27 2005 e-mail exchange between Powers and Campbell). As a result of Powers' proposed cutbacks,
28 Campbell would “receive only \$15,000 this month for the maintenance.” *Id.*

29 Powers and Campbell then scrambled to cover up their fraud. They conspired to destroy
30 documents, create false financial reports, forge checks, and otherwise lie to Plaintiffs about how
31 C&M's money was spent. Powers, for example, told Campbell in February 2006 that he planned to
32 destroy contracts with the property sellers, rather than provide them to Plaintiffs. See *id.*, Ex. 50

1 (Feb. 3, 2006 e-mail from Powers to Campbell) (“What is not included in any of these files are our
2 original option contracts, which we are destroying.”).

3 Powers also told Campbell that “[a]nother problem I am encountering is that Cohen
4 continues to request copies of the cancelled checks for each one of my purchases to prove I actually
5 paid what I said for the property.” *Id.*, Ex. 31 (June 5, 2006 email from Powers to Campbell).
6 Unable to provide those cancelled checks (because Powers had paid far less for the properties than
7 he said), Powers resorted to fabricating them: “For this reason I need some cash available to make
8 out checks to the sellers in which they deposit the check and then write me one back. I have been
9 giving them a percentage for doing this for me.” *Id.*; *see also id.*, Ex. 32 (Mar. 12, 2006 e-mail from
10 Powers to Campbell) (“of course it all went well with the guy who we cut the check to so it will
11 show up as reported on my bank statements.”). Powers expressed to these property sellers the
12 “importance of them not divulging the price we paid them for the properties.” *Id.*, Ex. 31.

13 Powers also provided a report to Plaintiffs based on some of those fabricated checks,
14 purporting to show “the check # the amount written for and to whom it was written[.]” *Id.*, Ex. 29
15 (Dec. 29, 2005 e-mail from Powers to Campbell). As Powers acknowledged, the report was both
16 incomplete and false: “These amounts should come within 15% or less of the amount actually paid
17 by Gary, showing an average commission of around 10%. Of course it is incomplete and will
18 remain so.” *Id.*

19 After Plaintiffs’ accountants expressed dissatisfaction with the incomplete documentation,
20 and with Powers’ varied and often contradictory explanations as to why he could not provide
21 Plaintiffs with more evidence showing how he had spent their money, Powers provided Plaintiffs
22 with additional accounting reports. On March 15, 2006, for example, Powers sent Plaintiffs a report
23 stating property-by-property how much he had actually paid to acquire properties and how much he
24 had taken in commissions, claiming that for 2005 he took an average commission of just 5.56% on
25 property purchases. *See id.*, Ex. 34 (Mar. 15, 2006 report). But as Powers later acknowledged to
26 Campbell, Powers and Campbell in fact took at least 25% of what was sent to them. *See Cooper*
27 *Decl.*, Ex. 11. An additional accounting report followed in 2006, which included initials of certain
28 individuals to whom Powers had supposedly paid closing costs, commissions, or other property-
29 related expenses. *See id.*, Ex. 35 (June 2006 Accounting Report). This report, too, was false: most
30 of the expenditures detailed in the report as expenses related to the purchase of properties were either
31 kickbacks to Campbell or payments for exotic cars. *Compare, e.g., id.* (reflecting wire transfer of
32 \$217,000 in June 2005 to unnamed recipient purportedly for “closing” costs on property in Samaria)

1 with Paisley Decl., Ex. H (North County Ford records) (reflecting wire transfer of \$216,892.26 on
2 same date to North County Ford for purchase of Ford GT for Neil Campbell). Campbell grew
3 increasingly frustrated with Powers' inability to balance even the fraudulent numbers, noting that
4 "do you not see that by taking this long to balance the accounting that it only shows that you have
5 something to hide[?]" Cooper Decl., Ex. 51 (July 10, 2006 e-mail from Campbell to Powers).

6 Around the Spring of 2006, Plaintiffs decided to stop investing in teak properties through
7 Powers, but their efforts to obtain full transparency into their transactions with Powers continued.
8 As Plaintiffs sought additional documentation from Powers, Campbell continued to try to placate Dr.
9 Michelson, advising Powers that although Campbell had "Gary calmed down for the moment . . .
10 this could end tomorrow and [you should] put your ducks in a row with plenty put away for a rainy
11 day, it is raining now." *Id.*, Ex. 36 (Apr. 8, 2006 e-mail exchange between Campbell and Powers).
12 Campbell's ultimate concern, though, was self-preservation: "I don't care what you tell Gary or
13 David but be 100% straight with me, we have been friends to[o] long and I have trusted you with
14 everything I own[.]" *Id.* Powers reassured Campbell that "I had been trying my best with David and
15 Gary to keep this all confidential as possible and will continue to do so to the end." *Id.*

16 With Powers determined not to reveal his and Campbell's fraud, and unable to appease
17 Plaintiffs by "stalling" and "confusing the numbers" as before, the parties were at an impasse. In a
18 June 2006 e-mail to Campbell, Powers balked at "giv[ing] [Plaintiffs] every detail of our work up to
19 date which would include every cent spent, and to whom in our process of obtaining title." *Id.*, Ex.
20 37 (June 20, 2006 e-mail from Powers to Campbell). Powers told Campbell that "[t]here is no way I
21 will be sending any more info to Gary or David that will incriminate myself." *Id.*, Ex. 38 (June 26,
22 2006 e-mail from Powers to Campbell).

23 While C&M stopped purchasing properties through Powers in 2006, Powers' payments to
24 Campbell continued. Campbell still had a reserve of kickbacks to draw upon, and continued
25 receiving direct wire transfers and in-kind payments through at least October 2008. *See, e.g., id.*, Ex.
26 39 (Oct. 13, 2008 e-mail from Powers to Campbell) (confirming Powers' payment of Campbell's
27 HOA fees on his condo); *id.*, Ex. 40 (Oct. 13, 2007 e-mail from Campbell to Powers) (confirming
28 receipt of wire transfer of \$30,000 to Washington Mutual account).

29 Powers and Campbell's attempts to cover up their fraud have continued into this litigation.
30 For example, after Plaintiffs discovered Campbell's role in the conspiracy, Campbell initially denied
31 receiving any money from Powers. *See Paisley Decl.*, Ex A at 54:8-25. Then, confronted with his
32 own bank records, which showed that Powers had in fact sent him millions of dollars, Campbell

1 labeled the amounts he received from Powers—which Powers himself considered “gratuit[ies]” (*id.*,
2 Ex. G (Powers’ Supp. Resp. to Interrog. No. 14))—as “loan[s].” *Id.*, Ex. F (Campbell Resp. to
3 Interrog. No. 8); *see also* Cooper Decl., Ex. 15 (Aug. 9, 2006 e-mail from Powers to S. Gibbons)
4 (Powers noting that he will owe Campbell money once he receives it from Plaintiffs: “Gary still
5 owes me \$2.5M of the \$3.5M worth of property they owed me which I owe \$550K to have it all paid
6 off. I will owe Neil \$1M from this so that should leave me \$1M if I can put this together.”).

7 **II. LEGAL ANALYSIS**

8 “Any party may move for summary judgment in any action or proceeding if it is contended . .
9 . that there is no defense to the action or proceeding.” Cal. Civ. Proc. Code § 437c(a). To show that
10 there is no defense to the action, Plaintiffs must “prove[] each element of the cause of action
11 entitling [them] to judgment on that cause of action.” *Id.* § 437c(p)(1). Once Plaintiffs do so, the
12 burden then “shifts to the defendant or cross-defendant to show that a triable issue of one or more
13 material facts exists as to that cause of action or a defense thereto.” *Id.* A summary judgment
14 motion “shall be granted if all the papers submitted show that there is no triable issue as to any
15 material fact and that the moving party is entitled to a judgment as a matter of law.” *Id.* § 437c(c).
16 “The policy behind motions for summary judgment and summary adjudication is to ‘promote and
17 protect the administration of justice, and to expedite litigation by the elimination of needless trials.’”
18 *Lilienthal & Fowler v. Super. Ct.*, 12 Cal. App. 4th 1848, 1854 (1993) (quoting *Wiler v. Firestone*
19 *Tire & Rubber Co.*, 95 Cal. App. 3d 621, 625 (1979)).

20 The Court finds based on the evidence presented that there is no triable issue as to Plaintiffs’
21 fraud-based causes of action, their civil RICO cause of action, their claim for tortious interference
22 with contractual relations, and their UCL claim. Summary judgment should therefore be granted.

23 **A. Campbell Is Liable For Fraud.**

24 Plaintiffs have asserted several fraud-based claims against Campbell in this lawsuit,
25 including fraud (TAC ¶¶ 60-65), fraudulent inducement (*id.* ¶¶ 76-83), and aiding and abetting fraud
26 (*id.* ¶¶ 102-06). Plaintiffs have also alleged that Campbell engaged in a civil conspiracy with
27 Powers to defraud Plaintiffs. *Id.* ¶¶ 55-59.

28 Here, Campbell is liable for fraud under two independent theories. First, Campbell
29 intentionally concealed from Plaintiffs the kickbacks he was receiving from Powers at C&M’s
30 expense, in violation of the fiduciary duty he owed to Plaintiffs to disclose those payments. And
31 second, Campbell is liable as a co-conspirator for the fraudulent representations made by Powers
32 pursuant to the conspiracy.

1 1. **Campbell is liable for fraud for concealing his receipt of kickbacks.**

2 To prove a claim for fraud or deceit, a plaintiff must show: (1) a misrepresentation (false
3 representation, concealment, or nondisclosure); (2) knowledge of falsity (or ‘scienter’) and an intent
4 to defraud, i.e., to induce reliance; (3) justifiable reliance by the plaintiff; and (4) resulting damage to
5 the plaintiff. *Engalla v. Permanente Med. Grp., Inc.*, 15 Cal. 4th 951, 974 (1997). “Active
6 concealment or suppression of facts is the equivalent of a false representation.” *Vega v. Jones, Day,*
7 *Reavis & Pogue*, 121 Cal. App. 4th 282, 294 (2004). Where a plaintiff seeks to prove fraud by way
8 of concealment or non-disclosure, he must prove one element in addition to the four stated above—
9 the existence of a fiduciary relationship giving rise to a duty to disclose. *Weiner v. Fleischman*, 54
10 Cal. 3d 476, 483 (1991).

11 Having already obtained summary adjudication against Campbell on their constructive fraud
12 claim (on February 4, 2010), Plaintiffs have already gone a long way to proving that Campbell is
13 also liable for actual fraud. They have established that Campbell concealed from Plaintiffs his
14 receipt of kickbacks from Powers, that Campbell owed a fiduciary duty to Plaintiffs, that he
15 breached that duty by concealing the payments, and that Plaintiffs were injured as a result. *See* Feb.
16 4, 2010 Summary Adj. Order. To prove actual fraud, Plaintiffs need only now prove in addition: (a)
17 scienter and an intent to defraud, i.e., to induce reliance; and (b) justifiable reliance by Plaintiffs.
18 *See Engalla*, 15 Cal. 4th at 974.

19 The record here shows that Campbell acted intentionally and for the purpose of inducing
20 Plaintiffs to wire additional funds to Powers. Aware that disclosing the kickbacks would have put a
21 stop to C&M doing business through Powers, Campbell, along with Powers, repeatedly tried to keep
22 these secret “commissions” from Plaintiffs. Sept. 2, 2011 Plaintiffs’ Separate Statement of
23 Undisputed Material Facts (“SSUMF”) ¶ 36. Indeed, Campbell continued to deny his receipt of
24 kickbacks through the filing of this lawsuit. *See id.*

25 Moreover, Plaintiffs, in continuing to send money to Powers, relied on Campbell’s failure to
26 disclose the kickbacks. Reliance occurs when a misrepresentation or nondisclosure is “an immediate
27 cause of [a plaintiffs] conduct, which alter[s] his or her legal relations, and when without such
28 misrepresentation or nondisclosure he or she would not, in all reasonable probability, have entered
29 into the contract or other transaction.” *Alliance Mortg. Co. v. Rothwell*, 10 Cal. 4th 1226, 1239
30 (1995). Wherever a misrepresentation or omission is material—meaning that “a reasonable man
31 would attach importance to its existence or nonexistence in determining his choice of action in the
32 transaction in question”—a presumption of reliance arises. *Engalla*, 15 Cal. 4th at 977. Campbell

1 was supposed to be Plaintiffs' "eyes and ears" in Costa Rica, tasked with reporting back on Powers'
2 performance in purchasing and maintaining Plaintiffs' teak properties. SSUMF ¶¶ 21-25.
3 Campbell, however, concealed from Plaintiffs that more than \$4.5 million of the money Plaintiffs
4 sent to Powers—which Powers told them was being used to acquire and maintain property—was in
5 fact going into Campbell's pocket. *Id.* ¶¶ 32-33, 36, 38. Plaintiffs would not have sent more than
6 \$32 million to Powers had they known that it would be used to fund Campbell's personal
7 expenditures, including the purchase of a house, cars, a motorcycle, art, and an engagement ring. *Id.*
8 ¶ 31; *see also Engalla*, 15 Cal. 4th at 977.

9 Campbell is thus liable for fraud. When Plaintiffs moved for summary adjudication on their
10 constructive fraud claim against Campbell, they were able to prove that Campbell was liable for
11 \$1.545 million based on his receipt of kickbacks, but the evidence now makes clear that Campbell is
12 liable for more. Campbell received \$3.6 million in checks, wire transfers, and in-kind kickbacks, as
13 well as a condo valued at \$950,000. *See* SSUMF ¶ 38. Plaintiffs are entitled to summary judgment
14 on their fraud claims against Campbell.

15 **2. Campbell is liable for fraud as Powers' co-conspirator.**

16 Because Campbell and Powers were engaged in a conspiracy, Campbell is not only liable for
17 his own fraudulent misrepresentations or non-disclosures; rather, he is "directly liable for all
18 misrepresentations made pursuant to such conspiracy." *People v. Bestline Prods., Inc.*, 61 Cal. App.
19 3d 879, 918 (1976). Similarly, "[o]ne who knowingly aids and abets a fiduciary to make secret
20 profits may be held liable jointly with the fiduciary for such secret profits." *Fink v. Weisman*, 129
21 Cal. App. 305, 317 (1933). A defendant is liable for aiding and abetting an intentional tort if he
22 substantially assists or encourages another party to act, aware that the other party's conduct
23 constitutes a breach of duty. *Casey v. U.S. Bank Nat'l Ass'n*, 127 Cal. App. 4th 1138, 1144 (2005).
24 Thus, because Campbell participated in the conspiracy with Powers, and aided and abetted Powers in
25 defrauding Plaintiffs, acts committed by Powers may be ascribed to Campbell, and both may be held
26 jointly and severally liable for the full measure of the fraud.

27 There is no genuine issue for trial that Powers' conduct, in concert with Campbell, satisfies
28 each of the four elements required to prove fraud: (1) a misrepresentation; (2) knowledge of falsity
29 and an intent to defraud, i.e., to induce reliance; (3) justifiable reliance; and (4) resulting damage.
30 *Engalla*, 15 Cal. 4th at 974. First, Powers, with Campbell's knowledge and cooperation, sent
31 Plaintiffs numerous faxes stating, falsely, that Powers had negotiated a certain price for a property
32 on behalf of C&M. *See* SSUMF ¶¶ 26-30. The prices quoted to C&M were in fact vastly inflated

1 from what Powers had negotiated, with the amount of the mark-up decided by Powers and
2 Campbell. *Id.* Powers also sent faxes falsely overstating the costs of maintaining the properties. *Id.*

3 Second, Powers, in conspiracy with Campbell, made these false statements with the intent to
4 induce Plaintiffs to send Powers the inflated sums, so that they could then divide the fraudulent
5 proceeds among themselves. *See id.* ¶¶ 29-30.

6 Third, Plaintiffs relied on these false representations, sending the requested sums to Powers
7 or his corporate entities in direct response to Powers' faxes. *See id.* ¶ 31. In total, Plaintiffs sent
8 Powers more than \$32 million for both property purchases and maintenance costs, in reliance upon
9 the representations. *See id.* That reliance was reasonable, given that Campbell, Plaintiffs' "eyes and
10 ears" in Costa Rica, not only did not alert Plaintiffs to any problems, but actually encouraged further
11 investment. *See id.* ¶¶ 21-25, 36.

12 And fourth, Plaintiffs were injured as a result. More than \$8 million of the money they sent,
13 which Powers had led them to believe would be used to purchase and maintain property in Costa
14 Rica, was in fact pocketed by Powers and Campbell, who used it to buy exotic cars, motorcycles,
15 condos, and art. *See id.* ¶ 37.

16 Campbell is liable for the full measure of the fraud—\$8 million—by virtue of his
17 participation in this conspiracy.

18 **B. Plaintiffs Are Entitled To Summary Judgment On Their RICO Claim.**

19 "RICO is to be read broadly [and] to 'be liberally construed to effectuate its remedial
20 purposes.' The statute's 'remedial purposes' are nowhere more evident than in the provision of a
21 private action for those injured by racketeering activity." *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S.
22 479, 497-98 (1985). To prove a civil RICO cause of action, the plaintiff must establish the conduct
23 of an enterprise, through a pattern of racketeering activity, causing injury to plaintiffs' business or
24 property. *See* 18 U.S.C. § 1962(c); *Ove v. Gwinn*, 264 F.3d 817, 825 (9th Cir. 2001). A person may
25 also be liable under civil RICO for conspiring to violate RICO. 18 U.S.C. § 1962(d).

26 Each of the elements of a RICO violation is satisfied here. *First*, an enterprise "includes any
27 individual, partnership, corporation, or other legal entity, and any union or group of individuals
28 associated in fact although not a legal entity." 18 U.S.C. § 1961(4). Here, C&M itself or, in the
29 alternative, the association-in-fact between Campbell and the Powers Defendants, constitutes an
30 "enterprise." C&M was the conduit through which Campbell and Powers defrauded Plaintiffs.
31 Powers formed and then managed the affairs of C&M, and even exercised powers of attorney on
32

1 behalf of C&M to purchase properties on C&M's behalf. See SSUMF ¶¶ 1-2¹; *Reves v. Ernst &*
2 *Young*, 507 U.S. 170, 184 (1993) ("An enterprise also might be 'operated' or 'managed' by others
3 'associated with' the enterprise who exert control over it as, for example, by bribery").

4 And Powers and Campbell together also constitute an enterprise as an "association-in-fact".
5 An association-in-fact is "a group of persons associated together for a common purpose of engaging
6 in a course of conduct." *United States v. Turkette*, 452 U.S. 576, 583 (1981). The group need not
7 have any particular organizational structure. See *Gervase v. Super. Ct.*, 31 Cal. App. 4th 1218, 1235
8 (1995); *Boyle v. United States*, 129 S. Ct. 2237, 2244 (2009) (the "structure" needed for an
9 association-in-fact enterprise amounts only to "a purpose, relationships among those associated with
10 the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's
11 purpose"). Here, Campbell and the Powers Defendants associated together for the purpose of
12 perpetrating a pattern of racketeering activity on Plaintiffs. See SSUMF ¶¶ 8-12, 14-17.

13 **Second**, as to the "pattern of racketeering" requirement, a "pattern" under 18 U.S.C. § 1961
14 "requires at least two acts of racketeering activity" that are related and amount to or pose a threat of
15 continued activity. *H.J., Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 239 (1989). The relatedness of the
16 predicate acts is established through proof of "same or similar purposes, results, participants,
17 victims, or methods of commission." *Id.* at 240. Continuity may be proved by showing that the
18 activity is part of an ongoing entity's regular way of doing business. *Id.* at 242.

19 The wire fraud committed by Powers and Campbell spanned many years, was committed on
20 multiple occasions, and followed the same pattern. Powers, with Campbell's knowledge and
21 cooperation, made inflated requests for money for purported property acquisition and maintenance
22 expenses by sending faxes from Costa Rica to Plaintiffs' representatives in California. SSUMF ¶¶
23 8-12. Campbell then e-mailed requests to Powers for him to wire or otherwise transfer kickbacks to
24 him, in exchange for Campbell's participation in the conspiracy. *Id.* ¶ 14. And Powers in turn wired
25 to Campbell (or to a third party, on Campbell's behalf) the requested kickbacks. *Id.* ¶ 15. Each of
26 these multiple uses of the wires over the course of six-plus years constitutes an actionable instance of
27 wire fraud, and the requirement of a pattern of racketeering activity is satisfied. See, e.g., *Gervase*,
28 31 Cal. App. 4th 1218; *Charles J. Vacanti, M.D., Inc. v. State Comp. Ins. Fund*, 24 Cal. 4th 800,
29 826-27 (2001) (numerous acts of mail and wire fraud sufficient to establish pattern under RICO
30 statute); *Allstate Ins. Co. v. Palterovich*, 653 F. Supp. 2d 1306, 1317-18 (S.D. Fla. 2009) (finding
31

32 ¹ The Court grants Plaintiffs' September 2, 2011 Request for Judicial Notice.

1 that plaintiffs stated claim for pattern of racketeering where "Plaintiffs have alleged that Defendants.
2 committed mail fraud thousands of times over the course of their four-year scheme").

3 **Third**, as to injury, "RICO does not require some sort of special 'racketeering injury'; rather,
4 it is sufficient that the defendant engaged in a pattern of racketeering activity in a manner forbidden
5 under RICO and the activities injured the plaintiff in his business or property." *Gervase*, 31 Cal.
6 App. 4th at 1233. As demonstrated above, Campbell in combination with the Powers Defendants
7 caused injury to Plaintiffs' business or property in the amount of \$8 million by fraudulently
8 overstating property prices and maintenance costs, and then pocketing Plaintiffs' money as
9 kickbacks. SSUMF ¶¶ 13, 19-20. Courts have held that similar fraudulent schemes violate RICO,
10 and that the secret diversion of plaintiffs' money to fund kickbacks constitutes RICO injury. *See*
11 *Rehab. Inst. of Chi. v. Hicks*, 1991 WL 111212, at *5 (N.D. Ill. June 14, 1991) ("RIC was injured
12 because it paid for goods that it did not receive, and paid higher prices than necessary for the goods
13 that it did receive, financing the kickbacks which Hicks received from Geist."); *Bunker Ramo Corp.*
14 *v. Utd. Bus. Forms, Inc.*, 713 F.2d 1272, 1288 (7th Cir. 1983) (internal quotation omitted) (finding
15 that "[Plaintiff] was directly injured [under RICO] if, as alleged, it paid for services it never
16 received, the proceeds of which were used to pay off [its] employees and to bribe union officials");
17 *see also Overland Bond & Inv. Corp. v. Mahoney*, 1984 WL 3997, at *1-*2, *4 (N.D. Ill. July 30,
18 1984) (finding that plaintiffs adequately alleged RICO injury where defendant, who was supposed to
19 be acting on plaintiffs' behalf, raised sales prices in conspiracy with co-defendants and took cut of
20 excess proceeds).

21 Campbell is thus liable for violating RICO in the amount of \$8 million, and Plaintiffs are
22 entitled to treble damages and attorneys' fees. *See* 18 U.S.C. § 1964(c).

23 **C. Campbell Is Liable For Tortious Interference With Contractual Relations.**

24 The elements of an action for tortious interference with contractual relations are: (1) a valid
25 contract between plaintiff and a third party; (2) defendant's knowledge of this contract; (3)
26 defendant's intentional acts designed to induce a breach or disruption of the contractual relationship;
27 (4) actual breach or disruption of the contractual relationship; and (5) resulting damage. *Quelimane*
28 *Co. v. Stewart Title Guar. Co.*, 19 Cal. 4th 26, 55 (1998).

29 Here, Campbell was aware that C&M and Powers had an agreement whereby Powers was
30 limited to a commission on property purchases not to exceed 6% of the sales price. *See* SSUMF ¶¶
31 95-96. By conspiring with Powers to charge inflated prices for land, so that he could receive some
32 of C&M's money by way of kickbacks, Campbell intentionally interfered with that contractual

1 relationship. SSUMF ¶¶ 97-101. And as a result, Plaintiffs paid these inflated sums, more than \$4.5
2 million of which ended up in Campbell's pocket, rather than being used for its intended purposes.

3 *Id.* ¶¶ 102-04, 108-09.

4 Plaintiffs are also entitled to summary judgment on their tortious interference theory.

5 **D. Plaintiffs Are Entitled To Summary Judgment On Their UCL Claim.**

6 Finally, Plaintiffs are entitled to summary judgment against Campbell on their claim under
7 California Business & Professions Code Section 17200. As demonstrated above, Campbell's
8 conduct, in concert with Powers, was fraudulent and, by virtue of his violations of RICO, unlawful.
9 *See Charles J. Vacanti, M.D.*, 24 Cal. 4th at 828 n.9 (noting that conducting an enterprise through a
10 pattern of racketeering activity constitutes an unlawful business practice). Moreover, as discussed
11 above, Plaintiffs suffered "injury" and "lost money" as a result of Campbell and Powers' fraud. *See*
12 Cal. Bus. & Prof. Code § 17204. Plaintiffs are therefore entitled, pursuant to Section 17203, to
13 restitution of the kickbacks Campbell received under this theory as well.

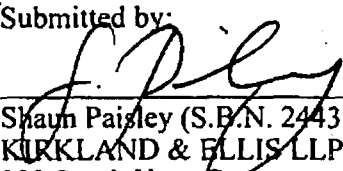
14 **III. CONCLUSION**

15 Because Campbell can demonstrate no genuine issue for trial on any of Plaintiffs' remaining
16 claims, Plaintiffs are entitled to summary judgment against Campbell. Plaintiffs have shown that
17 they have been damaged in the amount of \$8 million, which must be trebled under RICO, entitling
18 Plaintiffs to \$24 million in damages. In addition, Plaintiffs may recover reasonable attorneys' fees
19 under RICO.

20
21 DATED: December 13, 2011

22 By: 
23 Honorable Ronald M. Shigian

24 Submitted by:

25 
26 Shaun Paisley (S.B.N. 244377)
27 KIRKLAND & ELLIS LLP
28 333 South Hope Street
29 Los Angeles, California 90071
30 Telephone: (213) 680-8400
31 Facsimile: (213) 680-8500
32 shaun.paisley@kirkland.com

Attorneys for Plaintiffs C&M Investment Group, Ltd. and
Karlín Holdings Limited Partnership

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Kirkland & Ellis LLP, 333 South Hope Street, 29th Floor, Los Angeles, California 90071.

On December 6, 2011, I served the foregoing document(s) described as:

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT NEIL DAVID CAMPBELL

[PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE § 437c(g)]

on the interested parties as follows:

[BY U.S. MAIL] By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.

Neil David Campbell
7071 Warner Avenue, Suite 347
Huntington Beach, CA 92647

[STATE] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed December 6, 2011 at Los Angeles, California.



Vanjo Lickhalter

I certify that this is a true and correct copy
of the original order on
file in this office



JUL 10 2010

SHERRI R. CARTER, Executive Officer/Clerk of
the Superior Court of California County of Los Angeles

By: [Signature], Deputy

N. RHODES

EXHIBIT G

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LOS ANGELES SUPERIOR COURT
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JOHN A. CLARKE, CLERK
BY E. GARCIA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT
UNLIMITED JURISDICTION

C&M Investment Group, Ltd., and Karlin Holdings Limited Partnership,

Plaintiffs,

vs.

Philip Richard Powers, individually; Neil David Campbell, individually; Powers Investments and Management, Inc., S.A., a corporation; Guanana Gris, S.A., a corporation; Protección Forestal de Teca, S.A., a corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No. BC378888

~~PROPOSED~~ JUDGMENT AGAINST DEFENDANT NEIL DAVID CAMPBELL

Judge: Hon. Ronald M. Sohigian
Dept.: 41

Third Am. Compl. Filed: Dec. 17, 2010

ORIGINAL

12/14/2011

1 On February 4, 2010, this Court granted Plaintiffs C&M Investment Group Ltd. and Karlin
2 Holdings Limited Partnership ("Plaintiffs") summary adjudication on their claim for constructive
3 fraud against Defendant Neil David Campbell ("Campbell"). On September 2, 2011, Plaintiffs then
4 filed a Motion for Summary Judgment ("Motion") as to all remaining claims against Campbell
5 contained in the December 17, 2010 Third Amended Complaint: (1) Violation of 18 U.S.C. § 1962
6 (Civil RICO); (2) Fraud (including conspiracy to defraud); (3) Fraudulent Inducement; (4) Aiding
7 and Abetting Fraud; (5) Violation of California Business & Professions Code § 17200, *et seq.*; and
8 (6) Tortious Interference with Contractual Relations. Campbell filed no opposition to the Motion.

9 The Motion came on for hearing on November 29, 2011 before this Court, and the Court
10 granted Plaintiffs' Motion pursuant to California Code of Civil Procedure Section 437c on the
11 grounds that there was no triable issue of material fact and that Campbell had no defense to
12 Plaintiffs' claims. The Court specified some of the reasons for its ruling in an oral order recorded by
13 the court reporter, and also requested from Plaintiffs a written proposed order pursuant to California
14 Code of Civil Procedure Section 437c(g). Plaintiffs lodged that proposed order on December 6,
15 2011, and the Court has signed that order concurrently with this Judgment.

16 The Court now directs that Judgment be entered against Campbell in accordance with its
17 decision as follows:

18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, with respect to the Third
19 Amended Complaint filed in this action, Plaintiffs shall recover from Campbell the following
20 amounts:

- 21 1. \$24,000,000 in damages (\$8,000,000 in actual damages trebled pursuant to 18 U.S.C.
22 § 1964(c));
- 23 2. \$483,270 in reasonable attorneys' fees, pursuant to 18 U.S.C. § 1964(c) (calculated
24 pursuant to L.A. Super. Ct. Rule 3.214(a) for contested actions);
- 25 3. \$5,470 in sanctions, awarded by this Court in a November 1, 2011 Order, for
26 discovery abuses by Campbell; and
- 27 4. Recoverable costs, in an amount to be determined in accordance with California Rule
28 of Court 3.1700.

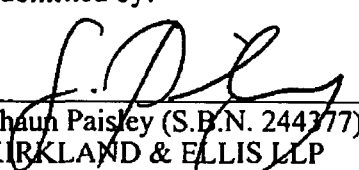
1 Plaintiffs are entitled to recover this amount from Campbell, totaling \$24,488,740 plus costs,
2 along with interest accruing from the date of entry of this Judgment until paid.

3 This Judgment is entered against Defendant Campbell only. Default has been entered against
4 the remaining Defendants, Philip Richard Powers, Powers Investments & Management, Inc.,
5 Guanana Gris, S.A., and Protección Forestal de Teca, S.A., and a default prove-up hearing against
6 those Defendants is scheduled for January 17, 2012.

7
8 DATED: December 13, 2011

By 
Honorable Ronald M. Sohigian

9
10 Submitted by:

11 
12 Shaun Paisley (S.B.N. 244777)
13 KIRKLAND & ELLIS LLP
14 333 South Hope Street
15 Los Angeles, California 90071
16 Telephone: (213) 680-8400
17 Facsimile: (213) 680-8500
18 shaun.paisley@kirkland.com

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Attorneys for Plaintiffs C&M Investment Group, Ltd. and
Karlin Holdings Limited Partnership

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On December 6, 2011, I served the foregoing document(s) described as:

[PROPOSED] JUDGMENT AGAINST DEFENDANT NEIL DAVID CAMPBELL

on the interested parties as follows:

[BY U.S. MAIL] By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.

Neil David Campbell
7071 Warner Avenue, Suite 347
Huntington Beach, CA 92647

[STATE] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed December 6, 2011 at Los Angeles, California.



Vanjo Lickhalter

12/14/2011

I certify that this is a true and correct copy
of the original Order on
file in this office



JUL 13 2013

SHERRI R. CARTER, Executive Officer/Clerk of
the Superior Court of California County of Los Angeles

By: N. Rhodes, Deputy

N. RHODES

EXHIBIT H

Chapter 615—the Anti-Money Laundering and
Counter-Terrorist Financing (Financial
Institutions) Ordinance, Part 3, § 20

Obtained from:

[http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/A6CADFCCD49E764F482578C600539E74/\\$FILE/CAP_615_e_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/A6CADFCCD49E764F482578C600539E74/$FILE/CAP_615_e_b5.pdf)

(6) Nothing in this section prevents a financial institution from carrying out a customer due diligence measure by its agent but such a financial institution remains liable under this Ordinance for a failure to carry out that customer due diligence measure.

(7) In this section—
certified public accountant (會計師) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap 50).

(Amended E.R. 2 of 2014)

19. Financial institutions to establish procedures

- (1) A financial institution must establish and maintain effective procedures for determining whether a customer or a beneficial owner of a customer is a politically exposed person.
- (2) A financial institution that carries out wire transfers must establish and maintain effective procedures for identifying and handling wire transfers in relation to which section 12(5) of this Schedule has not been complied with.
- (3) A financial institution must, in respect of each kind of customer, business relationship, product and transaction, establish and maintain effective procedures not inconsistent with this Ordinance for the purpose of carrying out its duties under sections 3, 4, 5, 9, 10 and 15 of this Schedule.

Part 3

Record-keeping Requirements

20. Duty to keep records

- (1) A financial institution must—
 - (a) in relation to each transaction it carries out, keep the original or a copy of the documents, and a record of the data and information, obtained in connection with the transaction in accordance with Part 2 of this Schedule; and
 - (b) in relation to each of its customers, keep—
 - (i) the original or a copy of the documents, and a record of the data and information, obtained in the course of identifying and verifying the identity of the customer or any beneficial owner of the customer in accordance with Part 2 of this Schedule; and
 - (ii) the original or a copy of the files relating to the customer's account and business correspondence with the customer and any beneficial owner of the customer.
- (2) Records required to be kept under subsection (1)(a) must be kept for a period of 6 years beginning on the date on which the transaction is completed, regardless of whether the business relationship ends during that period.
- (3) Records required to be kept under subsection (1)(b) must be kept throughout the continuance of the business relationship with the customer and for a period of 6 years beginning on the date on which the business relationship ends.
- (4) A relevant authority may, by notice in writing to a financial institution, require the financial institution to keep the records relating to a specified transaction or customer for a period specified by the relevant authority that is longer than that referred to in subsection (2) or (3), as the case requires, if—
 - (a) the relevant authority is satisfied that the records are relevant to an ongoing criminal or other investigation carried out by it; or
 - (b) the records are relevant to any other purposes as specified by the relevant authority in the notice.
- (5) A financial institution to whom a notice is given under subsection (4) must keep the relevant records for the period specified in the notice.

21. Manner in which records are to be kept

Records required to be kept under section 20 of this Schedule must be kept in the following manner—

EXHIBIT I

Code of Federal Regulations
Title 31, Money and Finance: Treasury
Subtitle B, Regulations Relating to Money and Finance
Chapter X, Financial Crimes Enforcement Network, Department of the Treasury (Refs & Annos)
Part 1010, General Provisions (Refs & Annos)
Subpart D, Records Required to be Maintained

31 C.F.R. § 1010.430

§ 1010.430 Nature of records and retention period.

Effective: March 1, 2011

Currentness

(a) Wherever it is required that there be retained either the original or a microfilm or other copy or reproduction of a check, draft, monetary instrument, investment security, or other similar instrument, there shall be retained a copy of both front and back of each such instrument or document, except that no copy need be retained of the back of any instrument or document which is entirely blank or which contains only standardized printed information, a copy of which is on file.

(b) Records required by this chapter to be retained by financial institutions may be those made in the ordinary course of business by a financial institution. If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained by this chapter, then such a record shall be prepared in writing by the financial institution.

(c) The rules and regulations issued by the Internal Revenue Service under 26 U.S.C. 6109 determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.

(d) All records that are required to be retained by this chapter shall be retained for a period of five years. Records or reports required to be kept pursuant to an order issued under § 1010.370 of this chapter shall be retained for the period of time specified in such order, not to exceed five years. All such records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

SOURCE: 75 FR 65812, Oct. 26, 2010; 80 FR 45064, July 29, 2015; 81 FR 18493, March 31, 2016, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, sec. 314 Pub.L. 107 56, 115 Stat. 307.

Current through April 15, 2016; 81 FR 22196.

End of Document

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EXHIBIT J

(ii) For each payment order that it accepts as an intermediary bank, a bank shall retain either the original or a microfilm, other copy, or electronic record of the payment order.

(iii) For each payment order that it accepts as a beneficiary's bank, a bank shall retain either the original or a microfilm, other copy, or electronic record of the payment order.

(2) Originators other than established customers. In the case of a payment order from an originator that is not an established customer, in addition to obtaining and retaining the information required in paragraph (a)(1)(i) of this section:

(i) If the payment order is made in person, prior to acceptance the originator's bank shall verify the identity of the person placing the payment order. If it accepts the payment order, the originator's bank shall obtain and retain a record of the name and address, the type of identification reviewed, the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the originator's bank has knowledge that the person placing the payment order is not the originator, the originator's bank shall obtain and retain a record of the originator's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof.

(ii) If the payment order accepted by the originator's bank is not made in person, the originator's bank shall obtain and retain a record of name and address of the person placing the payment order, as well as the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof, and a copy or record of the method of payment (e.g., check or credit card transaction) for the funds transfer. If the originator's bank has knowledge that the person placing the payment order is not the originator, the originator's bank shall obtain and retain a record of the originator's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof.

(3) Beneficiaries other than established customers. For each payment order that it accepts as a beneficiary's bank for a beneficiary that is not an established customer, in addition to obtaining and retaining the information required in paragraph (a)(1)(iii) of this section:

(i) If the proceeds are delivered in person to the beneficiary or its representative or agent, the beneficiary's bank shall verify the identity of the person receiving the proceeds and shall obtain and retain a record of the name and address, the type of identification reviewed, and the number of the identification document (e.g., driver's license), as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof. If the beneficiary's bank has knowledge that the person receiving the proceeds is not the beneficiary, the beneficiary's bank shall obtain and retain a record of the beneficiary's name and address, as well as the beneficiary's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person receiving the proceeds, or a notation in the record of the lack thereof.

(ii) If the proceeds are delivered other than in person, the beneficiary's bank shall retain a copy of the check or other instrument used to effect payment, or the information contained thereon, as well as the name and address of the person to which it was sent.

(4) **Retrievability.** The information that an originator's bank must retain under paragraphs (a)(1)(i) and (a)(2) of this section shall be retrievable by the originator's bank by reference to the name of the originator. If the originator is an established customer of the originator's bank and has an account used for funds transfers, then the information also shall be retrievable by account number. The information that a beneficiary's bank must retain under paragraphs (a)(1)(iii) and (a)(3) of this section shall be retrievable by the beneficiary's bank by reference to the name of the beneficiary. If the beneficiary is an established customer of the beneficiary's bank and has an account used for funds transfers, then the information also shall be retrievable by account number. This information need not be retained in any particular manner, so long as the bank is able to retrieve the information required by this paragraph, either by accessing funds transfer records directly or through reference to some other record maintained by the bank.

(5) **Verification.** Where verification is required under paragraphs (a)(2) and (a)(3) of this section, a bank shall verify a person's identity by examination of a document (other than a bank signature card), preferably one that contains the person's name, address, and photograph, that is normally acceptable by financial institutions as a means of identification when cashing checks for persons other than established customers. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States may be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a foreign driver's license with indication of home address).

(6) **Exceptions.** The following funds transfers are not subject to the requirements of this section:

(i) Funds transfers where the originator and beneficiary are any of the following:

(A) A bank;

(B) A wholly owned domestic subsidiary of a bank chartered in the United States;

(C) A broker or dealer in securities;

(D) A wholly owned domestic subsidiary of a broker or dealer in securities;

(E) A futures commission merchant or an introducing broker in commodities;

(F) A wholly owned domestic subsidiary of a futures commission merchant or an introducing broker in commodities;

(G) The United States;

(H) A state or local government;

(I) A Federal, State or local government agency or instrumentality; or

(J) A mutual fund; and

(ii) Funds transfers where both the originator and the beneficiary are the same person and the originator's bank and the beneficiary's bank are the same bank.

(b)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, and before October 1, 2003, or each deposit or share account opened with a bank after June 30, 1972, and before October 1, 2003, a bank shall, within 30 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 30-day period specified, the required identification, it shall nevertheless not be deemed to be in violation of this section if it has made a reasonable effort to secure such identification, and it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (c)(11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction. Where a person is a non-resident alien, the bank shall also record the person's passport number or a description of some other government document used to verify his identity.

(2) The 30-day period provided for in paragraph (b)(1) of this section shall be extended where the person opening the account has applied for a taxpayer identification or social security number on Form SS-4 or SS-5, until such time as the person maintaining the account has had a reasonable opportunity to secure such number and furnish it to the bank.

(3) A taxpayer identification number required under paragraph (b)(1) of this section need not be secured for accounts or transactions with the following:

(i) Agencies and instrumentalities of Federal, State, local or foreign governments;

(ii) Judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court;

(iii) Aliens who are ambassadors, ministers, career diplomatic or consular officers, or naval, military or other attachés of foreign embassies and legations, and for the members of their immediate families;

(iv) Aliens who are accredited representatives of international organizations which are entitled to enjoy privileges, exemptions and immunities as an international organization under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. 288), and the members of their immediate families;

(v) Aliens temporarily residing in the United States for a period not to exceed 180 days;

(vi) Aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government;

(vii) Unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter,

(viii) A person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual interest is less than \$10;

(ix) A person opening a Christmas club, vacation club and similar installment savings programs, provided the annual interest is less than \$10; and

(x) Non-resident aliens who are not engaged in a trade or business in the United States.

(4) In instances described in paragraphs (b)(3)(viii) and (ix) of this section, the bank shall, within 15 days following the end of any calendar year in which the interest accrued in that year is \$10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

(5) The rules and regulations issued by the Internal Revenue Service under section 6109 of the Internal Revenue Code of 1954 shall determine what constitutes a taxpayer identification number and whose number shall be obtained in the case of an account maintained by one or more persons.

(c) Each bank shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Each document granting signature authority over each deposit or share account, including any notations, if such are normally made, of specific identifying information verifying the identity of the signer (such as a driver's license number or credit card number);

(2) Each statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account;

(3) Each check, clean draft, or money order drawn on the bank or issued and payable by it, except those drawn for \$100 or less or those drawn on accounts which can be expected to have drawn on them an average of at least 100 checks per month over the calendar year or on each occasion on which such checks are issued, and which are:

(i) Dividend checks,

(ii) Payroll checks,

(iii) Employee benefit checks,

(iv) Insurance claim checks,

(v) Medical benefit checks,

(vi) Checks drawn on government agency accounts,

(vii) Checks drawn by brokers or dealers in securities,

(viii) Checks drawn on fiduciary accounts,

(ix) Checks drawn on other financial institutions, or

(x) Pension or annuity checks;

(4) Each item in excess of \$100 (other than bank charges or periodic charges made pursuant to agreement with the customer), comprising a debit to a customer's deposit or share account, not required to be kept, and not specifically exempted, under paragraph (c)(3) of this section;

(5) Each item, including checks, drafts, or transfers of credit, of more than \$10,000 remitted or transferred to a person, account or place outside the United States;

(6) A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account or place outside the United States;

(7) Each check or draft in an amount in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment;

(8) Each item, including checks, drafts or transfers of credit, of more than \$10,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a bank, broker or dealer in foreign exchange outside the United States;

(9) A record of each receipt of currency, other monetary instruments, investment securities or checks, and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States; and

(10) Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a transaction account and to trace a check in excess of \$100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of \$100. This subparagraph shall be applicable only with respect to demand deposits.

(11) A record containing the name, address, and taxpayer identification number as determined under section 6109 of the Internal Revenue Code of 1986, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction.

(12) A record containing the name, address and taxpayer identification number as determined under section 6109 of the Internal Revenue Code of 1986, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.

(13) Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The slip or ticket shall record the amount of any currency involved.

SOURCE: 75 FR 65812, 65842, Oct. 26, 2010; 75 FR 65812, Oct. 26, 2010; 76 FR 10516, Feb. 25, 2011, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub.L. 107–56, 115 Stat. 307.

Current through April 15, 2016; 81 FR 22196.

Footnotes

- i For funds transfers effected through the Federal Reserve's Fedwire funds transfer system, only one of the items is required to be retained, if received with the payment order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

EXHIBIT K

West's Annotated California Codes
Business and Professions Code (Refs & Annos)
Division 3. Professions and Vocations Generally (Refs & Annos)
Chapter 4. Attorneys (Refs & Annos)
Article 8.5. Fee Agreements (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 6148

§ 6148. Contracts for services in cases not coming within §
6147; bills rendered by attorney; contents; failure to comply

Effective: January 1, 2000
Currentness

(a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a client, including attorney fees, will exceed one thousand dollars (\$1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client, or the client's guardian or representative, to the client or to the client's guardian or representative. The written contract shall contain all of the following:

(1) Any basis of compensation including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to the case.

(2) The general nature of the legal services to be provided to the client.

(3) The respective responsibilities of the attorney and the client as to the performance of the contract.

(b) All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs. Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses. Upon request by the client, the attorney shall provide a bill to the client no later than 10 days following the request unless the attorney has provided a bill to the client within 31 days prior to the request, in which case the attorney may provide a bill to the client no later than 31 days following the date the most recent bill was provided. The client is entitled to make similar requests at intervals of no less than 30 days following the initial request. In providing responses to client requests for billing information, the attorney may use billing data that is currently effective on the date of the request, or, if any fees or costs to that date cannot be accurately determined, they shall be described and estimated.

(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the client, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.

(d) This section shall not apply to any of the following:

- (1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client or where a writing is otherwise impractical.
- (2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the client.
- (3) If the client knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.
- (4) If the client is a corporation.
- (e) This section applies prospectively only to fee agreements following its operative date.
- (f) This section shall become operative on January 1, 2000.

Credits

(Added by Stats.1993. c. 982 (S.B.645), § 6, operative Jan. 1, 1997. Amended by Stats.1994. c. 479 (A.B.3219), § 5, operative Jan. 1, 1997; Stats.1996. c. 1104 (A.B.2787), § 11, operative Jan. 1, 2000.)

Notes of Decisions (13)

West's Ann. Cal. Bus. & Prof. Code § 6148, CA BUS & PROF § 6148

Current with urgency legislation through Ch. 8 of 2016 Reg.Sess. and Ch. 3 of 2015-2016 2nd Ex.Sess.

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EXHIBIT L

West's Annotated California Codes
Rules of the State Bar of California (Refs & Annos)
California Rules of Professional Conduct (Refs & Annos)
Chapter 3. Professional Relationship with Clients

Prof. Conduct, Rule 3-700

Rule 3-700. Termination of Employment

Currentness

(A) In General.

(1) If permission for termination of employment is required by the rules of a tribunal, a member shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) A member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, complying with rule 3-700(D), and complying with applicable laws and rules.

(B) Mandatory Withdrawal.

A member representing a client before a tribunal shall withdraw from employment with the permission of the tribunal, if required by its rules, and a member representing a client in other matters shall withdraw from employment, if:

(1) The member knows or should know that the client is bringing an action, conducting a defense, asserting a position in litigation, or taking an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person; or

(2) The member knows or should know that continued employment will result in violation of these rules or of the State Bar Act; or

(3) The member's mental or physical condition renders it unreasonably difficult to carry out the employment effectively.

(C) Permissive Withdrawal.

If rule 3-700(B) is not applicable, a member may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because:

(1) The client

- (a) insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law, or
 - (b) seeks to pursue an illegal course of conduct, or
 - (c) insists that the member pursue a course of conduct that is illegal or that is prohibited under these rules or the State Bar Act, or
 - (d) by other conduct renders it unreasonably difficult for the member to carry out the employment effectively, or
 - (e) insists, in a matter not pending before a tribunal, that the member engage in conduct that is contrary to the judgment and advice of the member but not prohibited under these rules or the State Bar Act, or
 - (f) breaches an agreement or obligation to the member as to expenses or fees.
- (2) The continued employment is likely to result in a violation of these rules or of the State Bar Act; or
 - (3) The inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal; or
 - (4) The member's mental or physical condition renders it difficult for the member to carry out the employment effectively; or
 - (5) The client knowingly and freely assents to termination of the employment; or
 - (6) The member believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

(D) Papers, Property, and Fees.

A member whose employment has terminated shall:

- (1) Subject to any protective order or non-disclosure agreement, promptly release to the client, at the request of the client, all the client papers and property. "Client papers and property" includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not; and
- (2) Promptly refund any part of a fee paid in advance that has not been earned. This provision is not applicable to a true retainer fee which is paid solely for the purpose of ensuring the availability of the member for the matter.

DISCUSSION

Subparagraph (A)(2) provides that “a member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the clients.” What such steps would include, of course, will vary according to the circumstances. Absent special circumstances, “reasonable steps” do not include providing additional services to the client once the successor counsel has been employed and rule 3-700(D) has been satisfied.

Paragraph (D) makes clear the member's duties in the recurring situation in which new counsel seeks to obtain client files from a member discharged by the client. It codifies existing case law. (See *Academy of California Optometrists v. Superior Court* (1975) 51 Cal.App.3d 999 [124 Cal.Rptr. 668]; *Weiss v. Marcus* (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297].) Paragraph (D) also requires that the member “promptly” return unearned fees paid in advance. If a client disputes the amount to be returned, the member shall comply with rule 4-100(A)(2).

Paragraph (D) is not intended to prohibit a member from making, at the member's own expense, and retaining copies of papers released to the client, nor to prohibit a claim for the recovery of the member's expense in any subsequent legal proceeding.

Credits

(Adopted Nov. 28, 1988, eff. May 27, 1989.)

Notes of Decisions (54)

Prof. Conduct, Rule 3-700, CA ST RPC Rule 3-700

California Rules of Court, California Rules of Professional Conduct, and California Code of Judicial Ethics are current with amendments received through October 1, 2015. California Supreme Court, California Courts of Appeal, Guidelines for the Commission of Judicial Appointments, Commission on Judicial Performance, and all other Rules of the State Bar of California are current with amendments received through October 1, 2015.

EXHIBIT M

West's Florida Statutes Annotated
Rules Regulating the Florida Bar (Refs & Annos)
Chapter 4. Rules of Professional Conduct (Refs & Annos)
4-1. Client-Lawyer Relationship

West's F.S.A. Bar Rule 4-1.4

Rule 4-1.4. Communication

Currentness

(a) Informing Client of Status of Representation. A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) Duty to Explain Matters to Client. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Credits

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); March 23, 2006, effective May 22, 2006 (933 So.2d 417).

Editors' Notes

COMMENT

Reasonable communication between the lawyer and the client is necessary for the client to effectively participate in the representation.

Communicating with client

If these rules require that a particular decision about the representation be made by the client, subdivision (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who

receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See rule 4-1.2(a).

Subdivision (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations--depending on both the importance of the action under consideration and the feasibility of consulting with the client--this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, subdivision (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, subdivision (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected.

Lawyers have particular responsibilities in communicating with clients regarding changes in firm composition. See Rule 4-5.8.

Explaining matters

The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.

Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in terminology.

Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from mental disability. See rule 4-1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See rule 4-1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding information

In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold

Rule 4-1.4. Communication, FL ST BAR Rule 4-1.4

information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 4-3.4(c) directs compliance with such rules or orders.

Notes of Decisions (96)

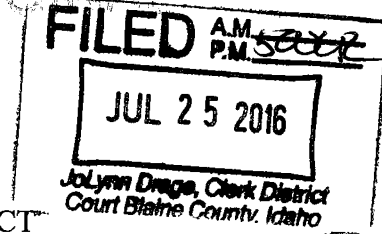
West's F. S. A. Bar Rule 4-1.4, FL ST BAR Rule 4-1.4

Florida Supreme Court Rules of Civil Procedure, Judicial Administration, Criminal Procedure, Civil Procedure for Involuntary Commitment of Sexually Violent Predators, Worker's Compensation, Probate, Traffic Court, Small Claims, Juvenile Procedure, Appellate Procedure, Certified and Court-Appointed Mediators, Court Appointed Arbitrators, Family Law, Certification and Regulation of Court Reporters, Certification of Spoken Language Interpreters, and Qualified and Court-Appointing Parenting Coordinators are current with amendments received through 03/01/16. All other State Court Rules are current with amendments received through 03/01/16.

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S., a
corporation; and DOES 1 through 50 inclusive,

Defendants.

Case No.: CV-12-407

**ORDER DENYING MOTION TO
ENLARGE TIME TO ASSERT
AFFIRMATIVE DEFENSES AND TO
DISMISS CONTEMPT CHARGES**

On July 18, 2016, Defendant Neil Campbell's Motion to Enlarge Time to Assert Affirmative Defenses and his Motion to Dismiss Contempt Charges came on regularly for hearing. Plaintiffs were represented by Erin Clark and the Defendant was represented by Lee Ritzau. After considering the briefs, evidence and argument of counsel, the Court rules as follows:

1. The Motion to Enlarge Time to Assert Affirmative Defenses is DENIED as to the three defenses asserted by Defendant on or about June 20, 2016.
2. Plaintiffs withdrew their objection to the March 10, 2016 Notice of Affirmative

Defenses and, therefore, those two affirmative defenses may be asserted by
Defendant.

3. The Motion to Dismiss the Contempt Charges is DENIED.

IT IS SO ORDERED.

DATED THIS 21 day of July 2016.



Robert J. Elgee, District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 24, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Erin F. Clark, Esq.
Lawson Laski Clark & Pogue, PLLC
P.O. Box 3310
Ketchum, Idaho 83340


- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy - (208) 725-0076

Luke L. Dauchot, Esq.
Lauren Schweitzer, Esq.
Kirkland & Ellis LLP
333 South Hope Street
Los Angeles, CA 90071

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy -(213) 680-8500

Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy



Deputy Clerk

EXHIBIT/WITNESS LIST

FILED AM
PM *[Signature]*

JUL 27 2016

Jolynn Draga, Clerk District
Court Blaine County, Idaho

Date: 7/26/16-7/27/16

Hearing Type: Court Trial (Civil/Criminal Contempt)

Case Number: CV2012-407 C&M Investments vs. Neil. D. Campbell

Before Judge: Robert J. Elgee

Clerk: Crystal Rigby

Reporter: Susan Israel

Attorney: Erin Clark

Attorney : Lee Ritzau

Plaintiff's Witnesses	Date	Defendant's Witnesses	Date
1 -Neil D. Campbell	7/26/16	1	
2		2	

EXH. No.	Description	Obj.	Date	Admitted
501	Limited Power of Attorney-David Flyer	X	7/27/16	X
502	Limited Power of Attorney-Michael Taiteman	X	7/27/16	X
503	Limited Power of Attorney-Robert Turffs	X	7/27/16	X
504	Limited Power of Attorney-Jonathan Michaels	X	7/27/16	X
505	Limited Power of Attorney-Steve Thompson	X	7/27/16	X
506	Limited Power of Attorney-Dyke Huish	X	7/27/16	X
507	Limited Power of Attorney-Susan Roy	X	7/27/16	X
508	Limited Power of Attorney-HSBC Bank	X	7/27/16	X
509	Limited Power of Attorney-Bank of America	X	7/27/16	X
510	Limited Power of Attorney-Bank of American	X	7/27/16	X
511	Order Granting Motion for Judgment Debtor's Examination filed 3-23-15			
512	Amended Order Granting Motion for Judgment Debtor's Examination filed 4-1-15			
513	Second Amended Order Granting Motion for Judgment Debtors Examination filed 8-3-15			
514	Affidavit of Erin F. Clark in Support of Motion for Order Finding Neil David Campbell in Contempt dated 11-3-15			
515	Plaintiffs Trial Brief filed on 5-18-16			

EXH. No.	Description	Obj.	Date	Admitted
1	Transcript from 8/24/15 Debtor Examination of Campbell	X	7/26/16	X
2	Transcript from 2/20/15 Debtor's Examination of Campbell in CA	X	7/26/16	X
3	Campbell's 5/28/15 Document Production (including cover letter and produced documents) EXCLUDING 3-3 to 3-8	X	7/26/16	X
4	Campbell's 4/25/16 Document Production (including cover email from Campbell)	X	7/26/16	X
4-1.1	Front Page Campbell's 4/25/16 Document Production (including cover email from Campbell)	X	7/27/16	X
5	Campbell's 4/25/16 Letter to Clark re Document Production	X	7/26/16	X
6	Campbell's 4/26/16 Document Production	X	7/26/16	X
7	7/10/15 Faxed Letter from Campbell to Clark	X	7/26/16	X
8	Campbell's Sworn Opposition to Motion for Contempt	X	7/26/16	X
10.	Transcript from 10/29/10 Deposition of Campbell in CA	X	7/26/16	X
11	Campbell's 11/25/14 Responses to Plf's 1 st Set of Interrogatories in CA action	X	7/26/16	X
12	6/21/12 Order of Domestication		7/26/16	X

EXHIBIT/WITNESS LIST

13	4/1/15 Amended Order Granting Motion for Judgment Debtor's Examination		7/26/16	X
15	4/23/15 Letter from Campbell to Clark re Document Production	X	7/26/16	X
16	4/30/15 Letter from Clark to Campbell re Document Production	X	7/26/16	X
17	5/19/15 Letter from Clark to Campbell re Document Production	X	7/26/16	X
18	6/19/15 Letter from Clark to Campbell re Document Production	X	7/26/16	X
32	Campbell's 4/27/16 Document Production (including cover email)	X	7/26/16	X
33	May 2016 Emails between Campbell and Clark re Informal Interview		7/26/16	
34	Campbell's Signed Affidavit of Compliance	X	7/26/16	X
36	11/3/15 Affidavit of Clark with Exh. A		7/26/16	X

Taking Judicial Notice:

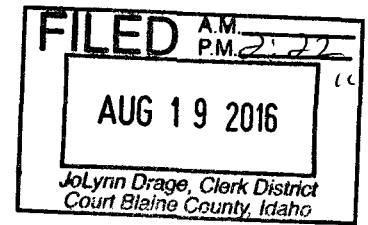
EXH. No.	Description	Obj.	Date
19	10/10/07 Complaint filed in the case captioned C&M Investment Group, Ltd. V. Philip Richard Powers etal. (Case No. BC378888) (Exh. A of Plf's Request for Judicial Notice)	X	7/26/16
20	11/17/08 Amended Complaint filed in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership V. Philip Richard Powers etal. (Case No. BC378888) (Exh. B of Plf's Request for Judicial Notice)	X	7/26/16
21	Los Angeles Superior Court's 2/4/10 Order Granting Plf's Motion for Summary Judgment Adjudication Against Def. Campbell for Constructive Fraud (Exh. C to Plf's Request for Judicial Notice)	X	7/26/16
22	Los Angeles Superior Court's 11/2/10 Minute Order Imposing Terminating Sanctions and Entering Default as to Defendants in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. D to Plf's Request for Judicial Notice)	X	7/26/16
23	Los Angeles Superior Court's 11/1/11 Minute Order Imposing Monetary Sanctions Against Neil David Campbell in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. E to Plf's Request for Judicial Notice)	X	7/26/16
24	Los Angeles Superior Court's 12/13/11 Order Granting Plf's Motion for Summary Judgment Against Defendant Neil David Campbell in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. F to Plf's Request for Judicial Notice)	X	7/26/16
25	Los Angeles Superior Court's 11/13/11 Judgment Against Defendant Neil David Campbell in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. G to Plf's Request for Judicial Notice)	X	7/26/16
26	Chapter 615-the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance, Part 3, Sec. 20 (Exh. H to Plf's Request for Judicial Notice)	X	7/26/16
27	31 C.F.R. Sec. 1010.430 (Exh. I to Plf's Request for Judicial Notice)	X	7/26/16
28	31 C.F.R. Sec. 1020.410 (Exh. J to Plf's Request for Judicial Notice)	X	7/26/16
29	CA Bus. & Prof. Code Sec. 6148 (Exh. K to Plf's Request for Judicial	X	7/26/16

EXHIBIT/WITNESS LIST

	Notice)		
30	CA Prof. Conduct Rule 3-700 (Exh. L of Plf's Request for Judicial Notice)	X	7/26/16
31	FL St. Bar Rule 4-1.4 (Exh. M of Plf's Request for Judicial Notice)	X	7/26/16

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076

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Luke L. Dauchot, CA Bar No. 229829, OH Bar No. 0039935, IL Bar No. 6193611
Lauren Schweitzer, CA Bar No. 301654
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

**PLAINTIFFS' PROPOSED
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

TABLE OF CONTENTS

I. PROCEDURAL HISTORY1

II. FINDINGS OF FACT: CASE BACKGROUND2

III. CIVIL CONTEMPT FINDINGS OF FACT.....3

 A. Findings of Fact Specific to Count 17

 B. Findings of Fact Specific to Count 810

IV. CRIMINAL CONTEMPT FINDINGS OF FACT.....12

 A. Campbell’s False Testimony Related to the Source of Funds Used to Open his Bank of America Account, His Car, and Where he Lived (Counts 11–17)14

 B. Campbell’s False Testimony About the Source of a Large Cash Deposit to His Bank of America Account (Count 18).....20

 C. Campbell’s False Testimony Related to the Company in Whose Name Campbell Opened the Hong Kong Account (Count 19).....22

 D. Campbell’s False Testimony Related to the Source of Large Cash Deposits to Campbell’s Zions Bank Account (Counts 20–30)23

 E. Campbell’s False Testimony About How He Paid his Rent (Counts 31-34)35

 F. Affirmative Defenses Asserted as to the Criminal Counts39

V. CIVIL CONTEMPT Conclusions of law40

 A. Elements and Burden of Proof.....40

 B. Effect of Powers of Attorney41

 C. Conclusions of Law Specific to Count 143

 D. Conclusions of Law Specific to Count 843

VI. CRIMINAL CONTEMPT CONCLUSIONS OF LAW44

 A. Elements44

 B. Lies During the Debtor’s Exam and in the Context of this Case Are Relevant to Plaintiffs’ Criminal Contempt Counts45

 C. Conclusions of Law Regarding Campbell’s Affirmative Defense of Past Inability to Comply46

 D. Conclusions of Law Regarding Campbell’s False Testimony Related to the Source of Funds Used to Open his Bank of America Account, His Car, and Where He Lived (Counts 11–17) 47

 E. Conclusions of Law Regarding Campbell’s False Testimony About the Source of a Large Cash Deposit to His Bank of America Account (Count 18).....49

F. Conclusions of Law Regarding Campbell’s False Testimony Related to the Company in Whose Name Campbell Opened the Hong Kong Account (Count 19).....49

G. Conclusions of Law Regarding Campbell’s False Testimony About the Source of Large Cash Deposits to Campbell’s Zions Bank Account (Counts 20–30).....50

H. Conclusions of Law Regarding Campbell’s False Testimony About How He Paid his Rent (Counts 31-34).....53

VII. Summary of Findings and Conclusions54

Plaintiffs C&M Investment Group, LTD and Karlin Holdings Limited Partnership (collectively “Plaintiffs”) hereby respectfully submit the following proposed Findings of Fact and Conclusions of Law.

I. PROCEDURAL HISTORY

1. On November 3, 2015, Plaintiffs moved for an order holding Defendant Neil Campbell (“Campbell”) in contempt.

2. On February 1, 2016, Plaintiffs filed the Charging Affidavit, setting forth ten counts of civil contempt (Counts 1–10) and twenty-four counts of criminal contempt (Counts 11–34). The Charging Affidavit alleged the specific facts constituting the alleged contempt and set forth each instance of alleged contempt separately. It also alleged that Campbell was served with a copy of the April 1, 2015 Amended Order (“the Amended Order”) underlying the civil contempt counts, and alleged facts indicating that Campbell had actual knowledge of that order.

3. On February 22, 2016, the Court held a hearing at which Campbell denied each count of contempt charged against him. During this hearing, the Court informed Campbell: of the charges of contempt against him, the possible sanctions for the contempt; that Campbell was not required to make a statement and that any statement made may be used against him; that Campbell had a right to a trial; that Campbell had a right to confront the witnesses against him, including watching the witnesses testify in court and questioning them; and that Campbell had the right to be represented by an attorney and that if Campbell desired an attorney and could not afford one, an attorney would be appointed at public expense. After being informed of these rights, Campbell denied each charge of contempt against him.

4. On June 18, 2016, the Court denied Campbell’s request to file three untimely supplemental affirmative defenses based on sufficiency of service, ruling that Campbell may only assert the two (also untimely) affirmative defenses that Plaintiffs stipulated that Campbell

could file: past inability to comply with the Court's order (as to the criminal counts) and present inability to comply with the Court's order (as to the civil counts).

5. The above-entitled case and cause came before the Court for trial, sitting without a jury on the 26th and 27th day of July 2016. Erin Clark of Lawson Laski Clark & Pogue, PLLC and Lauren Schweitzer of Kirkland & Ellis, LLP appeared for and on behalf of Plaintiffs. Lee Ritzau of Luboviski, Wygle, Fallowfield & Ritzau, P.A. appeared for and on behalf of Defendant Neil Campbell ("Campbell").

II. FINDINGS OF FACT: CASE BACKGROUND

6. This case stems from Plaintiffs' efforts to collect on a judgment entered in a California case for fraud and related claims. In October 2007, Plaintiffs sued Philip Richard Powers ("Powers") and his corporate entities in Los Angeles Superior Court (the "California suit") alleging that Powers cheated Plaintiffs out of millions of dollars in connection with a Costa Rican teak farming business. RJN Ex. A. Though Campbell was involved with this business, Plaintiffs did not name him as a defendant in their initial complaint. *Id.*

7. In late 2008, Plaintiffs amended the complaint to add Campbell as a defendant. RJN Ex. B. Plaintiffs alleged that Campbell had secretly received millions of dollars in improper kickbacks from Powers. *Id.* ¶¶ 21–23, 81–99.

8. On February 4, 2010, the California court entered partial summary judgment against Campbell for over \$1.5 million—the amount of secret profits Plaintiffs were able to prove at that time. RJN Ex. C; RJN Ex. F at 2.

9. Because of Campbell's ongoing discovery abuses in the California suit, on November 2, 2010, the California court imposed terminating sanctions against Campbell, striking his answer, and entering a default against him. RJN. Ex. D; RJN Ex. F. at 3. Plaintiffs thereafter filed a third amended complaint, which Campbell answered. RJN Ex. F at 3.

10. On November 1, 2011, the California court granted Plaintiffs' motions to (1) compel Campbell to respond to interrogatories and requests for production and (2) to attend his deposition. The Court imposed monetary sanctions against Campbell in connection with both of these motions. RJN Ex. E.

11. On December 13, 2011, the California court granted summary judgment in Plaintiffs' favor, finding Campbell liable for fraud and related claims. RJN Ex. F. The Court entered judgment against Campbell for over \$24 million. RJN. Ex. G.

12. On June 21, 2012, after filing the California Judgment in Idaho, Plaintiffs obtained an order from this Court domesticating the Judgment. Ex. 12.

13. On March 23, 2015, the Court granted Plaintiffs' Motion for a Judgment Debtor's Examination. Ex. 511. The Court amended this order twice, first on April 1, 2015, and again on August 3, 2015, to change the date for the debtor's examination. Exs. 13; 512; 513.

III. CIVIL CONTEMPT FINDINGS OF FACT

14. The April 1, 2015 Amended Order (the "Amended Order") compelling Campbell to appear for his debtor's examination also required Campbell to produce documents, including in part, documents "evidencing any payments made by Defendant to any legal counsel over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments," and "all records relating to financial accounts (savings accounts, checking accounts, or otherwise) maintained in Defendant's name or to which Defendant has access for the time period commencing January 1, 2012 to the present date." Ex. 13-2 & 13-3.

15. The Amended Order required Campbell to produce the responsive documents no later than 30 days prior to the scheduled May 11, 2015 debtor's examination. Ex. 13-2.

16. As of April 13, 2015—Campbell's deadline to produce documents—Campbell had produced no documents whatsoever to Plaintiffs. *See* Ex. 15.

17. Plaintiffs filed a motion for contempt against Campbell on April 21, 2015 alleging Campbell had failed to comply with the Court's April 1, 2015 Amended Order.

18. On the following day, April 22, 2015, Campbell provided Plaintiffs with a handwritten statement asserting that (1) the documents evidencing his payment of his legal fees were protected by the attorney-client privilege; and (2) he had only one bank account with Zions Bank and he did not have to produce the documents because it was used for the direct deposit of his social security funds, which he asserted was exempt from Plaintiffs' judgment. Ex. 15. At this time, Campbell produced no documents to Plaintiffs in response to the April 1, 2015 Amended Order. *Id.*

19. Despite Campbell's assertion in his April 22, 2015 statement that he had only one bank account, he actually had accounts with three banks during the relevant time period: Zions Bank, Bank of America, and HSBC in Hong Kong. Exs. 3-9 to 3-198; 11-4.

20. On April 30, 2015, Plaintiffs' counsel sent Campbell a letter addressing Campbell's claim that he did not have, or was not required to produce, any documents in response to the April 1, 2015 Amended Order. Ex. 16. This letter provided detailed, easy-to-understand information as to what Campbell needed to produce to comply with the Amended Order. *Id.*

21. On May 19, 2015, Plaintiffs' counsel sent another letter to Campbell confirming the discussion they had had the previous day regarding Campbell's obligation to produce the responsive documents. Ex. 17.

22. Campbell ultimately produced some documents to Plaintiffs. He produced documents on May 28, 2015; April 25, 2016; April 26, 2016; and April 27, 2016. Exs. 3, 4, 6,

32. There is no evidence that Campbell ever produced to Plaintiffs any documents other than those produced on these four dates.

23. As discussed below, the documents produced on these four dates omitted certain responsive documents that the Amended Order required him to produce.

24. On May 28, 2015, Campbell provided Plaintiffs with a handwritten statement and a portion of the documents responsive to the Amended Order. Ex. 3. In this production, Campbell provided a portion of his Bank of America checking account records from June 2012 through February 2013 (Ex. 3-9 to 3-40) and his Zions Bank checking account records from November 2011 through May 2015 (Ex. 3-41 to 3-198). Campbell provided no documents evidencing his payments to his lawyers, the cancelled checks from his Bank of America account, his Bank of America account records for the time prior to June 2012, or any documents relating to his HSBC account. *See generally* Ex. 3.

25. In his May 28, 2015 written statement, Campbell identified five lawyers that he had engaged during the time period set forth in the Amended Order: Michael Taitelman, David Flyer, Jonathan Michaels, Dyke Huish and Robert Turffs. Ex. 3-1. In his written statement, Campbell claimed that each of these lawyers “have been contacted and refuse to produce documents, stating two reasons, attorney work product and that I am no longer there [*sic*] client.” Ex. 3-1.

26. Campbell later identified two additional lawyers that he engaged during the relevant time period: Susan Roy and Steve Thompson. Exs. 1-74; 8-5.

27. On June 19, 2015, Plaintiffs’ counsel sent Campbell another letter setting forth the deficiencies in his production of documents. Ex. 18. In this letter, Plaintiffs’ counsel asked Campbell to produce the remaining responsive documents no later than July 10, 2015. *Id.*

Campbell did not produce any additional documents to Plaintiffs on or before to July 10th. *See supra* ¶ 22.

28. On July 10, 2015, Campbell provided to Plaintiffs' counsel a signed statement claiming that he could not obtain the remaining unproduced documents from his "prior banks." Ex. 7-1. He also now claimed that "[s]ome of the lawyers were paid a flat fee and did not send monthly statements, and they don't have documents showing payments to them. Other of the lawyers are refusing to give the documents to me because they are privileged and wont [*sic*] give them to me." Ex. 7-1.

29. On November 20, 2015, Campbell filed his sworn Opposition to Plaintiffs' motion for contempt. Ex. 8. In his Opposition, Campbell claimed that Huish and Michaels were each paid a flat fee and thus never prepared or sent any bills. Ex. 8-5 & 8-6. Campbell also claimed that Flyer, Taiteman [*sic*], Turffs, and Thompson refused to provide Campbell with copies of bills because "the documents are their work product." Ex. 8-6. In the next paragraph, Campbell inconsistently stated that "as to Michael Taiteman [*sic*], I have made several attempts to contact him to get the information for Ms. Clark, but I cannot get him to return my calls." *Id.*

30. On February 1, 2016, Plaintiffs filed the Charging Affidavit in Support of their Motion for Order Finding Campbell in Contempt. A hearing was held on February 22, 2016, during which time Campbell denied all of the civil contempt charges. During this hearing, the court set the trial on Plaintiffs' Contempt Motion for May 4, 2016. Trial Tr. at 192:24–193:10.

31. From May 28, 2015 through April 25, 2016, Campbell provided Plaintiffs with no additional documents or information in response to the Amended Order.

32. On April 25, 26, and 27, 2016—approximately one week prior to the scheduled trial date—Campbell produced additional documents and information to Plaintiffs in response to the Court’s Amended Order. Exs. 4, 6, 32.

33. Notwithstanding his earlier claims that his lawyers refused to give him records of his fee payments, in his April 2016 productions, Campbell produced documents reflecting his payments to Michaels, Huish, Turffs, Thompson, Roy, and Taitelman. Exs. 4-4 to 4-6; 4-23 to 4-24; 4-95 to 4-96; 4-97 to 4-100; 4-102 to 4-104; 4-156 to 4-162; 4-163 to 4-167; 32-2. Campbell also produced payment records from Michael France. Ex. 4-153 to 4-155. Campbell did not produce any records related to his payments to Flyer.

34. In the wake of this supplemental production, Plaintiffs agreed to continue the trial date to May 25, 2016. The trial date was continued again to July 26-27, 2016.

35. During the trial of the civil contempt charges, Campbell testified that he has now, to his belief, produced all documents responsive to Counts 2-7 set forth in the Charging Affidavit. Trial Tr. at 195:2–8. Also, in the affidavit of compliance that Campbell signed and delivered to Plaintiffs’ counsel, which was admitted as Trial Exhibit 34, Campbell certified that he has produced all documents relating to his Bank of America account from June 2012 through present. Ex. 34-2. Based on these representation, Plaintiffs dismissed without prejudice these eight counts and proceed only on Counts 1 and 8 of the civil contempt charges.

A. Findings of Fact Specific to Count 1

36. Count 1 of the Charging Affidavit charges Campbell with civil contempt for his failure to produce the documents evidencing the payments he made to David Flyer (“Flyer”). Charging Affidavit at 3.

37. Flyer is a California lawyer who represented Campbell in connection with the civil action filed against him by Plaintiffs in November 2008. Ex. 1 at 24:16-24; RJN Ex. B.

38. Campbell employed Flyer at some time between 2009 and the present—i.e., during the time period covered by the Amended Order. Exs. 7; 8-5. Campbell made payments to Flyer for legal fees. Ex. 2 at 14:13–19.

39. Under the Amended Order, Campbell was required to produce documents evidencing his payments to Flyer. *See* Ex. 13-2.

40. To date, Campbell has produced no documents evidencing his payments to Flyer. Trial Tr. at 193:17–194:2.

41. There is no evidence that Campbell is presently unable to comply with the Court's Amended Order requiring him to produce any and all documents evidencing his payments to Flyer.

42. The Court does not find credible Campbell's statements that Flyer refuses to provide records. Campbell first claimed that Campbell himself refused to provide these records because of attorney-client privilege, then claimed that the lawyers refused to provide these records because they are attorney work product and Campbell is no longer a client, and finally claimed that some attorneys didn't have payment records while others (including Flyer) refused to provide them because these documents were those attorneys' work product. It defies credulity that these attorneys would each independently misconstrue the attorney work product rule in the same fashion, which conveniently aligns with Campbell's own improper attempt to invoke the attorney-client privilege. Moreover, Campbell's shifting story about these records calls into question his veracity. Finally, notwithstanding his earlier pleas that his attorneys would not provide the documents (or that none existed), on the eve of the formerly scheduled trial date, Campbell successfully produced payment records from his seven other attorneys.

43. There is no evidence that documents reflecting Campbell's payments to Flyer do not exist. In fact, Campbell does not deny that these records exist. *See, e.g.*, Exs. 3-1, 7; 8-5.

44. The fact that Campbell was able to produce documents evidencing his payments to the other seven attorneys he engaged during the relevant time period shows that he is capable of obtaining such records. Ex. 4-4 to 4-6; 4-95 to 4-104; and 4-153 to 4-167.

45. As an attorney in California, Flyer is required to provide bills to a client who requests them. RJN Ex. K at 1. Moreover, after an engagement has terminated, Flyer is required to "promptly" release all client papers and property upon the client's request—including all correspondence, and thus bills. RJN Ex L at 2. This evidence is unrefuted.

46. Flyer no longer represents Campbell. *See* Ex. 3-1

47. Because Campbell employed Flyer and paid him for legal fees, Flyer must provide Campbell with bills upon Campbell's request. Moreover, because Campbell is his former client, Flyer must provide Campbell with correspondence, including that related to Campbell's payment of fees to Flyer. *See* RJN Ex. K at 1; RJN Ex. L at 2.

48. Campbell has the present ability to comply with the Amended Order insofar as it relates to Count One.

49. During trial, Campbell presented as evidence ten documents purporting to confer on Plaintiffs' counsel a limited power of attorney purportedly allowing Plaintiffs' counsel to obtain records from David Flyer. Ex. 501.

50. Contrary to Campbell's assertion and for the reasons discussed *infra* in the Court's conclusions of law, providing Plaintiffs with this limited power of attorney does not constitute compliance with the Court's Amended Order insofar as it relates to Count One. The Court's Amended Order directed *Campbell to produce* the attorney payment records at issue.

B. Findings of Fact Specific to Count 8

51. Count 8 of the Charging Affidavit charges Campbell with civil contempt for his failure to produce all records relating to his HSBC bank account in Hong Kong. Charging Affidavit at 4.

52. The Court's Amended Order required Campbell to produce records for all financial accounts for the time period commencing January 1, 2012. Ex. 13-3.

53. In "early 2010," Campbell opened a bank account with HSBC Hong Kong (the "Hong Kong Account"). Ex. 11-4. The account holder was a Hong Kong company that Campbell owned, and Campbell was the account's beneficiary. Ex. 2 at 22:20–24:18; 11-4. At or around the time he opened the account, Campbell made an initial deposit of \$300,000 into the Hong Kong Account. Ex. 2 at 27:15-17.

54. Campbell testified that he transferred the \$300,000 out of the Hong Kong Account at some point after his arrest. Ex. 2 at 29:8–21. Campbell was arrested in June 2013. Ex. 2 at 16:24–17:14.

55. Thus, the Hong Kong account was open and active between January 1, 2012 and the present—i.e., the time period covered by the Amended Order.

56. The Amended Order therefore required Campbell to produce records related to the Hong Kong Account.

57. None of Campbell's productions in evidence contains any records related to the HSBC Hong Kong Account. *See generally* Exs. 3, 4, 6, 32. To date, Campbell has produced no bank records from the Hong Kong Account.

58. There is no evidence that Campbell is presently unable to comply with the Court's Amended Order requiring him to produce the Hong Kong account records.

59. Under Hong Kong's record keeping ordinance, a financial institution such as HSBC Hong Kong must keep records of each transaction for 6 years from the transaction's date. RJN Ex. H at 2. Hong Kong's financial institutions must also keep the customer's account file, copies of documents obtained while verifying the identity of the customer or any beneficial owner of the customer, and business correspondence with the customer and the customer's beneficial owner for 6 years after the business relationship ends. *Id.*

60. Thus, for example, HSBC is required to keep records of the wire transfer of \$300,000 out of the Hong Kong Account—which occurred sometime after June 2013—until at least June 2019. *See id.*

61. Similarly, given that the Hong Kong Account was open at least as of June 2013, HSBC must keep copies of documents used to verify the identities of Mosaic Orange (the account holder) and Campbell (its beneficial owner) until at least June 2019. *See id.*

62. During his debtor's examination, Campbell testified that he did not remember the name of the company in whose name he opened the Hong Kong Account. Ex. 1 at 41:15–19.

63. Campbell admits that, as of April 25, 2016, he now knows the name of the company in whose name the account was opened: Mosaic Orange. Ex. 5-2. There is no evidence that Campbell made any effort to obtain records related to the Hong Kong Account since learning the name of the company in whose name he opened the account.

64. There is no evidence that Campbell has asked HSBC to search for records related to the Hong Kong Account by using his own identifying information. Instead, Campbell testified that he did not remember whether he gave HSBC his name and social security number and asked them to search for records. Ex. 1 at 44:25–45:2.

65. Thus, records for the Hong Kong Account that are responsive to the Amended Order exist. Yet Campbell has not produced any records for this account. He has also failed to take basic steps that could lead to the production of these records.

66. Campbell has the present ability to comply with the Amended Order insofar as it relates to Count Eight.

67. During trial, Campbell presented as evidence a document purporting to confer on Plaintiffs' counsel a limited power of attorney purportedly allowing Plaintiffs' counsel to obtain "[a]ll records relating to Neil Campbell's HSBC bank account," and "[a]ll records relating to Mosaic Orange's HSBC bank account which Mr. Neil Campbell may have access to[.]" Ex. 508. Of note, this limited power of attorney does not state that Campbell is authorized to grant such powers of attorney on Mosaic Orange's behalf. *See id.*

68. Contrary to Campbell's assertion and for the reasons discussed *infra* in the Court's conclusions of law, providing Plaintiffs with this limited power of attorney does not constitute compliance with the Court's Amended Order insofar as it relates to Count Eight. The Court's Amended Order directed *Campbell* to *produce* the bank records at issue.

IV. CRIMINAL CONTEMPT FINDINGS OF FACT

69. The following findings of fact are based solely on the documentary evidence admitted or judicially noticed during trial. They are not based in any way on Campbell's testimony during trial (which related only to the civil contempt counts).

70. On August 24, 2015, Campbell appeared before this Court in response to the Court's Second Amended Order setting his debtor's examination for that date. Ex. 1-4. The Court put Campbell under oath prior to the debtor's examination. Ex. 1-3.

71. During the August 24, 2015 examination, Plaintiffs' counsel asked Campbell a series of basic questions about his finances and living situation. To nearly every one of these

questions, Campbell responded with “I don’t know” or “I don’t remember.” Ex. 1 at 33:22–34:7, 34:17–25, 35:1–7, 35:12–15, 35:25–37:22, 38:18–24, 41:15–22, 49:10–15, 49:24–50:16, 52:8–54:5, 54:24–55:25, 56:21–57:3, 57:17–58:10, 58:12–59:8, 60:2–61:17, 62:5–9, 65:9–14, 71:14–20, 71:23–72:12, 72:16–74:6.

72. The sheer volume of basic facts that Campbell claimed he did not remember during his August 2015 debtor’s examination shows that this testimony is not credible. Instead, these answers were part of Campbell’s ongoing effort to evade Plaintiff’s judgment collection efforts.

73. From the fraudulent scheme perpetrated against Plaintiffs, through the related California litigation and subsequent judgment enforcement efforts, Campbell has followed a pattern of lying to Plaintiffs about his finances.

74. Campbell was found guilty of defrauding Plaintiffs of millions of dollars, including concealing millions of dollars in improper kickbacks. RJN Ex. C; RJN Ex. F at 11–18.

75. On November 25, 2014, during Plaintiffs’ judgment collection efforts, Campbell gave sworn, false answers to interrogatories about his finances. Ex. 11-3, 11-4. Specifically, the interrogatories asked Campbell to “state how much your monthly income is, broken down by source (e.g. employment, Social Security payments, interest, etc.)” Campbell responded that he had no income. Ex. 11-3. Campbell also averred that he did not maintain any bank accounts. Ex. 11-4. In contrast, Campbell’s bank records show that (1) he received Social Security payments in November 2014, Ex. 3-177; and (2) he had a bank account at Zions bank during November 2014, *id.*

76. Additionally, during his February 20, 2015 debtor’s exam in the California proceeding, Campbell testified that he was “basically penniless” as of that date. Ex. 2 at 59:9–

11. However, Campbell's bank records show that (1) less than 10 days before his examination, Campbell wrote checks to Robert Durringer (who was supposedly then regularly covering Campbell's expenses) for \$17,000, Ex. 3-189; and (2) even after these checks were processed, Campbell still had over \$13,000 in his Zions Bank account in February 2015, Ex. 3-187.

77. Thus, Campbell has shown a pattern of lying to *these Plaintiffs* about the *particular subject* of his finances in the *particular context* of *this litigation*. In sum, Campbell has shown a pattern and corresponding intent to lie to Plaintiffs about his finances to keep them from obtaining the money of which Campbell defrauded them.

A. Campbell's False Testimony Related to the Source of Funds Used to Open his Bank of America Account, His Car, and Where He Lived (Counts 11–17)

78. In late May 2012, Campbell opened a bank account with Bank of America. The earliest bank statement in evidence from this account covers the period of June 8, 2012 to July 9, 2012. Ex. 3-37. The starting balance of the account for this time period was \$24,715. Ex. 3-38. Notably, during this one month time period, Campbell wrote checks and took cash out of the account in an amount exceeding \$22,000. Ex. 3-39. It is unclear why Campbell apparently opened a new bank account and immediately drained almost all of the funds initially deposited into it.

79. At the time Campbell opened this account, Campbell's sole source of income was supposedly his \$1,600 per-month Social Security payment. Ex. 1 at 35:8–11. Campbell also admitted that during this time his monthly expenses each month exceeded his monthly income. *Id.* at 51:14–19. Campbell also testified that when he moved in late 2011, he had not brought any asset with him from Florida worth more than \$10,000. *Id.* at 36:5-7. Moreover, he opened this account within six months of depositing over \$30,000 in cash into his Zions bank account. Ex. 3-49, 3-55, 3-61, 3-67.

80. During the debtor's examination, Campbell was asked where he obtained the money to open this Bank of America account. He responded that he had "no idea." Ex. 1 at 34:3-4. Campbell was then asked to identify the possible sources of the \$24,000, to which he responded "I don't know." *Id.* at 34:20-25. He was asked if he owned a car, to which he responded "I don't remember." *Id.* at 35:4-5. He was asked where he was living, to which he responded "I don't remember." *Id.* at 35:12-15. These are questions that any reasonable person would have known the answer to, especially since Campbell claimed that he had brought no asset with him from Florida that was worth more than \$10,000. *Id.* at 36:5-7.

81. Campbell's statement that he did not remember where he was living in 2012 exemplifies the evasive and false nature of this testimony. Immediately before Campbell gave this testimony, Plaintiffs' counsel showed Campbell his Bank of America statement from the period starting June 8, 2012. This statement showed the addressee as "Neil D Campbell" with a listed address of 2804 Summit Dr., Sun Valley, ID 83353. Exs. 1 at 33:19-24; 3-37. The questions about where Campbell lived were made during the course of asking questions about this June 2012 statement. Ex. 1 at 33:19-35:15. There is no indication in the transcript that counsel removed from Campbell's sight the June 2012 statement with Campbell's address before asking him where he lived in June 2012. *See id.* He thus looked at the June 2012 statement listing his address and still had that statement in front of him when he testified that he did not remember where he was living at that time. This testimony is not credible and shows that Campbell's memory loss was feigned.

82. Months after giving this testimony and on the eve of the previously scheduled May 4, 2016 trial date, Campbell produced to Plaintiffs a handwritten statement and documents showing that his August 2015 testimony was false. On April 25, 2016, Campbell sent to

Plaintiffs' counsel a handwritten statement admitting that he "owned a car a 2006 Corvette it was sold either in 2011 or 2012, it was the last car I owned." Ex. 5-1. Campbell signed this statement, averring that the contents were true and correct to the best of his ability. Ex. 5-2.

83. On April 26, 2016, Campbell produced copies of the cancelled checks and deposit slip from his Bank of America bank account. Ex. 6. These records establish that Campbell received a check for \$27,900 from Larry H. Miller Toyota dealership on March 28, 2012, presumably as payment for the Corvette he sold. Ex. 6-5. Campbell did not deposit this check into his existing Zions bank account. Instead, Campbell held onto this check and used it to open his new Bank of America account on May 23, 2012. Ex. 6-3.

84. Campbell did not testify truthfully when he testified as set forth below in paragraphs 86 through 98 because there is no way he did not remember moving to Idaho from Florida with a Corvette, selling that Corvette, and using the check he received from the Toyota dealership to open the Bank of America account. Indeed, Campbell must have either driven the Corvette across the county himself, or paid to have it shipped. It is further inconceivable that someone purportedly living off of social security would not remember receiving nearly \$28,000 for the sale of a car.

85. Moreover, it is simply not credible that Campbell would have no idea of the source from which he obtained almost \$25,000—particularly when his sole income was \$1,600 per month, his monthly expenses exceeded his income, and he supposedly had come to Idaho less than a year earlier with no asset worth more than \$10,000.

86. Count Eleven of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully in his debtor's examination about the source of the June 2012 opening balance in his Bank of America account as follows:

Q. So this is the statement from June 8th, 2012, through July 9th, 2012; correct?

A. Correct.

Q. And in there they have the beginning balance on June 8th, 2012, as being \$24,715.35; correct?

A. Correct.

Q. Where did that money come from?

A. I have no idea at this point.

Ex. 1 at 33:22-34:4.

87. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Eleven.

88. Count Twelve of the contempt charges states Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you opened an account and you put nearly \$25,000 into it. Did it come from your Zions account?

A. I don't remember.

Id. at 34:5-7.

89. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twelve.

90. Count Thirteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What would the possibilities be for the origination of this money?

A. I don't understand the question.

Q. What possibly – where possibly could this money have come from?

A. I don't remember.

Q. I understand you don't remember. I want to know what the possibilities were.

A. I don't know.

Id. at 34:17-25.

91. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirteen.

92. Count Fourteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own any assets at that time that you sold?

A. I don't remember.

Id. at 35:1-3.

93. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Fourteen.

94. Count Fifteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own a car at that time?

A. I don't remember.

Q. You don't remember if you owned a car in 2012?

A. No, I don't.

Id. at 35:4-7.

95. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Fifteen.

96. Count Sixteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where were you living?

A. In 2012?

Q. June of 2012.

A. I don't remember.

Id. at 35:12-15.

97. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Sixteen.

98. Count Seventeen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Clearly, you were living in Idaho when you opened up the Bank of America account; correct?

A. Yes.

Q. And you had moved from Florida; right?

A. Correct.

Q. What assets of a more than \$10,000 value did you bring with you from Florida?

A. I didn't.

* * *

Q. So, again, if you had no assets worth more than \$10,000 and you were living solely off of Social Security, what were the possible sources for you to be able to put \$24,000 into a bank account in June of 2012?

A. I don't remember where the funds came from.

* * *

Q. Well, Mr. Campbell, I'm just going to remind you again that you are here under penalty of perjury.

A. Um-mm.

Q. And to say that you don't remember where \$24,000 came from when you're saying that you have no assets and no income other than Social Security, it just does not ring true.

A. Well, I don't remember where the \$24,000 came from.

Id. at 35:25-37:22.

99. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Seventeen.

B. Campbell's False Testimony About the Source of a Large Cash Deposit to His Bank of America Account (Count 18)

100. On November 30, 2012, Campbell deposited nearly \$3,500 into his Bank of America account. Ex. 3-18. Campbell made this deposit within a year of depositing over \$30,000 in cash into his Zions Bank account (Ex. 3-49, 3-55, 3-61, 3-67), and within six months of depositing over \$25,000 into the Bank of America account (Exs. 3-38; 6-3).

101. During his sworn Debtor's exam, Campbell testified that he did not know where he obtained nearly \$3,500 in cash that he deposited in November 2012. Ex. 1 at 38:18-24.

102. Campbell did not testify truthfully when he testified as set forth below in

paragraph 104 because there is no way he forgot where he received nearly \$3,500, which he then deposited into his Bank of America account. Campbell claimed that his sole source of income at this time was his monthly social security payment of roughly \$1,600. Ex. 1 at 35:8–11. Anyone living off \$1,600 per month would know where he received a check that exceeded more than twice his monthly income. Moreover, he only made two deposits into this account after it was opened: \$500 on November 2, 2012 and \$3,410 on November 30, 2012. Ex. 3-39, 33, 30, 26, 22, 18, 13, 9. Given the infrequent nature of the deposits, he had to have known where a relatively large amount of money came from.

103. Moreover, the documents that Campbell produced in April 2016 now show that this deposit was a federal tax refund and that when he made this deposit he took \$1,500 in cash and deposited the remainder. Ex. 6-31 & 6-33. A tax refund is a remarkable event, given that it typically occurs only once per year. Additionally, the fact that Campbell simultaneously obtained \$1,500 in cash—roughly equivalent to his total monthly income—would have made this event memorable. It is thus not credible that Campbell forgot how he obtained the money.

104. Count Eighteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. And that on November 30th, 2012, you deposited \$3,410; right?

A. That's what it states, yes.

Q. Where did that money come from?

A. I have no idea.

Q. Where could it have come from?

A. I don't know.

Ex. 1 at 38:18-24

105. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Eighteen.

C. Campbell's False Testimony Related to the Company in Whose Name Campbell Opened the Hong Kong Account (Count 19)

106. During his August 2015 debtor's examination, Campbell was also asked about the account he opened with HSBC in Hong Kong. In "early 2010," Campbell opened this offshore account and deposited into it \$300,000. Exs. 2 at 22:20–24:18, 27:15-17; 11-4. This was at or around the time of the California court's February 4, 2010 Order finding Campbell liable for constructive fraud and awarding to Plaintiffs over \$1.5 million. RJN Ex. C; RJN Ex. F at 2.

107. Though Campbell claimed that this account was set up for the purpose of doing business in Hong Kong, he admits that he never used this account to conduct any business. Ex. 2 at 24:12–25:10; 26:5–24.

108. During his August 2015 debtor's examination, Plaintiffs' counsel asked Campbell for the name of the company in whose name the Hong Kong Account was opened. Campbell claimed that he did not remember the name of the company—even though he deposited \$300,000 into a bank account in its name. Ex. 1 at 41:15–22. During his August 2015 examination, Campbell did not testify that he could obtain this name from his attorney or records; nor did he ask for an opportunity to search and respond to Plaintiffs at a later date. Instead, he simply said he did not remember.

109. This testimony is not credible. One does not forget the name of a company for which he opened a bank account and deposited \$300,000. Furthermore, Campbell testified that he had given the name of the company to HSBC when he contacted it about getting the account records. Ex. 1 at 41:6–9. If Campbell had known the name of the company when he asked for

the bank records after receiving the Amended Order in April 2015, he would have known the name of the company four months later during his August 2015 debtor's examination.

110. On April 25, 2016, Campbell provided Plaintiffs' counsel with a handwritten document stating, in relevant part, "Count 19 [the Count related to the HSBC Hong Kong Account owner]—Mosaic Orange." Ex. 5-2. Thus, on the eve of the previously scheduled May 4 trial date, Campbell was able to remember the company's name: Mosaic Orange. *Id.* It is simply not credible that Campbell would have remembered the name when he supposedly called HSBC in the Spring of 2015, forgotten it in August of 2015, and then suddenly remembered it again in April 2016 (nearly 1 year later).

111. Count Nineteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What was the name of the company that had the bank account with HSBC?

A. What was the name of the company?

Q. Yes.

A. I don't remember.

Q. You don't remember the name of a company that you set up a bank account and put \$300,000 into it?

A. No, I don't remember.

Ex. 1 at 41:15-22.

112. For the aforementioned reasons, Campbell made false statements under oath when he gave the sworn testimony underlying Count Nineteen.

D. Campbell's False Testimony Related to the Source of Large Cash Deposits to Campbell's Zions Bank Account (Counts 20–30)

113. Plaintiffs' counsel asked Campbell numerous questions about his Zions bank account records. The Zions bank account records cover the time from November 2011 to April 2015. Ex. 3.

114. From November 2011 through March 2012, Campbell made twelve different cash deposits into his account. These deposits include the following:

- a. \$4,000 on November 21, 2011 (Ex. 3-41)
- b. \$2,000 on November 30, 2011 (Ex. 3-41)
- c. \$5,000 on December 20, 2011 (Ex. 3-45)
- d. \$2,500 on December 28, 2011 (Ex. 3-45)
- e. \$700 on January 12, 2012 (Ex. 3-45)
- f. \$1,500 on January 18, 2012 (Ex. 3-45)
- g. \$1,000 on January 27, 2012 (Ex. 3-51)
- h. \$2,000 on January 30, 2012 (Ex. 3-51)
- i. \$2,500 on February 17, 2012 (Ex. 3-51)
- j. \$1,500 on February 22, 2012 (Ex. 3-57)
- k. \$2,600 on February 27, 2012 (Ex. 3-57)
- l. \$4,000 on March 20, 2012 (Ex. 3-63)
- m. \$1,600 on March 25, 2012 (Ex. 3-63)
- n. \$3,000 on March 30, 2012 (Ex. 3-63)

115. Thus, Campbell made \$30,200 in cash deposits into his Zions bank account over a four month period.

116. Significantly, Campbell made these cash deposits despite the fact that he also testified that, in 2012, his sole source of income was his Social Security payment of roughly \$1,600 per month. Ex. 1 at 35:8-11, 51:8-10.

117. Also at this time, Campbell was renting a condominium for \$1500 per month and had other large monthly expenses, such as Idaho Power, Cox Communications, Blue Cross, and other bills. Exs. 1 at 51:11-19; 3 at 41, 50, 55, 56, 67. As Campbell admitted, his monthly expenses each month exceeded his monthly income. Ex. 1 at 51:14-19.

118. During his August 2015 debtor's examination, Plaintiffs' counsel asked Campbell multiple questions about the source of the cash that he used to make these twelve deposits over the four month period. *See generally* Ex. 1 at 49-62. Campbell's testimony was evasive and contradictory on this issue.

119. Campbell's response to each of the questions about the source of the large amount of cash that he deposited in his Zions account between November 2011 and March 2012 was "I don't remember." Ex. 1 at 49:7-15, 57:2-13, 58:23-59:1, 62:5-9.

120. This testimony is not credible. Campbell moved to Idaho from Florida sometime prior to November 2011. Ex. 1 at 35:19-24. He testified that he brought no assets with him from Florida to Idaho worth more than \$10,000, other than certain items that were put into storage and subsequently seized by Plaintiffs. Ex. 1 at 36:5-16. He further testified that, although he had liquidated items while living in Florida, he did not come to Idaho with cash. Ex. 1 at 50:2-13; *see also* Ex. 1 at 49:16-19. It is not credible that anyone would forget where he received tens of thousands of dollars of cash, especially someone with a very limited income and purportedly no assets.

121. Although Campbell testified that he must have sold an asset to be able to make the cash deposits, he said he could not remember what asset that would have been. Ex. 1 at 49:20–23, 59:5-8. Furthermore, this testimony is in direct conflict with his testimony that he brought no asset worth more than \$10,000 with him from Florida to Idaho. Ex. 1 at 36:5–7.

122. Campbell did identify one asset—stock in a venture capital group—that he claimed *may* have been the source of the cash deposits. Ex. 1 at 52:12-19, 59:15-20. Notably, Campbell admits that he sold this stock prior to the issuance of the December 13, 2011 Judgment against him. Ex. 25 & Ex. 1 at 56:1-6. Moreover, in October 2010 Campbell testified that his venture capital stock was worthless. Ex. 10 at 86:20–87:17. It is thus unlikely that the stock went from being worthless in October 2010 to yielding a substantial amount of cash when sold sometime prior to December 13, 2011.

123. Regardless of the stock’s worth, this testimony still does not explain the multiple cash deposits. Campbell testified that he was paid by check for the stock sale, yet he made multiple *cash* deposits into his account. Ex. 1 at 55:17-23. Had Campbell sold the stock in the venture capital company and maintained the proceeds in cash, he would have had access to a pile of cash. Yet, when asked if he cashed the check and kept tens of thousands of dollars in cash in his condo, he answered, “Did I hold money? No.” *Id.* at 56:24–57:1. Immediately after making this statement, Campbell suddenly retreated from his stock sale response and claimed that he did not know if the money came from the stock sale. *Id.* at 57:17–58:1. When pressed on whether he liquidated items in Florida and came to Idaho with a “wad of cash,” Campbell responded “I don’t remember how that came about or how I ended up coming up with these deposits at this particular time.” *Id.* at 58:5-10.

124. Thereafter, Campbell was asked further questions about the source of the cash. He was asked whether he would deposit all of the cash he had in his possession each time he made a deposit. Campbell responded that he did not remember. Ex. 1 at 60:12–20.

125. On April 25, 2016—nine days before the previously scheduled May 4 trial date, Campbell sent to Plaintiffs’ counsel a handwritten statement admitting that when he moved to Idaho, he had a moving company deliver boxes of his family’s belongings, within which was some unspecified amount of cash “less than 100K.” Ex. 5-2. Campbell signed this statement, averring that the contents were true and correct to the best of his ability. *Id.*

126. As the foregoing illustrates, Campbell’s testimony during his August 2015 debtor’s exam regarding the source of his cash deposits was designed to obfuscate, not illuminate.

127. Campbell did not testify truthfully when he testified as set forth below in paragraphs 128–48 because he knew at that time that the cash he was depositing into his Zions bank account came from the box of cash he claims to have been keeping in a storage facility. It is simply inconceivable that anyone would forget putting approximately \$100K in cash into a box, hiring a moving company to transport it across the country, and then depositing large sums of cash taken from these boxes into a bank account. It is even less conceivable that someone would not remember these events in August 2015, but suddenly remember them in April 2016 (conveniently on the eve of the previously scheduled trial date). Furthermore, it is not credible that Campbell does not remember *exactly* what asset he liquidated to enable him to put approximately \$100,000 of cash into a box. Campbell knew the answers to the questions but chose to claim ignorance instead of providing truthful responses.

128. Count Twenty of the contempt charges states that Campbell committed criminal

contempt when he testified untruthfully regarding cash deposits he made in his Zions bank account as follows:

Q. Well, it's almost \$10,000 in cash in one month. Where could this have come from?

A. I don't remember.

Q. Did somebody give you \$10,000 in cash?

A. I don't remember how this was set up. This was back in 2011.

Ex. 1 at 49:10-15.

129. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty.

130. Count Twenty-One of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you already testified that you didn't have any asset that was worth more than \$10,000 other than what was in the storage units; correct?

A. Well, I – to answer your question, I don't – I didn't bring anything with me that I would liquidate unless it was liquidated in Florida.

Q. Were things being liquidated in Florida at this time?

A. I was living on things that were being liquidated in that time.

Q. Who was liquidating items in Florida?

A. I was.

Q. So you were in Idaho but liquidating items in Florida?

A. No, I was doing that in Florida.

Q. So everything had been liquidated before you moved to Idaho?

A. I don't remember.

Id. at 49:24-50:16.

131. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-One.

132. Count Twenty-Two of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So, clearly, your expenses were exceeding your income; correct?

A. Correct.

Q. So, how did you make up the difference?

A. I told you, I liquidated – I had liquidated assets that I had. I believe some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with.

* * *

Q. Did you sell it before or after the judgment was entered against you by my client?

A. Before.

Q. So, in 2000 – end of 2011 what assets were you still liquidating?

A. I don't remember.

Id. at 52:8-54:5.

133. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Two.

134. Count Twenty-Three of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month; correct?

A. You say "this month"?

Q. This month of January, 2012.

A. I believe this was part – I believe this was – and I don't know for sure, but I think this was part of that stock settlement.

* * *

Q. How was the stock sale money provided to you?

A. I believe in the form of a check. I can't remember.

Q. So why is there no record of the check being deposited?

A. Well, that was far – that was earlier than this particular date.

Q. How much prior to that date?

A. I don't remember.

Id. at 54:24-55:25.

135. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Three.

136. Count Twenty-Four of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Why would you have held this money from the liquidating your stock – why were you holding it in cash?

A. I don't remember.

Q. Did you just cash the check and keep tens of thousands of dollars in cash in your condo in Elkhorn?

A. Did I hold money? No.

Q. But you're making cash deposits; right?

A. I made cash deposits, yes.

Id. at 56:21-57:3

137. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Four.

138. Count Twenty-Five of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. You know, you walked into a bank four times with cash to deposit in one month. And if you're telling me that that money came from a stock sale, that would mean that you were having that cash from the stock sale somewhere within your reach; isn't that right?

A. I can't answer that question. I don't know.

Q. How else would you have gotten it if the money weren't in your reach?

A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.

Q. So where – if it wasn't from the stock sale, where would that cash have come from?

A. I had liquidated assets in Florida.

Q. Okay. And then – you liquidated them, and then you just had a wad of cash that you came to Idaho with?

A. I don't remember how that came about or how I ended up coming up with these deposits at this particular time.

Id. at 57:17-58:10.

139. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Five.

140. Count Twenty-Six of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Then let's move to the next tab, and this is the Zions statement dated February 21st, 2012; right?

* * *

Q. And on this one it's showing deposits of three separate times; a \$1,000 deposit, a \$2,000 deposit, and a \$2,500 deposit. Right?

A. Correct.

Q. And, again, \$5,500 in cash deposits in one month after the previous month of \$10,000 in cash deposits, and you don't remember where the cash came from?

A. No, I do not.

Id. at 58:12-59:1.

141. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Six.

142. Count Twenty-Seven of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Was somebody regularly providing you with cash each month?

A. I don't know how to answer that question.

Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Id. at 59:2-8.

143. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Seven.

144. Count Twenty-Eight of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you had that much cash in your possession in February of 2012; right?

A. Obviously, I did.

Q. And you had \$10,000 in your possession in January; right?

A. Correct.

Q. So all you – so in January you had \$15,000 at least in cash; right?

A. I don't remember the exact amounts, but that's what it says that I made deposits of, yes.

Q. So you had within your reach thousands and thousands of dollars all in cash at the beginning of 2012; right?

A. Well, I had at least what I deposited, yes.

Q. Did you make a deposit one month, deplete all the cash you had in

your possession at that point, and then the next month deposit all the cash you had in your possession that month?

A. I don't remember.

Id. at 60:2-20.

145. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Eight.

146. Count Twenty-Nine of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. How would have obtained additional cash if not somebody providing it to you?

A. Like I say, I had liquidated assets.

Q. I understand that. And when you say you liquidated assets, that gives you one piece of cash.

A. Um-mm.

Q. One pile of cash; right? Because you liquidated everything when you were in Florida; correct?

A. I don't understand that question.

Q. Did you liquidate all of your assets that were worth more than \$10,000 while you were in Florida and before you moved to Idaho other than what was in your storage unit?

A. I don't remember.

Q. Well, you've already testified that you didn't come to Idaho with any assets worth more than \$10,000 other than what was in the storage

unit; right?

A. Nothing that was worth more than \$10,000 to my recollection, yeah.

Q. Did you own anything still in Florida once you moved to Idaho?

A. I don't remember.

Id. at 60:21-61:17.

147. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Nine.

148. Count Thirty of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. They're – on February 22nd there's a \$1,500 deposit and on February 27th a \$2,600 deposit; right?

A. Correct.

Q. And, again, no idea where that cash came from?

A. No.

Id. at 62:5-9.

149. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty.

E. Campbell's False Testimony About How He Paid his Rent (Counts 31-34)

150. Beginning in April 2012, Campbell's Zions Bank records establish that the only deposits into his account were his monthly social security payments. Ex. 3-69, 73, 79, 83, 87, 91, 95. That is, at that time, Campbell stopped making cash deposits into his Zions account. The records further establish that, although Campbell had always paid his \$1,500-per-month rent with a check from his Zions account prior to April 2012, after that date, there is no cancelled check evidencing the payment of his rent. Ex. 3-71, 77, 81, 85, 89, 93, 97, 103. When asked how he

paid his rent if there was no cancelled check establishing its payment after April, Campbell again repeatedly claimed that he could not remember. Ex. 1 at 65:6–23.

151. It is not credible that a person who had been consistently paying his monthly rent with a check would forget why he stopped paying it in this manner, or how he had proceeded to pay his rent.

152. When asked about the possible ways in which his rent was being paid, Campbell testified that he may have paid with a money order obtained from Atkinson's. Ex. 72:21–73:5. Campbell claimed he could not remember why he would have paid with a money order instead of a check. Ex. 74:3–6. Campbell did not identify as a possibility that he had prepaid several months' worth of rent at a time. Nevertheless, the bank records that Campbell produced in August 2016 show that Campbell wrote a check to his landlord from his Bank of America account for \$9,000. Ex. 6–10. It thus appears that Campbell prepaid his rent for at least part of 2012. It defies credulity that someone would forget suddenly switching from monthly payments to prepaying six months at one time—particularly someone with purportedly limited income and assets. In sum, Campbell's testimony about how he paid his rent was not truthful.

153. Count Thirty-One of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So was your rent being paid at that time?

A. I assume so.

Q. Who was paying your rent?

A. I don't know – I was, I assume.

Q. And how were you paying it?

A. I don't remember.

Ex. 1 at 65:9-14.

154. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty-One.

155. Count Thirty-Two of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. But you testified that you had never paid your rent in cash.

A. That's correct.

Q. So you didn't pay it in cash and you didn't pay it through a check from the two bank accounts that you had. So what possible source of money paid your rent?

A. I don't remember.

Id. at 71:14-20.

156. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty-Two.

157. Count Thirty-Three of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where could you have gotten – what source of funds could you have possibly used to pay the rent?

A. I don't remember how that was being paid at this time. I don't remember.

Q. Did you have access to any other source of money with which you could have paid the rent?

A. I don't remember.

Q. Well, that's pretty important because this is all about your assets and your expenses, and we're talking about \$1,500 every month that you're saying that you didn't pay in cash and you didn't pay with checks from the two bank accounts that you're telling us are the only bank accounts that you have.

A. Oh, it was being paid. I just don't remember how it was being paid at that time.

Id. at 71:23-72:12.

158. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty-Three.

159. Count Thirty-Four of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Q. And how would you have obtained a money order?

A. Through Atkinson's.

Q. So you go in with cash to Atkinson's and purchase a money order?

A. I don't remember if that's how this was done, but you're asking me is there any other possible way. That's the only other possible way I can understand that it was being done.

Q. Okay. So have you done that before, have you gone to Atkinson's with cash to obtain a money order?

A. I have.

* * *

Q. And, again, the cash with which you used to buy the money order to pay for it, that came from cash that was sitting around in your condo at that time?

A. It was either that or a liquidation of – no, it was liquidation of either – that stock that I referred to earlier.

Q. So that's the only source, it could only be this stock?

A. As I remember, yes.

Q. So why didn't you take the money from the stock sale and put it into your Zions account and then write a check to pay your rent instead of –

A. I don't remember why I did that.

Id. at 72:16-74:6.

160. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty-Four.

F. Affirmative Defenses Asserted as to the Criminal Counts

161. Campbell asserts as to Plaintiffs' criminal contempt counts the affirmative defense of past inability to comply with the court's order. It is not readily apparent how this affirmative defense relates to the criminal contempt counts, each of which is premised on giving false testimony. Regardless, Campbell has presented no evidence of a past inability to comply with any relevant court order.

V. CIVIL CONTEMPT CONCLUSIONS OF LAW

A. Elements and Burden of Proof

162. It is a contempt of court to disobey a court order. Idaho Code § 7-601(5).

163. A civil contempt claim must be proven to a preponderance of the evidence. Idaho R. Civ. Proc. 75(j)(1).

164. The failure to comply with a court order need not be intentional or willful to impose a civil contempt sanction. *Chavez v. Canyon Cty.*, 152 Idaho 297, 304 (2012).

165. “When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it[.]” Idaho Code § 7-611.

166. Under Idaho Rule of Civil Procedure 75(j)(1), the court must find by a preponderance of the evidence “that the contemnor has the present ability to comply with the order violated[.]”

167. Idaho Rule of Civil Procedure 75(h) establishes that present *inability* to comply is an affirmative defense, which *the alleged contemnor must prove* to a preponderance of the evidence. Idaho R. Civ. Proc. 75(h).

168. Courts applying similar laws put the burden regarding ability or inability to comply on the defendant. Thus, in *Lamb v. Eads*, the Iowa Supreme Court found that “the general rule holds that an applicant for a contempt citation establishes a prima facie case by proving the duty which is on the contemner and the contemner’s [*sic*] failure to perform the duty. The contemner then has the burden of showing he could not perform the duty, if he relies on that ground.” 346 N.W. 2d 830, 832 (1984); *see also Foust v. Denato*, 175 N.W.2d 403, 405 (Iowa 1970) (“[W]hen the evidence clearly shows the order of court has been disobeyed, a party who seeks to purge himself of contempt by showing his inability to comply with the order of court

has the burden to prove it”).¹ Similarly, *Spabile v. Hunt* held that, while a court must find that a contemnor has the present ability to comply before imposing sanctions, it is *the contemnor* who bears the burden of proving his inability to comply. 360 A.2d 51 (Vt. 1976).

169. This Court therefore finds that Campbell, the alleged contemnor, bears the burden of proving his present inability to comply with the orders allegedly violated.

170. To satisfy his burden, an alleged contemnor must prove his defense of present inability to comply with admissible evidence. He cannot avoid his burden by claiming a Fifth Amendment privilege. *U.S. v. Rylander*, 460 U.S. 752, 761 (1983).

171. On June 18, 2016, this Court held that Campbell may assert only two affirmative defenses: (1) present inability to comply with the Court’s order (as to the civil counts), and (2) past inability to comply with the Court’s order (as to the criminal counts). Campbell waived all other affirmative defenses.

B. Effect of Powers of Attorney

172. During trial, Campbell presented as evidence ten documents purporting to confer on Plaintiffs’ counsel a limited power of attorney to seek records from each lawyer and bank named in Plaintiffs’ ten civil contempt counts (including those that Plaintiffs agreed to dismiss without prejudice). Exs. 501–10.

173. Campbell asserts that these limited powers of attorney constitute compliance with the Court’s Amended Order.

174. The Court’s Amended Order directed *Campbell* to *produce* the bank records and

¹ See also 17 C.J.S. *Contempt* § 141 (2015) (“When the moving party in a contempt action has shown that the alleged contemnor has failed to comply with the judgment or order, the burden shifts to the alleged contemnor to show why he or she should not be held in contempt. . . . If the alleged contemnor makes a sufficient showing, the burden of proof shifts back to the party seeking a finding of contempt, who ultimately bears the burden of showing an ability to comply with the order.”)

attorney payment records currently at issue.

175. In the analogous context of discovery, it is well established that a party does not adequately respond to a request for production by telling the requesting party that it may go get the documents itself. Instead, “even where a requesting party *already has documents in its possession, or could otherwise access those documents*, the disclosing party may not withhold those documents.” *Beach Mart, Inc. v. L & L Wings, Inc.*, 302 F.R.D. 396, 410 (E.D.N.C. 2014); *accord Rivers v. Asplundh Tree Expert Co.*, No. 5:08CV61/RS/EMT, 2008 WL 5111300, at *4 (N.D. Fla. Dec. 3, 2008); *SSL, L.L.C. v. Garcia-Chicoine Enters., Inc.*, No. 04-1017-JTM, 2005 WL 6793646, at *3 (D. Kan. Aug. 24, 2005); *Walt Disney Co. v. DeFabiis*, 168 F.R.D. 281, 284 (C.D. Cal. 1996); *Fort Wash. Res., Inc. v. Tannen*, 153 F.R.D. 78, 79 (E.D. Pa. 1994).

176. If a party cannot satisfy a request for production by informing the requesting party that he already possesses the relevant documents, then *a fortiori*, a party cannot satisfy a court order directing production by merely authorizing the requesting party to obtain the documents from a third-party source.

177. Additionally, there is no evidence that Campbell’s limited powers of attorney would be effective to allow Plaintiffs to obtain the records in question.

178. Campbell’s failure to cite any evidence or law supporting the efficacy of these limited powers of attorney is particularly problematic as to the records related to the Hong Kong account. It is dubious that limited powers of attorney granted in the United States and under U.S. law would be effective to obtain records related to a bank account at a Hong Kong bank in the name of a Hong Kong company.

179. Moreover, as discussed *supra* with respect to the limited power of attorney related to the Hong Kong Account, the document does not state on its face that Campbell is authorized

by Mosaic Orange to confer such a power.

180. Campbell thus has not offered sufficient evidence to show that his limited powers of attorney (Exhibits 501–10) are relevant.

181. For the aforementioned reasons, the Court finds that Campbell did not comply with the Court's Amended Order by providing Plaintiffs with the original copies of the limited powers of attorney admitted as Exhibits 501–10.

C. Conclusions of Law Specific to Count 1

182. The Court's Amended Order required Campbell to produce to Plaintiffs all documents evidencing payments made by Campbell to Flyer over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

183. To date, Campbell has not produced a single document evidencing any payment that he made to Flyer over the period of 2009 to present.

184. Thus, to date, Campbell has not complied with the Court's Amended Order insofar as it relates to Count 1.

185. For the reasons discussed in paragraphs 41–48, *supra*, the Court finds by a preponderance of the evidence that Campbell has the present ability to Comply with the Court's Amended Order insofar as it relates to Count One.

186. For the aforementioned reasons, the Court finds Campbell in contempt under Count One of the Charging Affidavit.

D. Conclusions of Law Specific to Count 8

187. The Court's Amended Order required Campbell to produce to Plaintiffs all records relating to the Hong Kong Account for the time period commencing January 1, 2012 to the present date.

188. To date, Campbell has not produced a single record relating to the Hong Kong

Account.

189. Thus, to date, Campbell has not complied with the Court's Amended Order insofar as it relates to Count 8.

190. For the reasons discussed in paragraphs 58–66, *supra*, the Court finds by a preponderance that Campbell has the present ability to Comply with the Court's Amended Order insofar as it relates to Count Eight.

191. For the aforementioned reasons, the Court finds Campbell in contempt under Count Eight of the Charging Affidavit.

VI. CRIMINAL CONTEMPT CONCLUSIONS OF LAW

192. None of the foregoing conclusions of law is based in any way on Campbell's testimony during trial.

A. Elements

193. A party's "[d]eceipt or abuse of the process or proceedings of the court" is punishable as a contempt. Idaho Code § 7-601.

194. Under Idaho Rule of Civil Procedure 75(j), criminal contempt must be proven beyond a reasonable doubt. Idaho R. Civ. Proc. 75(j). Reasonable doubt "is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt." Idaho Crim. Jury Instr. 1707. Instead, "it is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge." *Id.*

195. Plaintiffs' criminal contempt charges arise from Campbell's false testimony given under oath during his August 24, 2015 debtor's examination.

B. Lies During the Debtor's Exam and in the Context of this Case Are Relevant to Plaintiffs' Criminal Contempt Counts

196. During closing argument, Campbell argued that this Court should essentially consider the testimony underlying each of Plaintiffs' criminal contempt counts in a vacuum—without considering the transcript of Campbell's August 2015 debtor's exam as a whole. He also argued that Campbell's other lies to Plaintiffs in the context of this litigation and the underlying facts are irrelevant to Plaintiffs' criminal contempt counts. Campbell's arguments are both wrong.

197. It is proper for this Court to consider the testimony underlying each criminal contempt count in light of the August 2015 debtor's examination as a whole. The context of Campbell's overall testimony during the August 2015 debtor's examination is relevant and important to shed light on the testimony's meaning.

198. Moreover, the totality of basic facts that Campbell claimed to forget during this examination, considered alongside his shifting and inconsistent answers, shows that each of Campbell's claims of memory loss is feigned. *See In re Sowers*, 229 B.R. 151, 157 (Bankr. N.D. Ohio 1998) (considering uncharged omissions while addressing whether debtors' failure to disclose certain facts related to their finances was intentional and stating "even if this Court were to believe that the foregoing mentioned omissions were merely the result of some sort of oversight or ignorance on the part of the Defendants, this notion becomes preposterous when combined with the many other omissions of the Defendants"). As with *In re Sowers*, considering each of Campbell's claims of memory loss in light of the many other things he claimed not to remember during the August 2015 debtor's examination shows that each claim of memory loss underlying Plaintiffs' contempt charges is preposterous.

199. Additionally, the numerous other misstatements and omissions that Campbell

made to *these Plaintiffs* in the course of *this litigation* and underlying events for the *same purpose* of preventing Plaintiffs from learning information about Campbell's finances are relevant to Campbell's intent to again prevent Plaintiffs from learning about his finances during the August 2015 debtor's examination. *See United States v. Mebust*, 857 F. Supp. 609, 618–19 (N.D. Ill. 1994) (defendant's uncharged prior procurement of firearm owner identification cards by false statements relevant to his intent to knowingly make false statements in the case at bar); *Estes v. Anglin*, No. 2:14-CV-994-SLB, 2015 WL 1279746, at *5 (N.D. Ala. Mar. 20, 2015) (“A pattern of omissions on the part of the debtor is often sufficient to find fraudulent intent[.]”); *Abdo v. Com.*, 64 Va. App. 468, 474 (Ct. App. 2015) (alleged contemnor's prior uncharged instances of tardiness relevant to showing intent on the charged occasion).

200. Moreover, given its relevance to intent, this evidence is also relevant to show Campbell's willfulness in giving the alleged false testimony underlying Plaintiffs' criminal contempt charges.

C. Conclusions of Law Regarding Campbell's Affirmative Defense of Past Inability to Comply

201. Campbell asserts as to Plaintiffs' criminal contempt counts the affirmative defense of past inability to comply with the Court's order.

202. Given that Plaintiffs' criminal contempt counts are premised not on violation of a court order, but on giving false testimony, Campbell's asserted affirmative defense is irrelevant to the criminal contempt counts at bar.

203. Nevertheless, even if this affirmative defense were relevant, there is no evidence that Campbell was unable to comply with any relevant court order at the time of his August 2015 debtor's examination.

204. Therefore, as to each of Plaintiffs' criminal contempt counts, the Court finds that

Campbell failed to meet his burden of proving his affirmative defense by a preponderance of the evidence. Thus, as to each of Plaintiffs' criminal contempt counts, the Court rejects Campbell's affirmative defense of past inability to comply with the Court's order.

D. Conclusions of Law Regarding Campbell's False Testimony Related to the Source of Funds Used to Open his Bank of America Account, His Car, and Where he Lived (Counts 11–17)

205. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely during his August 2015 debtor's examination when he was asked "[w]here did that money come from?" and answered "I have no idea at this point." Ex. 1 at 34:3–4. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Eleven was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Eleven.

206. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely during his August 2015 debtor's examination when he was asked whether the nearly \$25,000 used to open the Bank of America account came from his Zion's Account and he said "I don't remember." Ex. 1 at 34:5-7. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twelve was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twelve.

207. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely during his August 2015 debtor's examination when he responded to questions about the possible source of money used to open the Bank of America account with "I don't remember" and "I don't know." Ex. 1 at 34:17–25. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false

testimony underlying Count Thirteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirteen.

208. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he was asked whether he owned any assets that he sold around the time he opened the Bank of America account and said "I don't remember." Ex. 1 at 35:1-3. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Fourteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Fourteen.

209. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he was asked twice whether he owned a car in 2012 and twice answered that he did not remember. Ex. 1 at 35:4-7. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Fifteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Fifteen.

210. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he was asked where he lived in June 2012 and answered "I don't remember." Ex. 1 at 35:12-15. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Sixteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Sixteen.

211. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he repeatedly testified that he did not remember the source from which he obtained the tens of thousands of dollars used to open his Bank of America Account. Ex. 1 at 35:25–37:22. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Seventeen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Seventeen.

E. Conclusions of Law Regarding Campbell's False Testimony About the Source of a Large Cash Deposit to His Bank of America Account (Count 18)

212. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he answered questions about the source of a \$3,410 deposit by saying "I have no idea" and "I don't know." Ex. 1 at 38:18–24. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Eighteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Eighteen.

F. Conclusions of Law Regarding Campbell's False Testimony Related to the Company in Whose Name Campbell Opened the Hong Kong Account (Count 19)

213. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he repeatedly testified that he did not remember the name of the company in whose name he set up the Hong Kong Account into which he deposited \$300,000. Ex. 1 at 41:15–22. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Nineteen was willful. The Court therefore finds beyond

a reasonable doubt that Campbell is guilty of the contempt charged in Count Nineteen.

G. Conclusions of Law Regarding Campbell's False Testimony About the Source of Large Cash Deposits to Campbell's Zions Bank Account (Counts 20–30)

214. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he testified that he did not remember where the \$10,000 of cash that he deposited in one month could have come from or whether somebody gave him \$10,000 in cash. Ex. 1 at 49:10–15. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty.

215. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Two related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 49:24–50:16. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-One was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-One.

216. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Two related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 52:8–54:5. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Two was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Two.

217. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Three related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 54:24-55:25. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Three was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Three.

218. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Four related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 56:21-57:3. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Four was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Four.

219. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Five related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 57:17-58:10. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Five was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Five.

220. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015

...

debtor's examination when he gave the testimony underlying Count Twenty-Six related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 58:12–59:1. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Six was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Six.

221. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Seven related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 59:2–8. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Seven was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Seven.

222. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Eight related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 60:2–20. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Eight was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Eight.

223. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Nine related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 60:21–61:17.

Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Nine was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Nine.

224. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Thirty related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 62:5-9. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Thirty was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty.

H. Conclusions of Law Regarding Campbell's False Testimony About How He Paid his Rent (Counts 31-34)

225. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he testified that he did not remember who or how his rent was paid during a period of time for which the bank records that he had then produced indicated that he had ceased paying his rent by check. Ex. 1 at 65:9-14. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Thirty-One was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-One.

226. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he testified that he did not remember sources of money from which his rent was paid during a period of time for which the bank records that he had then produced

indicated that he had ceased paying his rent by check. Ex. 1 at 71:14–20. Moreover, the Court finds beyond a reasonable doubt that Campbell’s giving of the false testimony underlying Count Thirty-Two was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-Two.

227. In light of the facts discussed in the Court’s findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor’s examination when he answered a variety of questions about how his rent was paid during a period of time for which the bank records that he had then produced indicated that he had ceased paying his rent by check by saying that he did not remember. Ex. 1 at 71:23–72:12. Moreover, the Court finds beyond a reasonable doubt that Campbell’s giving of the false testimony underlying Count Thirty-Three was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-Three.

228. In light of the facts discussed in the Court’s findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor’s examination when he gave the testimony underlying Count Thirty-Four regarding how his rent paid during a period of time for which the bank records that he had then produced indicated that he had ceased paying his rent by check. Ex. 1 at 72:16–74:6. Moreover, the Court finds beyond a reasonable doubt that Campbell’s giving of the false testimony underlying Count Thirty-Four was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-Four.

VII. SUMMARY OF FINDINGS AND CONCLUSIONS

229. For the aforementioned reasons, the Court finds by a preponderance of the evidence that Campbell is guilty of civil contempt Counts One and Eight.

230. For the aforementioned reasons, the Court finds beyond a reasonable doubt that

Campbell is guilty of criminal contempt Counts Eleven thru Thirty-Four.

231. The Court orders the parties to appear for a hearing regarding Campbell's sentencing on the ____ day of _____, 2016.

232. Campbell shall file any brief regarding sentencing no later than 14 days before the sentencing hearing.

233. Plaintiffs shall file their response, if any, no later than 7 days before the sentencing hearing.

DATED: August 19, 2016

LAWSON LASKI CLARK & POGUE, PLLC



Erin F. Clark
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 19, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

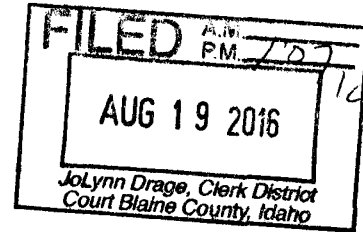
Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy
- email



Erin Clark

Lee P. Ritzau
LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.
460 Sun Valley Road, Suite 205
P.O. Box 1172
Ketchum, Idaho 83340
Tel: 208/726-8219
Fax: 208/726-3750
ISB No. 5239



Attorneys for Defendant Neil David Campbell

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP,	)	Case No. CV-2012-407
LTD., and KARLIN HOLDINGS)	
LIMITED PARTNERSHIP,	)	NEIL CAMPBELL'S PROPOSED FINDINGS OF
	)	FACT AND CONCLUSIONS OF LAW
Plaintiffs/Petitioners,)	
)	
v.)	
)	
PHILIP RICHARD POWERS,)	
individually; NEIL DAVID)	
CAMPBELL, individually;)	
POWERS INVESTMENTS AND)	
MANAGEMENT, INC., S.A., a)	
corporation; GUANANA GRIS,)	
S.A., a corporation; PROTECCION)	
FORESTAL DE TECA, S.S., a)	
corporation; and DOES 1 through)	
50 inclusive,)	
)	
Defendants/Respondents.)	

This case was tried on July 26th and 27th, 2016, in the above-entitled Court, the Honorable Robert Elgee presiding. Plaintiffs/Petitioner, C&M INVESTMENT GROUP, LTD., (hereinafter "C&M") and KARLIN HOLDINGS LIMITED PARTNERSHIP (hereinafter "Karlin"), and

together (“Petitioners”) were represented by Erin Clark of Lawson, Laski, Clark and Pogue, PLLC, and Defendant/Respondent, Neil Campbell (hereinafter “Neil”), was represented by Lee Ritzau of Luboviski, Wygle, Fallowfield & Ritzau, P.A. Evidence, both oral and documentary, was introduced by the parties. The Court, having considered the evidence, and being fully advised, makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

The Court finds that:

A. CASE HISTORY AND INTRODUCTION

1. The California civil case leading to the commencement of the present case in Idaho started on October 10, 2007 (Exhibit 19). Neil was added to the California civil case on November 17, 2008 (Exhibit 20). The California civil case first resulted in a judgment against Neil on February 4, 2010 in the amount of \$1,545,000.00 (Exhibit 24: page 2: line 31). As a result of the \$1,545,000.00 judgment in the California civil case, Neil was deposited in Florida on October 29, 2010. (Exhibit 10). The California case was still active in October of 2010 when Neil was deposited in Florida. On December 11, 2013 the California civil case revisited the judgment against Neil and issued a subsequent judgment against Neil of \$24,488,740 plus costs. (Exhibit 25).

A. Neil was involved in the California civil case for almost 8 years before Mr. Ritzau was appointed to represent him in the current litigation. There were collection efforts in the California civil case for 6 years before Mr. Ritzau was appointed to represent Neil.

2. On June 1, 2012 Petitioners filed their Notice of Filing Foreign Judgment in with this Court. On June 19, 2012 Petitioners’ filed their Motion for Issuance of Order of Domestication. On June 21, 2012 the Court issued an Order of Domestication. This was

obviously done because Petitioners knew Neil was residing in Idaho.

3. Mr. Campbell is a 68 year old man who was born on [REDACTED] (Exhibit 8: page 1 and Neil's testimony). Petitioners' owner, Gary Michelson, urged the Los Angeles District Attorney to charge Neil with 140 felony counts in a Los Angeles criminal case. (Exhibit 8: page 2). Bail in the Los Angeles criminal case was set at \$10,000,000.00 and since Neil could not post bail, he spent between 17 months and 18 months in jail awaiting his criminal trial. (Exhibit 8: page 2 & Exhibit 1: page 35: lines 19-24). The Los Angeles criminal case was eventually tried in about October of 2014. (Exhibit 8: page 3). Subtracting a about a year and a half from October, 2014 means Neil was in Los Angeles in jail between the spring of 2013 and the fall of 2014. At the conclusion of the Los Angeles criminal trial, Neil was found not guilty of 139 of the felony counts pursued by the Los Angeles District Attorney, and guilty of one felony count pursued by the Los Angeles District Attorney. (Exhibit 8: page 3).

4. Neil's time in jail obviously accounts for the lack of activity in the present case between June 1, 2012 when this case was started and the fall of 2014 when Neil was released from jail.

5. On March 23, 2015 the Order Granting Motion for Judgment Debtor's Examination was issued by the Court.

6. On April 1, 2015 an Amended Order Granting Motion for Judgment Debtor's Examination was issued by the Court.

7. On August 3, 2015 a Second Amended Order Granting Motion for Judgment Debtor's Examination was issued by the Court.

i. Pursuant to the Second Amended Order Granting Motion for Judgment Debtor's Examination, on August 24, 2015 Neil's examination was taken by counsel for the

Petitioners.

8. On February 1, 2016 the Charging Affidavit of Erin F. Clark in Support of Motion for Order Finding Neil David Campbell in Contempt (hereinafter “the Charging Affidavit”) was filed with the Court. The Charging Affidavit sought to adjudicate 10 counts of contempt of court seeking a civil sanction and 24 counts of contempt of court seeking a criminal sanction.

9. On June 1, 2016 the Order Regarding Appointment was entered by the Court which appointed Lee Ritzau as the attorney for Neil Campbell, the Respondent. Prior to June 1, 2016 Neil represented himself. Mr. Ritzau had just under two months to prepare for trial.

10. On July 26 and 27, 2016 trial was held in this case. Petitioners pursued the 10 counts of contempt of court seeking a civil sanction and 24 counts of contempt of court seeking a criminal sanction which are set forth in the Charging Affidavit. The parties and court frequently referred to the 10 counts of contempt seeking a civil sanction as civil contempt of court and the 24 counts of contempt of court seeking a criminal sanction as criminal contempt of court.

B. CIVIL CONTEMPT CHARGES

1. The Charging Affidavit sets forth ten counts of alleged civil contempt. Eight counts, Counts 2, 3, 4, 5, 6, 7, 9, and 10 were dismissed by the Petitioners during their closing argument given on July 27, 2016. The two alleged remaining civil contempt charges are as follows:

A. Count One alleges Mr. Campbell is in civil contempt for his failure to produce documents evidencing payments he made to David Flyer over the period of 2009 to the present, including documents evidencing the source of the funds used to make those payments.

Neil's Responses to Count 1:

I. Respondent's Exhibit 501 was Neil's Limited Power of Attorney for David Flyer, the original of which was provided to Petitioners on July 27, 2016 so Petitioners could obtain the records which form the subject matter of the civil contempt charges set forth in count one.

a. *In Re Houshang Dardashti v. Jeffry Golden*, 2008 WL 8444787 (Ninth Circuit 2008), the bankruptcy court for the Central District of California entered a Turnover Order which required Mr. Dardashti, the debtor, to execute and return to Mr. Golden, the trustee, a power of attorney form prepared by Mr. Golden as well as perform certain other tasks. Mr. Dardashti refused to execute the power of attorney prepared by Mr. Golden. Since Mr. Dardashti refused to execute the power of attorney, Mr. Golden sought an order to show cause requiring Mr. Dardashti to appear and show why he should not be held in contempt of court. The bankruptcy judge found Mr. Dardashti in contempt of court for his refusal to execute the power of attorney prepared by Mr. Golden. The Ninth Circuit upheld both the Turnover Order entered by the bankruptcy judge as well as the Contempt Order entered by the bankruptcy judge. The Contempt Order required that Mr. Dardashti be incarcerated until he executed the power of attorney, fined daily until he complied with the element of the Turnover Order requiring he execute a power of attorney, and ordered him to pay certain expenses and attorney fees;

b. *In Eckard v. Eckard*, 333 MD. 531 (App. Maryland 1994) the Eckard Court upheld the lower court's ruling which found Mrs. Eckard in contempt of court due to her refusal to sign a power of attorney authorizing Mr. Eckard to sell land located in Florida owned by both Mrs. Eckard and Mr. Eckard;

c. Given the court's ability to require Mr. Dardashti and

Mrs. Eckard sign powers of attorney so that certain matters could be accomplished in those cases, the fact that Neil provided limited powers of attorney to the Petitioners so they can obtain the documents at issue is compliance with the Court's Order and equivalent to Neil providing the documents himself.

B. Count Eight alleges Mr. Campbell is in civil contempt for his failure to produce all records relating to his HSBC bank account, including documents that identify any deposits made into and any disbursements of funds from that account.

Neil's Responses to Count 8:

I. Respondent's Exhibit 508 was Neil's Limited Power of Attorney for HSBC bank, the original of which was provided to Petitioners on July 27, 2016 so Petitioners could obtain the records which form the subject matter of the civil contempt charges set forth in count eight.

2. In Respondent's Exhibits 501 through 510, Mr. Campbell provided Petitioners a Limited Power of Attorney to obtain the records which form the subject matter of the civil contempt charges set forth in counts one through ten. Only Exhibits 501 and 508 are relevant given Petitioners' dismissal of counts 2, 3, 4, 5, 6, 7, 9, and 10.

3. Given that Mr. Campbell has provided Petitioners with a Limited Power of Attorney to obtain the records which form the subject matter of the civil contempt charges set forth in counts one and eight, he has done what the court previously ordered him to do, and thus a civil sanction is not warranted in this case.

C. CRIMINAL CONTEMPT CHARGES

1. The Charging Affidavit sets forth twenty four counts of alleged criminal contempt. Of the twenty four alleged counts of criminal contempt, all twenty four are as a result

of Mr. Campbell answering he didn't know the answer or he does not remember the information sought by the answer. Additionally, all twenty four counts of alleged criminal contempt of court involve situations more than three years old at the time his August 24, 2015 deposition was taken. Neil's responses to the criminal contempt charges are set forth below each count of contempt of court seeking a criminal sanction. The alleged criminal contempt charges are as follows:

COUNT ELEVEN: Campbell committed criminal contempt when he testified untruthfully in his debtor's examination about the source of the June 2012 opening balance in his Bank of America account as follows:

Q. So this is the statement from June 8th, 2012, through July 9th, 2012: correct?

A. Correct.

Q. And in there they have the beginning balance on June 8th, 2012, as being \$24,715.35; correct?

A. Correct.

Q. Where did that money come from?

A. I have no idea at this point.

Id. at 33:22-34:4.

NEIL'S RESPONSE TO COUNT 11:

I. Q. So you have no explanation for how \$10,000 was deposited into your account?

A. I must have sold off some type of assets, but I don't remember what it was or how it was done.

Exhibit 1: page 49: lines 20-23

II. Q. Were things being liquidated in Florida at this time?

A. I was living on things that were being liquidated at this time.

Q. Who was liquidating items in Florida?

A. I was.

Exhibit 1: page 50: lines 5-10.

III. Q. So, clearly, your expenses were exceeding your income; correct?

A. Correct.

Q. So how did you make up that difference?

A. I told you, I liquidated - - I had liquidated assets that I had. I believe some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with?

Exhibit 1: page 52: lines 8-15

IV. Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month; correct?

A. You say "this month"?

Q. This month of January of 2012.

A. I believe this was part - - I believe this was - and I don't know for sure, but I think this was part of that stock settlement.

Q. And then the stock settlement was enabling you to live with expenses far exceeding your social security payment?

A. Correct

Exhibit 1: page 54: line 24 through Page 55: line 10

V. A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.

Q. So where - - if it wasn't from the stock sale, where would the case have come from?

A. I had liquidated assets in Florida.

Exhibit 1: page 57: line 25 through page 58: line 10

VI. Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Exhibit 1: page 59: lines 5-8.

VII. Q. And yet you still say that you didn't have a box somewhere filled with cash from liquidation of the items in Florida?

A. I don't remember the - - where this money was coming from directly, if it was from that stock sale. I don't remember. This is back in 2012.

Exhibit 1: page 59: lines 18 - 20.

VIII. In the summer of 2008 Dr. Michaelson paid \$500,000 for Neil's interest in C&M.

Petitioner's Revised Trial Brief: page 4.

COUNT TWELVE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you opened an account and you put nearly \$25,000.00 into it. Did it come from your Zions account?

A. I don't remember.

Id. At 34:5-7.

NEIL'S RESPONSE TO COUNT 12:

I. Please see Neil's response to Count 11, subparagraphs I through VIII. The details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT THIRTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What would the possibilities be for the origination of this money?

A. I don't understand the question.

Q. What possibly - where possibly could this money have come from?

A. I don't remember.

Q. I understand you don't remember. I want to know what the possibilities were.

A. I don't know.

Id. at 34:17-25.

NEIL'S RESPONSE TO COUNT 13:

- I. Please see Neil's response to Count 11, subparagraphs I through VIII. The details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT FOURTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own an assets at that time that you sold?

A. I don't remember.

Id. at 35:1-3.

NEIL'S RESPONSE TO COUNT 14:

- I. The question in Count 14 is vague as to time. "That time" could be somewhere between June 8, 2012 and July 9, 2012 (Exhibit 1: page 33: lines 22 and 23), all of 2012 (Exhibit 1: page 34: lines 11 and 12) or some other time frame. For these reasons Petitioners have failed to prove Neil lied beyond a reasonable doubt.
- II. Neil's answer which is the subject matter of Count Fourteen was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Whether or not Neil remembered selling assets at some undetermined time was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case.

- A. “Criminal contempt is the commission of a disrespectful act directed at the court itself which obstructs justice. A criminal contempt proceeding is maintained solely and simply to vindicate the authority of the court or to punish otherwise for conduct offensive to the public in violation of an order of the court.” *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850, 862 (2002).
- B. In the *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, case cited by Petitioners, the Ohio Department of Taxation Court states, “in order to sustain a conviction for contempt for giving false testimony, it must be shown that the false testimony had an obstructive effect, that the court had judicial knowledge of the falsity of the testimony, and that the questions were pertinent to the issues in the case.” *Ohio Department of Taxation* at 753.
- C. Regarding *Ohio Department of Taxation v. Kunkel*, Petitioners cite the case as standing for the proposition “debtor was held in contempt for evasive and false answers regarding his assets.” *Plaintiff’s Trial Brief* at page 8. This case actually has no relevance to answers like “I don’t know” or “I don’t remember.” The holding in *Ohio Department of Taxation* stated, “a review of the record and proceedings below reveals that at the debtor’s examination of July 19, 2004, appellant blatantly lied about his interest in real property. . .” *Ohio Department of Taxation v. Kunkle* at 753 and 754.
- D. There is no holding in *Ohio Department of Taxation* that answers similar to “I don’t know” or “I don’t remember” are sufficient to establish criminal contempt of court. To the contrary, the *Ohio Department of Taxation* Court stated, “a well-founded belief of the testimony’s untruthfulness is not sufficient.” *Ohio Department of Taxation* at 753.
- E. “. . . contempt is an extraordinary proceeding and should be approached with caution. This Court has recognized contempt is an extraordinary proceeding. Phillips 95 Idaho at 405, 509 P.2d at 1326. This inherent power must be exercised with great caution. . . . The contempt power is readily susceptible of abuse and fraught with danger not only to personal liberties but to the respect and confidence which our courts must maintain. Although such a power is universally recognized as essential to an orderly and effective administration and execution of justice, it should be exercised with utmost caution. . . . Since a contempt citation is a ‘potent weapon, . . . courts rightly impose it with caution. . . . Imposing a willful standard ensures that courts cannot abuse their inherent contempt power. It also ensures that courts only impose

such an extraordinary remedy when the alleged contemnor has wrongfully disobeyed a court order.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005).

COUNT FIFTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own a car at that time?

A. I don't remember.

Q. You don't remember if you owned a car in 2012?

A. No, I don't.

Id. at 35:4-7.

NEIL'S RESPONSE TO COUNT 15:

- I. Petitioners have not shown beyond a reasonable doubt that Neil lied when he answered he did not know if he owned a car in 2012.
- II. Neil's answer which is the subject matter of Count Fifteen was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Whether or not Neil owned a car in 2012 was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT SIXTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where were you living?

A. In 2012?

Q. June of 2012.

A. I don't remember.

Id. at 35:12-15.

NEIL'S RESPONSE TO COUNT 16:

I. On June 1, 2012 Petitioners filed their Notice of Filing Foreign Judgment. On June 19, 2012 Petitioners' filed their Motion for Issuance of Order of Domestication. On June 21, 2012 the Court issued an Order of Domestication. This was obviously done because Petitioners knew Neil was residing in Idaho;

II. Q. So in 2011 you moved to Idaho?

A. I don't know. I don't remember, but it's in - - I'm trying to backdate. I lived in Idaho for almost two years before I was arrested, and I was in jail for almost 17 months, and I've been out since November, so you just backtrack from there.

Exhibit 1: page 35: lines 19-24.

III. Neil's answer which is the subject matter of Count Sixteen was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Where Neil lived in 2012 was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT SEVENTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Clearly, you were living in Idaho when you opened up the Bank of America

account; correct?

A. Yes.

Q. And you had moved from Florida; right?

A. Correct.

Q. What assets of a more than \$10,000.00 value did you bring with you from Florida?

A. I didn't.

Q. So, again, if you had no assets worth more than \$10,000.00 and you were living solely off of Social Security, what were the possible sources for you to be able to put \$24,000 into a bank account in June of 2012?

A. I don't remember where the funds came from.

Q. Well, Mr. Campbell, I'm just going to remind you again that you are here under penalty of perjury.

A. Um-mm.

Q. And to say that you don't remember where \$24,000 came from when you're saying that you have no assets and no income other than Social Security, it just does not ring true.

A. Well, I don't remember where the \$24,000 came from.

Id. at 35:25-37:22.

NEIL'S RESPONSE TO COUNT 17:

- I. Please see Neil's response to Count 11, subparagraphs I through VIII. The details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT EIGHTEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. An that on November 30, 2012, you deposited \$3,410; right?

A. That's what it states, yes.

Q. Where did that money come from?

A. I have no idea.

Q. Where could it have come from?

A. I don't know.

Id. at 38:18-24.

NEIL'S RESPONSE TO COUNT 18:

- I. Please see Neil's response to Count 11, subparagraphs I through VIII. The details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT NINETEEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What was the name of the company that had the bank account with HSBC?

A. I don't remember.

Q. You don't remember the name of a company that you set up a bank account and put \$300,000 into it?

A. I don't remember.

Id. at 41:15-22.

NEIL'S RESPONSE TO COUNT 19:

- I. Q. Let me ask you about offshore bank accounts. Specialty Interrogatory No. 8, we asked if you've ever had an account with a bank or financial

institution in a country other than the United States and, if so, to state what the name and address of that bank or financial institution is and the dates of which that account was opened.

And your response to Special Interrogatory No. 8 is that you have never had an account with a bank or financial institution in a county other than the United States. But then you state that you were the beneficiary of an account at HSBC at P.O. Box 27677, Kowloon Central Post Office, Hong Kong, which was open in early 2010. Can you just explain to me the circumstances under which you became the beneficiary of an account in Hong Kong?

A. Do you want to explain that?

Mr. Michaels: You have to answer it.

A. Oh. It's just the way this was particularly set up is that I was just an officer of that particular corporation.

Q. Okay. What corporation are you talking about?

A. I don't remember the name of it offhand.

Exhibit 2: page 22: line 20 through page 23: line 20.

- II. On April 25, 2016 Neil emailed Erin Clark various bank records. The name of the corporation at issue is Mosaic Orange Limited as provided in the bank statement from Jonathan Michaels contained in Exhibit 4: page 95. Apparently Neil's memory of the corporate name was refreshed when he received the bank statement from Michaels Law Group APLC depicted in Exhibit 4: page 95.

COUNT TWENTY: Campbell committed criminal contempt when he testified untruthfully regarding cash deposits he made in his Zion's bank account as follows:

Q. Well, it's almost \$10,000 in cash in one month. Where could this have come from?

A. I don't remember.

Q. Did someone give you \$10,000 in cash?

A. I don't remember how this was set up. This was back in 2011.

Id. at 49:10-15.

NEIL'S RESPONSE TO COUNT 20:

- I. Please see Neil's response to Count 11, subparagraphs I through VIII. The details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT TWENTY-ONE: Campbell committed criminal contempt when he testified untruthfully as follows:

- Q. Well, you already testified that you didn't have any asset that was worth more than \$10,000 other than what was I the storage units, correct?
- A. Well, I - to answer your question, I don't - I didn't bring anything with me that I would liquidate unless it was liquidated in Florida.
- Q. Were things being liquidated in Florida at this time?
- A. I was living on things that were being liquidated in that time.
- Q. Who was liquidating items in Florida?
- A. I was.
- Q. So you were in Idaho but liquidating items in Florida?
- A. No, I was doing that in Florida.
- Q. So everything had been liquidated before you moved to Idaho?
- A. I don't remember.

Id. at 49:24-50:16.

NEIL'S RESPONSE TO COUNT 21:

- I. Petitioners have not shown beyond a reasonable doubt that Neil lied when he answered he did not know if he had liquidated everything before he moved to Idaho.
- II. Neil's answer which is the subject matter of Count Twenty-One was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see

Ohio Department of Taxation v. Kunkle). Whether or not Neil remembered if he had liquidated all his Florida assets prior to moving to Idaho was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

- Q. So, clearly, your expenses were exceeding your income; correct:
- A. Correct.
- Q. so, how did you make up the difference?
- A. I told you, I liquidated - I had liquidated assets that I had. I believe some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with.

- Q. Did you sell it before or after the judgment was entered against you by my client?
- A. Before.
- Q. So, in 2000 - end of 2011 what assets were you still liquidating?
- A. I don't remember.

Id. at 52:8-54:5.

NEIL'S RESPONSE TO COUNT 22:

- I. Petitioners have not shown beyond a reasonable doubt that Neil lied when he answered he did not remember what assets he might have still been liquidating in 2011.

II. Neil's answer which is the subject matter of Count Twenty-Two was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Whether or not Neil remembered what assets he may have still been liquidating in 2011 was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month, correct?

A. You say "this month"?

Q. This month of January, 2012.

A. I believe this was part - I believe this was - and I don't know for sure, but I think this was part of that stock settlement.

Q. How was the stock sale money provided to you?

A. I believe in the form of a check. I can't remember.

Q. So why is there no record of the check being deposited?

A. Well, that was far - that was earlier than this particular date.

Q. How much prior to that date?

A. I don't remember.

Id. at 54:24-55:25.

NEIL'S RESPONSE TO COUNT 23:

- I. Petitioners have not shown beyond a reasonable doubt that Neil lied when he answered he did not remember how much prior to January of 2012 he would have deposited a check for funds generated from a stock sale.
- II. Neil's answer which is the subject matter of Count Twenty-Three was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Whether or not Neil remembered what assets he may have still been liquidating in 2011 was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

- Q. Why would you have held this money from the liquidating your stock - why were you holding it in cash?
- A. I don't remember.
- Q. Did you just cash the check and keep tens of thousands of dollars in cash in your condo in Elkhorn?
- A. Did I hold money? No.
- Q. But you're making cash deposits, right?
- A. I made cash deposits, yes.

Id. at 56:21-57:3.

NEIL'S RESPONSE TO COUNT 24:

- I. Neil truthfully testified that he made cash deposits in his examination so

there is no lie which would be the basis for contempt of court in Count 24.

- II. Petitioners have not shown beyond a reasonable doubt that Neil lied when he answered he testified he made cash deposits.
- III. Neil's answer which is the subject matter of Count Twenty-Four was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he made cash deposits and the fact that he made cash deposits in the past was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-FIVE: Campbell committed criminal contempt when he testified untruthfully as follows:

- Q. You know, you walked into a bank four times with cash to deposit in one month. And if you're telling me that that money came from a stock sale, that would mean that you were having that cash from the stock sale somewhere within your reach; isn't that right?
- A. I can't answer that question. I don't know.
- Q. How else would have gotten it if the money weren't in your reach?
- A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.
- Q. So were - if it wasn't from the stock sale, where would that cash have come from?
- A. I had liquidated assets in Florida.
- Q. Okay. And then - you liquidated them, and then you just had a wad of cash that you came to Idaho with?
- A. I don't remember how that came about or how I ended up coming up with these

deposits at this particular time.

Id. at 57:17-58:10.

NEIL'S RESPONSE TO COUNT 25:

- I. Neil testified it came from the sale of stock or the liquidation of assets. His testimony it was from either of these two possibilities and that he did not remember which was truthful.
- II. Petitioners have not shown beyond a reasonable doubt that Neil lied when he answered he testified he how he came into possession of the cash deposits he made in the 2011/2012 time frame.
- III. Neil's answer which is the subject matter of Count Twenty-Five was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he made cash deposits and the fact that he does not remember where the cash came from was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-SIX: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Then let's move to the next tab, and this is the Zions statement dated February 21st, 2012; right.

Q. And on this one it's showing deposits of three separate times; a \$1,000 deposit, a \$2,000 deposit, and a \$2,500 deposit. Right?

A. Correct.

Q. And, again, \$5,500 in cash deposits in one month after the previous month of

\$10,000 in cash deposits, and you don't remember where the cash came from?

A. No, I do not.

Id. at 58:12-59:1.

NEIL'S RESPONSE TO COUNT 26:

- I. Please see Neil's response to Count 11, subparagraphs I through VIII. The details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT TWENTY-SEVEN: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Was somebody regularly providing you with cash each month?

A. I don't know how to answer that question.

Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Id. at 59:2-8.

NEIL'S RESPONSE TO COUNT 27:

- I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Twenty-Seven. He testified that he didn't remember unless it was cash he received from selling items in this 2011/2012 time frame.
- II. Neil's answer which is the subject matter of Count Twenty-Seven was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he received cash from the sale of assets in the 2011/2012 time frame and the fact that he does not remember whether anyone else provided him cash during this 2011/2012 time frame was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt

to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-EIGHT: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you had that much cash in your possession in February of 2012; right?

A. Obviously, I did.

Q. And you had \$10,000 in your possession in January; right?

A. Correct.

Q. So all you - so in January you had \$15,000 at least in cash; right?

A. I don't remember the exact amounts, but that's what it says that I made deposits of, yes.

Q. So you had within your reach thousands and thousands of dollars all in cash at the beginning of 2012; right?

A. Well, I had at least what I deposited, yes.

Q. Did you make a deposit one month, deplete all the cash you had in your possession at that point, and then the next month deposit all the cash you had in your possession that month?

A. I don't remember.

Id. at 60:2-20.

NEIL'S RESPONSE TO COUNT 28:

I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Twenty-Eight. He testified that he didn't remember whether he depleted all of the cash he had when he deposited cash in the 2011/2012 time frame.

II. Neil's answer which is the subject matter of Count Twenty-Eight was not

a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember whether or not he depleted all his cash in 2011/2012 time frame when he made cash deposits and the fact that he does not remember whether or not he depleted all of his cash in the 2011/2012 time frame was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT TWENTY-NINE: Campbell committed criminal contempt when he testified untruthfully as follows:

- Q. How would have obtained additional cash if not somebody providing it to you?
- A. Like I say, I had liquidated assets.
- Q. I understand that. And when you say you liquidated assets, that gives you one piece of cash.
- A. Um-mm.
- Q. One pile of cash; right? Because you liquidate everything when you were in Florida; correct?
- A. I don't understand that question.
- Q. Did you liquidate all of your assets that were worth more than \$10,000 while you were in Florida and before you moved to Idaho other than what was in your storage unit?
- A. I don't remember.
- Q. Well, you've already testified that you didn't come to Idaho with any assets worth more than \$10,000 other than what was in the storage unit, right?
- A. Nothing that was worth more than \$10,000 to my recollection yeah.

Q. Did you own anything still in Florida once you moved to Idaho?

A. I don't remember.

Id. at 60:21-61:17.

NEIL'S RESPONSE TO COUNT 29:

I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Twenty-Nine. He testified that he didn't remember whether he owned anything in Florida when he moved to Idaho.

II. In Exhibit 2, Neil's February 20, 2015 Debtor's Examination in California, Neil testified as follows:

Q. Okay. And is there anything that would refresh you on whether you might have accounts you have access to? You said not to your knowledge.

A. Let me put it this way. There's no accounts open that I have knowledge of that would be over \$1,000.00. Is that - - that's pretty much with reference to everything out there. But there might be accounts open in Florida or here that might have \$20.00 or \$30.00 in it that might still be open. I just don't know. But nothing more than \$1,000.00.

Exhibit 2: page 35: lines 3 through 12.

III. Neil's answer which is the subject matter of Count Twenty-Nine was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember whether or not he owned anything in Florida when he moved to Idaho. It has already been established that Petitioners collected approximately \$2,000,000.00 from foreclosing on a house Neil had purchase in Florida. (Exhibit 8: page 4). Whether Neil remembered owning any assets in Florida when he moved to Idaho was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and*

Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT THIRTY: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. They're - on February 22nd there's a \$1,500 deposit and on February 27th a \$2,600 deposit; right?

A. Correct.

Q. And, again, no idea where that cash came from?

A. No.

Id. at 62:5-9.

NEIL'S RESPONSE TO COUNT 30:

I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Thirty. He testified that he didn't remember where several cash deposits came from in February of 2012.

II. Neil's answer which is the subject matter of Count Thirty was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember where the money for two cash deposits in February of 2012 had come from. Whether Neil remembered the source of two cash deposits in February of 2012 was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

III. Please see Neil's response to Count 11, subparagraphs I through VIII. The

details will not be set forth in full to avoid duplicating information however Neil testified in other places of his Debtor's Examination that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M. The specific exchange of questions and answers is set forth in Count 11.

COUNT THIRTY-ONE: Campbell committed criminal contempt when he testified untruthfully about why his bank records no longer showed him paying his rent with a check as he had done for the previous five months. Specifically, Campbell testified untruthfully as follows:

Q. So was your rent being paid at that time?

A. I assume so.

Q. Who was paying your rent?

A. I don't know - I was, I assume.

Q. And how were you paying it?

A. I don't remember.

Id. at 65:9-14.

NEIL'S RESPONSE TO COUNT 31:

I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Thirty-One. He testified that he didn't remember how he was paying his rent in 2012. It is unclear whether Petitioners are referring to cash or check which would be the context from the questions and answers immediately proceeding the language of Count Thirty-One.

II. Additionally, Count Thirty-One ignores Neil's answer stating he might have paid it by money order.

Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Exhibit 1: page 72: lines 16 -22.

- III. Neil's answer which is the subject matter of Count Thirty-One was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember how his rent was being paid. Whether Neil remembered whether his rent was being paid by cash or check or cashier's check was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT THIRTY-TWO: Campbell committed criminal contempt when he testified untruthfully as follows:

- Q. But you testified that you had never paid you rent in cash.
- A. That's correct.
- Q. So you didn't pay it in cash and you didn't pay it through a check from the two bank accounts that you had. So what possible source of money paid your rent?
- A. I don't remember.

Id. at 71:17-20.

NEIL'S RESPONSE TO COUNT 32:

- I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Thirty-Two. He testified that he didn't remember how he was paying his rent in 2012.
- II. Additionally, Count Thirty-Two ignores Neil's answer stating he might have paid it by money order.
- Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you thin of any other?

A. It might have been a money order. I don't remember.

Exhibit 1: page 72: lines 16 -22.

III. Neil's answer which is the subject matter of Count Thirty-Two was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember how his rent was being paid. Whether Neil remembered whether his rent was being paid by cash or check or cashier's check was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT THIRTY-THREE: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where could you have gotten - what source of funds could you have possibly used to pay the rent?

A. I don't remember how that was being paid at this time. I don't remember.

Q. Did you have access to any other source of money with which you could have paid the rent?

A. I don't remember.

Q. Well, that's pretty important because this is all about your assets and your expenses, and we're talking about \$1,500 every month that you're saying that you didn't pay in cash and you didn't pay with checks from the two bank accounts that you're telling us are the only bank accounts that you have.

A. Oh, it was being paid. I just don't remember how it was being paid at that time.

Id. at 71:23-72:4.

NEIL'S RESPONSE TO COUNT 33:

- I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Thirty-Three. He testified that he didn't remember how he was paying his rent in 2012.
- II. Additionally, Count Thirty-Three ignores Neil's answer stating he might have paid it by money order.

Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Exhibit 1: page 72: lines 16 -22.

- III. Neil's answer which is the subject matter of Count Thirty-Three was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember how his rent was being paid. Whether Neil remembered whether his rent was being paid by cash or check or cashier's check was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

COUNT THIRTY-FOUR: Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, for month you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Q. And how would you have obtained a money order?

A. Through Atkinson's.

Q. So you go in with cash to Atkinson's and purchase a money order?

A. I don't remember if that's how this was done, but you're asking me is there any other possible ways. That's the only other possible way I can understand that it was being done.

Q. Okay. So have you done that before, have you one to Atkinson's with cash to obtain a money order?

A. I have.

Q. And, again, the cash with which you used to buy the money order to pay for it, that came from cash that was sitting around in your condo at that time?

A. It was either that or a liquidation of - no, it was liquidation of either - that stock that I referred to earlier.

Q. So that's the only source, it could only be this stock?

A. As I remember, yes.

Q. So why didn't you take the money from the stock sale and put it into your Zion's account and then write a check to pay your rent instead of -

A. I don't remember why I did that.

Id. at 72:16-74:6.

NEIL'S RESPONSE TO COUNT 34:

- I. Petitioners have not proven beyond a reasonable doubt that Neil lied when he answered the question which is the subject matter of Count Thirty-Four. He testified that he didn't remember why he potentially did not put the money from the stock sale into his Zion's bank account.
- II. Neil's answer which is the subject matter of Count Thirty-Four was not a disrespectful act which obstructed justice (see *Camp v. East Fork Ditch Co., Ltd.*), or had an obstructive effect and the question was pertinent (see *Ohio Department of Taxation v. Kunkle*). Neil testified he didn't remember why (if in fact this was the case) that he may not have put the

money from his stock sale in his Zion's bank account. Whether Neil remembered why (if this is true) he did not put the money from his stock sale into his Zion's bank account was not going to provide information at Neil's August 24, 2015 Debtor's Examination which would assist Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case. Please see the language in *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850 (2002), *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747, and *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005) which is set forth in Neil's Response to Count 14 above. For purposes of brevity, the quotations from those three cases will not be repeated.

2. "I don't know" or "I don't remember" is not "deceit . . . of the court by a party to an action or special proceeding" as required by I.C. § 7-601(4) which would lead to a conviction for criminal contempt of court. This is especially true for events that happened more than three years prior to his debtors examination.

3. Petitioners asked the same questions repeatedly in their Debtor's Examination of Neil. Neil's response of "I don't know" or "I don't remember" to these repetitive questions do not create an independent and separate cause of action for Contempt of Court seeking a Criminal Sanction. Neil pointed this out when he testified as follows:

Q. Was this money that you had in cash and then you put it into a checking - -

A. You know, you're asking the same question over and over again. I told you I don't remember. I don't know. You can ask it 15 different ways, I don't know.

Exhibit 1: page 37: line 9-19.

II. CONCLUSIONS OF LAW

From the foregoing Findings Of Fact, the Court makes its Conclusions Of Law:

A. **C&M AND KARLIN DID NOT FULFILL THEIR BURDEN OF PROVING THEIR CIVIL CONTEMPT CHARGES.**

1. IRCP 75(a)(5) defines “Nonsummary Proceeding” and states, “(5) *Nonsummary Proceeding*. A nonsummary proceeding is one in which the contemnor is given prior notice of the contempt charge and an opportunity for a hearing.” IRCP 75(a)(5). This case involved a nonsummary proceeding, and in the nonsummary proceeding the Petitioners originally sought 10 counts of Contempt of Court seeking a Civil Sanction and 24 counts of Contempt of Court seeking a Criminal Sanction.

2. IRCP 75(j) provides the burden of proof required to impose a Civil Sanction and states, “Nonsummary Proceedings; Burden of Proof. (1) Civil Sanction. In order to impose a civil sanction, the court must find, by a preponderance of the evidence, that all of the elements of contempt have been proven and that the contemnor has the present ability to comply with the order violated, or with that portion of it required by the sanction.” IRCP 75(j)(1). The plain language of IRCP 75(j)(1) makes it the Petitioners’ burden to prove Neil has the present ability to comply with the Court’s Order. This language requires Petitioners to prove Neil has the present ability to comply while IRCP 75(h) appears to place the burden of proving a contemnor does not have the present ability to comply on the contemnor.

i. Petitioners claim Neil committed Contempt of Court requiring the imposition of a Civil Sanction through his violation of Idaho Code § 7-601(5) which states, “5. disobedience of any lawful judgment, order or process of the court.” I.C. § 7-601(5). Pursuant to IRCP 75(j)(1) Petitioners must prove Neil has the present ability to comply with the order.

ii. “[T]o jail one for contempt for committing an act he is powerless to perform would . . . make the proceeding purely punitive.” *Maggio v. Zeitz*, 333 U.S. 56, 72

(1948).

iii. To impose a civil **contempt** sanction, the judge must find, by a preponderance of the evidence, that the contemnor failed to do what he or she had been ordered to do and that he or she has the present ability to comply, at least to the extent required by the **contempt** sanction. *Chavez v. Canyon County*, 152 Idaho 297, 304 (2012).

iv. “The district court has the authority to impose sanctions for failure to timely comply with a court order, but it also has the discretion to not impose sanctions once the order has been complied with.” *Chavez v. Canyon County*, 152 Idaho 297.

v. “This Court has held that § 7-711 (which addresses permissible sanctions to compel compliance) ‘does not preclude alternative civil sanctions under the common law or I.C. § 1-1603’ . . . Therefore, a court does not abuse its discretion by merely imposing reasonable sanctions that are not specifically articulated in Title 7, Chapter 6. This does not give courts unfettered authority to impose unreasonable and inappropriate sanctions; however, the focus of civil contempt is to ensure that orders are complied with and an injunction imposed for this purpose should be upheld.” *Steiner v. Gilbert*, 144 Idaho 240, 247 (2007).

vi. “Father could not be legally committed to jail for contempt arising out of his failure to pay stated amounts for support of his children as ordered in previous divorce decree, in absence of a specific finding, supported by evidence, that he had the ability to perform when he failed to pay and at the time of the hearing.” *Kinner v. Steg*, 74 Idaho 382.

vii. The court could impose a civil contempt sanction only if the

contemnor had the present ability to comply with the order violated. *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850, 865 (2002).

3. Petitioners have not proven that Neil has the present ability to comply with the two remaining counts of Contempt of Court seeking a Civil Sanction. Petitioners have not shown that Neil has the present ability to comply with the Court's Order requiring he provide records relating to David Flyer or HSBC Bank. Given Petitioners' failure of proof on this issue, the Court does not find Neil committed Contempt of Court which would warrant the imposition of a Civil Sanction.

4. "(k) Nonsummary proceedings; Findings of fact. If the contempt allegation is tried to the court without a jury, the court must make specific findings of fact. In order to impose either a civil sanction or a conditional (civil) provision as part of a criminal sanction, the findings must include the facts upon which the court bases its determination that the contemnor has the present ability to comply with the order violated, or with that portion of it required by the sanction." *IRCP 75(k)*.

5. "(3) Written Order. The court must issue a written order reciting the conduct upon which the contempt conviction rests; adjudging that the contemnor is guilty of contempt; and setting forth the sanction for that contempt. If the sanction is civil or includes a condition provision, the order must specify precisely what the contemnor must do in order to avoid that sanction or have it cease." *IRCP 75(l)(3)*.

6. *IRCP 75(a)(6)* defines "civil sanction" and states, "*Civil Sanction*. A civil sanction is one that is conditional. The contemnor can avoid the sanction entirely or have it case

by doing what the contemnor had previously been ordered by the court to do. A civil sanction can only be imposed if the contempt consist of failing to do what the contemnor had previously been ordered by the court to do” *IRCP 75(a)(6)*.

i. A conditional civil contempt sanction must cease if the contemnor no longer has the present ability to purge the contempt by complying with the order violated.

Shillitani v. United States, 384 U.S. 364 (1966)

ii. The court must exercise the least possible power adequate to the end proposed and consider the character and magnitude of the harm threatened by the continued refusal to perform the act and the probable effectiveness of the sanction in bringing about the desired result. *Marks v. Vehlow*, 105 Idaho 560 (1983).

B. C&M AND KARLIN DID NOT FULFILL THEIR BURDEN OF PROVING THEIR CRIMINAL CONTEMPT CHARGES.

1. *IRCP 75(a)(5)* defines “Nonsummary Proceeding” and states, “(5)

Nonsummary Proceeding. A nonsummary proceeding is one in which the contemnor is given prior notice of the contempt charge and an opportunity for a hearing.” *IRCP 75(a)(5)*. This case involved a nonsummary proceeding, and in the nonsummary proceeding the Petitioners originally sought 10 Contempt of Court counts seeking a Civil Sanction and 24 Contempt of Court counts seeking a Criminal Sanction. Given the definition contained in *IRCP 75(a)(5)* the type of case involved in this case was a Nonsummary Proceeding. This case did not involve either a Criminal Proceeding or a Civil Proceeding.

i. Idaho Code § 19-103 states, “**Criminal action defined.** The proceedings by which a party charged with a public offense is accused and brought to trial and punishment is known as a criminal action.” *I.C. § 19-103*. Idaho Code § 19-104 states, “Parties to criminal actions. A criminal action is prosecuted in the name of the state of Idaho, as a party against the person charged with the offense.” *I.C. § 19-104*. Idaho Code § 19-108 in relevant part states, “**Self-incriminating evidence - Restraint of person.** No person can be compelled in a criminal action to be a witness against himself, . . .” *I.C. § 19-108*. Given these statutes this case was not a criminal action or a criminal proceeding.

ii. “The distinctions between actions at law and suits in equity, and the forms of all such action and suits are hereby prohibited; and there shall be in this state but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action: and every action prosecuted by the people of the state as a party, against a person charged with a public offense for the punishment of the same, shall be termed a criminal action.” *Idaho Constitution, Article V, § 1*. Contempt of Court is not a Civil Action as it does not address “protection of private rights or redress of private wrongs” but rather addresses the following:

a “ . . . a disrespectful act directed at the court itself which obstructs justice. A criminal contempt proceeding is maintained solely and simply to vindicate the authority of the court or to punish otherwise for conduct offensive to the public in violation of an order of the court.” *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850, 862 (2002); or

b. “Although such a power is universally recognized as essential to an orderly and effective administration and execution of justice, it should be exercised with utmost caution. . . . Since a contempt citation is a ‘potent weapon’, . . . courts rightly impose it with caution. . . . Imposing a willful standard ensures that courts cannot abuse their inherent contempt power. It also ensures that courts only impose such an extraordinary remedy when the alleged contemnor has wrongfully disobeyed a court order.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005).

2. IRCP 75(j)(2) provides the burden of proof required for the court to impose a criminal sanction and states, “IRCP 75(j) Nonsummary Proceedings; . . . Burden of Proof. (2) *Criminal Sanction*. In order to impose a criminal sanction, the trier of fact, must find that all of the elements of contempt were proven beyond a reasonable doubt.” IRCP 75(j)(2).

i. Idaho Criminal Jury Instruction 103 states, “**ICJI 103.**

REASONABLE DOUBT. A defendant in a criminal action is presumed to be innocent. This presumption places upon the state the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant’s guilt, you must return a verdict of not guilty. Reasonable doubt is defined as follows: It is not mere possible doubt, because everything relating to human affairs and depending on moral evidence, is open to some possible or

imaginary doubt. It is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, or a moral certainty, of the truth of the charge.” *ICJI 103*.

3. Petitioners claim Neil committed Contempt of Court through his violation of Idaho Code § 7-601(4) which states, “4. Deceit or abuse of process or proceedings of the court by a party to an action or special proceeding.” *I.C. § 7-601(4)*. Petitioners have repeatedly represented that their pursuit of Contempt of Court seeking the imposition of a Criminal Sanction for the alleged 24 counts is based upon Neil lying when he provided answers of “I don’t know” or “I don’t remember”. Petitioners must prove beyond a reasonable doubt that when Neil answered “I don’t know” or “I don’t remember” he lied. Petitioners also represent that “Neil knew the answers at the time of his examination and lied.” Of course, Petitioners can not prove those assertions beyond a reasonable doubt as their next argument is common sense shows Neil lied and most people would know the answers to the questions. This common sense argument is contrary to the language of the Ohio Department of Taxation Court stating, “a well-founded belief of the testimony’s untruthfulness is not sufficient.” *Ohio Department of Taxation at 753*. The Court concludes that Petitioners have not fulfilled their burden of proof and proven beyond a reasonable doubt that Neil is guilty of Contempt of Court justifying the imposition of a Criminal Sanction.

4. “Criminal contempt is the commission of a disrespectful act directed at the court itself which obstructs justice. A criminal contempt proceeding is maintained solely and

simply to vindicate the authority of the court or to punish otherwise for conduct offensive to the public in violation of an order of the court.” *Camp* at 862. If the Court uses the Camp Court’s definition of criminal contempt (a disrespectful act directed at the court itself which obstructs justice) it appears there is no plausible circumstance in this case which would lead to the Petitioners proving beyond a reasonable doubt Neil is guilty of Contempt of Court seeking a Criminal Sanction.

5. “. . . contempt is an extraordinary proceeding and should be approached with caution. This Court has recognized contempt is an extraordinary proceeding. Phillips 95 Idaho at 405, 509 P.2d at 1326. This inherent power must be exercised with great caution. . . . The contempt power is readily susceptible of abuse and fraught with danger not only to personal liberties but to the respect and confidence which our courts must maintain. Although such a power is universally recognized as essential to an orderly and effective administration and execution of justice, it should be exercised with utmost caution. . . . Since a contempt citation is a ‘potent weapon, . . . courts rightly impose it with caution. . . . Imposing a willful standard ensures that courts cannot abuse their inherent contempt power. It also ensures that courts only impose such an extraordinary remedy when the alleged contemnor has wrongfully disobeyed a court order.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 279 (2005). The Court concludes this is especially true where private parties are the parties involved in Nonsummary Proceedings.

6. Willful means, “‘an indifferent disregard of duty’ or ‘a remissness and failure in performance of a duty’ but not a ‘deliberately and maliciously planned dereliction of duty’—applies to contempt proceedings under I.C. § 7-601(5)” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 281 (2005). Neil did not act willfully when he answered “I don’t know” or “I don’t remember.”

7. The holding in Ohio Department of Taxation stated, “a review of the record and proceedings below reveals that at the debtor’s examination of July 19, 2004, appellant blatantly lied about his interest in real property. . .” *Ohio Department of Taxation* at 753 and 754. There is no holding in Ohio Department of Taxation that answers similar to “I don’t know” or “I don’t remember” are sufficient to establish criminal contempt of court. To the contrary, the Ohio Department of Taxation Court stated, “a well-founded belief of the testimony’s untruthfulness is not sufficient.” *Ohio Department of Taxation* at 753. The Court concludes Neil did not lie, let alone blatantly lie, when he answered “I don’t know” or I don’t remember” at his Debtor’s Examination.

8. “The distinction between civil and criminal contempt is important because of the federal constitutional rights that the United States Supreme Court has held applicable in nonsummary criminal contempt proceedings. Those rights include notice that a criminal contempt sanction is being sought in the contempt proceedings, . . .; the right to a public trial, . . .; the right to compulsory process, . . .; the right to the presumption of innocence, . . .; the

privilege against self-incrimination, . . . ; the requirement that contempt be proved beyond a reasonable doubt, . . . ; the right to be represented by counsel, . . . ; the right to cross-examine witnesses, . . . ; the right to call witnesses to testify both in complete exculpation or in extenuation of the offense and in mitigation of the penalty to be imposed, . . . ; the right to testify in one's own behalf, . . . ; the right to the protection of the exclusionary rule, . . . ; the protection of the Double Jeopardy Clause, . . . ; and the right to speak on one's own behalf, similar to the right to allocution, in order to present matters in mitigation or otherwise attempt to make amends with the court, . . . ; As stated by the United States Supreme Court . . . 'Criminal contempt is a crime in the ordinary sense,' . . . and 'criminal penalties may not be imposed on someone who has not been afforded the protections that the Constitution requires of such criminal proceedings.'"
Camp v. East Fork Ditch Co., Ltd., 137 Idaho 850, 860 & 861 (2002). It appears as if this case was the precursor to much of IRCP 75.

9 IRCP 75(i)(2) sets forth the rights required to impose a Criminal Sanction and states, "**(i) Nonsummary Proceedings; Trial.** . . . (2) *Trial Rights Required to Impose a Criminal Sanction.* The court cannot impose a criminal sanction following a trial unless the respondent was provided the following rights: (A) a public trial, (B) compulsory process, (C) the presumption of innocence, (D) the privilege against self-incrimination, (E) the right to call and cross-examine witnesses, (F) the right to testify in his or her own behalf, (G) the right to exclude evidence that was obtained in violation of the respondent's Fourth Amendment rights, (H) the right to counsel, if applicable, and (I) the right to a unanimous verdict if there was a jury trial.

i. In *U.S. v. United Mine Workers of America*, 330 U.S. 258 (1947) the United States Supreme Court stated, “if the defendants were thus accorded all the rights and privileges owing to defendants in criminal contempt cases, they are put in no better position to complain because their trial included a proceeding in civil contempt and was carried on in the main equity suit. Common sense would recognize that conduct can amount to both civil and criminal contempt. The same acts may justify a court in resorting to coercive and to punitive measures. . . . Even if it be better practice to try criminal contempt alone and so avoid obscuring the defendant’s privileges in any manner, a mingling of civil and criminal contempt proceedings must nevertheless be shown to result in substantial prejudice before a reversal will be required. . . . In so far as the criminal nature of the double proceedings dominates and in so far as the defendants’ rights in the criminal trial are not diluted by the mixing of civil and criminal contempt, to that extent prejudice is avoided. Here, as we have indicated, all rights and privileges of the defendants were fully respected, and there has been no showing of substantial prejudice flowing from the formal peculiarities of defendants’ trial.” (Emphasis Added). *U.S. v. United Mine Workers of America* at 298 and 299.

ii. “Rylander argues that the district court improperly combined his trial on the civil and criminal contempt charges. Jointly trying civil and criminal contempt charges is not a ground for reversal unless it is ‘shown to result in substantial prejudice’ . . . Rylander has failed to demonstrate such prejudice. None of the safeguards to which he was entitled as a criminal defendant was compromised. We therefore do not reverse on this ground. Although combining the civil and criminal trials in this case was not reversible error, such joint trials entail

NEIL CAMPBELL’S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW - 44

problems and hazards that lead us to think it would usually be wiser to try the civil and criminal charges separately. There are many safeguards applicable in a criminal contempt proceeding, such as the right to a jury trial in some cases, the right to counsel, the right not to take the witness stand, and the ‘beyond a reasonable doubt’ burden of proof, which do not apply in a civil contempt proceeding. These differences create unforeseen problems when civil and criminal contempt charges are tried jointly. Thus, although it was no reversible error here, we do not endorse the practice of trying civil and criminal contempt charges jointly.” (Emphasis Added). *U.S. v. Rylander*, 714 F.2d 996, 1003 and 1004 (Ninth Circuit, 1983).

iii. Pursuant to IRCP 75(i)(2)(D) the Court cannot impose a Criminal Sanction as Mr. Campbell was not provided his privilege against self-incrimination. He was required to take the witness stand and assert his Fifth Amendment right. The language in both *U.S. v. Unites States Mine Workers*, “if the defendants were thus accorded all the rights and privileges owing to defendants in criminal contempt cases” and *U.S. v. Rylander*, “the right not to take the witness stand” confirms that in this case the Court cannot impose a Criminal Sanction as Neil was required to take the witness stand in violation of the rights provided him by IRCP 75(i)(2)(D).

iv. The mandatory use of “cannot” in IRCP 75(i)(2)(D) prohibits the Court from exercising its discretion and imposing a criminal sanction against Neil given that Neil’s privilege against self-incrimination was not honored in this case. In *Gubler v. Boe*, 120 Idaho 294 (1990) the Idaho Supreme Court provided, “in addressing the effect of noncompliance

with procedural statutes and rules the Court in *Stoner v. Turner*, 73 Idaho 117, 121 . . . (1952) said ‘The object of statutes and rules regulating procedure in the courts is to promote the administration of justice. Those statutes and rules which fix this time within which procedural rights are to be asserted are intended to expedite the disposition of causes to the end that justice will not be denied by inexcusable and unnecessary delay. But except as to those which are mandatory or jurisdictional, procedural regulations should not be so applied as to defeat their primary purpose . . .’ *Gubler* at 300.

v. The Court concludes that pursuant to IRCP 75(i)(2)(D), *U.S. v. Rylander*, *U.S. v. United States Mine Workers*, and *Gubler v. Boe*, the Court cannot impose a Criminal Sanction as Neil’s privilege against self incrimination/his right to not take the witness stand was not honored. The Court made Neil take the stand and answer questions posed by Petitioners’ counsel. Once Neil was forced to take the stand the Court cannot impose a Criminal Sanction.

10. A serious fine cannot be imposed as a criminal contempt sanction unless the contemnor was given a jury trial. *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 837 & 838 (1994). A fine becomes serious somewhere between \$10,000 and \$52,000,000.00. *Id.* at 838 n.5.

11. “(1) Nonsummary proceedings; Imposition of sanctions. If the respondent . . . is found in contempt following a trial, the court may impose sanctions as permitted by law, under the following conditions: . . . (2) Right to call witnesses and speak regarding the sanction. The

court cannot impose a criminal sanction without first giving the contemnor the right to call witnesses in mitigation of the sanction and the right to be heard in order to present matters in mitigation or otherwise attempt to make amends with the court.” *IRCP 75(l)(2)*.

i. “The determination of whether a sanction or penalty should be imposed is within the discretion of the trial court.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 278 (2005).

C. NEIL PROVED HIS AFFIRMATIVE DEFENSES TO BOTH THE CIVIL AND CRIMINAL CONTEMPT CHARGES.

1. Mr. Campbell’s Civil Contempt of Court Affirmative Defenses are as follows:

A. Mr. Campbell lacks the present ability to comply with the court order, however by asserting this affirmative defense, Mr. Campbell is not conceding that it is an affirmative defense rather than an element or item which needs to be proven by the Petitioners pursuant to *IRCP 75(j)(1)* and/or *ICRP 75(k)*.

2. Mr. Campbell’s Criminal Contempt of Court Affirmative Defenses are as follows:

A. Mr. Campbell was unable to comply with the court order at the time of the alleged violation.

3. “(2) Burden of proof regarding affirmative defenses. In order to prevent a

civil sanction from being imposed, the respondent must prove the affirmative defense by a preponderance of the evidence. . .” *IRCP 75(h)(2)*.

4. “(2) Burden of proof regarding affirmative defenses. . . . In order to prevent a criminal sanction from being imposed, there need only be a reasonable doubt as to whether the respondent is guilty of the contempt.” *IRCP 75(h)(2)*.

D. ISSUES UPON WHICH THE COURT REQUESTED BRIEFING

The court requested briefing on two issues.

The first was whether providing a means to obtain documents excuse civil contempt or satisfy a parties obligation to provide documents. Neil provided his discussion of this issue above in the portion of this document dealing with Contempt o Court seeking a Civil Sanction. It will not be readdressed here.

The second was whether truthfulness on prior occasions is relevant given Idaho Rule of Evidence 404 which renders as inadmissible prior bad acts.

Idaho Rule of Evidence 404(a) in relevant part states, “(a) **Character evidence generally**. Evidence of a person’s character or a trait of character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except: (1) **Character of the accused**. Evidence of a pertinent trait of the accused’s character offer by an accused, or by the prosecution to rebut the same; (2) **Character of victim**. . . (3) **Character of witness**. Evidence of the character of a witness, as provided in Rules 607, 608 and 609.” *IRE 404(a)*.

Subparagraph (1) of IRE 404(a) does not apply as Petitioner's are trying to offer this evidence, it is not offered by Neil and it is not offered to rebut a pertinent trait of character offered by Neil. Petitioners called Neil to the witness stand of his objection upon the grounds of the Fifth Amendment and IRCP 75(i)(2)(D). The Court overruled those objections and permitted Petitioners to call Neil, but the fact that Neil called no witnesses clearly indicates he did not put a pertinent trait of his character in issue under IRE 404(a)(1).

Subparagraph (2) of IRE 404(a) does not apply since Petitioners offer in this case does not involved the character of a victim.

Finally subparagraph (3) of IRE 404(a) does not apply as IRE 607 permits the impeachment, however Petitioners did not attempt to impeach Neil while he was on the stand over his previously identified objections. IRE 608(a) is inapplicable because no opinion or reputation evidence was offered. IRE 608(b) states, “**(b) Specific instances of conduct.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the credibility, of the witness, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness concerning (1) the character of the witness for truthfulness or untruthfulness, or (2) . . .” *IRE 608(b)*. IRE 608(b) specifically prohibits specific instances of the conduct of a witness to be proven by extrinsic evidence. Additionally, the truthfulness or untruthfulness of Neil was not covered by the Petitioners in their cross-examination of Neil. For these reasons IRE 608 would not permit

character evidence of Neil to be admitted or used in the case. IRE 609 does not permit the character evidence of Neil to be used as they neither there was no hearing held in this case to determine if the probative value of any felony conviction outweighs its prejudicial effect. Since none of the exceptions in subparagraph 1 through 3 of IRE 404(a) apply in this case the general rule of IRE 404(a) applies which states Neil's character or a trait of his character is not admissible for the purpose of proving he acted in conformity therewith on a particular occasion.

Idaho Rule of Evidence 404(b) in relevant part states, "(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident, provided that the prosecution in a criminal case shall file and serve notice reasonably in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial." *IRE 404(b)*. Idaho Rule of Evidence 404(b) is not applicable in this case as Petitioners did not file and serve notice reasonably in advance of trial of the general nature of the evidence it intends to introduce at trial.

For these reasons the Court should disregard any attempts by the Petitioners to argue that any alleged prior lies of Neil may serve as evidence to show he lied in the nonsummary proceedings currently before the Court.

CONCLUSION

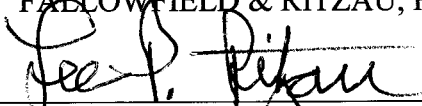
For the reasons set forth above, the Court finds in favor of Neil and declines to find him in Contempt of Court where a Criminal Sanction would be imposed. Under the plain language of IRCP75(i)2)(D) since the Court did not provide Neil his privilege against self-incrimination the Court can no longer impose a Civil Sanction.

Additionally the Court finds in favor of the two remaining counts of Contempt of Court where Petitioners' sought the imposition of a Civil Sanction. Neil provided a Limited Power of Attorney which would permit the Petitioners' to obtain the documents they seek. Additionally, Petitioners have not established that Neil has the present ability to comply with the order violated as required by IRCP 75(k).

The Court awards Neil is the prevailing party and may thus award Neil his costs and attorney fees if he pursues them as required by IRCP 75(m) and IRCP 54. and awards the custody of IMH as set forth above.

DATED this 19th day of August, 2016.

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.



Lee P. Ritzau, Attorneys for
Defendant/Respondent, Neil Campbell

CERTIFICATE OF SERVICE

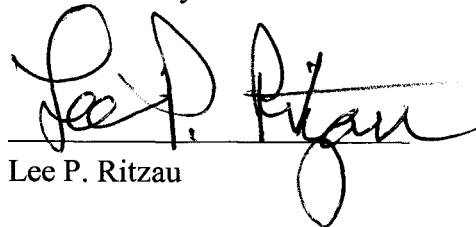
I HEREBY CERTIFY that on the 19th day of August, 2016, I served a true and correct copy of the within and foregoing document upon:

Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

___ By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Ketchum, Idaho.

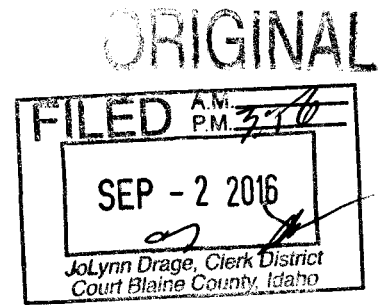
___ By transmitting copies of the same to said attorney by facsimile machine process.

By hand delivering the same to said attorney.



Lee P. Ritzau

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Luke L. Dauchot, CA Bar No. 229829, OH Bar No. 0039935, IL Bar No. 6193611
Lauren Schweitzer, CA Bar No. 301654
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

**PLAINTIFFS' OBJECTIONS TO
DEFENDANT NEIL CAMPBELL'S
PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Plaintiffs C&M Investment Group, LTD and Karlin Holdings Limited Partnership (collectively “Plaintiffs”) hereby respectfully object to Defendant Neil Campbell’s (“Campbell”) proposed Findings of Fact and Conclusions of Law. As discussed in more detail below, Campbell’s proposed Findings of Fact and Conclusions of Law are factually and legally incorrect and ignore key pieces of evidence. Plaintiffs therefore respectfully ask the Court to reject Campbell’s proposed Findings of Fact and Conclusions of Law and to adopt entirely those proposed by Plaintiffs.

I. OBJECTIONS TO CAMPBELL’S PROPOSED FINDINGS OF FACT¹

A. Campbell’s Proposed Case History Findings Include Irrelevant and Unsupported Assertions of Fact

Paragraph A.1.A: The fact that this case was ongoing for years before Campbell’s current counsel began representing him is not relevant to any issue presented by this contempt proceeding.

Paragraph A.3: Campbell states that Dr. Gary Michelson “urged” the Los Angeles District Attorney to charge Campbell with criminal counts. Campbell bases this assertion on statements that he made in his sworn Opposition. Campbell’s out-of-court statements regarding Dr. Michelson are hearsay when offered self-servingly by Campbell and lack foundation because there is no evidence that they were based on Campbell’s personal knowledge. Moreover, this assertion is irrelevant to the contempt trial.

Paragraph A.9: The fact that Mr. Ritzau had “just under two months to prepare for trial” is irrelevant and—to the extent that it suggests that Mr. Ritzau had inadequate time to prepare—is misleading. If Mr. Ritzau felt he needed more time to prepare, he could have moved for a continuance. He did not do so.

¹ Plaintiffs object that many of Campbell’s proposed findings of fact are better characterized as conclusions of law or argument.

B. Campbell’s Proposed Findings of Fact Regarding the Civil Contempt Counts Are Based on Inapposite Authority and Ignore Relevant Evidence

Paragraph B.1: Plaintiffs wish to clarify that the dismissed civil contempt counts were each dismissed without prejudice.

Paragraph B.1.A² & B.3: Campbell does not deny that he failed to produce a single record of a single payment to Flyer, nor does he deny that such records exist. Moreover, Campbell does not cite any facts indicating that he is presently unable to comply with the Court’s Amended Order directing him to produce these records. Nor does he address Plaintiffs’ evidence establishing each of these facts. *See* Trial Tr. at 193:17–194:2; Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 43–48.

Instead, Campbell argues solely that “the fact that Neil provided limited powers of attorney to the Petitioners so they can obtain the documents at issue is compliance with the Court’s Order and equivalent to Neil providing the documents himself.” Paragraph B.1.A.I.c. Campbell bases this claim entirely on two inapposite cases, both of which address the failure to comply with a court order *requiring the party to execute a power of attorney*. *See In Re Houshang Dardashti v. Jeffrey Golden*, 2008 WL 8444787, at *1, *7–10 (9th Cir. 2008) (affirming contempt conviction for failing to comply with court order to “execute and return to the Trustee a power of attorney form”); *Eckard v. Eckard*, 333 Md. 531, 533, 546 (Md. App. 1994) (affirming contempt conviction for failing to comply with court order to sign a power of attorney). Here, the Court’s Amended Order required Campbell to *produce documents*, not to execute a power of attorney. Moreover, neither of these cases addresses whether a party complies with a discovery obligation or court order *requiring production of documents* by

² Plaintiffs here respond to Paragraphs B.1.A, B.1.A.I, and B.1.A.I.a– B.1.A.I.c.

executing a power of attorney purportedly authorizing the requesting party to obtain those documents.

As set forth in Plaintiffs' Proposed Findings and Conclusions, it is well established in the context of discovery requests that "even where a requesting party *already has documents in its possession, or could otherwise access those documents*, the disclosing party may not withhold those documents." *Beach Mart, Inc. v. L & L Wings, Inc.*, 302 F.R.D. 396, 410 (E.D.N.C. 2014); *accord Rivers v. Asplundh Tree Expert Co.*, No. 5:08CV61/RS/EMT, 2008 WL 5111300, at *4 (N.D. Fla. Dec. 3, 2008); *SSL, L.L.C. v. Garcia-Chicoine Enters., Inc.*, No. 04-1017-JTM, 2005 WL 6793646, at *3 (D. Kan. Aug. 24, 2005); *Walt Disney Co. v. DeFabiis*, 168 F.R.D. 281, 284 (C.D. Cal. 1996); *Fort Wash. Res., Inc. v. Tannen*, 153 F.R.D. 78, 79 (E.D. Pa. 1994). If a party cannot satisfy a *discovery request* by informing the requesting party that he already possesses the relevant documents, then *a fortiori*, a party cannot satisfy a *court order directing production* by merely authorizing the requesting party to obtain the documents from a third-party source.

Additionally, Campbell gives no reason why Plaintiffs should be forced to spend additional time and resources to obtain documents within *Campbell's* control. Campbell is in the best position to find and obtain his own records, and this Court ordered *Campbell* to produce them. He cannot shirk his burden by authorizing Plaintiffs to get the records themselves.

For the aforementioned reasons, Campbell did not comply with this Court's Amended Order by providing to Plaintiffs a limited power of attorney purporting to authorize them to obtain the subject records.

Paragraph B.1.B.I & B.3: Campbell's Responses to Count Eight suffer from the same deficiencies as his Responses to Count One. Again, he does not deny that he failed to produce any records from the HSBC Hong Kong Account or that such records exist. Moreover,

Campbell does not cite any facts indicating that he is presently unable to comply with the Court's Amended Order directing him to produce these records. Nor does he address Plaintiffs' evidence establishing each of these facts. *See* Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 52–66.

Again, Campbell's sole argument is that he complied with the Amended Order by providing Plaintiffs with a limited power of attorney purportedly authorizing them to obtain records related to the HSBC Hong Kong Account. This argument fails for the same reasons discussed above. Additionally, as to Count Eight, this argument suffers from the added defect that Campbell provides no evidence that a power of attorney executed by a U.S. citizen, in the United States, under U.S. law would be effective to authorize Plaintiffs to obtain records related to an account in a Hong Kong company's name at a Hong Kong bank. Thus, Campbell's argument that he has "done what the court previously ordered him to do [sic], and thus a civil sanction is not warranted" is wrong.

Paragraph B.2: Plaintiffs object that Exhibits 501 and 508 are not relevant. For the reasons discussed above, Campbell did not comply with the Court's Amended Order by providing to plaintiffs these limited powers of attorney. Moreover, there is no evidence that Exhibit 508 (the power of attorney related to the HSBC Hong Kong Account) would be effective.

C. Campbell's Proposed Findings of Fact Regarding the Criminal Contempt Counts Are Incorrect and Ignore Relevant Evidence

1. Campbell's Proposed Findings of Fact Do Not Propose Factual Findings and Ignore Plaintiffs' Evidence

The theme running through Campbell's responses to each of the contempt counts is that "I don't know" and "I don't remember" answers do not constitute contempt. Campbell is wrong. If those answers are given falsely, then they are punishable as contempts.

Moreover, in his proposed findings of fact, Campbell generally does not propose any factual findings. Instead, he structures his proposed findings as argumentative “response[s]” to Plaintiffs’ contempt counts. These responses typically excise additional portions of the August 2015 debtor’s exam transcript and argue that these later answers somehow show that Campbell’s claims of ignorance or memory loss do not constitute contempt. However, none of the cited testimony shows that any of the statements underlying Plaintiffs’ criminal contempt counts was true. Moreover, Campbell’s arguments miss the point: Campbell’s entire exam was full of inconsistent answers designed to evade and obfuscate rather than illuminate. Thus, the fact that Campbell can point to vague testimony related to facts that Campbell earlier claimed to not remember at all only strengthens the conclusion that Campbell is guilty on each count of criminal contempt.

Campbell also does not address any of the evidence that Plaintiffs offered showing beyond any reasonable doubt that Campbell lied when he made the statements underlying each of Plaintiffs’ contempt counts. For example, Campbell fails to address evidence that he owned and sold a Corvette in 2012 for roughly \$28,000, that he sent himself “less than 100K” in cash in his moving boxes when he moved to Idaho, and that he claimed he didn’t remember where he lived in 2012 while he had a document listing his address at that time in front of him. *See* Exs. 1 at 33:19–24; 3-37; 5; 6-3; 6-5. He also fails to explain how Campbell—a person of supposedly limited means—could forget so many basic facts about his finances and living situation; or how he could miraculously remember some of these facts nearly a year later on the eve of the previously scheduled contempt trial. Finally, as to each contempt count, Campbell fails to point to any evidence raising a reasonable doubt regarding his guilt.

2. **Campbell's Incorrectly Claims that His Testimony Was Not Contumacious Because It Either Would Not Have Helped Plaintiffs or Because Plaintiffs' Exam Was Designed to Build A Contempt Case**

As to nearly every one of Plaintiffs' criminal contempt counts, Campbell proposes a finding that the answer underlying the relevant contempt count were "not a disrespectful act which obstructed justice . . . or had an obstructive effect and the questions was pertinent." For each of these counts, he simultaneously proposes a finding that the information sought would not have "assist[ed] Petitioners in collecting their judgment. A reading of almost all of the questions directed to Neil at his examination lead[s] to the conclusion it was an attempt to create contempt of court charges, not gather information to collect the huge judgment at issue in this case."³

Contrary to Campbell's argument, feigning ignorance or forgetfulness constitutes deceit. And *any* false testimony given under oath is inherently a disrespectful act which violates the solemnity of court proceedings and obstructs justice by obscuring the truth. *See Sauls v. State*, 354 So. 2d 435, 436 (Fla. Dist. Ct. App. 1978) ("[T]he giving of perjured testimony obstructs the proper administration of justice and, thus, is subject to a criminal contempt proceeding."). Giving false testimony is the height of disrespect and constitutes a willful attempt to obstruct Plaintiffs' efforts to seek the truth.

Additionally, there is no evidence that supports Campbell's argument that the information sought in the testimony underlying Plaintiffs' contempt counts would not have helped Plaintiffs enforce their judgment. The purpose of the debtor's exam was to trace Campbell's assets, income, and expenditures to obtain financial information. Plaintiffs need this information to find assets against which to enforce their judgment. Thus, any information establishing the timeline of Campbell's assets, income, and expenditures would help Plaintiffs' judgment collection

³ Campbell proposes this finding as to Counts Fourteen, Fifteen, Sixteen, Twenty-One to Twenty-Five, and Twenty-Seven to Thirty-Four.

efforts. Therefore each of the questions underlying the relevant criminal contempt counts—all of which sought information related to Campbell’s assets, income, and expenditures—sought information that would have been helpful to Plaintiffs’ judgment collection efforts.

Moreover, whether the information would have been useful is irrelevant. The issue is whether the testimony was deceitful, not whether the information sought by the question would have been helpful. *See* Idaho Code § 7-601 (party’s deceit constitutes contempt). Campbell bases his argument to the contrary on a statement in *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747 (Ct. App. 2008).⁴ In *Kunkle*, the Court stated that “to sustain a conviction for contempt for giving false testimony, it must be shown that the false testimony had an obstructive effect . . . and that the questions were pertinent to the issues in the case.” *Id.* at 753. The portion that Campbell cites in support of his argument is inapposite because the Court was interpreting Ohio law. Notably, unlike Idaho, Ohio’s definition of contempt does not include deceit. *Compare* Ohio. Rev. Code. § 2705.02 (not including deceit as a contempt) *with* Idaho Code § 7-601 (defining a party’s deceit as contempt). Regardless, even if this were the law in Idaho, each instance of false testimony related to Campbell’s finances was pertinent to and obstructed Plaintiffs’ judgment collection efforts. The purpose of the debtor’s exam was to trace Campbell’s assets, income, and expenditures to divine their ultimate whereabouts and find assets against which to enforce Plaintiffs’ judgment. Campbell’s feigned ignorance of these facts impeded Plaintiffs’ judgment collection efforts.

For similar reasons, Campbell’s argument that the examination was conducted solely to “create contempt of court charges, not gather information to collect” the judgment is specious, unsupported by evidence, and irrelevant. It is also belied by the transcript of the August 2015

⁴ In their trial brief, Plaintiffs cited *Kunkel* for a different proposition—that blatantly false and evasive answers constitute contempt. Pls.’ Tr. Brief at 8.

debtor's examination, which is comprised largely of questions about Campbell's assets, income, expenses, and other cashflows.

CAMPBELL'S FALSE TESTIMONY RELATED TO THE SOURCE OF FUNDS USED TO OPEN HIS BANK OF AMERICA ACCOUNT, HIS CAR, AND WHERE HE LIVED (COUNTS 11-17)

3. Campbell's Response to Counts Eleven, Twelve, and Thirteen

Counts Eleven through Thirteen relate to Campbell's testimony regarding where he obtained approximately \$25,000 that he used to open his Bank of America account in May 2012. Campbell provides essentially the same response to each.

Campbell's only proposed facts related to these Counts are (1) that he testified elsewhere during his August 2015 debtor's examination that "he sold off an asset, that he was liquidating things in Florida, [and] that he liquidated stock he held in a venture capital group," and (2) that in the summer of 2008 Campbell received \$500,000 for selling his interest in C&M.⁵

The testimony that Campbell cites regarding his asset and stock sales comes from his responses to questions about topics other than the source of the funds with which he opened his Bank of America account. The fact that Campbell elsewhere acknowledged selling stock and unspecified assets when discussing other topics has no bearing on whether his claims of ignorance about the money he used to open his Bank of America account were truthful. If anything, these statements suggest the opposite. The fact that Dr. Michelson paid Campbell \$500,000 in 2008 is similarly unavailing.

Moreover, the testimony that Campbell cites in paragraph VII about whether Campbell had a box of cash somewhere is demonstrably false. Campbell admitted that he put "less than

⁵ Campbell does not actually recite most of these facts with respect to Count 11, but instead reproduces the following testimony: Ex. 1 at 49:20–23, 50:5–10, 52:8–15, 54:24–55:10, 57:25–58:10, 59:5–8, 59:18–20. Plaintiffs treat Campbell's proposed findings for Count 11 (paragraphs I thru VII) as though they ask the Court to find the same facts recited with respect to Counts Twelve and Thirteen.

100K” of cash in the boxes that his movers transported to Idaho. Ex. 5-2. It is unfathomable that he forgot this fact.

Finally, nowhere in his responses to Counts Eleven, Twelve, or Thirteen does Campbell address any of Plaintiffs’ evidence showing that the testimony underlying these counts is false. *See* Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 78–85. It is particularly striking that Campbell does not acknowledge the evidence showing that he owned a car, sold it in March 2012 for roughly \$28,000, and used the check from that sale to open the Bank of America account. *See* Exs. 5-1; 6-3; 6-5.

4. Campbell’s Response to Count Fourteen

Paragraph I: Campbell for the first time objects that the question underlying Count Fourteen is vague as to time. This objection is waived because it was not asserted during the examination. Regardless, Campbell’s argument that Plaintiffs failed to prove has lies beyond a reasonable doubt because the question was supposedly vague misses the point: Plaintiffs were asking Campbell a question about where he obtained the source of funds used to open his Bank of America account. The evidence now shows that he obtained these funds by selling his car for roughly \$28,000. *See* Exs. 5-1; 6-3; 6-5. Because it is inconceivable that anyone would forget these facts, Plaintiffs have established that Campbell lied when he said he did not remember—regardless of whether Plaintiffs pinpointed the exact date covered by their question.

Paragraphs II, II.A, and II.B: *See* Part I.C.2, *supra*.

Paragraph II.C & II.D: Campbell argues that *Ohio Department of Taxation v. Kunkle*, 179 Ohio App. 3d 747 (Ct. App. 2008), does not establish that “I don’t know” or “I don’t remember” answers are sufficient to establish criminal contempt and has no relevance to contempt charges related to such answers. Campbell’s arguments fail. The testimony at issue in *Kunkle* involved multiple “I don’t know” or “I can’t remember” answers. *See id.* at 750-51.

Moreover, *Kunkle*'s statement that "a well-founded belief of the testimony's untruthfulness is not sufficient," *id.* at 753, does not establish that "I don't know" or "I can't remember" answers do not constitute contempt where, as here, there is evidence proving that those answers are false.

5. Campbell's Response to Count Fifteen

Paragraph I: Campbell argues that Plaintiffs have not shown beyond a reasonable doubt that Campbell lied when he said he did not remember if owned a car in 2012. Campbell does not cite any evidence in support of this argument. He also fails to address his own admission and bank records which show that he owned a car in 2012 and sold it for roughly \$28,000. *See* Exs. 5-1; 6-3; 6-5. It is inconceivable that someone of purportedly limited means would forget owning and selling a car for that much money.

Paragraph II: *See* Part I.C.2, *supra*.

6. Campbell's Response to Count Sixteen

Paragraph I: The fact that Plaintiffs knew in 2012 that Campbell lived in Idaho is irrelevant to whether Campbell lied when he said he did not remember where he lived in June of 2012.

Paragraph II: Without explanation, Campbell recites his testimony that "I lived in Idaho for almost two years before I was arrested, and I was in jail for almost 17 months, and I've been out since November, so you just backtrack from there." Ex. 1 at 35:19-24. The fact that Campbell gave this testimony does not show that he testified truthfully when he said he did not remember where he lived in June of 2012. If anything, it shows that his memory loss was feigned. Moreover, this testimony is beside the point: Immediately before Campbell claimed not to remember where he lived in 2012, Plaintiffs' counsel showed Campbell his Bank of America statement from the period starting June 8, 2012. This statement showed the addressee as "Neil D Campbell" with a listed address of 2804 Summit Dr., Sun Valley, ID 83353. Exs. 1 at 33:19-24;

3-37. Campbell, therefore, knew where he was living at the time but chose to evade the question.

Paragraph III: See Part I.C.2, supra.

7. Campbell's Response to Count Seventeen

Campbell relies on the same argument he set forth in his response to Count Eleven. For the same reasons that his response fails for Count Eleven, his response to Count Seventeen fails.

CAMPBELL'S FALSE TESTIMONY ABOUT THE SOURCE OF A LARGE CASH DEPOSIT TO HIS BANK OF AMERICA ACCOUNT (COUNT 18)

8. Campbell's Response to Count Eighteen

Campbell relies on the same argument he set forth in his response to Count Eleven. For the same reasons that his response fails for Count Eleven, his response to Count Eighteen fails.

CAMPBELL'S FALSE TESTIMONY RELATED TO THE COMPANY IN WHOSE NAME CAMPBELL OPENED THE HONG KONG ACCOUNT (COUNT 19)

9. Campbell's Response to Count Nineteen

Paragraph I: Campbell cites testimony from his February 2015 debtor's examination in which he states that he does not remember the name of the corporation in whose name he opened the HSBC Hong Kong Account. This testimony does not show that Campbell's August 2015 testimony to the same effect was truthful. In both exams, Campbell feigned memory loss to avoid giving Plaintiffs information. If anything, the fact that Campbell was asked this question during the February examination shows that he was on notice that Plaintiffs sought this information and should have investigated the name of his company in Hong Kong.

Paragraph II: Campbell admits that he has now provided the name of his Hong Kong company to Plaintiffs. He claims that his memory was refreshed when he obtained a bank statement from his lawyer, Jonathan Michaels ("Michaels"). In support of this argument,

Campbell cites a wire transfer record showing transfers from Mosaic Orange Limited to Michaels. However, Campbell cites to no evidence establishing when Campbell received the documents at issue. There is thus no evidence that Campbell's memory was refreshed. It is also noteworthy that Campbell was asked about the name of this company during two examinations—one of which was conducted in Michaels' presence—and never suggested that Michaels would have this information. *See* Exs. 1 at 41:15–22; 2 at 22:20–23:20. Finally, Campbell ignores Plaintiffs' evidence establishing that he in fact knew this name when he falsely claimed he did not. *See* Pls.' Proposed Findings of Fact & Conclusions of Law ¶¶ 106–112.

CAMPBELL'S FALSE TESTIMONY RELATED TO THE SOURCE OF LARGE CASH DEPOSITS TO CAMPBELL'S ZIONS BANK ACCOUNT (COUNTS 20-30)

10. Campbell's Response to Count Twenty

Campbell responds to Count Twenty is the same as his response to Count 11: That he “testified in other places of his Debtor’s exam that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M.” This argument fails for the same reasons discussed with respect to Count Eleven. Moreover, Campbell misses the point: Campbell’s entire exam was full of inconsistent answers designed to evade and obfuscate rather than illuminate. Campbell’s hazy testimony during other parts of his August 2015 debtor’s exam about unspecified assets and unidentified stock only strengthens this conclusion. Moreover, Campbell ignores all of Plaintiffs evidence—including Campbell’s admission that he sent himself “less than 100K” in cash in his moving boxes—that proves Campbell’s testimony about the source of large cash deposits to his Zions Account was false. *See* Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127.

11. Campbell's Response to Counts Twenty-One to Twenty-Three

Counts Twenty-One to Twenty-Three are each based on Campbell's false testimony regarding the source of large cash deposits to his Zions bank account. As to each of these Counts, Campbell argues: (1) that Plaintiffs failed to prove beyond a reasonable doubt that Campbell lied when he gave the subject testimony, and (2) that the information sought would not have been helpful to Plaintiffs' judgment collection efforts and that the August 2015 examination was designed to build a contempt case.

Campbell cites no evidence raising a reasonable doubt regarding whether he lied when he gave the testimony underlying these contempt counts. Moreover, he ignores all of Plaintiffs' evidence to the contrary—not the least of which being his admission that he sent himself “less than 100K” in cash in his moving boxes. *See* Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 113–27; Ex. 5-2.

His second argument fails for the reasons stated in Part I.C.2, *supra*.

12. Campbell's Response to Count Twenty-Four

Paragraph I: Campbell asserts that he “testified truthfully that he made cash deposits in his examination so there is no lie which would be the basis for contempt of court[.]” This argument is inapposite. Count Twenty-Four asserts that Campbell lied about the *source* from which he obtained the cash that he deposited, not about the fact that he deposited cash.

Paragraph II: Campbell asserts that Plaintiffs have not shown beyond a reasonable doubt that Campbell lied “when he answered he testified he made cash deposits.” This argument fails for the same reason as Paragraph I.

Paragraph III: *See* Part I.C.2, *supra*.

13. Campbell's Response to Count Twenty-Five

Paragraph I: Campbell asserts that he “testified it came from the sale of stock or the liquidation of assets. His testimony it was either of these two possibilities and that he did not

remember which was truthful.” Campbell cites no evidence in support of this argument and fails to address Plaintiffs’ substantial evidence to the contrary—including Campbell’s admission that he shipped himself “less than 100K” in cash in his moving boxes. *See* Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127; Ex. 5-2. He also misses the point: This testimony, like Campbell’s entire exam, consists of inconsistent answers designed to evade and obfuscate rather than illuminate.

Paragraph II: Campbell asserts that Plaintiffs have not shown beyond a reasonable doubt that Campbell “lied when he answered he testified he how he came into possession of the cash deposits he made in the 2011/2012 time frame.” This argument fails for the same reasons as Paragraph I.

Paragraph III: *See* Part I.C.2, *supra*.

14. Campbell’s Response to Count Twenty-Six

Campbell’s response to Count Twenty-Six is the same as his response to Count 11: That he “testified in other places of his Debtor’s exam that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M.” This argument fails for the same reasons discussed with respect to Count Eleven. Moreover, Campbell misses the point: Campbell’s entire exam was full of inconsistent answers designed to evade and obfuscate rather than illuminate. Campbell’s hazy testimony during other parts of his August 2015 debtor’s exam about unspecified assets and unidentified stock only strengthens this conclusion. Moreover, Campbell ignores all of Plaintiffs’ evidence—including Campbell’s admission that he sent himself “less than 100K” in cash in his moving boxes—that proves Campbell’s testimony about the source of large cash deposits to his Zions Account was false. *See* Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127.

15. Campbell's Response to Count Twenty-Seven

Paragraph I: Campbell asserts that Plaintiffs have not proved beyond a reasonable doubt that he “lied when he answered the question which is the subject matter of Count Twenty-Seven. He testified that he didn’t remember unless it was cash he received from selling items in this 2011/2012 timeframe.” Campbell does not cite any evidence in support of his argument that his testimony was truthful. Moreover, Campbell ignores all of Plaintiffs evidence—including Campbell’s admission that he sent himself “less than 100K” in cash in his moving boxes—that proves Campbell’s testimony about the source of large cash deposits to his Zions Account was false. *See* Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127.

Paragraph II: *See* Part I.C.2, *supra*.

16. Campbell's Response to Count Twenty-Eight

Paragraph I: Campbell asserts that Plaintiffs have not proved beyond a reasonable doubt that Campbell lied when he “answered the question which is the subject matter of Count Twenty-Eight. He testified that he didn’t remember whether he depleted all of the cash he had when he deposited cash in the 2011/2012 time frame.” Campbell does not cite any evidence showing that his testimony was truthful. Moreover, Campbell ignores all of Plaintiffs evidence—including Campbell’s admission that he sent himself “less than 100K” in cash in his moving boxes—that proves Campbell’s testimony about the source of large cash deposits to his Zions Account was false. *See* Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127.

Paragraph II: *See* Part I.C.2, *supra*.

17. Campbell's Response to Count Twenty-Nine

Paragraph I: Campbell asserts that Plaintiffs have not proved beyond a reasonable doubt that Campbell lied when “he answered the question that is the subject matter of Count Twenty-

Nine. He testified that he didn't remember whether he owned anything in Florida when he moved to Idaho." Campbell does not cite any evidence showing that his testimony was truthful. Additionally, this argument only addresses part of the testimony underlying Count Twenty-Nine. Finally, Campbell ignores all of Plaintiffs evidence—including Campbell's admission that he sent himself "less than 100K" in cash in his moving boxes—that proves Campbell's testimony about the source of large cash deposits to his Zions Account was false. *See* Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127.

Paragraph II: Campbell recites testimony from his February 2015 debtor's examination in which he states that he might have *accounts* open in Florida or California with some money, but nothing more than \$1,000. This does not prove the truth of Campbell's August 2015 testimony that he didn't remember whether he liquidated all of his *assets* in Florida worth more than \$10,000 or whether he still owned anything in Florida when he moved to Idaho. If anything, Campbell's February 2015 testimony that he might still have open accounts in Florida tends to prove that his August 2015 claim that he could not remember whether he owned anything in Florida was false.

Paragraph III: *See* Part I.C.2, *supra*.

18. Campbell's Response to Count Thirty

Paragraph I: Campbell asserts that Plaintiffs have not proved beyond a reasonable doubt that Campbell lied when "he answered the question that is the subject matter of Count Thirty. He testified that he didn't remember where several cash deposits came from in February of 2012." Campbell does not cite any evidence showing that his testimony was truthful. Moreover, the "several" cash deposits described in the testimony underlying Count Thirty totaled \$4,100—significantly more than Campbell's sole monthly income of his \$1,600 social security payment. *See* Ex. 1 at 35:8–11. It is highly unlikely that Campbell would have forgotten the source of

these funds. Finally, Campbell ignores all of Plaintiffs evidence—including Campbell’s admission that he sent himself “less than 100K” in cash in his moving boxes—that proves Campbell’s testimony about the source of large cash deposits to his Zions Account was false. See Pls.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 113–127.

Paragraph II: See Part I.C.2, supra.

Paragraph III: Campbell incorporates his response to Count 11 that he “testified in other places of his Debtor’s exam that he sold off an asset, that he was liquidating things in Florida, that he liquidated stock he held in a venture capital group, and that in the summer of 2008 he received \$500,000 for selling his interest in C&M.” This argument fails for the same reasons discussed with respect to Count Eleven. Moreover, Campbell misses the point: Campbell’s entire exam was full of inconsistent answers designed to evade and obfuscate rather than illuminate. Campbell’s hazy testimony during other parts of his August 2015 debtor’s exam about unspecified assets and unidentified stock only strengthens this conclusion and shows that his testimony that he did not know where the large cash deposits came from was false. Moreover, as states above regarding Paragraph I, Campbell ignores all of Plaintiffs evidence.

CAMPBELL’S FALSE TESTIMONY ABOUT HOW HE PAID HIS RENT (COUNTS 31–34)

19. Campbell’s Response to Count Thirty-One

Paragraph I: Campbell asserts that Plaintiffs have not proven beyond a reasonable doubt that Campbell lied when “he answered the question which is the subject matter of Count Thirty-One. He testified that he didn’t remember how he was paying his rent in 2012. It is unclear whether Petitioners are referring to cash or check which would be the context from the questions and answers immediately proceeding [*sic*] the language of Count Thirty-One.” First, Campbell does not cite any evidence showing that his testimony was truthful.

Moreover, Campbell ignores all of Plaintiffs evidence that proves Campbell's testimony that he did not remember how he paid his rent was false. *See* Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 150–152. The evidence suggests that approximately one week after Plaintiffs' \$24 million judgment against Campbell was domesticated in Idaho, Campbell paid his landlord a check equivalent to six months' worth of rent. *See* Exs. 6-10; 1 at 51:11–13. There is no way Campbell forgot prepaying six months' rent under these circumstances.

Finally, Campbell's statement that it is unclear whether Plaintiffs are referring to cash or check makes no sense. Plaintiffs did not specifically ask about only cash or checks because they were broadly asking Campbell to identify the method by which he paid his rent—it was up to him to supply that information. Instead, Campbell falsely claimed he did not remember.

Paragraph II: Campbell argues that Count Thirty-One ignores his later answer that he might have paid his rent by money order. Campbell's argument is inapposite. Campbell's testimony that he *might* have paid his rent by money order (but didn't remember) does not show that he testified truthfully when he said he didn't remember how he was paying his rent. Moreover, the testimony that Campbell cites is the subject of Count 34—which asserts that this testimony is also false. Finally, Campbell misses the point: His entire exam was full of inconsistent answers designed to obfuscate and evade rather than illuminate. When compared to the testimony underlying Count Thirty-One, Campbell's testimony that he might have paid his rent by money order (but doesn't remember) only emphasizes this conclusion.

Paragraph III: *See* Part I.C.2, *supra*.

20. Campbell's Response to Count Thirty-Two and Thirty-Three

Campbell gives the same three responses to Counts Thirty-Two and Thirty-Three.

Paragraph I: Campbell argues that Plaintiffs failed to prove beyond a reasonable doubt that Campbell lied when he gave the subject testimony. Campbell does not cite any evidence

showing that his testimony underlying these Counts was truthful. Moreover, Campbell ignores all of Plaintiffs evidence that proves Campbell's testimony that he did not remember how he paid his rent was false. See Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 150–152. The evidence suggests that approximately one week after Plaintiffs' \$24 million judgment against Campbell was domesticated in Idaho, Campbell paid his landlord a check equivalent to six months' worth of rent. See Exs. 6-10; 1 at 51:11–13. There is no way Campbell forgot prepaying six months' rent under these circumstances.

Paragraph II: Campbell argues that these Counts ignore his other answer that he might have paid his rent by money order. Campbell's argument is inapposite. Campbell's testimony that he *might* have paid his rent by money order (but didn't remember) does not show that he testified truthfully when he said he didn't remember how he was paying or could have paid his rent. Moreover, the testimony that Campbell cites is the subject of Count 34—which asserts that this testimony is also false. Finally, Campbell misses the point: His entire exam was full of inconsistent answers designed to obfuscate and evade rather than illuminate. When compared to the testimony underlying Counts Thirty-Two and Thirty-Three, Campbell's testimony that he might have paid his rent by money order (but doesn't remember) only emphasizes this conclusion.

Paragraph III: See Part I.C.2, *supra*.

21. Campbell's Response to Thirty-Four

Paragraph I: Campbell argues that Plaintiffs failed to prove beyond a reasonable doubt that Campbell lied when he gave the testimony underlying Count Thirty-Four and states that he “testified that he didn't remember why he potentially did not put the money from the stock sale

into his Zion's bank account." Campbell does not cite any evidence showing that his testimony underlying these Counts was truthful. Moreover, Campbell ignores all of Plaintiffs evidence that proves Campbell's testimony that he did not remember how he paid his rent was false. See Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 150–152. The evidence suggests that approximately one week after Plaintiffs' \$24 million judgment against Campbell was domesticated in Idaho, Campbell paid his landlord a check equivalent to six months' worth of rent. See Exs. 6-10; 1 at 51:11–13. There is no way Campbell forgot prepaying six months' rent under these circumstances.

Paragraph II: See Part I.C.2, supra.

22. "I Don't Know" or "I Don't Remember" Answers are Contumacious When Given Falsely

Paragraph I.C.2: Campbell argues that "I don't know" or "I don't remember" answers are not deceitful within the meaning of Idaho Code § 7-601(4). He further argues that this is "especially true for events that happened more than three years prior to his debtors examination." Campbell argument is wrong and unsupported by any authority. First, "I don't know" or "I don't remember" answers are deceitful if they are false—*i.e.* the declarant knows or remembers the information at the time he claims not to. See *In re Gitkin*, 164 F. 71 (E.D. Pa. 1908) (finding debtor committed perjury by pretending not to know the answers to questions about facts that any normal person would have known).

Second, there is no reason why feigned ignorance or memory loss is less deceitful because the testimony pertains to events occurring more than three years prior. Lies are lies. Additionally, three years is not a long period of time to remember basic facts about how a person paid his bills or noteworthy events such as car sales and large cash deposits.

Paragraph I.C.3: Campbell argues that Plaintiffs repeatedly asked the same questions and that Campbell's responses to these "repetitive questions do not create an independent and separate cause of action" for contempt. Contrary to Campbell's assertion, Plaintiffs did not repeatedly ask the *same* questions. Instead, Plaintiffs asked different questions related to the same topics. Moreover, Campbell cites no authority for the proposition that giving discrete answers to "repetitive questions" does not create an independent and separate cause of action.

II. OBJECTIONS TO CAMPBELL'S PROPOSED CONCLUSIONS OF LAW

A. The Civil Contempt Charges

Paragraphs 2, 2.i-iii: Campbell asserts that Plaintiffs bear the burden of proving that Campbell has a present ability to comply with the Court's Amended Order. Under Idaho Rule of Civil Procedure 75(h), present inability to comply is an affirmative defense, which *the alleged contemnor must prove* to a preponderance of the evidence. Idaho R. Civ. Proc. 75(h); *see also U.S. v. Rylander*, 460 U.S. 752, 757 (1983).

Other courts have also put the burden regarding ability or inability to comply on the alleged contemnor. Thus, in *Lamb v. Eads*, the Iowa Supreme Court found that "the general rule holds that an applicant for a contempt citation establishes a prima facie case by proving the duty which is on the contemner and the contemner's [*sic*] failure to perform the duty. The contemner then has the burden of showing he could not perform the duty, if he relies on that ground." 346 N.W. 2d 830, 832 (1984). Similarly, *Spabile v. Hunt* held that, while a court must find that a contemnor has the present ability to comply before imposing sanctions, it is *the contemnor* who bears the burden of proving his inability to comply. 360 A.2d 51 (Vt. 1976). To satisfy his burden, an alleged contemnor must prove his defense of present inability to comply with

admissible evidence. He cannot avoid his burden by claiming a Fifth Amendment privilege. *Rylander*, 460 U.S. at 761.

Paragraph 2.vi: Plaintiffs object that this quote comes from the headnotes and misrepresents the meaning of *Kinner v. Steg*, 74 Idaho 382 (1953). The related portion of the opinion states that it is required that the “court have made a finding, which must have been supported by the evidence, that plaintiff[s] yet had” the present ability to comply. *Id.* at 385. *Steg* thus mirrors Idaho Rule of Civil Procedure 75(j), which requires only that the Court find a present ability to comply. Neither *Steg* nor Rule 75 requires a plaintiff to prove the defendant’s present ability to comply with the court’s order.

Paragraph 3: Campbell asserts that Plaintiffs did not prove that Campbell has the present ability to comply with the Amended Order as set forth in Counts One and Eight. First, as discussed above, Campbell—not Plaintiffs—bears the burden of proof with respect to ability to comply. Regardless, Campbell ignores Plaintiffs’ substantial evidence proving that Campbell has the present ability to comply with the Amended Order insofar as it relates to both Counts One and Eight. This evidence includes:

- Notwithstanding his earlier claims of impossibility, Campbell was able to produce documents evidencing his payments to all of the relevant attorneys other than Flyer. Ex. 4-4 to 4-6, 4-95 to 4-104, and 4-153 to 4-167.
- As an attorney in California, Flyer is required to provide bills to a client who requests them. RJN Ex. K at 1. Moreover, after an engagement has terminated, Flyer is required to “promptly” release all client papers and property upon the client’s request—including all correspondence, and thus bills. RJN Ex L at 2.
- Because Campbell employed Flyer and paid him for legal fees, Flyer must provide Campbell with bills upon Campbell’s request. Moreover, because Campbell is his former client, Flyer must provide Campbell with correspondence, including that related to Campbell’s payment of fees to Flyer. *See* RJN Ex. K at 1; RJN Ex. L at 2.
- Under Hong Kong’s record keeping ordinance, a financial institution such as

HSBC Hong Kong must keep records of each transaction for 6 years from the transaction's date. RJN Ex. H at 2. Hong Kong's financial institutions must also keep the customer's account file, copies of documents obtained while verifying the identity of the customer or any beneficial owner of the customer, and business correspondence with the customer and the customer's beneficial owner for 6 years after the business relationship ends. *Id.*

- Given that the Hong Kong Account was open and Campbell wired money out of this account sometime after June 2013 (Ex. 2 at 16:24–17:14, 29:8–21), HSBC must keep records related to this account until at least June 2019.

Campbell also failed to present any evidence showing that he is presently unable to comply with the Amended Order insofar as it relates to Counts One or Eight.

B. The Criminal Contempt Charges

Paragraph 1: Plaintiffs object to the statement “[t]his case did not involve either a Criminal Proceeding or a Civil Proceeding.” It is not clear what this statement means or why it is relevant.

Paragraph 1.i: Campbell cites the definition of a criminal action, definition of parties to criminal actions, and a statute related to the right against self-incrimination in a criminal action. As Campbell acknowledges in this paragraph, it is undisputed that the instant action is *not* a criminal action within the meaning of these statutes. This proposed conclusion is thus irrelevant.

Paragraph 1.ii: Plaintiffs object to this proposed conclusion as irrelevant. Campbell cites the Idaho Constitution's prohibition of distinctions between actions at law and equity and its definition of a criminal action. As Campbell again recognizes, the instant action is not a criminal action within the meaning of the Idaho Constitution. Moreover, there is no dispute regarding a distinction between actions at law and equity.

Paragraph 3: Plaintiffs object to this paragraph insofar as Campbell contends that Plaintiffs cannot prove beyond a reasonable doubt that he lied when he claimed he did not know or remember the answers to questions during his August 2015 debtor's exam. He asks the Court

to jettison common sense because a “well-founded belief of the testimony’s untruthfulness is not sufficient.” *Kunkle*, 179 Ohio App. 3d at 753. This argument is meritless.

First, *Kunkle* is properly understood to mean that there must be something more than a subjective (albeit well-founded) belief that testimony is false—*i.e.* there must be at least some evidence. As discussed with respect to Campbell’s Proposed Findings of Fact and as set forth in Plaintiffs’ Proposed Findings of Fact, Plaintiffs have presented ample evidence (in addition to common sense) showing that Campbell’s testimony is false.

Second, *Kunkle* affirmed the lower court’s finding, *inter alia*, that the defendant was guilty of contempt because it was “inconceivable” that he could “mortgage his property over the course of a period, has the deeds recorded in his name, . . . goes to the bank and takes the steps of mortgaging the property and establishing a line of credit, drawing down the line of credit” and yet doesn’t recognize that he has an interest in the property. *Id.* at 752–53. Thus, common sense suffices where the facts and evidence as a whole show that it is inconceivable that the defendant was ignorant of the facts he claimed not to know or remember.

If Campbell’s testimony is so nonsensical that the trier of fact has an abiding conviction that Campbell lied, Plaintiffs’ burden of proof is satisfied. While Campbell is entitled to the protection afforded by the reasonable doubt standard, a trier of fact is not required to leave his common sense at the door and rely solely on direct “smoking gun” evidence of a lie. To require such a standard of proof would lead every witness being asked sensitive questions to “forget” the answer. Allowing witnesses to answer unwanted questions with feigned ignorance would destroy the meaning of oaths in our legal system. Courts would lose their power to demand and expect truthful testimony, and the goal of truth finding would be irreparably impaired.

Third, as discussed above, Campbell ignores Plaintiffs' voluminous and compelling direct evidence against him, including his own admissions. For example, Campbell ignores his admission that he shipped "less than 100K" of cash to himself in his moving boxes when he moved to Idaho and ignores evidence that he sold his Corvette in 2012 for roughly \$28,000. *See* Exs. 5-2; 6-3, 6-5. Considered alongside the evidence of Campbell's large cash deposits in late 2011 and early 2012, as well as his contemporaneous opening the Bank of America account, this evidence tells a convincing story: Campbell left Florida with boxes of cash and a Corvette. In the span of less than a year, Campbell sold his car, used the proceeds to open a new bank account (which he rapidly drained), and on numerous occasions took wads of cash from his boxes to the bank. The evidence also shows that Campbell paid his landlord six months' worth of rent one week after Plaintiffs' \$24 million judgment against him was domesticated in Idaho. *See* Exs. 6-10; 1 at 51:11-13. It is inconceivable—beyond a moral certainty—that one could forget all of these events. It is even less conceivable that someone could forget these facts on one day and then conveniently remember them nearly a year later (when facing an imminent contempt trial). Moreover, this evidence goes well beyond a "well-founded belief."

Plaintiffs' establishes beyond any reasonable doubt that Campbell lied when he answered "I don't remember" or "I don't know" during his August 2015 debtor's exam. He knew the truthful answers but did not want to disclose the information to Plaintiffs.

Paragraph 4: Campbell again argues that he cannot be found guilty of criminal contempt because his lies do not constitute "a disrespectful act directed at the court itself which obstructs justice." As stated above, any false testimony meets this purported standard. *See Sauls*, 354 So. 2d at 436 ("[T]he giving of perjured testimony obstructs the proper administration of justice and, thus, is subject to a criminal contempt proceeding."). Regardless, the debtor's examination was

conducted to gather information about Campbell's assets, income and expenses—information necessary for Plaintiffs' judgment collection efforts. Campbell obstructed these efforts by claiming falsely that he did not know or remember the answers to Plaintiffs' questions. When the transcript is read as a whole and considered in light of Campbell's long history in connection with this litigation of deceiving these Plaintiffs about his finances, it is apparent that Campbell purposefully obstructed justice by giving evasive, false, and contradictory testimony.

Paragraph 5: Plaintiffs object to Campbell's statement that it is "especially true" that the Court should exercise its contempt power with caution where "private parties are the parties involved in Nonsummary Proceedings." Campbell cites no authority for this proposition and does not explain why the Court should treat a contempt case differently based on whether the parties are private or whether the proceedings are adjudicated non-summarily.

Paragraph 6: Campbell cites *In re Weick*, 142 Idaho 275 (2005), for the definition of willfulness. However, he includes only the first part of the Court's definition. He omits the Court's clarification that this definition of willfulness "implies simply a purpose or willingness to commit the act or make the omission . . . no intent to violate the law or injure another, or to acquire any advantage is necessary." *Id.* at 281.

Plaintiffs also object to Campbell's proposed conclusion that he did not act willfully. Plaintiffs proved beyond any reasonable doubt that Campbell deliberately stated that he did not know or did not remember facts that he actually knew or remembered. *See* Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 69–160. Plaintiffs thus proved that Campbell acted willfully.

Paragraph 7: Campbell again incorrectly asserts that *Kunkle* does not establish that "I don't know" or "I don't remember" answers are sufficient to establish criminal contempt. As

discussed above, the testimony that *Kunkle* found false includes numerous “I don’t know” and “I don’t remember” answers. *See Kunkle*, 179 Ohio App. 3d at 750-51. Moreover, to the extent that *Kunkle* requires more than a “well-founded belief,” it does not require the Court to abandon common sense.

Plaintiffs also object to Campbell’s proposed finding that he did not lie when he gave the testimony at issue in Plaintiffs’ contempt counts. As discussed with respect to his proposed findings of fact, Campbell ignores Plaintiffs’ substantial evidence (including his own admissions) showing that his August 2015 testimony was false. He also cites no evidence rebutting Plaintiffs’ evidence of his lies.

Paragraph 9.i–9.v: Campbell revives his argument that a criminal sanction cannot be imposed because he was purportedly not afforded his right not to take the witness stand. Specifically, Campbell claims that, because the civil and criminal counts were tried together in one trial, he should not have been forced to take the witness stand. And now, because he was, he claims the Court cannot impose a criminal sanction. During trial, this Court heard and rejected this argument twice. Trial Tr. at 132:11–160:8; 233:25–260:1. The law on this matter is clear: Civil and criminal contempt charges may be tried in a single proceeding. *U.S. v. United Mine Workers of Am.*, 330 U.S. 258, 298 (1947). In fact, “[d]isposing of both aspects of the contempt in a single proceeding would seem at least a convenient practice.” *Id.* at 299. Thus, the mingling of civil and criminal counts is allowed unless it results in substantial prejudice to the defendant. *Id.*

In this case, Campbell suffered no prejudice, let alone substantial prejudice, as a result of taking the stand and testifying in connection with the civil contempt counts. Importantly, as this Court previously found, the civil contempt charges and the criminal contempt charges do not

arise out of the same conduct and do not rely on the same evidence. The civil contempt charges are based solely on Campbell's failure to produce documents, whereas the criminal contempt charges are based on his untruthful testimony during his debtor's examination (which was not related to his document production). During trial, Campbell was questioned only about his knowledge of the Amended Order to produce the documents and his actions in response to that order. Campbell was asked no questions about his testimony at the debtor's examination. Moreover, the Court carefully respected Campbell's right against self-incrimination by allowing him to assert the privilege against individual questions.

Finally, all of Plaintiffs' evidence regarding the criminal charges was introduced through documents admitted prior to Campbell's testimony regarding the civil contempt charges. As such, the Court has no need to consider anything that Campbell testified about in connection with the civil contempt charges when deciding the criminal contempt charges. Thus, Campbell cannot show any prejudice arising from the Court's decision to compel him to take the stand with regard to his production of documents.

Furthermore, Campbell's reliance on *United Mine Workers* and *U.S. v. Rylander* is inapposite. Neither case forbids trying civil and criminal contempt counts in the same proceeding where those counts are based on separate conduct and evidence. As discussed above, *United Mine Workers* endorses trying civil and criminal contempt counts together. See *United Mine Workers*, 330 U.S. at 299. And *Rylander* recognizes that "[j]ointly trying civil and criminal contempt charges is not a ground for reversal *unless* it is 'shown to result in substantial prejudice.'" *United States v. Rylander*, 714 F.2d 996, 1004 (9th Cir. 1983) (emphasis added) (citing *United Mine Workers*, 330 U.S. at 299–300).

Finally, Campbell cites no authority for the proposition that Idaho Rule of Civil Procedure 75(i) forbids imposing criminal sanctions in this case. Rule 75(i) requires the Court to afford the defendant the privilege against *self-incrimination*. It does not specify that the defendant must have the right to refuse to take the stand. Additionally, Campbell cites no authority showing that compelling a defendant to take the stand as to civil counts violates his right against self-incrimination as to factually distinct criminal counts tried in the same proceeding. It is also worth noting that Campbell could have moved to bifurcate the trial, but did not do so. He thus cannot complain now if he regrets his own strategic decisions.

In sum, Campbell's right against self-incrimination was properly respected throughout this contempt trial, and the Court can (and should) impose criminal sanctions in this case.

C. Campbell Failed to Prove his Affirmative Defenses

Paragraphs C.1–C.4: Campbell recites his affirmative defenses of past and present inability to comply and conclusorily asserts in a heading that he proved them. Campbell recognizes that he bears the burden of proving his affirmative defenses. He nevertheless fails to offer or cite any evidence supporting them.

D. Campbell's Argument Regarding Character Evidence

Campbell argues that the Court should “disregard any attempts by the Petitioners to argue that any alleged prior lies of Neil may serve as evidence to show he lied in the nonsummary proceedings currently before the Court.” Def.'s Proposed Findings of Fact and Conclusions of Law at 50. Campbell's argument fails.

As Campbell recognizes, Idaho Rule of Evidence 404(b) allows evidence of prior bad acts to show “motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident.” The numerous uncharged lies and omissions that Campbell made to *these Plaintiffs* in the course of *this litigation* and underlying events for the *same purpose* of

preventing Plaintiffs from obtaining information about Campbell's finances are relevant to Campbell's motive and intent to again prevent Plaintiffs from learning about his finances during the August 2015 debtor's examination. *See United States v. Mebust*, 857 F. Supp. 609, 618–19 (N.D. Ill. 1994) (defendant's uncharged prior procurement of firearm owner identification cards by false statements relevant to his intent to knowingly make false statements in the case at bar); *Estes v. Anglin*, No. 2:14-CV-994-SLB, 2015 WL 1279746, at *5 (N.D. Ala. Mar. 20, 2015) (“A pattern of omissions on the part of the debtor is often sufficient to find fraudulent intent[.]”); *Abdo v. Com.*, 64 Va. App. 468, 474 (Ct. App. 2015) (alleged contemnor's prior uncharged instances of tardiness relevant to showing intent on the charged occasion); *see also* Pls.' Proposed Findings of Fact and Conclusions of Law ¶¶ 196–200. Campbell's motive and intent relate to willfulness.

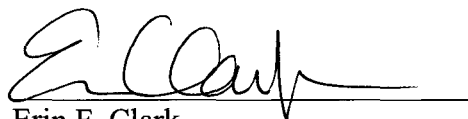
Campbell's argument that Idaho Rule of Evidence 404(b) is inapplicable because Plaintiffs did not file and serve notice of the general nature of any prior bad act evidence also fails. The notice requirement of Section 404(b) only applies to a prosecutor in a criminal case. Moreover, Campbell received all of Plaintiffs' evidence relevant to his prior lies in May 2016—months before the July contempt trial.

III. CONCLUSION

For the aforementioned reasons, Plaintiffs respectfully request that the Court reject Campbell's Proposed Findings of Fact and Conclusions of Law, and adopt entirely those proposed by Plaintiffs.

DATED: September 2, 2016

LAWSON LASKI CLARK & POGUE,
PLLC



Erin F. Clark
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

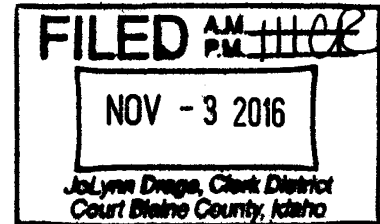
I HEREBY CERTIFY that on September 2, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy



Erin Clark



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW RE:
CIVIL AND CRIMINAL
CONTEMPT**

PROCEDURAL HISTORY

1. On November 3, 2015, Plaintiffs moved for an order holding Defendant Neil Campbell (“Campbell”) in contempt.
2. On February 1, 2016, Plaintiffs filed the Charging Affidavit, setting forth ten counts of civil contempt (Counts 1–10) and twenty-four counts of criminal contempt (Counts 11–34). The Charging Affidavit alleged the specific facts constituting the alleged contempt and

set forth each instance of alleged contempt separately. It also alleged that Campbell was served with a copy of the April 1, 2015 Amended Order (“the Amended Order”) underlying the civil contempt counts, and alleged facts indicating that Campbell had actual knowledge of that order.

3. On February 22, 2016, the Court held a hearing at which Campbell denied each count of contempt charged against him. During this hearing, the Court informed Campbell: of the charges of contempt against him, the possible sanctions for the contempt; that Campbell was not required to make a statement and that any statement made may be used against him; that Campbell had a right to a trial; that Campbell had a right to confront the witnesses against him, and that Campbell had the right to be represented by an attorney and that if Campbell desired an attorney and could not afford one, an attorney would be appointed at public expense. After being informed of these rights, Campbell denied each charge of contempt against him.

4. On June 18, 2016, the Court denied Campbell’s request to file three untimely supplemental affirmative defenses based on sufficiency of service, ruling that Campbell may only assert the two (also untimely) affirmative defenses that Plaintiffs stipulated that Campbell could file: past inability to comply with the Court’s order (as to the criminal counts) and present inability to comply with the Court’s order (as to the civil counts).

5. The above-entitled case and cause came before the Court for trial, sitting without a jury on the 26th and 27th day of July 2016. Erin Clark of Lawson Laski Clark & Pogue, PLLC and Lauren Schweitzer of Kirkland & Ellis, LLP appeared for and on behalf of Plaintiffs. Lee Ritzau of Luboviski, Wygle, Fallowfield & Ritzau, P.A. appeared for and on behalf of Defendant Neil Campbell (“Campbell”), appointed in part at county expense due to the nature of the charges. Mr. Campbell was ordered to pay Mr. Ritzau’s attorney fees himself until it appeared his financial ability to do so was exhausted.

6. Campbell was called for cross-examination by plaintiff at trial, and was the only witness presented by either side. Plaintiff's cross-examination was limited to questions related to the civil contempt charges. Mr. Campbell took the Fifth Amendment multiple times during this examination, and the Court indicated on the record it would or could draw negative inferences against Campbell if he did so. Plaintiff's counsel made no attempt to cross-examine Campbell on the criminal contempt charges.¹ Although the Court indicated on the record it could or would draw a negative inference from Campbell's taking the 5th Amendment on portions of the civil contempt case, the Court also indicated it did not know what negative inference it would draw in response to any particular question, nor is any particular negative inference appropriate based simply upon a refusal to answer a particular question on 5th Amendment grounds. Unless the Court indicates herein *specifically* that it did in fact draw a negative inference with regard to a particular question, and what that negative inference was, the Court did not need to draw any specific negative inference in response to any particular question, and did not do so in any overall general sense. Almost all of Plaintiff's case is contained in documents and exhibits. At the conclusion of trial Plaintiff dropped all civil contempt charges except Count 1 and Count 8.

I. FINDINGS OF FACT: CASE BACKGROUND

7. This case stems from Plaintiffs' efforts to collect on a judgment entered in a California case for fraud and related claims. In October 2007, Plaintiffs sued Philip Richard Powers ("Powers") and his corporate entities in Los Angeles Superior Court (the "California suit") alleging that Powers cheated Plaintiffs out of millions of dollars in connection with a Costa Rican teak farming business. Request for Judicial Notice (RJN) Ex. A. Though Campbell was

¹ Campbell's counsel has objected to this process. Although Mr. Campbell's prior testimony at other times and on other occasions may have presented him with difficult choices as to whether to testify in his own defense of the criminal contempt charges, the criminal contempt charges were kept separate from the civil contempt charges throughout this trial.

involved with this business, Plaintiffs did not name him as a defendant in their initial complaint. *Id.*

8. In late 2008, Plaintiffs amended the complaint to add Campbell as a defendant. RJN Ex. B. Plaintiffs alleged that Campbell had secretly received millions of dollars in improper kickbacks from Powers. *Id.* ¶¶ 21–23, 81–99.

9. On February 4, 2010, the California court entered partial summary judgment against Campbell for over \$1.5 million—the amount of profits Plaintiffs were able to prove at that time. RJN Ex. C; RJN Ex. F at 2.

10. On November 2, 2010, the California court imposed terminating sanctions against Campbell, striking his answer, and entering a default against him. RJN. Ex. D; RJN Ex. F. at 3. Plaintiffs thereafter filed a third amended complaint, which Campbell answered. RJN Ex. F at 3.

11. On November 1, 2011, the California court granted Plaintiffs' motions to (1) compel Campbell to respond to interrogatories and requests for production and (2) to attend his deposition. The Court imposed monetary sanctions against Campbell in connection with both of these motions. RJN Ex. E.

12. On December 13, 2011, the California court granted summary judgment in Plaintiffs' favor, finding Campbell liable for fraud and related claims. RJN Ex. F. The Court entered judgment against Campbell for over \$24 million. RJN. Ex. G.

13. On June 21, 2012, after filing the California Judgment in Idaho, Plaintiffs obtained an order from this Court domesticating the Judgment. Ex. 12.

14. The Court granted Plaintiffs' Motion for a Judgment Debtor's Examination, filed herein on March 23, 2015. The Court amended this order twice, the first filed on April 1, 2015,

and a Second Amended Order Granting Motion for Judgment Debtor's Examination filed on August 3, 2015, in order to change the dates for the debtor's examination.

II. CIVIL CONTEMPT FINDINGS OF FACT

15. The April 1, 2015 Amended Order (the "Amended Order") compelling Campbell to appear for his debtor's examination also required Campbell to produce documents, including in part, documents "evidencing any payments made by Defendant to any legal counsel over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments," and "all records relating to financial accounts (savings accounts, checking accounts, or otherwise) maintained in Defendant's name or to which Defendant has access for the time period commencing January 1, 2012 to the present date." Ex. 13-2 & 13-3.

16. The Amended Order required Campbell to produce the responsive documents no later than 30 days prior to the scheduled May 11, 2015 debtor's examination. Ex. 13-2.

17. As of April 13, 2015—Campbell's deadline to produce documents—Campbell had produced no documents whatsoever to Plaintiffs. *See* Ex. 15.

18. Plaintiffs filed a motion for contempt against Campbell on April 21, 2015 alleging Campbell had failed to comply with the Court's April 1, 2015 Amended Order.

19. On the following day, April 22, 2015, Campbell provided Plaintiffs with a handwritten statement asserting that (1) the documents evidencing his payment of his legal fees were protected by the attorney-client privilege; and (2) he had only one bank account with Zions Bank and he did not have to produce the documents because it was used for the direct deposit of his social security funds, which he asserted was exempt from Plaintiffs' judgment. Ex. 15. At this time, Campbell produced no documents to Plaintiffs in response to the April 1, 2015 Amended Order. *Id.*

20. Despite Campbell's assertion in his April 22, 2015 statement that he had only one bank account, he actually had accounts with three banks during the relevant time period: Zions Bank, Bank of America, and HSBC in Hong Kong. Exs. 3-9 to 3-198; 11-4.

21. On April 30, 2015, Plaintiffs' counsel sent Campbell a letter addressing Campbell's claim that he did not have, or was not required to produce, any documents in response to the April 1, 2015 Amended Order. Ex. 16. This letter provided fairly detailed and understandable information as to what Campbell needed to produce to comply with the Amended Order. *Id.*

22. On May 19, 2015, Plaintiffs' counsel sent another letter to Campbell confirming the discussion they had had the previous day regarding Campbell's obligation to produce the responsive documents. Ex. 17.

23. Campbell ultimately produced some documents to Plaintiffs. He produced documents on May 28, 2015; April 25, 2016; April 26, 2016; and April 27, 2016. Exs. 3, 4, 6, 32. There is no evidence that Campbell ever produced to Plaintiffs any documents other than those produced on these four dates.

24. As discussed below, the documents produced on these four dates omitted certain responsive documents that the Amended Order required him to produce.

25. On May 28, 2015, Campbell provided Plaintiffs with a handwritten statement and a portion of the documents responsive to the Amended Order. Ex. 3. In this production, Campbell provided a portion of his Bank of America checking account records from June 2012 through February 5, 2013 (Ex. 3-9 to 3-40) and his Zions Bank checking account records from November 2011 through May 18, 2015 (Ex. 3-41 to 3-198). Campbell provided no documents evidencing his payments to his lawyers, the cancelled checks from his Bank of America account,

his Bank of America account records for the time prior to June 2012, or any documents relating to his HSBC account. *See generally* Ex. 3.

26. In his May 28, 2015 written statement, Campbell identified five lawyers that he had engaged during the time period set forth in the Amended Order: Michael Taitelman, David Flyer, Jonathan Michaels, Dyke Huish and Robert Turff. Ex. 3-1. In his written statement, Campbell claimed that each of these lawyers “have been contacted and refuse to produce documents, stating two reasons, attorney work products and that I am no longer there [*sic*] client.” Ex. 3-1.

27. Campbell later identified two additional lawyers that he engaged during the relevant time period: Susan Roy and Steve Thompson. Exs. 1-74; 8-5.

28. On June 19, 2015, Plaintiffs’ counsel sent Campbell another letter setting forth the deficiencies in his production of documents. Ex. 18. In this letter, Plaintiffs’ counsel asked Campbell to produce the remaining responsive documents no later than July 10, 2015. *Id.* Campbell did not produce any additional documents to Plaintiffs on or before to July 10th. *See supra* ¶ 23.

29. On July 10, 2015, Campbell provided to Plaintiffs’ counsel a signed statement claiming that he could not obtain the remaining unproduced documents from his “prior banks.” Ex. 7-1. He also now claimed that “[s]ome of the lawyers were paid a flat fee and did not send monthly statements, and they don’t have documents showing payments to them. Other of the lawyers are refusing to give the documents to me because they are privileged and wont [*sic*] give them to me.” Ex. 7-1.

30. On November 20, 2015, Campbell filed his sworn Opposition to Plaintiffs’ motion for contempt. Ex. 8. In his Opposition, Campbell claimed that Huish and Michaels were

each paid a flat fee and thus never prepared or sent any bills. Ex. 8-5 & 8-6. Campbell also claimed that Flyer, Taiteman [*sic*], Turffs, and Thompson refused to provide Campbell with copies of bills because “the documents are their work product.” Ex. 8-6. In the next paragraph, Campbell inconsistently stated that “as to Michael Taiteman [*sic*], I have made several attempts to contact him to get the information for Ms. Clark, but I cannot get him to return my calls.” *Id.*

31. On February 1, 2016, Plaintiffs filed the Charging Affidavit in Support of their Motion for Order Finding Campbell in Contempt. A hearing was held on February 22, 2016, during which time Campbell denied all of the civil contempt charges. During this hearing, the court set the trial on Plaintiffs’ Contempt Motion for May 4, 2016. Trial Tr. at 192:24–193:10.

32. From May 28, 2015 through April 25, 2016, Campbell provided Plaintiffs with no additional documents or information in response to the Amended Order.

33. On April 25, 26, and 27, 2016—approximately one week prior to the scheduled trial date—Campbell produced additional documents and information to Plaintiffs in response to the Court’s Amended Order. Exs. 4, 6, 32.

34. Notwithstanding his earlier claims that his lawyers refused to give him records of his fee payments, in his April 2016 productions, Campbell produced documents reflecting his payments to Michaels, Huish, Turffs, Thompson, Roy, and Taitelman. Exs. 4-4 to 4-6; 4-23 to 4-24; 4-95 to 4-96; 4-97 to 4-100; 4-102 to 4-104; 4-156 to 4-162; 4-163 to 4-167; 32-2. Campbell also produced payment records from Michael France. Ex. 4-153 to 4-155. Campbell did not produce any records related to his payments to Flyer.

35. In the wake of this supplemental production, Plaintiffs agreed to continue the trial date to May 25, 2016. The trial date was continued again to July 26-27, 2016.

36. During the trial of the civil contempt charges, Campbell testified that he has now, to his belief, produced all documents responsive to Counts 2-7 set forth in the Charging Affidavit. Trial Tr. at 195:2-8. Also, in the affidavit of compliance that Campbell signed and delivered to Plaintiffs' counsel, which was admitted as Trial Exhibit 34, Campbell certified that he has produced all documents relating to his Bank of America account from June 2012 through present. Ex. 34-2. Based on these representations, Plaintiff dismissed without prejudice these eight counts and only proceeded at trial upon Counts 1 and 8 of the civil contempt charges.

A. Findings of Fact Specific to Count 1

37. Count 1 of the Charging Affidavit charges Campbell with civil contempt for his failure to produce the documents evidencing the payments he made to David Flyer ("Flyer"). Charging Affidavit at 3.

38. Flyer is a California lawyer who represented Campbell in connection with the civil action filed against him by Plaintiffs in November 2008. Ex. 1 at 24:16-24; RJN Ex. C.

39. Campbell employed Flyer at some time between 2009 and the present—i.e., during the time period covered by the Amended Order. Exs. 7; 8-5. Campbell made payments to Flyer for legal fees. Ex. 2 at 14:13-19.

40. Under the Amended Order, Campbell was required to produce documents evidencing his payments to Flyer. *See* Ex. 13-2.

41. To date, Campbell has produced no documents evidencing his payments to Flyer. Trial Tr. at 193:17-194:2.

42. There is no evidence that Campbell is presently unable to comply with the Court's Amended Order requiring him to produce any and all documents evidencing his payments to Flyer.

43. The Court does not find credible Campbell's statements that Flyer refuses to provide records. Campbell first claimed that Campbell himself refused to provide these records because of attorney-client privilege, then claimed that the lawyers refused to provide these records because they are attorney work product and Campbell is no longer a client, and finally claimed that some attorneys did not have payment records while others (including Flyer) refused to provide them because these documents were those attorneys' work product. It defies credulity that these attorneys would each independently misconstrue the attorney work product rule in the same fashion. In addition, it appears it is Campbell, not his attorneys, who is making his own improper attempt to invoke the attorney-client privilege. Moreover, Campbell's shifting story about these records calls into question his veracity. Finally, notwithstanding his earlier pleas that his attorneys would not provide the documents (or that none existed), on the eve of the formerly scheduled trial date, Campbell successfully produced payment records from his seven other attorneys.

44. There is no evidence that documents reflecting Campbell's payments to Flyer do not exist. In fact, Campbell does not deny that these records exist. *See, e.g.*, Exs. 3-1, 7; 8-5.

45. The fact that Campbell was able to produce documents evidencing his payments to the other seven attorneys he engaged during the relevant time period shows that Campbell is capable of obtaining such records. Ex. 4-4 to 4-6; 4-95 to 4-104; and 4-153 to 4-167. Campbell's counsel suggests that the Court refrain here from making the finding above on the grounds that Mr. Flyer may in fact refuse to provide these records to Mr. Campbell so that Flyer will not be sued by Plaintiffs. While that may be true, there is no evidence to support Campbell's position, and it is Campbell's burden in a civil contempt proceeding to establish present inability to comply with the Court's order. *See* IRCP 75 (h)(1)(B).

46. As an attorney in California, Flyer is required to provide bills to a client who requests them. RJN Ex. K at 1. Moreover, after an engagement has terminated, Flyer is required to “promptly” release all client papers and property upon the client’s request—including all correspondence, and thus bills. RJN Ex L at 2. This evidence is unrefuted.

47. Flyer no longer represents Campbell. *See* Ex. 3-1

48. Because Campbell employed Flyer and paid him for legal fees, Flyer must provide Campbell with bills upon Campbell’s request. Moreover, because Campbell is his former client, Flyer must provide Campbell with correspondence, including that related to Campbell’s payment of fees to Flyer. *See* RJN Ex. K at 1; RJN Ex. L at 2.

49. Campbell has the present ability to comply with the Amended Order insofar as it relates to Count One.

50. During trial, Campbell presented as evidence ten documents purporting to confer on Plaintiffs’ counsel a limited power of attorney purportedly allowing Plaintiffs’ counsel to obtain records from David Flyer. Ex. 501.

51. Contrary to Campbell’s assertion and for the reasons discussed *infra* in the Court’s conclusions of law, providing Plaintiffs with this limited power of attorney does not constitute compliance with the Court’s Amended Order insofar as it relates to Count One. The Court’s Amended Order directed *Campbell* to *produce* the attorney payment records at issue.

B. Findings of Fact Specific to Count 8

52. Count 8 of the Charging Affidavit charges Campbell with civil contempt for his failure to produce all records relating to his HSBC bank account in Hong Kong. Charging Affidavit at 4.

53. The Court’s Amended Order required Campbell to produce records for all financial accounts for the time period commencing January 1, 2012. Ex. 13-3.

54. In “early 2010,” Campbell opened a bank account with HSBC Hong Kong (the “Hong Kong Account”). Ex. 11-4. The account holder was a Hong Kong company that Campbell set up in order to open an account at a bank in Hong Kong, and Campbell was the account’s beneficiary. Ex. 2 at 22:20–24:18; 11-4. At or around the time he opened the account, Campbell made an initial deposit of \$300,000 into the Hong Kong Account. Ex. 2 at 27:15-17.

55. Campbell testified that he transferred the \$300,000 out of the Hong Kong Account at some point after his arrest. Ex. 2 at 29:8–21. Campbell was arrested in June 2013. Ex. 2 at 16:24–17:14.

56. Thus, the Hong Kong account was open and active between January 1, 2012 and thereafter—i.e., the time period covered by the Amended Order.

57. The Amended Order therefore required Campbell to produce records related to the Hong Kong Account.

58. None of Campbell’s productions in evidence contains any records related to the HSBC Hong Kong Account. *See generally* Exs. 3, 4, 6, 32. To date, Campbell has produced no bank records from the Hong Kong Account.

59. There is no evidence that Campbell is presently unable to comply with the Court’s Amended Order requiring him to produce the Hong Kong account records. The burden of proof is on Campbell to show present inability to comply with an order in order to establish a defense to a charge of criminal contempt.

60. Under Hong Kong’s record keeping ordinance, a financial institution such as HSBC Hong Kong must keep records of each transaction for 6 years from the transaction’s date. RJN Ex. H at 2. Hong Kong’s financial institutions must also keep the customer’s account file, copies of documents obtained while verifying the identity of the customer or any beneficial

owner of the customer, and business correspondence with the customer and the customer's beneficial owner for 6 years after the business relationship ends. *Id.*

61. Thus, for example, HSBC is required to keep records of the wire transfer of \$300,000 out of the Hong Kong Account—which occurred sometime after June 2013—until at least June 2019. *See id.*²

62. Similarly, given that the Hong Kong Account was open at least as of June 2013, HSBC must keep copies of documents used to verify the identities of Mosaic Orange (the account holder) and Campbell (its beneficial owner) until at least June 2019. *See id.*

63. During his debtor's examination, Campbell testified that he did not remember the name of the company in whose name he opened the Hong Kong Account. Ex. 1 at 41:15–19, Ex. 2-23.

64. Campbell admits that, as of April 25, 2016, he now knows the name of the company in whose name the account was opened: Mosaic Orange. Ex. 5-2. There is no evidence that Campbell made any effort to obtain records related to the Hong Kong Account since learning the name of the company in whose name he opened the account.

65. There is no evidence that Campbell has asked HSBC to search for records related to the Hong Kong Account by using his own identifying information. Instead, Campbell testified that he did not remember whether he gave HSBC his name and social security number and asked them to search for records. Ex. 1 at 44:25–45:2.

66. Thus, records for the Hong Kong Account that are responsive to the Amended Order exist. Yet Campbell has not produced any records for this account. He has also failed to take basic steps that could lead to the production of these records.

² Although Mr. Ritzau points out that Exhibit 4-95 reflects transfers from this Mosaic Orange account to Campbell's attorney Mr. Flyer, these account records were never authenticated (Ritzau's own objection), nor are they responsive to the order requiring production of the bank account's records.

67. Campbell has the present ability to comply with the Amended Order insofar as it relates to Count Eight.

68. During trial, Campbell presented as evidence a document purporting to confer on Plaintiffs' counsel a limited power of attorney purportedly allowing Plaintiffs' counsel to obtain "[a]ll records relating to Neil Campbell's HSBC bank account," and "[a]ll records relating to Mosaic Orange's HSBC bank account which Mr. Neil Campbell may have access to[.]" Ex. 508. Of note, this limited power of attorney does not state that Campbell is authorized to grant such powers of attorney on Mosaic Orange's behalf. *See id.*

69. Contrary to Campbell's assertion and for the reasons discussed *infra* in the Court's conclusions of law, providing Plaintiffs with this limited power of attorney does not constitute compliance with the Court's Amended Order insofar as it relates to Count Eight. The Court's Amended Order directed *Campbell* to *produce* the bank records at issue.

III. CRIMINAL CONTEMPT FINDINGS OF FACT

70. The following findings of fact are based solely on the documentary evidence admitted or judicially noticed during trial. They are not based in any way on Campbell's testimony during trial (which related only to the civil contempt counts). Campbell's counsel has objected generally to trying Campbell together on civil and criminal contempt charges. The Court addressed this in finding #6. Although the Court indicated it could or would draw negative inferences when Mr. Campbell declined to answer any question at trial on 5th Amendment grounds, Mr. Campbell was not asked any questions at trial relating to the criminal contempt of court charges. Accordingly, Mr. Campbell did not take the 5th Amendment relative to any criminal contempt of court charges, nor, therefore did the Court draw any negative inferences from Mr. Campbell's testimony on these criminal contempt charges, or from his right to remain silent with respect to these criminal contempt of court charges.

71. On August 24, 2015, Campbell appeared before this Court in response to the Court's Second Amended Order setting his debtor's examination for that date. Ex. 1-4. The Court put Campbell under oath prior to the debtor's examination. Ex. 1-3.

72. During the August 24, 2015 examination, Plaintiffs' counsel asked Campbell a series of basic questions about his finances and living situation. To a great number of these questions, Campbell responded with "I don't know" or "I don't remember." Ex. 1 at 33:22-34:7, 34:17-25, 35:1-7, 35:12-15, 35:25-37:22, 38:18-24, 41:15-22, 49:10-15, 49:24-50:16, 52:8-54:5, 54:24-55:25, 56:21-57:3, 57:17-58:10, 58:12-59:8, 60:2-61:17, 62:5-9, 65:9-14, 71:14-20, 71:23-72:12, 72:16-74:6.

73. The sheer volume of basic facts that Campbell claimed he did not remember during his August 2015 debtor's examination shows that this testimony is not credible. One in Campbell's position might not be expected to recall every detail of prior financial transactions, but should be able to recall some, or even most of them. Instead, interposing the same answer of "I don't recall" to such a volume of questions leads unerringly to the conclusion that in many specific instances, deception is at work rather than a faulty memory. The Court finds that these answers in general, and not in every particular, were part of Campbell's ongoing effort to evade, frustrate, and delay Plaintiff's judgment collection efforts and frustrate and obstruct the lawful processes of the court.

74. Campbell has not been forthcoming nor entirely truthful with his answers about his finances on multiple occasions. For example, at one time Mr. Campbell stated under oath that he brought no assets with him when he moved from Florida to Idaho. At another time he stated under oath he did bring or ship less than \$100,000 to Idaho in cash. Ex. 5-2

75. Campbell was found to have defrauded Plaintiffs of millions of dollars, including concealing millions of dollars in improper kickbacks. RJN Ex. C; RJN Ex. F at 11–18.

76. On November 25, 2014, during Plaintiffs’ judgment collection efforts, Campbell gave sworn, false answers to interrogatories about his finances. Ex. 11-3, 11-4. Specifically, the interrogatories asked Campbell to “state how much your monthly income is, broken down by source (e.g. employment, Social Security payments, interest, etc.)” Campbell responded that he had no income. Ex. 11-3. Campbell also averred that he did not maintain any bank accounts. Ex. 11-4. In contrast, Campbell’s bank records show that (1) he received Social Security payments in November 2014, Ex. 3-177; and (2) he had a bank account at Zions bank during November 2014, *id.*

77. Additionally, during his February 20, 2015 debtor’s exam in the California proceeding, Campbell testified that he was “basically penniless” as of that date. Ex. 2 at 59:9–11. However, Campbell’s bank records show that (1) less than 10 days before his examination, Campbell wrote checks to Robert Durringer (who was supposedly then regularly covering Campbell’s expenses) for \$17,000, Ex. 3-189; and (2) even after these checks were processed, Campbell still had over \$13,000 in his Zions Bank account in February 2015, Ex. 3-187.

78. Thus, Campbell has shown a pattern of deception in his answers to *these Plaintiffs* about the *particular subject* of his finances in the *particular context* of *this litigation* in order to keep them from obtaining money which Campbell defrauded them of.

A. Campbell’s False Testimony Related to the Source of Funds Used to Open his Bank of America Account, His Car, and Where He Lived (Counts 11–17)

79. In late May 2012, Campbell opened a bank account with Bank of America. The earliest bank statement in evidence from this account covers the period of June 8, 2012 to July 9, 2012. Ex. 3-37. The starting balance of the account for this time period was \$24,715. Ex. 3-38.

Notably, during this one month time period, Campbell wrote checks and took cash out of the account in an amount exceeding \$22,000. Ex. 3-39. It is unclear why Campbell apparently opened a new bank account and immediately drained almost all of the funds initially deposited into it.

80. At the time Campbell opened this account, Campbell's sole source of income was supposedly his \$1,600 per-month Social Security payment. Ex. 1 at 35:8–11. Campbell also admitted that during this time his monthly expenses each month exceeded his monthly income. *Id.* at 51:14–19. Campbell also testified that when he moved in late 2011, he had not brought any asset with him from Florida worth more than \$10,000. *Id.* at 36:5-7. Moreover, he opened this account within six months of depositing over \$30,000 in cash into his Zion's bank account. Ex. 3-49, 3-55, 3-61, 3-67.

81. During the debtor's examination, Campbell was asked where he obtained the money to open this Bank of America account. He responded that he had "no idea." Ex. 1 at 34:3–4. Campbell was then asked to identify the possible sources of the \$24,000, to which he responded "I don't know." *Id.* at 34:20–25. He was asked if he owned a car, to which he responded "I don't remember." *Id.* at 35:4–5. He was asked where he was living, to which he responded "I don't remember." *Id.* at 35:12–15. These are questions that any reasonable person would have known the answer to, especially since Campbell claimed that he had brought no asset with him from Florida that was worth more than \$10,000. *Id.* at 36:5-7.

82. Campbell's statement that he did not remember where he was living in 2012 exemplifies the evasive and false nature of this testimony. Immediately before Campbell gave this testimony, Plaintiffs' counsel showed Campbell his Bank of America statement from the period starting June 8, 2012. This statement showed the addressee as "Neil D Campbell" with a

listed address of 2804 Summit Dr., Sun Valley, ID 83353. Exs. 1 at 33:19–24; 3-37. The questions about where Campbell lived were made during the course of asking questions about this June 2012 statement. Ex. 1 at 33:19–35:15. There is no indication in the transcript that counsel removed from Campbell’s sight the June 2012 statement with Campbell’s address before asking him where he lived in June 2012. *See id.* He could have asked for or looked at the June 2012 statement listing his address when he testified that he did not remember where he was living at that time. Unless one moves frequently one should be able to remember or calculate where one was living three years before. There is no evidence Mr. Campbell was moving frequently, only that he moved from Florida to Idaho during relevant time periods, and Ex.5-1 indicates he had only two Idaho addresses. This testimony is not credible.

83. Months after giving this testimony and on the eve of the previously scheduled May 4, 2016 trial date, Campbell produced to Plaintiffs a handwritten statement and documents showing that his August 2015 testimony was false. On April 25, 2016, Campbell sent to Plaintiffs’ counsel a handwritten statement admitting that he “owned a car a 2006 Corvette it was sold either in 2011 or 2012, it was the last car I owned.” Ex. 5-1. Campbell signed this statement, averring that the contents were true and correct to the best of his ability. Ex. 5-2.

84. On April 26, 2016, Campbell produced copies of the cancelled checks and deposit slip from his Bank of America bank account. Ex. 6. These records establish that Campbell received a check for \$27,900 from a Larry H. Miller Toyota dealership on March 28, 2012, presumably as payment for the Corvette he sold. Ex. 6-5. Campbell did not deposit this check into his existing Zion’s bank account. Instead, Campbell held onto this check and used it to open his new Bank of America account on May 23, 2012. Ex. 6-3.

85. Campbell did not testify truthfully when he testified as set forth below in

paragraphs 86 through 98 because there is no way he did not remember moving to Idaho from Florida. At the time, he owned a Corvette. He either brought it with him to Idaho, had it shipped here, or sold it in the spring of 2012 in Colorado. He sold that Corvette, and used the check he received from the Toyota dealership to open the Bank of America account. It is inconceivable that someone purportedly living off of social security would not remember receiving nearly \$28,000 for the sale of a car.

86. Moreover, it is simply not credible that Campbell would have no idea of the source from which he obtained almost \$25,000—particularly when his sole income was \$1,600 per month, his monthly expenses exceeded his income, and he supposedly had come to Idaho less than a year earlier with no asset worth more than \$10,000.³

87. Count Eleven of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully in his debtor's examination about the source of the June 2012 opening balance in his Bank of America account as follows:

Q. So this is the statement from June 8th, 2012, through July 9th, 2012; correct?

A. Correct.

Q. And in there they have the beginning balance on June 8th, 2012, as being \$24,715.35; correct?

A. Correct.

Q. Where did that money come from?

A. I have no idea at this point.

³ Campbell's counsel suggests in his objections to Plaintiff's proposed findings that if Campbell made off with \$4.5M these amounts would not necessarily be a memorable event for Mr. Campbell. While that may be true, these answers from which these findings are made are from Mr. Campbell's own testimony. He does not admit in his testimony having large cash sources, except in specific instances, such as the Hong Kong bank deposit or the \$10K or less brought from Florida, which later became \$100K.

Ex. 1 at 33:22-34:4.

88. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Eleven.

89. Count Twelve of the contempt charges states Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you opened an account and you put nearly \$25,000 into it. Did it come from your Zions account?

A. I don't remember.

Id. at 34:5-7.

90. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twelve.

91. Count Thirteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What would the possibilities be for the origination of this money?

A. I don't understand the question.

Q. What possibly – where possibly could this money have come from?

A. I don't remember.

Q. I understand you don't remember. I want to know what the possibilities were.

A. I don't know.

Id. at 34:17-25.

92. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirteen.

93. Count Fourteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own any assets at that time that you sold?

A. I don't remember.

Id. at 35:1-3. There is no indication that Campbell did not know or understand the period of time referred to.

94. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Fourteen.

95. Count Fifteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Did you own a car at that time?

A. I don't remember.

Q. You don't remember if you owned a car in 2012?

A. No, I don't.

Id. at 35:4-7.

96. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Fifteen.

97. Count Sixteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where were you living?

A. In 2012?

Q. June of 2012.

A. I don't remember.⁴

Id. at 35:12-15.

98. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Sixteen.

99. Count Seventeen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Clearly, you were living in Idaho when you opened up the Bank of America account; correct?

A. Yes.

Q. And you had moved from Florida; right?

A. Correct.

Q. What assets of a more than \$10,000 value did you bring with you from Florida?

A. I didn't.

* * *

Q. So, again, if you had no assets worth more than \$10,000 and you were living solely off of Social Security, what were the possible sources for you to be able to put \$24,000 into a bank account in June of 2012?

A. I don't remember where the funds came from.

* * *

Q. Well, Mr. Campbell, I'm just going to remind you again that you are here under penalty of perjury.

⁴ If this answer was given in isolation it might not lend itself to a finding of guilt. However, the "I don't know" answer given in conjunction with other similar questions, and other evidence, leads the Court to find this answer is false.

A. Um-mm.

Q. And to say that you don't remember where \$24,000 came from when you're saying that you have no assets and no income other than Social Security, it just does not ring true.

A. Well, I don't remember where the \$24,000 came from.

Id. at 35:25-37:22.

100. The Court finds this is essentially the same answer Campbell gave to Count Eleven of the criminal contempt of court charge (para 87 above); it is the same question asked in a different form as to the source of the \$24,000.. The Court finds it inappropriate to charge or convict a defendant of criminal contempt for the same basic answer given to essentially the same question more than once. The Court acquits Campbell of criminal contempt of court in Count Seventeen.

B. Campbell's False Testimony About the Source of a Large Cash Deposit to His Bank of America Account (Count 18)

101. On November 30, 2012, Campbell deposited nearly \$3,500 into his Bank of America account. Ex. 3-18. Campbell made this deposit within a year of depositing over \$30,000 in cash into his Zions Bank account (Ex. 3-49, 3-55, 3-61, 3-67), and within six months of depositing over \$25,000 into the Bank of America account (Exs. 3-38; 6-3).

102. During his sworn Debtor's exam in August of 2015, Campbell testified that he did not know where he obtained nearly \$3,500 in cash that he deposited in November 2012. Ex. 1 at 38:18-24.

103. The documents that Campbell produced in April 2016 now show that this deposit was a federal tax refund and that when he made this deposit he took \$1,500 in cash and deposited the remainder. Ex. 6-31 & 6-33.

104. The Charging Affidavit of Erin Clark alleges that Campbell committed criminal contempt of court when he testified untruthfully that he did not recall the source of this money, or where it could have come from.

105. The Court cannot find beyond a reasonable doubt that Plaintiff proved Campbell would have remembered the source of this \$3,500 deposit when questioned about it, and the Court cannot find that Campbell's testimony on this point was necessarily false, or designed to avoid or hamper Plaintiff's efforts during the course of the debtor's examination. The Court hereby acquits Campbell of criminal contempt for Count Eighteen.

C. Campbell's False Testimony Related to the Company in Whose Name Campbell Opened the Hong Kong Account (Count 19)

106. During his August 2015 debtor's examination, Campbell was also asked about the account he opened with HSBC in Hong Kong. In "early 2010," Campbell opened this offshore account and deposited into it \$300,000. Exs. 2 at 22:20–24:18, 27:15-17; 11-4. This was at or around the time of the California court's February 4, 2010 Order finding Campbell liable for constructive fraud and awarding to Plaintiffs over \$1.5 million. RJN Ex. C; RJN Ex. F at 2.

107. During his August 2015 debtor's examination, Plaintiffs' counsel asked Campbell for the name of the company in whose name the Hong Kong Account was opened. Campbell claimed that he did not remember the name of the company—even though he deposited \$300,000 into a bank account in its name. Ex. 1 at 41:15–22. During his August 2015 examination, Campbell did not testify that he could obtain this name from his attorney or records; nor did he ask for an opportunity to search and respond to Plaintiffs at a later date. Instead, he simply said he did not remember.

108. This testimony is not credible. One does not forget the name of a company for which he opened a bank account and deposited \$300,000. Furthermore, Campbell testified that

he had given the name of the company to HSBC when he contacted it about getting the account records. Ex. 1 at 41:6–9. If Campbell had known the name of the company when he asked for the bank records after receiving the Amended Order in April 2015, he would have known the name of the company four months later during his August 2015 debtor’s examination.

109. On April 25, 2016, Campbell provided Plaintiffs’ counsel with a handwritten document stating, in relevant part, “Count 19 [the Count related to the HSBC Hong Kong Account owner]—Mosaic Orange.” Ex. 5-2. Thus, on the eve of the previously scheduled May 4 trial date, Campbell was able to remember the company’s name: Mosaic Orange. *Id.* It is simply not credible that Campbell would have remembered the name when he supposedly called HSBC in the Spring of 2015, forgotten it in August of 2015, and then suddenly remembered it again in April 2016 (nearly 1 year later).

110. Count Nineteen of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. What was the name of the company that had the bank account with HSBC?

A. What was the name of the company?

Q. Yes.

A. I don’t remember.

Q. You don’t remember the name of a company that you set up a bank account and put \$300,000 into it?

A. No, I don’t remember.

Ex. 1 at 41:15-22.

111. For the aforementioned reasons, Campbell made false statements under oath when

he gave the sworn testimony underlying Count Nineteen.

D. Campbell's False Testimony Related to the Source of Large Cash Deposits to Campbell's Zions Bank Account (Counts 20–30)

112. Plaintiffs' counsel asked Campbell numerous questions about his Zions bank account records. The Zions bank account records cover the time from November 2011 to April 2015. Ex. 3.

113. From November 2011 through March 2012, Campbell made twelve different cash deposits into his account. These deposits include the following:

- a. \$4,000 on November 21, 2011 (Ex. 3-41)
- b. \$2,000 on November 30, 2011 (Ex. 3-41)
- c. \$5,000 on December 20, 2011 (Ex. 3-45)
- d. \$2,500 on December 28, 2011 (Ex. 3-45)
- e. \$700 on January 12, 2012 (Ex. 3-45)
- f. \$1,500 on January 18, 2012 (Ex. 3-45)
- g. \$1,000 on January 27, 2012 (Ex. 3-51)
- h. \$2,000 on January 30, 2012 (Ex. 3-51)
- i. \$2,500 on February 17, 2012 (Ex. 3-51)
- j. \$1,500 on February 22, 2012 (Ex. 3-57)
- k. \$2,600 on February 27, 2012 (Ex. 3-57)
- l. \$4,000 on March 20, 2012 (Ex. 3-63)
- m. \$1,600 on March 25, 2012 (Ex. 3-63)
- n. \$3,000 on March 30, 2012 (Ex. 3-63)

114. Thus, Campbell made \$30,200 in cash deposits into his Zions bank account over a four month period.

115. Significantly, Campbell made these cash deposits despite the fact that he also testified that, in 2012, his sole source of income was his Social Security payment of roughly \$1,600 per month. Ex. 1 at 35:8-11, 51:8-10.

116. Also at this time, Campbell was renting a condominium for \$1500 per month and had other large monthly expenses, such as Idaho Power, Cox Communications, Blue Cross, and other bills. Exs. 1 at 51:11-19; 3 at 41, 50, 55, 56, 67. As Campbell admitted, his monthly expenses each month exceeded his monthly income. Ex. 1 at 51:14-19.

117. During his August 2015 debtor's examination, Plaintiffs' counsel asked Campbell multiple questions about the source of the cash that he used to make these twelve deposits over the four month period. *See generally* Ex. 1 at 49-62. Campbell's testimony could be construed as evasive and contradictory on this issue. However, the Court cannot say beyond a reasonable doubt that it was not true or was designed to deceive. By December of 2011, the California courts had already found Mr. Campbell had received over \$8M as a result of his conspiracy with Mr. Powers. Mr. Campbell asserts that he never received anywhere near that amount. However he had received significant amounts as a result of his defrauding of Plaintiff. The fact that Mr. Campbell did not remember the source of these specific deposits, none of which are extraordinarily large or significant, is not incredible, and the Court cannot find that Plaintiff proved this particular criminal contempt charge beyond a reasonable doubt.

118. The Court hereby acquits Mr. Campbell of the charge of criminal contempt of court for Count Twenty.

119. Count Twenty-One of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, you already testified that you didn't have any asset that was

worth more than \$10,000 other than what was in the storage units;
correct?

A. Well, I – to answer your question, I don't – I didn't bring anything
with me that I would liquidate unless it was liquidated in Florida.

Q. Were things being liquidated in Florida at this time?

A. I was living on things that were being liquidated in that time.

Q. Who was liquidating items in Florida?

A. I was.

Q. So you were in Idaho but liquidating items in Florida?

A. No, I was doing that in Florida.

Q. So everything had been liquidated before you moved to Idaho?

A. I don't remember.

Id. at 49:24-50:16.

120. Mr. Campbell remembers whether he had liquidated everything before he moved
to Idaho. For the aforementioned reasons, the Court finds that Campbell made false
statements under oath when he gave the sworn testimony underlying Count Twenty-
One.

121. Count Twenty-Two of the contempt charges states that Campbell committed
criminal contempt when he testified untruthfully as follows:

Q. So, clearly, your expenses were exceeding your income; correct?

A. Correct.

Q. So, how did you make up the difference?

A. I told you, I liquidated – I had liquidated assets that I had. I believe

some of it came from stock that I was holding in Florida that was part of a venture capital group that we were involved with.

* * *

Q. Did you sell it before or after the judgment was entered against you by my client?

A. Before.

Q. So, in 2000 – end of 2011 what assets were you still liquidating?

A. I don't remember.

Id. at 52:8-54:5.

122. The only part of this answer that the Court could construe as knowingly false would be the part where Campbell says he doesn't remember what assets he was still liquidating at the end of 2011. While the Court can find from other answers, etc. that Campbell knew whether he had liquidated everything before he moved to Idaho, there is not sufficient evidence for the Court to conclude Mr. Campbell must be testifying falsely when he says he doesn't remember what assets he was still liquidating at the end of 2011.

123. For the aforementioned reasons, the Court acquits Campbell of the charge of criminal contempt in Count Twenty-Two.

124. Count Twenty-Three of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you can't remember any asset that you would have been liquidating to enable you to make nearly \$10,000 in deposits this month; correct?

A. You say "this month"?

Q. This month of January, 2012.

A. I believe this was part – I believe this was – and I don't know for sure, but I think this was part of that stock settlement.

* * *

Q. How was the stock sale money provided to you?

A. I believe in the form of a check. I can't remember.

Q. So why is there no record of the check being deposited?

A. Well, that was far – that was earlier than this particular date.

Q. How much prior to that date?

A. I don't remember.

Id. at 54:24-55:25.

125. The Court cannot find beyond a reasonable doubt that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Three. Campbell is hereby acquitted of criminal contempt of court as charged in Count Twenty-Three.

126. Count Twenty-Four of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Why would you have held this money from the liquidating your stock – why were you holding it in cash?

A. I don't remember.

Q. Did you just cash the check and keep tens of thousands of dollars in cash in your condo in Elkhorn?

A. Did I hold money? No.

Q. But you're making cash deposits; right?

A. I made cash deposits, yes.

Id. at 56:21-57:3

127. On April 25, 2016, --nine days before the previously scheduled May 4 trial date, Campbell sent to Plaintiff's counsel a handwritten statement, admitting that when he moved to Idaho, he had a moving company deliver boxes of his family's belongings within which was some specified amount of cash "less than \$100K." Ex. 5-2. Campbell signed this statement, averring that the contents were "true and correct to the best of his ability."

128. Mr. Campbell was avoiding telling the truth about keeping tens of thousands of dollars in cash in his condo in Elkhorn. He was in fact doing so. His answers above are substantially false or designed to avoid disclosing his cash resource—they are deceitful. For the aforementioned reasons, the Court finds that Campbell guilty of contempt of court when he gave the sworn testimony underlying Count Twenty-Four.

129. Count Twenty-Five of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. You know, you walked into a bank four times with cash to deposit in one month. And if you're telling me that that money came from a stock sale, that would mean that you were having that cash from the stock sale somewhere within your reach; isn't that right?

A. I can't answer that question. I don't know.

Q. How else would you have gotten it if the money weren't in your reach?

A. Well, you're asking me if that came directly from the stock sale. I don't remember if it did or not.

Q. So where – if it wasn't from the stock sale, where would that cash have come from?

A. I had liquidated assets in Florida.

Q. Okay. And then – you liquidated them, and then you just had a wad of cash that you came to Idaho with?

A. I don't remember how that came about or how I ended up coming up with these deposits at this particular time.

Id. at 57:17-58:10.

130. These answers are substantially false. Mr. Campbell knew full well the source of these cash deposits. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Five.

131. Count Twenty-Six of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Then let's move to the next tab, and this is the Zions statement dated February 21st, 2012; right?

* * *

Q. And on this one it's showing deposits of three separate times; a \$1,000 deposit, a \$2,000 deposit, and a \$2,500 deposit. Right?

A. Correct.

Q. And, again, \$5,500 in cash deposits in one month after the previous month of \$10,000 in cash deposits, and you don't remember where the cash came from?

A. No, I do not.

Id. at 58:12-59:1.

132. Based on the Court's findings in paragraph 127 and 128, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Six.

133. Count Twenty-Seven of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Was somebody regularly providing you with cash each month?

A. I don't know how to answer that question.

Q. Did anybody ever provide you with cash at this time frame?

A. Unless it was something I was selling at that time, I don't remember.

Id. at 59:2-8.

134. Immediately after providing these answers, at Ex.1 59:9-14, Campbell is asked if Mr. Durringer was providing him with cash. He answered no. "No one else was providing you with cash?" "No." Campbell clarified his answer that he "didn't remember," and clearly indicated no one was providing him with cash at this point in time. There is no proof, certainly none that establishes beyond a reasonable doubt, that someone was providing Campbell with cash during this period.

135. For the aforementioned reasons, the Court hereby acquits Campbell of the criminal contempt charge contained in Count Twenty-Seven.

136. Count Twenty-Eight of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So you had that much cash in your possession in February of 2012;
right?

A. Obviously, I did.

Q. And you had \$10,000 in your possession in January; right?

A. Correct.

Q. So all you – so in January you had \$15,000 at least in cash; right?

A. I don't remember the exact amounts, but that's what it says that I made deposits of, yes.

Q. So you had within your reach thousands and thousands of dollars all in cash at the beginning of 2012; right?

A. Well, I had at least what I deposited, yes.

Q. Did you make a deposit one month, deplete all the cash you had in your possession at that point, and then the next month deposit all the cash you had in your possession that month?

A. I don't remember.

Id. at 60:2-20.

137. This answer is clearly false. Campbell knew he had cash on hand in early 2012, he knows how much it was that came from Florida, and he knows whether all of it in his possession was deposited into an account at one time, and whether he came into possession of more cash, or whether he depleted his cash in any month at the start of 2012. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Twenty-Eight.

138. Count Twenty-Nine of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. How would you have obtained additional cash if not somebody

providing it to you?

A. Like I say, I had liquidated assets.

Q. I understand that. And when you say you liquidated assets, that gives you one piece of cash.

A. Um-mm.

Q. One pile of cash; right? Because you liquidated everything when you were in Florida; correct?

A. I don't understand that question.

Q. Did you liquidate all of your assets that were worth more than \$10,000 while you were in Florida and before you moved to Idaho other than what was in your storage unit?

A. I don't remember.

Q. Well, you've already testified that you didn't come to Idaho with any assets worth more than \$10,000 other than what was in the storage unit; right?

A. Nothing that was worth more than \$10,000 to my recollection, yeah.

Q. Did you own anything still in Florida once you moved to Idaho?

A. I don't remember.

Id. at 60:21-61:17.

139. This is a difficult charge for the Court to analyze because the Court is unsure exactly which of the answers given was allegedly false, or how. It is possible, depending on where the cash amount of "less than \$100K" was stored in Florida, or if it was stored in Florida, or if it was in a storage unit, or if it is considered an "asset," that Campbell made no false

statement here. The question whether Campbell owned “anything” in Florida after he moved to Idaho is quite broad. It is quite conceivable Mr. Campbell could not recall, particularly given his testimony at the February 20, 2015 Debtor’s Examination in California, which is set forth at Exhibit 2, 35:3-12 He testified then that there could be some accounts open in Florida with \$20 or \$30 in them, he just didn’t know.

140. The Court cannot find beyond a reasonable doubt that Campbell made a false statement as charged in Count Twenty–Nine, and the Court hereby acquits Campbell of any charge of criminal contempt of court for Count Twenty-Nine.

141. Count Thirty of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. They’re – on February 22nd there’s a \$1,500 deposit and on February 27th a \$2,600 deposit; right?

A. Correct.

Q. And, again, no idea where that cash came from?

A. No.

Id. at 62:5-9.

142. Although the Court could draw an inference here that Campbell knew the source of the cash for these deposits, the Court cannot find beyond a reasonable doubt that he did in fact know or recall the source of cash for these particular deposits. For those reasons, the Court hereby acquits Campbell of the charge of criminal contempt of court as contained in Count Thirty.

E. Campbell’s False Testimony About How He Paid his Rent (Counts 31-34)

143. Beginning in April 2012, Campbell’s Zions Bank records establish that the only deposits into his account were his monthly social security payments. Ex. 3-69, 73, 79, 83, 87,

91, 95. That is, at that time, Campbell stopped making cash deposits into his Zions account. The records further establish that, although Campbell had always paid his \$1,500-per-month rent with a check from his Zions account prior to April 2012, after that date, there is no cancelled check evidencing the payment of his rent. Ex. 3-71, 77, 81, 85, 89, 93, 97, 103. When asked how he paid his rent if there was no cancelled check establishing its payment after April, Campbell again repeatedly claimed that he could not remember. Ex. 1 at 65:6–23.

144. It is not credible that a person who had been consistently paying his monthly rent with a check would forget why he stopped paying it in this manner, or how he had proceeded to pay his rent.

145. When asked about the possible ways in which his rent was being paid, Campbell testified that he may have paid with a money order obtained from Atkinson's. Ex. 72:21–73:5. Campbell claimed he could not remember why he would have paid with a money order instead of a check. Ex. 74:3–6. Campbell did not identify as a possibility that he had prepaid several months' worth of rent at a time. Nevertheless, the bank records that Campbell produced in August 2016 show that Campbell wrote a check to his landlord from his Bank of America account for \$9,000 on June 28, 2012. Ex. 6–10. It thus appears that Campbell prepaid his rent for at least part of 2012. It defies credulity that someone would forget suddenly switching from monthly payments to prepaying six months at one time—particularly someone with purportedly limited income and assets. In sum, Campbell's testimony about how he paid his rent was not truthful.

146. Count Thirty-One of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. So was your rent being paid at that time?

A. I assume so.

Q. Who was paying your rent?

A. I don't know – I was, I assume.

Q. And how were you paying it?

A. I don't remember.

Ex. 1 at 65:9-14.

147. In 2012, for the months after April, it is a reasonable inference from the evidence that Campbell still had money left from the “less than \$100K” that came from Florida. Even if he did not, Campbell would have known the source of his rent payments after April 2012. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty-One.

148. Count Thirty-Two of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. But you testified that you had never paid your rent in cash.

A. That's correct.

Q. So you didn't pay it in cash and you didn't pay it through a check from the two bank accounts that you had. So what possible source of money paid your rent?

A. I don't remember.

Id. at 71:14-20.

149. For the aforementioned reasons, the Court finds that Campbell made false statements under oath when he gave the sworn testimony underlying Count Thirty-Two.

150. Count Thirty-Three of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Where could you have gotten – what source of funds could you have possibly used to pay the rent?

A. I don't remember how that was being paid at this time. I don't remember.

Q. Did you have access to any other source of money with which you could have paid the rent?

A. I don't remember.

Q. Well, that's pretty important because this is all about your assets and your expenses, and we're talking about \$1,500 every month that you're saying that you didn't pay in cash and you didn't pay with checks from the two bank accounts that you're telling us are the only bank accounts that you have.

A. Oh, it was being paid. I just don't remember how it was being paid at that time.

Id. at 71:23-72:12.

151. This is the same answer to the same basic question that Campbell was asked in Count Thirty-One—how were you paying your rent, and he gave the same answer. It is inappropriate for a Court to punish the same act of contempt twice, for to do so is double jeopardy. *State v. Sellers*, ___ Idaho ___, 2016 WL4548086, Sept 1, 2016. The Court hereby acquits Campbell of the charge of criminal contempt of court alleged in Count Thirty-Three.

152. Count Thirty-Four of the contempt charges states that Campbell committed criminal contempt when he testified untruthfully as follows:

Q. Well, for months you weren't paying your rent, so either somebody was paying it for you, you were paying it in cash or you have another bank account out there; right? Those are my only options that I can think of. Can you think of any other?

A. It might have been a money order. I don't remember.

Q. And how would you have obtained a money order?

A. Through Atkinson's.

Q. So you go in with cash to Atkinson's and purchase a money order?

A. I don't remember if that's how this was done, but you're asking me is there any other possible way. That's the only other possible way I can understand that it was being done.

Q. Okay. So have you done that before, have you gone to Atkinson's with cash to obtain a money order?

A. I have.

* * *

Q. And, again, the cash with which you used to buy the money order to pay for it, that came from cash that was sitting around in your condo at that time?

A. It was either that or a liquidation of – no, it was liquidation of either – that stock that I referred to earlier.

Q. So that's the only source, it could only be this stock?

A. As I remember, yes.

Q. So why didn't you take the money from the stock sale and put it into your Zions account and then write a check to pay your rent instead of –

A. I don't remember why I did that.

Id. at 72:16-74:6.

153. The only answer to this set of questions that could possibly be construed as false, and therefore constituting contempt, is the answer to the last question: Why didn't you take the money from the stock sale and put it into your account and write a check to pay your rent? There are multiple reasons why Campbell might not have chosen to do that. The Court cannot conclude beyond a reasonable doubt that Campbell is testifying falsely when he says he cannot remember years later why he chose one course of action over another.

154. The Court hereby acquits Campbell of the charge of criminal contempt of court as alleged in Count Thirty-Four.

F. Affirmative Defenses Asserted as to the Criminal Counts

155. Campbell asserts as to Plaintiffs' criminal contempt counts the affirmative defense of past inability to comply with the court's order. It is not readily apparent how this affirmative defense relates to the criminal contempt counts, each of which is premised on giving false testimony. Regardless, Campbell has presented no evidence of a past inability to comply with any relevant court order.

IV. CIVIL CONTEMPT CONCLUSIONS OF LAW

A. Elements and Burden of Proof

156. It is a contempt of court to disobey a court order. Idaho Code § 7-601(5).

157. A civil contempt claim must be proven to a preponderance of the evidence. Idaho

R. Civ. Proc. 75(j)(1).

158. The failure to comply with a court order need not be intentional or willful to impose a civil contempt sanction. *Chavez v. Canyon Cty.*, 152 Idaho 297, 304 (2012).

159. “When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it[.]” Idaho Code § 7-611.

160. Under Idaho Rule of Civil Procedure 75(j)(1), the court must find by a preponderance of the evidence “that the contemnor has the present ability to comply with the order violated[.]”

161. Idaho Rule of Civil Procedure 75(h) establishes that present **inability** to comply is an affirmative defense, which **the alleged contemnor must prove** to a preponderance of the evidence. Idaho R. Civ. Proc. 75(h).

162. Courts applying similar laws put the burden regarding ability or inability to comply on the defendant. Thus, in *Lamb v. Eads*, the Iowa Supreme Court found that “the general rule holds that an applicant for a contempt citation establishes a prima facie case by proving the duty which is on the contemnor and the contemnor’s [*sic*] failure to perform the duty. The contemnor then has the burden of showing he could not perform the duty, if he relies on that ground.” 346 N.W. 2d 830, 832 (1984); *see also Foust v. Denato*, 175 N.W.2d 403, 405 (Iowa 1970) (“[W]hen the evidence clearly shows the order of court has been disobeyed, a party who seeks to purge himself of contempt by showing his inability to comply with the order of court has the burden to prove it”).⁵ Similarly, *Spabile v. Hunt* held that, while a court must find

⁵ *See also* 17 C.J.S. *Contempt* § 141 (2015) (“When the moving party in a contempt action has shown that the alleged contemnor has failed to comply with the judgment or order, the burden shifts to the alleged contemnor to show why he or she should not be held in contempt. . . . If the alleged contemnor makes a sufficient showing, the burden of proof shifts back to the party

that a contemnor has the present ability to comply before imposing sanctions, it is *the contemnor* who bears the burden of proving his inability to comply. 360 A.2d 51 (Vt. 1976).

163. This Court therefore finds that Campbell, the alleged contemnor, bears the burden of proving his present inability to comply with the orders allegedly violated.

164. To satisfy his burden, an alleged contemnor must prove his defense of present inability to comply with admissible evidence. He cannot avoid his burden by claiming a Fifth Amendment privilege. *U.S. v. Rylander*, 460 U.S. 752, 761 (1983).

165. On June 18, 2016, this Court held that Campbell may assert only two affirmative defenses: (1) present inability to comply with the Court's order (as to the civil counts), and (2) past inability to comply with the Court's order (as to the criminal counts). Campbell waived all other affirmative defenses.

B. Effect of Powers of Attorney

166. During trial, Campbell presented as evidence ten documents purporting to confer on Plaintiffs' counsel a limited power of attorney to seek records from each lawyer and bank named in Plaintiffs' ten civil contempt counts (including those that Plaintiffs agreed to dismiss without prejudice). Exs. 501–10.

167. Campbell asserts that these limited powers of attorney constitute compliance with the Court's Amended Order.

168. The Court's Amended Order directed *Campbell* to *produce* the bank records and attorney payment records currently at issue.

169. In the analogous context of discovery, it is well established that a party does not adequately respond to a request for production by telling the requesting party that it may go get

seeking a finding of contempt, who ultimately bears the burden of showing an ability to comply with the order.”)

the documents itself. Instead, “even where a requesting party *already has documents in its possession, or could otherwise access those documents*, the disclosing party may not withhold those documents.” *Beach Mart, Inc. v. L & L Wings, Inc.*, 302 F.R.D. 396, 410 (E.D.N.C. 2014); *accord Rivers v. Asplundh Tree Expert Co.*, No. 5:08CV61/RS/EMT, 2008 WL 5111300, at *4 (N.D. Fla. Dec. 3, 2008); *SSL, L.L.C. v. Garcia-Chicoine Enters., Inc.*, No. 04-1017-JTM, 2005 WL 6793646, at *3 (D. Kan. Aug. 24, 2005); *Walt Disney Co. v. DeFabiis*, 168 F.R.D. 281, 284 (C.D. Cal. 1996); *Fort Wash. Res., Inc. v. Tannen*, 153 F.R.D. 78, 79 (E.D. Pa. 1994).

170. If a party cannot satisfy a request for production by informing the requesting party that he already possesses the relevant documents, then *a fortiori*, a party cannot satisfy a court order directing production by merely authorizing the requesting party to obtain the documents from a third-party source.

171. Additionally, there is no evidence that Campbell’s limited powers of attorney would be effective to allow Plaintiffs to obtain the records in question.

172. Campbell’s failure to cite any evidence or law supporting the efficacy of these limited powers of attorney is particularly problematic as to the records related to the Hong Kong account. It is not at all clear that limited powers of attorney granted in the United States and under U.S. law would be effective to obtain records related to a bank account at a Hong Kong bank in the name of a Hong Kong company.

173. Moreover, as discussed *supra* with respect to the limited power of attorney related to the Hong Kong Account, the document does not state on its face that Campbell is authorized by Mosaic Orange to confer such a power.

174. Campbell thus has not offered sufficient evidence to show that his limited powers of attorney (Exhibits 501–10) are relevant. Nor has Campbell provided the Court with any

authority supporting his position that providing a power of attorney in lieu of production of the actual production of documents suffices to excuse a charge of civil contempt.

175. For the aforementioned reasons, the Court finds that Campbell did not comply with the Court's Amended Order by providing Plaintiffs with the original copies of the limited powers of attorney admitted as Exhibits 501–10.

C. Conclusions of Law Specific to Count 1

176. The Court's Amended Order required Campbell to produce to Plaintiffs all documents evidencing payments made by Campbell to Flyer over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments.

177. To date, Campbell has not produced a single document evidencing any payment that he made to Flyer over the period of 2009 to present.

178. Thus, to date, Campbell has not complied with the Court's Amended Order insofar as it relates to Count 1.

179. For the reasons discussed in paragraphs 42–49, *supra*, the Court finds by a preponderance of the evidence that Campbell has the present ability to Comply with the Court's Amended Order insofar as it relates to Count One.

180. For the aforementioned reasons, the Court finds Campbell in civil contempt under Count One of the Charging Affidavit.

D. Conclusions of Law Specific to Count 8

181. The Court's Amended Order required Campbell to produce to Plaintiffs all records relating to the Hong Kong Account for the time period commencing January 1, 2012 to the present date.

182. To date, Campbell has not produced a single record relating to the Hong Kong Account.

183. Thus, to date, Campbell has not complied with the Court's Amended Order insofar as it relates to Count 8.

184. For the reasons discussed in paragraphs 59–67, *supra*, the Court finds by a preponderance of the evidence that Campbell has the present ability to Comply with the Court's Amended Order insofar as it relates to Count Eight.

185. For the aforementioned reasons, the Court finds Campbell in civil contempt under Count Eight of the Charging Affidavit.

V. CRIMINAL CONTEMPT CONCLUSIONS OF LAW

186. None of the foregoing conclusions of law is based in any way on Campbell's testimony during trial.

A. Elements

187. A party's "[d]eceipt or abuse of the process or proceedings of the court" is punishable as a contempt. Idaho Code § 7-601. This title is called the Criminal Code. Idaho Code § 18-100(1). This code does not affect any power conferred by law upon any public body, tribunal, or officer, to impose or inflict punishment for contempt. Idaho Code §18-105. Thus commission of an act that may constitute perjury does not prevent the Court from punishing the same act as criminal contempt.

188. The following cases are taken from 89 ALR 2d. 1258 entitled *Perjury or False Swearing as Contempt*, originally published 1963:

In Clark v United States (1932, CA8 Minn) 61 F2d 695, affirming a conviction of contempt for false swearing by a prospective juror, the court rejected the contention that defendant was charged with perjury but perjury was not proved, and declared that the essence of the alleged misconduct was contempt rather than perjury, and since falsification or evasion which may fall short of technical perjury may still constitute contemptuous conduct if its tendency is to obstruct the administration of justice, the allegation of the petition that defendant's answers constituted perjury was an immaterial allegation, and she stood thereunder charged with the exact offense of which she was convicted. The court said that in Ex parte Hudgings (1919) 249 US 378, 63 L ed 656, 39

S Ct 337, 11 ALR 333, it was held that technical perjury does not constitute criminal contempt unless it also amounts to an obstruction to the administration of justice, and impliedly it can be drawn from that case that less than technical perjury may constitute criminal contempt if it amounts to an obstruction of the administration of justice, even though certain elements of perjury may be lacking, and that in Young v State (1926) 198 Ind 629, 14 NE 478, it was said that false swearing by a witness is such an obstruction of justice as to constitute a direct contempt of court, and that it is not necessary that the false testimony upon which the charge of contempt is based constitute perjury. Upon appeal to the United States Supreme Court, 289 US 1, 77 L ed 993, 53 S Ct 465, the court, affirming, said that concealment or misstatement by a juror upon a voir dire examination is punishable as a contempt if its tendency and design are to obstruct the processes of justice. Concerning defendant's statements as to her former employment (which did not mention her employment by the accused), the court said that whether this was perjury or false swearing there was no occasion to inquire, since it was a deliberate endeavor to thwart the process of inquiry and to turn a trial into a futile form, and that added to this concealment there was a positive misstatement by the defendant when she testified that she was not biased or prejudiced. The court said that defendant was not condemned for concealment, although concealment had been proved, and that she was not condemned for false swearing, although false swearing had been proved, but rather she was condemned because she made use of false swearing and concealment as the means whereby to accomplish her acceptance as a juror and under cover of that relation to obstruct the course of justice. The court said that perjury by a witness has been thought to be not enough where the obstruction to judicial power is only that inherent in the wrong of testifying falsely, but that, on the other hand, obstruction to judicial power will not lose the quality of contempt even though one of its aggravations is the commission of perjury.

Where defendant gave obstructive, perjurious, evasive, and contumacious answers to the questions propounded to him while he was being examined before a grand jury, the court in Re Meckley (1943, DC Pa) 50 F Supp 274, held that the defendant was thereby guilty of contempt of court. It was said that various conflicting and obviously false answers of the defendant to the questions asked him left no doubt that defendant intended to and actually did prevent the grand jury from obtaining information which was desired, and that his frequent repetition of the phrase "I don't remember" with regard to matters about which he quite obviously could not have forgotten, his frequent reference to documents and memoranda not at hand, without which he stated he could not testify and give the information requested, and his inability to supply the required information when these documents and memoranda were available to him, showed beyond a reasonable doubt the contumacy of the witness and his desire to obstruct the examination by asserting the first excuse or answer which came to mind. Affirming this judgment, the court in (CA3) 137 F2d 310, cert den 320 US 760, 88 L ed 453, 64 S Ct 69, said that it had carefully examined the record in detail and thought the findings of the court below were abundantly sustained by the testimony, and that the conclusion that the defendant was guilty of contumacious conduct was well justified.

In a divorce proceeding wherein the wife sought alimony payments and it appeared that during cross-examination of the husband he stated that he had no property or assets, whereupon the trial court adjudged him guilty of contempt of court, the appellate court in Crute v Crute (1952) 86 Ga App 96, 70 SE2d 727, affirmed the judgment below, stating that there was no abuse of discretion on the part of the trial court which would authorize setting aside its judgment. It was said that the husband's manner on the stand was observed by the trial judge, and whether or not the witness so conducted himself relative to questions concerning his financial worth and his records and books as to justify the court in adjudging him in contempt was all for the trial judge to determine, and that under the present record it was not an abuse of discretion for that judge to make a finding of contempt. It was also said that the trial judge had power to punish for contempt, and while it was true that criminal contempt involves some disrespectful or contumacious conduct toward the court, a witness who was seeking to conceal the truth and to give evasive answers or to falsify and mislead the court certainly is not acting respectfully to the court, and his conduct is reprehensible.

Under Idaho Rule of Civil Procedure 75(j), criminal contempt must be proven beyond a reasonable doubt. Idaho R. Civ. Proc. 75(j). Reasonable doubt “is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt.” Idaho Crim. Jury Instr. 1707. Instead, “it is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.” *Id.*

189. Plaintiffs’ criminal contempt charges arise from Campbell’s false testimony given under oath during his August 24, 2015 debtor’s examination.

B. The Effect of One Answer Upon Another

190. During closing argument, Campbell argued that this Court should essentially consider the testimony underlying each of Plaintiffs’ criminal contempt counts in a vacuum—without considering the transcript of Campbell’s August 2015 debtor’s exam as a whole. It is proper for this Court to consider the testimony underlying each criminal contempt count in light

of the August 2015 debtor's examination as a whole. The context of Campbell's overall testimony during the August 2015 debtor's examination is relevant and important to shed light on the testimony's meaning.

191. The totality of basic facts that Campbell claimed to forget during this examination, considered alongside other evasive, inconsistent, or outright false answers, tends to increase the probability, in this Court's view, that any particular claim of memory loss is feigned. *See In re Sowers*, 229 B.R. 151, 157 (Bankr. N.D. Ohio 1998) (considering uncharged omissions while addressing whether debtors' failure to disclose certain facts related to their finances was intentional and stating "even if this Court were to believe that the foregoing mentioned omissions were merely the result of some sort of oversight or ignorance on the part of the Defendants, this notion becomes preposterous when combined with the many other omissions of the Defendants"). As with *In re Sowers*, considering each of Campbell's claims of memory loss in light of the many other things he claimed not to remember during the August 2015 debtor's examination increases the likelihood that any particular claim of memory loss made in other circumstances in the same debtor's examination is not well taken.

192. Additionally, the numerous other misstatements and omissions that Campbell made to *these Plaintiffs* in the course of *this litigation* and underlying events for the *same purpose* of preventing Plaintiffs from learning information about Campbell's finances are relevant to Campbell's intent to again prevent Plaintiffs from learning about his finances during the August 2015 debtor's examination. *See United States v. Mebust*, 857 F. Supp. 609, 618–19 (N.D. Ill. 1994) (defendant's uncharged prior procurement of firearm owner identification cards by false statements relevant to his intent to knowingly make false statements in the case at bar); *Estes v. Anglin*, No. 2:14-CV-994-SLB, 2015 WL 1279746, at *5 (N.D. Ala. Mar. 20, 2015) ("A

pattern of omissions on the part of the debtor is often sufficient to find fraudulent intent[.]”); *Abdo v. Com.*, 64 Va. App. 468, 474 (Ct. App. 2015) (alleged contemnor’s prior uncharged instances of tardiness relevant to showing intent on the charged occasion).

193. Moreover, given its relevance to intent, this evidence is also relevant to show Campbell’s willfulness in giving the alleged false testimony underlying Plaintiffs’ criminal contempt charge, and it shows why his actions and testimony give rise to charges of contempt, independent of any examination as to whether Campbell committed perjury.

C. Conclusions of Law Regarding Campbell’s Affirmative Defense of Past Inability to Comply

194. Campbell asserts as to Plaintiffs’ criminal contempt counts the affirmative defense of past inability to comply with the Court’s order.

195. Given that Plaintiffs’ criminal contempt counts are premised not on violation of a court order, but on giving false testimony, Campbell’s asserted affirmative defense is irrelevant to the criminal contempt counts at bar.

196. Nevertheless, even if this affirmative defense were relevant, there is no evidence that Campbell was unable to comply with any relevant court order at the time of his August 2015 debtor’s examination.

197. Therefore, as to each of Plaintiffs’ criminal contempt counts for which Campbell has been found guilty, the Court finds that Campbell failed to meet any burden he might have had of proving his affirmative defenses. As to each of Plaintiffs’ criminal contempt counts, the Court rejects Campbell’s affirmative defense of past inability to comply with the Court’s order.

D. Conclusions of Law Related to the Source of Funds Used to Open his Bank of America Account, His Car, and Where he Lived (Counts 11–17)

198. In light of the facts discussed in the Court’s findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely during his August 2015 debtor’s

examination when he was asked “[w]here did that money come from?” and answered “I have no idea at this point.” Ex. 1 at 34:3–4. Moreover, the Court finds beyond a reasonable doubt that Campbell’s giving of the false testimony underlying Count Eleven was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Eleven.

199. In light of the facts discussed in the Court’s findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely during his August 2015 debtor’s examination when he was asked whether the nearly \$25,000 used to open the Bank of America account came from his Zion’s Account and he said “I don’t remember.” Ex. 1 at 34:5-7. Moreover, the Court finds beyond a reasonable doubt that Campbell’s giving of the false testimony underlying Count Twelve was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twelve.

200. In light of the facts discussed in the Court’s findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely during his August 2015 debtor’s examination when he responded to questions about the possible source of money used to open the Bank of America account with “I don’t remember” and “I don’t know.” Ex. 1 at 34:17–25. Moreover, the Court finds beyond a reasonable doubt that Campbell’s giving of the false testimony underlying Count Thirteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirteen.

201. In light of the facts discussed in the Court’s findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor’s examination when he was asked whether he owned any assets that he sold around the time he opened the Bank of America account and said “I don’t remember.” Ex. 1 at 35:1–3.

Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Fourteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Fourteen.

202. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he was asked twice whether he owned a car in 2012 and twice answered that he did not remember. Ex. 1 at 35:4-7. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Fifteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Fifteen.

203. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he was asked where he lived in June 2012 and answered "I don't remember." Ex. 1 at 35:12-15. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Sixteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Sixteen.

204. The Court finds the conduct charged in Count Seventeen is the same conduct for which Campbell has been found guilty in Count Eleven. Whether convictions on different counts implicate a double jeopardy violation turns on whether conduct amounts to separate, distinct, and independent criminal acts. *State v. Sellers*, ___ Idaho ___, 2016 WL4548086, Sept 1, 2016. The Court here concludes Campbell's conduct in Count Eleven and the conduct alleged in Count Seventeen are not separate, distinct, and independent criminal acts. Count Seventeen is dismissed

as it constitutes a violation of double jeopardy protections found in the Idaho and U.S.

Constitutions.

E. Conclusions of Law Regarding Campbell's Testimony About the Source of Cash Deposits to His Bank of America Account (Count 18)

205. The Court cannot find that Plaintiff proved the allegations of Count Eighteen beyond a reasonable doubt. The Court finds Campbell not guilty of Count Eighteen. Count Eighteen is dismissed.

F. Conclusions of Law Regarding Campbell's Testimony Related to the Company in Whose Name Campbell Opened the Hong Kong Account (Count 19)

206. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he repeatedly testified that he did not remember the name of the company in whose name he set up the Hong Kong Account into which he deposited \$300,000. Ex. 1 at 41:15–22. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Nineteen was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Nineteen.

G. Conclusions of Law Regarding Campbell's Testimony About the Source of Large Cash Deposits to Campbell's Zions Bank Account (Counts 20–30)

207. The Court cannot find that Plaintiff proved the allegations of Count Twenty beyond a reasonable doubt. The Court finds Campbell not guilty of Count Twenty. Count Twenty is dismissed.

208. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-One related to liquidating property in Florida. Ex. 1 at 49:24–50:16. Moreover, the Court finds beyond a

reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-One was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-One.

209. The Court finds that Plaintiff did not prove the allegations of Count Twenty-Two beyond a reasonable doubt. Campbell is not guilty of the contempt charged in Count Twenty-Two.

210. The Court cannot find that Count Twenty-Three was proven beyond a reasonable doubt. The Court therefore finds that Campbell is not guilty of the contempt charged in Count Twenty-Three.

211. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Four related to whether he was keeping large amounts of cash in his condo in Elkhorn or whether he was then "holding money." Ex. 1 at 56:21-57:3. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Four was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Four.

212. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Five related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 57:17-58:10. Campbell knew he had a large amount of cash ("less than \$100K") that had been delivered, shipped, or brought from Florida. Moreover, the Court finds beyond a reasonable doubt that

Campbell's giving of the false testimony underlying Count Twenty-Five was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Five.

213. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he gave the testimony underlying Count Twenty-Six related to the source of large amounts of cash that he deposited into his Zions account. Ex. 1 at 58:12–59:1. Campbell knew he had a large amount of cash ("less than \$100K") that had been delivered, shipped, or brought from Florida. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Six was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Six.

214. As to Count Twenty-Seven, Campbell was asked if someone was providing him with cash during a particular time frame. Campbell answered something to the effect that unless it was coming from something he was selling at the time, he didn't remember. Ex. 1 at 59:2–8. Plaintiff contends this answer is false. However, immediately after this testimony, Campbell was asked again, very directly, whether anyone was providing him with cash, and during this time, and he answered no. Ex.1 at 59:9-14. The Court cannot find that this answer was false or intended to mislead. The Court cannot find that Count Twenty-Seven was proven beyond a reasonable doubt. The Court finds Campbell not guilty of the contempt charged in Count Twenty-Seven.

215. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015

debtor's examination when he gave the testimony underlying Count Twenty-Eight that indicated he could not remember whether he deposited all of his available cash in one month, and then deposited all the cash in his possession the next month. Ex. 1 at 60:2–20. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Twenty-Eight was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Twenty-Eight.

216. The Court cannot find beyond a reasonable doubt that Plaintiff proved Count Twenty-Nine beyond a reasonable doubt. The Court therefore finds that Campbell is not guilty of the contempt charged in Count Twenty-Nine.

217. The Court cannot find that Plaintiff proved the allegations of Count Thirty beyond a reasonable doubt. The Court finds that Campbell is not guilty of the contempt charged in Count Thirty.

H. Conclusions of Law Regarding Campbell's Testimony About How He Paid his Rent (Counts 31-34)

218. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015 debtor's examination when he testified that he did not remember who or how his rent was paid during a period of time for which the bank records that he had then produced indicated that he had ceased paying his rent by check. Ex. 1 at 65:9–14. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Thirty-One was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-One.

219. In light of the facts discussed in the Court's findings of fact, the Court finds beyond a reasonable doubt that Campbell testified falsely under oath during his August 2015

debtor's examination when he testified that he did not remember sources of money from which his rent was paid during a period of time for which the bank records that he had then produced indicated that he had ceased paying his rent by check. Ex. 1 at 71:14–20. Moreover, the Court finds beyond a reasonable doubt that Campbell's giving of the false testimony underlying Count Thirty-Two was willful. The Court therefore finds beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-Two.

220. The Court finds the conduct charged in Count Thirty-Three is the same conduct for which Campbell has been found guilty in Count Thirty-One. Whether convictions on different counts implicate a double jeopardy violation turns on whether conduct amounts to separate, distinct, and independent criminal acts. *State v. Sellers*, ___ Idaho ___, 2016 WL4548086, Sept 1, 2016. The Court here concludes Campbell's conduct in Count Thirty-One and the conduct alleged in Count Thirty-Three are not separate, distinct, and independent criminal acts. Count Thirty-Three is dismissed as it constitutes a violation of double jeopardy protections found in the Idaho and U.S. Constitutions.

221. The Court cannot find that Plaintiff has proven beyond a reasonable doubt that Campbell is guilty of the contempt charged in Count Thirty-Four. The Court finds that Campbell is not guilty of criminal contempt as alleged in Count Thirty-Four.

VI. SUMMARY OF FINDINGS AND CONCLUSIONS

222. For the aforementioned reasons, the Court finds by a preponderance of the evidence that Campbell is guilty of civil contempt in Counts One and Eight.

223. For the aforementioned reasons, the Court finds beyond a reasonable doubt that Campbell is guilty of criminal contempt as alleged in Counts Eleven, Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Nineteen, Twenty-One, Twenty-Four, Twenty-Five, Twenty-Six, Thirty-One, and Thirty-Two.


224. The Court hereby finds Campbell not guilty of Counts Seventeen, Eighteen, Twenty, Twenty-Two, Twenty-Three, Twenty-Seven, Twenty-Eight, Twenty-Nine, Thirty, Thirty-Three, and Thirty-Four.

225. The Court orders the parties to appear for a hearing before the Court for Campbell's sentencing on the 28 day of November, 2016, at the hour of 1:30 pm

226. Campbell shall file any brief regarding sentencing no later than 14 days before the sentencing hearing.

227. Plaintiffs shall file their response, if any, no later than 7 days before the sentencing hearing.

DATED: November 3, 2016.



Robert J. Elgee
Blaine County District Judge

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on November 3, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 ~~Teletcopy~~ *email*

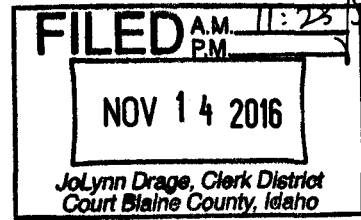
Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

x email



Deputy Clerk

Lee P. Ritzau
LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.
 460 Sun Valley Road, Suite 205
 P.O. Box 1172
 Ketchum, Idaho 83340
 Tel: 208/726-8219
 Fax: 208/726-3750
 ISB No. 5239



Attorneys for Respondent Neil David Campbell

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP,)
 LTD., and KARLIN HOLDINGS)
 LIMITED PARTNERSHIP,)
)
 Plaintiffs/Petitioners,)
)
 v.)
)
 PHILIP RICHARD POWERS,)
 individually; NEIL DAVID)
 CAMPBELL, individually;)
 POWERS INVESTMENTS AND)
 MANAGEMENT, INC., S.A., a)
 corporation; GUANANA GRIS,)
 S.A., a corporation; PROTECCION)
 FORESTAL DE TECA, S.S., a)
 corporation; and DOES 1 through)
 50 inclusive,)
)
 Defendants/Respondents.)
)

Case No. CV-2012-407

AFFIDAVIT OF LEE RITZAU REGARDING
 INFORMATION FOR SENTENCING HEARING

AFFIDAVIT OF LEE RITZAU REGARDING INFORMATION FOR SENTENCING HEARING/1

STATE OF IDAHO)
) ss.
County of Blaine)

Lee P. Ritzau, being first duly sworn, upon oath, deposes and says:

1. I represent Mr. Neil Campbell in the above entitled action;
2. Attached hereto as Exhibit A is a true and correct copy of a Complaint filed by the Petitioners against MLG Automotive Law, which represented Neil Campbell in the California Criminal case associated with this matter and with the California Civil case creating this matter, and against Walter Urban who represented Mr. Philip Richard Powers in the California litigation;
3. Attached hereto as Exhibit B is a true and correct copy of my July 28, 2016 letter to Mr. David Flyer, the enclosures I reference in paragraph 2 of my July 28, 2016 letter to Mr. Flyer, and return receipt information associated with my July 28, 2016 letter to Mr. Flyer;
4. Attached hereto as Exhibit C is a true and correct copy of my November 4, 2016 email to David Flyer;
5. To date, I have not received a response from David Flyer to either my July 28, 2016 letter to him or my November 4, 2016 email to him;
6. Attached hereto as Exhibit D is a true and correct copy of my July 28, 2016 letter to HSBC regarding account information for Mosaic Orange Limited, as well as the attachments to my July 28, 2016 letter;
7. Attached hereto as Exhibit E is a true and correct copy of a letter dated October 18, 2016 which HSBC sent to me. My office received this letter on November 4, 2016; and

AFFIDAVIT OF LEE RITZAU REGARDING INFORMATION FOR SENTENCING HEARING/2

CERTIFICATE OF SERVICE

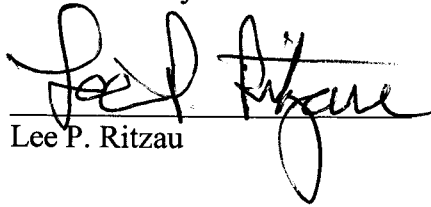
I HEREBY CERTIFY that on the 11th day of November, 2016, I served a true and correct copy of the within and foregoing document upon:

Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Ketchum, Idaho.

By transmitting copies of the same to said attorney by facsimile machine process.

By hand delivering the same to said attorney.



Lee P. Ritzau

EXHIBIT A

AW029
90025

FILED
Superior Court Of California
County Of Los Angeles

JUL 13 2016

Sherri H. [unclear], Executive Officer/Clerk
By [Signature], Deputy
Kristina Vargas

1 Luke L. Dauchot (S.B.N. 229829)
2 Lauren J. Schweitzer (S.B.N. 301654)
3 KIRKLAND & ELLIS LLP
333 S. Hope Street, 29th Floor
Los Angeles, California 90071
4 Telephone: (213) 680-8400
Facsimile: (213) 680-8500
5 Email: luke.dauchot@kirkland.com
6 Email: lauren.schweitzer@kirkland.com

7 Attorneys for Plaintiffs C&M Investment
8 Group, Ltd. and Karlin Holdings Limited Partnership

9 *D-28 Yvette M. Palazuelos*
10 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
12 UNLIMITED JURISDICTION

13 C&M Investment Group, Ltd., and Karlin
14 Holdings Limited Partnership,

15 Plaintiffs,

16 vs.

17 MLG Automotive Law, A Professional Law
18 Corporation; and Walter Urban, d/b/a Walter
Urban Law Offices,

19 Defendants.

) CASE NO. **BC 6 2 4 7 7 1**

) COMPLAINT FOR:

-) 1. CONVERSION
-) 2. UNLAWFUL AND UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE § 17200, et seq.)
-) 3. RECEIPT OF PROPERTY OBTAINED BY THEFT (CAL. PEN. CODE § 496(c))

) DEMAND FOR JURY TRIAL

CIT/CASE #: BC624771
 LEA/DEF#:
 RECEIPT #: CCH617486019
 DATE PAID: 07/13/16 04:17 PM
 PAYMENT: \$435.00 310
 RECEIVED:
 CHECK: \$435.00
 CASH: \$0.00
 CHANGE: \$0.00
 CARD: \$0.00

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1. Plaintiffs C&M Investment Group, Ltd. ("C&M") and Karlin Holdings Limited Partnership ("Karlin Holdings") (together, "Plaintiffs") were the victims of a large-scale fraud perpetrated by Neil David Campbell ("Campbell") and Richard Philip Powers ("Powers") over the course of more than six years. In October 2007, Plaintiffs filed a lawsuit in Los Angeles Superior Court and in December 2011 and January 2012, after years of litigation, obtained judgments against Campbell and Powers of approximately \$24 million and \$36 million, respectively. Since then, Plaintiffs have not been able to collect meaningfully on those judgments (recovering only a fraction of what Campbell stole, and recovering nothing from Powers), because both have claimed, under oath, to have no assets to their names. Yet, when the Los Angeles District Attorney's office initiated a criminal prosecution of Powers and Campbell for felony grand theft in 2013, both managed to retain—and pay hundreds of thousands of dollars to—private counsel to defend them against the criminal charges.

2. Plaintiffs now file this lawsuit against the lawyers hired by Powers and Campbell—MLG Automotive Law (who represented both Campbell and Powers) and Walter Urban (who represented Powers)¹—to recover the money Defendants were paid. As Defendants were aware, the money they received from Powers and Campbell was subject to a post-judgment lien in favor of Plaintiffs, and by applying it to cover their attorneys' fees, they improperly converted it in violation of California law. In addition, because Defendants knew that the money that they were receiving to cover attorneys' fees represented the proceeds of the fraud Powers and Campbell perpetrated on Plaintiffs, Defendants are not only required to return it to Plaintiffs, but are liable for treble damages and attorneys' fees as well.

THE PARTIES

3. Plaintiff C&M is a limited liability company established under the laws of Costa Rica with its registered domicile in San Jose, Costa Rica. C&M's sole shareholder is Plaintiff Karlin Holdings, a Limited Partnership established under the laws of Nevada with its principal place of business in the City and County of Los Angeles. Karlin Holdings is owned almost entirely by the

¹ Campbell was also represented by Dyke Huish ("Huish"), who is not a party to this action.

1 living trust of Dr. Gary K. Michelson ("Dr. Michelson"), of which Dr. Michelson is the sole trustee.

2 4. Defendant MLG Automotive Law, A Professional Law Corporation, is a law firm
3 domiciled in Orange County, California, which represented Campbell and Powers in criminal
4 proceedings in Los Angeles brought by the Los Angeles District Attorney.

5 5. Walter Urban is a lawyer and sole practitioner (d/b/a Walter Urban Law Offices),
6 who is domiciled in Orange County, California, and who represented Powers in criminal
7 proceedings in Los Angeles brought by the Los Angeles District Attorney.

8 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
9 of DOES 1 through 50, inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by
10 such fictitious names and will ask leave to amend the Complaint to show their true names and
11 capacities when they have been ascertained. Plaintiffs are informed and believe and thereon allege
12 that each of the Defendants designated herein as DOE is responsible in some manner for the events
13 and happenings therein referred to, and there is now due, owing, and unpaid from Defendants and
14 each of them to Plaintiffs the sums alleged in this Complaint.

15 **JURISDICTION AND VENUE**

16 7. This Court has personal jurisdiction over Defendants because each of them is
17 domiciled in California, and because the transactions that are the subject of this Complaint took
18 place in California. Venue is proper in this Court in that the transactions giving rise to this action
19 occurred in substantial part in the City and County of Los Angeles, California.

20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 **A. Campbell and Powers Perpetrate a Large-Scale Fraud On Plaintiffs, And
22 Become Multi-Millionaires At Plaintiffs' Expense.**

23 8. In the Summer of 1999, Dr. Michelson met Powers in Los Angeles, California. They
24 were introduced by Campbell, a mutual friend. Campbell and Powers met in the 1980s, and worked
25 together as car salesmen before Powers left the United States to live and work in Costa Rica.
26 Campbell urged Dr. Michelson, a surgeon, inventor and philanthropist whom Campbell had recently
27 befriended to join him in investing in teak wood farms located in Costa Rica. Campbell also
28 recommended that Dr. Michelson entrust the acquisition and operation of the farms to Powers.

97/13/2015

1 Although Dr. Michelson initially declined this offer, in the Summer of 2000, he agreed to
2 Campbell's overtures and caused Karlin Holdings (a partnership controlled by Dr. Michelson's
3 living trust) to join with Campbell in investing in teak properties.

4 9. Powers formed C&M, a Costa Rican limited liability company, to take title to the
5 properties. Campbell represented that he had sent an initial payment to Powers of about \$105,000
6 towards the initial property that C&M purchased, and received an initial 15% equity stake in C&M
7 on that basis; Karlin Holdings owned the remaining shares. Powers was engaged to acquire and
8 manage the properties in which C&M invested.

9 10. From 2000 through 2006, Powers was responsible for acquiring and maintaining teak
10 tree properties on behalf of C&M. Powers, on behalf of C&M, would purportedly locate properties
11 that he represented were ideal for teak, and negotiate what he claimed were the best possible
12 purchase prices for the properties. Powers then asked Dr. Michelson to wire the funds needed to
13 acquire such properties, purportedly at the price that Powers was able to negotiate for C&M (plus no
14 more than a total 6% commission on the purchase price for each property), and Karlin Holdings, on
15 behalf of C&M, wired the money as requested. Powers also regularly requested funds from Dr.
16 Michelson that Powers represented he needed to maintain the properties, and Karlin Holdings would
17 wire those funds as well.

18 11. Campbell, someone whom Dr. Michelson then considered a best friend and co-owner
19 of C&M, served as Dr. Michelson's "eyes and ears" in Costa Rica. He regularly travelled to Costa
20 Rica, purportedly to inspect properties that Powers was contemplating acquiring on behalf of C&M,
21 participate in negotiations for those properties, and generally observe the activities of Powers and his
22 contractors in the maintenance of the properties. Campbell reported regularly to Dr. Michelson
23 about Powers and the properties. In so doing, he confirmed the representations of Powers, offered
24 positive reports about the performance of Powers, and encouraged Dr. Michelson to continue having
25 Powers acquire and manage properties on behalf of C&M.

26 12. From 2000 through 2006, Dr. Michelson wired on behalf of C&M over \$32 million
27 for property acquisition and maintenance in reliance on Powers and Campbell's representations.
28 During this period, Powers submitted to Plaintiffs accounting and property reports purportedly

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1 showing Powers' expenditures and acquisitions on behalf of C&M.

2 13. The C&M venture was, however, from the very beginning, a vehicle for Powers and
3 Campbell to systematically steal millions of dollars. Powers was in fact grossly overstating the
4 prices that he had negotiated with the sellers for the properties on behalf of C&M, and keeping the
5 difference between the actual and stated purchase price for himself. And while Campbell was
6 supposed to be looking out for the interests of C&M and Karlin Holdings, including verifying the
7 accuracy of representations regarding the quality of land purchased, he was in fact secretly in a
8 conspiracy with Powers, receiving a substantial cut of the fraudulent proceeds, and encouraging Dr.
9 Michelson not only to continue, but expand on, the relationship with Powers.

10 14. By perpetrating this fraud on Plaintiffs, Powers and Campbell became multi-
11 millionaires. In 1996, before he conspired with Powers to steal millions of dollars from Plaintiffs,
12 Campbell had filed for personal bankruptcy. On information and belief, Campbell stopped working
13 in or about 2000, and from that point forward, his sole source of income (apart from, in the past few
14 years, Social Security payments) came from defrauding Plaintiffs. Powers' principal source of
15 income throughout the 2000s was also from defrauding Plaintiffs. By doing so, Powers had amassed
16 an estimated net worth of more than \$12 million by the end of 2008.

17 **B. Plaintiffs Obtain Judgments Against Powers and Campbell Following A Civil**
18 **Lawsuit, And Obtain Liens On Powers' and Campbell's Assets Through Service**
19 **of Debtors' Examination Notices.**

20 15. In October 2007, C&M filed a lawsuit in Los Angeles Superior Court, entitled *C&M*
21 *Investment Group Ltd. & Karlin Holdings Limited Partnership v. Philip Richard Powers & Neil*
22 *Campbell*, Case No. BC378888, alleging that Powers and his corporate entities cheated C&M out of
23 millions of dollars by falsely inflating the prices of teak properties in Costa Rica he purchased on
24 behalf of C&M, and keeping the excess proceeds, and asserting claims for fraud, fraudulent
25 inducement, and conversion, among other claims. At the time C&M filed the lawsuit in 2007, it
26 believed that Powers had perpetrated the fraud alone, and did not know that Campbell—who was a
27 co-owner of C&M and the best friend and trusted advisor to C&M's other co-owner, Dr.
28 Michelson—was involved. But in late-2008, after obtaining access to Powers' bank records, C&M
discovered that Campbell had, unbeknownst to Dr. Michelson, been receiving wire transfers from

97/13/2016

1 Powers, totaling more than a million dollars. Upon discovering that Campbell had been receiving
2 significant payments from Powers, Plaintiffs' counsel interviewed Campbell. During that interview,
3 which was recorded and transcribed, Campbell falsely denied receiving any money from Powers for
4 any purpose.

5 16. On November 17, 2008, Plaintiffs amended the complaint to include Campbell as a
6 defendant. In June 2009, the complaint was further amended to include a count against both Powers
7 and Campbell for violation of civil RICO.

8 17. During the course of discovery, Campbell admitted that he had received money from
9 Powers (contrary to his prior statement that he had received none), but claimed falsely under oath
10 that the money was simply a "loan." When his new "loan" story began to unravel, Campbell
11 proceeded to try to invoke the Fifth Amendment privilege against self-incrimination to refuse to
12 answer any more questions in discovery about the money he had received from Powers. Discovery
13 obtained from Powers, third parties, and from Powers' computers, however, showed that Campbell
14 had not received a "loan," but rather several million dollars of secret kickbacks from Powers over
15 the course of the C&M venture, in the form of wire transfers, a condominium, expensive cars, a
16 roadster, a motorcycle, furniture, artwork, jewelry, and more.

17 18. On December 13, 2011, presented with overwhelming evidence, including
18 contemporaneous emails between Powers and Campbell, that Campbell had conspired with Powers
19 to perpetrate a fraud on Plaintiffs, the Court granted summary judgment in Plaintiffs' favor and
20 entered judgment against Campbell in the amount of more than \$24 million. That amount
21 represented the at least \$8 million Campbell was responsible for stealing from Plaintiffs, trebled
22 under RICO.

23 19. Powers, meanwhile, vigorously defended the lawsuit for more than two years, but
24 engaged in repeated discovery abuses, defying court orders requiring him to turn over data from his
25 computers. As a result, in November 2010, the Court issued a terminating sanction against Powers,
26 resulting in entry of default. The reason for Powers' repeated refusals to comply with discovery
27 orders to produce data from his computers became clear when Plaintiffs ultimately obtained the
28 computer data by way of a letter rogatory to Costa Rican authorities: the computers contained emails

97-13-2015

1 and other documents that confirmed beyond doubt that Powers had conspired with Campbell to
2 defraud Plaintiffs out of millions of dollars. Based in part on the data retrieved from the computers,
3 Plaintiffs proved up damages to the satisfaction of the Court of more than \$12 million, which was
4 then trebled under RICO. On January 17, 2012, the Court entered judgment against Powers and his
5 corporate entities in the amount of \$36,680,676.46.

6 20. Following entry of judgment against Campbell and Powers, Plaintiffs engaged in
7 post-judgment discovery in an effort to recover the money they were owed. As part of that effort,
8 Plaintiffs personally served debtor's examination notices on Campbell in August 2013, and again in
9 August 2014, which by operation of law created liens on all of Campbell's assets for a period of one
10 year from service. Plaintiffs also personally served Powers with a debtor's examination notice in
11 August 2013, which created a lien on all of Powers' assets for one year, which lien was then
12 extended by court order for a further year.

13 **C. Powers and Campbell Are Criminally Prosecuted And Use Their Ill-Gotten**
14 **Gains To Hire Attorneys To Defend Them.**

15 21. In March 2013, the Los Angeles District Attorney's Office brought criminal charges
16 for felony grand theft against Campbell and Powers arising out of the same conduct that led to
17 Plaintiffs' civil lawsuit. Powers—who was resident in Costa Rica at the time the charges were
18 filed—was arrested after flying to Texas in May 2013. Campbell—who was resident in Idaho at the
19 time the charges were filed—was arrested in Idaho in June 2013. Both were extradited to Los
20 Angeles to stand trial.

21 22. Both Campbell and Powers hired private counsel to represent them in the criminal
22 proceedings. On or about July 13, 2013, Campbell hired MLG Automotive Law and Dyke Huish to
23 represent him. Jonathan Michaels ("Michaels"), MLG Automotive Law's sole owner, is a business
24 litigator. During a third party examination conducted on March 25, 2016, Michaels explained that
25 he brought Huish into the case because of Huish's experience in criminal law. Michaels was the
26 "person who understands business" and Huish was "there to help [him] with the criminal context."

27 23. In August 2013, Plaintiffs notified Huish that all of Campbell's assets that might be
28 used to pay attorneys' fees were subject to a post-judgment lien in favor of Plaintiffs. As co-counsel

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1 with Huish and the team member with civil litigation experience, MLG Automotive Law was aware
2 of the civil debtor's examination and the post-judgment lien Plaintiffs had on Campbell's assets.

3 24. Powers, after originally being represented by a public defender, hired Walter Urban in
4 or about January 2014. Shortly after Urban's retention, Plaintiffs notified him that all of Powers'
5 assets that might be used to pay attorneys' fees were subject to a post-judgment lien in favor of
6 Plaintiffs.

7 25. Shortly before trial, MLG Automotive Law also made an appearance in the criminal
8 proceedings on behalf of Powers. On information and belief, MLG Automotive Law was also aware
9 of the debtor's examination proceedings against Powers and the resulting post-judgment lien.

10 26. On information and belief, Powers and Campbell paid each of the Defendants for the
11 legal services they provided. In a sworn affidavit filed in Idaho, Campbell admitted to paying MLG
12 Automotive Law over \$300,000 to represent him. Campbell, who was hiding \$300,000 from
13 Plaintiffs in an offshore account in Hong Kong, wired money from that account to MLG Automotive
14 Law for purposes of covering those attorneys' fees. Roughly \$300,000 was wired from the Hong
15 Kong account to MLG Automotive Law in November 2013. MLG Automotive Law applied this
16 \$300,000 to cover its fees, when the money was subject to Plaintiffs' lien.

17 27. On information and belief, Powers also agreed to pay Defendants MLG Automotive
18 and Urban to represent him in the criminal proceedings. Between June 2014 and present, MLG
19 Automotive received at least \$175,000 for representing Powers. On information and belief,
20 Defendant Urban received for representing Powers sums that likely approximated what MLG
21 Automotive received for similar work. On information and belief, this money was transferred to
22 MLG Automotive Law and Urban, and MLG Automotive Law and Urban applied it to cover their
23 fees, when the money was subject to Plaintiffs' lien.

24 28. In addition, on information and belief, at the time Defendants accepted these funds
25 and applied them to cover attorneys' fees, they were aware that the funds were the proceeds of fraud
26 and had been wrongfully obtained from Plaintiffs. As to Campbell, no other conclusion could be
27 drawn, given that Campbell's sole source of income for nearly fifteen years has been the proceeds of
28 the fraud perpetrated on Plaintiffs (or, more recently, collecting Social Security), and he thus had no

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1 legitimate source of funds from which to pay hundreds of thousands of dollars in attorneys' fees.
2 Similarly, the vast majority of Powers' wealth was derived from stealing money from Plaintiffs over
3 the course of more than six years.

4 29. The majority of the counts charged in the criminal complaint were ultimately
5 dismissed by the court before trial on statute of limitations grounds and never adjudicated on the
6 merits. In October 2014, the five remaining counts were tried to a jury in Los Angeles, and both
7 Powers and Campbell were convicted of one count of felony grand theft. Campbell, who had served
8 about 15 months in jail pending trial, was sentenced to time served and released. Powers was
9 sentenced to supervised release, and was ordered to stay in California for a period of 888 days.

10 **FIRST CAUSE OF ACTION FOR CONVERSION**

11 (Against All Defendants)

12 30. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 28 as
13 if fully set forth herein.

14 31. Plaintiffs have valid judgments against Powers and Campbell, and had post-judgment
15 liens against all of Powers' and Campbell's assets at the time Powers and Campbell transferred
16 money to Defendants to cover attorneys' fees. Notwithstanding Plaintiffs' lien on those funds,
17 Defendants nonetheless applied these funds to cover their attorneys' fees, and thereby wrongfully
18 converted Plaintiffs' money. Plaintiffs have therefore been injured, and seek to recover the money
19 transferred by Powers and Campbell to Defendants.

20 32. The aforementioned conversion was committed through oppression, fraud, and malice
21 with intent to cause injury to Plaintiffs and subject them to cruel and unjust hardship as a result
22 thereof. Plaintiffs are therefore entitled to an award of exemplary and punitive damages under
23 California Code of Civil Procedure § 3294 in an amount to be proven at trial.

24 **SECOND CAUSE OF ACTION FOR UNLAWFUL AND UNFAIR BUSINESS PRACTICES**

25 **UNDER CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200, ET SEQ.**

26 (Against All Defendants)

27 33. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 31 as
28 if fully set forth herein.

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1 34. Defendants' acts as set forth above constitute business practices that are unlawful in
2 violation of California Business & Professions Code § 17200 *et seq.*, in that they violate California
3 Penal Code § 496(a), 18 U.S.C. § 1957(a), and 18 U.S.C. § 2315, among other applicable laws.

4 35. Defendants' acts as set forth above also constitute business practices that are unfair in
5 violation of California Business & Professions Code § 17200 *et seq.*

6 36. Defendants' unlawful and unfair conduct has deprived Plaintiffs of money to which
7 Plaintiffs have a claim of right by wrongfully applying funds that had been stolen from Plaintiffs and
8 that were subject to Plaintiffs' lien to cover Defendants' own fees, and Plaintiffs have thereby
9 suffered injury in fact and lost money or property.

10 37. Plaintiffs are therefore entitled to restitution of all of the money Powers and Campbell
11 paid to Defendants to cover their attorneys' fees.

12 **THIRD CAUSE OF ACTION FOR RECEIPT OF FUNDS OBTAINED BY THEFT**

13 (Against All Defendants)

14 38. Plaintiffs repeat and reallege each and every allegation of paragraphs 1 through 36 as
15 if fully set forth herein.

16 39. Defendants received money from Powers and Campbell that had been stolen from
17 Plaintiffs, with knowledge that the money had been stolen, in violation of California Penal Code §
18 496(a).

19 40. As a result of Defendants' violation of that subsection, Plaintiffs have been injured,
20 and thus seek to recover three times the amount of their actual damages, costs of suit, and reasonable
21 attorneys' fees pursuant to California Penal Code § 496(c).

22 **JURY DEMAND**

23 41. Plaintiffs hereby demand a jury trial in this action to the extent the claims are so
24 triable.

25 **PRAYER**

26 Wherefore, Plaintiffs pray for a judgment against Defendants as follows:

27 42. As against Defendant MLG Automotive Law, awarding compensatory
28 damages/restitution in the amount of at least \$475,000;

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43. As against Defendant Urban, awarding compensatory damages/restitution in the amount of at least \$175,000;

44. As against all Defendants:

- a. Awarding treble damages pursuant to California Penal Code § 496(c);
- b. Awarding punitive damages pursuant to California Code of Civil Procedure § 3294, in an amount to be proven at trial;
- c. Awarding attorneys' fees as allowed by law;
- d. Awarding costs of suit as allowed by law;
- e. Awarding interest on damages allowed by law; and
- f. Awarding such other and further relief as the Court deems proper, fair, equitable, and just.

DATED: July 13, 2016

Respectfully submitted,
KIRKLAND & ELLIS LLP

By: Luke L. Dauchot / LA

Luke L. Dauchot (S.B.N. 229829)
Lauren J. Schweitzer (S.B.N. 301654)
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, California 90017
Telephone: (213) 680-8400
Facsimile: (213) 680-8500
Email: luke.dauchot@kirkland.com
Email: lauren.schweitzer@kirkland.com

Attorneys for Plaintiffs C&M Investment Group, Ltd.
and Karlin Holdings Limited Partnership

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EXHIBIT B

LUBOVISKI, WYGLE, FALLOWFIELD & RITZAU, P.A.
ATTORNEYS AT LAW

SUITE 205 - THE STATION
460 SUN VALLEY ROAD
P.O. BOX 1172
KETCHUM, IDAHO 83340-1172
(208) 726-8219
FAX (208) 726-3750
www.lwfrlaw.com

BARRY J. LUBOVISKI of counsel
JANET C. WYGLE of counsel
ROBERT I. FALLOWFIELD
rfallowfield@lwfrlaw.com
LEE P. RITZAU
lritzua@lwfrlaw.com

July 28, 2016

Flyer & Flyer
A Professional Law Corporation
4120 Birch Street, Suite 101
Newport Beach, CA 92660-2228
Sent via Certified Mail Return Receipt Requested

Re: Neil David Campbell

Dear Mr. Flyer:

I represent Neil Campbell in a lawsuit in Blaine County, Idaho involving criminal and civil counts of contempt of court. One of the civil contempt of court counts involves records from your past representation of Mr. Campbell. To assist me in representing Mr. Campbell in this case, I am requesting copies of all documents which evidence payment Mr. Campbell made to you or your firm between January 1, 2009 and the present..

I am attaching a copies of CA BUS & PROF § 6148 as well as CA ST RPC Rule 3-700 which were provided by the opposing party in the Blaine County, Idaho litigation. The opposing party supplied this information to support their argument that records must still exist.

It would be of great assistance to Mr. Campbell if you or your firm could provide the documents I have requested to me at the address listed above. I am having Mr. Campbell sign this letter with me to confirm his approval and consent to the request for the records I have made above.

Should you have any questions about this letter or require additional information please contact either me or Mr. Campbell. I can be reached at either (208) 726-8219 which is my work number or (208) 720-1619 which is my cell phone number. My facsimile number and mailing address are set forth above. Mr. Campbell may be reached at (208) 309-3705.

Please contact me should you have any questions. Mr. Campbell and I thank you very much for your assistance.

Flyer & Flyer
July 28, 2016
Page 2

Sincerely,

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.

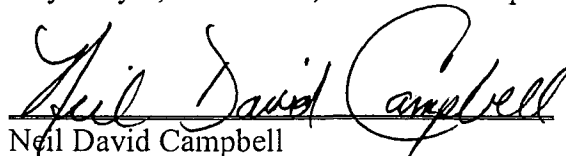
A handwritten signature in cursive script that reads "Lee P. Ritzau".

Lee P. Ritzau

Enclosures

cc: Neil Campbell

I, Neil Campbell have read these letter and authorize and permit David Flyer or Flyer & Flyer a Professional Law Corporation to send my lawyer, Lee Ritzau, the records requested above.

A handwritten signature in cursive script that reads "Neil David Campbell".

Neil David Campbell
Dated July 28, 2016

West's Annotated California Codes
Business and Professions Code (Refs & Annos)
Division 3. Professions and Vocations Generally (Refs & Annos)
Chapter 4. Attorneys (Refs & Annos)
Article 8.5. Fee Agreements (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 6148

§ 6148. Contracts for services in cases not coming within §
6147; bills rendered by attorney; contents; failure to comply

Effective: January 1, 2000
Currentness

(a) In any case not coming within Section 6147 in which it is reasonably foreseeable that total expense to a client, including attorney fees, will exceed one thousand dollars (\$1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client, or the client's guardian or representative, to the client or to the client's guardian or representative. The written contract shall contain all of the following:

- (1) Any basis of compensation including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to the case.
- (2) The general nature of the legal services to be provided to the client.
- (3) The respective responsibilities of the attorney and the client as to the performance of the contract.

(b) All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs. Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses. Upon request by the client, the attorney shall provide a bill to the client no later than 10 days following the request unless the attorney has provided a bill to the client within 31 days prior to the request, in which case the attorney may provide a bill to the client no later than 31 days following the date the most recent bill was provided. The client is entitled to make similar requests at intervals of no less than 30 days following the initial request. In providing responses to client requests for billing information, the attorney may use billing data that is currently effective on the date of the request, or, if any fees or costs to that date cannot be accurately determined, they shall be described and estimated.

(c) Failure to comply with any provision of this section renders the agreement voidable at the option of the client, and the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.

(d) This section shall not apply to any of the following:

(1) Services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client or where a writing is otherwise impractical.

(2) An arrangement as to the fee implied by the fact that the attorney's services are of the same general kind as previously rendered to and paid for by the client.

(3) If the client knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required.

(4) If the client is a corporation.

(e) This section applies prospectively only to fee agreements following its operative date.

(f) This section shall become operative on January 1, 2000.

Credits

(Added by Stats.1993, c. 982 (S.B.645), § 6, operative Jan. 1, 1997. Amended by Stats.1994, c. 479 (A.B.3219), § 5, operative Jan. 1, 1997; Stats.1996, c. 1104 (A.B.2787), § 11, operative Jan. 1, 2000.)

Notes of Decisions (13)

West's Ann. Cal. Bus. & Prof. Code § 6148, CA BUS & PROF § 6148

Current with urgency legislation through Ch. 8 of 2016 Reg.Sess. and Ch. 3 of 2015-2016 2nd Ex.Sess.

End of Document

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West's Annotated California Codes
Rules of the State Bar of California (Refs & Annos)
California Rules of Professional Conduct (Refs & Annos)
Chapter 3. Professional Relationship with Clients

Prof. Conduct, Rule 3-700

Rule 3-700. Termination of Employment

Currentness

(A) In General.

(1) If permission for termination of employment is required by the rules of a tribunal, a member shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) A member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, complying with rule 3-700(D), and complying with applicable laws and rules.

(B) Mandatory Withdrawal.

A member representing a client before a tribunal shall withdraw from employment with the permission of the tribunal, if required by its rules, and a member representing a client in other matters shall withdraw from employment, if:

(1) The member knows or should know that the client is bringing an action, conducting a defense, asserting a position in litigation, or taking an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person; or

(2) The member knows or should know that continued employment will result in violation of these rules or of the State Bar Act; or

(3) The member's mental or physical condition renders it unreasonably difficult to carry out the employment effectively.

(C) Permissive Withdrawal.

If rule 3-700(B) is not applicable, a member may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because:

(1) The client

(a) insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law, or

(b) seeks to pursue an illegal course of conduct, or

(c) insists that the member pursue a course of conduct that is illegal or that is prohibited under these rules or the State Bar Act, or

(d) by other conduct renders it unreasonably difficult for the member to carry out the employment effectively, or

(e) insists, in a matter not pending before a tribunal, that the member engage in conduct that is contrary to the judgment and advice of the member but not prohibited under these rules or the State Bar Act, or

(f) breaches an agreement or obligation to the member as to expenses or fees.

(2) The continued employment is likely to result in a violation of these rules or of the State Bar Act; or

(3) The inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal; or

(4) The member's mental or physical condition renders it difficult for the member to carry out the employment effectively; or

(5) The client knowingly and freely assents to termination of the employment; or

(6) The member believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

(D) Papers, Property, and Fees.

A member whose employment has terminated shall:

(1) Subject to any protective order or non-disclosure agreement, promptly release to the client, at the request of the client, all the client papers and property. "Client papers and property" includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not; and

(2) Promptly refund any part of a fee paid in advance that has not been earned. This provision is not applicable to a true retainer fee which is paid solely for the purpose of ensuring the availability of the member for the matter.

DISCUSSION

Subparagraph (A)(2) provides that “a member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the clients.” What such steps would include, of course, will vary according to the circumstances. Absent special circumstances, “reasonable steps” do not include providing additional services to the client once the successor counsel has been employed and rule 3-700(D) has been satisfied.

Paragraph (D) makes clear the member's duties in the recurring situation in which new counsel seeks to obtain client files from a member discharged by the client. It codifies existing case law. (See *Academy of California Optometrists v. Superior Court* (1975) 51 Cal.App.3d 999 [124 Cal.Rptr. 668]; *Weiss v. Marcus* (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297].) Paragraph (D) also requires that the member “promptly” return unearned fees paid in advance. If a client disputes the amount to be returned, the member shall comply with rule 4-100(A)(2).

Paragraph (D) is not intended to prohibit a member from making, at the member's own expense, and retaining copies of papers released to the client, nor to prohibit a claim for the recovery of the member's expense in any subsequent legal proceeding.

Credits

(Adopted Nov. 28, 1988, eff. May 27, 1989.)

Notes of Decisions (54)

Prof. Conduct, Rule 3-700, CA ST RPC Rule 3-700

California Rules of Court, California Rules of Professional Conduct, and California Code of Judicial Ethics are current with amendments received through October 1, 2015. California Supreme Court, California Courts of Appeal, Guidelines for the Commission of Judicial Appointments, Commission on Judicial Performance, and all other Rules of the State Bar of California are current with amendments received through October 1, 2015.

End of Document

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- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
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- Insurance coverage is not available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
 - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, Domestic Return Receipt; attach PS Form 3811 to your mailpiece;

- for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.
- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

PS Form 3800, April 2015 (Reverse) PSN 7530-02-000-9047

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NEWPORT BEACH CA 92660
OFFICIAL USE

Certified Mail Fee	\$3.30	
Extra Services & Fees (check box, add fee as appropriate)	\$2.70	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	

Postage	\$0.68
Total Postage and Fees	\$6.68

0340
05

Postmark
Here

07/29/2016

Sent To **Flyer & Flyer**
Street and Apt. No., or PO Box No.
City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Flyer & Flyer
4120 Birch St. Ste 101
Newport Beach, CA 92660**



9590 9403 0201 5120 3297 07

2. Article Number (Transfer from service label)

5 0640 0007 8818 9563

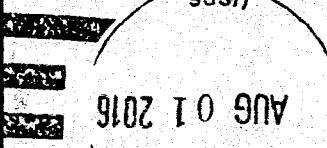
PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
[Signature]

B. Received by (Printed Name) **Rachel Flyer** C. Date of Delivery

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:



- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

UNITED STATES POSTAL SERVICE



First-Class Mail
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• Sender: Please print your name, address, and ZIP+4® in this box®

LUBOVSKI, WYGLE, FALLOWFIELD & RITZAU, P.A.
460 SUN VALLEY ROAD, SUITE 205
P.O. Box 1172
KETCHUM, ID 83340

USPS TRACKING#



9590 9403 0201 5120 3247 07

EXHIBIT C

Lee Ritzau

From: Lee Ritzau
Sent: Friday, November 04, 2016 12:24 PM
To: 'davidflyer@flyerandflyer.com'
Cc: 'Neil Campbell'
Subject: FW: CV2012-407 C&M vs. Powers
Attachments: Finding of Fact and Conclusions of Law Re_ Civil and Criminal Contempt.pdf
Importance: High

Mr. Flyer,

I represent Neil Campbell. By a letter dated July 28, 2016, I requested that you send me all documents which evidence payments Mr. Campbell made to you or your firm between January 1, 2009 and July 28, 2016. You did not respond to my July 28, 2016 letter.

I am forwarding Judge Robert Elgee's Findings of Fact and Conclusion of Law Re Civil and Criminal Contempt. Judge Elgee found Mr. Campbell in Civil Contempt for his inability to provide the documents discussed above. I am again requesting you provide the documents requested above which evidence payments made by Mr. Campbell to you or your firm between January 1, 2009 and July 28, 2016. Mr. Campbell faces potentially imprisonment until he provides these documents, and he is again requesting your assistance.

While I am sure the suit that Dr. Michaelson filed against Jonathan Michaels is impacting your decision, I do not believe your concern on that topic outweighs your obligations under the California law I enclosed with my July 28, 2016 letter to you.

Thank you for your time and anticipated cooperation.

Sincerely,

Lee Ritzau
Luboviski, Wygle, Fallowfield & Ritzau, P.A.
P.O. Box 1172
Ketchum, ID 83340
Phone – 208-726-8219
Fax – 208-726-3750

From: Crystal Rigby [mailto:crigby@co.blaine.id.us]
Sent: Thursday, November 03, 2016 1:30 PM
To: 'Erin Clark' (efc@lawsonlaski.com) <efc@lawsonlaski.com>; Lee Ritzau <lritzau@lwfrlaw.com>
Subject: CV2012-407 C&M vs. Powers
Importance: High

Please find the attached decision.

Thank you,

Crystal Rigby
Deputy District Court Clerk
Blaine County Court
201 2nd Avenue S., Ste. 106
Hailey, Idaho 83333
Phone: (208)788-5521
Fax: (208)788-5527
Email: crigby@co.blaine.id.us

EXHIBIT D

LUBOVISKI, WYGLE, FALLOWFIELD & RITZAU, P.A.
ATTORNEYS AT LAW

SUITE 205 - THE STATION
460 SUN VALLEY ROAD
P.O. BOX 1172
KETCHUM, IDAHO 83340-1172
(208) 726-8219
FAX (208) 726-3750
www.lwfrlaw.com

BARRY J. LUBOVISKI of counsel
JANET C. WYGLE of counsel
ROBERT I. FALLOWFIELD
rfallowfield@lwfrlaw.com
LEE P. RITZAU
lritzua@lwfrlaw.com

July 28, 2016

HSBC
P.O. Box 27677
Kowloon Central Post Office
Hong Kong

Re: Mosaic Orange Limited

Dear Sir or Madam:

I represent Neil Campbell in a lawsuit in Blaine County, Idaho of the United States of America. Mr. Campbell caused to be opened with you an account in the name of Mosaic Orange Limited in early 2010. To assist me in representing Mr. Campbell in this case, I am requesting all bank statements, copies of deposit slips, copies of checks, and any other documentation related to the HSBC account in the name of Mosaic Orange Limited between the date the Mosaic Orange Limited account was opened and the date the Mosaic Orange Limited account was closed.

I am attaching a copy of the first page of a two page bank statement from Mr. Campbell's previous attorney, Jonathan Michaels of Michaels Law Group APLC, who received several wires from the Mosaic Orange Limited account. I am also attaching a copy of Mr. Campbell's United State of America Passport signed by him before a notary public. Finally, I am attaching a copy of Chapter 615 of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance which was provided by the opposing party in the Blaine County, Idaho litigation. The opposing party supplied this information to support their argument that the Mosaic Orange Limited bank records must still exist.

It would be of great assistance to Mr. Campbell if HSBC could provide the documents I have requested to me at the address listed above. I am having Mr. Campbell sign this letter with me to confirm his approval and consent to the request for bank records I have made above.

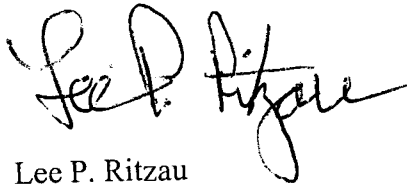
Should you have any questions about this letter or require additional information please contact either me or Mr. Campbell. I can be reached at either (208) 726-8219 which is my work number or (208) 720-1619 which is my cell phone number. My facsimile number and mailing address are set forth above. Mr. Campbell may be reached at (208) 309-3705.

HSBC.
July 28, 2016
Page 2

Please contact me should you have any questions. Mr. Campbell and I thank you very much for your assistance.

Sincerely,

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.

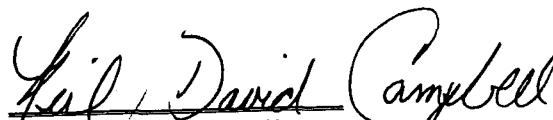


Lee P. Ritzau

Enclosures

cc: Neil Campbell

I, Neil Campbell have read these letter and authorize and permit HSBC to send my lawyer, Lee Ritzau, the bank records requested above for Mosaic Orange Limited.



Neil David Campbell
Dated July 28, 2016

MICHAELS LAW GROUP APLC
2801 W. COAST HWY
NEWPORT BEACH, CA 92663

PAGE 1 OF 2
STATEMENT PERIOD
FROM 11/01/13
THRU 11/30/13

ENCLOSURES 0

----- SIMPLIFIED BUSINESS CHECKING -----

ACCOUNT NBR DD	BEGINNING BALANCE
AVG BALANCE	DEPOSITS/CREDITS
MINIMUM BAL	INTEREST PAID
	CHECKS/DEBITS
	SERVICE CHARGES
	ENDING BALANCE
	# DEPOSITS/CREDITS
	# CHECKS/DEBITS

DEPOSITS AND CREDITS

DATE	DESCRIPTION	AMOUNT
11/04	DEPOSIT-WIRED FUNDS MOSAIC ORANGE LIMITED	45,000.00
11/05	REVERSE - MAINTENANCE FEE 10/31/13	30.00
11/12	DEPOSIT-WIRED FUNDS MOSAIC ORANGE LIMITED	70,000.00
11/26	DEPOSIT-WIRED FUNDS MOSAIC ORANGE LIMITED	180,000.00
TOTAL	ITEMS 4	\$295,030.00

Chapter 615—the Anti-Money Laundering and
Counter-Terrorist Financing (Financial
Institutions) Ordinance, Part 3, § 20

Obtained from:

[http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/A6CADFCCD49E764F482578C600539E74/\\$FILE/CAP_615_e_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/A6CADFCCD49E764F482578C600539E74/$FILE/CAP_615_e_b5.pdf)

(6) Nothing in this section prevents a financial institution from carrying out a customer due diligence measure by its agent but such a financial institution remains liable under this Ordinance for a failure to carry out that customer due diligence measure.

(7) In this section—

certified public accountant (會計師) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap 50).

(Amended E.R. 2 of 2014)

19. Financial institutions to establish procedures

- (1) A financial institution must establish and maintain effective procedures for determining whether a customer or a beneficial owner of a customer is a politically exposed person.
- (2) A financial institution that carries out wire transfers must establish and maintain effective procedures for identifying and handling wire transfers in relation to which section 12(5) of this Schedule has not been complied with.
- (3) A financial institution must, in respect of each kind of customer, business relationship, product and transaction, establish and maintain effective procedures not inconsistent with this Ordinance for the purpose of carrying out its duties under sections 3, 4, 5, 9, 10 and 15 of this Schedule.

Part 3

Record-keeping Requirements

20. Duty to keep records

- (1) A financial institution must—
 - (a) in relation to each transaction it carries out, keep the original or a copy of the documents, and a record of the data and information, obtained in connection with the transaction in accordance with Part 2 of this Schedule; and
 - (b) in relation to each of its customers, keep—
 - (i) the original or a copy of the documents, and a record of the data and information, obtained in the course of identifying and verifying the identity of the customer or any beneficial owner of the customer in accordance with Part 2 of this Schedule; and
 - (ii) the original or a copy of the files relating to the customer's account and business correspondence with the customer and any beneficial owner of the customer.
- (2) Records required to be kept under subsection (1)(a) must be kept for a period of 6 years beginning on the date on which the transaction is completed, regardless of whether the business relationship ends during that period.
- (3) Records required to be kept under subsection (1)(b) must be kept throughout the continuance of the business relationship with the customer and for a period of 6 years beginning on the date on which the business relationship ends.
- (4) A relevant authority may, by notice in writing to a financial institution, require the financial institution to keep the records relating to a specified transaction or customer for a period specified by the relevant authority that is longer than that referred to in subsection (2) or (3), as the case requires, if—
 - (a) the relevant authority is satisfied that the records are relevant to an ongoing criminal or other investigation carried out by it; or
 - (b) the records are relevant to any other purposes as specified by the relevant authority in the notice.
- (5) A financial institution to whom a notice is given under subsection (4) must keep the relevant records for the period specified in the notice.

21. Manner in which records are to be kept

Records required to be kept under section 20 of this Schedule must be kept in the following manner—

EXHIBIT E

Private & Confidential

私人密件

Date 日期 18 Oct 2016

MOSAIC ORANGE LIMITED
SUITE 205-THE STATION
460 SUN VALLEY ROAD
P.O BOX 1172
KETCHUM.IDAHO 83340-1172

Dear Customer 親愛的客戶

REQUEST FOR ACCOUNT STATEMENT 申請書

ACCOUNT NAME 戶口名稱: MOSAIC ORANGE LIMITED

ACCOUNT NUMBER 戶口號碼: 817-357791-838

We refer to your above request and advise the following:

本行根據您上述的申請書，並通知如下：

- () We enclose copy(ies) of the account document(s). 隨函附上有關文件複印本。
- () We enclose the account history report / statement covering the period from to . 隨函附上由 _____ 至 _____ 的交易紀錄/結單。
- () The normal statement for the data after will be mailed to you on . 在 _____ 之後的結單資料，將會在 _____ 寄出。
- () Please return us this letter and enclose a cheque payable to 'HSBC' for HKD on or before . 請將本信及一張抬頭 'HSBC'，金額為港幣 _____ 的支票在 _____ 前交回本行。
- (X) Required documents are under preparation, please let us have a cheque/a bank draft for HKD2,500.00 payable to 'HSBC' being the handling charges for producing the said account record. 所需文件尚在處理中，請將一張金額為港幣 _____ 元，抬頭 'HSBC' 的支票/銀行匯票交給本行，以支付有關的手續費。
- () We shall despatch your Audit Confirmation Request to your auditor directly upon receipt of the cheque for HKD. 當收妥您寄來金額為港幣 _____ 的支票，本行會將有關核查確認書交予您的核數師。
- () Your cheque number is returned for your disposal. 本行現退回您的支票號碼 _____ 給您處理。
- () The service charges of HKD will be debited from the above account/account no. 手續費港幣 _____ 元將會由上述戶口/戶口號碼 _____ 扣除。
- () According to our records, there is no transaction performed on your account between and . Therefore, no account statement has been produced. 根據本行紀錄，您的戶口在 _____ 至 _____ 期間，並未有任何交易紀錄，故未有結單發放。
- () Data shown on the history report is up to . Please update your passbook for transaction performed afterwards. 交易紀錄上的資料以 _____ 為止。如在此日期之後的收支項目，請補誌您的存摺。
- () The transaction documents/statements have been destroyed after the required retention period. 文件紀錄已超越保留期限及被註銷。
- () The remaining items of your request will be processed by other department / our branch. 信內其他的指示，將由另一部門/分行處理。
- (X) Others 其他: The above account was opened on 07 Jul 2010 & closed on 11 Sep 2014.

If you have any questions, please contact us on (852) 22882176.

如有任何疑問，請致電 (852) 2288 與本行聯絡。

Thank you for choosing HSBC.

多謝選用滙豐。

(This advice requires no signature)

(此乃電腦編印文件 - 毋須簽署)

Account Services

戶口服務部

The Hongkong and Shanghai Banking Corporation Limited

香港上海滙豐銀行有限公司

NSC Account Services : PO Box 72677, Kowloon Central Post Office, Kowloon, Hong Kong

中央處理中心戶口服務部：香港九龍中央郵政局郵政信箱 72677 號

Tel 電話：(852) 2233 3000 Web 網址：www.hsbc.com.hk

EXHIBIT F

LUBOVISKI, WYGLE, FALLOWFIELD & RITZAU, P.A.
ATTORNEYS AT LAW

SUITE 205 - THE STATION
460 SUN VALLEY ROAD
P.O. BOX 1172
KETCHUM, IDAHO 83340-1172
(208) 726-8219
FAX (208) 726-3750
www.lwfrlaw.com

BARRY J. LUBOVISKI of counsel
JANET C. WYGLE of counsel
ROBERT I. FALLOWFIELD
rfallowfield@lwfrlaw.com
LEE P. RITZAU
lritzua@lwfrlaw.com

November 8, 2016

HSBC
P.O. Box 72677
Kowloon Central Post Office
Hong Kong

Re: Mosaic Orange Limited

Dear Sir or Madam:

I represent Neil Campbell.

On July 28, 2016 I sent HSBC a letter on behalf of Mr. Campbell requesting certain documents for an account in the name of Mosaic Orange Limited. On October 18, 2016 HSBC responded to my letter. I am attaching a copy of HSBC's October 18, 2016 letter. I am also enclosing Mountain West Bank's Cashier's Check #814891 payable to HSBC in the amount of \$327.00 in United States currency which is more than the HKD2,500.00 requested in HSBC's October 18, 2016 letter.

HSBC's October 18, 2016 letter states that the 'required documents are under preparation.' Thank you very much for your assistance. I look forward to receiving copies of the previously requested documents for the account in the name of Mosaic Orange Limited. Please provide these documents to me to the mailing address as follows:

Lee Ritzau
Luboviski, Wygle, Fallowfield & Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

Should you have any questions about this letter or require additional information please contact either me or Mr. Campbell. I can be reached at either (208) 726-8219 which is my work number or (208) 720-1619 which is my cell phone number. Mr. Campbell may be reached at (208) 309-3705.

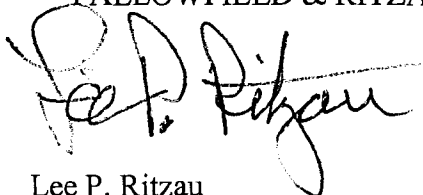
Please contact me should you have any questions. Mr. Campbell and I thank you very much for

HSBC.
November 8, 2016
Page 2

your assistance.

Sincerely,

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.

A handwritten signature in black ink, appearing to read "Lee P. Ritzau". The signature is written in a cursive style with a horizontal line through the middle.

Lee P. Ritzau

Enclosures (HSBC's October 18, 2016 letter regarding Mosaic Orange Limited and Mountain West Bank's Cashier's Check #814891)

cc: Neil Campbell via email

Your Ref 來函編號: GWISSFS16225020107006SI02

Private & Confidential

私人密件

Date 日期 18 Oct 2016

MOSAIC ORANGE LIMITED
SUITE 205-THE STATION
460 SUN VALLEY ROAD
P.O BOX 1172
KETCHUM.IDAHO 83340-1172

Dear Customer 親愛的客戶

REQUEST FOR ACCOUNT STATEMENT 申請書

ACCOUNT NAME 戶口名稱: MOSAIC ORANGE LIMITED

ACCOUNT NUMBER 戶口號碼: 817-357791-838

We refer to your above request and advise the following:

本行根據您上述的申請書，並通知如下：

- () We enclose copy(ies) of the account document(s). 隨函附上有關文件複印本。
- () We enclose the account history report / statement covering the period from to . 隨函附上由 _____ 至 _____ 的交易紀錄/結單。
- () The normal statement for the data after will be mailed to you on . 在 _____ 之後的結單資料，將會在 _____ 寄出。
- () Please return us this letter and enclose a cheque payable to 'HSBC' for HKD _____ on or before . 請將本信及一張抬頭 'HSBC'，金額為港幣 _____ 的支票在 _____ 前交回本行。
- (X) Required documents are under preparation, please let us have a cheque/a bank draft for HKD2,500.00 payable to 'HSBC' being the handling charges for producing the said account record. 所需文件尚在處理中，請將一張金額為港幣 _____ 元，抬頭 'HSBC' 的支票/銀行匯票交給本行，以支付有關的手續費。
- () We shall despatch your Audit Confirmation Request to your auditor directly upon receipt of the cheque for HKD. 當收妥您寄來金額為港幣 _____ 的支票，本行會將有關核查確認書交予您的核數師。
- () Your cheque number is returned for your disposal. 本行現退回您的支票號碼 _____ 給您處理。
- () The service charges of HKD will be debited from the above account/account no. 手續費港幣 _____ 元將會由上述戶口/戶口號碼 _____ 扣除。
- () According to our records, there is no transaction performed on your account between and . Therefore, no account statement has been produced. 根據本行紀錄，您的戶口在 _____ 至 _____ 期間，並未有任何交易紀錄，故未有結單發放。
- () Data shown on the history report is up to . Please update your passbook for transaction performed afterwards. 交易紀錄上的資料以 _____ 為止。如在此日期之後的收支項目，請補誌您的存摺。
- () The transaction documents/statements have been destroyed after the required retention period. 文件紀錄已超越保留期限及被註銷。
- () The remaining items of your request will be processed by other department / our branch. 信內其他的指示，將由另一部門/分行處理。
- (X) Others 其他: The above account was opened on 07 Jul 2010 & closed on 11 Sep 2014.

If you have any questions, please contact us on (852) 22882176.

如有任何疑問，請致電 (852) 2288 與本行聯絡。

Thank you for choosing HSBC.

多謝選用滙豐。

(This advice requires no signature)

(此乃電腦編印文件 - 毋須簽署)

Account Services

戶口服務部

The Hongkong and Shanghai Banking Corporation Limited

香港上海滙豐銀行有限公司

NSC Account Services : PO Box 72677, Kowloon Central Post Office, Kowloon, Hong Kong

中央處理中心戶口服務部：香港九龍中央郵政局郵政信箱 72677 號

Tel 電話：(852) 2233 3000 Web 網址：www.hsbc.com.hk

92-7195/1231



Mountain West Bank

Division of Glacier Bank

FDIC

800-641-5401 | MOUNTAINWESTBANK.COM

Cashier's Check

Date: 11/08/16 814891

Branch: 3180

REMITTER LEE P RITZAU
LUBOVISKI WYGLE FALLOWFIELD RITZAU PA

**PAY
TO THE
ORDER OF**

EXACTLY **327 AND 00/100 DOLLARS

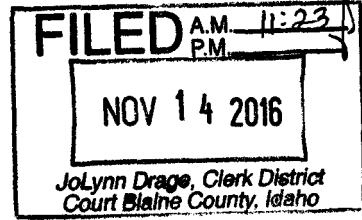
\$327.00

HSBC

Debbie McMillan

⑈814891⑈ ⑆123171955⑆01080017372⑈

Lee P. Ritzau
LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.
 460 Sun Valley Road, Suite 205
 P.O. Box 1172
 Ketchum, Idaho 83340
 Tel: 208/726-8219
 Fax: 208/726-3750
 ISB No. 5239



Attorneys for Defendant Neil David Campbell

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP,	)	Case No. CV-2012-407
LTD., and KARLIN HOLDINGS)	
LIMITED PARTNERSHIP,	)	POINTS OF LAW FOR SENTENCING HEARING
)	
Plaintiffs/Petitioners,)	
)	
v.)	
)	
PHILIP RICHARD POWERS,)	
individually; NEIL DAVID)	
CAMPBELL, individually;)	
POWERS INVESTMENTS AND)	
MANAGEMENT, INC., S.A., a)	
corporation; GUANANA GRIS,)	
S.A., a corporation; PROTECCION)	
FORESTAL DE TECA, S.S., a)	
corporation; and DOES 1 through)	
50 inclusive,)	
)	
Defendants/Respondents.)	
)	

Comes now the Defendant/Respondent, Neil Campbell (hereinafter "Neil"), by and through his attorney of record, Lee Ritzau of Luboviski, Wygle, Fallowfield & Ritzau, P.A. and provides the Court with his Points of Law for the Sentencing Hearing scheduled for November

28, 2016.

I. POINTS OF LAW

A. IRCP 75(j) provides the burden of proof required to impose a Civil Sanction and states, “Nonsummary Proceedings; Burden of Proof. (1) Civil Sanction. In order to impose a civil sanction, the court must find, by a preponderance of the evidence, that all of the elements of contempt have been proven and that the contemnor has the present ability to comply with the order violated, or with that portion of it required by the sanction.” *IRCP 75(j)(1)*.

i. “[T]o jail one for contempt for committing an act he is powerless to perform would . . . make the proceeding purely punitive.” *Maggio v. Zeitz*, 333 U.S. 56, 72 (1948).

ii. To impose a civil **contempt** sanction, the judge must find, by a preponderance of the evidence, that the contemnor failed to do what he or she had been ordered to do and that he or she has the present ability to comply, at least to the extent required by the **contempt** sanction. *Chavez v. Canyon County*, 152 Idaho 297, 304 (2012).

iii. “The district court has the authority to impose sanctions for failure to timely comply with a court order, but it also has the discretion to not impose sanctions once the order has been complied with.” *Chavez v. Canyon County*, 152 Idaho 297.

iv. “This Court has held that § 7-711 (which addresses permissible sanctions to compel compliance) ‘does not preclude alternative civil sanctions under the common law or I.C. § 1-1603’ . . . Therefore, a court does not abuse its discretion by merely imposing reasonable sanctions that are not specifically articulated in Title 7, Chapter 6. This does not give

courts unfettered authority to impose unreasonable and inappropriate sanctions; however, the focus of civil contempt is to ensure that orders are complied with and an injunction imposed for this purpose should be upheld.” *Steiner v. Gilbert*, 144 Idaho 240, 247 (2007).

v. The court could impose a civil contempt sanction only if the contemnor had the present ability to comply with the order violated. *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850, 865 (2002).

B. “(3) Written Order. The court must issue a written order reciting the conduct upon which the contempt conviction rests; adjudging that the contemnor is guilty of contempt; and setting forth the sanction for that contempt. If the sanction is civil or includes a conditional provision, the order must specify precisely what the contemnor must do in order to avoid that sanction or have it cease.” *IRCP 75(l)(3)*.

C. *IRCP 75(a)(6)* defines “civil sanction” and states, “**Civil Sanction.** A civil sanction is one that is conditional. The contemnor can avoid the sanction entirely or have it cease by doing what the contemnor had previously been ordered by the court to do. A civil sanction can only be imposed if the contempt consists of failing to do what the contemnor had previously been ordered by the court to do.” *IRCP 75(a)(6)*.

i. A conditional civil contempt sanction must cease if the contemnor no longer has the present ability to purge the contempt by complying with the order violated. *Shillitani v. United States*, 384 U.S. 364 (1966)

ii. The court must exercise the least possible power adequate to the end proposed and consider the character and magnitude of the harm threatened by the continued refusal to

perform the act and the probable effectiveness of the sanction in bringing about the desired result. *Marks v. Vehlow*, 105 Idaho 560 (1983).

D. “Criminal contempt is the commission of a disrespectful act directed at the court itself which obstructs justice. A criminal contempt proceeding is maintained solely and simply to vindicate the authority of the court or to punish otherwise for conduct offensive to the public in violation of an order of the court.” *Camp v. East Fork Ditch Co., Ltd.*, 137 Idaho 850, 862 (2002)

E. IRCP 75(a)(7) defines “criminal sanction” and states, “**Criminal sanction.** A criminal sanction is one that is unconditional. The contemnor cannot avoid the sanction entirely or have it case by doing what the contemnor had been previously ordered by the court to do. A suspended sanction with probationary conditions is a criminal sanction, as is a sanction that includes provisions that are both conditional (civil) and unconditional (criminal). A criminal sanction may be imposed for any contempt.” *IRCP 75(a)(7)*.

F. IRCP 75(i)(2) sets forth the rights required to impose a Criminal Sanction and states, “**(i) Nonsummary Proceedings; Trial. . . . (2) Trial Rights Required to Impose a Criminal Sanction.** The court cannot impose a criminal sanction following a trial unless the respondent was provided the following rights: . . . , (D) the privilege against self-incrimination, . . . *IRCP 75(i)(2)*.”

i. Pursuant to IRCP 75(i)(2)(D) the Court cannot impose a Criminal Sanction as Mr. Campbell was not provided his privilege against self-incrimination. He was required to take the witness stand and assert his Fifth Amendment right.


G. A serious fine cannot be imposed as a criminal contempt sanction unless the contemnor was given a jury trial. *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 837 & 838 (1994). A fine becomes serious somewhere between \$10,000 and \$52,000,000.00. *Id.* at 838 n.5.

G. “(1) Nonsummary proceedings; Imposition of sanctions. If the respondent . . . is found in contempt following a trial, the court may impose sanctions as permitted by law, under the following conditions: . . . (2) Right to call witnesses and speak regarding the sanction. The court cannot impose a criminal sanction without first giving the contemnor the right to call witnesses in mitigation of the sanction and the right to be heard in order to present matters in mitigation or otherwise attempt to make amends with the court.” *IRCP 75(l)(2)*.

i. “The determination of whether a sanction or penalty should be imposed is within the discretion of the trial court.” *In the Matter of John Weick Contempt Appeal Rocky Watson and Mary Watson v. John Weick and Jule Weick v. Honorable John T. Mitchell*, 142 Idaho 275, 278 (2005).

DATED this 11th day of November, 2016.

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.



Lee P. Ritzau, Attorneys for
Defendant/Respondent, Neil Campbell

CERTIFICATE OF SERVICE

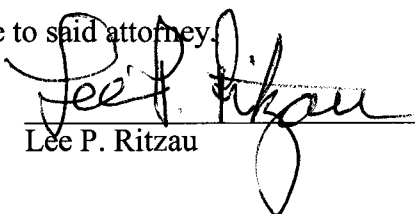
I HEREBY CERTIFY that on the 11th day of November, 2016, I served a true and correct copy of the within and foregoing document upon:

Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Ketchum, Idaho.

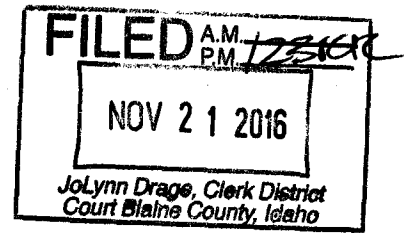
By transmitting copies of the same to said attorney by facsimile machine process.

By hand delivering the same to said attorney.


Lee P. Ritzau

ORIGINAL

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Luke L. Dauchot, CA Bar No. 229829, OH Bar No. 0039935, IL Bar No. 6193611
Lauren Schweitzer, CA Bar No. 301654
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

**PLAINTIFFS' RESPONSE TO
DEFENDANT'S SENTENCING
BRIEF**

Plaintiffs C&M Investment Group, LTD and Karlin Holdings Limited Partnership (collectively “Plaintiffs”) hereby respond to the Sentencing Brief submitted by Defendant Neil Campbell (“Campbell”):

I. INTRODUCTION.

In his Sentencing Brief, Campbell does not accept responsibility for his actions; nor does he express remorse for his “ongoing effort to evade, frustrate, and delay Plaintiff’s judgment collection efforts and frustrate and obstruct the lawful processes of the court.” Findings of Fact and Conclusions of Law re Civil and Criminal Contempt [hereinafter “Findings”] ¶ 73. Instead, as to the civil counts, Campbell simply continues his cat-and-mouse game of taking begrudging baby-steps in the direction of compliance. As to the criminal counts, Campbell astoundingly asserts that he should receive no sanction at all for *any* of the 13 criminal contempt counts of which he is guilty. Campbell’s response underscores that prison is the only appropriate sanction in this case.

Certainly, imprisonment is a serious matter. But so too is flouting the Court’s authority and lying repeatedly under oath. Campbell’s conduct is corrosive to our system of justice. Left unpunished, it encourages contempt.

Campbell has a longstanding history of refusing to provide discovery until cornered—and even then producing documents only in drips and drabs. Plaintiffs have been trying for 20 months to obtain documents related to Campbell’s fee payments to David Flyer (“Flyer”) and the HSBC Hong Kong account. Yet even now, nearly three months after the contempt trial, Campbell *still* has not produced these documents. Campbell’s consistent disregard for this Court’s orders and continued recalcitrance show that imprisonment is the *only* effective means of coercing Campbell’s compliance. This Court should thus imprison Campbell until he fully

complies with the Court's April 1, 2015 Amended Order by producing documents relating to his payment of legal fees to Flyer and all records relating to the HSBC Hong Kong account.

As to the criminal counts, Campbell's egregious behavior warrants a severe punishment. Campbell told numerous lies during his debtor's exam, making a mockery of the oath he took and the justice it serves to promote. As to the criminal counts, this Court should therefore imprison Campbell for 65 days (13 consecutive, 5-day sentences).

II. STATEMENT OF LAW.

Contempt sanction decisions are committed to the trial court's sound discretion. *In re Weick*, 142 Idaho 275, 278 (2005). The sanction for civil contempt is intended to be coercive. *Camp v. E. Fork Ditch Co.*, 137 Idaho 850, 865. Thus, when the contempt consist of the failure to "perform an act which is yet in the power of the person to perform, he may be imprisoned until he has performed it[.]" Idaho Code § 7-611.

The sanction for criminal contempt is punitive. *See Camp*, 137 Idaho at 862. For each criminal contempt count of which he is guilty, the contemnor may be fined up to five thousand dollars (\$5,000), or he may be imprisoned for up to five days, or both. Idaho Code § 7-610.

III. CAMPBELL SHOULD BE IMPRISONED UNTIL HE COMPLIES WITH THE COURT'S APRIL 1, 2015 ORDER.

The Court found Campbell guilty of two counts of civil contempt because Campbell failed to produce:

- (1) documents evidencing the payments he made to David Flyer over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments; and
- (2) all records relating to his HSBC bank account, including documents that identify any deposits made into and any disbursements of funds from that account.

Campbell's ongoing failure to produce these records has deprived Plaintiffs of the meaningful post-judgment discovery to which they are entitled. Moreover, Campbell's cat-and-mouse game of refusing to produce documents shows that the only way to coerce his compliance is to imprison him until he does so. *See Marks v. Vehlow*, 105 Idaho 560, 568, (1983) (quoting *United States v. United Mine Workers*, 330 U.S. 258, 304 (1947)) (court must consider "the character and magnitude of the harm threatened by continued contumacy, and the probable effectiveness of any suggested sanction in bringing about the result desired").

A. Campbell Should be Imprisoned Until He Produces Records Relating to All Payments to Flyer

This Court found that Campbell is presently able, but nevertheless failed to produce documents reflecting Campbell's payments to Flyer. *See Findings* ¶¶ 40–49. Campbell initially refused to produce records of his payments to Flyer because Campbell asserted attorney-client privilege. *Findings* ¶ 43. He next claimed that numerous lawyers, including Flyer, refused to provide payment records to Campbell because they are attorney work product and Campbell was a former client. *Id.* Campbell then modified his story, saying that some lawyers had no payment records while others, including Flyer, refused to provide them because they were those attorneys' work product. *Id.* Finally, on the eve of trial, Campbell produced payment records from seven attorneys—but none related to his payments to Flyer. *Id.* This Court therefore did "not find credible Campbell's statements that Flyer refuses to provide records." *Id.*

Alongside his sentencing brief, Campbell submits a letter purportedly sent by his counsel to Flyer on July 28, 2016—the day after the contempt trial—and an email that his counsel sent on November 4, 2016—the day after the Court found Campbell guilty of contempt. *See Ritzau*

Decl., Exs. B & C.¹ Campbell's counsel thus did not contact Flyer regarding his purported failure to respond to an important request for four months, and did so only after the Court found Campbell guilty of contempt. This is not diligent behavior. More importantly, Campbell *still* has not produced any records evidencing his to payments to Flyer or any statement from Flyer refusing to provide such records.²

At trial, Campbell argued that this Court should refrain from making findings on this count because Flyer might refuse to provide records to avoid being sued by Plaintiffs. The Court rejected this argument, stating that while "that may be true, there is no evidence to support Campbell's position[.]" Findings ¶ 45. There is still no evidence that Flyer refuses to provide records to avoid being sued by Plaintiffs. In fact, the evidence shows that Flyer considers himself legally barred from doing so because of a privilege that Campbell controls. *See* Findings ¶ 46 (citing RJN Ex. K at 1, Ex. L at 2). Thus, any argument by Campbell that Flyer refuses to provide records fails for the same reasons that this Court previously stated.

In sum, over the course of 20 months, Campbell refused to produce records relating to his payments to Flyer, and incredibly claimed that Flyer refused to produce records for the same invalid reasons that Campbell himself asserted, only to now produce evidence of a half-hearted attempt to obtain these records. This behavior, considered in context of Campbell's long pattern

¹ Campbell also submits a complaint from a separate action filed by Plaintiffs against MLG Automotive Law and Walter Urban. *See* Ritzau Decl., Ex. A. This document is inadmissible because it is irrelevant: There is no evidence that Flyer had any knowledge of that lawsuit before Campbell's counsel so informed Flyer or that Flyer refused to produce records because of that suit. *See* Ritzau Decl., Ex. C. The complaint is also inadmissible because this uncertified copy is not authenticated. *See* Idaho R. Evid. 902.

² Mr. Ritzau states that *he* has "not received a response from *David Flyer*" to either of his communications. Ritzau Decl. ¶ 5. However, Mr. Ritzau's declaration leaves open the possibility that someone else from Flyer's firm, such as Raquel Flyer (who signed for the letter) responded to it. He also leaves open the possibility that Flyer responded to Campbell directly using the contact information provided in Mr. Ritzau's letter.

of obfuscation and discovery abuses, shows that the *only* way to coerce Campbell to comply with the Court's order is to imprison him until he produces documents evidencing all of Campbell's payments to Flyer.

B. Campbell Should be Imprisoned Until He Produces All Records Relating to the HSBC Hong Kong Account

In "early 2010" Campbell created a Hong Kong company called Mosaic Orange Limited ("Mosaic Orange"), opened an account with HSBC Hong Kong in Mosaic Orange's name, and deposited \$300,000 into the account. Campbell was the beneficiary of the HSBC Hong Kong Account. Findings ¶ 54. In its April 1, 2015 Amended Order, the Court ordered Campbell to produce records relating to his financial accounts, including the HSBC Hong Kong Account. Findings ¶¶ 53–57. Campbell first claimed he did not know the name of the company that owned the account. Then in April 2016, on the eve of the previously-scheduled trial date, Campbell admitted he knew the account owner was Mosaic Orange. Findings ¶¶ 63 & 64. To date, Campbell has not produced a single record relating to the HSBC Hong Kong Account, and the Court found that Campbell "failed to take basic steps that could lead to the production of these records." Findings ¶ 66.

In his sentencing brief, Campbell does not deny that he is able to obtain the HSBC Hong Kong records. Instead, he submits a request for records that his counsel sent to HSBC Hong Kong on the day after the contempt trial. *See* Ritzau Decl., Ex. D. HSBC Hong Kong responded to Campbell's counsel on October 18, 2016, indicating that records were being prepared and directing Campbell to send payment for the copies. Ritzau Decl., Ex. E. Nevertheless, Campbell's counsel waited until *after* the Court issued its November 3, 2016 order finding Campbell guilty of contempt before responding to HSBC Hong Kong and sending the payment for the Mosaic Orange records. Ritzau Decl., Ex. F.

This chain of events epitomizes Campbell's games: Campbell waited for a year after the Court's Amended Order before disclosing the name of the company that owned the HSBC Hong Kong Account. He then waited until the day after trial to take basic steps to request records relating to it. Then, even after HSBC Hong Kong indicated that records were being prepared and Campbell should send payment, he took no action to obtain the records until after the Court found him guilty of contempt. It is thus far from certain that Campbell will actually produce any or all of the records that he receives from HSBC Hong Kong. The *only* way to coerce Campbell to *produce* all records relating to the HSBC Hong Kong account that the Court ordered him to produce is to imprison him until he does so. Anything less would be ineffective.

IV. CAMPBELL SHOULD BE IMPRISONED FOR FIVE DAYS FOR EACH CRIMINAL CONTEMPT CHARGE.

A. Campbell Told Numerous, Egregious Lies During His Sworn Debtor's Exam

During his August 2015 debtor's exam, Campbell made a mockery of his oath to tell the truth by repeatedly feigning ignorance of many basic facts about his finances and living situation. Findings ¶¶ 72-73. As the Court recognized, "[t]he sheer volume of basic facts that Campbell claimed he did not remember during his August 2015 debtor's examination shows that this testimony is not credible." Findings ¶ 73. For example, Campbell lied about forgetting the name of the company that owned the HSBC Hong Kong Account into which Campbell deposited \$300,000; keeping "tens of thousands of dollars in cash in his condo in Elkhorn"; and about the amount of cash that Campbell brought with him to Idaho from Florida (Campbell testified that he forgot, but later admitted to shipping "less than \$100K" of cash in his moving boxes). Findings ¶¶ 108, 127, 128, 137. These lies include testimony that was "substantially false or designed to avoid disclosing [Campbell's] cash resource[s]." Findings ¶ 128. Moreover, Campbell's lies

during his August 2015 debtor's exam are only the latest in his ongoing pattern of deceiving Plaintiffs about his finances. *See* Findings ¶ 78.

Because of Campbell's numerous under-oath lies, the Court found him guilty of 13 separate counts of criminal contempt. To date, Campbell has not expressed remorse for his actions or even accepted responsibility for them. To the contrary, he insists that he should receive no punishment at all.

B. Campbell's Argument that He Cannot Be Punished for Criminal Contempt Fails for the Same Reasons this Court Previously Stated

Campbell claims that he cannot be punished for any of the 13 criminal contempt counts of which he was convicted because he was required to testify at trial as to the civil counts. Campbell made this same argument repeatedly during and after trial—each time, the Court resoundingly rejected it for the same reasons: As the Court explained in its Findings, at trial Campbell testified only as to the civil counts, Plaintiffs made no attempt to cross-examine Campbell as to the criminal counts, and the Court's findings regarding the criminal counts were not based in any way on Campbell's testimony or any negative inference related to him invoking the Fifth Amendment while testifying. Findings ¶¶ 5, 6, 70. Campbell's latest attempt to resurrect this argument fails for the same reasons the Court stated in its Findings.

C. Campbell Should Receive Consecutive, Maximum Prison Sentences for Each of His 13 Criminal Contempts

If our judicial system is to function, oaths must have meaning and judgments must be enforceable. Campbell's numerous lies have turned the judgment enforcement process into an endless game of whac-a-mole, forcing Plaintiffs to spot Campbell's lies and debunk them before Campbell secrets his assets into a new hidey-hole. *See* Findings ¶ 73 (Campbell's lies were part of his "ongoing effort to evade, frustrate, and delay Plaintiff's judgment collection efforts and

frustrate and obstruct the lawful processes of the court.”). Our system cannot countenance such egregious behavior.

Plaintiffs therefore respectfully request that the Court impose the maximum sentence of five days’ imprisonment for each criminal count of which Campbell was convicted.³ This Court found beyond a reasonable doubt that Campbell told 13 distinct lies during his sworn debtor’s exam, and therefore convicted Campbell of thirteen separate counts of criminal contempt. Campbell should be punished separately and sternly for each. Thus, Campbell’s 13 sentences should run consecutively, for a total of sixty-five days of imprisonment. *See State v. Elliott*, 121 Idaho 48, 52 (Ct. App. 1991) (court has discretion to order sentences to run consecutively). This sentence is necessary to punish Campbell for his flagrant behavior, to deter him from future lies, and to protect the integrity of our judicial process. *See State v. Jensen*, 138 Idaho 941, 945 (Ct. App. 2003) (sentencing objectives include “the protection of society, the deterrence of crime . . . and punishment or retribution”).

V. CONCLUSION.

This Court found Campbell guilty of 2 counts of civil contempt and 13 counts of criminal contempt. In his sentencing brief, Campbell neither expresses remorse nor accepts responsibility for any of his actions. Instead, as to the civil counts, he makes begrudging, half-hearted efforts that inch closer to compliance—yet still does not produce *any* of the records that this Court ordered him to produce. Campbell’s pattern of discovery abuses and continued recalcitrance show that imprisonment is the only effective means of coercing Campbell’s compliance. Plaintiffs, therefore respectfully request that the Court imprisons Campbell until he fully complies with his obligations under the Court’s Amended Order by *producing* to Plaintiffs:

³ Given that the vast majority of the \$24 million judgment against Campbell remains outstanding, fines are wholly inadequate to punish him for his lies.

- (1) documents evidencing the payments he made to David Flyer over the period of 2009 to present, including documents evidencing the source of the funds used to make those payments; and
- (2) all records relating to his HSBC bank account, including documents that identify any deposits made into and any disbursements of funds from that account.

As to the criminal counts, Plaintiffs respectfully ask the Court to imprison Campbell for 65 days (5 days for each of the 13 criminal counts, with sentences to run consecutively) following Campbell's imprisonment pending compliance with his discovery obligations. Plaintiffs also ask the Court to award attorneys' fees and costs pursuant to Idaho Code § 7-610.

DATED: November 21, 2016

LAWSON LASKI CLARK & POGUE, PLLC



Erin F. Clark
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

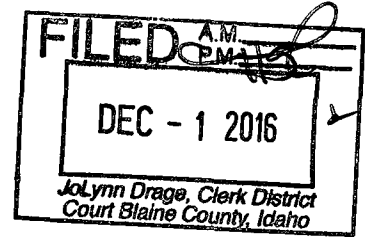
I HEREBY CERTIFY that on November 21, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy



Erin Clark



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

**SENTENCING ORDERS
REGARDING CIVIL AND
CRIMINAL CONTEMPT**

Neil David Campbell was charged by Charging Affidavit with ten counts of Civil Contempt of Court, and with 24 counts of Criminal Contempt of Court in Counts 11 through 34. Trial was held before the Court on July 26 and 27, 2016. At or before trial Plaintiff voluntarily dismissed or withdrew eight of the ten counts of civil contempt. The Court thereafter found Mr. Campbell guilty of 2 counts of Civil Contempt of Court in Counts 1 and 8, and the Court found

Mr. Campbell guilty of 13 counts of Criminal Contempt of Court. As required by law and rule of Court, the Court made specific written findings as to the conduct constituting each contempt charge in its Findings of Fact and Conclusions of Law Re: Civil and Criminal Contempt filed November 3, 2016.

The parties appeared before the Court for sentencing on November 28, 2016. Neither party wished to present any evidence. Defendant/contemnor David Campbell was afforded an opportunity to speak on his own behalf. The Court made its own sentencing comments. Good cause appearing therefore,

IT IS HEREBY ORDERED AND THIS DOES ORDER,

1) That upon each of the counts of criminal contempt of court for which Neil Campbell has been found guilty, namely Counts Eleven, Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Nineteen, Twenty-One, Twenty-Four, Twenty-Five, Twenty-Six, Thirty-One, and Thirty-Two, Mr. Campbell is ordered to serve five (5) days in the Blaine County Jail. These sentences are to run consecutively so that Mr. Campbell must serve 65 days in the Blaine County Jail. These sentences will commence upon the filing of an Order of Commitment following hearing on any forthcoming motion for stay pending appeal in the event a stay of execution of judgment pending appeal is denied. Mr. Campbell will not be required to pay any fine or court costs. The Court can find no authority to assess court costs on a criminal contempt of court case. The Court further finds that assessment of any fine payable pursuant to I.C. § 7-610 would be counterproductive, and therefore none is ordered.

2) As to Counts 1, and as to the finding that Neil Campbell is in civil contempt of court, the court has found by a preponderance of the evidence that Mr. Campbell failed to produce documents evidencing Campbell's payments to California attorney David Flyer, that Campbell

has the present ability to produce those records, and that Campbell has failed to show that he cannot produce those records. Campbell will be incarcerated in the Blaine County Jail indefinitely until he complies with the Court's prior order to produce those records from his attorney David Flyer, or until Campbell satisfies this Court that he has made a full and complete formal complaint to the California Bar Association to the effect that attorney David Flyer has failed and refused to provide and produce records to his former client Neil Campbell upon Campbell's request.

3) As to Count 8, and as to the finding that Neil Campbell is in civil contempt of court, the Court has found by a preponderance of the evidence that Neil Campbell failed to produce financial account records relating to his HSBC bank account in Hong Kong for the Mosaic Orange bank account, that Campbell has the present ability to produce those records, and that Campbell has failed to show that he cannot produce those records. Campbell will be incarcerated in the Blaine County Jail indefinitely until he complies with this Court's order to produce those records from HSBC bank.

3) The Court has considered the harm caused by continued non-compliance by Mr. Campbell and weighed that against the probable effectiveness of this civil sanction. The Court is unable to conclude that any other lesser remedy is likely to be as effective as the sanction imposed.

4) Whether the indefinite jail sentence for civil contempt starts before or after the determinate jail sentence of 65 days ordered on the criminal contempt charge will depend upon whether and to what extent this court or some other court of proper jurisdiction orders a stay of execution of any fixed jail sentence pending any appeal. At such time as Mr. Campbell commences service of his jail term for civil contempt the court will hold periodic status

conferences in order to determine whether Mr. Campbell still has the present ability to comply with this Court's order and/or to determine whether further incarceration will serve any purpose.

5) Pursuant to IRCP 75(n) the Idaho Criminal Rules do not apply to this proceeding. Pursuant to Idaho Appellate Rule 13(a), proceedings are automatically stayed for 14 days following the filing of a notice of appeal "unless otherwise ordered by the district court." The Court previously advised Mr. Ritzau on the record, after he moved for a stay pending appeal, Campbell would be given a stay for 14 days from the entry of judgment in this case in order to move this Court for a further stay of proceedings pending appeal. In the event no motion for a further stay of execution is made within 14 days of the filing of the judgment herein, with or without the filing of an appeal, this Court will enter an Order of Commitment directing Mr. Campbell to commence immediate service of his sentence to jail, with the determinate sentence of 65 days to be served first, with no credit for good time. In the event a timely appeal is filed, the Court will determine upon proper motion made pursuant to IAR 13 whether and under what conditions any further stay of execution will be allowed pending appeal.

6) Blaine County, by virtue of a recent filing, has challenged the payment of Campbell's attorney fees by Blaine County and seeks an order, among other things, terminating Mr. Ritzau's appointment immediately. The County notes that there is not necessarily a right to appeal a contempt citation pursuant to I.C. §7-616 and the cases cited thereunder, and also asserts that Blaine County is not obligated to provide counsel on a charge of civil contempt.

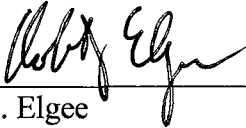
Unless otherwise ordered, appointment of counsel Lee Ritzau at county expense will terminate immediately after any hearing on a motion to stay execution of sentence pending appeal, or after the filing of a notice of appeal, whichever comes later. Prior to that time, the Court expects Mr. Ritzau to undertake or investigate whether and under what circumstances

either the County or the state of Idaho is obligated to provide counsel on appeal to Mr. Campbell. The Court will likely not require Blaine County to provide payment for any further representation of Mr. Campbell upon appeal without a specific showing, and following notice to the Blaine County Prosecuting Attorney, that the Idaho State Appellate Public Defender will not undertake Mr. Campbell's representation and/or that Blaine County bears some obligation to provide counsel on appeal of either a civil or criminal sentence for contempt.

5) A separate form of judgment will enter immediately.

IT IS SO ORDERED.

DATED this 1 day of December, 2016.



Robert J. Elgee
District Judge

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on ~~November~~ ^{December} 1 , 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

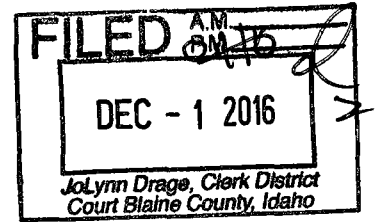
Lee P. Ritzau
Luboviski, Wygle, Fallowfield
 & Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
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Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

✓ U.S. mail

Deputy Clerk 



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

PHILIP RICHARD POWERS, individually;
NEIL DAVID CAMPBELL, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

JUDGMENT

JUDGMENT IS ENTERED AS FOLLOWS:

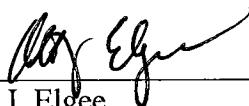
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sentence of sixty-five (65) days in jail. This sentence will commence upon the issuance of an Order of Commitment, which will depend upon whether any Court grants any stay of execution of the sentence. No credit will be given by the sheriff for good time for any of these jail days.

2) On Counts 1 and 8, Neil David Campbell will serve an indeterminate sentence in the Blaine County Jail unless and until he complies with prior court orders as set forth in the Sentencing Orders Regarding Civil and Criminal Contempt, or until this Court determines that a continuing sentence to jail will serve no further purpose and/or Mr. Campbell no longer has the present ability to comply with this Court's order. This sentence will commence upon the issuance of an Order of Commitment, which will depend upon whether any Court grants a stay of execution of the sentence. The Court will hold a status review hearing every 30 days, or upon motion of Mr. Campbell, to review this sentence.

3) Counts 2,3,4,5,6,7,9, and 10 set forth in the Charging Affidavit are voluntarily dismissed by plaintiff. Counts Seventeen (17), Eighteen (18), Twenty (20), Twenty-Two (22), Twenty-Three (23), Twenty-Seven (27), Twenty-Eight (28), Twenty-Nine (29), Thirty (30), Thirty-Three (33), and Thirty-Four (34) are dismissed with prejudice. Jeopardy has attached and Mr. Campbell may not be retried upon any of those counts for which Mr. Campbell has been found not guilty of criminal contempt of court.

Dated this 1 day of December, 2016.



Robert J. Elgee
District Judge

CERTIFICATE OF SERVICE

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of the foregoing document by the method indicated below, and addressed to each of the following:

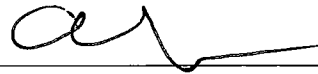
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Luboviski, Wygle, Fallowfield
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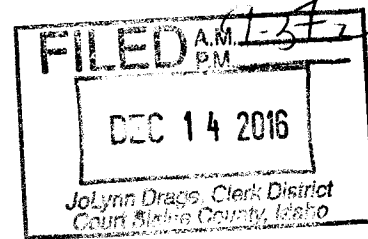
✓ U.S. mail

✓ B.C. Jail



Deputy Clerk

Lee P. Ritzau
LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.
 460 Sun Valley Road, Suite 205
 P.O. Box 1172
 Ketchum, Idaho 83340
 Tel: 208/726-8219
 Fax: 208/726-3750
 Email: lritzau@lwfrlaw.com
 ISB No. 5239



Attorneys for Defendant/Respondent/Appellant Neil David Campbell

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP,	)	Case No. CV-2012-407
LTD., and KARLIN HOLDINGS)	
LIMITED PARTNERSHIP,	)	NOTICE OF APPEAL
)	
Plaintiffs/Petitioners/Respondent,)	
)	
v.)	
)	
PHILIP RICHARD POWERS,)	
individually; NEIL DAVID CAMPBELL,)	
individually; POWERS INVESTMENTS)	
AND MANAGEMENT, INC., S.A., a)	
corporation; GUANANA GRIS, S.A., a)	
corporation; PROTECCION FORESTAL)	
DE TECA, S.S., a corporation; and DOES)	
1 through 50 inclusive,)	
)	
Defendants/Respondent/Appellant.)	

TO: THE ABOVE NAMED PETITIONERS, C&M INVESTMENT GROUP, LTD AND KARLIN HOLDINGS LIMITED PARTNERSHIP, AND THEIR ATTORNEY OF RECORD, ERIN CLARK OF THE FIRM LAWSON, LASKI, CLARK & POGUE, PLLC., PO BOX 3310, KETCHUM, IDAHO 83340 AND THE CLERK OF THE ABOVE ENTITLED COURT OF BLAINE COUNTY.

NOTICE OF APPEAL/1

NOTICE IS HEREBY GIVEN THAT:

1. **Designation of Appeal:** The above-named Appellant, Neil David Campbell, appeals against the above-named Respondents, C&M Investment Group, LTD., (“C&M”) and Karlin Holdings Limited Partnership, (“Karlin”) to the Idaho Supreme Court from both the Judgment filed on December 1, 2016 (attached hereto as Exhibit A), the Honorable Robert J. Elgee presiding as well as the Sentencing Orders Regarding Civil and Criminal Contempt filed on December 1, 2016 (attached hereto as Exhibit B), the Honorable Robert J. Elgee presiding.

Pursuant to Rule 17(e)(1), I.A.R., this NOTICE OF APPEAL shall be deemed to include and present on appeal all judgments, orders, and decrees entered prior to the order appealed and all orders, judgments, or decrees entered after the order appealed.

2. **Jurisdictional Statement:** Appellant, Neil David Campbell, has a right to appeal to the Idaho Supreme Court, and the judgment described in paragraph 1 is appealable pursuant to Rule 11(a)(4), I.A.R.

3. **Preliminary Statement of Issues on Appeal:** The following list of issues on appeal is preliminary in nature and is based on such preliminary research and legal analysis as could reasonably be conducted to date. Appellant therefore reserves the right to assert additional issues on appeal.

At present, Appellant intends to assert the following issues on appeal:

A. Whether the District Court erred in imposing a Criminal Sanction without honoring Appellant’s privilege against self-incrimination as described in IRCP 75(i)(2)(D);

B. Whether the District Court erred in admitting unsworn testimony from Erin Clark as described in IRE 603;

C. Whether the District Court erred in determining C&M and Karlin were the prevailing parties and thus entitled to attorney fees and costs given the issues on appeal asserted by Mr. Campbell in this case; and

D. Whether Defendant is entitled to attorney fees under either I.C. § 7-610 and/or IRCP 75(m).

4. No order has been entered sealing all or any portion of the record.

5. Reporter's Transcripts:

A. Is a reporter's transcript requested: Yes. The transcript for July 26 and 27, 2016 has already been prepared. The transcript for November 28, 2016 has not yet been prepared.

B. The Appellant requests the preparation of the following portions of the reporter's transcript in both hard copy and electronic format.

i. Transcript of all of the court trial held on July 26 and 27, 2016, where Susan Israel was the Court Reporter. This transcript has already been prepared; and

ii. Transcript of all the hearings held on November 28, 2016, where Susan Israel was the Court Reporter.

6. Clerk's Record: The Appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28(b)(1), I.A.R.:

A. Pursuant to I.A.R. 28(a) the following documents:

i. Petitioners' Notice of Filing Foreign Judgment filed on June 1, 2012;

ii. Petitioners' Motion for Issuance of Order of Domestication filed on June 19, 2012;

- iii. The Order of Domestication filed on or about June 21, 2012;
- iv. The Notice of Admit/Deny Hearing filed on or about February 2, 2016;
- v. The Advisement of Rights Regarding Contempt filed on or about February 23, 2016;
- vi. The Notification of Rights filed on or about February 23, 2016;
- vii. Defendant: Campbell, Neil David Order Appointing Public Defender Lee Philip Ritzau filed on or about May 26, 2016;
- viii. Respondent's Trial Brief filed on or about July 21, 2016;
- ix. Neil Campbell's Proposed Findings of Fact and Conclusions of Law filed on or about August 19, 2016;
- x. Affidavit of Lee Ritzau Regarding Information for Sentencing Hearing filed on or about November 14, 2016; and
- xi. Points of Law for Sentencing Hearing. filed on November 14, 2016 by Mr. Campbell.

7. **Exhibits:** The Appellant requests the following documents, charts, or pictures offered or admitted as exhibits to be copied and sent to the Supreme Court.

a. Petitioners' trial exhibits denoted as Exhibit Nos. 1 through 8, 9 through 13, 15 through 18, 32, 34, and 36:

No.	Description
1	Transcript for 8-24-15 Debtor Examination of Neil Campbell
2	Transcript of 2-20-15 Debtor Examination of Neil Campbell
3	Campbell's 5-28-15 Document Production

- 4 Campbell's 4-25-16 Document Production
- 5 Campbell's 4-25-16 Letter to Erin Clark
- 6 Campbell's 4-26-16 Document Production
- 7 7-10-15 faxed letter from Campbell to Clark
- 8 Campbell's Sworn Opposition to Motion for Contempt
- 10 Transcript from 10-28-10 Deposition
- 11 Campbell's 11-25-14 Responses to Interrogatories in California
- 12 6-21-12 Order of Domestication
- 13 4-1-15 Amended Order Granting Motion for Judgment Debtor's Examination
- 15 4-23-15 Letter from Campbell to Clark
- 16 4-30-15 Letter from Clark to Campbell
- 17 5-19-15 Letter from Clark to Campbell
- 18 6-19-15 Letter from Clark to Campbell
- 32 Campbell's 4-27-16 Document Production
- 34 Campbell's Signed Affidavit of Compliance
- 36 11-3-15 Affidavit of E. Clark with Exhibit A

8. I certify:

A. That a copy of this NOTICE OF APPEAL has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

i. Reporter for the Hearings or Trial held on July 26 and 27, 2016 and November 28, 2016:

Susan P. Israel, CSR No. 244
Official Court Reporter, Fifth Judicial District, State of Idaho
P.O. Box 1379
Ketchum, Idaho, 83340

B. That Appellant is exempt from paying the fee for the reporter's transcript. The Court previously found Appellant to be a "needy person" who is "facing a serious crime" in its Order Regarding Appointment dated May 31, 2016. The finding Appellant is a "needy person" who is "facing a serious crime" is equivalent to a finding he is indigent. The fees for the reporter's transcript are waived pursuant to IAR 23(c) and/or I.C. § 31-3220. The Public Defender Application completed by Appellant and filed with the District Court on May 11, 2016 satisfies the requirements of I.C. § 31-3220(3).

C. That appellant is exempt from paying the fee for the clerk's record. The Court previously found Appellant to be a "needy person" who is "facing a serious crime" in its Order Regarding Appointment dated May 31, 2016. The finding Appellant is a "needy person" who is "facing a serious crime" is equivalent to a finding he is indigent. The fees for the reporter's transcript are waived pursuant to IAR 24(h) and/or I.C. § 31-3220. The Public Defender Application completed by Appellant and filed with the District Court on May 11, 2016 satisfies the requirements of I.C. § 31-3220(3).

D. That appellant is exempt from paying the filing fees. The Court previously found Appellant to be a "needy person" who is "facing a serious crime" in its Order Regarding Appointment dated May 31, 2016. The finding Appellant is a "needy person" who is "facing a serious crime" is equivalent to a finding he is indigent. The filing fees for the appeal are waived pursuant to IAR 27(f) and/or I.C. § 31-3220. The Public Defender Application completed by Appellant and filed with the District Court on May 11, 2016 satisfies the requirements of I.C. §

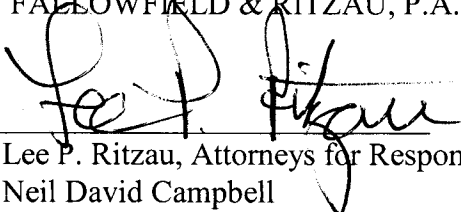
31-3220(3).

E. Service has been made upon all parties required to be served pursuant to Rule 20, I.A.R., and counsel for Respondent.

F. Respondent/Appellant, Neil Campbell, reserves the right to seek his attorneys' fees on appeal to the extent allowed by law pursuant to I.A.R. 41.

DATED this 13th day of December, 2016.

LUBOVISKI, WYGLE,
FALLOWFIELD & RITZAU, P.A.

By 
Lee P. Ritzau, Attorneys for Respondent/Appellant
Neil David Campbell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of December, 2016, I served a true and correct copy of the within and foregoing document upon the parties named below, in the manner noted:

Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

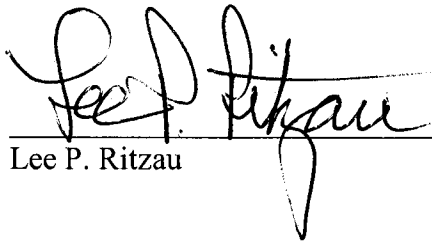
Susan P. Israel, CSR No. 244
Official Court Reporter, Fifth Judicial District, State of Idaho
P.O. Box 1379
Ketchum, Idaho, 83340

Blaine County Prosecuting Attorney's Office
Attn: Tim Graves
219 1st Avenue South, Ste. 201
Hailey, Idaho 83333
Fax: 208-788-5554

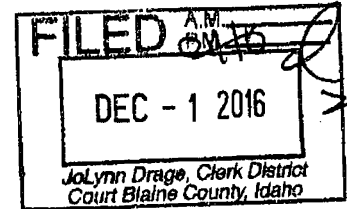
By depositing copies of the same in the United States Mail, postage prepaid, at the post office at Ketchum, Idaho.

By hand delivering copies of the same.

By transmitting copies of the same to the offices of above-named counsel by facsimile machine process.



Lee P. Ritzau



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs,

v.

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NEIL DAVID CAMPBELL, individually;
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GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
a corporation; and DOES 1 through 50
inclusive,

Defendants.

Case No.: CV-12-407

JUDGMENT

JUDGMENT IS ENTERED AS FOLLOWS:

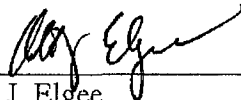
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Dated this 1 day of December, 2016.



Robert J. Elgee
District Judge

CERTIFICATE OF SERVICE

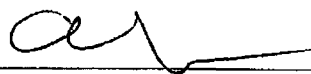
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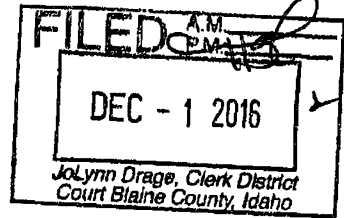
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Deputy Clerk



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
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C&M INVESTMENT GROUP, LTD., and
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Plaintiffs,

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Defendants.

Case No.: CV-12-407

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REGARDING CIVIL AND
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EXHIBIT
B

FILED 12-5-16
622 of 636

Mr. Campbell guilty of 13 counts of Criminal Contempt of Court. As required by law and rule of Court, the Court made specific written findings as to the conduct constituting each contempt charge in its Findings of Fact and Conclusions of Law Re: Civil and Criminal Contempt filed November 3, 2016.

The parties appeared before the Court for sentencing on November 28, 2016. Neither party wished to present any evidence. Defendant/contemnor David Campbell was afforded an opportunity to speak on his own behalf. The Court made its own sentencing comments. Good cause appearing therefore,

IT IS HEREBY ORDERED AND THIS DOES ORDER,

1) That upon each of the counts of criminal contempt of court for which Neil Campbell has been found guilty, namely Counts Eleven, Twelve, Thirteen, Fourteen, Fifteen, Sixteen, Nineteen, Twenty-One, Twenty-Four, Twenty-Five, Twenty-Six, Thirty-One, and Thirty-Two, Mr. Campbell is ordered to serve five (5) days in the Blaine County Jail. These sentences are to run consecutively so that Mr. Campbell must serve 65 days in the Blaine County Jail. These sentences will commence upon the filing of an Order of Commitment following hearing on any forthcoming motion for stay pending appeal in the event a stay of execution of judgment pending appeal is denied. Mr. Campbell will not be required to pay any fine or court costs. The Court can find no authority to assess court costs on a criminal contempt of court case. The Court further finds that assessment of any fine payable pursuant to I.C. § 7-610 would be counterproductive, and therefore none is ordered.

2) As to Counts 1, and as to the finding that Neil Campbell is in civil contempt of court, the court has found by a preponderance of the evidence that Mr. Campbell failed to produce documents evidencing Campbell's payments to California attorney David Flyer, that Campbell

has the present ability to produce those records, and that Campbell has failed to show that he cannot produce those records. Campbell will be incarcerated in the Blaine County Jail indefinitely until he complies with the Court's prior order to produce those records from his attorney David Flyer, or until Campbell satisfies this Court that he has made a full and complete formal complaint to the California Bar Association to the effect that attorney David Flyer has failed and refused to provide and produce records to his former client Neil Campbell upon Campbell's request.

3) As to Count 8, and as to the finding that Neil Campbell is in civil contempt of court, the Court has found by a preponderance of the evidence that Neil Campbell failed to produce financial account records relating to his HSBC bank account in Hong Kong for the Mosaic Orange bank account, that Campbell has the present ability to produce those records, and that Campbell has failed to show that he cannot produce those records. Campbell will be incarcerated in the Blaine County Jail indefinitely until he complies with this Court's order to produce those records from HSBC bank.

3) The Court has considered the harm caused by continued non-compliance by Mr. Campbell and weighed that against the probable effectiveness of this civil sanction. The Court is unable to conclude that any other lesser remedy is likely to be as effective as the sanction imposed.

4) Whether the indefinite jail sentence for civil contempt starts before or after the determinate jail sentence of 65 days ordered on the criminal contempt charge will depend upon whether and to what extent this court or some other court of proper jurisdiction orders a stay of execution of any fixed jail sentence pending any appeal. At such time as Mr. Campbell commences service of his jail term for civil contempt the court will hold periodic status

conferences in order to determine whether Mr. Campbell still has the present ability to comply with this Court's order and/or to determine whether further incarceration will serve any purpose.

5) Pursuant to IRCP 75(n) the Idaho Criminal Rules do not apply to this proceeding. Pursuant to Idaho Appellate Rule 13(a), proceedings are automatically stayed for 14 days following the filing of a notice of appeal "unless otherwise ordered by the district court." The Court previously advised Mr. Ritzau on the record, after he moved for a stay pending appeal, Campbell would be given a stay for 14 days from the entry of judgment in this case in order to move this Court for a further stay of proceedings pending appeal. In the event no motion for a further stay of execution is made within 14 days of the filing of the judgment herein, with or without the filing of an appeal, this Court will enter an Order of Commitment directing Mr. Campbell to commence immediate service of his sentence to jail, with the determinate sentence of 65 days to be served first, with no credit for good time. In the event a timely appeal is filed, the Court will determine upon proper motion made pursuant to IAR 13 whether and under what conditions any further stay of execution will be allowed pending appeal.

6) Blaine County, by virtue of a recent filing, has challenged the payment of Campbell's attorney fees by Blaine County and seeks an order, among other things, terminating Mr. Ritzau's appointment immediately. The County notes that there is not necessarily a right to appeal a contempt citation pursuant to I.C. §7-616 and the cases cited thereunder, and also asserts that Blaine County is not obligated to provide counsel on a charge of civil contempt.

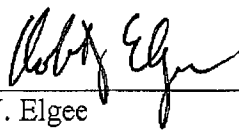
Unless otherwise ordered, appointment of counsel Lee Ritzau at county expense will terminate immediately after any hearing on a motion to stay execution of sentence pending appeal, or after the filing of a notice of appeal, whichever comes later. Prior to that time, the Court expects Mr. Ritzau to undertake or investigate whether and under what circumstances

either the County or the state of Idaho is obligated to provide counsel on appeal to Mr. Campbell. The Court will likely not require Blaine County to provide payment for any further representation of Mr. Campbell upon appeal without a specific showing, and following notice to the Blaine County Prosecuting Attorney, that the Idaho State Appellate Public Defender will not undertake Mr. Campbell's representation and/or that Blaine County bears some obligation to provide counsel on appeal of either a civil or criminal sentence for contempt.

5) A separate form of judgment will enter immediately.

IT IS SO ORDERED.

DATED this 1 day of December, 2016.



Robert J. Elgee
District Judge

CERTIFICATE OF SERVICE

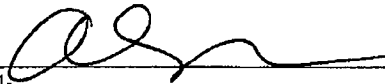
I HEREBY CERTIFY that on ~~November~~ ^{December} 1, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy

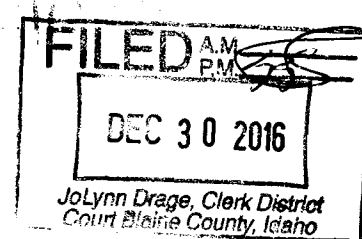
Erin Clark
Lawson, Laski, Clark & Pogue, PLLC
PO Box 3310
Ketchum, ID 83340
Fax: 208-725-0076

U.S. Mail



Deputy Clerk

Erin F. Clark, ISB No. 6504
LAWSON LASKI CLARK & POGUE, PLLC
675 Sun Valley Road, Suite A
P.O. Box 3310
Ketchum, ID 83340
Telephone: (208) 725-0055
Facsimile: (208) 725-0076



Luke L. Dauchot, CA Bar No. 229829, OH Bar No. 0039935, IL Bar No. 6193611
Lauren Schweitzer, CA Bar No. 301654
KIRKLAND & ELLIS LLP
333 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Attorneys for Plaintiffs C&M Investment Group
And Karlin Holding Limited Partnership

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED
PARTNERSHIP,

Plaintiffs/Respondents,

v.

NEIL DAVID CAMPBELL, et al.,

Defendant/Appellant.

Case No.: CV-12-407

**PLAINTIFFS' REQUEST TO
SUPPLEMENT THE CLERK'S
RECORD ON APPEAL**

TO: THE ABOVE NAMED APPELLANT, NEIL DAVID CAMPBELL, AND HIS
ATTORNEY OF RECORD, LEE RITZAU, AND THE CLERK OF OF THE ABOVE
ENTITLED COURT

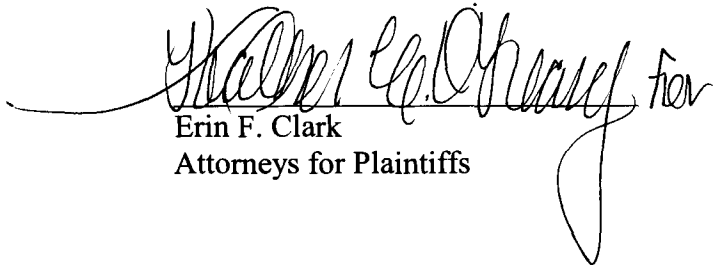
NOTICE IS HEREBY GIVEN, that the Plaintiffs/Respondents C&M Investment Group,
LTD and Karlin Holdings Limited Partnership (collectively "Plaintiffs") in the above entitled

proceeding hereby requests pursuant to I.A.R. 19 the inclusion of the following material in the clerk's record in addition to that required to be included by the I.A.R. and the notice of appeal.

1. Plaintiffs' Trial Exhibit Nos. 19-31.
2. Campbell's Trial Exhibits 501 through 510.
3. Jan. 28, 2016 Charging Affidavit of E. Clark
4. Plaintiffs' Revised Trial Brief, filed July 22, 2016.
5. Plaintiff's Amended Request for Judicial Notice, filed July 22, 2016, with its attached exhibits A through M.
6. Order Denying Defendant's Motion to Enlarge Time to Assert Affirmative Defenses and to Dismiss Contempt Charges, filed July 25, 2016.
7. Plaintiffs' Proposed Findings of Fact and Conclusions of Law, filed August 19, 2016.
8. Plaintiffs' Objections to Defendant Neil Campbell's Proposed Findings of Fact and Conclusions of Law, filed September 2, 2016.
9. Findings of Fact and Conclusions of Law, issued by the Court on November 3, 2016.
10. Plaintiffs' Response to Defendant's Sentencing Brief, filed November 21, 2016.
11. Sentencing Orders, issued by the Court on December 1, 2016.
12. Judgment entered by the Court on December 1, 2016.
13. April 22, 2015 Motion for Contempt and Notice of Hearing on Motion.

DATED: December ^{30th} 2016

LAWSON LASKI CLARK & POGUE, PLLC

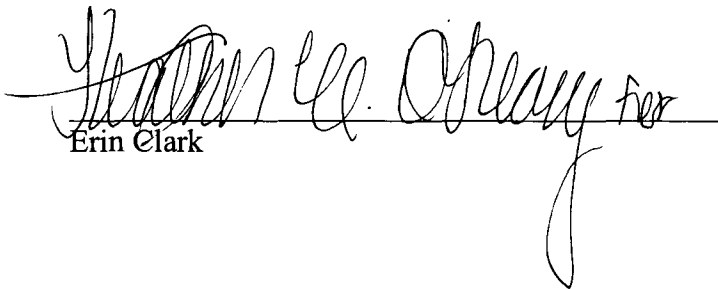

Erin F. Clark
Attorneys for Plaintiffs

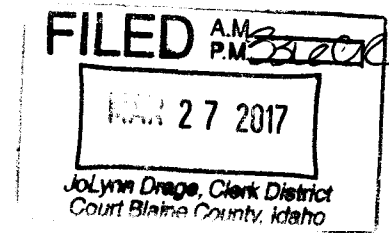
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 30th, 2016, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to each of the following:

Lee P. Ritzau
Luboviski, Wygle, Fallowfield
& Ritzau, P.A.
P.O. Box 1172
Ketchum, Idaho 83340

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Telecopy


Erin Clark



SUPREME COURT NO. 44719

RE: C&M INVESTMENT GROUP

VS.

NEIL CAMPBELL

Notice is hereby given that on March 22, 2017, a Reporter's Transcript on Appeal in the above-entitled case, consisting of 379 total pages, was lodged with the District Court Clerk of the County of Blaine, State of Idaho.

The hearings included in the transcript are as follows:

July 26-27, 2016 - Court Trial (Volume I)
November 28, 2016 - Sentencing (Volume II)

SUSAN P. ISRAEL, CSR NO. 244

DATE

*Appeal Transcript emailed to: Erin Clark @
efc@lawsonlaski.com
Neil Campbell @
ndcampbell117@gmail.com

11	Campbell's 11/25/14 Responses to Plf's 1 st Set of Interrogatories in CA action	X	7/26/16	X
12	6/21/12 Order of Domestication		7/26/16	X
13	4/1/15 Amended Order Granting Motion for Judgment Debtor's Examination		7/26/16	X
15	4/23/15 Letter from Campbell to Clark re Document Production	X	7/26/16	X
16	4/30/15 Letter from Clark to Campbell re Document Production	X	7/26/16	X
17	5/19/15 Letter from Clark to Campbell re Document Production	X	7/26/16	X
18	6/19/15 Letter from Clark to Campbell re Document Production	X	7/26/16	X
32	Campbell's 4/27/16 Document Production (including cover email)	X	7/26/16	X
33	May 2016 Emails between Campbell and Clark re Informal Interview		7/26/16	
34	Campbell's Signed Affidavit of Compliance	X	7/26/16	X
36	11/3/15 Affidavit of Clark with Exh. A		7/26/16	X

Defendant's Exhibits

EXH. No.	Description	Obj.	Date	Admitted
501	Limited Power of Attorney-David Flyer	X	7/27/16	X
502	Limited Power of Attorney-Michael Taiteman	X	7/27/16	X
503	Limited Power of Attorney-Robert Turffs	X	7/27/16	X
504	Limited Power of Attorney-Jonathan Michaels	X	7/27/16	X
505	Limited Power of Attorney-Steve Thompson	X	7/27/16	X
506	Limited Power of Attorney-Dyke Huish	X	7/27/16	X
507	Limited Power of Attorney-Susan Roy	X	7/27/16	X
508	Limited Power of Attorney-HSBC Bank	X	7/27/16	X
509	Limited Power of Attorney-Bank of America	X	7/27/16	X
510	Limited Power of Attorney-Bank of American	X	7/27/16	X

Taking Judicial Notice Exhibits

EXH. No.	Description	Obj.	Date
19	10/10/07 Complaint filed in the case captioned C&M Investment Group, Ltd. V. Philip Richard Powers etal. (Case No. BC378888) (Exh. A of Plf's Request for Judicial Notice)	X	7/26/16
20	11/17/08 Amended Complaint filed in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership V. Philip Richard Powers etal. (Case No. BC378888) (Exh. B of Plf's Request for Judicial Notice)	X	7/26/16
21	Los Angeles Superior Court's 2/4/10 Order Granting Plf's Motion for Summary Judgment Adjudication Against Def. Campbell for Constructive Fraud (Exh. C to Plf's Request for Judicial Notice)	X	7/26/16
22	Los Angeles Superior Court's 11/2/10 Minute Order Imposing Terminating Sanctions and Entering Default as to Defendants in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. D to Plf's Request for Judicial Notice)	X	7/26/16

23	Los Angeles Superior Court's 11/1/11 Minute Order Imposing Monetary Sanctions Against Neil David Campbell in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh.E to Plf's Request for Judicial Notice)	X	7/26/16
24	Los Angeles Superior Court's 12/13/11 Order Granting Plf's Motion for Summary Judgment Against Defendant Neil David Campbell in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. F to Plf's Request for Judicial Notice)	X	7/26/16
25	Los Angeles Superior Court's 11/13/11 Judgment Against Defendant Neil David Campbell in the case captioned C&M Investment Group, Ltd. And Karlin Holdings Limited Partnership v. Philip Richard Powers etal. (Case No. BC378888) (Exh. G to Plf's Request for Judicial Notice)	X	7/26/16
26	Chapter 615-the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance, Part 3, Sec. 20 (Exh. H to Plf's Request for Judicial Notice)	X	7/26/16
27	31 C.F.R. Sec. 1010.430 (Exh. I to Plf's Request for Judicial Notice)	X	7/26/16
28	31 C.F.R. Sec. 1020.410 (Exh. J to Plf's Request for Judicial Notice)	X	7/26/16
29	CA Bus. & Prof. Code Sec. 6148 (Exh. K to Plf's Request for Judicial Notice)	X	7/26/16
30	CA Prof. Conduct Rule 3-700 (Exh. L of Plf's Request for Judicial Notice)	X	7/26/16
31	FL St. Bar Rule 4-1.4 (Exh. M of Plf's Request for Judicial Notice)	X	7/26/16

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 16 day of April, 2017.



Jolynn Drage, Clerk of the Court
 By Crystal Rigby
 Crystal Rigby, Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and
KARLIN HOLDINGS LIMITED PARTNERSHIP,

Plaintiffs/Petitioners/Respondents,

vs.

NEIL DAVID CAMPBELL, individually,

Defendant/Respondent/Appellant

And

PHILIP RICHARD POWERS, individually;
POWERS INVESTMENTS AND
MANAGEMENT, INC., S.A., a corporation;
GUANANA GRIS, S.A., a corporation;
PROTECCION FORESTAL DE TECA, S.S.,
A corporation; and DOES 1 through 50
Inclusive,

Defendants.

) Supreme Court No. 44719

) CLERK'S CERTIFICATE

STATE OF IDAHO)

County of Blaine)

) ss.

I, Crystal Rigby, Deputy Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the above and foregoing Clerk's Record on Appeal was compiled and bound under my direction and is a true, full and correct Record of the pleadings and documents as are automatically required under Rule 28 of the Idaho Appellate Rules as well as those requested by the Appellant.

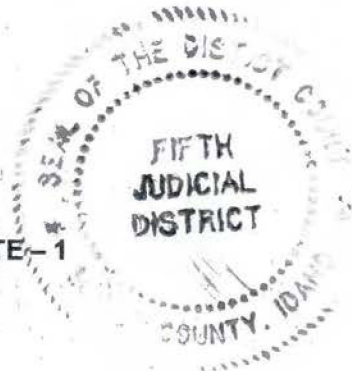
I do further certify that all exhibits offered or admitted in the above-entitled cause and exhibits requested by the Appellant will be duly lodged with the Clerk of the Supreme Court along with the Clerk's Record on Appeal and the Court Reporter's Transcript on Appeal.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Hailey, Idaho, this 6 day of April, 2016.

JoLynn Drage, Clerk of the Court

By Crystal Rigby
Crystal Rigby, Deputy Clerk

CLERK'S CERTIFICATE- 1



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

C&M INVESTMENT GROUP, LTD., and KARLIN HOLDINGS LIMITED PARTNERSHIP,	)	Supreme Court No. 44719
)	
Plaintiffs/Petitioners/Respondents,	)	CERTIFICATE OF SERVICE
)	
vs.)	
)	
NEIL DAVID CAMPBELL, individually,)	
)	
Defendant/Respondent/Appellant)	
)	
And)	
)	
PHILIP RICHARD POWERS, individually;)	
POWERS INVESTMENTS AND)	
MANAGEMENT, INC., S.A., a corporation;)	
GUANANA GRIS, S.A., a corporation;)	
PROTECCION FORESTAL DE TECA, S.S.,)	
A corporation; and DOES 1 through 50)	
Inclusive,)	
)	
Defendants.)	

I, Crystal Rigby, Deputy Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that I have personally served or mailed, by United States mail, one copy of the Clerk's Record and Court Reporter's Transcript to each of the Attorneys of Record in this cause as follows:

NEIL DAVID CAMPBELL
PQ Box 3372
Ketchum, ID 83340

ERIN CLARK
PO Box 3310
Ketchum, ID 83340

Attorney for Defendant/Respondent/
Appellant

Attorney for Plaintiffs/Petitioners/
Respondents

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 16 day of April, 2017.



JOLYNN DRAGE, Clerk of the Court

By Crystal Rigby
Crystal Rigby, Deputy Clerk

CERTIFICATE OF SERVICE - 1