

9. I swear that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, then I am subject to punishment.

Dated: 09 Sept 2014

Lynn Welt

Lynn Welt

STATE OF GEORGIA :
: SS.:
COUNTY OF CHEROKEE :

BE IT REMEMBERED, that on this 9 day of September, 2014, before me, the Subscriber, personally appeared Lynn Welt who I am satisfied is the person in the foregoing instrument name, and I having first made known to her that the contents thereof, delivered the aforesaid instrument as a voluntary act and deed for the uses and purposes therein expressed.

Gelisa Paris Breland

Notary Public



COPY

For: Court Record
 Re: Guardianship of Walter Shapiro
 From: Allan E. Shapiro, Brother of Walter

In my assessment of Walter Shapiro's needs, I find the following persons unsuitable to manage the welfare and financial affairs of Walter Shapiro.

Said persons:

Howard Shapiro, Walter's son
 Adam Shapiro, Walter's son
 Jenna Shapiro, Howard's spouse
 Maryann Shapiro, Adam's spouse

I strongly recommend an independent senior advocate case manager who is close to wherever Walter resides.

The past behaviors and history of their interactions with Walter and their financial instabilities attest to my recommendations.

Maryann and Jenna Shapiro willfully discouraged Walter from visiting their homes or having any contact with his grandchildren. Howard rarely contacted his father but only through emails via Walter's friend, Alice Walker, in order to conceal this. Adam would secretly call Walter on his cell phone while driving so as his wife would not be aware.

However, all of the above mentioned persons and their children were not adverse to receiving monies and gifts from Walter. I find these hypocritical behaviors deceitful, perverse and lacking in moral character.

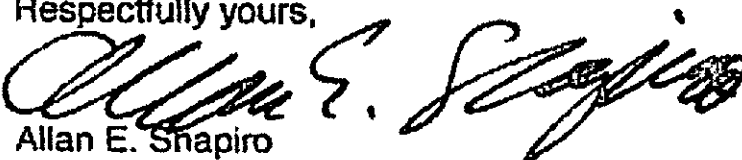
Further investigation revealed that the listed persons have a poor history of attending to financial obligations in a responsible manner.

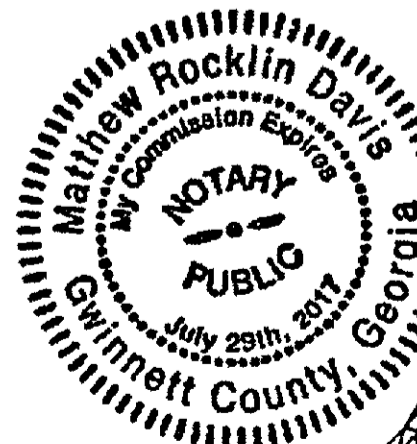
When I was made aware of Howard Shapiro willfully abusing the joint checking account funded by Walter's Social Security and pension deposits, I notified Social Services and Adult Protective Services in Toms River, New Jersey, to the dismay of Jenna Shapiro. Another suspicious behavior by Howard Shapiro was the coercion of Walter to purchase a new expensive BMW SUV which Adam agreed was probably for the future benefit of Howard. It seemed inappropriate for an 81 year old person and is likely presently in Howard's possession.

Howard also possesses the only keys to Walter's home which was recently rifled through by the above persons and their children to secure items they may have desired. Walter had first been abducted from his home in order to do this.

In view of my impressions, I strongly object to Walter's sons, their spouses, or children to be appointed by the court to any form of guardianship for Walter Shapiro.

Respectfully yours,


 Allan E. Shapiro
 Lt. Col. US Army (Retired)
 Psychiatric Clinical Nurse Specialist
 990 Rao Drive
 Monroe GA 30655

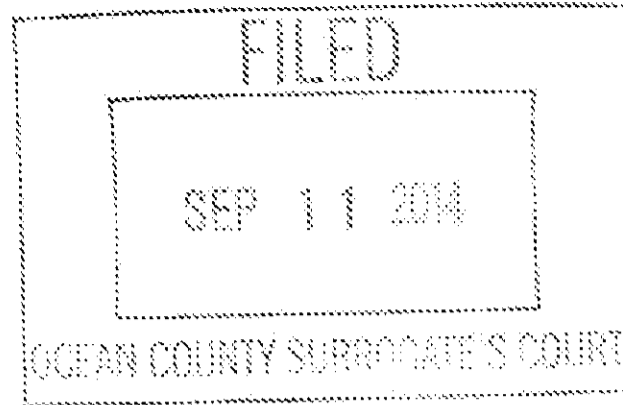


State of: Georgia
 County of: Waltham
 Sworn and subscribed before me this
19th Day of August, 2014
Matthew Rocklin Davis
 Commission Exp. 7-29-17
 Notarized 8-19-14

COPY

Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775

Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt



COPY

IN THE MATTER OF
 WALTER SHAPIRO,
 An Alleged Mentally
 Incapacitated Person.

: SUPERIOR COURT OF NEW JERSEY
 : CHANCERY DIVISION-PROBATE PART
 : OCEAN COUNTY
 :
 : DOCKET NO. 206637
 :
 : Civil Action
 :
 : CERTIFICATION OF FILING AND SERVICE
 :

I, Christopher D. Olszak, Esquire of full age, having been duly sworn according to law, hereby certify as follows:

1. I am a member of the Law Office of Olszak and Olszak, L.L.C., attorneys for the Plaintiff.
2. On September 10, 2014, I caused to be filed by Federal Express an original and one (1) copy of the documents listed below in the above-captioned matter with the Ocean County Superior Court, Chancery Division, Probate Part:
 - A. Answer and Counterclaim;
 - B. Notice of Motion to Admit Counterclaim;
 - C. Brief in Support of Motion;
 - D. Certifications of Rhoda Wasserstrom and Lynn Welt;
 - E. Certification of Filing and Service
3. In addition, on September 10, 2014 one copy of said documents were sent by Federal Express to the Plaintiff's attorney, at the following address:


CLERK OF THE COURT

1 **SB**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
4 Michael P. Lowry, Esq.
5 Nevada Bar No. 10666
6 P.O. Drawer 2070
7 Las Vegas, Nevada 89125-2070
8 Tel: (702) 366-0622
9 Fax: (702) 366-0327
10 Email: m_lowry@thorndal.com
11 Attorneys for Glenn Welt, Rhoda Welt,
12 Lynn Welt and Michele Welt

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 HOWARD SHAPIRO and JENNA SHAPIRO,

16 Plaintiffs,

17 vs.

18 GLEN WELT, RHODA WELT, LYNN WELT,
19 MICHELLE WELT, individuals;
20 CHECKSNET.COM, a corporation; DOES I
21 through X, and ROE CORPORATIONS I
22 through X, inclusive,

23 Defendants.

Case No.: A-14-706566-C
Dept. No. 27

**GLENN WELT, RHODA WELT, LYNN
WELT & MICHELE WELT'S
SUPPLEMENT RE MOTION TO DISMISS**

Hearing Date: December 24, 2014

Hearing Time: 10:00 a.m.

24 At the hearing on December 24, 2014 the court requested a copy of the final order
25 entered by the New Jersey court in the conservatorship matter. A conformed copy of that order
26 is attached.

27 DATED this 29th day of December, 2014.

28 THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER

/s/ Michael P. Lowry

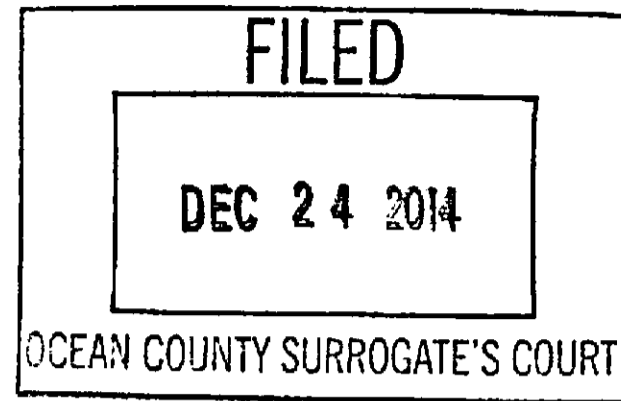
Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

Pursuant to NRCP 5(b), on December 29, 2014, **GLENN WELT, RHODA WELT, LYNN WELT & MICHELE WELT'S SUPPLEMENT RE MOTION TO DISMISS** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

IMO Walter Shapiro, an Alleged Incapacitated Person – Docket No. 206637

Christopher D. Olszak, Esq.
 NJ Attorney ID# 017292001
 Law Office of Olszak and Olszak, LLC
 Attorneys at Law
 Leisure Square Mall
 1000 State Highway 70
 Lakewood, New Jersey 08701
 (732) 367-7775
 Attorney for Respondents, Lynn Welt,
 Michele S. Welt, and Rhoda Wasserstrom



	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIVISION-PROBATE PART
IN THE MATTER OF	:	OCEAN COUNTY
WALTER SHAPIRO,	:	
An alleged incapacitated person	:	CIVIL ACTION
	:	DOCKET NO. 206637
	:	
	:	JUDGMENT OF CONSERVATORSHIP

THIS MATTER being opened to the Court by David A. Semanchik, Esquire, attorney for the Plaintiffs, Howard Shapiro, and Adam Shapiro, and an Answer and Counterclaim having been filed by Christopher D. Olszak, Esquire, for the Respondents, Counterclaimants, Rhoda Wasserstrom, Lynn Welt, and Michele S. Welt, having appeared *pro se*, and notice having been provided to Allen Shapiro and the Office of the Public Guardian, and Walter Shapiro, the alleged incapacitated person, and the Court having appointed Benjamin H. Mabie, III, Esquire, as court-appointed attorney for Walter Shapiro, and the Court having appointed James Gluck, Esquire as Temporary Guardian of the Person and Property of Walter Shapiro, and the Court having read the Complaint, Answer, physicians reports, attorney reports, and affidavits filed in this matter; and it appearing to the Court that interim relief is appropriate in this matter; and for other good cause being shown;

IT IS on this th 24 day of December, 2014, ORDERED AND ADJUDGED that:

1. The Guardianship petition and the Respondents' Counterclaim are hereby dismissed without prejudice and that Walter Shapiro is hereby restored to full capacity;

2. Walter Shapiro hereby consents and voluntarily appoints James J. Gluck, Esquire as his Conservator and that Letters of Conservatorship be issued upon him (a) qualifying according to law, and (b) entering into a surety bond unto the Superior Court of New Jersey in the amount of \$150,000.00. The court shall approve the bond as to form and sufficiency.

IMO Walter Shapiro, an Alleged Incapacitated Person – Docket No. 206637

3. Walter Shapiro indicated his verbal consent to the Conservatorship via telephone on December 15, 2014 and in the present of interested parties, Howard Shapiro, Lynn Welt, and Michele Welt, Court-Appointed Counsel, Benjamin H. Mabie, III, Esquire, Plaintiff's counsel, David A. Semanchik, Esquire, and Respondent's counsel, Christopher D. Olszak, Esquire.

4. Upon qualifying, the Surrogate of Ocean County shall issue Letters of Conservatorship to James J. Gluck, Esquire and thereupon James J. Gluck, Esquire be and hereby is authorized to perform all the functions and duties of Conservator as allowed by law.

5. Howard Shapiro agrees to sign all documents necessary to return Walter Shapiro's funds that are in Santander Preferred Partnership Checking account number ending in 4772 within seven (7) days of the date of this order;

6. The court having reviewed the affidavit or certification of services that has previously filed with the court of Benjamin H. Mabie, III, Esquire, court-appointed attorney for Walter Shapiro, who shall be paid \$ 10,875.00 for reasonable services and costs rendered in connection with this matter by Walter Shapiro.

7. Benjamin H. Mabie, III, Esquire, court-appointed attorney for Walter Shapiro, having reported to the court and advocated on behalf of the incapacitated person, be and hereby is discharged from any further obligation to act as attorney for Walter Shapiro with the appreciation of the Court.

8. That James J. Gluck, Esquire be and hereby is relieved as Temporary Guardian of the person and property for Walter Shapiro with the appreciation of the Court and shall be paid the sum of \$ 7,907.87 in connection with this matter by Walter Shapiro.

9. The court having reviewed the affidavit or certification of services that has previously filed with the court of Christopher D. Olszak, Esquire, attorney for the Respondents, Counterclaimants, Rhoda Wasserstrom and Lynn Welt, who shall be paid \$ 7,993.42 for reasonable services and costs rendered in connection with this matter by Walter Shapiro.

10. The court having reviewed the affidavit or certification of services that has previously filed with the court of David A. Semanchik, Esquire, attorney for Walter Shapiro, who shall be paid \$ 6,805.00 for services and costs rendered in connection with this matter by Walter Shapiro.

11. James J. Gluck, Esquire, as Conservator, shall file with the Court within 30 days, an inventory of all of the Conservatee's property and income. Within said period a copy of the inventory shall be served on all next-of-kin and parties in interest.

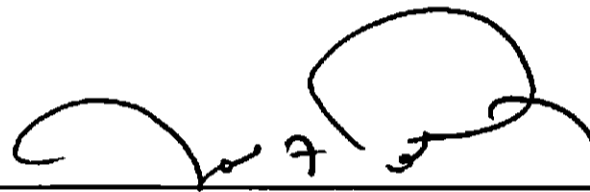
IMO Walter Shapiro, an Alleged Incapacitated Person – Docket No. 206637

12. James J. Gluck, Esquire, as Conservator, shall submit a formal accounting to the Court not later than six months after their appointment and interim informal accountings on an annual basis thereafter. Interim accountings shall be submitted formally in the event the Surrogate of Ocean County determines it appropriate. All accountings shall be on notice to the interested parties involved in the guardianship proceedings.

13. James J. Gluck, Esquire is hereby directed to advise the Surrogate of Ocean County within ten (10) days of any changes in the address or telephone number of himself or the Conservatee.

14. Howard Shapiro agrees to notify Lynn Welt of medical decisions pursuant to his appointment as attorney-in-fact pursuant to Walter's Living Will dated April 28, 2011, attached hereto as Exhibit A.

15. A copy of this Judgment shall be served upon all interested parties and attorneys of record within seven (7) days from the receipt hereof.



HONORABLE JOHN A. PETERSON, J.S.C.

1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

Steven D. Shuman
CLERK OF THE COURT

4 HOWARD SHAPIRO, JEAN SHAPIRO,
5 Plaintiffs

CASE NO.: A-14-706566-C

6 vs.

DEPARTMENT 27

7
8 GLEN WELT, LYNN WELT, MICHELLE
9 WELT and RHODA WELT, Defendants

10 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

11
12 Defendants' Motion to Dismiss was filed on December 15, 2014 and was heard
13 on December 24, 2014 at 10:00 a.m., with a quick setting in compliance with NRS
14 41.660(3)(f); Michael Lowry, Esq. appearing on behalf of Defendants and Evan Swab,
15 Esq. appearing on behalf of Plaintiffs. The Court having considered the pleadings and
16 papers on file herein, and being fully advised in the premises, now makes the following
17 decision and order:

18
19 **COURT FINDS** after review that NRS 41.660(3) allows for a special motion to
20 dismiss when the subject of a law suit is "good faith communication in furtherance of . . .
21 the right to free speech in direct connection of an issue of public concern." NRS 41.660.
22 These statutes, commonly known as anti-SLAPP (strategic lawsuit against public
23 participation), is intended to prevent parties from filing law suits in an attempt to restrict
24 or punish communication on an issue of public interest. NRS 41.637. A defendant must
25 show "by a preponderance of the evidence, that the claim is based upon a good faith
26 communication in furtherance of the right to . . . free speech in direct connection with an
27 issue of public concern." NRS 41.660(3)(a). Then, the plaintiff must show by clear and

CLERK OF THE COURT

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JAN 02 2015

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1 convincing evidence that there is a probability of it prevailing on the claim. NRS
2 41.660(3)(b).

3 **COURT FURTHER FINDS** after review that Plaintiffs filed the present law suit
4 on September 9, 2014, alleging the following causes of action: 1) Defamation Per Se; 2)
5 Defamation; 3) Extortion; 4) Civil Conspiracy; 5) Fraud; and 6) Punitive Damages. These
6 causes of action arose out of website created by Defendants in response to an action by
7 Plaintiff Howard Shapiro for conservatorship of his father in the New Jersey court
8 system, the Defendants created a website cataloging the bad acts of Plaintiff Howard
9 Shapiro and asking for individuals with more information relating to the case to contact
10 the webmaster, Defendant Glen Welt.

12 **COURT FURTHER FINDS** after review that the Defendants have met their
13 burden to show by a preponderance of the evidence that the lawsuit was filed in an
14 attempt to prevent the good faith communication in connection with an issue of public
15 concern. Here, the website was communication regarding an ongoing lawsuit concerning
16 the rights of an elderly individual, and a matter of public concern under NRS 41.637(4).
17 The Defamation Per Se and Defamation causes of action are direct attempts to prevent
18 the communication from reaching the public; the remaining causes of action are
19 derivative of these substantive causes of action. Defendants have shown that the subject
20 of this lawsuit, the website, is protected under anti-SLAPP statutes.

23 **COURT FURTHER FINDS** after review that Plaintiffs have not shown, through
24 clear and convincing evidence, a probability they will prevail on the lawsuit. The Nevada
25 Supreme Court recently reconfirmed its commitment to an absolute litigation privilege in
26 Jacobs v. Adelson, 130Nev. Adv. Op. 44, 325 P.3d 1282, 1285 (2014). Here, the good
27 faith communication is related to the underlying New Jersey lawsuit and is likely
28

protected. Plaintiffs have not met their burden under NRS 41.660(3)(b) to show that there is a probability of prevailing on the merits.

COURT FURTHER FINDS after review that NRS 41.670 states that the court shall award reasonable costs and attorney's fees after a successful motion to dismiss. The statute also gives the court discretion to allow an additional amount of up to \$10,000 to the person against whom the action was brought.

COURT ORDERS for good cause appearing Defendants' Motion to Dismiss under NRS 41.660 is GRANTED without prejudice. **COURT FURTHER ORDERS** for good cause appearing that Defendants are entitled to their reasonable costs and attorney's fees; counsel to provide an affidavit detailing their costs and fees.

Dated: December 31, 2014


NANCY ALLF
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE


I hereby certify that on or about the date signed I caused the foregoing document to be served by placing same in the attorney folder located at the Regional Justice Center; and/or pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail.

Thorndal, Armstrong, Delk, Balkenbush & Eisinger
Michael P. Lowry, Esq. – m_lowry@thorndal.com

FAX - 702-364-0327

Law Offices of Eric P. Roy
Eric P. Roy, Esq. and Alex Ghibaud, Esq. – eric@ericroylawfirm.com

FAX - 702-924-2517


Karen Lawrence
Judicial Executive Assistant


CLERK OF THE COURT

1 **NOEJ**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: mlowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 HOWARD SHAPIRO and JENNA SHAPIRO,

11 Plaintiffs,

12 vs.

13 GLEN WELT, RHODA WELT, LYNN WELT,
14 MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,

15 Defendants.

Case No.: A-14-706566-C
Dept. No. 27

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO DISMISS**

16 PLEASE TAKE NOTICE that on January 2, 2015, the court entered the attached order
17 granting a motion to dismiss.

18 DATED this 2nd day of January, 2015.

19 THORNDAL, ARMSTRONG, DELK,
20 BALKENBUSH & EISINGER

21 */s/ Michael P. Lowry*

22 Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
23 Attorneys for Glenn Welt, Rhoda Welt,
24 Lynn Welt and Michele Welt
25
26
27
28

Pursuant to NRCp 5(b), on January 2, 2015, **NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

Alvin D. Shuman

CLERK OF THE COURT

4
5 HOWARD SHAPIRO, JEAN SHAPIRO,
6 Plaintiffs

CASE NO.: A-14-706566-C

7 vs.

DEPARTMENT 27

8 GLEN WELT, LYNN WELT, MICHELLE
9 WELT and RHODA WELT, Defendants

10 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

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12 Defendants' Motion to Dismiss was filed on December 15, 2014 and was heard
13 on December 24, 2014 at 10:00 a.m., with a quick setting in compliance with NRS
14 41.660(3)(f); Michael Lowry, Esq. appearing on behalf of Defendants and Evan Swab,
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CLERK OF THE COURT

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<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
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<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1 convincing evidence that there is a probability of it prevailing on the claim. NRS
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5 Defamation; 3) Extortion; 4) Civil Conspiracy; 5) Fraud; and 6) Punitive Damages. These
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7 Plaintiff Howard Shapiro for conservatorship of his father in the New Jersey court
8 system, the Defendants created a website cataloging the bad acts of Plaintiff Howard
9 Shapiro and asking for individuals with more information relating to the case to contact
10 the webmaster, Defendant Glen Welt.

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COURT FURTHER FINDS after review that NRS 41.670 states that the court shall award reasonable costs and attorney's fees after a successful motion to dismiss. The statute also gives the court discretion to allow an additional amount of up to \$10,000 to the person against whom the action was brought.

COURT ORDERS for good cause appearing Defendants' Motion to Dismiss under NRS 41.660 is GRANTED without prejudice. **COURT FURTHER ORDERS** for good cause appearing that Defendants are entitled to their reasonable costs and attorney's fees; counsel to provide an affidavit detailing their costs and fees.

Dated: December 31, 2014


NANCY ALLF
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE


I hereby certify that on or about the date signed I caused the foregoing document to be served by placing same in the attorney folder located at the Regional Justice Center; and/or pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail.

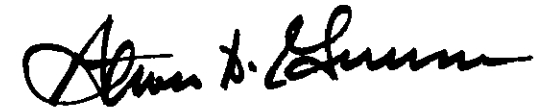
Thorndal, Armstrong, Delk, Balkenbush & Eisinger
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Law Offices of Eric P. Roy
Eric P. Roy, Esq. and Alex Ghibaud, Esq. – eric@ericroylawfirm.com

FAX - 702-924-2517


Karen Lawrence
Judicial Executive Assistant



CLERK OF THE COURT

1 AFFD
2 THORNDAL, ARMSTRONG, DELK,
3 BALKENBUSH & EISINGER
Michael P. Lowry, Esq.
4 Nevada Bar No. 10666
P.O. Drawer 2070
5 Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
6 Fax: (702) 366-0327
Email: mflowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

DISTRICT COURT

CLARK COUNTY, NEVADA

9 HOWARD SHAPIRO and JENNA SHAPIRO,

Case No.: A-14-706566-C

Dept. No. 27

10 Plaintiffs,

11 vs.

AFFIDAVIT IN SUPPORT OF FEES AND
COSTS PER NRS 41.670

12 GLEN WELT, RHODA WELT, LYNN WELT,
13 MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
14 through X, and ROE CORPORATIONS I
through X, inclusive,

15 Defendants.

16 On January 2, 2015 the court entered an order granting a motion to dismiss. The court
17 directed Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt to submit an affidavit
18 concerning their attorneys' fees and costs incurred so the court could enter an order on them per
19 NRS 41.670.

20 Through the filing of this affidavit, the Welts incurred \$14,775.00 in attorneys' fees, or
21 59.1 hours at \$250 per hour, as detailed in the attached billing records. Portions of the billing
22 entries have been redacted for privilege. The Welts also incurred \$554.68 in costs, as detailed
23 in the attached cost ledger. The ledger is missing two \$3.50 entries for court filing fees. The
24 first was for notice of entry of the order granting the motion to dismiss, filed January 2.

25 The Welts request the court enter a judgment of \$15,336.68 against Plaintiffs, jointly
26 and severally, with interest accruing at the judicial rate.

27 ///

28 ///

1 DATED this 5th day of January, 2015.

2 THORNDAL, ARMSTRONG, DELK,
3 BALKENBUSH & EISINGER

4
5 Michael P. Lowry, Esq.
6 P.O. Drawer 2070
7 Las Vegas, NV 89125-2070
8 Attorneys for Glenn Welt, Rhoda Welt,
9 Lynn Welt and Michele Welt

8 AFFIDAVIT OF MICHAEL P. LOWRY

9 STATE OF NEVADA)
10) SS.
11 COUNTY OF CLARK)

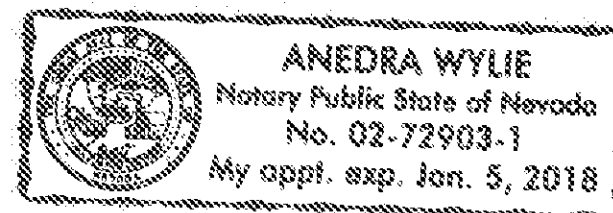
11 Michael P. Lowry, being first duly sworn, deposes and says:

- 12 1. I am counsel of record for Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt in this
13 matter and have personal knowledge of the matters in this affidavit.
14 2. The fees and costs listed in the attached ledgers were reasonably and necessarily incurred in
15 this matter on the Welt's behalf.

16
17 MICHAEL P. LOWRY

18 SUBSCRIBED AND SWORN TO before me
19 this 5th day of January, 2015.

20
21 NOTARY PUBLIC



Pursuant to NRCP 5(b), on January 5, 2015 the **AFFIDAVIT IN SUPPORT OF FEES AND COSTS PER NRS 41.670** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

=====									
FEES									
Date	Emp	Hours	Dollars	Gp	B	P			
09/15/14	MPL	0.30	75.00		B	P	Telephone call with Glenn Welt re facts of case and scope of retention.		
09/16/14	MPL	0.20	50.00		B	P	Telephone call with Glenn Welt re strategy of		
09/18/14	MPL	0.10	25.00		B	P	Analysis of correspondence from Glenn Welt re no service on Michelle Welt.		
09/19/14	MPL	0.20	50.00		B	P	Telephone call with Glenn Welt re hearing in New Jersery and strategy of		
09/22/14	MPL	0.30	75.00		B	P	Draft correspondence to Glenn Welt re strategy of		
09/22/14	MPL	0.20	50.00		B	P	Draft correspondence to Alex Ghibaudo re representing Welts, service of process and anti-SLAPP motion.		
09/22/14	MPL	0.10	25.00		B	P	Analysis of correspondence from Glenn Welt re NJ hearing.		
09/22/14	MPL	0.10	25.00		B	P	Analysis of correspondence from Lynn Welt re		
09/22/14	MPL	0.10	25.00		B	P	Analysis of correspondence from Glenn Welt re		

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
09/22/14	MPL	0.20	50.00	B P	Analysis of correspondence from Glenn Welt re service of process and
09/22/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re Allen Shapiro's statement against Howard.
09/22/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
09/22/14	MPL	0.20	50.00	B P	Draft correspondence to Alex Ghibauda re lack of jurisdiction over clients, insisting on service of process and applying anti-SLAPP to case.
09/23/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re u
09/23/14	MPL	0.10	25.00	B P	Analysis of correspondence from Michele Welt re persuading
09/23/14	MPL	0.10	25.00	B P	Draft correspondence to Michele Welt re probability of early dismiss
09/23/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
09/23/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
09/23/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
09/23/14	MPL	0.10	25.00	B P	Analysis of correspondence from Michele Welt re
09/24/14	MPL	0.10	25.00	B P	Analysis of correspondence from Michele Welt
09/24/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re communications
09/24/14	MPL	0.10	25.00	B P	Analysis of more correspondence from Glenn Welt re
09/24/14	MPL	0.40	100.00	B P	Draft correspondence to Glenn Welt re
09/24/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
09/24/14	MPL	0.10	25.00	B P	Analysis of correspondence from Michele Welt re

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
09/24/14	MPL	0.10	25.00	B P	Draft correspondence to Michele Welt re potential pros/cons
09/24/14	MPL	0.10	25.00	B P	Analysis of correspondence from Michele Welt re
09/25/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re anticipated hearing schedule on anti-SLAPP motions.
09/25/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re anticipated hearing schedule on anti-SLAPP motions
09/25/14	MPL	0.10	25.00	B P	Draft correspondence to Michele Welt re timeline
09/25/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re alternative timelines for hearing on anti-SLAPP.
09/25/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
09/25/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
09/25/14	MPL	0.10	25.00	B P	Analysis of correspondence from Michele Welt re service of process.
09/25/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt approving
09/26/14	MPL	0.10	25.00	B P	Draft initial appearance fee disclosure for Rhoda & Lynn.
09/26/14	MPL	0.10	25.00	B P	Draft NRS 18.130 demand for security of costs for Rhoda & Lynn.
09/27/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
09/29/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt
09/29/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt t
10/01/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re New J
10/01/14	MPL	0.10	25.00	B P	Telephone call with Glenn Welt re status of service of process and filing demand for security of costs.
10/01/14	MPL	0.10	25.00	B P	Draft NRCP 7.1 disclosure for judicial conflict check.

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
10/02/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re demand for security of costs filed for Rhoda & Lynn.
10/03/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re Michele Welt has been served.
10/03/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re .
10/04/14	MPL	5.80	1,450.00	B P	Begin drafting motion to dismiss for Rhoda & Lynn. Draft detailed factual section and begin preparing declarations re jurisdictional facts. Begin drafting argument that Nevada lacks either general or specific jurisdiction over them due to lack of contacts with state. Begin drafting section of motion that explains to court the basis of Nevada's anti-SLAPP statutes and the standard of review for these motions.
10/05/14	MPL	5.20	1,300.00	B P	Continue drafting motion to dismiss for Rhoda and Lynn. Draft section arguing that if they made any statements that were repeated on the website, these statements were protected communications for the purpose of the anti-SLAPP statute and argue Shapiro's lack of clear and convincing evidence to demonstrate a probability of success on the merits.
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re .
10/06/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re .
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt asking if .
10/06/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re .
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re advice .
10/06/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re .
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re edits .
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re foregoing .
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Lynn Welt re proposed .
10/06/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re basis for

Date	Emp	Hours	Dollars	Gp	
10/07/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
10/08/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re procedure for
10/08/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re merits of
10/08/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re strategy options for
10/08/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re merits of strategy options for
10/08/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt instructing to
10/08/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt correcting instructions to
10/08/14	MPL	0.40	100.00	B P	Draft correspondence to Glenn Welt re
10/08/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re strategy of
10/08/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re can f
10/08/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt confirming instructions to a
10/09/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt
10/09/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt
10/09/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re anticipated
10/10/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
10/10/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re

Date	Emp	Hours	Dollars	Gp	
10/10/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
10/13/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
10/13/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
10/13/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re ability to
10/13/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re not yet able
10/13/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re instructions to
10/13/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re strategy for
10/13/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt instructing to
10/13/14	MPL	0.10	25.00	B P	Draft NRS 18.130 demand for security of costs for Glenn & Michele
10/13/14	MPL	0.10	25.00	B P	Draft initial appearance fee disclosure for Glenn & Michele.
10/13/14	MPL	0.10	25.00	B P	Draft NRCP 7.1 disclosure statement for Glenn & Michele.
10/14/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re possibility t
10/14/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re merits of f
10/14/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re options for
10/14/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt instructing to f
10/16/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re status of g
10/16/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
10/17/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re updates
10/28/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
10/29/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
10/29/14	MPL	0.30	75.00	B P	Draft correspondence to Glenn Welt re
10/29/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re details of r
10/29/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
10/29/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re meaning of
10/29/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
10/29/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
11/07/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re whether
11/07/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
11/13/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re
11/14/14	MPL	0.40	100.00	B P	Finalize motion to dismiss for failure to post security of costs by deadline.
11/14/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re hearing date for motion to dismiss for failure to post security of costs by deadline.
11/17/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re requirement that
11/17/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re
11/18/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re strategy of

Date	Emp	Hours	Dollars	Gp	
11/18/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re considerations for .
11/18/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re pursuing strategy of .
11/18/14	MPL	0.20	50.00	B P	Draft correspondence to Glenn Welt re .
11/18/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re .
11/19/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re .
11/19/14	MPL	0.20	50.00	B P	Legal analysis of 4 cost bonds filed for Howard and Jenna Shapiro.
11/19/14	MPL	0.20	50.00	B P	Draft correspondence to Glenn Welt .
11/19/14	MPL	0.10	25.00	B P	Draft correspondence to Evan Schwab re failure to serve cost bonds.
11/19/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re .
11/19/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re strategy of .
11/19/14	MPL	0.10	25.00	B P	Draft correspondence to Glenn Welt re advising on .
11/19/14	MPL	0.10	25.00	B P	Analysis of correspondence from Glenn Welt re .
12/01/14	MPL	0.10	25.00		Analysis of correspondence from Evan Schwab re cost bonds and requesting that motion to dismiss be withdrawn.
12/01/14	MPL	0.10	25.00		Draft correspondence to Evan Schwab re cost bonds did not meet minimum demanded and declining to withdraw motion to dismiss.
12/01/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re .
12/01/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re .

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
12/01/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re
12/01/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/02/14	MPL	0.10	25.00		Telephone call with Evan Schwab re basis for \$4,000 demand for security.
12/03/14	MPL	0.10	25.00		Draft correspondence to Evan Schwab re file-stamped copies of demands for security for each defendant.
12/04/14	MPL	0.20	50.00		Legal analysis of Shapiros' opposition to motion to dismiss.
12/04/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re impact of
12/04/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re impact of
12/04/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/04/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/04/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/05/14	MPL	0.20	50.00		Draft correspondence to Glenn Welt answering
12/05/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re strategy of
12/06/14	MPL	1.90	475.00		Draft reply supporting motion to dismiss per NRS 18.130.
12/08/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re strategy of
12/08/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re strategic
12/08/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re timing of
12/08/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
12/08/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re further
12/08/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re understand
12/08/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re potential of
12/08/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re potential
12/10/14	MPL	0.20	50.00		Finalize and file reply re NRS 18.130 motion to dismiss.
12/10/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/10/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re
12/10/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/11/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re strategy of p
12/11/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/11/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re
12/11/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/11/14	MPL	2.60	650.00		Resume drafting anti-SLAPP motion to dismiss; analysis of whether Howard Shapiro is a public figure for purposes of defamation analysis.
12/12/14	MPL	0.10	25.00		Legal analysis of second set of cost bonds.
12/12/14	MPL	0.10	25.00		Analysis of correspondence from Evan Schwab re second set of cost bonds and withdrawing motion to dismiss for lack of them.
12/12/14	MPL	0.10	25.00		Draft correspondence to Evan Schwab re improper service of second set of cost bonds.
12/12/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
12/12/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re additional .
12/12/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re .
12/12/14	MPL	1.20	300.00		Resume drafting anti-SLAPP motion to prepare for 12/15 filing.
12/12/14	MPL	0.10	25.00		Legal analysis of Shapiros' supplemental opposition.
12/15/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re notice of .
12/15/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re notice of .
12/15/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re .
12/15/14	MPL	0.20	50.00		Telephone call with Glenn Welt re .
12/15/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re .
12/15/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re .
12/15/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re .
12/15/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re filing .
12/15/14	MPL	7.30	1,825.00		Continue drafting anti-SLAPP motion to dismiss noting that Howard Shapiro is a public figure for purposes of the conservatorship proceedings and must show actual malice to prevail on Nevada defamation claims.
12/15/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re locating .
12/15/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re anti-SLAPP motion set for hearing on 12/24, complies with NRS 41.660(f) scheduling requirements.
12/15/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re .
12/15/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re .
12/16/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re

WELTG-SHAPIRO
Glenn Welt

CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER

Run On 01/05/15 01/01/81-01/05/15
Glen Welt; Lynn Welt; Michelle Welt;

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Date	Emp	Hours	Dollars	Gp	
12/16/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re ?
12/16/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt
12/16/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re reasons
12/16/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/16/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re
12/16/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/17/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/17/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re documentation
12/17/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re
12/17/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re need
12/18/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re impact of
12/18/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re updated
12/19/14	MPL	0.10	25.00		Analysis of correspondence from Alex Ghibauda re opposition to anti-SLAPP motion.
12/19/14	MPL	0.10	25.00		Draft correspondence to Alex Ghibauda re inappropriate service of opposition to anti-SLAPP motion.
12/19/14	MPL	0.10	25.00		Analysis of correspondence from Alex Ghibauda acknowledging inappropriate service of opposition to anti-SLAPP motion.
12/19/14	MPL	0.30	75.00		Analysis of correspondence from Shapiros' opposition to anti-SLAPP motion.
12/19/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re

Date	Emp	Hours	Dollars	Gp		
12/19/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/19/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re	.
12/19/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re strategy of	?
12/19/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re	.
12/19/14	MPL	5.20	1,300.00		Draft reply supporting anti-SLAPP motion.	
12/20/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/22/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re pros/cons to	.
12/22/14	MPL	0.10	25.00		Legal analysis of	.
12/22/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re merits of	.
12/22/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/23/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/23/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/24/14	MPL	2.40	600.00		Prepare oral argument for court re merits of anti-SLAPP motion.	
12/24/14	MPL	1.40	350.00		Attend court hearing re anti-SLAPP motion.	
12/24/14	MPL	0.20	50.00		Draft correspondence to Glenn Welt re minutes of court hearing on anti-SLAPP motion and	.
12/24/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re obtaining	.
12/24/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re	.
12/24/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re obtaining	.

WELTG-SHAPIRO Glenn Welt		CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER			Run On 01/05/15 01/01/81-01/05/15 Glen Welt; Lynn Welt; Michelle Welt;	Page 014/014
Date	Emp	Hours	Dollars	Gp		
12/29/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/29/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re	.
12/29/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re deadline for	.
12/29/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re anticipated deadline	.
12/29/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re updated	.
12/29/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/29/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re	.
12/29/14	MPL	0.10	25.00		Legal analysis of NJ order resolving conservatorship.	
12/29/14	MPL	0.10	25.00		Draft supplemental brief re NJ order resolving conservatorship.	
12/29/14	MPL	0.10	25.00		Draft correspondence to Glenn Welt re need to	.
12/29/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re	.
12/30/14	MPL	0.10	25.00		Telephone call with Alex Ghibaudo re status of court's ruling.	
12/31/14	MPL	0.20	50.00		Legal analysis of order granting anti-SLAPP motion.	
12/31/14	MPL	0.30	75.00		Draft correspondence to Glenn Welt analyzing impact of order granting anti-SLAPP motion,	.
12/31/14	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re interpretation of	.
01/02/15	MPL	0.10	25.00		Per local rules, draft notice of entry of order granting anti-SLAPP motion.	
01/02/15	MPL	0.10	25.00		Draft correspondence to Alex Ghibaudo re notice of entry on order granting anti-SLAPP motion.	
01/05/15	MPL	0.10	25.00		Analysis of correspondence from Glenn Welt re using	

Date	Emp	Hours	Dollars	Gp	
01/05/15	MPL	0.10	25.00		Draft correspondence to Glenn Welt re collecting
01/05/15	MPL	0.60	150.00		Draft affidavit detailing fees and costs recoverable per court order and statute.
Total FEES		-----	-----	-----	
		59.10	14,775.00	59.10	14,775.00 (CP 01/01/81 - 01/05/15)
		59.10	14,775.00	59.10	14,775.00 (CTD Through 01/05/15)
		=====	=====	=====	
		Actual Hours/\$		Billable Hours/\$	

Fee Analysis (CP 01/01/81 - 01/05/15)						
Code	Name	-----	Actual	-----	Actual \$/	-----
		Hours	Dollars	Actual Hrs	Hours	Billable
					Dollars	-----
						Billable\$/
						Actual Hrs
MPL	Michael P. Lowry, Associate	59.10	14,775.00	250.00	59.10	14,775.00
						250.00

=====						
COSTS - Direct				COSTS - Direct		
Date	Units	Dollars	Gp			
10/03/14		3.50		B P	E112 - Mandatory Clark County Electronic Filing Fee re: Rhonda Welt and Lynn Welt's NRCP 7.1 Disclosure Statement	
10/03/14		3.50		B P	E112 - Mandatory Clark County Electronic Filing Fee re: Initial Appearance Fee Disclosure for Rhoda Welt and Lynn Welt	
10/03/14		264.09		B P	E112 - Mandatory Clark County Electronic Filing Fee re: Rhoda Welt and Lynn Welt's Demand for Security of Costs	
10/15/14		3.50		B P	E112 - Mandatory Clark County Electronic Filing Fee re: Glenn Welt & Michele Welt's Initial Appearance Fee Disclosure	
10/15/14		3.50		B P	E112 - Mandatory Clark County Electronic Filing Fee re: Glenn Welt & Michele Welt's NRCP 7.1 Disclosure Statement	
10/15/14		264.09		B P	E112 - Mandatory Clark County Electronic Filing Fee re: Glenn Welt & Michele Welt's Demand for Security of Costs	
11/08/14	MPL	2.00		B P	E106 - PACER - online research	
12/11/14		3.50			E112 - Mandatory Clark County Electronic Filing Fee re: Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Reply re Motion to Dismiss	
12/16/14		3.50			E112 - Mandatory Clark County Electronic Filing Fee re: Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Motion to Dismiss	
12/16/14		3.50			E112 - Mandatory Clark County Electronic Filing Fee re: Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Notice of Withdrawal of Motion	

Tot DIR COSTS	-----	-----	
	554.68	554.68	(CP 01/01/81 - 01/05/15)
	554.68	554.68	(CTD Through 01/05/15)
	-----	-----	
	Actual Units/\$	Billable Units/\$	


CLERK OF THE COURT

**RIS
THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER**
Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: mlowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

HOWARD SHAPIRO and JENNA SHAPIRO,
Plaintiffs,

vs.

GLEN WELT, RHODA WELT, LYNN WELT,
MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,
Defendants.

Case No.: A-14-706566-C
Dept. No. 27

**REPLY IN SUPPORT OF AFFIDAVIT RE
FEES AND COSTS PER NRS 41.670**

On January 2, 2015 the court entered an order granting a motion to dismiss. The court directed Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt to submit an affidavit concerning their attorneys' fees and costs incurred so the court could enter an order on them per NRS 41.670. The affidavit was filed on January 5, supported by records and requested judgment of \$15,336.68 against Plaintiffs, jointly and severally, with interest accruing at the judicial rate.

Plaintiffs opposed this request on January 15. The opposition appears to first argue the Welts are only permitted to recover the time reasonably spent on the motion to dismiss. This position contradicts the plain language of NRS 41.670. When an anti-SLAPP special motion to dismiss is granted, the court "shall award reasonable costs and attorney's fees to the person against whom the action was brought..."¹ The statute does not limit those fees and costs to those incurred in preparing and arguing the motion.

¹ NRS 41.660(1)(a).

Limiting the statute in the manner Plaintiffs suggest would be contrary to the purpose of the entire anti-SLAPP structure. “A SLAPP suit is a meritless lawsuit that a party initiates primarily to chill a defendant’s exercise of his or her First Amendment free speech rights.”² “The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial advantage over one’s adversary by increasing litigation costs until the adversary’s case is weakened or abandoned.”³ If the recoverable attorneys’ fees and costs are limited like Plaintiffs advocate, the financial incentives to pursue a SLAPP lawsuit would still exist.

Second, the opposition argues the fees incurred in this case were excessive. It criticizes the amount of time spent communicating with the Welts about this lawsuit. The clients control the ultimate objective of any litigation and an attorney is obligated to keep the client reasonably informed of the matter so the client may make informed decisions. The communications with the Welts were necessary and a reasonable part of preparing their defense.

The opposition then criticizes the amount of time spent drafting the anti-SLAPP motion, but does not suggest an alternative that would have been reasonable. The Nevada statute at issue was amended in 2013 and there have been no Nevada cases interpreting it yet. Having no authority on point, it was necessary to extensively analyze the statutes and decisions of other jurisdictions. The result was a 23 page motion that marshaled all the relevant facts and persuasive case law for the court's consideration in one concise document. Given the novelty of the law the Welts sought to apply, the time spent preparing this issue for the court is reasonable.

The Welts request judgment be entered as originally requested.

DATED this 16th day of January, 2015.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER/s/ *Michael P. Lowry*

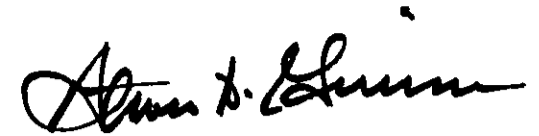
Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

² *Stubbs v. Strickland*, 129 Nev. Adv. Op. 15, 297 P.3d 326, 329 (2013) (citations omitted).

³ *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 752, 219 P.3d 1276, 1280 (2009).

Pursuant to NRCp 5(b), on January 16, 2015 the **REPLY IN SUPPORT OF AFFIDAVIT RE FEES AND COSTS PER NRS 41.670** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger



CLERK OF THE COURT

NTC

ALEX GHIBAUDO, ESQ.

Nevada Bar No. 10592

SCHWAB LAW GROUP

2800 W. Sahara Ave., Suite 1H

Las Vegas, NV 89102

T: (702) 489-4442

F: (702) 489-4812

alex@slglasvegas.com

Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

HOWARD SHAPIRO and)

JENNA SHAPIRO)

Plaintiffs)

vs.)

GLEN WELT, RHODA WELT,)

LYNN WELT, MICHELLE WELT,)

Individuals; CHECKSNET.COM,)

a corporation; DOES I through X, and)

ROE CORPORATIONS I through X,)

Inclusive,)

Defendants.)

CASE NO.: A-14-706566-C

DEPT.: XXVII

NOTICE OF APPEAL

Notice is hereby given that Plaintiffs above named hereby appeals to the Supreme Court of Nevada from the court's issuance of ORDER GRANTING DEFENDANTS' MOTION TO DISMISS entered on August 31, 2014 with the NOTICE OF ENTRY OF ORDER filed and served on January 2, 2015 by electronic means.

///

///

///

1 DATED this 2nd of February, 2015.

2 **SCHWAB LAW GROUP**

3 
 4 **ALEX GHISBAUDO, ESQ.**

5 Nevada Bar No. 10592

6 2800 W. Sahara Ave., Suite 1H

7 Las Vegas, NV 89102

8 T: (702) 489-4442

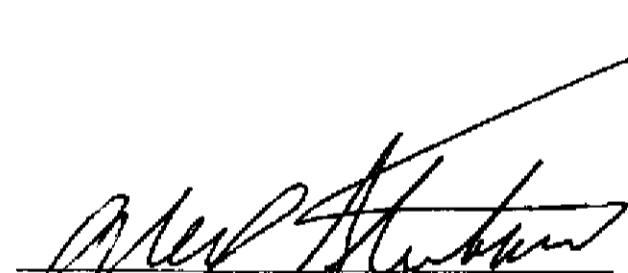
9 F: (702) 489-4812

10 alex@sglasvegas.com

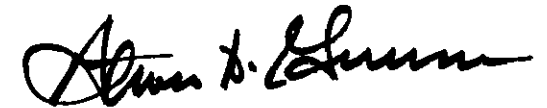
11 *Attorney for Plaintiff*

12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY that on the 2nd day of February, 2015, NOTICE OF APPEAL was
 14 served upon each of the parties via electronic service through the Eighth Judicial District Court's
 15 Odyssey E-File and Serve system.

16 
 17 An Employee of the
 18 Schwab Law Group

19 Schwab Law Group
 20 2800 W. Sahara Ave., Suite 1H
 21 Las Vegas, Nevada 89102



CLERK OF THE COURT

1 **NOAS**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: mlowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

DISTRICT COURT

CLARK COUNTY, NEVADA

HOWARD SHAPIRO and JENNA SHAPIRO, Case No.: A-14-706566-C
Dept. No. 27
Plaintiffs,

vs.

GLEN WELT, RHODA WELT, LYNN WELT,
MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

NOTICE OF CROSS-APPEAL

Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt appeal to the Supreme Court of Nevada that part of the district court's January 2, 2015 order denying relief per NRS 41.660(1)(b). Notice of entry of this order was served on January 2, 2015. Howard Shapiro and Jenna Shapiro filed a notice of appeal concerning this ruling on February 2, 2015 and the appeal is assigned Supreme Court docket number 67363. This cross-appeal is timely per NRAP 4(a)(2).

DATED this 13th day of February, 2015.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER

/s/ Michael P. Lowry

Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

Pursuant to NRCp 5(b), on February 13, 2015 the **NOTICE OF CROSS-APPEAL** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**


CLERK OF THE COURT

4 HOWARD SHAPIRO, JEAN SHAPIRO,
5 Plaintiffs

CASE NO.: A-14-706566-C

6 vs.

DEPARTMENT 27

7
8 GLEN WELT, LYNN WELT, MICHELLE
9 WELT and RHODA WELT, Defendants

10 **ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES**

11
12 **COURT FINDS** after review that the Court's entered an Order Granting
13 Defendants' Motion to Dismiss under the anti-SLAPP provisions of NRS 41.660 on
14 January 2, 2015. As part of the order, the Court stated it would allow reasonable
15 attorneys' fees under NRS 41.670 and requested Defendants' counsel provide an affidavit
16 detailing their costs and fees.

17
18 **COURT FURTHER FINDS** after review Defendants filed their Affidavit in
19 Support of Fees and Costs per NRS 41.670 on January 5, 2015, requesting \$14,775.00 in
20 attorneys' fees (59.1 hours at \$250.00 per hour) and \$554.68 in costs. Plaintiffs filed their
21 Response on January 15, 2015 and Defendants' filed their Reply in Support on January
22 17, 2015.

23
24 **COURT FURTHER FINDS** after review that NRS 41.670(1)(a) allows for an
award of reasonable attorneys fees if a defendant prevails on a motion to dismiss.

25
26 **COURT FURTHER FINDS** after review the award of attorneys' fees is within
the Court's discretion in applying the factors set forth in Brunzell v. Golden Gate Nat.
Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Here, the hourly rate of \$250 is

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CLERK OF THE COURT

reasonable considering the skill and experience of the attorney. The character of the work done was intricate, and required research into a developing area of law. However, Defendants affidavit requested attorneys' fees that accrued throughout the entirety of the case. In applying a reasonableness standard, it is appropriate to only allow the work specifically relating to the successful Motion to Dismiss under NRS 41.660.¹ The totality of the costs are allowable.

COURT ORDERS for good cause appearing Defendants are awarded \$4,500 in attorneys' fees and \$554.68 in costs as reasonable under NRS 41.670(1)(a).

Dated: February 18, 2015



 NANCY ALLF
 DISTRICT COURT JUDGE

¹ In reviewing the Defendants' Affidavit in Support of Fees and Costs per NRS 41.670, the Court determines the following entries are reasonable:

December 11, 2014	2.60 hours	\$650.00
December 12, 2014	1.20 hours	\$300.00
December 15, 2014	7.30 hours	\$1,825.00
December 19, 2014	0.30 hours	\$75.00
December 19, 2014	5.20 hours	\$1,300.00
December 22, 2014	0.10 hours	\$25.00
December 29, 2014	0.10 hours	\$25.00
December 31, 2014	0.20 hours	\$50.00
December 31, 2014	0.30 hours	\$75.00
January 2, 2015	0.10 hours	\$25.00
January 5, 2015	0.60 hours	\$150.00
<u>Total</u>	<u>18.00 hours</u>	<u>\$4,500.00</u>

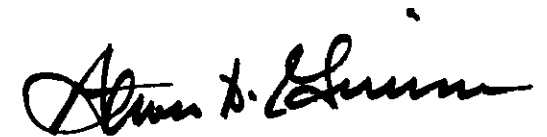
1
2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on or about the date signed I caused the foregoing document to
5 be served by placing same in the attorney folder located at the Regional Justice Center;
6 and/or by fax; and/or pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served
7 through the Eighth Judicial District Court's electronic filing system, with the date and
time of the electronic service substituted for the date and place of deposit in the mail.

8 Thorndal, Armstrong, Delk, Balkenbush & Eisinger
9 Michael P. Lowry, Esq. – mlowry@thorndal.com
Fax: 702-366-0327

10 Schwab Law Group
11 Alex Ghibaud, Esq. – alex@slglasvegas.com
Fax: 702-489-4812

12
13 
14 Karen Lawrence
Judicial Executive Assistant



CLERK OF THE COURT

1 **NOEJ**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: mlowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

DISTRICT COURT

CLARK COUNTY, NEVADA

HOWARD SHAPIRO and JENNA SHAPIRO,

Case No.: A-14-706566-C

Dept. No. 27

Plaintiffs,

vs.

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION FOR ATTORNEYS'
FEES**

GLEN WELT, RHODA WELT, LYNN WELT,
MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

PLEASE TAKE NOTICE that on February 20, 2015, the court entered the attached
order granting a motion for attorneys' fees.

DATED this 20th day of February, 2015.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER

/s/ Michael P. Lowry

Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

Pursuant to NRCP 5(b), on February 20, 2015, **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ATTORNEYS' FEES** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

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02/20/2015 10:56:10 AM

1 **ORDR**



CLERK OF THE COURT

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 HOWARD SHAPIRO, JEAN SHAPIRO,
5

CASE NO.: A-14-706566-C

6 Plaintiffs

7 vs.

DEPARTMENT 27

8 GLEN WELT, LYNN WELT, MICHELLE
9 WELT and RHODA WELT, Defendants

10 **ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES**

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CLERK OF THE COURT

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COURT ORDERS for good cause appearing Defendants are awarded \$4,500 in attorneys' fees and \$554.68 in costs as reasonable under NRS 41.670(1)(a).

Dated: February 18, 2015



 NANCY ALLF
 DISTRICT COURT JUDGE

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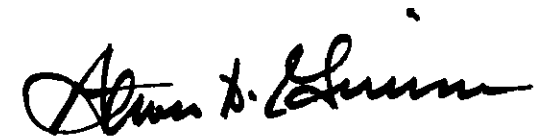
1
2
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6 and/or by fax; and/or pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served
7 through the Eighth Judicial District Court's electronic filing system, with the date and
time of the electronic service substituted for the date and place of deposit in the mail.

8 Thorndal, Armstrong, Delk, Balkenbush & Eisinger
9 Michael P. Lowry, Esq. – mlowry@thorndal.com
Fax: 702-366-0327

10 Schwab Law Group
11 Alex Ghibaud, Esq. – alex@slglasvegas.com
12 Fax: 702-489-4812

13 
14 Karen Lawrence
15 Judicial Executive Assistant
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CLERK OF THE COURT

1 **NOAS**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**

Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: mlowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

7
8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 HOWARD SHAPIRO and JENNA SHAPIRO, Case No.: A-14-706566-C
Dept. No. 27
11 Plaintiffs,

12 vs.

13 GLEN WELT, RHODA WELT, LYNN WELT,
14 MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,

15 Defendants.

NOTICE OF APPEAL

16 Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt appeal to the Supreme Court of
17 Nevada that the district court's February 20, 2015 order on their motion for attorneys' fees.
18 Notice of entry of this order was served on February 23, 2015. The Welts and Shapiros have
19 already appealed the court's prior, dispositive order. The appeal is assigned Supreme Court
20 docket number 67363.

21 DATED this 14th day of March, 2015.

22 THORNDAL, ARMSTRONG, DELK,
23 BALKENBUSH & EISINGER

24 */s/ Michael P. Lowry*

25 Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
26 Attorneys for Glenn Welt, Rhoda Welt,
27 Lynn Welt and Michele Welt
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), on March 14, 2015 the **NOTICE OF APPEAL** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

/s/ Michael P. Lowry

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger



Morris County **Document Summary Sheet**

MORRIS COUNTY
PO BOX 315
COURT STREET
MORRISTOWN NJ 07963 0315

MORRIS COUNTY, NJ
Joan Bramhall
LPF-OR BOOK 22426 PG 304
RECORDED 09/24/2013 11:37:33
FILE NUMBER 2013077756
RCPT # 908187; RECD BY: eRecord
RECORDING FEES 104.00
INDEX FEE 54.00
Official Use Only

Transaction Identification Number

2084864 1298890

Submission Date(mm/dd/yyyy)	09/24/2013
No. of Pages (excluding Summary Sheet)	2
Recording Fee (excluding transfer tax)	\$104.00
Realty Transfer Tax	\$0.00
Total Amount	\$104.00

Return Address *(for recorded documents)*

PHELAN, HALLINAN & SCHMIDT, P.C.
400 FELLOWSHIP ROAD
SUITE 100
MT. LAUREL NJ 08054

Document Type LIS PENDEN/FORECLOSURE

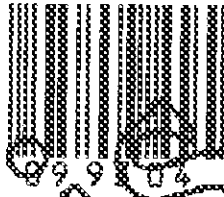
Municipal Codes

JEFFERSON TWP 1414

Batch Type

L2 - LEVEL 2 (WITH IMAGES)

Bar Code(s)



Additional Information (Official Use Only)

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RETAIN THIS PAGE FOR FUTURE REFERENCE.**



Morris County **Document Summary Sheet**

LIS
PENDEN/FORECL
OSURE

Type	LIS PENDEN/FORECLOSURE			
Consideration				
Submitted By	PHELAN, HALLINAN & SCHMIEG, P.C.			
Document Date	06/19/2013			
Reference Info				
Book ID	Book	Beginning Page	Instrument No	Recorded/File Date
M	18098	235		
DEFENDANT	Name		Address	
	HOWARD SHAPIRO			
	FICTITIOUS SPOUSE			
	JENNA THORSLAND SHAPIRO			
	FICTITIOUS SPOUSE			
	CITIBANK, NA			
	JPMORGAN CHASE BANK, N.A.			
	HOME VEST CAPITAL LLC			
	VALLEY NATIONAL BANK			
	PNC BANK, NA			
	UNIVERSAL SUPPLY GROUP INC			
	UNKNOWN TENANTS			
	BANK OF AMERICA			
PLAINTIFF	Name		Address	
	US BANK NATIONAL ASSOCIATION			
	BEAR STEARNS ASSET BACKED SECURITIES I TRUST 2005-AC2			

** DO NOT REMOVE THIS PAGE.
COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF MORRIS COUNTY FILING RECORD.
RETAIN THIS PAGE FOR FUTURE REFERENCE.*



Morris County
Document Summary Sheet

Parcel Info

Property Type

Tax Dist.

Block

Lot

Qualifier

Municipality

This is not a certified copy

** DO NOT REMOVE THIS PAGE.*

COVER SHEET (DOCUMENT SUMMARY FORM) IS PART OF MORRIS COUNTY FILING RECORD.

RETAIN THIS PAGE FOR FUTURE REFERENCE.

146957
 Phelan Hallinan & Diamond, PC
 400 Fellowship Road, Suite 100
 Mt. Laurel, NJ 08054
 Phone: 856-813-5500
 Attorneys for Plaintiff

US BANK NATIONAL ASSOCIATION, AS
 TRUSTEE FOR BEAR STEARNS ASSET
 BACKED SECURITIES I TRUST 2005-AC2
 ASSET-BACKED CERTIFICATES, SERIES
 2005-AC2
 PLAINTIFF

Vs.

HOWARD SHAPIRO,
 MRS. HOWARD SHAPIRO, HIS WIFE;
 JENNA THORSLAND SHAPIRO,
 MR. SHAPIRO, HUSBAND OF JENNA
 THORSLAND SHAPIRO;
 CITIBANK, NA;
 JPMORGAN CHASE BANK, N.A.;
 HOME VEST CAPITAL LLC, SUCCESSOR IN
 INTEREST TO BANK OF AMERICA, NA;
 VALLEY NATIONAL BANK;
 PNC BANK, NA;
 UNIVERSAL SUPPLY GROUP INC.;
 UNKNOWN TENANTS
 DEFENDANT(S)

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION
 MORRIS COUNTY

DOCKET NO: F-019298-12

CIVIL ACTION
 NOTICE OF LIS PENDENS

TO WHOM IT MAY CONCERN

Notice is hereby given of the commencement and pendency of the above-entitled Civil Action, the general objects of which are:

1. To foreclose the following mortgage covering the premises hereinafter described, to wit:

Mortgage made by HOWARD SHAPIRO and JENNA THORSLAND SHAPIRO and given to UNION FEDERAL BANK OF INDIANAPOLIS dated November 19, 2004 and recorded December 3, 2004 in the Office of the MORRIS County Clerk in Book 18098, Page 235. Said mortgage was subsequently assigned to Plaintiff herein.


2. To recover possession of the lands and premises hereinafter described.

The land and premises to be affected by said suit are described in Exhibit "A" annexed hereto.

3. The Foreclosure Complaint in the above-entitled action was filed in the Office of the Clerk of the Superior Court of New Jersey on June 6, 2013.

PHELAN HALLINAN & DIAMOND, PC

Date: June 19, 2013

By: 
 John D. Krohn, Esq.
 Attorney for Plaintiff

All that certain lot, tract or parcel of land, lying and situated at 523 Skyline Drive, Township of Jefferson, Morris County and State of New Jersey, bounded and described as follows:

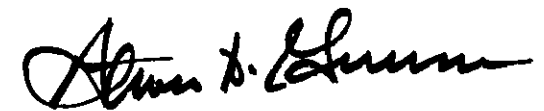
Beginning at a point on the Easterly line of Skyline Drive, said point being located a distance of 1,859.24' from the intersection of the Easterly line of Skyline Drive and the terminus of a curve leading from Hunters Ridge and from said point running THENCE

1. North 60 degrees 00 minutes 34 seconds East 156.46' to a point; THENCE
2. South 00 degrees 28 minutes 23 seconds East 135.1' to a point; THENCE
3. South 70 degrees 17 minutes 48 seconds West 103.35' to a point on the Easterly line of Skyline Drive; THENCE
4. Along the Easterly line of Skyline Drive North 19 degrees 42 minutes 12 seconds West 32.85' to a point of curvature; THENCE
5. Still further along the Easterly line of Skyline Drive on a curve to the left having a radius of 375.00' and an arc length of 67.33' to the point and place of beginning

Being known and designated as Lot 25 Block 250.05 as shown on the Tax Maps of the Township of Jefferson. Being also known as Lot 25 Block 250.05 as shown on a certain map entitled "Jefferson Village Final Plat Phase B" situated in the Township of Jefferson, Morris County, New Jersey. Filed in the Morris County Clerks Office.

Description prepared in accordance with survey of Keller & Kirkpatrick, dated 9/25/03.

Legal taken from the deed as referenced in the mortgage.



CLERK OF THE COURT

ROPP
THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER
Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: m_lowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

DISTRICT COURT

CLARK COUNTY, NEVADA

HOWARD SHAPIRO and JENNA SHAPIRO,

Plaintiffs,

vs.

GLEN WELT, RHODA WELT, LYNN WELT,
MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

Case No.: A-14-706566-C
Dept. No. 27

**GLENN WELT, RHODA WELT, LYNN
WELT & MICHELE WELT'S REPLY RE
MOTION TO DISMISS**

Hearing Date: December 24, 2014

Hearing Time: 10:00 a.m.

Glenn Welt, Rhoda Welt, Lynn Welt and Michele Welt reply to the opposition. The opposition offers no new evidence beyond the exhibits attached to the complaint. It unilaterally declares the comments on the website do not fall within the definitions of Nevada's anti-SLAPP statutes but offers not one citation to authority supporting that argument or even an authority that contradicts the extensive authority in the Welts' opening brief. The Supreme Court of Nevada has already concluded a narrative argument is insufficient to defeat an anti-SLAPP motion and this court should too.

DATED this 19th day of December, 2014.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER

/s/ Michael P. Lowry

Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

MEMORANDUM OF POINTS & AUTHORITIES

I. The statements on the website are within the definition of those protected by Nevada's anti-SLAPP statutes.

a. The website addresses an issue of public concern.

The Welts contend all of the statements on www.howardshapirovictims.com are within the definition of those protected by Nevada's anti-SLAPP statutes. The opposition first asserts these statements do not address an issue of public concern. It cites no authority to support this argument.

"A person who engages in a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from any civil action for claims based upon the communication."¹ NRS 41.637 defines "[g]ood faith communication in furtherance of the right ... to free speech in direct connection with an issue of public concern." This term includes a "[w]ritten or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law."² These protections extend to any communication "which is truthful or is made without knowledge of its falsehood."³

None of the parties located Nevada authority interpreting these definitions, likely because of their recent enactment. The Welts instead rely upon persuasive California authority interpreting the very California statute that the Nevada Legislature used to model its own anti-SLAPP laws. In California, "statements, writings and pleadings in connection with civil litigation are covered by the anti-SLAPP statute, and that statute does not require any showing that the litigated matter concerns a matter of public interest."⁴ "[A] statement is 'in connection with' litigation ... if it relates to the substantive issues in the litigation and is directed to persons having some interest in the litigation."⁵

¹ NRS 41.650.

² NRS 41.637(3).

³ NRS 41.637.

⁴ *Neville v. Chudacoff*, 160 Cal. App. 4th 1255, 1261 (2008) (quoting *Rohde v. Wolf*, 154 Cal. App. 4th 28, 35 (2007)).

⁵ *Id.* at 1266.

1 The opposition argues the New Jersey conservator proceeding “is not one of public
 2 concern.”⁶ This argument is misplaced statements concerning litigation need not address an
 3 issue of public concern. Even if the opposite is true in Nevada, Howard sought to invoke the
 4 authority of the State of New Jersey to take involuntary control of Walter’s personal and
 5 financial matters. As *Young v. CBS Broad., Inc.*⁷ concluded, this is very much an issue of public
 6 concern within the definition of anti-SLAPP statutes. Comments concerning Howard’s
 7 suitability to be Walter’s conservator, an issue under consideration by a New Jersey judicial
 8 body, were made in connection the New Jersey litigation and are protected.

9 **b. The website is directed at those with a potential interest in the New Jersey**
 10 **litigation.**

11 The opposition’s secondary argument is the statements on the website were not directed
 12 at people with an interest in the litigation. The Welts note the website was part of an effort to
 13 locate other potential witnesses who may have possessed information relevant to Howard’s
 14 qualifications to serve as Walter’s conservator. The opposition declares “[t]his is ridiculous. In
 15 any guardianship matter, the only interested parties are relatives in the second degree of
 16 consanguinity. To suggest that the Welts require a website available nationally to discover
 17 relatives they should already know about is preposterous.” It cites no authority, at all, to support
 18 any of these arguments.

19 On the merits, the argument is misplaced. The statements on the website were made in
 20 connection with an issue being considered by a New Jersey court and as part of an effort to
 21 locate information that may help support the Welts’ position in that matter. The website asked
 22 “[a]ll persons with knowledge of Howard A. Shapiro’s actions against Walter Shapiro or other
 23 illegal acts committed by Howard Shapiro are encouraged to appear in court. You may also
 24 submit information via email.”⁸ It is expressly designed to locate those with a potential interest
 25 in the New Jersey decision.

26 ///

27
 28

⁶ Opposition at 6:3-4.

⁷ 212 Cal. App. 4th 551, 553 (2012).

⁸ Exhibit 1 to Complaint at 2.

c. The statements on the website are either true or made without knowledge of their falsehood.

If a communication is within NRS 41.637's definitions, it is protected if it "is truthful or is made without knowledge of its falsehood." The Welts' motion details the information upon utilized to support the statements on the website. These statements were reiterated in filings in the New Jersey case.⁹ The opposition just declares "the statements made are either blatantly false or true but entirely legitimate."¹⁰ The final clause appears to be a typographical error and the Welts assume it was intended to read "true but entirely illegitimate." There is no delineation of which statements on the website are "true but entirely illegitimate." The point is immaterial as "illegitimacy" is not within the definitions of NRS 41.637 and Nevada has recognized truth as a defense to defamation since its earliest days as a state.¹¹

The opposition also declares certain unspecified statements as untrue. The opposition declares the statements are "blatantly false," but offers no evidence, admissible or not, to demonstrate that the statements were actually false.

Further, even if certain of the statements are false, this does not remove them from the protection of Nevada's anti-SLAPP protections that extend even to false communications if "made without knowledge of its falsehood."¹² The opposition does not provide any evidence indicating the Welts had any knowledge any of the statements on the website were false.

The opposition itself actually contains at least two inaccurate statements. It claims the website stated "Howard is a drug addict who spent some of Walter's money in a drug rehabilitation center."¹³ This website does not state this. It stated Howard has "20 judgments and liens against him in past 16 years totaling \$361,871 owed to a public defender, drug & rehab

⁹ Conformed answer, counterclaim and brief supporting counterclaim attached as Exhibit A. A non-conformed copy was attached to the opening brief.

¹⁰ Opposition at 6:11-12.

¹¹ "They have the right to publish the truth, but no right to publish a falsehood to the injury of others." *Thompson v. Powning*, 15 Nev. 195, 207 (1880). "Nor is a statement defamatory if it is absolutely true, or substantially true." *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 715, 57 P.3d 82, 88 (2002).

¹² NRS 41.637.

¹³ Opposition at 7:1-2.

center....”¹⁴ This is a statement of fact: Howard owes this money and some of it is for a drug and rehabilitation center. The opposition does not claim this fact is wrong.

It also inaccurately claims Walter “according to Defendants [sic] own exhibits, is entirely incapable of caring for himself.”¹⁵ The opposition does not identify the exhibit that supports this statement. The only exhibits to the motion that reference incompetency are those contained in Howard’s petition for conservatorship in New Jersey. Defendants denied and disputed those allegations.

The opposition offers no evidence to indicate the statements on the website are false or were made without knowledge that they were false. The opposition offers only a narrative disagreement with the Welts that is legally insufficient in Nevada to oppose an anti-SLAPP motion.

II. The opposition does not meet its burden of production to offer clear, convincing and admissible evidence demonstrating a probability of success on the merits.

To qualify for anti-SLAPP protection, the Welts are required to show “by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.”¹⁶ They have. A conservatorship in New Jersey was pending and created an issue of public concern. The communications to which Plaintiffs object furthered the Welts’ interests in that litigation in that they sought to locate information to support their position. Even if the method used to find that information was a hatchet and not a scalpel, the communications were still in furtherance of their interests in that litigation.

As the Welts met their burden of proof, the court must now determine “whether the plaintiff has established by clear and convincing evidence a probability of prevailing on the claim.”¹⁷ Plaintiffs must meet that burden with actual, admissible evidence, not merely a narrative disagreement with the Welts.¹⁸

¹⁴ Exhibit 1 to Complaint at 1.

¹⁵ Opposition at 7:17.

¹⁶ NRS 41.660(3)(a).

¹⁷ NRS 41.660(3)(b).

¹⁸ *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 762, 219 P.3d 1276, 1287 (2009).

a. The opposition offers no new evidence beyond the allegations contained in the complaint and does not demonstrate by clear and convincing evidence a probability of success on the merits.

The opposition offers no evidence other than what was attached to the complaint. This included an email from Glenn Welt noting the website was live and that Glenn was “personally inviting EVERY one of your known victims to appear in court along with other caretakers, neighbors [sic] acquaintances and relatives you’ve threatened.”¹⁹ This email reinforces that the intent of the website was to locate people with information supporting the Welts’ position in the New Jersey case that Howard was not suited to be Walter’s conservator. The complaint also attached a private letter from Glenn to Howard encouraging him to return funds to Walter.²⁰ This letter again evidences Glenn’s litigation position: Howard is not an appropriate conservator for Walter.

Assuming the admissibility of this evidence and the website itself, the opposition does not discuss how this is clear and convincing evidence creating a probability of success on the merits. The opposition does not address any of the Welts’ arguments about the probability of success on the claims for relief in the complaint and concedes the point.²¹ For practical purposes if the court determines the statements on the website are protected by Nevada’s anti-SLAPP statutes, Plaintiffs concede they cannot demonstrate via clear, convincing and admissible evidence a probability of success on the merits.

b. Even if denied as to Howard, the anti-SLAPP motion must be granted as to Jenna as she offers no evidence of any type.

There are two plaintiffs, Howard and Jenna. The court must analyze this motion against them individually. The Welts’ motion notes there is only one statement on the website that concerns Jenna. That statement notes she is married to Howard. The opposition does not argue this is false. Consequently the statement is protected, true and the anti-SLAPP motion must be granted against Jenna.

///

¹⁹ Exhibit 2 to Complaint.

²⁰ Exhibit 4 to Complaint.

²¹ EDCR 2.20(e).

III. The countermotion for sanctions is inadequate, unsupported and should be summarily denied.

The opposition concludes with a single paragraph requesting sanctions per EDCR 7.60(b)(1). It asserts the Welts' motion is "ludicrous, vexatious, and frivolous."²² As support it merely reiterates the arguments it previously offered. The request should be denied. If the arguments presented in the motion were as ill-conceived as Plaintiffs assert, surely they could have located a single legal citation indicating as much. The fact they did not speaks to the validity of the Welts' motion.

IV. Plaintiffs' complaint must be dismissed with prejudice, the Welts awarded their attorneys' fees and costs and an appropriate deterrent award entered.

An intra-familial dispute arose over a potentially vulnerable family member in New Jersey. It led to litigation. Instead of letting the New Jersey court decide the matter, the Shapiros sought to prevent the Welts from defending their relative by filing this lawsuit in Nevada. This improper litigation tactic is exactly why anti-SLAPP statutes were created.

The motion should be granted and the Welts provided the relief the anti-SLAPP statutes provides them.

DATED this 19th day of December, 2014.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER

/s/ Michael P. Lowry

Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

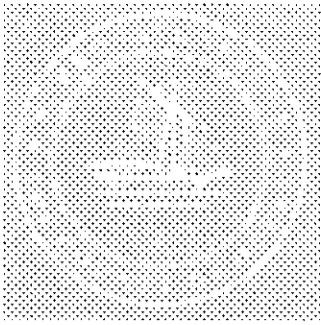
²² Opposition at 8:5.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), on December 19, 2014, **GLENN WELT, RHODA WELT, LYNN WELT & MICHELE WELT'S REPLY RE MOTION TO DISMISS** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

/s/ Michael P. Lowry

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger



OCEAN COUNTY SURROGATE'S COURT

Courthouse -- 118 Washington Street -- Post Office Box 2191
Toms River, New Jersey 08754-2191

received
9-12-14

Jeffrey W. Moran
Ocean County Surrogate

Legal Department
732-929-2011
732-288-7811 (fax)

Sept. 11, 2014

Christopher D. Olszak, Esq.

IMO: Walter Shapiro, an alleged Incapacitated Person
Docket No. 206637

Enclosed please find:

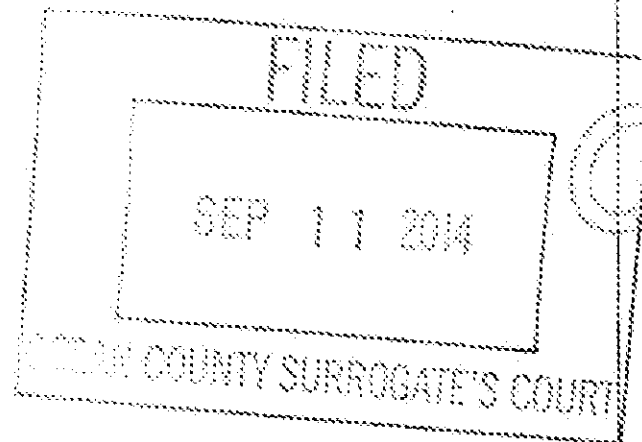
- ☐ Pleadings submitted to the Superior Court
- ☐ Check submitted to the Court No.
- ☒ Stamped "Filed" copies
- ☐ Conformed Order/Judgment
- ☐ Executed Order to Show Cause
- ☐ Instructions to Court Appointed Attorney
- ☒ Invoice/Voucher
- ☐ Letters & Certificates.
- ☐ Other:

- ☐ Resubmit pleadings with Verified Complaint & Order to Show Cause, pursuant to Rule 4:67-1, et seq. and Rule 4:86-1, et seq.
- ☐ Submit a check in the amount of \$200.00, payable to the Ocean County Surrogate's Court
- ☐ Send out a copy of a complete set of the pleadings to all parties in interest (including Court Appointed Attorney) by regular and certified mail, r.r.c., and provide Proof of Service to the Court (original green and/or pink return slips, from the certified mailings) at least 10 days prior to the return date.
- ☐ Court Appointed Counsel shall review and submit report 10 days prior to the return date.
- ☐ Submit a ☐ raised-seal death certificate, ☐ original Will, and/or ☐ other:
- ☐ Forward a copy of this correspondence and copies of all pleadings, orders, etc., to the Temporary Guardian. Temporary Guardian to submit a written report 10 days prior to the return date.
- ☐ Other: Please provide a copy of the Judgment/Order to all interested parties within 7 days of receipt.

Please be advised that all submissions are timely due in accordance with Court Rule and any relevant Orders. Failure to comply may result in adjournment of the hearing.

Very Truly Yours
Maria Kowalewski
Legal Department
732-506-5127

Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775
 Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt



IN THE MATTER OF
 WALTER SHAPIRO,
 An Alleged Mentally
 Incapacitated Person.

: SUPERIOR COURT OF NEW JERSEY
 : CHANCERY DIVISION-PROBATE PART
 : OCEAN COUNTY
 :
 : DOCKET NO. 206637
 :
 : Civil Action
 :
 : ANSWER AND COUNTERCLAIM

The Respondents, Rhoda Wasserstrom and Lynn Welt, are the sister and niece, respectively, of the alleged incapacitated person, Walter Shapiro, and reside at 1040 Fieldgate Lane, Roswell, Georgia, 30075. The Respondents, by way of Answer to Plaintiff's Complaint, say that:

1. The Respondents admit the allegations of paragraph 1.
2. The Respondents admit the allegations of paragraph 2 in part. Walter Shapiro's domicile is 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701. The Respondents neither admit nor deny the remaining allegations of paragraph 2 and the Plaintiff is left to his proofs.
3. The Respondents admit the allegations of paragraph 3 in part. Walter Shapiro is an 81-year-old Caucasian with a date of birth of January 28, 1933. The Respondents deny that Walter Shapiro is currently suffering from significant cognitive deficits and impaired insight and is in need of a full permanent legal guardian and the Plaintiff is left to his proofs.

4. The Respondents deny the allegations of paragraph 4 and believe that there is another interested party must be added to the Complaint. Specifically, Walter has a girlfriend, Alice Walker, who resides at 13640 242 Street, Rosedale, New York, 11422.

5. The Respondents neither admit nor deny the remaining allegations of paragraph 5 and the Plaintiff is left to his proofs. The Respondents note that the Plaintiff has not submitted any physician report or notes from a doctor at Shady Oak Hospital in Long Island that allegedly diagnoses Walter Shapiro with Lewy Body Dementia.

6. The Respondents deny the allegations of paragraph 6 and the Plaintiff is left to his proofs. The Respondents deny that the information contained in the reports support the physicians' opinions that Walter Shapiro is unable to make decisions about his well being and that he is mentally incompetent.

7. The Respondents neither admit nor deny the allegations of paragraph 7 and the Plaintiff is left to his proofs.

8. The Respondents deny the allegations of paragraph 8.

WHEREFORE, Respondents, Rhoda Wasserstrom and Lynn Welt, demand judgment:

A. Dismissing the Complaint with prejudice, or in the alternative, appointing a third-party other than Howard Andrew Shapiro or Adam Shapiro to serve as Guardian of Walter Shapiro;

B. Allowing remittance of reasonable attorney fees and costs of suit from the assets of Walter Shapiro or against Howard Andrew Shapiro individually; and

C. For such other relief as the Court deems equitable and just.

COUNTERCLAIM

ACCOUNTING

1. Howard Andrew Shapiro was named as the attorney-in-fact for Walter Shapiro pursuant to a durable power of attorney dated April 28, 2011. A copy of Walter Shapiro's power of attorney dated April 28, 2011 is attached hereto as "Exhibit A."

2. Walter Shapiro's power of attorney dated April 28, 2011 did not authorize his attorney-in-fact to make gifts of his assets.

3. After obtaining power of attorney from his father, Howard Andrew Shapiro closed all of Walter Shapiro's bank accounts and restricted Walter's access to his funds.

4. Upon information and belief, Howard Andrew Shapiro used Walter Shapiro's money to purchase a new large black truck for himself within the last three months.

5. Upon information and belief, Howard Andrew Shapiro's mortgage encumbering his house located at 623 Skyline Drive, Lake Hopatcong, New Jersey, 07849, is subject to a pending foreclosure action and the Respondents are concerned that he will use or has used Walter's money for himself and to pay his own debts. A copy of a lis pendens filed in Morris County on September 24, 2013 is attached hereto as "Exhibit B".

6. On or about July 7, 2014, Howard Andrew Shapiro and Adam Shapiro removed Walter Shapiro from his residence located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 and immediately listed the house for sale by owner.

7. Upon information and belief, Walter Shapiro did not wish to sell his residence located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701.

8. Upon information and belief, Howard Andrew Shapiro entered into a contract to sell Walter's residence located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 as attorney-in-fact for Walter Shapiro.

9. On or about July 17, 2014, Howard Andrew Shapiro as attorney-in-fact for Walter Shapiro, sold the real property and premises located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 for less than fair market value to David Holtz for Two Hundred Thirty Thousand (\$230,000.00) Dollars. A copy of the deed dated July 17, 2014 is attached hereto as "Exhibit C".

10. Upon information and belief, Howard Andrew Shapiro intentionally delayed filing the present guardianship action until after the closing occurred on 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 so that the Court would not inquire as to the adequacy of the sale price or whether or not the sale was in Walter's best interest.

WHEREFORE, Respondents demand judgment:


A. Requiring Howard Andrew Shapiro to account to the Respondents and the Court for all acts, expenditures, and financial transactions that he has taken in regard to Walter Shapiro's assets since April 28, 2011, including, but not limited to, his bank accounts, jewelry, his automobile, the proceeds from the sale of 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701, and the sale of the contents of the house;

B. Allowing remittance of reasonable attorney fees and costs of suit from the assets of Walter Shapiro of against Howard Andrew Shapiro individually; and

C. For such other relief as the Court may deem appropriate and necessary under the circumstances.

Law Office of Olszak and Olszak, L.L.C.

Date: 9/10/14



By Christopher D. Olszak, Esq.

Attorney for Respondents

Rhoda Wasserstrom and Lynn Welt

CERTIFICATION OF FILING AND SERVICE

I certify that the within pleading has been filed and served within the time prescribed by the Rules of Court.

TRIAL COUNSEL DESIGNATION

Pursuant to Rule 4:25-4, Christopher D. Olszak, Esq. of the Law Office of Olszak and Olszak, L.L.C. is hereby designated as trial counsel on behalf of the Respondents, Rhoda Wasserstrom and Lynn Welt.

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify, pursuant to Rule 4:5-1, that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, with the exception of a possible future need to declare the estate insolvent, and that aside from Alice Walker, no other parties should be jointed in this action. I further certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OLSZAK & OLSZAK, L.L.C.
Attorney for the Respondents
Rhoda Wasserstrom and Lynn Welt

Dated: September 10, 2014

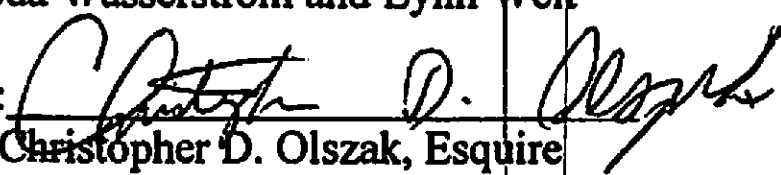
By: 
Christopher D. Olszak, Esquire

EXHIBIT A

DURABLE POWER OF ATTORNEY
(BROAD FORM)

KNOW ALL MEN BY THESE PRESENTS:

That WALTER SHAPIRO residing at 159 St. Nicholas Avenue, in the Township of Lakewood, County of Ocean and State of New Jersey, as Principal does make, constitute and appoint Howard Andrew Shapiro, as his true and lawful attorney-in-fact for him in his name, place and stead for the following uses and purposes:

1. In the event that Howard Andrew Shapiro is unable, unwilling, or unavailable to act as my lawful attorney-in-fact, then I nominate, constitute and appoint, Adam Roy Shapiro, or set as my attorney-in-fact with the same powers.

2. To enter into, on my behalf, any kind or type of agreement or contract, written or oral, and perform the same which in my said attorney-in-fact's absolute judgment is deemed in my interest.

3. To buy and sell any and/or all securities of any kind or type now or hereafter belonging to me, including, without being by way of limitation, stocks, bonds, debentures, etc., and to effect such sale or purchase to make, execute and/or deliver any assignments, bills of sale or other acts that may be necessary,

4. To deposit or withdraw any and all monies in any financial institution of any kind or type which shall come into my attorney-in-fact's hands.

My attorney-in-fact is specifically authorized "to conduct banking transactions" as set forth in section 2 of P.L. 1991c:95 (C.46:2B-11) in accordance with the full authority conferred by that statute.

For the purpose of this paragraph, the term "monies" shall include every kind of debt or claim which is redeemable in money, including, without being by way of limitation, checks, drafts, promissory notes, bills of exchange, certificates of deposit and withdrawal orders.

5. To demand, sue for, collect, recover, apply for and receive all goods, moneys, choses in action, proceeds, collateral, or interest of any kind or type either now due or that may hereafter be due, or belong to me, and to make, execute and deliver receipts, releases or discharges therefore, together with the right to engage accountants, attorneys at law, bookkeepers and others, either in connection with this right for such other purposes my attorney-in-fact shall deem proper, and to pay the same such remuneration as my attorney-in-fact shall deem proper, giving and granting unto said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present with full power of substitution and revocation, hereby ratifying and confirming all that said attorney-in-fact or substitute shall lawfully do or cause to be done by virtue hereof.

6. To borrow, from time to time, such sums of money at such rate or rates of interest, for such period or periods, and on such terms as my attorney-in-fact may deem proper in his or her absolute discretion; and, in connection therewith, as subject to mortgage, liens, pledges or

hypothecation, either my real property or my personal property, all or any part thereof, and in connection therewith, execute in my name, acknowledge and deliver all necessary documents, including, without being by way of limitation, mortgages, notes, deeds of trust, etc., containing such conditions, terms, conveyances, provisions, and warranties as my attorney-in-fact may deem proper to evidence and secure the loans so procured.

7. I specifically authorize my attorney-in-fact to enter into and deposit in and/or remove anything in any safe deposit box that I may have in my name alone, or that I may have access to in my own right.

8. To contract to sell any and all real estate which I may own, wherever located, and so that and to negotiate completely the terms of the sale, including price, method of payment, and all related items and to execute a Deed or Deeds, Affidavit of Title or Affidavits of Title, and all related documents sufficient to effect conveyance of my real estate and to receive any and all proceeds of sale, whether cash, check or mortgage, in my attorney-in-fact's own name and deal with the proceeds in all respects as if the absolute owner thereof.

9. In addition to the foregoing powers and in expansion of same, my attorney-in-fact is specifically further authorized to purchase and/or mortgage any real estate on my behalf and execute in my name all documents of every kind and type necessary to effect said purchase or mortgage transaction or refinancing, including Deed, Affidavit of Title, Survey, Affidavit of Change, Closing Statements, mortgage, mortgage bonds and notes, and any and all other necessary documents.

10. To conduct, engage in, and transact any and all lawful business of whatever nature or kind for me, on my behalf, and in my name.

I specifically authorize my attorney-in-fact to manually sign my signature in connection with the exercise of this Power of Attorney without the addition of any notations indicating that the signature was other than my own. I specifically make this authorization because I recognize the difficulty that sometimes attends the use of the Power of Attorney and I wish to minimize such difficulty to the greatest extent possible.

The power to exercise the authority herein conferred shall not be affected by my death as Principal as defined in N.J.S.A. 46:2B-8b, or any similar Statute which supersedes this or any other jurisdiction.

11. In further addition to the foregoing powers and in expansion of same, my attorney-in-fact is specifically authorized to consult with my physicians as to my condition and treatment and to consent, on my behalf, to the performance of any medical procedures which he or she may reasonably feel appropriate in the circumstances including my personal care, medical treatment, hospitalization and health care, and to withhold or withdraw any type of medical procedure even though my death will ensue.

My attorney-in-fact shall have the same access to any medical records that relate to me that I have, including the right to disclose the contents to others.


My attorney-in-fact shall also have full power to make a disposition of any part of all of my body for medical purposes and/or to authorize an autopsy and direct the disposition of my remains.


These powers in paragraph 11, shall be used to effect my wishes as set forth in the following Intervivos Direction to family and physicians: I do not want my life to be prolonged, nor do I want life sustaining treatment, including hydration and nutrition, to be provided or continued if my agent believes the burdens of treatment outweigh the expected benefits. I want my attorney-in-fact to consider the relief of suffering, the expense involved, and quality, as well as the possible extension of my life in making these decisions concerning life sustaining treatment. I specifically authorize the use of pain relieving drugs even if it may hasten my death.

If a Guardian needs to be appointed, I nominate the following to serve as Guardian: Howard Andrew Shapiro if available and if not, then I nominate Adam Roy Shapiro.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of April, 2011.


SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Jona May Rudnick Esq.
STATE OF NEW JERSEY


WALTER SHAPIRO



SS:
COUNTY OF MONMOUTH

BE IT REMEMBERED, that on this 28th day of April, 2011 before me the undersigned personally appeared WALTER SHAPIRO, who I am satisfied is the person named in and who executed the within instrument, and thereupon he acknowledged that he signed, sealed and delivered the same as his act and deed for the uses and purposes therein expressed.


Jona May Rudnick Esq.

Prepared by:
CARLTON & RUDNICK
788 Strawberry Avenue
Building 2 - Suite 304
Haddon Falls, New Jersey 07724
(732) 842-2070

EXHIBIT B

 Morris County Document Summary Sheet		MORRIS COUNTY, NJ Joan Bramhall LPF-OR BOOK 22426 PG 304 RECORDED 09/24/2013 11:37:33 FILE NUMBER 2013077756 RCPT # 908187; RECD BY: eRecord RECORDING FEES 104.00 INDEX FEE 54.00	
MORRIS COUNTY PO BOX 315 COURT STREET MORRISTOWN NJ 07963 0315			
Transaction Identification Number		2084864	1298890
Submission Date(mm/dd/yyyy)	09/24/2013	Return Address <small>(for recording documents)</small> PHELAN, HALLINAN & SCHMIDT, P.C. 400 FELLOWSHIP ROAD SUITE 100 MT. LAUREL, NJ 08054	
No. of Pages (excluding Summary Sheet)	2		
Recording Fee (excluding transfer tax)	\$104.00		
Realty Transfer Tax	\$0.00		
Total Amount	\$104.00		
Document Type	LIS PENDEN/FORECLOSURE		
Municipal Codes			
JEFFERSON TWP		1414	
Batch Type			
L2 - LEVEL 2 (WITH IMAGES)			
Bar Code(s)			
			
Additional Information (Official Use Only)			
* DO NOT REMOVE THIS PAGE. COVER SHEET [DOCUMENT SUMMARY FORM] IS PART OF MORRIS COUNTY FILING RECORD. RETAIN THIS PAGE FOR FUTURE REFERENCE.			



Morris County Document Summary Sheet

LIS PENDEN/FORECL OSURE	Type	LIS PENDEN/FORECLOSURE			
	Consideration				
	Submitted By	PHELAN, HALLINAN & SCHMIEG, P.C.			
	Document Date	06/19/2013			
	Reference Info				
	Book ID	Book	Beginning Page	Instrument No.	Recorded/File Date
	M	18098	235		
	DEFENDANT	Name Address			
		HOWARD SHAPIRO			
		FICTITIOUS SPOUSE			
		JENNA THORSLAND SHAPIRO			
		FICTITIOUS SPOUSE			
		CITIBANK, NA			
		JPMORGAN CHASE BANK, N.A.			
		HOME VEST CAPITAL LLC			
	VALLEY NATIONAL BANK				
	PNC BANK, NA				
	UNIVERSAL SUPPLY GROUP INC				
	UNKNOWN TENANTS				
	BANK OF AMERICA				
PLAINTIFF	Name Address				
	US BANK NATIONAL ASSOCIATION				
	BEAR STEARNS ASSET BACKED SECURITIES I TRUST 2005-AC2				
<p align="center">* DO NOT REMOVE THIS PAGE. COVER SHEET [DOCUMENT SUMMARY FORM] IS PART OF MORRIS COUNTY FILING RECORD. RETAIN THIS PAGE FOR FUTURE REFERENCE.</p>					



**Morris County
Document Summary Sheet**

	Parcel Info					
	Property Type	Tax Dist.	Block	Lot	Qualifier	Municipality
<p><i>This is not a certified copy</i></p>						
<p>* DO NOT REMOVE THIS PAGE. COVER SHEET [DOCUMENT SUMMARY FORM] IS PART OF MORRIS COUNTY FILING RECORD. RETAIN THIS PAGE FOR FUTURE REFERENCE.</p>						

146957
 Phelan Hallinan & Diamond, PC
 400 Fellowship Road, Suite 100
 Mt. Laurel, NJ 08054
 Phone: 856-813-5500
 Attorneys for Plaintiff

US BANK NATIONAL ASSOCIATION, AS
 TRUSTEE FOR BEAR STEARNS ASSET
 BACKED SECURITIES I TRUST 2005-AC2
 ASSET-BACKED CERTIFICATES, SERIES
 2005-AC2

PLAINTIFF

Vs.

HOWARD SHAPIRO,
 MRS. HOWARD SHAPIRO, HIS WIFE;
 JENNA THORSLAND SHAPIRO,
 MR. SHAPIRO, HUSBAND OF JENNA
 THORSLAND SHAPIRO;
 CITIBANK, NA;
 JPMORGAN CHASE BANK, N.A.;
 HOME VEST CAPITAL LLC, SUCCESSOR IN
 INTEREST TO BANK OF AMERICA, NA;
 VALLEY NATIONAL BANK;
 PNC BANK, NA;
 UNIVERSAL SUPPLY GROUP INC.;
 UNKNOWN TENANTS
 DEFENDANT(S)

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION
 MORRIS COUNTY

DOCKET NO: F-019298-13

CIVIL ACTION
 NOTICE OF LIS PENDENS


TO WHOM IT MAY CONCERN

Notice is hereby given of the commencement and pendency of the above-entitled Civil Action, the general objects of which are:

1. To foreclose the following mortgage covering the premises hereinafter described, to wit:
 Mortgage made by HOWARD SHAPIRO and JENNA THORSLAND SHAPIRO and given to UNION FEDERAL BANK OF INDIANAPOLIS dated November 19, 2004 and recorded December 3, 2004 in the Office of the MORRIS County Clerk in Book 18098, Page 235. Said mortgage was subsequently assigned to Plaintiff herein.
 2. To recover possession of the lands and premises hereinafter described.
- The land and premises to be affected by said suit are described in Exhibit "A" annexed hereto.
3. The Foreclosure Complaint in the above-entitled action was filed in the Office of the Clerk of the Superior Court of New Jersey on June 6, 2013.

PHELAN HALLINAN & DIAMOND, PC

Date: June 19, 2013

By: 
 John D. Krohn, Esq.
 Attorney for Plaintiff

All that certain lot, tract or parcel of land, lying and situated at 523 Skyline Drive, Township of Jefferson, Morris County and State of New Jersey, bounded and described as follows:

Beginning at a point on the Easterly line of Skyline Drive, said point being located a distance of 1,859.24' from the intersection of the Easterly line of Skyline Drive and the terminus of a curve leading from Hunters Ridge and from said point running THENCE

1. North 60 degrees 00 minutes 34 seconds East 156.46' to a point; THENCE
2. South 00 degrees 28 minutes 23 seconds East 135.1' to a point; THENCE
3. South 70 degrees 17 minutes 48 seconds West 103.35' to a point on the Easterly line of Skyline Drive; THENCE
4. Along the Easterly line of Skyline Drive North 19 degrees 42 minutes 12 seconds West 32.85' to a point of curvature; THENCE
5. Still further along the Easterly line of Skyline Drive on a curve to the left having a radius of 375.00' and an arc length of 67.33' to the point and place of beginning

Being known and designated as Lot 25 Block 250.05 as shown on the Tax Maps of the Township of Jefferson. Being also known as Lot 25 Block 250.05 as shown on a certain map entitled "Jefferson Village Final Plat Phase B" situated in the Township of Jefferson, Morris County, New Jersey. Filed in the Morris County Clerks Office.

Description prepared in accordance with survey of Keller & Kirkpatrick, dated 9/25/03.

Legal taken from the deed as referenced in the mortgage.

EXHIBIT C

D

COUNTY OF OCEAN	
CONSIDERATION <u>230,000</u>	
REALTY TRANSFER FEE <u>350</u>	
DATE <u>7/29/14</u>	BY <u>JES</u>

DEED

INSTR 0 2014064479
 OR BK 15857 PG 1307
 RECORDED 07/29/2014 09:21:39 AM
 SCOTT M. COLABELLA, COUNTY CLERK
 OCEAN COUNTY, NEW JERSEY
 RTF TOTAL TAX \$350.00

Prepared by
 John P. Brennan, Jr.

THIS DEED is made on July 17, 2014,

BETWEEN Walter Shapiro, widow, by his attorney-in-fact, Howard Andrew Shapiro,
 whose address is 623 Skyline Drive, Lake Hopatcong, New Jersey 07849
 referred to as Grantor,

AND David Holtz, whose address is about to be 159 St. Nicholas Avenue,
 Lakewood, New Jersey 08701, referred to as Grantee.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the
 Property described below to the Grantee. This transfer is made for the sum of TWO HUNDRED
 THIRTY THOUSAND AND 00/100 DOLLARS (\$230,000.00) and other valuable consideration.
 The Grantee acknowledges receipt of this money.

Tax Map Reference. (NISA 46:15-2.1) Township of Lakewood, Ocean County, New
 Jersey known as Block No. 284, Lot No. 158, Account No. n/a.

Property. The Property consists of all the Grantor's interest in the land and all buildings
 and structures on the land in the Township of Lakewood, Ocean County, State of New Jersey.
 The legal description is:

SEE ATTACHED DESCRIPTION RIDER

Madison Title Agency
 1125 Ocean Avenue
 Lakewood, NJ 08701

The Property is commonly known as 159 St. Nicholas Avenue, Lakewood, New Jersey 08701

Being the same property transferred to Walter and Berta Shapiro, his wife, by deed from
 American Stairbuilders, Inc., dated December 9, 1970 and recorded December 10, 1970 in the
 Ocean County Clerk's Office in Deed Book 3082, Page 51

Berta Shapiro died May 14, 2006 in Kimball Medical Center, Lakewood, New Jersey.


On April 28, 2012, Walter Shapiro executed a Durable Power of Attorney (Board Form)
 appointing Howard Andrew Shapiro as his true and lawful attorney-in-fact said Power of
 Attorney was recorded July 10, 2014 in the Ocean County Clerk's Office in OR Book 15846,
 Page 22, Instrument No. 2014059201.

Subject to all easements and other restrictions of record.

Promises by Grantor. The Grantors promise that the Grantors have done no act to
 encumber the property. This promise is called a "covenant as to grantor's acts" (NISA 46:4-6).
 This promise means that the Grantors have not allowed anyone else to obtain any legal rights
 which affect the property (such as by making a mortgage or allowing a judgment to be entered
 against the Grantors).

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:



 Witness

Walter Shapiro

by  per
 Walter Shapiro, widow, by his attorney-in-fact,
 Howard Andrew Shapiro

Stewart Title Guaranty Company

Commitment Number: MTANJ-097802

**TITLE INSURANCE COMMITMENT
SCHEDULE A
LEGAL DESCRIPTION**

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Township of Lakewood, County of Ocean, State of New Jersey.

BEING known and designated as Lot 87G in Block 284 as shown on Map entitled "Subdivision of Lots 1 & 2, Block 284, Lots 88 & 87 Block 284, Township of Lakewood, Ocean County, N.J. Tax Map sheet # 72" made by Robert B. Powers, P.E. and L.S. dated May 12, 1970 and filed in the Ocean County Clerk's Office on July 31, 1970 as Map # F-1.

NOTE: Being Lot(s) 158, Block 284, Tax Map of the Township of Lakewood, County of Ocean.

NOTE: Lot and Block shown for informational purposes only.

Madison Title Agency, LLC
1125 Ocean Avenue, Lakewood, NJ 08701
Telephone: 732-805-8400 Fax: 732-805-8420

ALTA Commitment Form-2008 Schedule A
(Created 07/17/2014 04:45PM)

097802

**DURABLE POWER OF ATTORNEY
(BROAD FORM)**

INSTR # 2014039201
OR BK 15846 PG 22
RECORDED 07/10/2014 02:21:10 PM
SCOTT M. COLABELLA, COUNTY CLERK
OCEAN COUNTY, NEW JERSEY

KNOW ALL MEN BY THESE PRESENTS:

That, **WALTER SHAPIRO** residing at 159 St. Nicholas Avenue, in the Township of Lakewood, County of Ocean and State of New Jersey, as Principal does make, constitute and appoint **Howard Andrew Shapiro**, as his true and lawful attorney-in-fact for him in his name, place and stead for the following uses and purposes:

1. In the event that **Howard Andrew Shapiro** is unable, unwilling, or unavailable to act as my lawful attorney-in-fact, then I nominate, constitute and appoint, **Adam Roy Shapiro**, to act as my attorney-in-fact with the same powers.

2. To enter into, on my behalf, any kind or type of agreement or contract, written or oral, and perform the same which in my said attorney-in-fact's absolute judgment is deemed in my interest.

3. To buy and sell any and/or all securities of any kind or type now or hereafter belonging to me, including, without being by way of limitation, stocks, bonds, debentures, etc., and to effect such sale or purchase to make, execute and/or deliver any assignments, bills of sale or otherwise that may be necessary.

4. To deposit or withdraw any and all monies in any financial institution of any kind or type which shall come into my attorney-in-fact's hands.

My attorney-in-fact is specifically authorized "to conduct banking transactions" as set forth in section 2 of P.L. 1991c.95(C.46:2B-1) in accordance with the full authority conferred by that statute.

For the purpose of this paragraph, the term "monies" shall include every kind of chose in action which is redeemable in money, including, without being by way of limitation, checks, drafts, promissory notes, bills of exchange, certificates of deposit and withdrawal orders.

5. To demand, sue for, collect, recover, apply for and receive all goods, claims, monies, chose in action, proceeds, collateral, or interest of any kind or type either now due or that may hereafter be due, or belong to me, and to make, execute and deliver receipts, releases or discharges therefore, together with the right to engage accountants, attorneys at law, workmen and others, either in connection with this right for such other purposes my attorney-in-fact shall deem proper, and to pay the same such remuneration as my attorney-in-fact shall deem proper, giving and granting unto said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposed as I might or could do if personally present with full power of substitution and revocation, hereby ratifying and confirming all that said attorney-in-fact or substitute shall lawfully do or cause to be done by virtue hereof.

6. To borrow, from time to time, such sums of money at such rate or rates of interest, for such period or periods, and on such terms as my attorney-in-fact may deem proper in his, her or their absolute discretion; and, in connection therewith, to subject, to mortgage, liens, pledge or

③ - 58 - 00104

hypothecation, either my real property or my personal property, all or any part thereof; and, in connection therewith, execute in my name, acknowledge and deliver all necessary documents including, without being by way of limitation, mortgages, notes, deeds of trust, etc., containing such conditions, terms, conveyances, provisions, and warranties as my attorney-in-fact may deem proper to evidence and secure the loans so procured.

7. I specifically authorize my attorney-in-fact to enter into and deposit in and/or remove anything in any safe deposit box that I may have in my name alone, or that I may have access to in my own right.

8. To contract to sell any and all real estate which I may own, wherever located, and to that end to negotiate completely the terms of the sale, including price, method of payment, and all related items and to execute a Deed or Deeds, Affidavit of Title or Affidavits of Title, and all related documents sufficient to effect conveyance of my real estate and to receive any and all proceeds of sale, whether cash, check or mortgage, in my attorney-in-fact's own name and deal with the proceeds in all respects as if the absolute owner thereof.

9. In addition to the foregoing powers and in expansion of same, my attorney-in-fact is specifically further authorized to purchase and/or mortgage any real estate on my behalf, and execute in my name all documents of every kind and type necessary to effect said purchase or mortgage transaction or refinancing, including Deed, Affidavit of Title, Survey Affidavit of No Change, Closing Statements, mortgage, mortgage bonds and notes, and any and all other necessary documents.

10. To conduct, engage in, and transact any and all lawful business of whatever nature or kind for me, on my behalf, and in my name.

I specifically authorize my attorney-in-fact to manually sign my signature in connection with the exercise of this Power of Attorney without the addition of any notations indicating that the signature was other than my own. I specifically make this authorization because I recognize the difficulty that sometimes attends the use of the Power of Attorney and I wish to minimize such difficulty to the greatest extent possible.

The power to exercise the authority herein conferred shall not be affected by my disability as Principal as defined in N.J.S.A. 46:2B-8b, or any similar Statute which applies in this or any other jurisdiction.

11. In further addition to the foregoing powers and in expansion of same, my attorney-in-fact is specifically authorized to consult with my physicians as to my condition and treatment and to consent, on my behalf, to the performance of any medical procedures which he or she may reasonably feel appropriate in the circumstances including my personal care, medical treatment, hospitalization and health care, and to withhold or withdraw any type of medical procedure even though my death will ensue.

My attorney-in-fact shall have the same access to any medical records that relate to me that I have, including the right to disclose the contents to others.

Prepared by:
CARLTON & RUDNICK
788 Shrewsbury Avenue
Building 2 - Suite 204
Tinton Falls, New Jersey 07724
(732) 842-2070

Record and Return to:

McDonnell & Whitaker LLC
248 R. Main Street, PO Box 379
Ramsey, New Jersey 07446

BE IT REMEMBERED, that on this 28th day of April, 2011 before me the subscriber,
personally appeared WALTER SHAPIRO, who I am satisfied is the person named in and who
executed the within instrument, and thereupon he acknowledged that he signed, sealed and
delivered the same as his act and deed for the uses and purposes therein expressed.

COUNTY OF MONMOUTH

ss:

STATE OF NEW JERSEY

WALTER SHAPIRO

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

2011.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of April,

If a Guardian needs to be appointed, I nominate the following to serve as Guardian:
Howard Shapiro, if available and if not, then I nominate Adam Roy Shapiro.

These powers in paragraph 1, shall be used to effect my wishes as set forth in
the following Inter vivos Direction to family and physicians: I do not want my life to be
prolonged, nor do I want life sustaining treatment, including hydration and nutrition, to be
provided or continued if my agent believes the burdens of treatment outweigh the expected
benefits. I want my attorney-in-fact to consider the relief of suffering, the expense involved, and
quality, as well as the possible extension of my life in making these decisions concerning life
sustaining treatment. I specifically authorize the use of pain relieving drugs even if it may hasten
my death.

My attorney-in-fact shall also have full power to make a disposition of any part or
of all of my body for medical purposes and/or to authorize an autopsy and direct the disposition
of my remains.

COPY

WALTER SHAPIRO



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
 (C.55, P.L. 2004)

GIT/REP-3
 (5-12)

(Please Print or Type)

SELLER'S INFORMATION (See Instructions, Page 2)

Names(s): Walter Shapiro, widow, by his attorney-in-fact, Howard Andrew Shapiro
 Current Resident Address:
 Street: 623 Skyline Drive
 City, Town, Post Office: Lake Hopatcong State: NJ Zip Code: 07849

PROPERTY INFORMATION (Enter Property Description)

Block(s): 284 Lot(s): 158 Qualifier:
 Street Address: 159 St. Nicholas Avenue
 City, Town, Post Office: Lakewood, State: NJ Zip Code: 08701
 Seller's Percentage of Ownership: 100% Consideration: \$230,000.00 Closing Date: 7/17/2014

SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 10 apply to Residents and Non-residents)

1. ☐ I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. ☒ The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. § 121.
3. ☐ I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. ☐ The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. ☐ The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
☐ No non-like kind property received.
8. ☐ Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.
9. ☐ The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

SELLER'S DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

7/17/2014

Date

Walter Shapiro by H.A. Shapiro, PCA

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

RTP-1 (Rev. 7/1/13)
SURTAX SUBJECT TO DUPLICATION

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, P.L. 1963, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 49:15-6 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

COUNTY Ocean } 03. County/Municipal Code
1819

MUNICIPALITY OF PROPERTY LOCATION Lakewood

FOR RECORDER'S USE ONLY
Consideration \$ 230,000
RTP paid by seller \$ 230
Date 7/23/14 By Walter Shapiro

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions 23 and 24 on reverse side)

Deponent, Howard A. Shapiro, attorney-in-fact, being duly sworn according to law upon his/her oath, deposes and says that he/she is the Attorney-in-Fact in a deed dated 7/17/2014 transferring (Grantor, Legal Representative, Corporate Officer, Officer of LLC Company, Lending Institution, etc.)
said property identified as Block number 284 Lot number 155 located at
158-61, Nichols Avenue, Lakewood, NJ 08701
(Street Address, Town) and assessed Cherokee.

(2) CONSIDERATION \$ 230,000.00 (Instructions 21 and 25 on reverse side) ☐ prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:
(See Instructions 26A and 27 on reverse side)

Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be the equalized valuation.

(4) FULL EXEMPTION FROM FEE (See Instruction 28 on reverse side)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by G. 49, P.L. 1963, as amended through G. 33, P.L. 2004, for the following reason(s): Exemption symbol is insufficient. Explain in detail.

(5) PARTIAL EXEMPTION FROM FEE (Instructions 29 on reverse side)

NOTE: All boxes below apply to grantor(s) only. ALL GRANTOR(S) APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by G. 49, P.L. 1963, G. 113, P.L. 2004, and G. 33, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s) ☒ (62 years of age or over. * (Instructions 29 on reverse side for A or B)
B. BLIND PERSON Grantor(s) ☐ legally blind;
C. DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ receiving disability payments ☐ not gainfully employed*

*Senior citizens, blind persons, or disabled persons must meet all of the following criteria:
(a) Owned and occupied by grantor(s) at time of sale. (b) Resident of State of New Jersey.
(c) One or two-family residential premises. (d) Owners as joint tenants must all qualify.

*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

(6) LOW AND MODERATE INCOME HOUSING (Instructions 30 on reverse side)

- ☐ Affordable according to HUD standards. ☐ Reserved for community.
☐ Meets income requirements of region. ☐ Subject to resale controls.

(7) NEW CONSTRUCTION (Instructions 31, 310 and 312 on reverse side)

- ☐ Entirely new improvement. ☐ Not previously occupied.
☐ Not previously used for any purpose. ☐ NEW CONSTRUCTION printed clearly at top of first page of the deed.

(8) RELATED LEGAL ENTITIES TO LEGAL ENTITIES (Instructions 33, 312, 314 on reverse side)

- ☐ No prior mortgage assumed or to which property is subject at time of sale.
☐ No contribution to capital by either grantor or grantee legal entity.
☐ No stock or money exchanged by or between grantor or grantee legal entities.

(9) Deponent makes this Affidavit to Indian county clerk or register of deeds to record the deed and accept the fee according to law in accordance with the provisions of Chapter 49, P.L. 1963, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me
this 17 day of July, 2014

Walter Shapiro
Deponent Address
023 Skyline Drive
Lake Hopatcong, NJ 07949

Walter Shapiro
Grantor Name
023 Skyline Drive
Lake Hopatcong, NJ 07949

Deponent Address
Grantor Address at Time of Sale
Last three digits in Grantor's Social Security Number 542 Name/Company of Settlement Officer

FOR OFFICIAL USE ONLY
Instrument Number 14000
Deed Number 1528 County 03
Deed Date 7/23/14 Date Recorded 7/23/14

County recording officers shall forward one copy of each RTP-1 form when Section 3A is completed to:

STATE OF NEW JERSEY
PO BOX 251
TRENTON, NJ 08646-0251

ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at www.state.nj.us/treasury/taxation/realtytransferfee.htm

DEED	
Walter Shapiro, widow, by his attorney-in-fact, Howard Andrew Shapiro Grantor	
TO	
David Holz Grantee	
Dated: July 17, 2014	
RECORD AND RETURN TO:	

Howard Andrew Shapiro, attorney-in-fact for, Walter Shapiro, widow

personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

(a) is named in and personally signed this Deed;

(b) signed, sealed and delivered this Deed as his or her act and deed on behalf of Walter Shapiro, widow

(c) was duly appointed as attorney-in-fact for Walter Shapiro, who is alive and has not revoked the April 28, 2012 Durable Power of Attorney (Board Form)

(d) made this Deed for \$230,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5)

JOHN A. BRENNAN, JR.
An Attorney at Law of NJ

STATE OF NEW JERSEY
)
) SS
)
COUNTY OF OCEAN
)
I certify that on July 17, 2014

Record and Return to: Madison Title Agency, LLC
 1125 Ocean Avenue, Lakewood, NJ 08701
 MTANJ-097802

NOTICE OF SETTLEMENT

Name(s) and Address(es):

Seller(s)

Walter Shapiro
 169 St. Nicholas Avenue
 Lakewood, NJ 08701

-and-

Name(s) and Address(es):

Purchaser(s)

David Hertz
 9 Cedar Drive
 Lakewood, NJ 08701

resides at or about to reside at:

169 St. Nicholas Avenue
 Lakewood, New Jersey 08701



INSTR # 2014062178
 OR BK 15852 PG 1341
 RECORDED 07/18/2014 09:31:26 AM
 SCOTT M. COLABELLA, COUNTY CLERK
 OCEAN COUNTY, NEW JERSEY

NOTICE is hereby given of a Contract of Sale between the parties hereto.

THE land to be affected is commonly known as 169 St. Nicholas Avenue, Tax Lot 158, Block 284, in the Township of Lakewood, County of Ocean, State of New Jersey.

PREPARED BY:

Chana Dinkels
 Title Examiner
 Agent for Madison Title Agency, LLC
 Address 1125 Ocean Avenue
 Lakewood, NJ 08701

STATE OF NEW JERSEY :

ss:

COUNTY OF OCEAN :

BE IT REMEMBERED, that on July 15, 2014, before me the subscriber, personally appeared, Chana Dinkels, who I am satisfied is the person named in and who executed the within instrument, and thereupon he/she acknowledge that he/she signed and sealed and delivered the same as his/her own act and deed for the uses and purposes therein expressed.

Anne Kofner
 Notary Public
 State of New Jersey
 My Commission Expires April 21, 2019

Notice of Settlement

097802

①20 Cash LG

Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775
 Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt

IN THE MATTER OF
 WALTER SHAPIRO,
 An Alleged Mentally
 Incapacitated Person.

: SUPERIOR COURT OF NEW JERSEY
 : CHANCERY DIVISION-PROBATE PART
 : OCEAN COUNTY
 :
 : DOCKET NO. 206637
 :
 : Civil Action
 :
 : NOTICE OF MOTION TO ADMIT COUNTERCLAIM
 :

TO: David Semanchik, Esquire
 1130 Hooper Ave #1
 Toms River, New Jersey 08753

PLEASE TAKE NOTICE that on Monday, September 22, 2014 at 9:00 a.m., or as soon thereafter as counsel may be heard, that the undersigned attorney for the Respondents shall move before the Superior Court of New Jersey, Chancery Division, Probate Part at the Ocean County Courthouse, Courtroom 2, located at 118 Washington Street, Toms River, New Jersey, 08754 for an Order allowing the Respondents to file a Counterclaim against the Plaintiff Howard Andrew Shapiro that requests an order compelling him to account for his management of Walter Shapiro's assets pursuant to a durable power of attorney dated April 28, 2011.

PLEASE TAKE FURTHER NOTICE that in support of this motion, Plaintiff will rely on the accompanying Certification of Christopher D. Olszak, Esquire and legal brief. A proposed form of order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that no dates have been scheduled for a calendar call or trial, and that the initial return date for the Plaintiff's Order to Show Cause is scheduled for September 22, 2014.

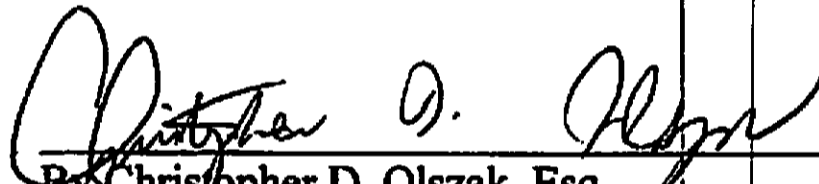
PLEASE TAKE FURTHER NOTICE that, as detailed in the Certification of Christopher D. Olszak, Esquire, the Respondents have complied with the requirements of R. 1:6-2.

PLEASE TAKE FURTHER NOTICE that the Respondents are not in default in responding to any discovery requests propounded by the Defendant.

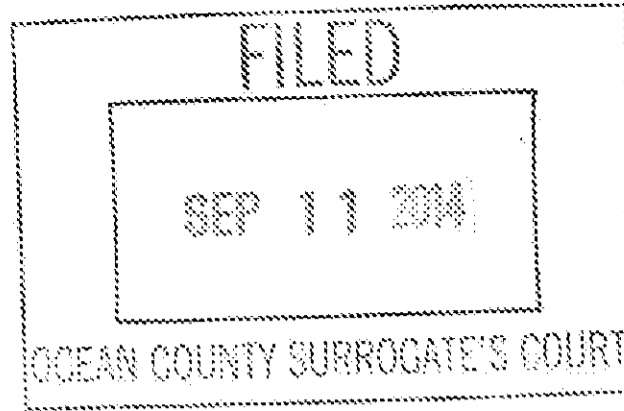
PLEASE TAKE FURTHER NOTICE that the Respondents waive oral argument unless the Plaintiff files papers in opposition to this motion.

Law Office of Olszak and Olszak, LLC

Dated: September 10, 2014


By Christopher D. Olszak, Esq.
Attorneys for Respondents, Rhoda Wasserstrom
and Lynn Welt

Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775
 Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt



COPY

<hr/> IN THE MATTER OF WALTER SHAPIRO, An Alleged Mentally Incapacitated Person.	: SUPERIOR COURT OF NEW JERSEY : CHANCERY DIVISION-PROBATE PART : OCEAN COUNTY : : DOCKET NO. 206637 : : Civil Action : : BRIEF IN SUPPORT OF MOTION TO ADMIT : COUNTERCLAIM AND IN SUPPORT OF REQUEST : FOR ACCOUNTING
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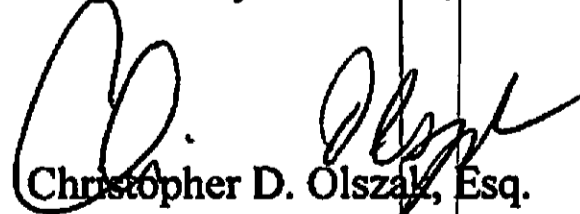
Court approval is required before a party may file a counterclaim in response to a summary action. "If the order to show cause is issued ex parte pursuant to R. 4:67-1(a), the defendant shall...file either an answer, an answering affidavit, or a motion returnable on the return day..." R. 4:67-4(a). "No counterclaim or cross-claim shall be asserted without leave of court." R. 4:67-4(a). The Court should admit the Respondents' Counterclaim because it is appropriate to order the Plaintiff to provide an accounting of how he managed Walter's assets pursuant to his power of attorney dated April 28, 2011.

The information available to the Respondents at this point confirms that the Plaintiff was designated as attorney in fact for his father pursuant to a durable power of attorney dated April 28, 2011. **Exhibit A.** Walter Shapiro was living at his home located at 159 St. Nicholas Avenue, Lakewood, New Jersey until July 3, 2014, when the Plaintiff moved him to an assisted living facility in Roseland, New Jersey. On or about July 17, 2014, the Plaintiff sold Walter's property located at 159 St. Nicholas Avenue, Lakewood, New Jersey to a third party for

\$230,000. **Exhibit B.** Although the Plaintiff has provided an inventory of assets as Exhibit C to his Complaint, he neglects to disclose what he did with the contents of Walter's house, his jewelry, and his 2013 BMW. The Respondents are also concerned that the proceeds from the sale of Walter's house may not have been entirely used for his sole benefit or care.

The Respondents have standing to request that the Court enter an order requiring the Plaintiff to account for the management of Walter's funds. "The Superior Court may, upon application of any heir or other next friend of the principal, require the attorney-in-fact to render an accounting if satisfied that the principal is incapacitated and there is doubt or concern whether the attorney-in-fact is acting within the powers delegated by the power-of attorney, or is acting solely for the benefit of the principal." N.J.S.A. 46:2B-8.13(b); N.J.S.A. 46:2B-8.14. The Respondents do not know exactly when the Plaintiff took control of Walter's funds, but it is clear that the Plaintiff has sold Walter's house pursuant to the authority granted to the Plaintiff pursuant to a durable power of attorney dated April 28, 2011. Walter's power of attorney does not authorize the Plaintiff to make gifts of Walter's funds and the Respondents are concerned that his assets may not have been used for his sole benefit. The Respondents respectfully request that the Court allow them to file a Counterclaim in this matter and that the Plaintiff be ordered to provide an accounting of his management of Walter Shapiro's assets from April 28, 2011 to the present date.

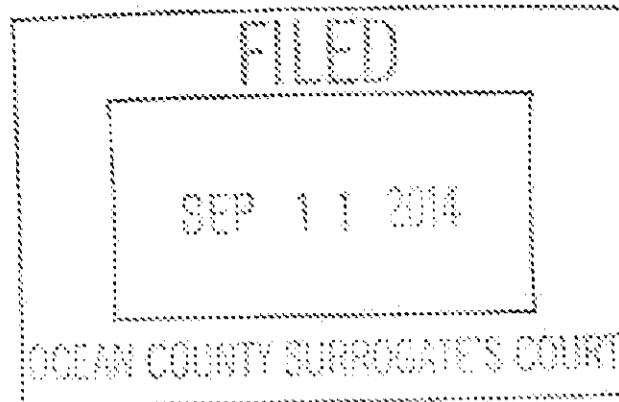
Respectfully submitted,



Christopher D. Olszak, Esq.

September 10, 2014

Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775



COPY

Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt

	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIVISION-PROBATE PART
IN THE MATTER OF	:	OCEAN COUNTY
WALTER SHAPIRO,	:	
An Alleged Mentally	:	DOCKET NO. 206637
Incapacitated Person.	:	
	:	Civil Action
	:	
	:	CERTIFICATION OF RHODA WASSERSTROM
	:	IN SUPPORT OF COUNTERCLAIM

I, Rhoda Wasserstrom, of full age, do hereby certify that:

1. I am Walter Shapiro's sister and one of the interested parties in this matter.
2. On July 3, 2014, my brother called my daughter to tell her that he was concerned about his son Howard removing him from his house against his will. Walter informed my daughter that he would be waiting for us at the house of his neighbor, Rabbi Holland. When we arrived on Walter's street, my daughter contacted the Lakewood Police Department because she saw Howard's car. Officer Ralph Hatt responded to the call. My daughter waited outside of the Rabbi's house, but I went into the house and met with Walter, his son Adam, Stacey from Senior Bridge Health Care Agency, Rabbi and Mrs. Holland, and Officer Hatt. We met for approximately two hours and discussed the situation. During the meeting, Officer Hatt contacted Adult Protective Services and Tiffany Tomasko participated in the meeting by phone. Walter made it clear that he did not want to leave his home. Both Officer Hatt and Ms. Tomasko

informed everyone that was present at the Rabbi's house that Walter was not to be removed from his house against his will and until a guardian was appointed for him. As the meeting ended, Walter went back to his house and we agreed to meet him and Adam later that evening for dinner. However, my daughter received a call at approximately 3:30 p.m. from Walter's aide to let us know that he had been taken from the property by Howard and Adam.

3. My daughter and I went back to Georgia on July 4, 2014 and when I returned home, I had a message on my home answering machine from Walter saying that he was told to get dressed in good clothes and that he was to go with his son. Walter said on the message that he did not want to go with his sons. I have saved the message and would provide it to the Court if necessary.

4. I have learned that Howard and Adam brought Walter to the Solana in Roseland on July 3, 2014 and that Howard subsequently sold Walter's house on July 17, 2014. Since he has been residing at the Solana, I have not been allowed to call Walter. I would like the ability to speak with and visit my brother.

5. Due to my age, I do not believe that I can serve as Walter's guardian. However, I do not believe it is in his best interests if either of his sons is appointed as his guardian. Howard has attempted to restrict my interaction with my brother. I am only concerned about my brother and that his money is used for his care alone. I am concerned about the manner in which Howard quickly sold my brother's house and that Walter's money may not be used solely for his care. Howard has had financial problems in the past and I do not believe that he is the appropriate party to be in charge of Walter's finances. If the Court is inclined to find that Walter is incapacitated, then I respectfully request that someone other than Howard or Adam be appointed as his guardian.

6. I swear that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, then I am subject to punishment.

Dated: 9 Sept '14

Rhoda Wasserstrom
Rhoda Wasserstrom

STATE OF GEORGIA :
: SS.:
COUNTY OF CHEROKEE :

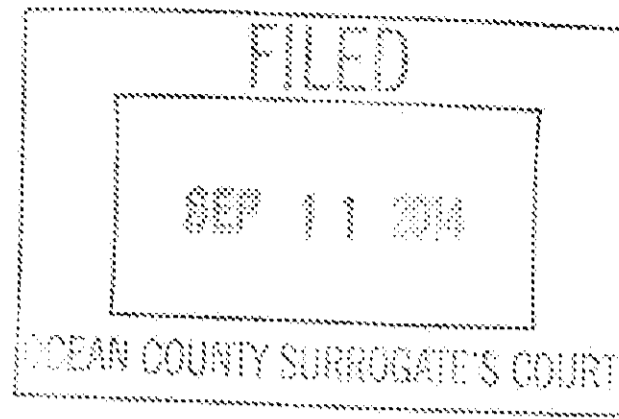
BE IT REMEMBERED, that on this 9 day of September, 2014, before me, the Subscriber, personally appeared Rhoda Wasserstrom who I am satisfied is the person in the foregoing instrument name, and I having first made known to her that the contents thereof, delivered the aforesaid instrument as a voluntary act and deed for the uses and purposes therein expressed.

Gelisa Paris Breland

Notary Public



Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775
 Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt



COPY

<hr/> IN THE MATTER OF WALTER SHAPIRO, An Alleged Mentally Incapacitated Person.	: SUPERIOR COURT OF NEW JERSEY : CHANCERY DIVISION-PROBATE PART : OCEAN COUNTY : : DOCKET NO. 206637 : : Civil Action : : CERTIFICATION OF LYNN WELT : IN SUPPORT OF COUNTERCLAIM
---	--

I, Lynn Welt, of full age, do hereby certify that:

1. I am one of Walter Shapiro's nieces and one of the interested parties in this matter.
2. I began to get concerned about my Uncle Walter at the end of June, 2014. Uncle Walter called me and my mother and asked us for help. He told us that he was scared of his son Howard and that he thought Howard was stealing from him. Walter also said that he did not want to move from his house, but that Howard planned to move him to an assisted living facility against his will.
3. After Walter called us, my mother and I flew from Georgia to visit with Walter. We arrived in Lakewood on June 25, 2014 and attempted to visit my Uncle at his house located at 159 St. Nicholas Avenue, Lakewood, New Jersey. At the time, my Uncle had two live-in aides from Senior Bridge Health Care Agency that worked in separate shifts and were with him for 24-hours a day. Upon our arrival at his house, the daytime aide informed us that we were not

allowed into the home because my cousin Howard informed her that we were "bad people." We spent a few hours visiting with Uncle Walter outside of his house in 82 degree heat. The aides told us that Howard told them that they would lose their jobs if my mother and I were allowed into Uncle Walter's house. When we arrived, I also contacted Adult Protective Services and the Ocean County Board of Social Services to express my concern about how Howard was managing Walter's finances and attempting to remove him from his home against his will. Adult Protective Services may have sent doctors to evaluate Walter, but I do not know if any reports were ever prepared. The social worker from Adult Protective Services, Tiffany Tomasko, told us that no one should remove Walter from his house and it is my understanding that she contacted Howard to tell him that as well.

4. On July 3, 2014, Walter called me and said that he was concerned that he was going to be taken against his will to a facility. I agreed to immediately drive over to his house and he told me that he would wait for me at the house of his neighbor, Rabbi Holland. When I arrived at my Uncle's street, I saw my cousin Howard's car and became concerned that he was there because he may have a license to carry a concealed weapon. I called the Lakewood Police Department and Officer Ralph Hatt responded to the call. I waited in the street while my mother went into the Rabbi Holland's house. I later learned that Howard was not there, but that Walter's other son, Adam, was in the house.

5. Before my mother and I left the house, Adam agreed to bring Walter to have dinner later that evening with me and my mother at Ruby Tuesday's located on Route 70 in Brick at 5:00 p.m. However, at approximately 3:30 p.m. that day, my Uncle's aide called me to inform me that Adam forced my Uncle into his car and took him from the house and took away his cell phone so that he could not call us for help. I called Adult Protective Services and the

evening Supervisor advised me to file police report. I filed a police report with the Lakewood Township Police Department to report that Adam had abducted his father. I later learned that Adam brought my Uncle to The Solana Roseland, an assisted living facility that is located at 345 Eagle Rock Ave, Roseland, New Jersey, 07068.

6. It has been very hard for me or my mother to speak with my Uncle since he has been at the Solana because we believe that Howard has told the staff there not to put our calls through to Walter's room. My mother and I would like to visit and speak with Walter.

7. Additionally, I am concerned about how Howard has managed my Uncle's funds and request that he be required to account to ensure that no funds were improperly taken from Walter. It is my understanding that Howard has filed bankruptcy in 1998 and in 2008 and that his mortgage may currently be in foreclosure. On July 7, 2014 my Uncle's neighbor reported to me that a "For Sale by Owner" sign was put up at Walter's house and my attorney has informed me that the property was sold on July 17, 2014. I believe that Howard specifically delayed filing the guardianship action because he wanted to sell my Uncle's house quickly and for less than the property was actually worth. The Affidavit of Estate inventory of assets provided by the Plaintiff in Exhibit C of the Complaint does not list the contents of my Uncle's house and the value of his jewelry, which would include Walter's gold Omega watch and Walter's Sterling Silver plated flatware. There is also no mention of Walter's car, which is a 2013 BMW 328i Sedan.

8. I am not requesting that I be appointed as my Uncle's guardian at this time, but I oppose the appointment of Howard Shapiro or Adam Shapiro and respectfully request that a third-party be appointed if the Court is inclined to appoint a guardian for Walter.

IV. Plaintiffs' complaint must be dismissed with prejudice, the Welts awarded their attorneys' fees and costs and an appropriate deterrent award entered.

DATED this 15th day of December, 2014.

/s/ *Michael P. Lowry*

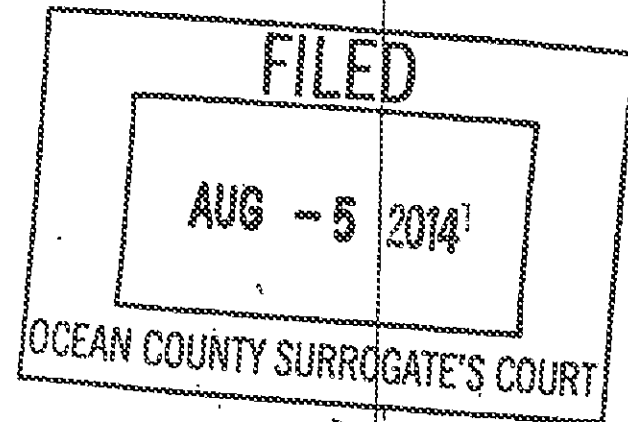
Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

Pursuant to NRCP 5(b), on December 15, 2014, **GLENN WELT, RHODA WELT, LYNN WELT & MICHELE WELT'S MOTION TO DISMISS** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

EXHIBIT "A"

DAVID A. SEMANCHIK, ESQ.
 1130 Hooper Avenue
 Toms River, New Jersey 08753
 (732) 240-4055
 Attorney for Plaintiff
 DAS5336



IN THE MATTER OF : SUPERIOR COURT OF NEW JERSEY
 : OCEAN COUNTY - PROBATE PART
 : CHANCERY DIVISION
 WALTER SHAPIRO :
 : DOCKET NO.: 206637
 : Civil Action
 An Alleged Mentally :
 Incapacitated Person :
 : VERIFIED COMPLAINT FOR APPOINTMENT OF
 : FULL GUARDIAN AND FURTHER RELIEF

RECEIVED AUG - 8. 2014

I, HOWARD SHAPIRO, whose principal address is 623 Skyline Drive, Lake Hopatcong, New Jersey 07849, by way of Complaint says:

1. Plaintiff, Howard Shapiro, is the son of Walter Shapiro and is familiar with the facts pertaining to the alleged incapacitated person.
2. The alleged incapacitated person, Walter Shapiro, is presently residing at 345 Eagle Rock Avenue #229, Roseland, NJ 07068. His former address was 159 St. Nicholas Avenue, Lakewood, NJ 08701.
3. Walter Shapiro is an 81 year old Caucasian male with a date of birth of January 28, 1933. Walter Shapiro is currently suffering from significant cognitive deficits and impaired insight and is in need of a full permanent legal guardian.
4. The known Next-of-Kin and/or interested parties to be noticed in the within matter, to the best of Plaintiff's knowledge, are as follows:

<u>NAME:</u>	<u>ADDRESS:</u>	<u>RELATIONSHIP:</u>
Helen C. Dodick	P.O. Box 812 Trenton, NJ 08625	Office of Public Guardian
Howard Shapiro	623 Skyline Drive Lake Hopatcong, NJ 0749	Son
Adam Shapiro	2330 Peppercorn St. Kissimmee, Florida 34741	Son
Allen Shapiro	990 Rao Dr. Monroe, Georgia 30065	Brother
Rhoda Welt	1040 Fieldgate Lane Roswell, Georgia 30075	Sister
Lynn Welt	1040 Fieldgate Lane Roswell, Georgia 30075	Niece
Michele Welt	580 Elgaen Ct. Roswell, Georgia 30075	Niece

5. Upon information and belief Walter Shapiro has been diagnosed with Lewy Body Dementia by a physician at Shady Oak Hospital in Long Island, NY.

6. Walter Shapiro is mentally incapacitated and unable to govern and/or manage her affairs as will appear from the reports of Dr. Beverlee A. Tegeder, dated July 1, 2014, (attached hereto as Exhibit A) and Dr. Martin Whiteman, dated July 7, 2014, (attached hereto as Exhibit B), which are incorporated herein by reference.

7. The financial estate of Walter Shapiro is more particularly set forth in the Affidavit of Estate, which is incorporated herein by reference. (See, Exhibit C).

8. Upon information and belief, the nieces of Walter Shapiro, Lynn Welt and Michele Welt, have requested to remove Walter Shapiro from the State of New Jersey. Walter's

son and Power of Attorney, Howard Shapiro, objects to any attempt to move Walter Shapiro from this jurisdiction.

WHEREFORE, Plaintiff demands Judgment:

- a. Adjudicating Walter Shapiro to be mentally incapacitated as a result of unsoundness of mind;
- b. Appointing a Full Guardian for Walter Shapiro;
- c. Appointing a Full Guardian to enable such person to have access and management over the alleged incapacitated person's Social Security and other monthly income and also to marshal his financial estate pending the Return Date for the full Hearing; and
- d. To set a Bond as applicable; and
- e. To provide for Accountings as ordered by the Court;
- f. Allowance of the costs of this proceeding to be paid from the estate of the incapacitated person;
- g. Allowance of Attorney's fees, the undersigned Counsel as Plaintiff; Physicians for their examination and/or reports; and as otherwise approved by the Court; and
- h. For such other relief as the Court deems equitable and just.

DATED: July 29, 2014

DAVID A. SEMANCHIK,
Attorney for Plaintiff

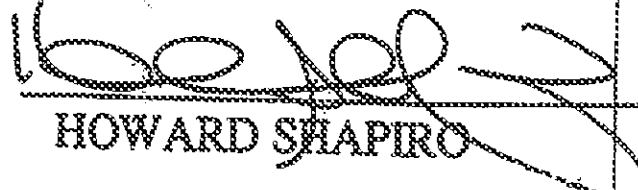
VERIFICATION

STATE OF NEW JERSEY:


COUNTY OF ^{Morris} ~~OCEAN~~ : SS:

I, HOWARD SHAPIRO, of full age, being duly sworn according to law, upon my oath, depose and say:

1. I am the Plaintiff in the above-entitled matter and am familiar with the facts pertaining to Walter Shapiro as set forth in the Complaint.


 HOWARD SHAPIRO

Sworn and Subscribed to before me
 this 31st day of July, 2014


 Notary Public of New Jersey
 Commission Expires:

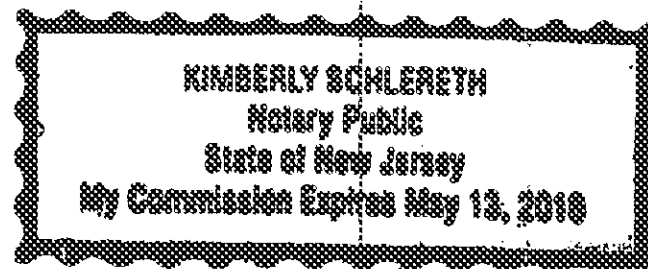


EXHIBIT A

RECEIVED JUL 02 2014

Beverlee A. Tegeder, Psy.D.
509 Main Street
Toms River, NJ 08753
N.J. Licensed Psychologist # 3472
(732) 244-4440

David Semanchik,
Attorney at Law
1130 Hooper Avenue
Toms River, NJ 08753

Re: Walter Shapiro

July 1, 2014

CERTIFICATION

Beverlee A. Tegeder, Psy.D. here by certifies the following:

1. I am a permanent resident of the state and a psychologist licensed to practice in the state of New Jersey (N.J. License #3472). I received a degree of Doctorate of Psychology from Rutgers University in New Jersey.
2. I am not a relative either through blood or marriage of the alleged incompetent. I am not the proprietor, director, or chief executive of any institution for the care and treatment of the insane in which the alleged incompetent is living or in which it is proposed to place him. I am not employed by the management of any such institution as a resident psychologist, nor do I have any financial interest therein.
3. I am not treating, nor have I treated the alleged incompetent in the past. I examined Walter Shapiro on June 27, 2014 and the findings of said examination are attached and incorporated as part of this certification.
4. It is my professional opinion that Walter Shapiro is incompetent and unable to govern all of his affairs. The basis for this opinion is found in the attached report.
5. Walter Shapiro is capable of attending a guardianship hearing; however, he would be unable to fully participate and comprehend such a proceeding.

6. I certify that the foregoing statements are true and I understand that if any of the above statements are willfully false I am subject to punishment.

Beverlee A. Tegeder, Psy.D. 7/1/14
Beverlee A. Tegeder, Psy.D. / Date
N.J. Licensed Psychologist

Beverlee A. Tegeder, Psy.D.
509 Main Street
Toms River, NJ 08753
N.J. Licensed Psychologist # 3472
(732) 244-4440

Competency Evaluation

Client's Name Walter Shapiro
Date of Birth: 1/26/32
Address: 159 St. Nicholas Avenue
 Lakewood, NJ

Date of Evaluation: 6/27/14

Reason for Referral:

Mr. Walter Shapiro was referred for a competency evaluation by Mr. David Semanchik, Attorney, who has been retained by his son, Howard Shapiro, in a guardianship matter. Howard Shapiro reported that his father, Walter Shapiro, had recently been admitted to a psychiatric facility in Long Island as a result of paranoid delusions. Walter Shapiro was discharged after 8 days, and he was prescribed Aricept and Seroquil. Howard Shapiro indicated that his father presently has a health care worker with him 24 hours a day. Howard Shapiro had attempted to place his father in an assistive living facility; however, his father became paranoid and the police had to intervene. The purpose of this evaluation was to determine Mr. Shapiro's mental competency and his ability to manage his affairs.

Clinical Observations & Interview:

Mr. Walter Shapiro was evaluated by the examiner in the living room of his home at 159 St. Nicholas Avenue in Lakewood, New Jersey. Mr. Shapiro greeted the examiner upon her arrival for the scheduled appointment, and he readily agreed to participate with the interview and assessment. Mr. Shapiro presented in a cordial manner and was cooperative. He appeared relaxed and comfortable in the examiner's company.

Mr. Shapiro is an 82 year old Caucasian male with balding grey hair, a mustache and hazel eyes. Mr. Shapiro was casually dressed for the assessment wearing jeans, a blue shirt, and sneakers. Mr. Shapiro has difficulty hearing so it was necessary for the examiner to speak loudly and to face him. His hygiene was good. Mr. Shapiro is an average built man weighing approximately 195 pounds, and he is 5' 5" feet tall. Mr. Shapiro is ambulatory, and he is able to care for his personal hygiene.

Mr. Shapiro spoke in moderate volume and at an even pace, and he frequently smiled during the testing session. He maintained good eye contact with the examiner, and his speech was clear and understandable with no articulation problems evident. Mr. Shapiro displayed poor concentration and an adequate attention span. Mr. Shapiro's mood was positive and his affect was full.

Mr. Shapiro indicated that he has lived in his present home for the past 42 years. He reported that his wife, Bertha, passed away 9 years ago. Mr. Shapiro told the examiner that his son recently set up a health care worker to stay with him 24 hours daily. Mr. Shapiro indicated that he has two sons; Adam and Howard.

Mr. Shapiro reported that he attended Tildon High School in Brooklyn, and he graduated in 1951. He then attended a trade school. Mr. Shapiro indicated that he worked as a compositor for the New York Times. He indicated that he worked evenings at the New York Times for 42 years until his retirement in 1998.

Mr. Shapiro indicated that he receives approximately \$40,000 year in combined income from social security, pension income, and union pension. He indicated that he pays his own bills each month, and he is able save money each month.

When asked about his medical history and medical concerns, Mr. Shapiro indicated that he had recently been hospitalized at a "Jewish Hospital in Long Island" and he was then transferred to South Oaks Psychiatric Facility. Mr. Shapiro indicated that he was told that he was "incompetent." Mr. Shapiro could not recall the medication that was prescribed to him upon his discharge. He told the examiner that he takes medication for his high blood pressure, "a pill for dementia," and a sleeping pill. Mr. Shapiro's health care worker provided the examiner with his medication information. Mr. Shapiro is prescribed: quetiapine fumarate (25 mg), donepezil HCL (5 mg), amlodipine besylate (10 mg), pravastatin sodium (20 mg), and enalapril maleate (10 mg).

When asked how he spends his time, Mr. Shapiro indicated that he spends his days shopping, watching sporting events on television, and getting out for lunch. Mr. Shapiro also enjoys sitting outside every day and enjoying the outdoors. Mr. Shapiro does not have a valid N.J. driver's license. He reported that he has a good appetite, and he has been sleeping well at night since he has been prescribed sleeping medication. Mr. Shapiro described his moods as irritable at times. He did not verbalize or exhibit any symptoms of anxiety. At the time of the evaluation, no hallucinations, delusions or paranoid thinking were indicated.

Folstein Mini-Mental Status Exam

Mr. Shapiro was cooperative during the assessment, and he appeared well motivated to do his best on the tasks presented. He exhibited an adequate attention span and poor concentration. Mr. Shapiro knows the day, date, month, year and season. He knows the place, address, city, county and state. He could register three words after one trial, and he

was able to recall two of the three words after distraction. He can count backwards from 100 by serial 7's for one problem. He is unable to repeat a sentence presented aloud. He could name simple objects such as pencil and watch. He could follow a three-step command. He is unable to follow a written command. He is able to write a complete sentence; however, he cannot adequately copy a design of two intersecting pentagons. Mr. Shapiro's Folstein Mental State Examination Score is 22/30 consistent with mild cognitive impairment.

Controlled Oral Word Association Test (COWAT)

Mr. Walter Shapiro was administered the Controlled Oral Word Association Test (COWAT). He responded in a slow, deliberate manner and was persistent in his efforts. He is able to name 12 words beginning with the letter "F", 5 words beginning with the letter "A", and 10 words beginning with the letter "S." He has five repetitions. Mr. Shapiro obtained a score of 27 indicating impaired executive functioning. Impaired executive functioning impacts the ability to think abstractly, order actions towards a goal, and adapt to the unexpected resulting in an inability to carry out activities of daily living as well as independent activities. Impaired executive functioning may impact activities such as the capacity to execute health care decisions, the ability to exercise self-control and the ability to manage finances and bills.

Clock Drawing Test

Mr. Shapiro was administered the Clock Drawing Test, a screening for cognitive impairment and dementia. Errors on his drawing were as follows: omission of numbers, drawing numbers outside of the circle, hands of the clock the same size, and unable to make any denotation of time. Mr. Shapiro's drawing was reflective of moderate visuospatial disorganization, and his results are indicative of moderate cognitive impairment.

Summary and Recommendations:

Mr. Walter Shapiro is an 82 year old Caucasian male who presently resides in his own home in Lakewood, New Jersey. Mr. Shapiro was recently diagnosed with dementia, and he has a health care worker with him 24 hours daily. Mr. Shapiro was cooperative and motivated to do his best on the assessment. He exhibited an adequate attention span and poor concentration. Mr. Shapiro reported having a good appetite and good sleeping habits. He does not present symptoms of anxiety. No hallucinations, delusions or paranoid thinking were indicated.

On the Folstein Mini-Mental Status Exam, Mr. Shapiro receives a score of 22/30 consistent with mild cognitive dysfunction. On the Controlled Oral Word Association Test (COWAT), he obtained a score of 27 indicating impaired executive functioning. Impaired executive functioning may impact activities such as the capacity to execute health care decisions, the ability to exercise self-control and the ability to manage

finances and bills. Results of the Clock Drawing Test are reflective of moderate visuospatial disorganization and are indicative of moderate cognitive impairment.

In conclusion, Mr. Shapiro is unable to make rational decisions about his well being. He is unable to make simple and complicated medical decisions that require informed consent. He does not have an understanding of his financial resources and needs. Based on this evaluation, Mr. Walter Shapiro is mentally incompetent. He is capable of attending a guardianship hearing; however, he would be unable to fully participate and comprehend such a proceeding.

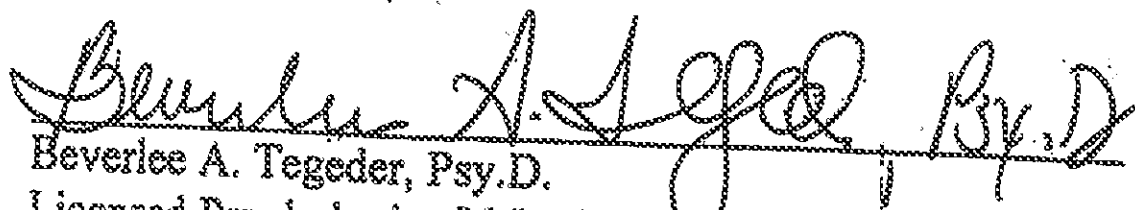

Beverlee A. Tegeder, Psy.D.
Licensed Psychologist (N.J. License #3472)

EXHIBIT B

LAW OFFICE OF DAVID A. SEMANCHIK
 1130 Hooper Avenue, Suite 1
 Toms River, NJ 08753
 (888) 691-1099

David A. Semanchik, Esq.
 Attorney for Plaintiff

DAS5336

IN THE MATTER OF
 WALTER SHAPIRO

An Alleged Incapacitated
 Person

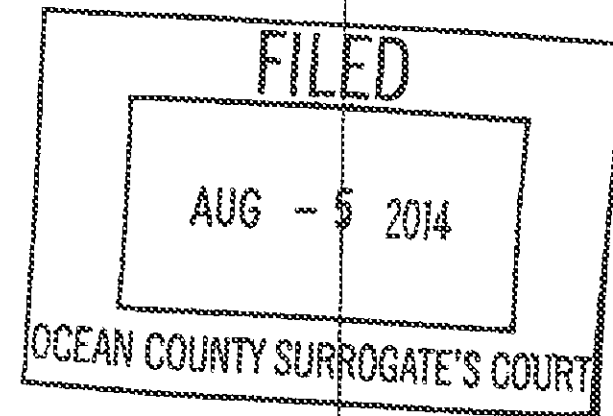
: SUPERIOR COURT OF NEW JERSEY
 : CHANCERY DIVISION - OCEAN COUNTY

: PROBATE PART

: DOCKET NO.: 206637

: CIVIL ACTION

: CERTIFICATION OF MARTIN WHITEMAN, D.O.



RECEIVED AUG - 8 2014

I, Martin Whiteman, D.O., being of full age certify as follows:

1. I am a permanent resident of the state of New Jersey and a physician licensed to practice medicine in the state of New Jersey for twenty-one years. I received a degree of Doctor of Osteopathy from the New York College of Osteopathic Medicine.
2. Pursuant to Rule 4:86-3, I hereby certify to the Court that I am not disqualified pursuant to said Rule and I am not related, either through blood or marriage, to the alleged incapacitated person, WALTER SHAPIRO, or to a proprietor, director or Chief Executive Officer of any institution for the care and treatment of the ill in which the alleged incapacitated person is living, or in which it is proposed to place him, or who is professionally employed by the management thereof as a resident physician or a psychologist or who is financially interested therein.

3. I am WALTER SHAPIRO'S examining physician. On July 2, 2014 I examined him in his home located at 159 St. Nicholas Avenue, Lakewood, NJ 08701 to evaluate his mental capacity and ability to govern his affairs.
4. WALTER SHAPIRO is an 82 year old gentleman with hazel eyes and grey hair with fronto-parietooceipital male pattern balding and a thick grey mustache.
5. WALTER SHAPIRO has a diagnosis of dementia, probable dementia with Lewy bodies, which is based on my evaluation and available clinical history, which is set forth in more detail in my attached report. His overall prognosis for any significant improvement in his cognitive status appears poor.
6. Based on my examination and the available clinical history, it is my medical opinion that WALTER SHAPIRO is unfit and unable to manage his affairs and is mentally incompetent. The particular circumstances and factual, medical basis for my opinion is set forth in my report.
7. Although WALTER SHAPIRO appears capable of attending a guardianship hearing, he would not likely be fully capable of comprehending or participating in such a proceeding due to his cognitive deficits and recurrent paranoid delusions.
8. I certify that the foregoing statements are true and I understand that if any of the above statements are willfully false I am subject to punishments.

Date: July 7, 2014


Martin Whiteman, D.O.

ADULT AND GERIATRIC NEUROLOGY
GUARDIANSHIPS & MEDICOLEGAL SERVICES

Phone 732-399-9477
Fax 732-279-0424

Diplomate, American Board
of Psychiatry & Neurology

MENTAL CAPACITY REPORT OF WALTER SHAPIRO ALLEGED INCAPACITATED PERSON

IDENTIFYING DATA AND REASON FOR EVALUATION

Walter Shapiro is an 82 year-old-gentleman who was referred by the Ocean County Adult Protective Services' social worker Ms. Tiffany Tamasco. Mr. Shapiro was recently hospitalized in a psychiatric hospital in New York for eight days and diagnosed with dementia with Lewy bodies. He was examined in his home in Lakewood, New Jersey.

BACKGROUND INFORMATION

The following information was obtained during my telephone conversation with Mr. Shapiro's son Walter. Mr. Shapiro was fully independent and resided alone until being hospitalized at South Oaks Hospital in Amityville, New York. His wife died eight years ago. A precipitous decline in his condition became apparent when he recently drove to visit his girlfriend in Queens, New York. She reported that his paranoia had escalated to the point that he began sleeping with a knife and destroyed all the mirrors in his car with a hammer. When Walter took his father to the local emergency room in Queens, a psychiatric consultant deemed him not to be of immediate danger to himself or others. When Walter disagreed with their assessment of his father, he was referred for an outpatient geriatric psychiatry evaluation at South Oaks Hospital. After their evaluation, he was immediately admitted and underwent testing. Mr. Shapiro was diagnosed with Lewy body dementia. He was advised to stop driving and to have twenty-four hour supervision. Walter has noted a decline in his father's short-term memory, although his remote memory remains intact. In April of this year he had delusions of objects moving around in his house. His father's girlfriend reported him acting out his nightmares. He had been flailing his arms during his sleep. On one occasion he stood up over her holding a flashlight in the middle of the night saying that the television evangelists were telling her what to do. Mr. Shapiro has not been bathing or changing his clothes regularly. Over the past year he has exhibited a shuffling type gait, which he attributed to his "bad knees". He fell once about a month ago when he was dizzy. On a referral from his primary care physician Dr. Axelrod, Walter had previously taken him to see a neurologist. He had underwent cognitive testing, an MRI and an EEG, but was not given a diagnosis. Mr. Shapiro also has hypertension and hypercholesterolemia. Walter reported his current medications as Aricept, Seroquel, Vasotec, and Pravachol. Although Mr. Shapiro's sister in Georgia has been attempting to get him to move near her, Walter wants him to move into an assisted living facility near him in Lake Hopatcong, New Jersey. Since his hospitalization, Mr. Shapiro has resided in his home with a twenty-four hour aide. He has continued to exhibit significant paranoid delusions. He believed that Walter was coming to kill him and his girlfriend. He also accused Walter of stealing jewelry from his house. Walter had informed him that he removed the jewelry for security when he was hospitalized. He also had been observed sitting outside all day because he was "scared to be in the house". When he recently became extremely agitated, he ran out and took refuge in a neighbor's house. He also had withdrawn over \$7,500 from his bank account and given it to his niece for no apparent reason. After the niece was confronted about it, she eventually returned the money.

INTERVIEW AND MENTAL STATUS EXAMINATION

Mr. Walter Shapiro reported taking medications for hypertension, hypercholesterolemia and insomnia. He also uses a hearing aid in his ear. He did not know the names of his medications, but his aide showed me his medication containers, which listed generic formulations of Aricept, Seroquel, Vasotec, Norvasc, and Pravachol. Mr. Shapiro believed that Seroquel was for his sleep and reported to me that he had taken one shortly before my evaluation at 11:30 AM. He reported having "two people around the clock, twenty-four hours a day". He said, "I started to get a little weaker". He added that he "lost the privilege of driving. Without driving I need help to carry groceries". He reported that he manages his own finances and denied needing any assistance in doing so. When I inquired about his memory he said "very good long-term, better than short-term". He added, "I took a test a couple of weeks ago by a memory doctor and I was told that I did quite well". He retired in 1998 after working forty-two years as a composer for the New York Times. He showed me a picture of him and his girlfriend who resides in Queens. He stated his wife died nine years ago and her husband died ten years ago. He has two sons, ages 47 and 54 in Lake Hopatcong, New Jersey and Kissimmee, Florida respectively.

On examination he appeared alert and oriented to his street address, the town, county, state, month, season and year. He reported the date as the third and the day Thursday. He performed serial seven's as "100 - 93 - 85 - 78 - 71 - 68". He was unable to recall any of three objects after a several minute delay. He named two simple objects, repeated a given phrase and followed a three-step verbal and a written command. He was unable to copy a diagram of two intersecting pentagons but wrote a simple sentence. He scored 22/30 on the Folstein Mini-Mental State Exam. He named the current President and Vice President of the United States. He named the previous President but not the Vice President. He stated there were thirty-five nickels in \$1.35 of all nickels but correctly stated the number of nickels, dimes and quarters in one dollar respectively. When I asked him to tell me about any recent major news events he said, "Obama talked about the three kids that were abducted and killed in California". He added, "they want to send arms to the Syrian rebels". When I asked him to tell me about any major news events that occurred in New York City over the past fifteen years he said, "9-11, two planes crashed into the North and South Towers of the World Trade Center". When I inquired how it occurred he said, "the planes were hijacked and forced them to fly into it". He stated al-Qaeda was believed responsible. When I asked if they apprehended those believed to be responsible he said, "they caught a few, they caught the master mind, I believe he was killed by one of the drone planes, they bombed it". In addition, the Saint Louis University Mental Status Examination for Detecting Mild Cognitive Impairment and Dementia was performed. He scored 15/30 on this examination. During this exam he solved a problem requiring him to total two objects being purchased and give the correct change from one hundred dollars. He recalled two of five objects after a several minute delay. He named twelve animals one minute. He did not perform a digit span of three or four backwards. He was unable to place the hour markers or hands correctly on a clock face. After being read a brief story, he answered two of four questions correctly regarding it.

BRIEF NEUROLOGICAL EXAMINATION

His cranial nerves (II - VII) appeared essentially intact except for decreased hearing. His strength appeared good in both his arms and legs. His sensation was intact to pinprick and vibration in both his arms and legs. His deep tendon reflexes were symmetrically active in both his arms and legs except absent at both ankles. His gait was slightly small-stepped, although fairly steady.

DIAGNOSIS AND RECOMMENDATIONS

Walter Shapiro has evidence of mild cognitive deficits with a history of recent severe recurrent paranoid delusions. His scores of 22/30 on the Folstein Mini-Mental State Exam and 15/30 on the Saint Louis University Mental Status Examination were both within the range of a dementia. He exhibited significant short-term memory loss, impaired calculations, an impaired general fund of knowledge, constructional apraxia, and a diminished word fluency (naming twelve animals in one minute). According to his son Walter Shapiro, he had undergone prior cognitive testing, an MRI of the brain and EEG. Although it's a clinical diagnosis and not demonstrated on testing, I concur that he likely has dementia with Lewy bodies. The differential diagnosis includes a vascular dementia, Alzheimer's disease, Vitamin B12 deficiency, and hypothyroidism, although the latter two may have been excluded during his prior testing. Based on my evaluation and available clinical information, it is my medical opinion that Walter Shapiro should be adjudicated incompetent for medical, legal and financial decisions and should have a responsible legal guardian appointed to provide for his needs.

Date: July 7, 2014

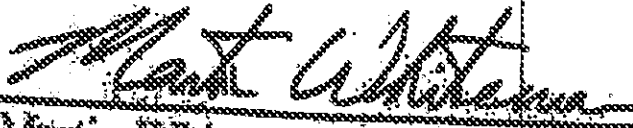
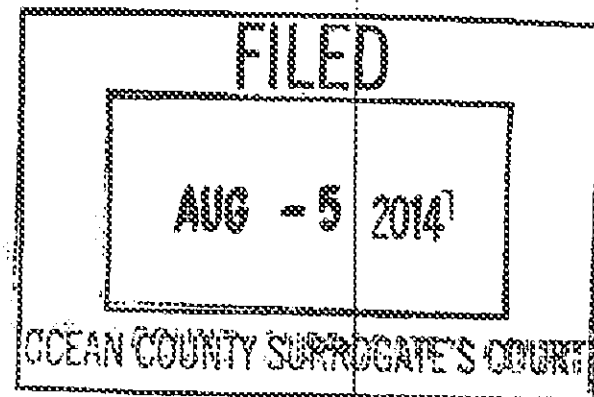

Martin Whiteman, D.O.

EXHIBIT C

DAVID A. SEMANCHIK, ESQ.
 1130 Hooper Avenue
 Toms River, New Jersey 08753
 (732) 240-4055
 Attorney for Plaintiff
 DAS5336



IN THE MATTER OF:

WALTER SHAPIRO

An Alleged Mentally
 Incapacitated Person

: SUPERIOR COURT OF NEW JERSEY
 : OCEAN COUNTY - PROBATE PART
 : CHANCERY DIVISION

: DOCKET NO.: 206637

Civil Action

AFFIDAVIT OF ESTATE

RECEIVED AUG - 8 2014

STATE OF NEW JERSEY:

SS:

COUNTY OF OCEAN :

I, HOWARD SHAPIRO, of full age, being duly sworn according to law, upon his oath, deposes and says:

1. I am the Plaintiff in the above-entitled matter and somewhat familiar with the facts and circumstances pertaining to this matter. I have a Power of Attorney that was signed by Walter Shapiro on April 28, 2011, a copy of which is attached hereto, appointing me as Walter Shapiro's Durable Power of Attorney.

2. To the best of our knowledge, the assets of the estate are as follows:

INCOME

1. Social Security - Monthly:	\$ 1,875.00
2. CWA/ITA Pension	\$ 1,210.60
3. Metlife Pension	\$ 768.68
TOTAL KNOWN MONTHLY INCOME:	\$ 3,854.28

ASSETS

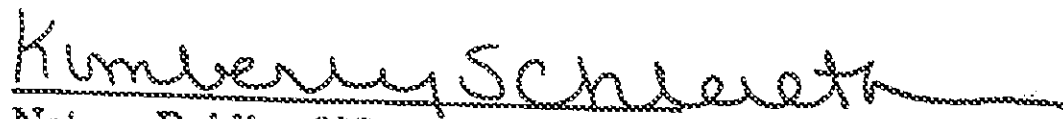
BANK ACCOUNTS:

1. Santander Bank	\$ 230,810.55
TOTAL LIQUID ASSETS:	\$ 230,810.55

PERSONAL PROPERTY

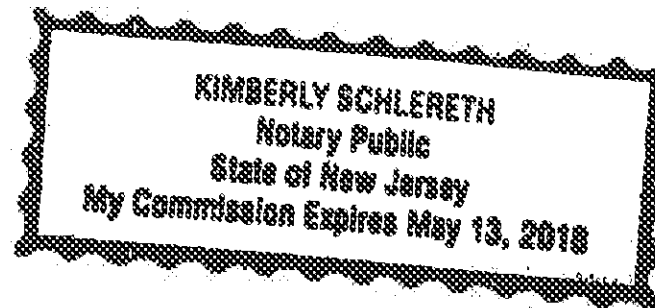
1. Contents of assisted living unit (estimate)

\$2,000.00

TOTAL ESTATE:**\$232,810.55**
HOWARD SHAPIROSworn and Subscribe to before me
this 31st day of July, 2014

Notary Public of New Jersey

Commission Expires:



**DURABLE POWER OF ATTORNEY
(BROAD FORM)**

KNOW ALL MEN BY THESE PRESENTS:

That, **WALTER SHAPIRO** residing at 159 St. Nicholas Avenue, in the Township of Lakewood, County of Ocean and State of New Jersey, as Principal does make, constitute and appoint Howard Andrew Shapiro, as his true and lawful attorney-in-fact for him in his name, place and stead for the following uses and purposes:

1. In the event that Howard Andrew Shapiro is unable, unwilling, or unavailable to act as my lawful attorney-in-fact, then I nominate, constitute and appoint, Adam Roy Shapiro, to act as my attorney-in-fact with the same powers.

2. To enter into, on my behalf, any kind or type of agreement or contract, written or oral, and perform the same which in my said attorney-in-fact's absolute judgment is deemed in my interest.

3. To buy and sell any and/or all securities of any kind or type now or hereafter belonging to me, including, without being by way of limitation, stocks, bonds, debentures, etc., and to effect such sale or purchase to make, execute and/or deliver any assignments, bills of sale or otherwise that may be necessary.

4. To deposit or withdraw any and all monies in any financial institution of any kind or type which shall come into my attorney-in-fact's hands.

My attorney-in-fact is specifically authorized "to conduct banking transactions" as set forth in section 2 of P.L. 1991-95 (C.46:2B-11) in accordance with the full authority conferred by that statute.

For the purpose of this paragraph, the term "monies" shall include every kind of chose in action which is redeemable in money, including, without being by way of limitation, checks, drafts, promissory notes, bills of exchange, certificates of deposit and withdrawal orders.

5. To demand, sue for, collect, recover, apply for and receive all goods, claims, monies, chose in action, proceeds, collateral, or interest of any kind or type either now due or that may hereafter be due, or belong to me, and to make, execute and deliver receipts, releases or discharges therefore, together with the right to engage accountants, attorneys at law, workers and others, either in connection with this right for such other purposes my attorney-in-fact shall deem proper, and to pay the same such remuneration as my attorney-in-fact shall deem proper, giving and granting unto said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as I might or could do if personally present with full power of substitution and revocation, hereby ratifying and confirming all that said attorney-in-fact or substitute shall lawfully do or cause to be done by virtue hereof.

6. To borrow, from time to time, such sums of money at such rate or rates of interest, for such period or periods, and on such terms as my attorney-in-fact may deem proper in his, her or their absolute discretion, and, in connection therewith, to subject, to mortgage, liens, pledge or

hypothecation, either my real property or my personal property, all or any part thereof, and, in connection therewith, execute in my name, acknowledge and deliver all necessary documents including, without being by way of limitation, mortgages, notes, deeds of trust, etc., containing such conditions, terms, conveyances, provisions, and warranties as my attorney-in-fact may deem proper to evidence and secure the loans so procured.

7. I specifically authorize my attorney-in-fact to enter into and deposit in and/or remove anything in any safe deposit box that I may have in my name alone, or that I may have access to in my own right.

8. To contract to sell any and all real estate which I may own, wherever located, and to that end to negotiate completely the terms of the sale, including price, method of payment, and all related items and to execute a Deed or Deeds, Affidavit of Title or Affidavits of Title, and all related documents sufficient to effect conveyance of my real estate and to receive any and all proceeds of sale, whether cash, check or mortgage, in my attorney-in-fact's own name and to deal with the proceeds in all respects as if the absolute owner thereof.

9. In addition to the foregoing powers and in expansion of same, my attorney-in-fact is specifically further authorized to purchase and/or mortgage any real estate on my behalf, and execute in my name all documents of every kind and type necessary to effect said purchase or mortgage transaction or refinancing, including Deed, Affidavit of Title, Survey Affidavit, etc., Change, Closing Statements, mortgage, mortgage bonds and notes, and any and all other necessary documents.

10. To conduct, engage in, and transact any and all lawful business of whatever name or kind for me, on my behalf, and in my name.

I specifically authorize my attorney-in-fact to manually sign my signature in connection with the exercise of this Power of Attorney without the addition of any notations indicating that the signature was other than my own. I specifically make this authorization because I recognize the difficulty that sometimes attends the use of the Power of Attorney and I wish to minimize such difficulty to the greatest extent possible.

The power to exercise the authority herein conferred shall not be affected by my disability as Principal as defined in N.J.S.A. 46:2B-8b, or any similar Statute which applies in this or any other jurisdiction.

11. In further addition to the foregoing powers and in expansion of same, my attorney-in-fact is specifically authorized to consult with my physicians as to my condition and treatment and to consent, on my behalf, to the performance of any medical procedures which he or she may reasonably feel appropriate in the circumstances including my personal care, medical treatment, hospitalization and health care, and to withhold or withdraw any type of medical procedure even though my death will ensue.

My attorney-in-fact shall have the same access to any medical records that relate to me that I have, including the right to disclose the contents to others.

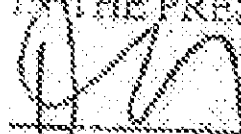
My attorney-in-fact shall also have full power to make a disposition of any part or of all of my body for medical purposes and/or to authorize an autopsy and direct the disposition of my remains.

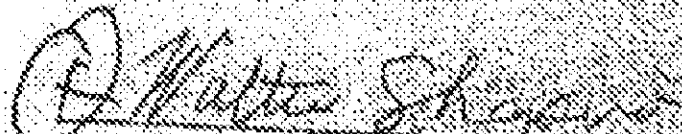
These powers in paragraph 11, shall be used to effect my wishes as set forth in the following Intervivos Direction to family and physicians: I do not want my life to be prolonged, nor do I want life sustaining treatment, including hydration and nutrition, to be provided or continued if my agent believes the burdens of treatment outweigh the expected benefits. I want my attorney-in-fact to consider the relief of suffering, the expense involved, and quality, as well as the possible extension of my life in making these decisions concerning life sustaining treatment. I specifically authorize the use of pain relieving drugs even if it may hasten my death.

If a Guardian needs to be appointed, I nominate the following to serve as Guardian: Howard Andrew Shapiro if available and if not, then I nominate Adam Roy Shapiro.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of April, 2011.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Jonathan Rudnick Esq



WALTER SHAPIRO

STATE OF NEW JERSEY

ss:

COUNTY OF MONMOUTH

BE IT REMEMBERED, that on this 28th day of April, 2011 before me the subscriber, personally appeared WALTER SHAPIRO, who I am satisfied is the person named in and who executed the within instrument, and thereupon he acknowledged that he signed, sealed and delivered the same as his act and deed for the uses and purposes therein expressed.


Jonathan Rudnick Esq

Prepared by:
CARTON & RUDNICK
788 Shrewsbury Avenue
Building 2 - Suite 204
Tinton Falls, New Jersey 07724
(732) 842-2070

EXHIBIT "B"

Christopher D. Olszak, Esq.
 NJ Attorney ID#017292001
 Law Office of Olszak & Olszak, L.L.C.
 Leisure Square Mall
 1000 State Highway No. 70
 Lakewood, New Jersey 08701
 (732) 367-7775
 Attorney for Respondents, Rhoda Wasserstrom and Lynn Welt

IN THE MATTER OF
 WALTER SHAPIRO,
 An Alleged Mentally
 Incapacitated Person.

: SUPERIOR COURT OF NEW JERSEY
 : CHANCERY DIVISION-PROBATE PART
 : OCEAN COUNTY
 :
 : DOCKET NO. 206637
 :
 : Civil Action
 :
 : ANSWER AND COUNTERCLAIM

The Respondents, Rhoda Wasserstrom and Lynn Welt, are the sister and niece of the alleged incapacitated person, Walter Shapiro, and reside at 1040 Fieldgate Lane, Roswell, Georgia, 30075. The Respondents, by way of Answer to Plaintiff's Complaint, say that:

1. The Respondents admit the allegations of paragraph 1.
2. The Respondents admit the allegations of paragraph 2 in part. Walter Shapiro's domicile is 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701. The Respondents neither admit nor deny the remaining allegations of paragraph 2 and the Plaintiff is left to his proofs.
3. The Respondents admit the allegations of paragraph 3 in part. Walter Shapiro is an 81 year old Caucasian with a date of birth of January 28, 1933. The Respondents deny that Walter Shapiro is currently suffering from significant cognitive deficits and impaired insight and is in need of a full permanent legal guardian and the Plaintiff is left to his proofs.

4. The Respondents deny the allegations of paragraph 4 and believe that there is another interested party must be added to the Complaint. Specifically, Walter has a girlfriend, Alice Walker, who resides at 13640 242 Street, Rosedale, New York, 11422.

5. The Respondents neither admit nor deny the remaining allegations of paragraph 5 and the Plaintiff is left to his proofs. The Respondents note that the Plaintiff has not submitted any physician report or notes from a doctor at Shady Oak Hospital in Long Island that allegedly diagnoses Walter Shapiro with Lewy Body Dementia.

6. The Respondents deny the allegations of paragraph 6 and the Plaintiff is left to his proofs. The Respondents deny that the information contained in the reports support the physicians' opinions that Walter Shapiro is unable to make decisions about his well being and that he is mentally incompetent.

7. The Respondents neither admit nor deny the allegations of paragraph 7 and the Plaintiff is left to his proofs.

8. The Respondents deny the allegations of paragraph 8.

WHEREFORE, Respondents, Rhoda Wasserstrom and Lynn Welt, demand judgment:

A. Dismissing the Complaint with prejudice, or in the alternative, appointing a third-party other than Howard Andrew Shapiro of Adam Shapiro to serve as Guardian of Walter Shapiro;

B. For attorney fees and costs to together with attorney fees and costs of suit,

C. Allowing remittance of reasonable costs and fees from the assets of Walter Shapiro of against Howard Andrew Shapiro individually; and

D. For such other relief as the Court deems equitable and just.

COUNTERCLAIM

ACCOUNTING

1. Howard Andrew Shapiro was named as the attorney-in-fact for Walter Shapiro pursuant to a durable power of attorney dated April 28, 2011. A copy of Walter Shapiro's power of attorney dated April 28, 2011 is attached hereto as "Exhibit A."

2. Walter Shapiro's power of attorney dated April 28, 2011 did not authorize his attorney-in-fact to make gifts of his assets.

3. After obtaining power of attorney from his father, Howard Andrew Shapiro closed all of Walter Shapiro's bank accounts and restricted Walter's access to his funds.

4. Upon information and belief, Howard Andrew Shapiro used Walter Shapiro's money to purchase a BMW for himself within the last three months.

5. Upon information and belief, Howard Andrew Shapiro's mortgage encumbering his house located at 623 Skyline Drive, Lake Hopatcong, New Jersey, 07849, is subject to a pending foreclosure action and the Respondents are concerned that he will use or has used Walter's money for himself and to pay his own debts. A copy of a lis pendens filed in Morris County on September 24, 2013 is attached hereto as "Exhibit B".

6. On or about July 7, 2014, Howard Andrew Shapiro and Adam Shapiro removed Walter Shapiro from his residence located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 and immediately listed the house for sale by owner.

7. Upon information and belief, Walter Shapiro did not wish to sell his residence located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701.

8. Upon information and belief, Howard Andrew Shapiro entered into a contract to sell Walter's residence located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 as attorney-in-fact for Walter Shapiro.

9. On or about July 17, 2014, Howard Andrew Shapiro as attorney-in-fact for Walter Shapiro, sold the real property and premises located at 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 for less than fair market value to David Holtz for Two Hundred Thirty Thousand (\$230,000.00) Dollars. A copy of the deed July 17, 2014 is attached hereto as "Exhibit C".

10. Upon information and belief, Howard Andrew Shapiro intentionally delayed filing the present guardianship until after the closing occurred on 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701 so that the Court would not inquire as to the adequacy of the sale price or whether or not the sale was in Walter's best interest.

WHEREFORE, Plaintiffs demand judgment:

A. Requiring Howard Andrew Shapiro to account to the Plaintiffs and the Court for all acts, expenditures, and financial transactions that he has taken in regard to Walter Shapiro's assets since April 28, 2011, including, but not limited to, his bank accounts, jewelry, his automobile, the proceeds from the sale of 159 St. Nicholas Avenue, Lakewood, Ocean County, New Jersey, 08701, and the sale of the contents of the house;

- B. Requiring Howard Andrew Shapiro to return any of Walter Shapiro's assets that may have been transferred into Howard's name alone;
- C. Allowing remittance of reasonable costs and fees from the assets of Walter Shapiro of against Howard Andrew Shapiro individually; and
- D. For such other relief as the Court may deem appropriate and necessary under the circumstances.

Law Office of Olszak and Olszak, L.L.C.

Date: _____

By Christopher D. Olszak, Esq.
Attorney for Respondents
Rhoda Wasserstrom and Lynn Welt

CERTIFICATION OF FILING AND SERVICE

I certify that the within pleading has been filed and served within the time prescribed by the Rules of Court.

TRIAL COUNSEL DESIGNATION

Pursuant to Rule 4:25-4, Christopher D. Olszak, Esq. of the Law Office of Olszak and Olszak, L.L.C. is hereby designated as trial counsel on behalf of the Respondents, Rhoda Wasserstrom and Lynn Welt.

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify, pursuant to Rule 4:5-1, that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, with the exception of a possible future need to declare the estate insolvent, and that aside from Alice Walker, no other parties should be jointed in this action. I further certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OLSZAK & OLSZAK, L.L.C.
Attorney for the Respondents
Rhoda Wasserstrom and Lynn Welt

Dated: September 3, 2014

By: _____
Christopher D. Olszak, Esquire

EXHIBIT "C"

For: Court Record
 Re: Guardianship of Walter Shapiro
 From: Allan E. Shapiro, Brother of Walter

In my assessment of Walter Shapiro's needs, I find the following persons unsuitable to manage the welfare and financial affairs of Walter Shapiro.

Said persons:

Howard Shapiro, Walter's son
 Adam Shapiro, Walter's son
 Jenna Shapiro, Howard's spouse
 Maryann Shapiro, Adam's spouse

I strongly recommend an independent senior advocate case manager who is close to wherever Walter resides.

The past behaviors and history of their interactions with Walter and their financial instabilities attest to my recommendations.

Maryann and Jenna Shapiro willfully discouraged Walter from visiting their homes or having any contact with his grandchildren. Howard rarely contacted his father but only through emails via Walter's friend, Alice Walker, in order to conceal this. Adam would secretly call Walter on his cell phone while driving so as his wife would not be aware.

However, all of the above mentioned persons and their children were not adverse to receiving monies and gifts from Walter. I find these hypocritical behaviors deceitful, perverse and lacking in moral character.

Further investigation revealed that the listed persons have a poor history of attending to financial obligations in a responsible manner.

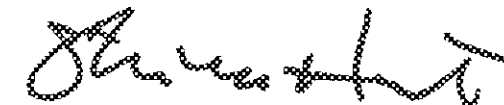
When I was made aware of Howard Shapiro willfully abusing the joint checking account funded by Walter's Social Security and pension deposits, I notified Social Services and Adult Protective Services in Toms River, New Jersey, to the dismay of Jenna Shapiro. Another suspicious behavior by Howard Shapiro was the coercion of Walter to purchase a new expensive BMW SUV which Adam agreed was probably for the future benefit of Howard. It seemed inappropriate for an 81 year old person and is likely presently in Howard's possession.

Howard also possesses the only keys to Walter's home which was recently rifled through by the above persons and their children to secure items they may have desired. Walter had first been abducted from his home in order to do this.

In view of my impressions, I strongly object to Walter's sons, their spouses, or children to be appointed by the court to any form of guardianship for Walter Shapiro.

Respectfully yours,

Witnessed by:


 STEVEN M. HUNT

Residing at:

930 Rao Dr
 Monroe, GA 30655

Walton County, Georgia

This 12th day in the August

year 2014

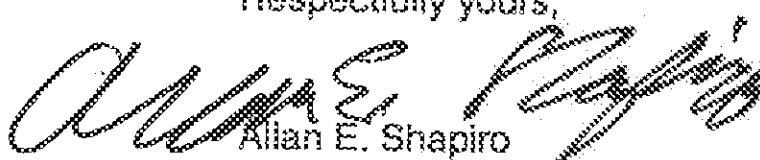

 Allan E. Shapiro
 Lt. Col. US Army (Retired)
 Psychiatric Clinical Nurse Specialist
 990 Rao Drive
 Monroe GA 30655

EXHIBIT "D"

LAW OFFICES OF
BENJAMIN H. MABLE, III

A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEY AT LAW

GLEN COVE PROFESSIONAL BUILDING

769 U.S. HIGHWAY NINE

BERKELEY TOWNSHIP, NEW JERSEY 08721-2540

TELEPHONE: (732) 606-9100 • FACSIMILE: (732) 606-9696

Benjamin H. Mable, III*

Madeline M. Buczynski

December 11, 2014

SENT VIA FACSIMILE (732) 506-5087 AND REGULAR MAIL

The Honorable John A. Peterson, Jr., J.S.C.

Ocean County Courthouse

118 Washington Street

PO Box 2191

Toms River, New Jersey 08754-2191

RE: IMO Walter Shapiro
Docket No. #206637

Dear Judge Peterson:

This office serves as the Court Appointed Attorney as it relates to the above referenced matter. Please accept this letter as a Supplemental Report to our report forwarded to the Court on November 5, 2014.

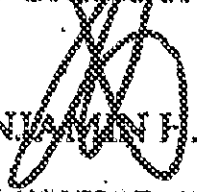
Pursuant to ongoing discussions between all the parties, on November 17, 2014 Mr. Walter Shapiro was examined by Dr. Dennis Coffey, Psy. D. from South Jersey Psychology. In his report Dr. Coffey states that Mr. Shapiro was seen in a nursing facility in Roseland, New Jersey where he has been since July 2014. Mr. Shapiro gave Dr. Coffey a tour of the facility as soon as he arrived and stated that he loves it there. According to Dr. Coffey, Mr. Shapiro did not have any problem following the topic of conversation or participating in the interview, his mood was normal and affect appropriate according to the report. Mr. Shapiro indicated that he had "bad hallucinations" and was told that "he needed help and he got help". Mr. Shapiro stated that his son took him to Solana at Roseland and he did not want to be there but after a 10 day trial he loved it. According to Dr. Coffey, Mr. Shapiro stated that Howard sold his home without his knowledge and "never let him do back to the house", and believes that Howard took \$30,000.00 in cash from his bank account. It is the medical opinion of Dr. Coffey that Walter Shapiro would benefit from the appointment of a Conservatorship of his choosing to assist him in the management of his affairs. Dr. Coffey states that there is no need for a guardian to be appointed at this time.

As previously stated in this office's aforementioned Court Appointed Attorney report and based on the foregoing, as Mr. Walter Shapiro's Court Appointed Counsel, we oppose the declaration of incapacity of Walter Shapiro. However, Mr. Shapiro has no objection to the appointment of a Conservator of his property. At this time of this report Mr. Shapiro's niece, Ms. Michele Welt is Mr. Shapiro's choice to serve as his Conservator.

If the Court requires any additional information, I will provide the same at the final hearing. As always, if you have any questions with regards to this or any other matter, please do not hesitate to contact me at your convenience at (732) 606-9100.

By copy of this letter all interested parties below will be receiving copies of the same.

Very truly yours,
Law Offices of Benjamin H. Mable, III, LLC


BENJAMIN H. MABLE, III

BHM:esa

Cc: David Semanchik, Esq.
Christopher Olszak, Esq.
James Gluck, Esq.

File

LAW OFFICES OF
BENJAMIN H. MABIE, III
A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEY AT LAW
 GLEN COVE PROFESSIONAL BUILDING
 769 U.S. HIGHWAY NINE
 BERKELEY TOWNSHIP, NEW JERSEY 08721-2540
 TELEPHONE: (732) 606-9100 • FACSIMILE: (732) 606-9696

DATE: 12-11-14

MULTIPLE FAX TRANSMISSION COVER SHEET

CLIENT/MATTER: no father Shapiro FROM: Endr.

Total Number of Pages including this page: 2

PLEASE DELIVER THE FOLLOWING PAGES TO:

1. Name: Judge Peterson

Firm: _____

City: _____

Fax. No.: 732-288-7697

3. Name: Christopher Dwyer

Firm: _____

City: _____

Fax. No.: 732-367-4722

2. Name: David Demarchi

Firm: _____

City: _____

Fax. No.: 732-240-3044

4. Name: James Cluck

Firm: _____

City: _____

Fax. No.: 732-505-4813

MESSAGE: _____

CONFIDENTIALITY NOTE

THE DOCUMENTS ACCOMPANYING THE FACSIMILE TRANSMISSION CONTAIN INFORMATION FROM THE LAW OFFICES OF BENJAMIN H. MABIE, III, L.L.C., WHICH IS CONFIDENTIAL AND/OR LEGALLY PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ON THIS TRANSMISSION SHEET. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS FACSIMILE INFORMATION IS STRICTLY PROHIBITED, AND THAT THE DOCUMENTS SHOULD BE RETURNED TO THIS OFFICE IMMEDIATELY. IN THIS REGARD, IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY SO THAT WE CAN ARRANGE FOR THE RETURN OF THE ORIGINAL DOCUMENTS AT NO COST TO YOU. THANK YOU.

EXHIBIT "E"

Background Report

Howard Shapiro

Report Expiration
December 30, 2014

Name Howard Shapiro
Age 46
Date of Birth 9/1/1967
Phone Number 973-663-1203
Additional Phone Numbers 732-364-6348, 610-539-3802
Most Recent Address 623 Skyline Dr, Lake Hopatcong, NJ 07849-2473
Criminal Records 1 records found
Aliases/Name Variations Howard A Shapiro, Howard Andrew Shapiro

Email:

h****@axx.cxx	Howard Shapiro 159 Saint Nicholas Ave Lakewood, NJ 08701
h****@hxxxxxx.cxx	Howard Shapiro 159 Saint Nicholas Ave Lakewood, NJ 08701
s****@nj.rr.com	Howard Shapiro 159 Saint Nicholas Ave Lakewood, NJ 08701-3008
s****@address.com	Howard.Shapiro 159 Saint Nicholas Ave Lakewood, NJ 08701
s****@aol.com	Howard Shapiro 159 Saint Nicholas Ave Lakewood, NJ 08701

6 addresses were found

Address	City, State, Zip	Phone	Added	Updated
623 Skyline Dr	Lake Hopatcong, NJ 07849-2473	973-663-1203		
623 Skyline Dr	Jefferson Lake, NJ 07849-2473	973-663-1203		
623 Skyline Dr	Jeffrsn Twp, NJ 07849-2473	973-663-1203		
159 Saint Nicholas Ave	Lakewood, NJ 08701-3008	732-364-6348		
194 N Whitehall Rd	Norristown, PA 19403-2868	610-539-3802		
991 Jessica Ct	Lakewood, NJ 08701-3654	732-364-6348		

Social Network Profiles

Social Network search results include Facebook, LinkedIn and Twitter profiles. Social networks require that you give us permission to run a Social Network search. No one in your network will be notified and your account information is not added to our search database.

No social network profiles were found

Work Information

Work Information listings are compiled from databases containing over 75 million professional contacts.

1 potential work result was found

Name: Howard Shapiro
Job Title: Regional Sales Manager
Company Name: Staples
Address: Jersey City, NJ 07310-
Email Addresses: s****@staplescom.com

Possible Relatives

Possible relatives are people who are likely relatives of Howard Shapiro based on matching surname and shared addresses. Please note that this will not include all relatives.

4 possible relatives were found

Name	Age	Address
Jenna G Shapiro	42	623 Skyline Dr Lake Hopatcong, NJ 07849-2473
Howard Barry Shapiro	57	25234 Finchgrove Ln Katy, TX 77494-6474
Walter B Shapiro	81	159 Saint Nicholas Ave Lakewood, NJ 08701-3008
Berta W Shapiro	77	159 Saint Nicholas Ave Apt A Lakewood, NJ 08701-3008

Neighbors

Neighbors are people who, based on known addresses, currently live or have lived near Howard Shapiro's current and previous addresses.

19 neighbors were found

Name	Age	Address
------	-----	---------

Marc Amy Ingoglia	40	621 Skyline Dr Lake Hopatcong, NJ 07849-2473
Aurora P Sabala		626 Skyline Dr Lake Hopatcong, NJ 07849-2451
Elizabeth Klantschi		615 Skyline Dr Lake Hopatcong, NJ 07849-2473
Fritz Elizabeth Klantschi	56	615 Skyline Dr Lake Hopatcong, NJ 07849-2473
Yisroel Moshe Scheinerman	45	156 Saint Nicholas Ave Lakewood, NJ 08701-3007
Malika A Scheinerman	67	156 Saint Nicholas Ave Lakewood, NJ 08701-3007
Nancy B Snyder	60	164 Saint Nicholas Ave Lakewood, NJ 08701-3007
Deena L Holland	65	151 Saint Nicholas Ave Lakewood, NJ 08701-3008
Seymour S Holland	74	151 Saint Nicholas Ave Lakewood, NJ 08701-3008
Nicholas P Ditomassi	46	193 N Whitehall Rd Norristown, PA 19403-2870
Patricia L Ditomassi	46	193 N Whitehall Rd Norristown, PA 19403-2870
Lydia M Trecroce	84	195 N Whitehall Rd Norristown, PA 19403-2870
Bhavik R Patel	40	192 N Whitehall Rd Norristown, PA 19403-2868
Ranchhodbhai J Patel	68	192 N Whitehall Rd Norristown, PA 19403-2868
Trinidad M Zavala	32	192 N Whitehall Rd Norristown, PA 19403-2868
Julio C Saavedra		990 Jessica Ct Lakewood, NJ 08701-3654
Maria Perez	99+	992 Jessica Ct Lakewood, NJ 08701-3654
Luis Forero	31	992 Jessica Ct Lakewood, NJ 08701-3654
Luis E Forero Sr	72	992 Jessica Ct Apt 46 Lakewood, NJ 08701-3654

Criminal Records

Name Howard A Shapiro
Birthdate 9/1967
Offense: Failure To Stop At Red Signal
Offense Date: 10/1/2011
Offense: Obedience To Traffic-Control Devices
Offense Date: 10/1/2011
Location Pennsylvania
Court Criminal Court

Case Number MJ-38121-TR-0005045-2011

Offender ID PU80545391445881366MJ-38121-TR-0005045-201120111006

[Click here to run more criminal searches. FREE with your membership.](#)

Motor Accidents

Motor Accidents records are known automobile accidents and the associated individuals.

A comprehensive search of motor accidents was run and Howard Shapiro was not associated with any motor accidents.

No motor accidents were found

Employment History

No employment history was found

Business Ownership

Business ownership records are compiled from public filings, commercial records and SEC registrations.

A comprehensive search of business records was run and Howard Shapiro was not listed as an owner of any businesses. This does not necessarily reflect employment with a company.

No owned businesses found

Property Ownership

Property ownership records are compiled from nationwide real property records commonly found with the county tax assessor.

A comprehensive search of real property records for Howard Shapiro was run and no listings were found.

No owned properties were found

Bankruptcies

Bankruptcy is the declared inability to pay creditors. Bankruptcies records are compiled from local, state, and federal courts to include Chapter 7, 11, and 13 bankruptcies. Please note that these records cannot be used to determine an individual's eligibility for credit, insurance, employment or other purposes under the Fair Credit Report Act (FCRA). [Learn more](#) about FCRA compliance.

2 bankruptcies were found

Chapter Description: Chapter 7

Filing Date: 6/5/2008

Resolution Date: 9/12/2008

Court: New Jersey - Newark

Type: Individual

Filer Type: Individual

Debtors: Howard A Shapiro

Attorneys: Dean G Sutton Att At Law

Dean G Sutton

Trustees: Jay L Lubetkin

Chapter Description: Chapter 7

Filing Date: 6/9/1998

Resolution Date: 9/21/1998

Court: New Jersey - Trenton

Type: Individual

Filer Type: Individual

Debtors: Hs Security Systems

Hs Security Systems

Attorneys: Michele Lombardo

Carbone Lombardo

Trustees: Karen E Bezner

Judgments + Liens

A court-ordered lien is a legal claim issued to secure payment when someone fails to pay state and/or federal taxes. Depending on the jurisdiction, judgments are generally found within the lower courts often referred to as Small Claims and Municipal Courts. Please note that these records cannot be used to determine an individual's eligibility for credit, insurance, employment or other purposes under the Fair Credit Report Act (FCRA). [Learn more](#) about FCRA compliance.

20 judgments or liens were found

Type Civil New Filing (ID: DC00540608)
Amount \$15,000
Filing Date 5/12/2008
Debtors Howard Shapiro
Creditors Deterrent Technologi Es Inc

Type Civil Judgment (ID: DC01103007)
 Civil New Filing (ID: DC01103007)
Amount \$10,180
Filing Date 3/31/2008
Debtors Howard Shapiro
Creditors American Express Tra Vel Relat
 American Express Tra Vel Relat E

Type Civil New Filing (ID: DC00313808)
 Amount \$14,999
 Filing Date 3/14/2008
 Debtors Howard Shapiro
 Creditors Aurora Electrical Su Pply

Type Civil Judgment (ID: DC00965807)
 Civil New Filing (ID: DC00965807)
 Amount \$2,288
 Filing Date 12/27/2007
 Debtors Howard A Shapiro
 Creditors Jet Line Products In C

Type Civil Judgment (ID: L00438406)
 Vacated Judgment (ID: L00438406)
 Amount \$81,019
 Filing Date 6/20/2007
 Debtors Howard A Shapiro
 Creditors Pnc Bank Na

Type Civil Judgment (ID: L00057207)
 Amount \$53,481
 Filing Date 5/29/2007
 Debtors Howard Shapiro
 Creditors Home Vest Capital Llc

Type Judgment (ID: J-247139-2006)
 Amount \$107,001
 Filing Date 9/22/2006
 Debtors Howard A Shapiro
 Creditors Pnc Bank Na

Type Civil Suit (ID: L 002096 06)
 Amount \$39,002
 Filing Date 8/2/2006
 Debtors Howard A Shapiro
 Creditors Jpmorgan Chase Bank Na

Type Civil Suit (ID: L 004384 06)
 Amount N/A
 Filing Date 5/25/2006
 Debtors Howard A Shapiro
 Creditors Pnc Bank N A

Type Civil Suit (ID: L 000318 06)
 Amount N/A
 Filing Date 1/25/2006

Debtors Howard Shapiro
Jenna Shapairo
Creditors Township Of Jefferson

Type Public Defender Lien (ID: PD-174537-2003)
Amount \$50
Filing Date 7/16/2003
Debtors Howard Shapiro
Creditors Office Of The Public Defender

Type Civil Suit (ID: DC-005864-2001)
Amount \$595
Filing Date 7/9/2001
Debtors Howard Shapiro
Creditors Springfield Rehab

Type Civil Suit (ID: DC 003652 1998)
Amount \$6,569
Filing Date 4/17/1998
Debtors Howard A Shapiro
Creditors L & H Plumbing & Heating Supp

Type Judgment (ID: DC 000629 1998)
Amount \$5,475
Filing Date 3/24/1998
Debtors Howard Shapiro
Creditors Beneficial New Jersey

Type Civil Suit (ID: DC 000629 1998)
Amount \$5,647
Filing Date 1/8/1998
Debtors Howard Shapiro
Creditors Beneficial New Jersey

Type Judgment
Amount \$8,509
Filing Date 5/23/1996
Debtors Howard A Shapiro
Creditors Household Finance Corporationi

Type Civil Suit
Amount \$8,018
Filing Date 4/16/1996
Debtors Howard A Shapiro
Creditors Household Finance Corporation

Type Civil Suit

Amount \$413
 Filing Date 10/5/1995
 Debtors Howard Shapiro
 Creditors Edwin J O Malley Jr
 Gregory A Surman

Type Civil Suit
 Amount \$1,025
 Filing Date 2/8/1995
 Debtors Howard Shapiro
 Creditors Monmouth Auto Body
 Tartan Inc.

Type Civil Suit (ID: L 000139 1995)
 Amount \$2,600
 Filing Date 1/23/1995
 Debtors Howard A Shapiro
 Creditors Spt Electric Supply Co Inc.

Professional Licenses

License Number: 34EI01190500
 License Type: Electrical Contractor
 Status: Active
 Issuing State: New Jersey
 Issue Date: 1/6/1993
 Expiration Date: 3/31/2009
 Address: 623 Skyline Dr
 Lake Hopatcong, NJ 07849-2473

License Number: 34EI01190500
 License Type: Electrical Contractor
 Status: Active
 Issuing State: New Jersey
 Issue Date: 1/6/1993
 Expiration Date: 3/31/2006
 Address: 159 Saint Nicholas Ave
 Lakewood, NJ 08701-3008

In addition, a broader search for professional licenses was run for Howard Shapiro in Lake Hopatcong, NJ who may also have the following licenses:

First Name: Howard
 Last Name: Shapiro
 License Number: 34EI01190500
 License Type: Contractor: Electrical Contractor
 Status: Expired
 Issuing State: NJ
 Issue Date: 03/29/2012

Expiration Date: 02/28/2012
Address: Lake Hopatcong, NJ

First Name: Howard
Last Name: Shapiro
License Number: 34EI01190500
License Type:
Status: Expired
Issuing State: NJ
Issue Date: 03/29/2009
Expiration Date: 02/27/2009
Address: Lake Hopatcong, NJ 07849

Professional Licenses

In addition, a broader search for professional licenses was run for Howard Shapiro in Lake Hopatcong, NJ who may also have the following licenses:

First Name: Howard
Last Name: Shapiro
License Number: 34EI01190500
License Type: Contractor: Electrical Contractor
Status: Expired
Issuing State: NJ
Issue Date: 03/29/2012
Expiration Date: 02/28/2012
Address: Lake Hopatcong, NJ

First Name: Howard
Last Name: Shapiro
License Number: 34EI01190500
License Type:
Status: Expired
Issuing State: NJ
Issue Date: 03/29/2009
Expiration Date: 02/27/2009
Address: Lake Hopatcong, NJ 07849

Registered Aircrafts

No aircrafts were found

Registered Watercrafts

No watercrafts were found

FAA Certification

No FAA certifications were found

UCC Filings

Filing Number 22468062

Location New Jersey

Filing Date 7/9/2004

Debtors Howard A Shapiro

Secureds

Commerce Bank N A

Commerce Bank, N.A.

Td Bank, N.A. Successor By Merger To Commerce Bank, N.A.

Collateral

07/09/2004 22468062 - Equipment All And Proceeds;account(s) All And Proceeds;general Intangible(s) All And Proceeds;inventory All And Proceeds;chattel Paper All And Proceeds

EXHIBIT "F"

**THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER**

Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
Tel: (702) 366-0622
Fax: (702) 366-0327
Email: m_lowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

Electronically Filed
Nov 23 2015 02:28 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT OF NEVADA

HOWARD SHAPIRO and JENNA
SHAPIRO,

Supreme Ct. No. 67363
Dist. Ct. No. A-14-706566-C

Appellant/Cross-
Respondent

RESPONDENTS' APPENDIX

vs.

GLEN WELT, RHODA WELT, LYNN
WELT, and MICHELLE WELT,

Respondent/Cross-
Appellants.

GLEN WELT, RHODA WELT, LYNN
WELT, and MICHELLE WELT,

Supreme Ct. No. 67596
Dist. Ct. No. A-14-706566-C

Appellant

vs.

HOWARD SHAPIRO and JENNA
SHAPIRO,

Respondent

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Certificate of Service

Pursuant to NRAP 25, on November 23, 2015 **RESPONDENTS’**
APPENDIX was served upon each of the parties to appeal 67363 via electronic
service through the Supreme Court of Nevada’s electronic filing.

/s/ Michael P. Lowry

An Employee of Thorndal, Armstrong,
Delk, Balkenbush & Eisinger

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. A-14-706566-C Dept XXVII
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Howard Shapiro	Glen Welt, Rhoda Welt,
Jenna Shapiro	Lynn Welt, and Checksnet.com
Attorney (name/address/phone):	Attorney (name/address/phone):
Eric P. Roy, Esq.	Unknown
818 E. Charleston Blvd., Las Vegas, NV 89104	
(702)423-3333 Nevada Bar No. 11869	

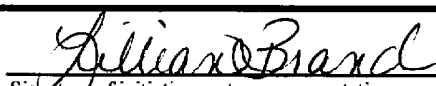
II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

9.4.14

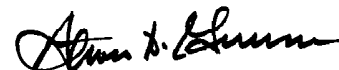
Date


 Signature of initiating party or representative

See other side for family-related case filings.

000002

Electronically Filed
09/04/2014 05:51:47 PM



CLERK OF THE COURT

1 **COMD**

2 **ERIC P. ROY, ESQ.**

3 Nevada Bar No. 11869

4 **ALEX GHILBAUDO, ESQ.**

5 Nevada Bar No. 10592

6 **LAW OFFICES OF ERIC P. ROY**

7 818 E. Charleston Blvd.

8 Las Vegas, NV 89104

9 (702) 423-3333

10 (702) 924-2517

11 eric@ericroylawfirm.com

12 *Attorney for Plaintiff*

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 ****

16 HOWARD SHAPIRO and JENNA
17 SHAPIRO,

18 Plaintiffs,

19 v.

20 GLEN WELT, RHODA WELT, LYNN
21 WELT, MICHELLE WELT,
22 individuals; CHECKSNET.COM, a
23 corporation; DOES I through X and ROE
24 CORPORATIONS I through X, inclusive,

25 Defendant.

26 CASE NO.: A-14-706566-C

27 DEPT. NO.: XXVII

28 **COMPLAINT**

1 Plaintiff, Howard Shapiro ("Plaintiff"), through his attorney, Alex Ghilbaudo, Esq., of
2 The Law Offices of Eric Roy, and alleges as follows:

- 3 1. Plaintiff instituting this action is, and at all relevant times mentioned herein,
4 was a resident of the State of New Jersey.
- 5 2. Defendant Glenn Welt is, and at all relevant times mentioned herein, was a
6 Nevada resident residing in Clark County, Nevada.

Law Offices of Eric P. Roy
818 East Charleston Boulevard
Las Vegas, Nevada 89104
702.423.3333

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Las Vegas, Nevada 89104
702.423.3333

- 1 3. Defendant Rhoda Welt is, and at all relevant times mentioned herein, was a
2 resident of the State of Georgia.
- 3 4. Defendant Lynn Welt is, and at all relevant times mentioned herein, was a
4 resident of the State of Georgia.
- 5 5. Defendant Michelle Welt is, and at all relevant times mentioned herein, was a
6 resident of the State of Georgia.
- 7
8 6. The true names or capacities, whether individual, corporate, association or
9 otherwise, of Defendants, DOES I through DOES X, and ROE
10 CORPORATION I through ROE CORPORATION X, are unknown to
11 Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff
12 is informed and believes and therefore alleges that each of the said Defendants
13 designated herein as DOE and ROE CORPORATION are responsible in some
14 manner for the events and happenings referred to and caused damages
15 proximately to Plaintiff as herein alleged, and that Plaintiff will ask leave of
16 this Court to amend this Complaint, to insert the true names and capacities of
17 DOES I through DOE X and ROE CORPORATIONS I through ROE
18 CORPORATIONS X, when the same have been ascertained and to join such
19 Defendants in this action.
- 20
21
22 7. That on about April of 2011, Plaintiff was given power of attorney over Walter
23 Shapiro, his father, who is now 81 years of age, to handle Walter's estate and
24 health care.
- 25
26 8. That on or about April 24, 2014, Walter was diagnosed with Lewy Dementia.
- 27
28

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- 1 9. That at that time, Plaintiff exercised his power of attorney over his father and
- 2 arranged for his father to live in a nursing home/assisted care facility, upon
- 3 doctors recommendations.
- 4 10. That Plaintiff disposed of his father's property to pay for Walter's care.
- 5
- 6 11. That at that time, Defendants Rhoda Welt and Lynn Welt went to New Jersey,
- 7 where Walter lives and where the nursing home/assisted care facility was
- 8 located, where they commenced a campaign of harassment of Plaintiff and
- 9 undue influence upon Walter.
- 10 12. That Defendants, in concert, reported to Adult Protective Services that Plaintiff
- 11 was abusing/neglecting his father.
- 12
- 13 13. That upon investigation, Adult Protective Services determined that Defendants
- 14 withdrew \$7,500.00 from Walter's account and forced them to return that
- 15 money immediately or they would be charged with abusing an elderly person.
- 16 14. That Defendants, all of them, continued their campaign of harassment and
- 17 undue influence, calling Plaintiff repeatedly, almost daily, and telling Walter
- 18 that Plaintiff was taking his money. That as a result, Walter called Plaintiff
- 19 every day to demand to know where his money was, despite the fact that
- 20 Walter is incapable of making his own decisions.
- 21
- 22 15. That on July 3, 2014, Plaintiff's brother, Walter's son, drove him to Roseland,
- 23 New Jersey, to reside at Solana at Roseland. That at that time, Defendants
- 24 Rhonda and Lynn Welt went back to their residence in Georgia.
- 25
- 26 16. That Plaintiff has since filed a petition for guardianship, a hearing for which is
- 27 scheduled for September 22, 2014.
- 28

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17. Since then, Defendants, in concert or individually, posted a website online, www.howardshapirovictims.com, which was copyrighted, in which it is alleged that:
- a. Plaintiff has stolen over \$780,000.00 in cash and assets taken, and the same awarded in liens and judgments. (See Exhibit 1).
 - b. That Plaintiff has filed several bankruptcies, that he has a criminal record, and 20 judgments made against him in the amount of \$361,871.00. That that money is owed to a public defender and a drug and rehabilitation center, in addition to multiple credit cards and other debts. (See Exhibit 1).
 - c. That Walter Shapiro's life is in danger because he gave Plaintiff power of attorney over him. That that decision cost Walter \$430,000.00, including a \$100,000.00 loan that Walter allegedly gave to Plaintiff.
 - d. That Plaintiff committed the following "heinous acts":
 - i. That Plaintiff abducted his father from his home and held him against his will;
 - ii. That Plaintiff sold his father's home for \$230,000.00 and kept the proceeds for himself;
 - iii. That Plaintiff tangible and intangible goods, including large sums of cash and furniture, from his father;
 - iv. That Plaintiff diverted all of Walter's retirement payments to himself.
 - v. That Plaintiff blocked Walter from any contact with his relatives;
 - vi. That Plaintiff left his father with no money;
 - vii. That Plaintiff prevented others from purchasing food for his father;

viii. That Plaintiff has threatened his father's life;

ix. That Plaintiff stole his father's money and bragged about traveling with it;

e. Plaintiff may be carrying concealed weapons; and

f. That Plaintiff is lying about his home and business, listing a specific address belonging to Plaintiff.

18. Defendants further provide a photograph of Plaintiff's vehicle and license plate number and encouraged the public to attend the adult guardianship proceedings indicated above.

19. That the website was "recorded by two (2) witnesses", believed to a combination of the other named Defendants.

20. That the webmaster is Defendant Glenn Welt, who informed Plaintiff by email that he was posting the website. (See Exhibit 2).

21. That various iterations of the website were previously posted. (See Exhibit 3).

22. That Defendant Glenn Welt, in concert with other named Defendants, attempted to extort Plaintiff in a letter dated August 11, 2014, by threatening public humiliation, civil action, and criminal charges if his demands are not met, which include returning cash and property allegedly stolen by Plaintiff, presumably to Defendant Glenn Welt. (See Exhibit 4).

23. That Defendants conduct is ongoing and persistent, requiring the instant legal action.

FIRST CAUSE OF ACTION**(DEFAMATION PER SE)**

24. Plaintiffs repeat and re-allege each and every allegation contained in Paragraphs 1 through 23 as though fully set forth herein and further allege the following.
25. That Defendants made false statements as indicated in paragraph 17, among other statements and allegations.
26. That Defendants' statements were not privileged by any common law or statutory privilege and were, and are, being made in a public forum.
27. Defendants' conduct was entirely malicious and vindictive in that it was driven by their desire to control Walter and their animosity for Plaintiff because he has exercised his power of attorney.
28. That Plaintiff is a business owner, with a business located in New Jersey.
29. That Defendants conduct, targeting Plaintiff's alleged "moral turpitude", constitutes defamation per se.
30. As a result of Defendants' libelous writing, it is presumed economic damages in excess of \$10,000.00 were suffered under *Clark County Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 385, 213 P.3d 496, 504, 2009 Nev. LEXIS 38, 17-18, 125 Nev. Adv. Rep. 31 (Nev. 2009).

SECOND CAUSE OF ACTION**(DEFAMATION)**

- 1
- 2
- 3 31. Plaintiffs repeat and re-allege each and every allegation contained in
- 4 Paragraphs 24 through 30 as though fully set forth herein and further allege the
- 5 following.
- 6
- 7 32. That Defendants made false statements as indicated in paragraph 17, among
- 8 other statements and allegations.
- 9
- 10 33. That Defendants' statements were not privileged by any common law or
- 11 statutory privilege and were, and are, being made in a public forum.
- 12
- 13 34. Defendants' conduct was entirely malicious and vindictive in that it was driven
- 14 by their desire to control Walter and their animosity for Plaintiff because he has
- 15 exercised his power of attorney.
- 16
- 17 35. That Plaintiff was harmed in an undetermined amount exceeding \$10,000.00.

THIRD CAUSE OF ACTION**(EXTORTION)**

- 18
- 19 36. Plaintiff repeats and re-alleges each and every allegation contained in
- 20 Paragraphs 31 through 35 as though fully set forth herein and further allege the
- 21 following.
- 22
- 23 37. That Defendants intended to extort or gain money or property from Plaintiff ,
- 24 and/or intended to compel or induce Plaintiff to make, subscribe, execute, alter
- 25 or destroy any valuable security or instrument or writing affecting or intended
- 26 to affect any cause of action or defense, or any property.
- 27
- 28

1 38. That Defendants attempt to gain money, property, or extort Plaintiff was by
2 threat, directly and indirectly, to accuse Plaintiff of a crime, to injure Plaintiff's
3 person and property, to publish or connive at publishing any libel, to expose or
4 impute to any person any disgrace, and to expose a secret, in the manner
5 indicated in paragraph 17 and Exhibit 4 of this complaint.

6
7 39. That Defendants conducted has proximately harmed Plaintiff in an
8 undetermined amount exceeding \$10,000.00.

9 **FOURTH CAUSE OF ACTION**

10 **(CIVIL CONSPIRACY)**

11 40. Plaintiff repeats and re-alleges each and every allegation contained in
12 Paragraphs 31 through 39 as though fully set forth herein and further allege the
13 following.

14 41. That Defendants' conspired amongst themselves to unlawfully harm Plaintiff
15 by constructing and posting www.howardshaprovictims.com.

16 42. That Defendants defrauded the public in furtherance of their scheme to extort
17 Plaintiff, as alleged in the second cause of action contained in this complaint,
18 by knowingly lying about Plaintiff in a public forum, namely
19 www.howardshaprovictims.com.

20 43. That Defendants' conduct caused Plaintiff substantial damage in an
21 undetermined amount exceeding \$10,000.00.

FIFTH CAUSE OF ACTION**(FRAUD)**

- 1
2
3 44. Plaintiff repeats and re-alleges each and every allegation contained in
4 Paragraphs 40 through 43 as though fully set forth herein and further allege the
5 following.
6
7 45. That Defendants made statements in a public forum as described in paragraph
8 17 of this complaint.
9
10 46. That Defendants knew that those statements were false, or that they had an
11 insufficient basis for making those representations as they had no contact or
12 communication with Plaintiff and Walter is incapacitated, making it impossible
13 for Defendants to rely on any statements made by Walter.
14
15 47. That Defendants intended to induce Plaintiff to pay money or turn over
16 property, as evidenced by Exhibit 5.
17
18 48. That the public justifiably relied upon those representations to formulate an
19 opinion of Plaintiff, putting pressure upon Plaintiff to cooperate with
20 Defendants.
21
22 49. That Defendants conduct harmed Plaintiff in an undetermined amount
23 exceeding \$10,000.00.

CAUSE OF ACTION**(PUNITIVE DAMAGES)**

- 24
25 50. Plaintiff repeats and re-alleges each and every allegation contained in
26 Paragraphs 44 through 49 as though fully set forth herein and further alleges
27 the following.
28

1 51. That the Defendants actions were oppressive, fraudulent, and malicious.
2 Defendants lied about Plaintiff's alleged "moral turpitude" and criminal
3 behavior on a public forum that has injured Plaintiff's reputation and his
4 business' good standing and economic welfare in the community.

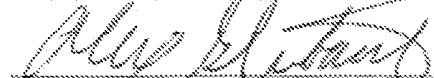
5 **WHEREFORE**, Plaintiff prays for judgment against Defendants as follows:

- 6
7 1. For an award of general damages in excess of \$10,000.00;
8 2. For an award of special damages in excess of \$10,000.00;
9 3. For an award of punitive damages in excess of \$10,000.00; and
10 4. For reasonable attorney's fees and cost of suit incurred;
11 5. For such further relief as the Court may deem just and proper under the
12 circumstances.

13
14 DATED this 29 day of August, 2014.

15 Respectfully submitted,

16 **LAW OFFICES OF ERIC P. ROY**

17 

18 **ALEX GHIBAUDO, ESQ.**

19 Nevada Bar No. 10592

20 818 E. Charleston Blvd.

21 Las Vegas, NV 89104

22 (702) 423-3333

23 eric@ericroylawfirm.com

24 Attorney for Plaintiff
25
26
27
28

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Las Vegas, Nevada 89104
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EXHIBIT 1

This website dedicated to helping victims of Howard Andrew Shapiro & warning others

Over \$780,000 in cash & assets taken, liens & judgements!

Howard Andrew Shapiro

age 46

a/k/a Howie Shapiro

623 Skyline Drive

Lake Hopatcong NJ 07849

Home Phone 973-406-2087

Cellular: 646-406-2087

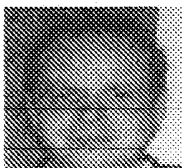
Wife: Jenna G. Shapiro, age 42

a/k/a Jenna Gail Thorsland, Jenna T.

Shapiro

973-663-1203

howardshapiro@aol.com



2005 photo

Accomplice:

Adam Roy Shapiro, age 52

a/k/a Roy A. Shapiro

2330 Peppercorn St.

Kissimmee FL 34741

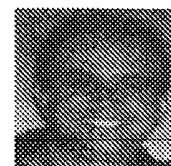
Home: 407-810-1645

Work: 863-676-1904

wife: Maryann Danielle Shapiro,

Age 50

AdamR1005@aol.com



2005 photo

Background check of **Howard A. Shapiro** reveals **criminal record, 2 bankruptcies (1998 & 2008) plus 20 judgements and liens against him in past 16 years totaling \$361,871** owed to a public defender, drug & rehab center, American Express, Aurora Electrical Supply, Beneficial New Jersey, Deterrent Technologies, JP Morgan Chase Bank, PNC Bank, Home Vest Capital, Household Finance Corporation, L&H. Plumbing & Heating, Monmouth Auto Body, SPT Electric Supply, Township of Jefferson and more.

Plus, Walter Shapiro made a \$430,000 mistake that may shorten his life. Loaned his son Howard \$100,000 and gave him Power of Attorney. Howard never repaid the loan, then **desecrated** the power with recent **heinous** acts:

- Abducted his father who was "screaming as he was dragged out of the house" *
Walter Shapiro owned and enjoyed his Lakewood, New Jersey home for over 40 years.
- Walter Shapiro was removed AFTER Lakewood Police advised AGAINST it.
- Sold the home for \$230,000 against his father's wishes & Howard pocketed ALL the money
- Confiscated all the home furnishings (with help from brother Adam Roy Shapiro and wife)
- Drained all his fathers bank accounts by as much as \$60,000
- Took expensive jewelry belonging to his father (& left for Walter Shapiro by his deceased wife)
- Diverted all future retirement payments for Walter Shapiro to himself. Payments include direct deposits from New York Times newspaper (where Walter Shapiro worked for 42 years), Worker's Union payments and Social Security payments.
- Blocked Walter Shapiro from seeing his sister (who flew from Atlanta but was forced to sit in the street for days due to threats from Howard Shapiro).
- Blocked visitation by other relatives.

8/27/2014

Howard Shapiro Criminal Bankruptcies Liens Judgements Elder Abuse Records

000014

- Left his father with NO MONEY to buy food
- Prevented others from buying food for his father
- Threatening statements to his father include "I will see you in your grave" and "I will bury you so deep, that no one will find you."
- Brags about taking his family to Hawaii with Walter's money & traveling "first class"

Police in a number of New Jersey jurisdictions have been alerted to these actions and that Howard Shapiro may be carrying concealed weapon(s).

Howard Shairo currently resides in a \$500,000 Lake Hopatcong, New Jersey home. D&B reports he is president of Howard A Shapiro Electrical Contractor Inc, 623 Skyline Dr, Lake Hopatcong NJ. Phone 973-663-1191 with \$479,000 annual revenue. **New Jersey has NO current record of corporation or any others registered to Howard A. Shapiro as of 8/17/2014.**

If you are a creditor who is owed monies as a result of Howard Shapiro's criminal, bankruptcy, lien or judgement history, take collection action **before all of the estimated \$430,000 in cash & assets taken from his father has disappeared.**

1st court date is Sept. 22, 2014 in New Jersey.

If information indicates appearance by Howard Shapiro, courtroom location & time will be posted HERE.

All persons with knowledge of Howard A. Shapiro's actions against Walter Shapiro or other illegal acts committed by Howard Shapiro are encouraged to appear in court.

You may also submit information via email. Information is being forwarded to at least 4 attorneys representing injured parties, news media, government agencies and law enforcement as of 8/27/2014.

Attendees: You may be photographed for TV & other media.

If Howard Shapiro is arrested, incarcerated or ordered to pay monies for above actions, information will be posted HERE.

Howard Shapiro last seen driving black BMW 650i, New Jersey tag BMWGC



*Recorded by 2 witnesses, will be presented in court. Walter Shapiro had no knowledge of this website creation, nor is he a contributor, yet Howard Shapiro harassed his father about its existence.

8/27/2014

Howard Shapiro Criminal Bankruptcies Liens Judgements Elder Abuse Records

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Email if you have new information or questions: [Glenn Welt](#)

© 2014 Glenn Welt, Consumer Advocate who has worked with FBI, Secret Service, IRS, other law enforcement agencies
and media in arrests & convictions of criminals.

EXHIBIT 2

Alex

From: Howard [howardshapiro@aol.com]
Sent: Friday, August 22, 2014 12:45 PM
To: Alex
Subject: Fwd: Howard Shapiro Victims

Better and better.

Howard A. Shapiro
646.406.2087 Mobile

Begin forwarded message:

From: Glenn Welt <vip@glennwelt.com>
Date: August 22, 2014 at 3:10:29 PM EDT
To: howardshapiro@aol.com
Subject: Howard Shapiro Victims
Reply-To: vip@glennwelt.com

Congratulations Howie,

Your actions have been deemed worthy of your own website.
www.HowardShapiroVictims.com is now **LIVE** and will be indexed by all the major search engines.

I am personally inviting EVERY one of your known victims to appear in court along with other caretakers, neighbors acquaintances and relatives you've threatened.

If you don't want to appear in court, your attorney can be served on your behalf.

Glenn Welt

EXHIBIT 3

**This page dedicated to helping victims of Howard Andrew Shapiro
& warning others**

***At least \$300,000 cash & assets taken from Walter Shapiro plus
\$361,871 in liens & judgements by others!***

Howard Andrew Shapiro

age 46

a/k/a Howie Shapiro

623 Skyline Drive

Lake Hopatcong NJ 07849

Home Phone 973-406-2087

Cellular: 646-406-2087

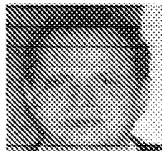
Google Voice: 201-357-7331

Wife: Jenna G. Shapiro, age

42

973-663-1203

howardshapiro@aol.com



Accomplice:

Adam Roy Shapiro, age 52

a/k/a Roy A. Shapiro

2330 Peppercorn St.

Kissimmee FL 34741

Home Phone 407-810-1645

wife: Maryann D. Shapiro

AdamR1005@aol.com



Background check of Howard A. Shapiro reveals a **criminal record**, **2 bankruptcies (1998 & 2008)** plus **20 judgements and liens** against him in past 16 years totaling \$361,871 owed to a public defender, drug & rehab center, [American Express](#), [Aurora Electrical Supply](#), [Beneficial New Jersey](#), [Deterrent Technologies](#), [JP Morgan Chase Bank](#), [PNC Bank](#), Home Vest Capital, [Household Finance Corporation](#), L&H. Plumbing & Heating, [Monmouth Auto Body](#), SPT Electric Supply, [Township of Jefferson](#) and more.

Walter Shapiro made a **HUGE mistake** by giving Power of Attorney to his son. Howard Shapiro desecrated the power:

- Removed his father Walter Shapiro under duress from the Lakewood, New Jersey home Walter owned and enjoyed for over 40 years.
- Placed his father in a facility against his will
- Sold the home for \$230,000 against his father's wishes & pocketed ALL the money
- Confiscated all the home furnishings (with help from brother Adam Roy Shapiro)
- Drained all his fathers bank accounts by as much as \$60,000
- Took expensive jewelry belonging to his father
- Diverted future retirement payments to himself (3 direct deposits from New York Times, Worker's Union, Social Security)
- Tried to block Walter Shapiro from seeing his sister or other relatives.
- Left his father with **NO MONEY** to buy food
- Prevented others from buying food for his father

Currently, Howie resides in a \$500,000 Lake Hopatcong, New Jersey home. Dun & Bradstreet report says he is president of Howard A Shapiro Electrical Contractor Inc, 623 Skyline Drive, Lake Hopatcong NJ 07849 Phone 973-663-1191 with 4 employees and annual revenue of \$479,000. **State of New Jersey has NO current record of corporation or other businesses registered to Howard Shapiro as of 8/17/2014.**

If you are creditor who is owed monies as a result of Howard Shapiro's bankruptcies, judgements or liens, try collecting from Howie **before the estimated \$300,000 disappears.**

One court date is being scheduled for Sept. 2014 in New Jersey. If information indicates that Howard Shapiro will appear, the exact location, time and date will be posted HERE.

All persons with knowledge of Howard Shapiro's actions against Walter Shapiro or other illegal acts committed by Howard Shapiro are encouraged to appear in court. You may also submit information via email.

If anyone still doubts the character of Howard Andrew Shapiro, consider this:

- **Threatening statements to his father include "I will see you in your grave" and "I will bury you so deep, that no one will find you."**
- **He brags about his gun collection, presumably as an intimidation tool.**
- **He brags about taking his family to Hawaii with Walter's money and traveling "first class".**

If Howard Shapiro is arrested, incarcerated or ordered to pay monies for above actions, information will be posted HERE.

Howie was last seen driving this black BMW 650i with New Jersey tag BMWGC (a 2013 BMW is another of the many things taken from his father):



Howard Andrew Shapiro may need one of these:

AAA Bailmaster Bail Bonds 973-644-2200

Elite Bail Bonds 201-205-2351

Mr. G Bail Bonds 877-793-0514

© 2014 Glenn Welt

Email if you have information or questions: [Glenn Welt](#)

EXHIBIT 4

August 11, 2014

Mr. Howard Andrew Shapiro
623 Sterling Drive
Lake Hopatcong NJ 07849
Home Phone 973-406-2087
Cellular: 646-406-2087
howardshapiro@aol.com

RE: State of New Jersey et al vs. Howard A. Shapiro

Dear Cousin Howard,

I have been carefully monitoring the actions you have taken against your father, Walter Shapiro including the sale his home, emptying his bank accounts and possession of other assets. I'm also aware of involvement of your brother, Adam Shapiro.

You have two choices. **Smart Choice** is to return all the material assets and monies you obtained from his bank accounts and sale of his Lakewood home. **Dumb Choice** is to force the legal system and numerous relatives to take actions which may include criminal charges, your arrest and incarceration.

You may scare your father and others with your statements. I've been under oath with the FBI for over 13 years, worked with Secret Service, IRS and numerous law enforcement agencies all over the United States. I've helped in the arrests, prosecutions, putting dangerous criminals in prison and obtained full restitution for victims.

Recent example: Look at [website](#). I created the website, got the Governor of Nevada involved and arranged for the main suspect to be arrested while being recorded for multiple airings on CBS TV. Suspect was jailed, lost his entire business, faces multiple felony charges that can result in prison time. His arrest, publicity and public humiliation may have caused substantial embarrassment and other problems for members of his family.

I've opposed a State Attorney General and multi-billion dollar public companies in federal courts. I won EVERY time. I could cite many more examples but I think you are intelligent enough to get the message.

I will personally come after you in every legal and media way if you do not restore the financial well-being of your father (my uncle) by choosing the Smart Choice.

You will be contacted by my legal representative, the media and/or me if this entire matter has not been resolved by August 18, 2014.

Sincerely,

Glenn M. Welt

Henderson, Nevada

cc: Adam Shapiro AdamS@SmartChoice.org

P.S. I will request all other pending legal actions against you by State of New Jersey, you, father and other relatives be halted and this web page will be removed when I have proof of the Insurance that you own, called the Smart Choice.

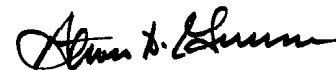
© 2014 Glenn Webb

Email if you have any questions: Glenn@Webb.com

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AOS

DISTRICT COURT, CLARK COUNTY
CLARK COUNTY, NEVADA

CLERK OF THE COURT

HOWARD SHAPIRO AND JENNA SHAPIRO

Plaintiff

VS

GLEN WELT, ET AL

Defendant

CASE NO: A-14-706566-C

HEARING DATE/TIME:

DEPT NO: XXVII

AFFIDAVIT OF SERVICE

REGINALD O. WALKER being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this affidavit is made. That affiant received 1 copy(ies) of the SUMMONS, COMPLAINT, on the 11th day of September, 2014 and served the same on the 11th day of September, 2014, at 20:25 by:

serving the servee LYNN WELT personally delivering and leaving a copy with JANE DOE (REFUSED NAME), Co-occupant, a person of suitable age and discretion residing at the defendant's usual place of abode located at (address) 1040 FIELDGATE LANE, ROSWELL GA 30075

Occupant spoke to the server through a glass door and confirmed that this was the correct address for the defendant. She instructed to leave the documents in front of the door. The server left the documents on front door as instructed. Occupant was a caucasian, female, age 55, 5'4", 155 lbs, brown hair

Pursuant to NRS 53.045

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this 12 day of Sept, 2014.



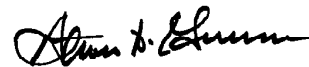
REGINALD O. WALKER

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10/08/2014 09:29:11 AM

AOS

**DISTRICT COURT , CLARK COUNTY
CLARK COUNTY, NEVADA**



CLERK OF THE COURT

**HOWARD SHAPIRO AND JENNA
SHAPIRO**

Plaintiff

vs

GLEN WELT, ET AL

Defendant

CASE NO: A-14-706566-C

HEARING DATE/TIME:

DEPT NO: XXVII

AFFIDAVIT OF SERVICE

OUT OF TOWN being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this affidavit is made. That affiant received 1 copy(ies) of the SUMMONS, COMPLAINT, on the 11th day of September, 2014 and served the same on the 3rd day of October, 2014, at 14:18 by:

delivering and leaving a copy with the servee MICHELLE WELT at (address) 580 ELGAEN COURT, ROSWELL GA 30075

Pursuant to NRS 53.045

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

**NOT FINAL
AFFIDAVIT**

EXECUTED this 03 day of Oct, 2014.

OUT OF TOWN

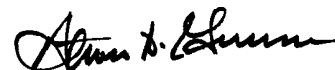
Junes Legal Services - 630 South 10th Street - Suite B - Las Vegas NV 89101 - (702) 679-6300 - Fax (702) 259-6249 - Toll Free (888) 66Junes

EP107770

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10/21/2014 12:12:10 PM

AOS

DISTRICT COURT, CLARK COUNTY
CLARK COUNTY, NEVADA

CLERK OF THE COURT

HOWARD SHAPIRO AND JENNA SHAPIRO

Plaintiff

VS

GLEN WELT, ET AL

Defendant

CASE NO: A-14-706566-C

HEARING DATE/TIME:

DEPT NO: XXVII

AFFIDAVIT OF SERVICE

REGINALD O. WALKER being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this affidavit is made. That affiant received 1 copy(ies) of the SUMMONS, COMPLAINT, on the 11th day of September, 2014 and served the same on the 11th day of September, 2014, at 20:25 by:

serving the servee RHODA WELT personally delivering and leaving a copy with JANE DOE (REFUSED NAME), Co-occupant, a person of suitable age and discretion residing at the defendant's usual place of abode located at (address) 1040 FIELDGATE LANE, ROSWELL GA 30075

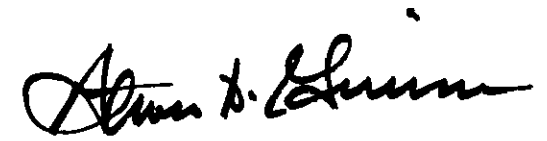
Occupant spoke to the server through a glass door and confirmed that this was the correct address for the defendant. She instructed to leave the documents in front of the door. The server left the documents on front door as instructed. Occupant was a caucasian, female, age 55, 5'4", 155 lbs, brown hair

Pursuant to NRS 53.045

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this 12 day of Sept, 20 14.


 REGINALD O. WALKER


CLERK OF THE COURT

1 **MDSM**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
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Lynn Welt and Michele Welt

7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 HOWARD SHAPIRO and JENNA SHAPIRO,

11 Plaintiffs,

12 vs.

13 GLEN WELT, RHODA WELT, LYNN WELT,
MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
14 through X, and ROE CORPORATIONS I
through X, inclusive,

15 Defendants.

Case No.: A-14-706566-C
Dept. No. 27

**GLENN WELT, RHODA WELT, LYNN
WELT & MICHELE WELT'S MOTION
TO DISMISS**

Hearing Date: 12 / 24 / 14
Hearing Time: 10 : 00 AM

16 Defendants Glenn Welt, Rhoda Welt, Lynn Welt and Michele Welt move to dismiss
17 Plaintiffs' complaint. The complaint arises from statements made in direct connection to a New
18 Jersey conservatorship proceeding involving the parties. The complaint seeks to silence
19 Plaintiffs' critics in the New Jersey case, a result explicitly barred by Nevada's anti-SLAPP
20 statutes. The complaint must now be dismissed, with prejudice.

21 DATED this 15th day of December, 2014.

22 THORNDAL, ARMSTRONG, DELK,
23 BALKENBUSH & EISINGER

24 */s/ Michael P. Lowry*

25 Michael P. Lowry, Esq.
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Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
26 Lynn Welt and Michele Welt
27
28

MEMORANDUM OF POINTS & AUTHORITIES

I. RELEVANT FACTS

The genesis of this litigation is a conservatorship petition being litigated in New Jersey. Walter Shapiro is the father of plaintiff Howard Shapiro.¹ On August 5, 2014 Howard petitioned a New Jersey court to appoint him as Walter's conservator.² The petition alleged Walter is allegedly no longer mentally fit to care for himself. The Welts are relatives of Walter and oppose Howard's petition.³ Allen Shapiro, Walter's brother, also vehemently opposes Howard's petition.⁴ It appears even Walter opposes the petition based upon his statements to his court appointed attorney requesting that Michele Welt be appointed as conservator of his property.⁵ Although not listed in the petition, Glenn Welt is Walter's nephew. As with many intra-family disputes, the facts are vigorously disputed and emotions are high.

The Nevada complaint alleges defamation arising from a website that concerns the New Jersey petition, www.howardshapirovictims.com. It notes Glenn Welt is the webmaster for this website.⁶ The complaint attaches an email and letter from Glenn Welt stating he will be post the website for public viewing.⁷ Mr. Welt's stated goal is to invite Howard Shapiro's "known victims to appear in court along with other caretakers, neighbors, acquaintances and relatives you've threatened."

II. Nevada's anti-SLAPP statutes protect the Welts' free speech rights to participate in public discourse by prohibiting lawsuits such as Plaintiffs have filed.

Plaintiffs' complaint seeks to silence their critics to gain an advantage in their New Jersey litigation. Nevada law does not permit this type of intimidation.

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¹ To avoid confusion arising from identical last names, the parties are referenced by their first names.

² Petition attached as Exhibit A.

³ Answer attached as Exhibit B.

⁴ Statement attached as Exhibit C.

⁵ December 11, 2014 letter from Benjamin H. Mabie, attached as Exhibit D.

⁶ Complaint at ¶ 20.

⁷ *Id.* at Exhibits 3, 4.

1 **a. Nevada's Anti-SLAPP Statutes**

2 “A SLAPP suit is a meritless lawsuit that a party initiates primarily to chill a defendant’s

3 exercise of his or her First Amendment free speech rights.”⁸ “The hallmark of a SLAPP lawsuit

4 is that it is filed to obtain a financial advantage over one’s adversary by increasing litigation

5 costs until the adversary’s case is weakened or abandoned.”⁹ “When a plaintiff files a SLAPP

6 suit against a defendant, Nevada’s anti-SLAPP statute allows the defendant to file a special

7 motion to dismiss in response to the action.”¹⁰

8 The Nevada Legislature most recently amended the anti-SLAPP statutes in 2013,¹¹

9 notably broadening the protection they provide. “A person who engages in a good faith

10 communication in furtherance of the right to petition or the right to free speech in direct

11 connection with an issue of public concern is immune from any civil action for claims based

12 upon the communication.”¹² This statute is designed to protect the free speech rights of citizens

13 who wish to participate in the marketplace of ideas.

14 Anti-SLAPP statutes are invoked when “an action is brought against a person based upon

15 a good faith communication in furtherance of ... the right to free speech in direct connection

16 with an issue of public concern”¹³ NRS 41.637 defines “[g]ood faith communication in

17 furtherance of the right to ... to free speech in direct connection with an issue of public concern.”

18 This term includes a “[w]ritten or oral statement made in direct connection with an issue under

19 consideration by a legislative, executive or judicial body, or any other official proceeding

20 authorized by law.”¹⁴ It also includes “[c]ommunication made in direct connection with an issue

21 of public interest in a place open to the public or in a public forum.”¹⁵ These protections extend

22 to any communication “which is truthful or is made without knowledge of its falsehood.”¹⁶

23 ///

24

25 ⁸ *Stubbs v. Strickland*, 129 Nev. Adv. Op. 15, 297 P.3d 326, 329 (2013) (citations omitted).

26 ⁹ *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 752, 219 P.3d 1276, 1280 (2009).

27 ¹⁰ *Stubbs*, 297 P.3d at 329 (citations omitted).

28 ¹¹ S.B. 286, 77th Leg., effective on October 1, 2013.

¹² NRS 41.650.

¹³ NRS 41.660(1).

¹⁴ NRS 41.637(3).

¹⁵ NRS 41.637(4).

¹⁶ NRS 41.637.

1 **b. The motion is timely.**

2 An anti-SLAPP motion must be filed within a certain period. “A special motion to
3 dismiss must be filed within 60 days after service of the complaint....”¹⁷ Both Rhoda Welt and
4 Lynn Welt were served on September 11, 2014.¹⁸ The timely appeared on October 1 by filing a
5 demand for security of costs.¹⁹ Michele Welt was served on October 3, 2014.²⁰ She appeared on
6 October 13, 2014 and also filed a demand for security of costs.²¹ Glenn Welt was never served
7 but voluntarily appeared and demanded security of costs on October 13.

8 When a demand for security of costs is filed, “all proceedings in the action shall be
9 stayed until an undertaking, executed by two or more persons, be filed with the clerk, to the
10 effect that they will pay such costs and charges as may be awarded against the plaintiff by
11 judgment.”²² Plaintiffs’ only posted the full amount of the bonds owed on December 12. The 60
12 day clock has not yet expired.

13 **c. The Legislature specified the standard of review for anti-SLAPP motions.**

14 Substantively, when resolving this motion the district court shall “[c]onsider such
15 evidence, written or oral, by witnesses or affidavits, as may be material in making a
16 determination pursuant to paragraphs (a) and (b).”²³ Before the 2013 amendments, special
17 motions to dismiss were treated as motions for summary judgment.²⁴ The Legislature
18 specifically deleted this language in its 2013 amendments. Now, when a special motion to
19 dismiss is filed, the court must first “[d]etermine whether the moving party has established, by a
20 preponderance of the evidence, that the claim is based upon a good faith communication in
21 furtherance of the right to petition or the right to free speech in direct connection with an issue of
22 public concern.”²⁵

23
24 ¹⁷ NRS 41.660(2).

25 ¹⁸ Affidavit of service for Lynn Welt filed with court October 8, 2014; not attached here per
EDCR 2.27(e). Affidavit of Service for Rhoda Welt filed on October 21, 2014.

26 ¹⁹ Document on file with court.

27 ²⁰ Affidavit of Service for Michele Welt filed October 8, 2014.

28 ²¹ Document on file with court.

²² NRS 18.130(1).

²³ NRS 41.660(3)(d).

²⁴ A district court shall “[t]reat the motion as a motion for summary judgment.” NRS
41.660(3)(a) (2011); *John*, 125 Nev. at 754, 219 P.3d at 1282

²⁵ NRS 41.660(3)(a).

1 If the moving party meets its burden, the court then determines “whether the plaintiff has
2 established by clear and convincing evidence a probability of prevailing on the claim.”²⁶ This
3 standard is quite stringent.

4 [C]lear and convincing evidence must produce “satisfactory” proof that is so
5 strong and cogent as to satisfy the mind and conscience of a common man, and
6 so to convince him that he would venture to act upon that conviction in matters
7 of the highest concern and importance to his own interest. It need not possess
8 such a degree of force as to be irresistible, but there must be evidence of tangible
9 facts from which a legitimate inference ... may be drawn. ... [T]he evidence
10 must eliminate any serious or substantial doubt about the correctness of the
11 conclusions to be drawn from the evidence.²⁷

12 To meet this standard, the plaintiff opposing the motion must provide actual, admissible
13 evidence, not merely a narrative disagreement with the moving party.²⁸ This clear and
14 convincing evidence must demonstrate the communications were not a matter of reasonable
15 concern to the moving party.²⁹ For comparison, in *John*, a school district’s communications
16 were part of an investigation of a school security officer for unprofessional conduct.³⁰ The
17 Supreme Court concluded that the communications at issue “were of reasonable concern to the
18 district because they addressed the school environment as it applied to staff and students and
19 they impacted the school district’s potential legal liability.”³¹ The opposing party failed to show
20 that “the communications were not matters of reasonable concern to the school district.”³² The
21 special motion to dismiss was appropriately granted.

22 **d. NRS 41.660(3)(a) protects the statements Plaintiffs attribute to the Welts.**

23 Again, in evaluating this motion, the district court must first determine whether Plaintiffs’
24 claim “is based upon a good faith communication in furtherance of the right to petition or the
25 right to free speech in direct connection with an issue of public concern.”³³ “Good faith
26 communication in furtherance of the right to petition or the right to free speech in direct
27

28 ²⁶ NRS 41.660(3)(b).

29 ²⁷ *In re Jane Tiffany Living Trust 2001*, 124 Nev. 74, 79, 177 P.3d 1060, 1063 (2008) (quotation
30 omitted).

31 ²⁸ *John*, 125 Nev. at 762, 219 P.3d at 1287.

32 ²⁹ *Id.*

33 ³⁰ *Id.* at 750, 219 P.3d at 1279.

³¹ *Id.* at 762, 219 P.3d at 1287.

³² *Id.*

³³ NRS 41.660(3)(a).

connection with an issue of public concern” means any of NRS 41.637’s four definitions. Two specifically apply here. The definition includes any “[w]ritten or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law.”³⁴ It also includes any “[c]ommunication made in direct connection with an issue of public interest in a place open to the public or in a public forum.”³⁵ The caveat to both definitions is that the protection is only available to a communication “which is truthful or is made without knowledge of its falsehood.”³⁶

The Supreme Court has not specifically evaluated this definition in relation to when an issue is under consideration by a judicial body. California has. Although not binding, California decisions interpreting its anti-SLAPP statute are persuasive in Nevada. The Supreme Court of Nevada acknowledged this in *John* when it noted “Nevada’s anti-SLAPP statute was enacted in 1993, shortly after California adopted its statute, and both statutes are similar in purpose and language.”³⁷ By doing so, the Legislature implicitly adopted California caselaw interpreting that statute. “When the Legislature adopts a statute substantially similar to a federal statute, a presumption arises that the legislature knew and intended to adopt the construction placed on the federal statute by federal courts.”³⁸

The language of both states’ anti-SLAPP statutes remained similar after Nevada’s 2013 amendments. For instance, California uses substantively identical language to define communications that qualify for protection. Like Nevada, protection is provided to

- (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law,
- (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law.³⁹

California has applied these definitions broadly to protect speech similar to that at issue here. “Thus, statements, writings and pleadings in connection with civil litigation are covered by

³⁴ NRS 41.637(3).

³⁵ NRS 41.637(4).

³⁶ NRS 41.637.

³⁷ 125 Nev. at 752, 219 P.3d at 1281.

³⁸ *International Game Technology, Inc. v. Dist. Ct.*, 122 Nev. 132, 153, 127 P.3d 1088, 1103 (2006).

³⁹ Cal Code Civ Proc § 425.16(e)(1), (2).

1 the anti-SLAPP statute, and that statute does not require any showing that the litigated matter
 2 concerns a matter of public interest.”⁴⁰ “[A] statement is ‘in connection with’ litigation ... if it
 3 relates to the substantive issues in the litigation and is directed to persons having some interest in
 4 the litigation.”⁴¹ For example, a litigation update sent by a homeowner’s association to inform
 5 its members of pending litigation was a statement made in connection with a judicial proceeding
 6 within the meaning of the anti-SLAPP statute.⁴² Similarly, a company’s email to a small group
 7 of customers concerning court rulings and favorable imposition of sanctions in litigation against
 8 the company’s competitor was protected activity because it was in connection with an issue
 9 under consideration or review by a judicial body in connection with litigation.⁴³

10 California has also interpreted the requirement that the lawsuit “arise from” protected
 11 statements, similar to Nevada’s requirement that the lawsuit be “based upon” protected
 12 statements

13 In short, the statutory phrase “cause of action ... arising from” means simply that
 14 the defendant’s act underlying the plaintiff’s cause of action must itself have been
 15 an act in furtherance of the right of petition or free speech. In the anti-SLAPP
 context, the critical point is whether the plaintiff’s cause of action itself was based
 on an act in furtherance of the defendant’s right of petition or free speech.⁴⁴

16 “In the anti-SLAPP context, the critical consideration is whether the cause of action is based on
 17 the defendant’s protected free speech or petitioning activity.”⁴⁵ “The anti-SLAPP statute’s
 18 definitional focus is not the form of the plaintiff’s cause of action but, rather, the defendant’s
 19 *activity* that gives rise to his or her asserted liability—and whether that activity constitutes
 20 protected speech or petitioning.”⁴⁶

21 The motive for the speech is irrelevant. “[C]auses of action do not arise from motives;
 22 they arise from acts.”⁴⁷ California’s anti-SLAPP statute “applies to claims ‘based on’ or ‘arising
 23 from’ statements or writings made in connection with protected speech or petitioning activities,

24 ⁴⁰ *Neville v. Chudacoff*, 160 Cal. App. 4th 1255, 1261 (2008) (*quoting Rohde v. Wolf*, 154 Cal.
 25 App. 4th 28, 35 (2007)).

⁴¹ *Id.* at 1266.

⁴² *Healy v. Tuscan Hills Landscape & Recreation Corp.*, 137 Cal.App.4th 1, 5-6 (2006).

⁴³ *Contemporary Services Corp. v. Staff Pro Inc.*, 152 Cal.App.4th 1043, 1050-1051, 1055-1056
 27 (2007).

⁴⁴ *City of Cotati v. Cashman*, 52 P.3d 695, 701 (Cal. 2002) (internal citations omitted).

⁴⁵ *Episcopal Church Cases*, 198 P.3d 66, 73 (Cal. 2009).

⁴⁶ *Navellier v. Sletten*, 52 P.3d 703, 711 (Cal. 2002) (emphasis in original).

⁴⁷ *Wallace v. McCubbin*, 196 Cal. App. 4th 1169, 1186 (2011).

1 regardless of any motive the defendant may have had in undertaking its activities, or the motive
 2 the plaintiff may be ascribing to the defendant's activities."⁴⁸ "[T]he defendant's purported
 3 motive in undertaking speech and petitioning activities is irrelevant in determining whether the
 4 plaintiff's cause of action is based on those activities."⁴⁹

5 Applying all of this to the Shapiros, the statements on www.howardshapirovictims.com
 6 are made in direct connection with an issue under consideration by a New Jersey judicial body.
 7 The New Jersey court is evaluating a petition to appoint a conservator over Walter and whether
 8 Howard should be that conservator. The statements on www.howardshapirovictims.com directly
 9 concern whether Howard is suitable for that role. The website also requests information from
 10 others with information that might reflect upon Howard's suitability to be Walter's conservator.

11 The actions giving rise to the complaint are solely due to listing statements on a website;
 12 the specific causes of action in the complaint rely upon nothing else. The statements on the
 13 website are made in relation to an ongoing judicial proceeding and are protected. As the
 14 complaint arises solely from the Welts' protected activities, the Welts have "established, by a
 15 preponderance of the evidence, that the claim is based upon a good faith communication in
 16 furtherance of the right to petition or the right to free speech in direct connection with an issue of
 17 public concern."⁵⁰

18 **e. Plaintiffs lack clear and convincing evidence that they can prevail.**

19 The Welts have met their burden to demonstrate the speech upon which Plaintiffs'
 20 complaint relies is protected. This then shifts the burden of proof to Plaintiffs. The court
 21 must determine "whether the plaintiff has established by clear and convincing evidence a
 22 probability of prevailing on the claim."⁵¹

23 Since this language only came into effect on October 1, 2013, there is not yet any
 24 decision from the Supreme Court of Nevada interpreting it. California's standard is lower than
 25
 26

27 ⁴⁸ *Tuszynska v. Cunningham*, 199 Cal.App.4th 257, 269 (2011).

28 ⁴⁹ *Id.* at 271.

⁵⁰ NRS 41.660(3)(a).

⁵¹ NRS 41.660(3)(b).

1 Nevada's. California weighs whether "the plaintiff has established that there is a probability that
2 the plaintiff will prevail on the claim."⁵²

3 California's courts have interpreted the extent of this lower standard.

4 To satisfy the second prong, a plaintiff responding to an anti-SLAPP motion must
5 state and substantiate a legally sufficient claim. Put another way, the plaintiff
6 must demonstrate that the complaint is both legally sufficient and supported by a
sufficient prima facie showing of facts to sustain a favorable judgment if the
evidence submitted by the plaintiff is credited.⁵³

7 "[A] plaintiff opposing an anti-SLAPP motion cannot rely on allegations in the complaint, but
8 must set forth evidence that would be admissible at trial."⁵⁴

9 Plaintiffs here lack the clear and convincing evidence required to demonstrate a
10 probability of prevailing upon any of their claims.

11 **i. Defamation and defamation per se fail for multiple reasons.**

12 The complaint alleges both defamation and defamation per se. These causes of action are
13 separate but the analysis of both is combined because they fail for identical reasons.

14 As a preliminary matter, the only statement on www.howardshapirovictims.com
15 concerning Jenna Shapiro is that she is married to Howard. The complaint does not allege this
16 factual statement is inaccurate. As the website does not otherwise concern Jenna at all, she has
17 failed to prove any claim, let alone a claim supported by clear and convincing evidence sufficient
18 to satisfy Nevada's anti-SLAPP requirements. Her causes of action must be dismissed with
19 prejudice.

20 **1. The statements on the website are absolutely privileged.**

21 Nevada has adopted and applied the litigation privilege.

22 A party to a private litigation ... is absolutely privileged to publish defamatory
23 matter concerning another in communications preliminary to a proposed judicial
24 proceeding, or in the institution of or during the course and as a part of, a judicial
proceeding in which he participates, if the matter has some relation to the
proceeding.⁵⁵

27 ⁵² Cal Code Civ Proc § 425.16(b)(1).

28 ⁵³ *Oasis W. Realty, LLC v. Goldman*, 250 P.3d 1115, 1120 (Cal. 2011) (internal citations and
parentheticals omitted).

⁵⁴ *Overstock.com, Inc. v. Gradient Analytics, Inc.*, 151 Cal.App.4th 688, 699 (2007).

⁵⁵ RESTATEMENT OF TORTS (SECOND) § 587 (1965).

1 “We conclude that the absolute privilege affords parties to litigation the same protection from
2 liability that exists for an attorney for defamatory statements made during, or in anticipation of,
3 judicial proceedings.”⁵⁶ Applied here, the Welts are participants in the New Jersey proceedings
4 concerning their relative, Walter.

5 Again, given Nevada’s recent amendment of its anti-SLAPP statute, the Supreme Court
6 has not yet interpreted the scope of the scope of the litigation privilege it references. California’s
7 has. “[I]t applies to any publication required or permitted by law in the course of a judicial
8 proceeding to achieve the objects of the litigation, even though the publication is made outside
9 the courtroom and no function of the court or its officers is involved.”⁵⁷ “The usual formulation
10 is that the privilege applies to any communication (1) made in judicial or quasi-judicial
11 proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of
12 the litigation; and (4) that have some connection or logical relation to the action.”

13 California’s interpretation should be given great weight given that the Nevada Legislature
14 expressly adopted California law for Nevada’s own anti-SLAPP statute. The statements on
15 www.howardshapirovictims.com are made in the course of judicial proceedings in New Jersey
16 by participants to that proceeding. The statements are intended to achieve the object of that
17 litigation: objecting to Howard’s qualifications to be Walter’s conservator. These
18 communications are logically related to the case.

19 The website’s intent is also to locate potential witnesses and evidence relevant to the
20 question before the New Jersey court: does Walter need a conservator and, if so, is Howard
21 suitable for that position? The website first specifically identifies this Howard Shapiro as
22 opposed to other Howard Shapiros in the country. It then states “[a]ll persons with knowledge of
23 Howard A. Shapiro’s actions against Walter Shapiro or other illegal acts committed by Howard
24 Shapiro are encouraged to appear in court. You may also submit information via email.”⁵⁸

25 If the attorneys to the New Jersey matter had posted a website identifying Howard and
26 asking potential witnesses to come forward, it would be absolutely privileged. Posting a website

27 ⁵⁶ *Clark Cnty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 378, 213 P.3d 496, 499
28 (2009).

⁵⁷ *Silberg v. Anderson*, 786 P.2d 365, 369 (Cal. 1990).

⁵⁸ Exhibit 1 to Complaint, at 2.

1 is no different than mailing letters to his known associates, identifying him and asking these
 2 individuals if they have any information relevant to the matter pending before the New Jersey
 3 court. The Supreme Court of Nevada has previously concluded if the statement would be
 4 privileged if issued by a lawyer, it is privileged if issued by a party.⁵⁹ “[T]here is no good reason
 5 to distinguish between communications between lawyers and nonlawyers.”⁶⁰

6 Nevada has limited its general litigation privilege in only one, narrow area when
 7 statements are made to the media. *Jacobs v. Adelson*⁶¹ concerned a statement a defendant made
 8 to a media outlet in response to coverage of the complaint against him. After the statement was
 9 made, the plaintiff amended the complaint to allege defamation per se. The district court
 10 concluded the statements were absolutely privileged and dismissed that cause of action. This
 11 was narrowly reversed on appeal.

12 “[W]e have yet to consider whether statements made to the media regarding
 13 ongoing or contemplated litigation are covered by this absolute privilege. We
 14 adopt the majority view that communications made to the media in an
 extrajudicial setting are not absolutely privileged, at least when the media holds
 no more significant interest in the litigation than the general public.”⁶²

15 This exception does not apply here, even if included in Nevada’s anti-SLAPP statute.
 16 The statements on www.howardshapirovictims.com were not made to a media outlet in an
 17 extrajudicial setting. The statements were instead made in direct relation to the New Jersey case
 18 in an attempt to locate relevant evidence and witnesses.

19 Applied here, the statements on www.howardshapirovictims.com are absolutely
 20 privileged as communications made in the course of litigation. The website seeks to identify
 21 potential witnesses and evidence that may be relevant to the New Jersey proceeding. The
 22 website is not a statement issued to media sources, but instead explicitly seeks out those who
 23 have an interest in the New Jersey case. Consequently, the statements are absolutely privileged,
 24 preventing Plaintiffs from presenting clear and convincing evidence to defeat the anti-SLAPP
 25 statute.

27 ⁵⁹ *Clark Cnty. Sch. Dist.*, 125 Nev. at 384, 213 P.3d at 503.

28 ⁶⁰ *Id.* at 383, 213 P.3d at 502.

⁶¹ 130 Nev. Adv. Op. 44, 325 P.3d 1282 (2014).

⁶² *Id.* at 1284.

2. Mr. Shapiro is seeking to be appointed as a public official and must show clear and convincing evidence of actual malice.

The Supreme Court of Nevada has adopted “the *Gertz* test for determining whether a person is a general-purpose or a limited-purpose public figure.”⁶³ *Gertz* “reiterated that the *New York Times* standard applies only to public officials and public figure plaintiffs....”⁶⁴ The *New York Times Company v. Sullivan* standard is quite high for public officials to sue for defamation.

To promote free criticism of public officials, and avoid any chilling effect from the threat of a defamation action, the High Court concluded that a defendant could not be held liable for damages in a defamation action involving a public official plaintiff unless “actual malice” is alleged and proven by clear and convincing evidence.⁶⁵

By applying to be Walter’s court-appointed conservator, Howard has voluntarily subjected himself to the public official standard. *Young v. CBS Broad., Inc.*⁶⁶ addressed highly similar facts and barred suit based upon California’s anti-SLAPP statute. There the plaintiff was a professional conservator and was appointed by the court as a conservator for an elderly woman. The appointment occurred due to “evidence Mann [the woman] suffered from memory impairment and that Kelly [her adult daughter] was attempting to take advantage of Mann financially.”⁶⁷ After the conservatorship terminated, a local television station aired a report accusing the conservator of abusing her authority and mistreating Mann. The conservator filed a defamation suit against the television station, who responded with an anti-SLAPP motion.

The television station argued the conservator was a public official who must prove it “published the defamatory statements about her with actual malice, or, in other words, with knowledge of the statements’ falsity or in reckless disregard of their truth or falsity.”⁶⁸ The conservator was admittedly not a direct employee of the government, but this factor is not dispositive.

[T]he touchstone for public official status is the extent to which the plaintiff’s position is likely to attract or warrant scrutiny by members of the public. Such scrutiny may follow either because of the prominence of the position in the

⁶³ *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 720, 57 P.3d 82, 91 (2002).

⁶⁴ *Id.* at 719, 57 P.3d at 91 (citing *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 343-47 (1974)).

⁶⁵ *Id.* at 718-19, 57 P.3d at 90 (citing 376 U.S. 254, 279-80 (1964)).

⁶⁶ 212 Cal. App. 4th 551, 553 (2012).

⁶⁷ *Id.* at 556.

⁶⁸ *Id.* at 560.

1 official hierarchy, or because the duties of the position tend naturally to have a
2 relatively large or dramatic impact on members of the public.⁶⁹

3 California had previously determined a social worker qualified as a public official. It
4 found the conservator to be in a similar position. She

5 exercised significant sovereign power in assuming control of Mann's affairs.
6 Pursuant to APS's request and court authority, she became the face of government
7 assigned to take control of Mann's personal and financial affairs. This is an
8 extraordinary power for the court to bestow upon a person. Of course, it is done
9 with cause and under procedures designed to safeguard the individual as much as
possible. But it is only through the power of the state that a person such as a
conservator can "co-opt" another person's independent discretion and his or her
liberty, and, in addition, force the affected person to pay for it.⁷⁰

10 By accepting the appointment, the conservator "became an agent of the state with the
11 power to interfere in the personal interests of a private citizen to whom she was not related and
12 without that citizen's consent."⁷¹ In that circumstance, the conservator was a public official
13 subject to the actual malice standard. "A person holding these sovereign powers over another
14 unrelated person and using them for compensation is subject to the public's independent interest
15 in her performance, and warrants public scrutiny beyond that occasioned by the controversy with
16 Mann. ... A person such as [the conservator] who by court appointment exercises that power
17 for the benefit of a nonrelative and for compensation thus does so as a public official for
18 purposes of defamation liability."⁷²

19 Applied here, Howard is seeking the same type of control over Walter via a court-
20 appointed conservatorship that was at issue in *Young*. He seeks to use the power and authority of
21 the State of New Jersey to take control of Walter's personal and financial affairs. Although he
22 has not yet been appointed to this position, by seeking it he has subjected himself to the same
23 type of public scrutiny that was invited in *Young*.

24 The Supreme Court of Idaho performed a somewhat similar analysis in *Bandelin v.*
25 *Pietsch*.⁷³ A lawyer and former state legislator was appointed as the guardian of an incompetent

27 ⁶⁹ *Id.* (quoting *Kahn v. Bower*, 232 Cal.App.3d 1599, 1611 (1991)).

28 ⁷⁰ *Id.* at 561.

⁷¹ *Id.*

⁷² *Id.* at 562.

⁷³ 563 P.2d 395 (Idaho 1977).

1 person. The lawyer was later prosecuted for contempt due to what the district court considered
 2 negligence in his handling of the conservatorship. This was reported in the local news and the
 3 lawyer subsequently sued the paper for defamation.

4 The court concluded the lawyer, as a guardian, was a public figure. The guardian could
 5 not “maintain that he is not a public figure and was just an attorney handling the probate affairs
 6 of a client. He was rather the court appointed guardian, a pivotal figure in the controversy
 7 regarding the accounting of the estate that gave rise to the defamation and invasion of privacy
 8 actions.”⁷⁴ As a public figure the lawyer was required to show actual malice, but could not.

9 Whether as a public official or figure, Howard must show the statements on
 10 www.howardshaprovictims.com were made with actual malice.

11 Actual malice is proven when a statement is published with knowledge that it was
 12 false or with reckless disregard for its veracity. Reckless disregard for the truth
 13 may be found when the defendant entertained serious doubts as to the truth of the
 14 statement, but published it anyway. This test is a subjective one, relying as it does
 15 on what the defendant believed and intended to convey, and not what a reasonable
 16 person would have understood the message to be. Recklessness or actual malice
 17 may be established through cumulative evidence of negligence, motive, and
 18 intent.⁷⁵

16 To succeed, Howard must provide actual, clear and convincing evidence that the Welts
 17 knew the statements on www.howardshaprovictims.com are false or had serious doubts about
 18 the veracity of those statements and published it anyway. They cannot meet this standard.

19 The entire complaint arises solely from the website’s statements.⁷⁶ The complaint
 20 specifically lists the factual statements Plaintiffs believe were defamatory⁷⁷ and attached as
 21 Exhibit 1 a printout of the website they assert defamed them.

22 As to Howard, the website lists his contact information. The complaint does not claim
 23 these statements of fact are false. The website then states a background check of Howard
 24 Shapiro revealed certain information. The background check upon which this statement relied is
 25 attached to this motion.⁷⁸ The website accurately stated the information contained in the
 26

27 ⁷⁴ *Id.* at 398

28 ⁷⁵ *Pegasus*, 118 Nev. at 722, 57 P.3d at 92-93.

⁷⁶ Complaint at ¶ 25.

⁷⁷ *Id.* at ¶ 17.

⁷⁸ Attached as Exhibit E.

1 background check. The website also accurately noted the foreclosure status of Howard's
2 home.⁷⁹

3 The website then states Walter loaned \$100,000 to Howard and executed a power of
4 attorney in his favor. The complaint does not deny the loan and the power of attorney is attached
5 to the New Jersey petition. The website also lists acts that were reasonably believed to be taken
6 by Howard Shapiro in relation to Walter Shapiro that would be inconsistent with the acts of a
7 court-appointed conservator. As the website notes, these statements arose from conversations
8 with two witnesses.

9 Howard Shapiro is seeking a court-appointed position that would make him a public
10 official. As someone seeking to be a public official, he must demonstrate actual malice. He
11 cannot and his complaint must be dismissed per Nevada's anti-SLAPP statute.

12 **3. Mr. Shapiro is a limited-purpose public figure who lacks clear**
13 **and convincing evidence of actual malice.**

14 Alternatively, Howard is a limited-purpose public figure as to the New Jersey
15 conservatorship proceedings. To prevail on defamation claims, a limited-purpose public figure
16 must demonstrate actual malice. Howard cannot offer clear and convincing evidence of actual
17 malice to overcome the anti-SLAPP statute.

18 "A limited-purpose public figure is a person who voluntarily injects himself or is thrust
19 into a particular public controversy or public concern, and thereby becomes a public figure for a
20 limited range of issues. The test for determining whether someone is a limited public figure
21 includes examining whether a person's role in a matter of public concern is voluntary and
22 prominent."⁸⁰ "Once the plaintiff is deemed a limited-purpose public figure, the plaintiff bears
23 the burden of proving that the defamatory statement was made with actual malice, rather than
24 mere negligence. This is to ensure that speech that involves matters of public concern enjoys
25
26
27

28 ⁷⁹ Lis Pendens attached as Exhibit F.

⁸⁰ *Pegasus*, 118 Nev. at 720, 57 P.3d at 91.

appropriate constitutional protection.”⁸¹ “Whether a plaintiff is a limited-purpose public figure is a question of law....”⁸²

Applied here, Howard voluntarily petitioned a New Jersey court to appoint him as Walter’s conservator. This put his qualifications for that position at issue. The statements on the website are explicitly designed to seek and obtain information that support the Welts’ position in that litigation: Howard is not qualified. By petitioning the New Jersey court, Howard made himself a limited-purpose public figure as to his qualifications to be Walter’s conservator.

Whether as a public official, public figure or limited-purpose public figure, Mr. Shapiro lacks clear and convincing evidence of actual malice. All of his defamation claims fail as a matter of law.

ii. Extortion

The complaint appears to allege the Welts attempted to extort something from Howard by threatening to publish information on the website.

37. That Defendants intended to extort or gain money or property from Plaintiff, and/or intended to compel or induce Plaintiff to make, subscribe, execute, alter or destroy any valuable security or instrument or writing affecting or intended to affect any cause of action or defense, or any property.

38. That Defendants’ attempt to gain money, property, or extort Plaintiff was by threat, directly and indirectly, to accuse Plaintiff of a crime, to injure Plaintiff’s person and property, to publish or connive at publishing any libel, to expose or impute to any person any disgrace, to expose a secret, in the manner indicated in paragraph 17 and Exhibit 4 of this complaint.⁸³

This allegation is apparently based upon Nevada’s criminal statutes.

Every person who shall threaten another with the publication of a libel concerning the latter, or his or her spouse, parent, child or other family member, and every person who offers to prevent the publication of a libel upon another person upon condition of the payment of, or with intent to extort, money or other valuable consideration from any person, shall be guilty of a gross misdemeanor.⁸⁴

This statute does not authorize or create a civil cause of action. “Long ago the courts of these United States established that criminal statutes cannot be enforced by civil actions.”⁸⁵

⁸¹ *Bongiovi v. Sullivan*, 122 Nev. 556, 572, 138 P.3d 433, 445 (2006).

⁸² *Id.*

⁸³ Complaint at ¶¶ 37-38.

⁸⁴ NRS 200.560.

⁸⁵ *Collins v. Palczewski*, 841 F. Supp. 333, 340 (D. Nev. 1993) (string citation omitted).

1 There is a limited exception for narrowly drawn criminal statutes, however the exception
 2 does not apply to NRS 200.560. For example, in *Collins v. Palczewski* the plaintiff sued based
 3 upon NRS 197.200, “a criminal statute which prohibits oppression under color of office.”⁸⁶ The
 4 court refused to apply the exception rule to this statute. NRS 197.200 “provides protection to the
 5 general population of Nevada against the oppressive, injurious or confiscatory actions of state
 6 officers.... Section 197.200 does not mention any particular class of citizen. Thus, § 197.200 is
 7 strictly criminal in nature and possess no civil implications.”⁸⁷

8 NRS 200.560 is general in nature. It does not specify or mention any particular class of
 9 citizen. Plaintiffs may not rely upon it to create a civil cause of action.

10 Other jurisdictions have also refused to recognize a civil cause of action for “extortion.”
 11 Instead extortion is recognized, in almost all jurisdictions, as a crime, not a civil cause of
 12 action.⁸⁸ For example, courts in Colorado,⁸⁹ Delaware,⁹⁰ Florida,⁹¹ Hawaii,⁹² New Jersey,⁹³
 13 Pennsylvania,⁹⁴ and Texas⁹⁵ have refused to recognize such a claim. The Pennsylvania court
 14 elegantly summarized the status of the case law. “[N]either the Restatement nor Prosser on Torts
 15 delineates a cause of action for civil extortion. Although there are a ‘handful’ of reported cases
 16 which consider the existence of the tort, none stand for the proposition that it exists at common
 17 law.”⁹⁶

18 Nevada does not recognize “extortion” as a civil case of action. Plaintiffs’ cannot
 19 demonstrate this cause of action exists, let alone clear and convincing evidence to support it.
 20 The fourth cause of action alleging extortion is not exempt from Nevada’s anti-SLAPP statutes..

21 ⁸⁶ *Id.*

22 ⁸⁷ *Id.*

23 ⁸⁸ See *Scheidler v. National Organization for Women, Inc.*, 537 US 393, 410 (2003) (“[T]he
 Model Penal Code and a majority of States recognize the **crime** of extortion. . . .”) (emphasis
 added).

24 ⁸⁹ *Natural Wealth Real Estate, Inc. v. Cohen*, 2006 U.S. Dist. LEXIS 87439, 2006 WL 3500624
 (D. Colo. 2006).

25 ⁹⁰ *Rader v. ShareBuilder Corp.*, 772 F. Supp. 2d 599, 606 (D. Del. 2011).

26 ⁹¹ *Bass v. Morgan, Lewis & Bockius*, 516 So.2d 1011 (Fla. App. 1987).

27 ⁹² *Myers v. Cohen*, 687 P.2d 6 (Haw. App. 1984) (rev’d on other grounds 688 P.2d 1145 (1984)).

28 ⁹³ *Pegasus Blue Star Fund, LLC v. Canton Prods.*, 2009 U.S. Dist. LEXIS 93080, 2009 WL
 3246616 (D.N.J. 2009).

⁹⁴ *Second & Ashbourne Assocs. v. Cheltenham Twp.*, 1989 U.S. Dist. LEXIS 8823 (E.D. Pa.
 1989).

⁹⁵ *B.F. Jackson, Inc. v. Costar Realty Info., Inc.*, 2009 U.S. Dist. LEXIS 54101 (S.D. Tex. 2009).

⁹⁶ *Second & Ashbourne Assocs. v. Cheltenham Twp.*

1 **f. Civil Conspiracy**

2 The fourth cause of action claims the four defendants engaged in a civil conspiracy. It
3 claims “Defendants conspired amongst themselves to unlawfully harm Plaintiff by constructing
4 and posting www.howardshapirovictims.com.”⁹⁷ It also asserts “Defendants defrauded the
5 public in furtherance of their scheme to extort Plaintiff ... by knowingly lying about Plaintiff in a
6 public forum, namely www.howardshapirovictims.com.”⁹⁸

7 Under Nevada law, an actionable civil conspiracy “consists of a combination of two or
8 more persons who, by some concerted action, intend to accomplish an unlawful objective for the
9 purpose of harming another, and damages results from the act or acts.”⁹⁹ To prevail in a civil
10 conspiracy action, a plaintiff has to prove an explicit or tacit agreement between the
11 tortfeasors.¹⁰⁰

12 Fundamentally, the statements on www.howardshapirovictims.com are not designed to
13 accomplish an unlawful objective to harm another: they are designed to accomplish a lawful
14 objective of locating evidence and witnesses relevant to an ongoing judicial proceeding in New
15 Jersey. AS such, they are protected and the civil conspiracy claim fails.

16 Second, civil conspiracy is a derivative claim. It only exists if other claims remain
17 viable. Here, as all of Howard’s other substantive causes of action fail, so too must the civil
18 conspiracy claim fail as a matter of law. In *Sahara Gaming Corp. v. Culinary Workers Union*
19 *Local 226*¹⁰¹ Sahara alleged certain defamatory statements. It acknowledged, however, the civil
20 conspiracy claim was derivative of the defamation claim. If the defamatory statements were
21 privileged, the civil conspiracy claim necessarily failed. The Court adopted this position in
22 affirming summary judgment regarding the privileged nature of the statements. The result that a
23 civil conspiracy claim is derivative and fails if the root cause of action fails is consistent with
24 opinions of other jurisdictions. This ruling was consistent with the majority of jurisdictions.¹⁰²

26 ⁹⁷ Complaint at ¶ 41.

27 ⁹⁸ *Id.* at ¶ 42.

28 ⁹⁹ *Hilton Hotels Corp. v. Butch Lewis Prods.*, 109 Nev. 1043, 1048, 862 P.2d 1207, 1210 (1993).

¹⁰⁰ *GES, Inc. v. Corbitt*, 117 Nev. 265, 271-72, 21 P.3d 11, 15 (2001).

¹⁰¹ 115 Nev. 212, 984 P.2d 164 (1999).

¹⁰² *Miyashiro v. Roehrig, Roehrig, Wilson & Hara*, 228 P.3d 341, 363 (Hawai‘I App. 2010)
(claim for civil conspiracy failed due to failure of predicate claim upon which civil conspiracy

Plaintiffs' civil conspiracy claim fails as a matter of law as it is derivative. Even if it existed, Plaintiffs lack the clear and convincing evidence needed to demonstrate a probability of prevailing.

g. "Fraud"

The complaint's final substantive cause of action is labeled "fraud." The complaint alleges "Defendants intended to induce Plaintiff to pay money or turn over property..." and then "the public justifiably relied upon those representations to formulate an opinion of Plaintiff, putting pressure upon Plaintiff to cooperate with Defendants."¹⁰³

Nevada recognizes only one civil cause of action for "fraud," formally known as fraudulent inducement. The elements of fraudulent inducement must be proven by clear and convincing evidence: (1) a false representation made by the defendant; (2) defendant's knowledge or belief that the representation is false (or insufficient basis for making the representation); (3) defendant's intention to induce the plaintiff to act or to refrain from acting in reliance upon the misrepresentation; (4) plaintiff's justifiable reliance upon the misrepresentation; and (5) damage to the plaintiff resulting from such reliance.¹⁰⁴ Nevada has also "recognized that fraud is never presumed; it must be clearly and satisfactorily proved."¹⁰⁵

The complaint fails to adequately plead a fraudulent inducement cause of action. "In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be

was based); *Chu v. Hong*, 249 S.W.3d 441, 444 (Tex. 2008) ("Conspiracy is a derivative tort requiring an unlawful means or purpose, which may include an underlying tort."); *Rusheen v. Cohen*, 128 P.3d 713, 722 (Cal. 2006) ("Additionally, a civil conspiracy does not give rise to a cause of action unless an independent civil wrong has been committed."); *Larobina v. McDonald*, 876 A.2d 522, 531 (Conn. 2005) ("[T]here is no independent claim of civil conspiracy. Rather, [t]he action is for damages caused by acts committed pursuant to a formed conspiracy rather than by the conspiracy itself.... Thus, to state a cause of action, a claim of civil conspiracy must be joined with an allegation of a substantive tort.") (citation omitted); *McPheters v. Maile*, 64 P.3d 317, 321 (Idaho 2003) ("The essence of a cause of action for civil conspiracy is the civil wrong committed as the objective of the conspiracy, not the conspiracy itself."); *Granewich v. Harding*, 985 P.2d 788, 792 (Or. 1999) ("For reasons explained more fully below, neither 'conspiracy' nor 'aid and assist' is a separate theory of recovery. Rather, conspiracy to commit or aiding and assisting in the commission of a tort are two of several ways in which a person may become jointly liable for another's tortious conduct.").

¹⁰³ *Id.* at ¶¶ 47-48.

¹⁰⁴ *J.A. Jones Constr. Co. v. Lehrer McGovern Bovis, Inc.*, 120 Nev. 277, 290-91, 89 P.3d 1009, 1018 (2004).

¹⁰⁵ *Id.*

1 averred generally.”¹⁰⁶ “In actions involving fraud, the circumstances of the fraud are required by
 2 NRCP 9(b) to be stated with particularity. The circumstances that must be detailed include
 3 averments to the time, the place, the identity of the parties involved, and the nature of the fraud
 4 or mistake.”¹⁰⁷ *Swartz v. KPMG LLP* discussed the federal counterpart to NRCP 9(b) and
 5 concluded “Rule 9(b) does not allow a complaint to merely lump multiple defendants together
 6 but ‘require[s] plaintiffs to differentiate their allegations when suing more than one defendant . . .
 7 and inform each defendant separately of the allegations surrounding his alleged participation in
 8 the fraud.’”¹⁰⁸

9 Plaintiffs’ fraud cause of action does not specifically identify or allege any particular
 10 conduct by the Welts. The complaint instead impermissibly lumps all four together and does not
 11 state the time, place, manner or nature of the fraud Plaintiffs individually assert against each
 12 individual defendant.

13 Second, even if the facts in the complaint were true, Plaintiffs have not pled a fraudulent
 14 inducement claim. To allege a claim, Plaintiffs must demonstrate they justifiably relied upon a
 15 fraudulent representation. Yet here the complaint does not allege Plaintiffs relied upon anything
 16 the Welts may have said on www.howardshapirovictims.com. To the contrary, Plaintiffs deny
 17 relying upon anything said on that website. Instead the complaint alleges unidentified members
 18 of the public may have relied upon an unspecified statement on that website. If so, then these
 19 unidentified members of the public may have standing, but Plaintiffs do not.

20 Plaintiffs have not pled a proper fraudulent inducement claim. Plaintiffs do not allege the
 21 Welts induced them to do anything or that Plaintiffs reasonably relied upon any of the statements
 22 on the website. Plaintiffs lack clear and convincing evidence to demonstrate a probability of
 23 success on this claim.

24 ///

25 ///

26 ///

27 ¹⁰⁶ NRCP 9(b).

28 ¹⁰⁷ *Brown v. Kellar*, 97 Nev. 582, 583-84, 636 P.2d 874, 874 (1981).

¹⁰⁸ 476 F.3d 756, 764-65 (9th Cir. 2007) (alterations in original) (quoting *Haskin v. R.J. Reynolds Tobacco Co.*, 995 F. Supp. 1437, 1439 (M.D. Fla. 1998)).

1 **h. Punitive Damages**

2 The final cause of action listed in the complaint is entitled “punitive damages.” Punitive
3 damages are not a substantive cause of action in Nevada, they are merely a remedy.¹⁰⁹ To even
4 qualify for punitive damages, there must first be a viable underlying cause of action.¹¹⁰

5 There is no cause of action in Nevada for “punitive damages.” Plaintiffs cannot
6 demonstrate a probability of prevailing on a claim that does not exist.

7 **III. The Welts should be reimbursed their attorneys’ fees and costs for defending this**
8 **case, consistent with the deterrent effect the Legislature intended.**

9 If the court grants the anti-SLAPP special motion to dismiss, it “shall award reasonable
10 costs and attorney’s fees to the person against whom the action was brought...”¹¹¹ If the court
11 reaches this section, it may be most efficient to set an accelerated briefing schedule on fees and
12 costs. This would then allow the motion and the issue of fees and costs to be resolved in one,
13 appealable order.

14 The Welts should also receive further relief. “The court may award, in addition to
15 reasonable costs and attorney’s fees awarded pursuant to paragraph (a), an amount of up to
16 \$10,000 to the person against whom the action was brought.”¹¹² Texas has a similar statute.
17 There, the purpose and amount of this discretionary award should be “sufficient to deter the party
18 who brought the legal action from bringing similar actions described in this chapter.”¹¹³

19 The Welts should each receive \$10,000 from Howard Shapiro and a separate \$10,000
20 each from Jenna Shapiro. The statute permits an award “to the person against whom the action
21 was brought.”¹¹⁴ Howard Shapiro brought this action against all four Welts and Jenna Shapiro
22 also brought her own causes of action against all four. This permits the Welts to obtain \$10,000
23 each from each Shapiro.

24 ¹⁰⁹ 22 AM. JUR. 2D DAMAGES § 551 (2003) (“[A]s a rule, there is no cause of action for punitive
25 damages itself; a punitive-damages claim is not a separate or independent cause of action.”
(footnotes omitted)).

26 ¹¹⁰ *Wolf v. Bonanza Investment Co.*, 77 Nev. 138, 143, 360 P.2d 360, 362 (1961) (“[I]n the
27 absence of a judgment for actual damages, there [cannot be] a valid judgment for exemplary
damages.”)

28 ¹¹¹ NRS 41.660(1)(a).

¹¹² NRS 41.660(1)(b).

¹¹³ Texas Civil Practice and Remedies Code § 27.009(a)(2).

¹¹⁴ NRS 41.660(1)(b).