IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD N. DETWILER, an individual, Appellant, v. BAKER BOYER NATIONAL BANK, a Washington corporation, Respondent.	Supreme Court Case No.: 81017 District Court Case No.: A-17-760779-F

Electronically Filed
Apr 23 2020 05:03 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX IN SUPPORT OF EMERGENCY MOTION UNDER NRAP RULE 27(e) TO STAY EXECUTION OF ORDER FOR SANCTIONS/JUDGMENT PENDING APPEAL

(Volume IV - Part 1; Pages MSA00751-MSA00785)

BRENOCH WIRTHLIN, ESQ.
(NV SBN 10282)
HUTCHISON & STEFFEN
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145

Attorneys for Appellant

Docket 81017 Document 2020-15584

TABLE OF CONTENTS
(*Alphabetically)*

Volume No.	Bates	Date	Document Description
III	MSA00654-MSA00667	2/25/2020	Affidavit of John E. Bragonje in Support of Lewis and Roca Attorney Fees and Costs Incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC
I	MSA000053-MSA00070	2/21/2019	Application for Order to Show Cause Why Defendants Should Not be Held in Civil Contempt
II	MSA00393-MSA00444	1/24/2020	Brief in Support of Continuing Request to Hold Edward N. Detwiler in Civil Contempt of Court
III	MSA00693	3/17/2020	Court Minutes: All Pending Motions
II	MSA00497	1/30/2020	Court Minutes: Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time
I	MSA00025-MSA00052	1/9/2019	Findings of Fact, Conclusions of Law, and Final Judgment
IV	MSA00777-MSA00801	4/8/2020	Non-Party Edward Detwiler s Response to Notice of Response to Mr. Detwiler's Arguments
II	MSA00448-MSA00472	1/29/2020	Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time
III	MSA00694-MSA00718	3/24/2020	Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond; and Order Shortening Time

Volume No.	**Bates**	**Date**	**Document Description**
II	MSA00486-MSA00487	1/30/2020	Non-Party Edward Detwiler's Notice of Objection Pursuant to NRS 22.030
II	MSA00488-MSA00496	1/30/2020	Non-Party Edward Detwiler's Reply in Support of Motion for Entry of a Protective Order and Continuance of Hearing
III	MSA00577-MSA00593	2/11/2020	Non-Party Edward Detwiler's Reply in Support of: (1) Motion for Relief from Contempt Order Pursuant to NRCP 60(b); (2) Motion for New Trial Pursuant to NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59; (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court
III	MSA00668-MSA00684	3/3/2020	Non-Party Edward Detwiler's Response to the Affidavit of John E. Bragonje in Support of Lewis and Roca Attorney Fees and Costs incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC and Reservation of Right to File a Motion to Request Stay of Execution and Waive Supersedeas Bond

Volume No.	**Bates**	**Date**	**Document Description**
III	MSA00518-MSA00549	2/5/2020	Non-Party Edward Detwiler's: (1) Motion for Relief From Contempt Order Pursuant To NRCP 60(b); (2) Motion for New Trial Pursuant To NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59 (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court
II	MSA00445-MSA00447	1/28/2020	Notice of Appearance
I	MSA00071-MSA0074	2/25/2019	Notice of Entry of Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt
I	MSA00001-MSA000024	8/31/2017	Notice of Filing of Foreign Judgment and Affidavit Pursuant to NRS 17.360(2)
IV	MSA00766-MSA00776	4/3/2020	Notice of Response to Mr. Detwiler's Arguments
II	MSA00384-MSA00392	1/22/2020	Notice of Serving Subpoena on Edward Newlin Detwiler
II	MSA00473-MSA00485	1/29/2020	Opposition to Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on OST and Erratum Providing Correct Affidavit of Service Upon Edward Detwiler
III	MSA00719-MSA00739	3/27/2020	Opposition to Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond

Volume No.	**Bates**	**Date**	**Document Description**
IV	MSA00760-MSA00762	3/30/2020	Order and Judgment
IV	MSA00763-MSA00765	4/1/2020	Order and Judgment
III	MSA00685-MSA00692	3/12/2020	Order awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC
IV	MSA00802-MSA00804	4/13/2020	Order Denying Edward N. Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond
IV	MSA00805-MSA00821	6/21/2019	Order for Punishment of Contempt
II/III	MSA00498-MSA00517	1/30/2020	Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager
III	MSA00550-MSA00576	2/10/2020	Plaintiff's Opposition to Non-Party Edward Detwiler's: (1) Motion for Relief From Contempt Order Pursuant To NRCP 60(B); (2) Motion for New Trial Pursuant To NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59 (4) Motion for Reconsideration of The Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court
III	MSA00645-MSA00653	2/18/2020	Recorder's Transcript of Decision on 2/12/20 Hearing
III	MSA00594-MSA00644	2/12/2020	Recorder's Transcript of Hearing: All Pending Motions
II	MSA00348-MSA00383	12/23/2019	Recorder's Transcript of Status Check

Volume No.	**Bates**	**Date**	**Document Description**
III/IV	MSA00740-MSA00759	3/30/2020	Recorders Transcript of Telephonic Hearing: All Pending Motions
I	MSA00075-MSA00144	4/1/2019	Transcript of Proceedings (Show Cause Hearing)
I	MSA00162-MSA00219	5/17/2019	Transcript of Proceedings Re: Evidentiary Hearing Volume 1; 5.17.19
I	MSA00220-MSA00240	5/21/2019	Transcript of Proceedings Re: Evidentiary Hearing Volume I
I/II	MSA00241-MSA00347	5/21/2019	Transcript of Proceedings Re: Evidentiary Hearing Volume II
I	MSA00145-MSA00161	4/24/2019	Transcript of Proceedings: Evidentiary Hearing

PROOF OF SERVICE

I, the undersigned, hereby certify that, pursuant to NRAP Rule 25(d), I served the foregoing **APPELLANT'S APPENDIX IN SUPPORT OF EMERGENCY MOTION UNDER NRAP RULE 27(e) TO STAY EXECUTION OF ORDER FOR SANCTIONS/JUDGMENT PENDING APPEAL** on the following parties, via the manner of service indicated below, on April 23, 2020:

Via Electronic Service through E-Flex System:

John Bragonje (JBragonje@lrrc.com)
Attorney for Respondent

Dated: April 23, 2020.

By: /s/ Danielle Kelley
An Employee of
Hutchison & Steffen

MR. BRAGONJE: Yeah.

THE COURT: -- nonexistence of Baker Boyer, a Washington corporation?

MR. BRAGONJE: It's totally without merit. It's an absolutely active entity. I confirmed that with my client. And, you know, if they really think that's a problem, then you know, there's ways to attack that. They can say we're not the real party and interest or something like that.

They've done nothing about that. It's a false claim. It's a false claim and it's in the nature of conspiracy theories that we've seen from Mr. Detwiler and Mr. Foust all along.

THE COURT: Okay, what about the argument that the Court erred in awarding 118,000 in attorneys' fees and costs from the period of March 2018 through January 2019?

MR. BRAGONJE: I don't accept the notion that Mr. Detwiler can't be sanctioned, because he's not a party. He represented Harry Hildibrand, LLC. He was the manager. He was the only one who has ever come to this Court to represent Harry Hildibrand.

Harry Hildibrand intervened in this case in early 2018. They've been a party since then. And Mr. Detwiler's been representing them since that time.

And if -- even if that's true, even there were some error, we're not really talking about the error. We're talking about whether or not Mr. Detwiler has met the requirements of Nelson versus Heer and Hampton versus District Court for a stay. And those have to do more with the collectability of the judgment than the underlying merits anyway.

THE COURT: What was the date of written notice of entry of the judgment?

MR. BRAGONJE: Well, I guess that's a complicated question because the -- I don't think the Court has finally entered a -- well, I guess what the final judgment will be, right?

I think we submitted an order that captures the award of the attorneys' fees and I think it's with Your Honor. I don't think it's been signed yet.

THE COURT: Oh, I thought I --

MR. BRAGONJE: Now the Court did enter--

THE COURT: Yeah, okay.

MR. BRAGONJE: -- you know, findings of fact and conclusions of law on January 30th, and again, I believe on March 12th. But the final order that allows for the recovery of the attorneys' fees haven't even issued yet.

THE COURT: All right, well, all right, I think I'm all caught up with all of the orders. I got all caught up Thursday of last week. Maybe everything's not out yet.

All right, so Mr. Wirthlin, you get the last word?

MR. WIRTHLIN: Thank you, Your Honor, I'll be brief. I do just want to hit a couple points, though, that Your Honor hit on.

I hear a lot of discussion from the bank, but I don't see any evidence whatsoever that Baker Boyer National Bank, a Washington corporation, exists in any way.

Mr. Bragonje brings up that we can raise that on appeal. We

will do so. And that's the only appropriate place to do that, but there has been no response from the bank and there cannot be because that is not a valid entity.

That, in and of itself, I think, warrants a stay of execution and a waiver of the bond because the bank can't even show that it's a correct entity or that it even exists to have any judgment against Mr. Detwiler.

As far as the other issues, I think that as the Court hit on directly, Mr. Detwiler is not the only person who has shown up. Mr. Foust has shown up long before Mr. Detwiler was in any way involved.

And as the Court put in its own minute order, it's -- you know, the idea of Mr. Detwiler being a party, which we dispute, but we understand the Court's position, was not a party.

It could not have been a party prior to January 2019. So the $118,000 in fees and costs prior to that time should not be awarded. Again, another reason to preserve the status quo. And that goes to the point that bank's counsel raises about defeating the purpose of the appeal.

The entire purpose of the appeal is the monetary judgment, so it isn't able to collect and take that money prior to the supreme court weighing in on these critical issues, that will completely defeat the purpose of the appeal.

That's the entire point of the waiver of the bond and of the stay is to preserve the status quo, so that the bank is not allowed to collect the judgment, which later is deemed to be inappropriate because the bank doesn't exist, because Mr. Detwiler could not possibly have been a party

before January 2019.

And because Mr. Foust has appeared and the judgment is really against him, I understand there's a separate issue there, but that's what the purpose of the stay is to preserve that status quo. And it's certainly well within the Court's discretion to do that.

THE COURT: All right, thanks.

I didn't hear from Mr. Bragonje any discussion on the amount of the supersedeas bond if I were to deny a stay. Did you want to speak to that, Mr. Bragonje?

MR. BRAGONJE: Sure, yeah. I think --- I think what is required under Rule 62 is a bond in the entire amount of the judgment plus an amount that ought to be necessary to cover interest during the pendency of the appeal.

So I believe -- let's see here. I don't know that I have the exact figure in front of me, but I believe it's -- oh, pardon me, I can find it. I think it's $318,855.52. So the bond ought to be in that amount plus interest for I think three years.

THE COURT: I'm looking at that rule now.

MR. BRAGONJE: I think interest would be around in this case under Chapter 29, or excuse me, Chapter 99. We don't know what the rates will be, because they change, you know, every six months, but they'll probably be low in this environment.

And, you know, I would think, you know, like 5 percent for -- 5 or 6 percent per year would probably cover it.

THE COURT: All right, Mr. Wirthlin, do you want to respond to

Mr. Bragonje then?

MR. WIRTHLIN: Yeah, Your Honor. I'm not sure, you know, as far -- I don't know what the interest rates are. I don't know that it's appropriate.

I don't see -- I'm looking at 62 right now. I don't see any basis for interest regardless. I would, I guess, ask if the Court determines to require a bond in that amount, either the 318- or any additional amount, that we at least be given enough of a stay to go request that the supreme court rule on that issue, too, since we have the ability to do that.

But certainly with the current climate, I don't think the Court is operating at -- the supreme court is operating at full capacity. So we would request time to be able to do that at least 60 days if the Court would permit that.

THE COURT: I think you automatically get 30 days under the rule, I believe, of a stay, right? I'm pretty sure that's --

MR. BRAGONJE: Yeah, the rule already built in a 30-day stay. I don't think there's any grounds for extending what the rule requires.

And as I said, I haven't seen the final order yet. I have no doubt Your Honor may have signed it. I don't think, you know, with all this craziness, it hasn't made its way to my screen. I'm working from, you know, home. So that may have happened, but I haven't seen it yet.

THE COURT: All right. All right, very well, I'm going to deny the motion for a stay. The Court's been involved in this case for three years now.

And before Mr. Wirthlin has been involved, but of course, he

1 understands from all the materials and briefs that you've read, Mr.
2 Wirthlin, the Court has the position of Mr. Detwiler.
3 He has appeared for a long time in this case as a managing
4 member of Harry Hildibrand. And this Court believes that he's very
5 actively participated in the case, that he has held himself out to be
6 representative of Harry Hildibrand in some capacity.
7 I know he's disputed the full extent of his authority, but the
8 records in this case and the evidence in this case has indicated to me he
9 had very extensive authority, very extensive knowledge of the
10 transactions relating to the cars.
11 The Court believed that he had knowledge of where the cars
12 have been. And the Court believes that he has actively frustrated the
13 Court's desire to have the cars turned over. And he's actively violated the
14 Court's orders.
15 And that all has resulted in an increasing risk of loss to the
16 bank. The bank has been trying to recover these cars. And every day
17 that goes by, there's an increased risk that the bank will not be able to find
18 them.
19 And while Mr. Detwiler may not have control of the cars at this
20 point, and he may not have control of the cars any more, and while he
21 may not know where they are any more, the reason that they're not in the
22 bank's hands now are to a significant extent the responsibility of Mr.
23 Detwiler.
24 And so every day that goes by is a further risk of loss that was
25 ultimately caused by Mr. Detwiler. Detwiler has not been candid with the

Court on those issues.

So the Court thinks that it would be extremely prejudicial to the bank if there were a stay. I don't believe that the purpose of the appeal will be lost here.

The probability of success on appeal, there is a potential likelihood that I could be overturned, but I think the great weight supports the Court's decision in this case.

I'm trying to think of the other factors if I've covered everything that's important. I guess the last point I want to make is Mr. Detwiler's supposed inability to pay the judgment does not establish a valid basis for a waiver of the supersedeas bond or a stay.

So I'm going to deny the motion. In terms of the amount of the bond, I hadn't considered the interest. I don't know if it's going to take three years for the Court to resolve this, but let's say if it took 1 year, 5 percent -- 15, 2018, 15 [indiscernible]. I'm going to set the supersedeas bond at $350,000.

There will be a stay of 45 days from the date of entry of the Court's order today before execution can commence. That should give the appellant Mr. Detwiler enough time to either seek a stay from the Nevada Supreme Court.

MR. WIRTHLIN: Your Honor, if I could clarify, this is Brenoch. Did you say 45 days from today or from entry of the order based on today's hearing?

THE COURT: Yeah, the 45 days from entry of today's order. Shouldn't be that complicated for somebody to get me the written order on

today's hearing. I mean, just to summarize --

MR. BRAGONJE: Yes, this is --

THE COURT: Mr. Bragonje, I'm going to ask --

MR. BRAGONJE: This is John. I'd be happy to submit the order.

THE COURT: I'm going to ask you to put it -- I'm going to ask you to put it together, Mr. Bragonje. So I'm denying the motion for stay due to prejudice to the bank during the purpose of the appeal will be not lost.

Detwiler's inability to pay is not a valid basis for a stay or a waiver of the bond, that the Court believes that Mr. Detwiler has directly and actively frustrated the bank's efforts to collect, and that is his violation of the Court's order, which has led to the precarious position of the bank in trying to collect on its judgment.

And in terms of the issue whether Baker Boyer, a Washington corporation, is a valid legal entity, that is an issue that could be brought up on appeal. And the Court -- well, that's all I'm going to say on that one.

All right, so Mr. Bragonje, make sure that you provide a copy of the order to Mr. Wirthlin before it's submitted to me. Ask him to review and countersign as to form and substance.

If Mr. Wirthlin can't do that for any appropriate reason, then you can each submit to me an alternate order and I'll get that signed. I'll make a determination to get it signed within an hour of receiving it, so you guys can all move on.

MR. BRAGONJE: Thank you, Your Honor.

MR. WIRTHLIN: Thank you, Your Honor.

THE COURT: All right, thank you, counsel. Have a good day. Bye.

MR. BRAGONJE: All right.

[Proceedings concluded at 9:47 a.m.]

* * * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Chris Hwang
Transcriber

Electronically Filed
3/30/2020 12:16 PM
Steven D. Grierson
CLERK OF THE COURT

JUDG
John E. Bragonje
State Bar No. 9519
E-mail:jbragonje@lrrc.com
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Tel: 702.949.8200
Fax: 702.949.8398

Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a Washington corporation, Plaintiff/Judgment Creditor, vs. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendant/Judgment Debtor.	Case No.: A-17-760779-F Dept. No.: II **ORDER AND JUDGMENT**

☐ Non-Jury Disposed After Trial Start
☒ Non-Jury Judgment Reached
☐ Transferred before Trial
☐ Jury Disposed After Trial Start
☐ Jury Verdict Reached
☐ Other - _____

MH

ORDER AND JUDGMENT

On April 1 and 24, 2019, and May 17, 21, 2019, the cause of whether or not Edward N. Detwiler and Harry Hildibrand, LLC should be punished for contempt of Court came on for trial. Harry Hildibrand, LLC was represented at all times through its manager, Edward N. Detwiler. Witnesses on the part of Harry Hildibrand, LLC and Edward N. Detwiler, on the one hand, and on the part of the plaintiff and judgment creditor Baker Boyer National Bank (the "Bank"), on the other hand, were sworn and examined.

After hearing the evidence and the arguments of counsel, the Court retired to consider its decision. The Court has given due study and consideration to all of the above, and to the whole record and history in this litigation, including all hearings conducted on discovery questions throughout the period of this action's commencement to the present. The Court has further reviewed all relevant pleadings, papers, and other relevant and credible documents and materials in this case, as well as pleadings in other related court cases.

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

This Court concludes that Edward N. Detwiler and Harry Hildibrand, LLC have followed a contumacious, conscious, willful, and deliberate policy throughout this litigation, which continues to the present time, of cynical disregard and disdain of this Court's orders, particularly the order to turnover and surrender certain vehicles to the Bank, as detailed in the Court's order and judgment of January 9, 2019. Therefore, it is ORDERED, ADJUDGED, and DECREED that Edward N. Detwiler and Harry Hildibrand, LLC stand in contempt of Court. The Court has made previously findings of fact and conclusions of law that detail the contemptuous conduct and that resolved certain post-trial motions and requests to tax costs and award attorney fees in its separate rulings which issued on January 30, 2020, and March 12, 2020.

It is, therefore, CONSIDERED and ADJUDGED by the Court that the Bank, have and recover of and from Edward N. Detwiler and Harry Hildibrand, LLC, on a joint and several liability basis, the sum of $100,000.00, and interest on that sum, from January 30, 2020, at the rate established by Chapter 99 of the Nevada Revised Statutes, and the further sum of $208,889.00, as attorney's fees in this cause, together with costs, taxed at $9,966.52, with interest on these amounts to run from the notice of entry of this order and judgment, and let execution issue.

It is further CONSIDERED and ADJUDGED that this order and judgment shall be enforced against the joint and/or separate property of Edward N. Detwiler and Harry Hildibrand, LLC.

It is further CONSIDERED and ADJUDGED that this order and judgment shall in no way affect the underlying judgment in this case against the judgment debtor, James P. Foust and his marital community, which judgment remains unsatisfied at this time.

Dated this 23rd day of March, 2020

DISTRICT COURT JUDGE
A-17-760779-F

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: _____

John E. Bragonje
State Bar No. 9519
jbragonje@lrrc.com
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

Attorneys for Plaintiff Baker Boyer National Bank

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Electronically Filed
4/1/2020 10:33 AM
Steven D. Grierson
CLERK OF THE COURT

JUDG
John E. Bragonje
State Bar No. 9519
E-mail:jbragonje@lrrc.com
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Tel: 702.949.8200
Fax: 702.949.8398

Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a Washington corporation, Plaintiff/Judgment Creditor, vs. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendant/Judgment Debtor.	Case No.: A-17-760779-F Dept. No.: II **ORDER AND JUDGMENT**

☐ Non-Jury Disposed After Trial Start
☒ Non-Jury Judgment Reached
☐ Transferred before Trial
☐ Jury Disposed After Trial Start
☐ Jury Verdict Reached
☐ Other - _____

MH

ORDER AND JUDGMENT

On April 1 and 24, 2019, and May 17, 21, 2019, the cause of whether or not Edward N. Detwiler and Harry Hildibrand, LLC should be punished for contempt of Court came on for trial. Harry Hildibrand, LLC was represented at all times through its manager, Edward N. Detwiler. Witnesses on the part of Harry Hildibrand, LLC and Edward N. Detwiler, on the one hand, and on the part of the plaintiff and judgment creditor Baker Boyer National Bank (the "Bank"), on the other hand, were sworn and examined.

After hearing the evidence and the arguments of counsel, the Court retired to consider its decision. The Court has given due study and consideration to all of the above, and to the whole record and history in this litigation, including all hearings conducted on discovery questions throughout the period of this action's commencement to the present. The Court has further reviewed all relevant pleadings, papers, and other relevant and credible documents and materials in this case, as well as pleadings in other related court cases.

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

This Court concludes that Edward N. Detwiler and Harry Hildibrand, LLC have followed a contumacious, conscious, willful, and deliberate policy throughout this litigation, which continues to the present time, of cynical disregard and disdain of this Court's orders, particularly the order to turnover and surrender certain vehicles to the Bank, as detailed in the Court's order and judgment of January 9, 2019. Therefore, it is ORDERED, ADJUDGED, and DECREED that Edward N. Detwiler and Harry Hildibrand, LLC stand in contempt of Court. The Court has made previously findings of fact and conclusions of law that detail the contemptuous conduct and that resolved certain post-trial motions and requests to tax costs and award attorney fees in its separate rulings which issued on January 30, 2020, and March 12, 2020.

It is, therefore, CONSIDERED and ADJUDGED by the Court that the Bank, have and recover of and from Edward N. Detwiler and Harry Hildibrand, LLC, on a joint and several liability basis, the sum of $100,000.00, and interest on that sum, from January 30, 2020, at the rate established by Chapter 99 of the Nevada Revised Statutes, and the further sum of $208,889.00, as attorney's fees in this cause, together with costs, taxed at $9,966.52, with interest on these amounts to run from the notice of entry of this order and judgment, and let execution issue.

It is further CONSIDERED and ADJUDGED that this order and judgment shall be enforced against the joint and/or separate property of Edward N. Detwiler and Harry Hildibrand, LLC.

It is further CONSIDERED and ADJUDGED that this order and judgment shall in no way affect the underlying judgment in this case against the judgment debtor, James P. Foust and his marital community, which judgment remains unsatisfied at this time.

Dated this 23rd day of March, 2020

DISTRICT COURT JUDGE

A-17-760779-F

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: _____

John E. Bragonje
State Bar No. 9519
jbragonje@lrrc.com
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

Attorneys for Plaintiff Baker Boyer National Bank

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Electronically Filed
4/3/2020 4:18 PM
Steven D. Grierson
CLERK OF THE COURT

NOTC
John E. Bragonje
State Bar No. 9519
E-mail:jbragonje@lrrc.com
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Tel: 702.949.8200
Fax: 702.949.8398

Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a Washington corporation, Plaintiff/Judgment Creditor, vs. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendant/Judgment Debtor.	Case No.: A-17-760779-F Dept. No.: II **NOTICE OF RESPONSE TO MR. DETWILER'S ARGUMENTS**

<u>The Status of Baker Boyer National Bank</u>

Mr. Detwiler has argued recently that Baker Boyer National Bank ("Baker Boyer") does not exist, apparently because Mr. Detwiler's counsel could not find evidence of registration of this entity with the Washington Secretary of State. Mr. Detwiler has threatened to raise this issue on appeal, apparently to claim that Baker Boyer is not the real party in interest. This is a totally false and fabricated charge—and it is indicative of the conspiratorial nature of the arguments leveled at Baker Boyer during the course of these proceedings and which have needlessly increased costs.

Baker Boyer National Bank is a federally chartered bank—and has been so since 1889. We include a copy of the original charter as Exhibit 1 hereto. As a federally chartered bank, Baker Boyer is registered with the Office of the Comptroller of the Currency (the "OCC"). The OCC maintains an official list of all active federally chartered banks. This list is easily accessible on the internet and is available at

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Lewis Roca ROTHGERBER CHRISTIE

https://www.occ.treas.gov/topics/charters-and-licensing/financial-institution-lists/index-financial-institution-lists.html

The federal bank charter number associated with Baker Boyer on the official list (Exhibit 2)—3956—matches the number of on the original charter. (*Compare with* Exhibit 1.) There is no question but that Baker Boyer is an active, legitimate entity with the capacity to sue and to enforce contracts and other rights arising under applicable laws, as it has done in this case for many years now.

Harry Hildibrand, Jr. Is Not a Real Person

Mr. Foust and Mr. Detwiler gave extensive, sworn testimony over many years—at both deposition and trial—concerning their dealings with a person they referred to as Harry Hildibrand, Jr. This Mr. Hildibrand never appeared in this matter and never offered any writings, such as affidavits, declarations, or other signed papers. Recently the Bank has received information that caused it to question whether this Mr. Hildirbrand was even a real person. The Bank believes now that Mr. Hildibrand was simply another invention of Misters Foust and Detwiler to frustrate Baker Boyer's lawful collection efforts and to flout this Court's orders. Patti Miller, an accredited member of the National Association of Legal Investigators, offers a declaration (Exhibit 3) to the effect that Mr. Hildibrand was not a real person.

DATED this 3rd day of April, 2020.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ John E. Bragonje*
John E. Bragonje (SBN.: 9519)
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Attorneys for Plaintiff Baker Boyer National Bank

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

CERTIFICATE OF SERVICE

Pursuant to Rule 5(b), I hereby certify that on this date, I electronically filed and served the foregoing document entitled ***"Notice of Response to Mr. Detwiler's Arguments"*** through the Court's electronic filing system on all parties on the Court's e-service list.

Michael D. Mazur, Esq.
MAZUR & BROOKS
A PROFESSIONAL CORPORATION
2355 Red Rock Street, Suite 100
Las Vegas, NV 89146
Attorneys for Defendant James Patterson Foust, Jr.

Brenoch Wirthlin, Esq.
HUTCHISON & STEFFEN, PLLC
Peccole Professional Park
10080 W. Alta Drive, Suite 200
Las Vegas, NV 89145
bwirthlin@hutchlegal.com
Attorneys for Edward Detwiler

The Following Served via U.S. Mail:

HARRY HILDIBRAND, LLC
c/o Registered Agent
Jared S. Heggen
3011 American Way
Missoula, MT 59808

HARRY HILDIBRAND, LLC
c/o Registered Agent
Jared S. Heggen
P.O. Box 16270
Missoula, MT 59808

DATED this 3rd day of April, 2020.

/s/ *Luz Horvath*
An employee of Lewis Roca Rothgerber Christie LLP

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Exhibit 1

Exhibit 1

TREASURY DEPARTMENT

Office of Comptroller of the Currency.

Washington, January 8th 1889.

Whereas, by satisfactory evidence presented to the undersigned, it has been made to appear that "The Baker-Boyer National Bank of Walla Walla", in the City of Walla Walla, in the County of Walla Walla, and ~~State of~~ Territory of Washington has complied with all the provisions of the ~~Revised~~ Statutes of the United States, required to be complied with before an association shall be authorized to commence the business of Banking:

Now therefore Jesse D. Abrahams, Deputy and acting Comptroller of the Currency, do hereby certify that "The Baker-Boyer National Bank of Walla Walla", in the City of Walla Walla, in the County of Walla Walla, and ~~State of~~ Territory of Washington is authorized to commence the business of Banking as provided in Section Fifty one hundred and sixty nine of the Revised Statutes of the United States.

In testimony whereof witness my hand and Seal of office this 8th day of January 1889.

J. D. Abrahams

Deputy and Acting Comptroller of the Currency.

No 2956.

Engraved & Printed at the Bureau, Engraving & Printing.

MSA00770

Exhibit 2

Exhibit 2

National Banks Active As of 2/29/2020

CHARTER NO	NAME	CITY	STATE	CERT	RSSD
8709	1st National Bank	Lebanon	OH	6646	480723
15592	Academy Bank, National Association	Kansas City	MO	19600	535753
25173	ADP Trust Company, National Association	Wilmington	DE	59194	5397639
25154	Affiliated Bank, National Association	Arlington	TX	34885	965789
14688	Albany Bank and Trust Company National Association	Chicago	IL	17230	2732
13790	Alerus Financial, National Association	Grand Forks	ND	3931	933256
14206	Amarillo National Bank	Amarillo	TX	14531	353555
16804	Amerant Bank, National Association	Coral Gables	FL	22953	83638
24470	Amerant Trust, National Association	Coral Gables	FL	57852	3266825
24369	American Bank and Trust Company, National Association	Davenport	IA	34955	2733263
16320	American Bank National Association	Dallas	TX	21567	494654
22286	American Bank, National Association	Lemars	IA	5800	345345
15820	American Bank, National Association	Corpus Christi	TX	20241	807955
17319	American Bank, National Association	Waco	TX	23886	307361
24456	American Commerce Bank, National Association	Bremen	GA	57686	3272956
25151	American Express National Bank	Sandy	UT	27471	1394676
23521	American First National Bank	Houston	TX	34656	2694681
15037	American Heritage National Bank	Long Prairie	MN	8843	61757
18613	American National Bank	Oakland Park	FL	26398	481430
15435	American National Bank	Omaha	NE	19300	660655
22553	American National Bank - Fox Cities	Appleton	WI	33812	2051127
16617	American National Bank & Trust	Wichita Falls	TX	22373	498362
9343	American National Bank and Trust Company	Danville	VA	6837	958727
24219	American National Bank of Minnesota	Baxter	MN	26499	306159
24716	American Plus Bank, National Association	Arcadia	CA	58469	3623110
24182	AMG National Trust Bank	Boulder	CO	57295	3015939
16625	Anahuac National Bank	Anahuac	TX	22381	424352
5525	Anna-Jonesboro National Bank	Anna	IL	3759	855844
8796	Armed Forces Bank, National Association	Ft. Leavenworth	KS	4666	983457
23006	Asian Pacific National Bank	San Gabriel	CA	33013	1462986
23695	Associated Bank, National Association	Green Bay	WI	5296	917742
23250	Associated Trust Company, National Association	Milwaukee	WI	27102	1629903
24425	Atlantic Capital Bank, National Association	Atlanta	GA	35525	3555695
5581	Austin Bank, Texas National Association	Jacksonville	TX	3276	548351
25139	Axiom Bank, National Association	Maitland	FL	31390	408875
3956	Baker Boyer National Bank	Walla Walla	WA	2987	69678
1253	Ballston Spa National Bank	Ballston Spa	NY	6959	505
25080	Banc of California, National Association	Santa Ana	CA	35498	200378
12152	BancCentral, National Association	Alva	OK	4033	251352
4975	Bank First, National Association	Manitowoc	WI	5304	594947
24077	Bank of America California, National Association	San Francisco	CA	25178	1443266
13044	Bank of America, National Association	Charlotte	NC	3510	480228
24153	Bank of Brenham, National Association	Brenham	TX	57102	3042234
10844	Bank of Bridger, National Association	Bridger	MT	2224	17950
16976	Bank of Brookfield-Purdin, National Association	Brookfield	MO	9385	236256
20415	Bank of Desoto National Association	Desoto	TX	26542	638355
14510	Bank of Hillsboro, National Association	Hillsboro	IL	16276	659341
4865	Bank of Houston, National Association	Houston	TX	3178	583754
24100	Bank of Southern California, National Association	San Diego	CA	57044	3076453
17548	Bank of Whittier, National Association	Whittier	CA	24211	209362
16643	BankChampaign, National Association	Champaign	IL	22434	436739

Prepared by Supervision Support

Exhibit 3

Exhibit 3

DECLARATION OF PATTI G. MILLER

1. I am an accredited member of the National Association of Legal Investigators. I make my living as a private investigator and paralegal. I have over thirty years of legal and investigative experience.

2. I am a licensed private investigator in the State of Arizona, license number 1538954.

3. I was asked by attorney John Bragonje to identify and locate an individual referred to as Harry Hildibrand, Jr.; I understand that said Harry Hildibrand, Jr. has been repeatedly referred as involved in the events concerned in Clark County, Nevada, district court case No. A-17-760779-F, *Baker Boyer National Bank v. James Patterson Foust Jr., et al*.

4. My investigation included, but was not limited to, investigative information database searches and other investigative sources to determine current identifying information and address information for Harry Hildibrand Jr.

5. The database searches I used (Westlaw, Accurint, TLO, etc.) compile information from credit histories, motor vehicle records, utilities, public records, phone records, property records, court records, employment information, motor vehicle records, driver's license information, recorded documents, and other forms of recorded information. I also utilized other reliable sources to obtain information on Harry Hildibrand Jr.

6. My findings determined that no individual exists in the United States with the name Harry Hildibrand, Jr. Further, I did not locate any Harry Hildibrand, Jr. throughout my searches which also cover worldwide databases and available information.

7. I was able to located two men named Harry Hildibrand in the United States through the United States Census records gathered by www.Ancestry.com; both individuals have been deceased for several decades.

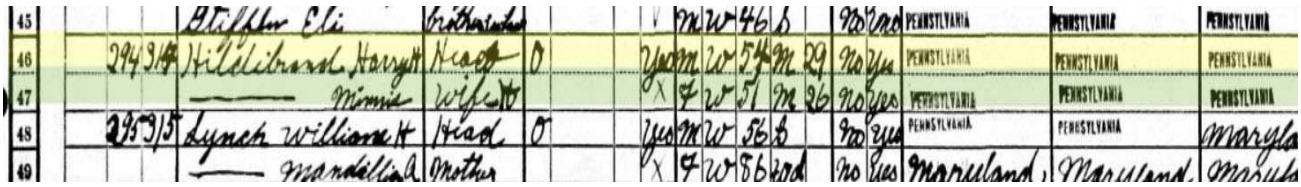
1930 United States Federal Census
1930S
View Image

Name **Harry H Hildibrand**
Birth location
Residence 1930 township city York Pennsylvania USA

1920 United States Federal Census
1920S
View Image

Name **Harry Hildibrand**
Birth location
Residence 1920 city Dundy Nebraska USA

8. Below is a screenshot from the 1930 United States Federal Census and Harry H. Hildibrand was residing in Pennsylvania and he was 54 years old. This person died in 1962.



9. Below is a screenshot from the 1920 United States Federal Census; it shows that a person named Harry Hildibrand was residing in Nebraska and that he was 14 years old at the time. Were he alive, this person would currently be 114 years old.

10. The investigative database search engines I use are an excellent source for compiling information on current and past residences of individuals and businesses. I believe the investigative search engines utilized, as well as additional information obtained through other sources which I employed in this search, have a high probability of accuracy. Further, I use

various databases to ensure that the information obtained is consistent (and because some investigative database search engines compile information from sources that others do not).

11. I believe at this time that I have exhausted all efforts to locate a person named Harry Hildibrand, Jr. Based on my searching, I do not believe that there is such a person as Harry Hildibrand, Jr.

12. I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 3rd day of April, 2020.

Patti G. Miller

Electronically Filed
4/8/2020 3:55 PM
Steven D. Grierson
CLERK OF THE COURT

RESP
BRENOCH WIRTHLIN, ESQ. (NV SBN 10282)
HUTCHISON & STEFFEN
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385-2500
Facsimile: (702) 385-2086
Email: bwirthlin@hutchlegal.com
Attorneys for Non-party Edward Detwiler

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

BAKER BOYER NATIONAL BANK, a Washington corporation, Plaintiff, v. JAMES PATTERSON FOUST, JR., individually, Defendants.	CASE NO.: A-17-760779-F DEPT NO.: II

NON-PARTY EDWARD DETWILER'S RESPONSE TO "NOTICE OF RESPONSE TO MR. DETWILER'S ARGUMENTS"

Non-party Edward N. Detwiler ("Mr. Detwiler"), by and through counsel, Brenoch Wirthlin, Esq. of Hutchison & Steffen, hereby provides the following documents in response to Plaintiff's "Notice of Response to Mr. Detwiler's Arguments" filed on April 3, 2020 all of which confirm that the named plaintiff in this matter, in whose favor a judgment against Mr. Detwiler has been improperly entered, is a non-existent entity:[1]

1. Complaint for Foreclosure of Guaranty filed on December 6, 2016 (**Exhibit A**);
2. Washington Secretary of State's Certificate re: Baker Boyer National Bank (**Exhibit**

[1] Mr. Detwiler objects to Plaintiff's filing of its "Notice of Response to Mr. Detwiler's Arguments" as it is a rogue document not authorized by any rule, statute or law and, if considered a supplemental brief, does not comply with EDCR 2.20. Without waiving said objection, Mr. Detwiler provides this response.

B); and

3. Washington Secretary of State's Certificate re: The Baker Boyer National Bank of Walla Walla (**Exhibit C**).

DATED: April 8, 2020.

HUTCHISON & STEFFEN

By */s/ Brenoch Wirthlin, Esq.*

BRENOCH WIRTHLIN, ESQ.
(NV SBN 10282)
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145
Attorneys for Non-party Edward Detwiler

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 8th day of April, 2020, I caused the document entitled **NON-PARTY EDWARD DETWILER'S RESPONSE TO "NOTICE OF RESPONSE TO MR. DETWILER'S ARGUMENTS"** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

INTENTIONALLY LEFT BLANK
EXHIBIT PAGE ONLY

EXHIBIT A

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

FILED
KATHY MARTIN
COUNTY CLERK

2016 DEC -6 A 9:59

WALLA WALLA COUNTY
WASHINGTON

BY_____

SUPERIOR COURT OF WASHINGTON IN AND FOR WALLA WALLA COUNTY

BAKER BOYER NATIONAL BANK, Plaintiff, v. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendants.	No. 16 2 00829 2 SUMMONS [60-Day]

TO THE DEFENDANTS: A lawsuit has been started against you in the above-entitled court by Plaintiff Baker Boyer National Bank. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons, within sixty (60) days after the service of this Summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where Plaintiff is entitled to what it asks for because you have not responded. If you serve a Notice of Appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the Plaintiff file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the person signing this Summons. Within

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

FILED
KATHY MARTIN
COUNTY CLERK

2016 DEC -6 A 9:59

WALLA WALLA COUNTY
WASHINGTON

BY_____

SUPERIOR COURT OF WASHINGTON IN AND FOR WALLA WALLA COUNTY

BAKER BOYER NATIONAL BANK, Plaintiff, v. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendants.	No. 16 2 00829 2 COMPLAINT FOR FORECLOSURE OF GUARANTY

Plaintiff Baker Boyer National Bank, for cause of suit against the above-named defendants, jointly and severally, complains and alleges:

I. STATUS OF PLAINTIFF

1.1 At all times herein mentioned, Baker Boyer National Bank ("Baker Boyer"), has been and now is a national bank, licensed to do business in the state of Washington, and is authorized, among other things, to loan money and to take notes and security agreements as collateral.

II. STATUS OF DEFENDANTS

2.1 The defendant James Patterson Foust, Jr., also known as James P. Foust, Jr., ("Guarantor Foust"), is now believed to be, and was at all times hereinafter mentioned, a resident of Rancho Palos Verdes, California. Foust is the maker of a Commercial Guaranty, as guarantor of the indebtedness of the defendant JPF Enterprises, LLC (JPF Enterprises), as owed to Baker

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

Boyer. All acts alleged herein were performed by Guarantor Foust individually, and on behalf of his marital community, if any.

III. VENUE AND JURISDICTION

3.1 Venue and jurisdiction are proper in Walla Walla County, Washington, pursuant to the terms of the Commercial Guaranty, in which Guarantor Foust agreed to submit to the jurisdiction of the courts of Walla Walla County, Washington.

IV. COMMERCIAL GUARANTY

4.1 On October 17, 2013, Baker Boyer loaned to JPF Enterprises, One Million Seventy-Seven Thousand Six Hundred and 00/100 Dollars ($1,077,600.00), and as evidence of the loan made, executed and delivered to Baker Boyer a Promissory Note dated October 17, 2013 in the amount of $1,077,600.00 ("Note"). The Note is executed by James P. Foust, Jr., as Manager of JPF Enterprises.

4.2 A true and correct copy of the Note is attached as Exhibit A, hereby incorporated by reference as if set forth in full at this place.

4.3 On October 17, 2013, Guarantor Foust executed a Commercial Guaranty ("Guaranty"), absolutely and unconditionally guaranteeing the indebtedness of JPF Enterprises.

4.4 A true and correct copy of the Guaranty is attached as Exhibit B, hereby incorporated by reference as if set forth in full at this place.

4.5 On March 18, 2015, JPF Enterprises and Baker Boyer entered into a Change in Terms Agreement ("3/18/2015 CIT") extending the final maturity of the Note to January 20, 2021.

4.6 A true and correct copy of the 3/18/2015 CIT is attached as Exhibit C, hereby incorporated by reference as if set forth in full at this place.

4.7 On September 22, 2015, JPF Enterprises and Baker Boyer entered into a Change in Terms Agreement ("9/22/2015 CIT"), agreeing upon additional changes to the 2015 and 2016 payments.

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

4.8 A true and correct copy of the 9/22/2015 CIT is attached as Exhibit D, hereby incorporated by reference as if set forth in full at this place.

4.9 On October 17, 2013, JPF Enterprises delivered to Baker Boyer a Commercial Security Agreement ("Security Agreement"), granting Baker Boyer a security interest in mobile homes and an Assignment of Lease, assigning its interest in a Lease Agreement to Baker Boyer.

4.10 On October 17, 2013, Baker Boyer and JPF Enterprises entered into a Business Loan Agreement.

V. DEFAULT AND ACCELERATION

5.1 Baker Boyer realleges the preceding paragraphs as if fully set forth here.

5.2 Baker Boyer is the owner and holder of the Guaranty, Note, CITs, Security Agreement, Assignment of Lease and Business Loan Agreement (the "Loan Documents".)

5.3 JPF Enterprises has defaulted under the terms of the Loan Documents, in failing to make monthly installment payments when due, and failing to pay the outstanding interest, late charges, and advances which are due and payable.

5.4 Upon default, Baker Boyer may declare the entire unpaid principal balance under the Note and Guaranty, all unpaid interest, late charges and other advances made by Baker Boyer and allowed under the terms of the loan documents, immediately due and payable.

5.5 On March 18, 2016, Baker Boyer declared the entire amount of debt under the Loan Documents due and payable and accelerated the entire amount due by JPF Enterprises and guaranteed by Guarantor Foust.

5.6. There is now due and owing to Baker Boyer the following:

/////

/////

/////

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

Amounts Due on Loan:	
• Principal Balance:	**$885,412.96**
○ Interest on Principal Balance to March 18, 2016 (the date of default) at the rate of 5.7% per annum (being the contract rate of interest):	$20,178.28
○ Following default and acceleration, interest on the Principal Balance from March 18, 2016 to August 31, 2016, at the rate of 7.88% per annum (being the default rate of interest):	$32,170.80
○ Daily per diem interest accrual:	$193.80
• Total Interest due and owing as of August 31, 2016:	**$55,062.28**
• Late charges:	**$525.68**
SUBTOTAL of amount due on the Loan as of August 31, 2016*:	**$941,000.92**
Expenses Due Because of Default and Acceleration:	
• Force Placed Insurance premiums effective May 2, 2016:	$59,835.00
• Fees paid to third-party companies to repossess certain Mobile Homes:	$7,287.50
SUBTOTAL of amount due for expenses because of default and acceleration*:	**$67,122.50**

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD N. DETWILER, an individual, Appellant, v. BAKER BOYER NATIONAL BANK, a Washington corporation, Respondent.	Supreme Court Case No.: 81017 District Court Case No.: A-17-760779-F

APPELLANT'S APPENDIX IN SUPPORT OF EMERGENCY MOTION UNDER NRAP RULE 27(e) TO STAY EXECUTION OF ORDER FOR SANCTIONS/JUDGMENT PENDING APPEAL

(Volume IV - Part 2; Pages MSA00786-MSA00821)

BRENOCH WIRTHLIN, ESQ.
(NV SBN 10282)
HUTCHISON & STEFFEN
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145

Attorneys for Appellant

Docket 81017 Document 2020-15584

TABLE OF CONTENTS
(*Alphabetically)*

Volume No.	Bates	Date	Document Description
III	MSA00654-MSA00667	2/25/2020	Affidavit of John E. Bragonje in Support of Lewis and Roca Attorney Fees and Costs Incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC
I	MSA000053-MSA00070	2/21/2019	Application for Order to Show Cause Why Defendants Should Not be Held in Civil Contempt
II	MSA00393-MSA00444	1/24/2020	Brief in Support of Continuing Request to Hold Edward N. Detwiler in Civil Contempt of Court
III	MSA00693	3/17/2020	Court Minutes: All Pending Motions
II	MSA00497	1/30/2020	Court Minutes: Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time
I	MSA00025-MSA00052	1/9/2019	Findings of Fact, Conclusions of Law, and Final Judgment
IV	MSA00777-MSA00801	4/8/2020	Non-Party Edward Detwiler s Response to Notice of Response to Mr. Detwiler's Arguments
II	MSA00448-MSA00472	1/29/2020	Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time
III	MSA00694-MSA00718	3/24/2020	Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond; and Order Shortening Time

Volume No.	**Bates**	**Date**	**Document Description**
II	MSA00486-MSA00487	1/30/2020	Non-Party Edward Detwiler's Notice of Objection Pursuant to NRS 22.030
II	MSA00488-MSA00496	1/30/2020	Non-Party Edward Detwiler's Reply in Support of Motion for Entry of a Protective Order and Continuance of Hearing
III	MSA00577-MSA00593	2/11/2020	Non-Party Edward Detwiler's Reply in Support of: (1) Motion for Relief from Contempt Order Pursuant to NRCP 60(b); (2) Motion for New Trial Pursuant to NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59; (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court
III	MSA00668-MSA00684	3/3/2020	Non-Party Edward Detwiler's Response to the Affidavit of John E. Bragonje in Support of Lewis and Roca Attorney Fees and Costs incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC and Reservation of Right to File a Motion to Request Stay of Execution and Waive Supersedeas Bond

Volume No.	**Bates**	**Date**	**Document Description**
III	MSA00518-MSA00549	2/5/2020	Non-Party Edward Detwiler's: (1) Motion for Relief From Contempt Order Pursuant To NRCP 60(b); (2) Motion for New Trial Pursuant To NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59 (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court
II	MSA00445-MSA00447	1/28/2020	Notice of Appearance
I	MSA00071-MSA0074	2/25/2019	Notice of Entry of Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt
I	MSA00001-MSA000024	8/31/2017	Notice of Filing of Foreign Judgment and Affidavit Pursuant to NRS 17.360(2)
IV	MSA00766-MSA00776	4/3/2020	Notice of Response to Mr. Detwiler's Arguments
II	MSA00384-MSA00392	1/22/2020	Notice of Serving Subpoena on Edward Newlin Detwiler
II	MSA00473-MSA00485	1/29/2020	Opposition to Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on OST and Erratum Providing Correct Affidavit of Service Upon Edward Detwiler
III	MSA00719-MSA00739	3/27/2020	Opposition to Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond

Volume No.	**Bates**	**Date**	**Document Description**
IV	MSA00760-MSA00762	3/30/2020	Order and Judgment
IV	MSA00763-MSA00765	4/1/2020	Order and Judgment
III	MSA00685-MSA00692	3/12/2020	Order awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC
IV	MSA00802-MSA00804	4/13/2020	Order Denying Edward N. Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond
IV	MSA00805-MSA00821	6/21/2019	Order for Punishment of Contempt
II/III	MSA00498-MSA00517	1/30/2020	Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager
III	MSA00550-MSA00576	2/10/2020	Plaintiff's Opposition to Non-Party Edward Detwiler's: (1) Motion for Relief From Contempt Order Pursuant To NRCP 60(B); (2) Motion for New Trial Pursuant To NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59 (4) Motion for Reconsideration of The Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court
III	MSA00645-MSA00653	2/18/2020	Recorder's Transcript of Decision on 2/12/20 Hearing
III	MSA00594-MSA00644	2/12/2020	Recorder's Transcript of Hearing: All Pending Motions
II	MSA00348-MSA00383	12/23/2019	Recorder's Transcript of Status Check

Volume No.	**Bates**	**Date**	**Document Description**
III/IV	MSA00740-MSA00759	3/30/2020	Recorders Transcript of Telephonic Hearing: All Pending Motions
I	MSA00075-MSA00144	4/1/2019	Transcript of Proceedings (Show Cause Hearing)
I	MSA00162-MSA00219	5/17/2019	Transcript of Proceedings Re: Evidentiary Hearing Volume 1; 5.17.19
I	MSA00220-MSA00240	5/21/2019	Transcript of Proceedings Re: Evidentiary Hearing Volume I
I/II	MSA00241-MSA00347	5/21/2019	Transcript of Proceedings Re: Evidentiary Hearing Volume II
I	MSA00145-MSA00161	4/24/2019	Transcript of Proceedings: Evidentiary Hearing

PROOF OF SERVICE

I, the undersigned, hereby certify that, pursuant to NRAP Rule 25(d), I served the foregoing **APPELLANT'S APPENDIX IN SUPPORT OF EMERGENCY MOTION UNDER NRAP RULE 27(e) TO STAY EXECUTION OF ORDER FOR SANCTIONS/JUDGMENT PENDING APPEAL** on the following parties, via the manner of service indicated below, on April 23, 2020:

Via Electronic Service through E-Flex System:

John Bragonje (JBragonje@lrrc.com)
Attorney for Respondent

Dated: April 23, 2020.

By: /s/ Danielle Kelley
An Employee of
Hutchison & Steffen

TOTAL amount due as of August 31, 2016*: *Together with default interest accruing at the rate of 7.88% per annum from August 31, 2016 to date of entry of Judgment; and from entry of Judgment until paid in full; and together with all costs and expenses incurred as set forth in and allowed by the Loan Documents.	**$1,008,123.42**

VI. ATTORNEYS FEES AND COSTS

6.1 Baker Boyer realleges the preceding paragraphs as if fully set forth here.

6.2 Baker Boyer has had to employ counsel to represent it in this action and has obligated itself to pay a reasonable fee for such services. Baker Boyer is entitled to recover reasonable attorneys' fees from Guarantor Foust by virtue of the attorneys' fees and expenses provisions in the Note and Guaranty. The attorneys' fees and expenses provision in the Guaranty is as follows:

"Guarantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Guaranty. Lender may hire or pay someone else to help enforce this Guaranty, and Guarantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Guarantor also shall pay all court costs and such additional fees as may be directed by the court."

VI. RECOVERY OF NORTH DAKOTA COLLATERAL

7.1 Baker Boyer realleges the preceding paragraphs as if fully set forth here.

7.2 On September 14, 2016, Baker Boyer filed suit on JPF Enterprises in the District Court, Northwest Judicial District, of the state of North Dakota, McKenzie County, for

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

immediate possession of the collateral described as mobile homes believed to be located in North Dakota (the "North Dakota Collateral"), and for a money judgment against JPF Enterprises.

VIII. RESERVATION OF RIGHTS

8.1 Baker Boyer realleges the preceding paragraphs as if fully set forth here.

8.2 Nothing in this Complaint is intended, nor should be construed as, an election of any other remedy available to Baker Boyer, nor a waiver of any right of remedy against defendants, with respect to the Collateral and Baker Boyer's security interest as set forth herein, all of which are expressly reserved.

IX. DEFICIENCY JUDGMENT

9.1 Baker Boyer realleges the preceding paragraphs as if fully set forth here.

9.2 Pursuant to the terms of the Guaranty, Guarantor Foust agrees, in part, as follows:

> "Guarantor also waives any and all rights or defenses based on suretyship or impairment of collateral including, but not limited to, any rights or defenses arising by reason of (A) any "one action" or "anti-deficiency" law or any other law which may prevent Lender from bringing any action, including a claim for deficiency, against Guarantor, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale."

9.3 That Baker Boyer have and retain a deficiency judgment against Guarantor Foust in the event that the proceeds from the sale(s) of the North Dakota Collateral are less than the sum of Baker Boyer's entire judgment, plus costs of the sale(s).

X. PRAYER FOR RELIEF

Wherefore, Baker Boyer prays for judgment as follows:

1. That Baker Boyer have judgment, jointly and severally, against James Patterson Foust, Jr., also known as James P. Foust, Jr., individually and on behalf of his marital community, for the amount of $1,008,123.42, plus interest at the default rate of 7.88 % per annum from August 31, 2016 until entry of judgment, and from entry of the judgment until paid

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

in full; and plus late charges, expenses and advances;

2. That Baker Boyer has judgment for its reasonable attorneys' fees, expenses and costs;

3. That Baker Boyer have judgment for any sums advanced by it, or which it becomes obligated to advance, for the payment of force placed insurance premiums, fees paid to third-party companies to repossess Collateral, and other advances to protect its interest in the Collateral; and

4. Awarding Baker Boyer such other and further relief as the court deems just and equitable.

DATED this 16th day of September, 2016.

FOSTER PEPPER PLLC

Thomas T. Bassett WSBA #7244
Attorneys for Plaintiff
BAKER BOYER NATIONAL BANK

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,077,600.00	10-17-2013	10-20-2020	17828096	4A0 / 530	JAA0516	CS1	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Borrower: JPF Enterprises, LLC
10821 Woodstream Ct.
Las Vegas, NV 89135-0000

Lender: Baker Boyer National Bank
Yakima Branch
PO Box 1796
Walla Walla, WA 99362

Principal Amount: $1,077,600.00 **Date of Note: October 17, 2013**

PROMISE TO PAY. JPF Enterprises, LLC ("Borrower") promises to pay to Baker Boyer National Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of One Million Seventy-seven Thousand Six Hundred & 00/100 Dollars ($1,077,600.00), together with interest on the unpaid principal balance from October 17, 2013, until paid in full.

PAYMENT. Borrower will pay this loan in full immediately upon Lender's demand. If no demand is made, subject to any payment changes resulting from changes in the Index, Borrower will pay this loan in accordance with the following payment schedule, which calculates interest on the unpaid principal balances as described in the "INTEREST CALCULATION METHOD" paragraph using the interest rates described in this paragraph: 60 monthly consecutive principal and interest payments in the initial amount of $15,637.36 each, beginning November 20, 2013, with interest calculated on the unpaid principal balances using an interest rate of 5.700% per annum based on a year of 360 days; 23 monthly consecutive principal and interest payments in the initial amount of $15,666.43 each, beginning November 20, 2018, with interest calculated on the unpaid principal balances using an interest rate based on the Federal Home Loan Bank Seattle (currently 2.110%), plus a margin of 3.770 percentage points, adjusted if necessary for the minimum and maximum rate limitations for this loan, resulting in an initial interest rate of 5.880% per annum based on a year of 360 days; and one principal and interest payment of $15,666.47 on October 20, 2020, with interest calculated on the unpaid principal balances using an interest rate based on the Federal Home Loan Bank Seattle (currently 2.110%), plus a margin of 3.770 percentage points, adjusted if necessary for the minimum and maximum rate limitations for this loan, resulting in an initial interest rate of 5.880% per annum based on a year of 360 days. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled and that the Index does not change; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note. Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; then to any late charges; and then to any unpaid collection costs. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

VARIABLE INTEREST RATE. The interest rate on this Note is subject to change from time to time based on changes in an independent index which is the Federal Home Loan Bank Seattle (the "Index"). The Index is not necessarily the lowest rate charged by Lender on its loans. If the Index becomes unavailable during the term of this loan, Lender may designate a substitute index after notifying Borrower. Lender will tell Borrower the current Index rate upon Borrower's request. The interest rate change will not occur more often than each five years. Borrower understands that Lender may make loans based on other rates as well. The Index currently is 2.110% per annum. The interest rate or rates to be applied to the unpaid principal balance during this Note will be the rate or rates set forth herein in the "Payment" section. Notwithstanding any other provision of this Note, after the first payment stream, the interest rate for each subsequent payment stream will be effective as of the due date of the last payment in the just-ending payment stream. NOTICE: Under no circumstances will the interest rate on this Note be less than 5.700% per annum or more than the maximum rate allowed by applicable law. Whenever increases occur in the interest rate, Lender, at its option, may do one or more of the following: (A) increase Borrower's payments to ensure Borrower's loan will pay off by its original final maturity date, (B) increase Borrower's payments to cover accruing interest, (C) increase the number of Borrower's payments, and (D) continue Borrower's payments at the same amount and increase Borrower's final payment.

INTEREST CALCULATION METHOD. Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method.

PREPAYMENT PENALTY. Borrower agrees that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: There will be a 5.000% penalty based on the prepaid amount in the first loan year, a 4.000% penalty in the second loan year, 3.000% in the third loan year, 2.000% in the fourth loan year and 1.000% in the fifth loan year. After five years, no prepayment penalty will apply. Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: Baker Boyer National Bank, P.O. Box 1796 Walla Walla, WA 99362.

LATE CHARGE. If a payment is 20 days or more late, Borrower will be charged 1.000% of the regularly scheduled payment or $500.00, whichever is less.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased by adding an additional 2.000 percentage point margin ("Default Rate Margin"). The Default Rate Margin shall also apply to each succeeding interest rate change that would have applied had there been no default. After maturity, or after this Note would have matured had there been no default, the Default Rate Margin will continue to apply to the final interest rate described in this Note. If judgment is entered in connection with this Note, interest will continue to accrue after the date of judgment at the rate in effect at the time judgment is entered. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

DEFAULT. Each of the following shall constitute an event of default ("Event of Default") under this Note:

Payment Default. Borrower fails to make any payment when due under this Note.

Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

Default in Favor of Third Parties. Borrower or any Grantor defaults under any loan, extension of credit, security agreement, purchase or

EXHIBIT A

sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's ability to repay this Note or perform Borrower's obligations under this Note or any of the related documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Death or Insolvency. The dissolution of Borrower (regardless of whether election to continue is made), any member withdraws from Borrower, or any other termination of Borrower's existence as a going business or the death of any member, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

Insecurity. Lender in good faith believes itself insecure.

LENDER'S RIGHTS. Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

ATTORNEYS' FEES; EXPENSES. Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

GOVERNING LAW. This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of Washington.

CHOICE OF VENUE. If there is a lawsuit, Borrower agrees upon Lender's request to submit to the jurisdiction of the courts of Walla Walla County, State of Washington.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts.

COLLATERAL. Borrower acknowledges this Note is secured by the following collateral described in the security instruments listed herein:

(A) mobile homes described in a Commercial Security Agreement dated October 17, 2013.

(B) certificates of deposit described in an Assignment of Deposit Account dated October 17, 2013.

FINANCIAL STATEMENTS. Until this loan to Borrower is paid in full, the bank at any time may request and the Borrower hereby agrees to provide and deliver to Lender at the time specified by Lender such financial statements and other related information at such frequencies and in such detail as Lender may request.

ADDITIONAL PROVISIONS. Borrower agrees to the following provisions:

1. All income from the Manufactured Structures financed by Baker Boyer Bank is to be deposited to a checking or savings account, in the name of Borrower, at Baker Boyer Bank.

2. Automatic payments of proposed loan is to be set up from the same checking or savings account which the income will be deposited into.

SUCCESSOR INTERESTS. The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES. Borrower may notify Lender if Lender reports any inaccurate information about Borrower's account(s) to a consumer reporting agency. Borrower's written notice describing the specific inaccuracy(ies) should be sent to Lender at the following address: Baker Boyer National Bank P.O. Box 1796 Walla Walla, WA 99362.

GENERAL PROVISIONS. This Note is payable on demand. The inclusion of specific default provisions or rights of Lender shall not preclude Lender's right to declare payment of this Note on its demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several.

PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE, INCLUDING THE VARIABLE INTEREST RATE PROVISIONS. BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

BORROWER:

JPF ENTERPRISES, LLC

By: James P Foust

James Patterson Foust, Jr., Manager of JPF Enterprises, LLC

COMMERCIAL GUARANTY

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
				A01/630		CS1	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Borrower: JPF Enterprises, LLC
10821 Woodstream Ct.
Las Vegas, NV 89135-0000

Lender: Baker Boyer National Bank
Yakima Branch
PO Box 1796
Walla Walla, WA 99362

Guarantor: James Patterson Foust, Jr.
7 Avenida De Magnolia
Rancho Palos Verdes, CA 90275

CONTINUING GUARANTEE OF PAYMENT AND PERFORMANCE. For good and valuable consideration, Guarantor absolutely and unconditionally guarantees full and punctual payment and satisfaction of the Indebtedness of Borrower to Lender, and the performance and discharge of all Borrower's obligations under the Note and the Related Documents. This is a guaranty of payment and performance and not of collection, so Lender can enforce this Guaranty against Guarantor even when Lender has not exhausted Lender's remedies against anyone else obligated to pay the Indebtedness or against any collateral securing the Indebtedness, this Guaranty or any other guaranty of the Indebtedness. Guarantor will make any payments to Lender or its order, on demand, in legal tender of the United States of America, in same-day funds, without set-off or deduction or counterclaim, and will otherwise perform Borrower's obligations under the Note and Related Documents. Under this Guaranty, Guarantor's liability is unlimited and Guarantor's obligations are continuing.

INDEBTEDNESS. The word "Indebtedness" as used in this Guaranty means all of the principal amount outstanding from time to time and at any one or more times, accrued unpaid interest thereon and all collection costs and legal expenses related thereto permitted by law, attorneys' fees, arising from any and all debts, liabilities and obligations of every nature or form, now existing or hereafter arising or acquired, that Borrower individually or collectively or interchangeably with others, owes or will owe Lender. "Indebtedness" includes, without limitation, loans, advances, debts, overdraft indebtedness, credit card indebtedness, lease obligations, other obligations, and liabilities of Borrower, and any present or future judgments against Borrower, future advances, loans or transactions that renew, extend, modify, refinance, consolidate or substitute these debts, liabilities and obligations whether: voluntarily or involuntarily incurred; due or to become due by their terms or acceleration; absolute or contingent; liquidated or unliquidated; determined or undetermined; direct or indirect; primary or secondary in nature or arising from a guaranty or surety; secured or unsecured; joint or several or joint and several; evidenced by a negotiable or non-negotiable instrument or writing; originated by Lender or another or others; barred or unenforceable against Borrower for any reason whatsoever; for any transactions that may be voidable for any reason (such as infancy, insanity, ultra vires or otherwise); and originated then reduced or extinguished and then afterwards increased or reinstated. However, "Indebtedness" shall not include any liabilities and obligations under any interest rate protection agreements or foreign currency exchange agreements or commodity price protection agreements, unless otherwise agreed in writing by Lender and Guarantor.

If Lender presently holds one or more guaranties, or hereafter receives additional guaranties from Guarantor, Lender's rights under all guaranties shall be cumulative. This Guaranty shall not (unless specifically provided below to the contrary) affect or invalidate any such other guaranties. Guarantor's liability will be Guarantor's aggregate liability under the terms of this Guaranty and any such other unterminated guaranties.

CONTINUING GUARANTY. THIS IS A "CONTINUING GUARANTY" UNDER WHICH GUARANTOR AGREES TO GUARANTEE THE FULL AND PUNCTUAL PAYMENT, PERFORMANCE AND SATISFACTION OF THE INDEBTEDNESS OF BORROWER TO LENDER, NOW EXISTING OR HEREAFTER ARISING OR ACQUIRED, ON AN OPEN AND CONTINUING BASIS. ACCORDINGLY, ANY PAYMENTS MADE ON THE INDEBTEDNESS WILL NOT DISCHARGE OR DIMINISH GUARANTOR'S OBLIGATIONS AND LIABILITY UNDER THIS GUARANTY FOR ANY REMAINING AND SUCCEEDING INDEBTEDNESS EVEN WHEN ALL OR PART OF THE OUTSTANDING INDEBTEDNESS MAY BE A ZERO BALANCE FROM TIME TO TIME.

DURATION OF GUARANTY. This Guaranty will take effect when received by Lender without the necessity of any acceptance by Lender, or any notice to Guarantor or to Borrower, and will continue in full force until all the Indebtedness incurred or contracted before receipt by Lender of any notice of revocation shall have been fully and finally paid and satisfied and all of Guarantor's other obligations under this Guaranty shall have been performed in full. If Guarantor elects to revoke this Guaranty, Guarantor may only do so in writing. Guarantor's written notice of revocation must be mailed to Lender, by certified mail, at Lender's address listed above or such other place as Lender may designate in writing. Written revocation of this Guaranty will apply only to new Indebtedness created after actual receipt by Lender of Guarantor's written revocation. For this purpose and without limitation, the term "new Indebtedness" does not include the Indebtedness which at the time of notice of revocation is contingent, unliquidated, undetermined or not due and which later becomes absolute, liquidated, determined or due. For this purpose and without limitation, "new Indebtedness" does not include all or part of the Indebtedness that is: incurred by Borrower prior to revocation; incurred under a commitment that became binding before revocation; any renewals, extensions, substitutions, and modifications of the Indebtedness. This Guaranty shall bind Guarantor's estate as to the Indebtedness created both before and after Guarantor's death or incapacity, regardless of Lender's actual notice of Guarantor's death. Subject to the foregoing, Guarantor's executor or administrator or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect. Release of any other guarantor or termination of any other guaranty of the Indebtedness shall not affect the liability of Guarantor under this Guaranty. A revocation Lender receives from any one or more Guarantors shall not affect the liability of any remaining Guarantors under this Guaranty. It is anticipated that fluctuations may occur in the aggregate amount of the Indebtedness covered by this Guaranty, and Guarantor specifically acknowledges and agrees that reductions in the amount of the Indebtedness, even to zero dollars ($0.00), shall not constitute a termination of this Guaranty. This Guaranty is binding upon Guarantor and Guarantor's heirs, successors and assigns so long as any of the Indebtedness remains unpaid and even though the Indebtedness may from time to time be zero dollars ($0.00).

GUARANTOR'S AUTHORIZATION TO LENDER. Guarantor authorizes Lender, either before or after any revocation hereof, without notice or demand and without lessening Guarantor's liability under this Guaranty, from time to time: (A) prior to revocation as set forth above, to make one or more additional secured or unsecured loans to Borrower, to lease equipment or other goods to Borrower, or otherwise to extend additional credit to Borrower; (B) to alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms of the Indebtedness or any part of the Indebtedness, including increases and decreases of the rate of interest on the Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) to take and hold security for the payment of this Guaranty or the Indebtedness, and exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any such security, with or without the substitution of new collateral; (D) to release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; (E) to determine how, when and what application of payments and credits shall be made on the Indebtedness; (F) to apply such security and direct the order or manner of sale thereof, including without limitation, any nonjudicial sale permitted by the terms of the controlling security agreement or deed of trust, as Lender in its discretion may determine; (G) to sell, transfer, assign or grant participations in all or any part of the Indebtedness; and (H) to assign or transfer this

EXHIBIT

B

Guaranty in whole or in part.

GUARANTOR'S REPRESENTATIONS AND WARRANTIES. Guarantor represents and warrants to Lender that: (A) no representations or agreements of any kind have been made to Guarantor which would limit or qualify in any way the terms of this Guaranty; (B) this Guaranty is executed at Borrower's request and not at the request of Lender; (C) Guarantor has full power, right and authority to enter into this Guaranty; (D) the provisions of this Guaranty do not conflict with or result in a default under any agreement or other instrument binding upon Guarantor and do not result in a violation of any law, regulation, court decree or order applicable to Guarantor; (E) Guarantor has not and will not, without the prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; (F) upon Lender's request, Guarantor will provide to Lender financial and credit information in form acceptable to Lender, and all such financial information which currently has been, and all future financial information which will be provided to Lender is and will be true and correct in all material respects and fairly present Guarantor's financial condition as of the dates the financial information is provided; (G) no material adverse change has occurred in Guarantor's financial condition since the date of the most recent financial statements provided to Lender and no event has occurred which may materially adversely affect Guarantor's financial condition; (H) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Guarantor is pending or threatened; (I) Lender has made no representation to Guarantor as to the creditworthiness of Borrower; and (J) Guarantor has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Guarantor's risks under this Guaranty, and Guarantor further agrees that, absent a request for information, Lender shall have no obligation to disclose to Guarantor any information or documents acquired by Lender in the course of its relationship with Borrower.

GUARANTOR'S FINANCIAL STATEMENTS. Guarantor agrees to furnish Lender with the following:

Annual Statements. As soon as available, but in no event later than one-hundred-twenty (120) days after the end of each fiscal year, Guarantor's balance sheet and income statement for the year ended, prepared by Guarantor.

Tax Returns. As soon as available, but in no event later than 15 days after the applicable filing date for the tax reporting period ended, Guarantor's Federal and other governmental tax returns, prepared by Guarantor.

All financial reports required to be provided under this Guaranty shall be prepared in accordance with GAAP, applied on a consistent basis, and certified by Guarantor as being true and correct.

GUARANTOR'S WAIVERS. Except as prohibited by applicable law, Guarantor waives any right to require Lender: (A) to continue lending money or to extend other credit to Borrower; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of the Indebtedness or of any nonpayment related to any collateral, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Indebtedness or in connection with the creation of new or additional loans or obligations; (C) to resort for payment or to proceed directly or at once against any person, including Borrower or any other guarantor; (D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to pursue any other remedy within Lender's power; or (F) to commit any act or omission of any kind, or at any time, with respect to any matter whatsoever.

Guarantor also waives any and all rights or defenses based on suretyship or impairment of collateral including, but not limited to, any rights or defenses arising by reason of: (A) any "one action" or "anti-deficiency" law or any other law which may prevent Lender from bringing any action, including a claim for deficiency, against Guarantor, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale; (B) any election of remedies by Lender which destroys or otherwise adversely affects Guarantor's subrogation rights or Guarantor's rights to proceed against Borrower for reimbursement, including without limitation, any loss of rights Guarantor may suffer by reason of any law limiting, qualifying, or discharging the Indebtedness; (C) any disability or other defense of Borrower, of any other guarantor, or of any other person, or by reason of the cessation of Borrower's liability from any cause whatsoever, other than payment in full in legal tender, of the Indebtedness; (D) any right to claim discharge of the Indebtedness on the basis of unjustified impairment of any collateral for the Indebtedness; (E) any statute of limitations, if at any time any action or suit brought by Lender against Guarantor is commenced, there is outstanding Indebtedness which is not barred by any applicable statute of limitations; or (F) any defenses given to guarantors at law or in equity other than actual payment and performance of the Indebtedness. If payment is made by Borrower, whether voluntarily or otherwise, or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment to Borrower's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, the Indebtedness shall be considered unpaid for the purpose of the enforcement of this Guaranty.

Guarantor further waives and agrees not to assert or claim at any time any deductions to the amount guaranteed under this Guaranty for any claim of setoff, counterclaim, counter demand, recoupment or similar right, whether such claim, demand or right may be asserted by the Borrower, the Guarantor, or both.

GUARANTOR'S UNDERSTANDING WITH RESPECT TO WAIVERS. Guarantor warrants and agrees that each of the waivers set forth above is made with Guarantor's full knowledge of its significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the extent permitted by law or public policy.

SUBORDINATION OF BORROWER'S DEBTS TO GUARANTOR. Guarantor agrees that the Indebtedness, whether now existing or hereafter created, shall be superior to any claim that Guarantor may now have or hereafter acquire against Borrower, whether or not Borrower becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Borrower, upon any account whatsoever, to any claim that Lender may now or hereafter have against Borrower. In the event of insolvency and consequent liquidation of the assets of Borrower, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation, or otherwise, the assets of Borrower applicable to the payment of the claims of both Lender and Guarantor shall be paid to Lender and shall be first applied by Lender to the Indebtedness. Guarantor does hereby assign to Lender all claims which it may have or acquire against Borrower or against any assignee or trustee in bankruptcy of Borrower; provided however, that such assignment shall be effective only for the purpose of assuring to Lender full payment in legal tender of the Indebtedness. If Lender so requests, any notes or credit agreements now or hereafter evidencing any debts or obligations of Borrower to Guarantor shall be marked with a legend that the same are subject to this Guaranty and shall be delivered to Lender. Guarantor agrees, and Lender is hereby authorized, in the name of Guarantor, from time to time to file financing statements and continuation statements and to execute documents and to take such other actions as Lender deems necessary or appropriate to perfect, preserve and enforce its rights under this Guaranty.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Guaranty:

Amendments. This Guaranty, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Guaranty. No alteration of or amendment to this Guaranty shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Guarantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees

and Lender's legal expenses, incurred in connection with the enforcement of this Guaranty. Lender may hire or pay someone else to help enforce this Guaranty, and Guarantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Guarantor also shall pay all court costs and such additional fees as may be directed by the court.

Caption Headings. Caption headings in this Guaranty are for convenience purposes only and are not to be used to interpret or define the provisions of this Guaranty.

Governing Law. This Guaranty will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions.

Choice of Venue. If there is a lawsuit, Guarantor agrees upon Lender's request to submit to the jurisdiction of the courts of Walla Walla County, State of Washington.

Integration. Guarantor further agrees that Guarantor has read and fully understands the terms of this Guaranty; Guarantor has had the opportunity to be advised by Guarantor's attorney with respect to this Guaranty; the Guaranty fully reflects Guarantor's intentions and parol evidence is not required to interpret the terms of this Guaranty. Guarantor hereby indemnifies and holds Lender harmless from all losses, claims, damages, and costs (including Lender's attorneys' fees) suffered or incurred by Lender as a result of any breach by Guarantor of the warranties, representations and agreements of this paragraph.

Interpretation. In all cases where there is more than one Borrower or Guarantor, then all words used in this Guaranty in the singular shall be deemed to have been used in the plural where the context and construction so require; and where there is more than one Borrower named in this Guaranty or when this Guaranty is executed by more than one Guarantor, the words "Borrower" and "Guarantor" respectively shall mean all and any one or more of them. The words "Guarantor," "Borrower," and "Lender" include the heirs, successors, assigns, and transferees of each of them. If a court finds that any provision of this Guaranty is not valid or should not be enforced, that fact by itself will not mean that the rest of this Guaranty will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Guaranty even if a provision of this Guaranty may be found to be invalid or unenforceable. If any one or more of Borrower or Guarantor are corporations, partnerships, limited liability companies, or similar entities, it is not necessary for Lender to inquire into the powers of Borrower or Guarantor or of the officers, directors, partners, managers, or other agents acting or purporting to act on their behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed under this Guaranty.

Notices. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Guaranty shall be given in writing, and, except for revocation notices by Guarantor, shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Guaranty. All revocation notices by Guarantor shall be in writing and shall be effective upon delivery to Lender as provided in the section of this Guaranty entitled "DURATION OF GUARANTY." Any party may change its address for notices under this Guaranty by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Guarantor agrees to keep Lender informed at all times of Guarantor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Guarantor, any notice given by Lender to any Guarantor is deemed to be notice given to all Guarantors.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Guaranty unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Guaranty shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Guaranty. No prior waiver by Lender, nor any course of dealing between Lender and Guarantor, shall constitute a waiver of any of Lender's rights or of any of Guarantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Guaranty, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Successors and Assigns. Subject to any limitations stated in this Guaranty on transfer of Guarantor's interest, this Guaranty shall be binding upon and inure to the benefit of the parties, their successors and assigns.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Guaranty. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Guaranty shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means JPF Enterprises, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

GAAP. The word "GAAP" means generally accepted accounting principles.

Guarantor. The word "Guarantor" means everyone signing this Guaranty, including without limitation James Patterson Foust, Jr., and in each case, any signer's successors and assigns.

Guaranty. The word "Guaranty" means this guaranty from Guarantor to Lender.

Indebtedness. The word "Indebtedness" means Borrower's indebtedness to Lender as more particularly described in this Guaranty.

Lender. The word "Lender" means Baker Boyer National Bank, its successors and assigns.

Note. The word "Note" means and includes without limitation all of Borrower's promissory notes and/or credit agreements evidencing Borrower's loan obligations in favor of Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions for promissory notes or credit agreements.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

EACH UNDERSIGNED GUARANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, EACH GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY TO LENDER AND THAT THE GUARANTY WILL CONTINUE UNTIL TERMINATED IN THE MANNER SET FORTH IN THE SECTION TITLED "DURATION OF GUARANTY". NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE. THIS GUARANTY IS DATED OCTOBER 17, 2013.

GUARANTOR:

x James P Fouet

James Patterson Fouet, Jr.

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$902,530.28	03-18-2015	01-20-2021	17828096	4A01 536	JAA0516	CS1	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.

Borrower: JPF Enterprises, LLC
10821 Woodstream Ct.
Las Vegas, NV 89135

Lender: Baker Boyer National Bank
Yakima Branch
PO Box 1796
Walla Walla, WA 99362

Principal Amount: $902,530.28 **Date of Agreement: March 18, 2015**

DESCRIPTION OF EXISTING INDEBTEDNESS. On October 17, 2013, Customer became obligated to Lender on loan number 17828096 in the original principal amount of $1,077,600.00. The amount remaining due is $902,530.28 principal and $3,715.41 accrued interest.

DESCRIPTION OF COLLATERAL. Assignment of Lease dated October 1, 2013, between JPF Enterprises, LLC, a Nevada Limited Liability Company, having its principal office at 10821 Woodstream Ct., Las Vegas, NV 89135 and GreenFlex Housing, LLC, a Washington limited liability company, havings its principal office at 116 S. 2nd St., Selah, WA on 30 mobile homes. The terms are as follows: JPF Enterprises shall pay GreenFlex rent in the amount of $675.00 per unit, per month of the Term, which will expire on October 31, 2017 and various titled manufactured homes as per original Security Agreement dated October 17, 2013.

DESCRIPTION OF CHANGE IN TERMS. This change in terms is to extend the maturity date from October 20, 2020 to January 20, 2021 and to change the payment schedule from monthly principal and interest payments to one principal and interest payment of $15,637.36, due March 20, 2015, 3 monthly interest only payments, beginning April 20, 2015, 40 monthly principal and interest payments of $15,637.36 each, beginning July 20, 2015 until the next rate adjustment on October 20, 2018.

AUTOMATIC PAYMENTS. I hereby authorize Lender automatically to deduct from my Checking account, numbered 26111013 the amount of any loan payment. If the funds in the account are insufficient to cover any payment, Lender shall not be obligated to advance funds to cover the payment. At any time and for any reason, I or Lender may voluntarily terminate Automatic Payments.

All other terms and conditions to remain as agreed as per original note dated October 17, 2013 .

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

AUTOMATIC FUNDS TRANSFER (AFT) DISCLOSURE. AFT debits are deducted from your account immediately after our nightly processing on the prior business day from when the AFT due date is. The AFT credit does not post until the actual due date of the payment. This may cause funds to be unavailable to you, mainly on weekends and 3 day holiday weekends. If you have a payment that will be due on a Monday, the funds will be debited Friday evening but will not credit your account until Monday, or Tuesday if it is a 3 day holiday weekend.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER:

JPF ENTERPRISES, LLC

By: _____
James Patterson Foust, Jr., Manager of JPF Enterprises, LLC

LENDER:

BAKER BOYER NATIONAL BANK

X _____
Authorized Officer

CFI Pro, Ver. 14.0.012 Copr. D+H USA Corporation 1997, 2015. All Rights Reserved. - WA C:\APPS\PT\CFI\LPL\D20.FC TR-38010 PR-117

EXHIBIT C

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$885,412.96	09-22-2015	01-20-2021	17828096	4A07 / 530	JAA0516	SR1	MH2 for SR1

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "***" has been omitted due to text length limitations.

Borrower: JPF Enterprises, LLC
10821 Woodstream Ct.
Las Vegas, NV 89135

Lender: Baker Boyer National Bank
Yakima Branch
PO Box 1796
Walla Walla, WA 99362

Principal Amount: $885,412.96 **Date of Agreement: September 22, 2015**

DESCRIPTION OF EXISTING INDEBTEDNESS. On October 17, 2013, Customer became obligated to Lender on loan number 17828096 in the original principal amount of $1,077,600.00. The amount remaining due is $885,412.96 principal and $3,084.19 accrued interest.

DESCRIPTION OF COLLATERAL. Assignment of Lease dated October 1, 2013, between JPF Enterprises, LLC, a Nevada Limited Liability Company and GreenFlex Housing, LLC, a Washington limited liability company and 30 Greenflex Mobile Homes as per original Security Agreement dated October 17, 2013.

DESCRIPTION OF CHANGE IN TERMS. This change in terms is to extend the next payment due date from August 20, 2015 to October 20, 2015 and to temporarily reduce the monthly principal and interest payment of $15,637.36 to 3 monthly interest payments, beginning October 20, 2015, and the next 34 monthly principal and interest payments will be $16,788.38, beginning January 20, 2016 until the next rate adjustment on October 20, 2018.

In addition, interest is to be paid current through September 20, 2015 in the amount of $2,803.81 when this agreement is signed.

In return for its consent, Customer agrees to pay Lender a nonrefundable document preparation fee of $500.00. This fee will be paid in cash when this Agreement is signed.

All other terms and conditions to remain as agreed as per original note dated October 17, 2013.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER:

JPF ENTERPRISES, LLC

By: James Patterson Foust, Jr., Manager of JPF Enterprises, LLC

10/5/2015

LENDER:

BAKER BOYER NATIONAL BANK

x Authorized Officer

LaserPro, Ver. 14.4.10.012 Copr. D+H USA Corporation 1997, 2015. All Rights Reserved. - WA C:\LASERPRO\CFI\LPL\G201.FC TR-3037 PR-117

EXHIBIT D

INTENTIONALLY LEFT BLANK
EXHIBIT PAGE ONLY

EXHIBIT B

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, Kim Wyman, Secretary of State of the State of Washington and custodian of its seal, hereby issue this certificate that according to records on file in this office,

as of the date of this certificate,

BAKER BOYER NATIONAL BANK

is not on file as either a domestic or foreign entity

as being registered with this office.

Date Issued: April 7, 2020

Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Kim Wyman, Secretary of State

MSA00799

INTENTIONALLY LEFT BLANK
EXHIBIT PAGE ONLY

EXHIBIT C

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, Kim Wyman, Secretary of State of the State of Washington and custodian of its seal, hereby issue this certificate that according to records on file in this office,

as of the date of this certificate,

THE BAKER BOYER NATIONAL BANK OF WALLA WALLA

is not on file as either a domestic or foreign entity

as being registered with this office.

Date Issued: April 7, 2020

Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Kim Wyman, Secretary of State

MSA00801

Electronically Filed
4/13/2020 10:27 AM
Steven D. Grierson
CLERK OF THE COURT

ORDR
John E. Bragonje
State Bar No. 9519
E-mail:jbragonje@lrrc.com
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Tel: 702.949.8200
Fax: 702.949.8398

Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a Washington corporation, Plaintiff/Judgment Creditor, vs. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendant/Judgment Debtor.	Case No.: A-17-760779-F Dept. No.: II **ORDER DENYING EDWARD N. DETWILER'S MOTION TO STAY EXECUTION OF ORDER FOR SANCTIONS PENDING APPEAL AND TO WAIVE SUPERSEDEAS BOND** **Date: March 30, 2020** **Time: 9:00 a.m.**

ORDER

The motion of Edward N. Detwiler for an order imposing a stay of execution and waving the supersedeas bond requirement, which was filed on March 24, 2020, came on to be heard by the Court, with Brenoch R. Wirthlin of Hutchinson & Steffen, PLLC appearing as attorney for Mr. Detwiler, and John E. Bragonje of Lewis Roca Rothgerber Christie LLP, appearing as attorney for plaintiff and judgment creditor Baker Boyer National Bank (the "Bank"). The Bank opposed the motion in writing on March 27, 2020. The matter having been fully heard and submitted, the Court now denies the motion for the following reasons.

FINDINGS

1. Granting a stay without bond is exceptionally rare and should occur only where the Court has absolute confidence that the judgment debtor will be able to promptly pay the full judgment, with interest, after an unsuccessful appeal. NRCP 62(d). Here, Mr. Detwiler freely and repeatedly contends in his motion that he lacks the funds to procure a bond or pay the judgment.

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Lewis Roca ROTHGERBER CHRISTIE

Inability to pay a judgment due to a party's financial condition weighs in favor of *requiring* a bond, not waiving that requirement.

2. The five *Nelson v. Heer*, 121 Nev. 832, 835, 122 P.3d 1252, 1254 (2005) factors, which this Court considered in determining Mr. Detwiler's request to reduce the amount of the bond or allow alternate security, essentially ask whether a judgment creditor can anticipate an easy route to collect its judgment. Here, Mr. Detwiler has engaged in studied and protracted disregard of this Court's orders, which led to his being held in contempt, all as memorialized in this Court's orders through the years and most recently in the orders holding Mr. Detwiler in contempt and imposing sanctions, which issued on January 30, 2020, and March 12, 2020. Mr. Detwiler's conduct has increased the risk that the Bank will not collect its debts. Contumacious litigants merit no leniency of bonding or security requirements.

3. To secure a stay of execution under *Hansen v. District Court*, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000), a debtor must in essence show that an appeal would be pointless without it. A debtor cannot simply argue that she will lose money if the judgment is enforced. Enforcing the judgment is the whole point of a civil action. Though a party can choose to appeal, the appeal does not stop enforcement of the judgment. Mr. Detwiler asserts that he will be "irreparably harmed" simply because he claims he cannot afford a bond premium and because he claims he could never pay a judgment anyway. Once again, such talk militates against, not in favor of, a stay.

4. The Court finds the arguments in the Bank's opposition generally persuasive and the arguments in Mr. Detwiler's motion generally unpersuasive.

CONCLUSIONS

5. IT IS ORDERED that the motion of Mr. Detwiler is denied.

6. ADDITIONALLY IT IS FURTHER ORDERED that Mr. Detwiler shall post a supersedeas bond in the amount of no less than $350,000.00, or, failing that, be subject to execution.

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

7. ADDITIONALLY IT IS FURTHER ORDERED that execution of the judgment against Mr. Detwiler is stayed temporarily for a period of 45 days from notice of entry of this order.

IT IS SO ORDERED.

Dated this 8th day of April, 2020

DISTRICT COURT JUDGE
A-17-760779-F

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: _____
John E. Bragonje
State Bar No. 9519
jbragonje@lrrc.com
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

Attorneys for Plaintiff Baker Boyer National Bank

3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Lewis Roca ROTHGERBER CHRISTIE

Electronically Filed
6/21/2019 1:01 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR
John E. Bragonje
State Bar No. 9519
E-mail: jbragonje@lrrc.com
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
Tel: 702.949.8200
Fax: 702.949.8398

Attorneys for Plaintiff/Judgment Creditor
Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a Washington corporation, Plaintiff/Judgment Creditor, vs. JAMES PATTERSON FOUST, JR., also known as James P. Foust, Jr., individually, and his marital community, if any, Defendant/Judgment Debtor.	Case No.: A-17-760779-F Dept. No.: II **ORDER FOR PUNISHMENT OF CONTEMPT**

This matter having come on for an evidentiary hearing before the Honorable Richard Scotti on April 1, April 24, May 17, and May 21, 2019 and pertaining to this Court's Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt for violating this Court's prior Findings of Fact, Conclusions of Law, and Final Judgment issued on January 9, 2019; defendant and judgement debtor Mr. Foust having been represented by Michael D. Mazur of Mazur & Brooks; plaintiff and judgment creditor Baker Boyer National Bank (the "Bank") having been represented by John E. Bragonje of Lewis Roca Rothgerber Christie LLP; the Court having read and considered all relevant pleadings and papers on file in the above-captioned case, having reviewed the documents admitted into evidence during and briefs and points of authorities filed by the parties, and having heard and carefully considered the testimony of the witnesses called to testify, the Court hereby enters the following facts and states the following conclusions of law:

JUN 18 2019

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

INTRODUCTION

Mr. Foust received a loan in the original amount of $1,077,600 from the Bank. After his refusal to repay the loan, the Bank obtained a judgment in the original amount of $933,616.30, including fees and costs, against Mr. Foust in the Superior Court of Washington in and for Walla Walla County (the "Judgment"). The Bank domesticated the Judgment in the State of Nevada on August 31, 2017.

When he applied for the loan that created the obligation that, when breached, led to the Judgment, Mr. Foust represented that he owned a collection of 59 expensive, rare, and exotic vehicles, including Corvettes, a Cadillac, Mercedes, Porsches, and Lamborghinis. On January 9, 2019, the Court issued a Findings of Fact, Conclusions of Law, and Final Judgment (the "Order"), resolving a series of prior supplemental proceedings in favor of the Bank and against Mr. Foust and third party claimant Harry Hildibrand, LLC ("HH"). The Order required, among other things, Mr. Foust "on penalty of contempt, to deliver up, surrender possession of, and turn over to the Bank promptly, in a manner that protects the cars from any damage, all [twenty] cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust . . . ."

However, as discussed herein, Mr. Foust has refused to comply with the Order and has failed to deliver a single vehicle to the Bank. As further discussed herein, Mr. Foust has presented no valid excuse for violating the Court's Order, has presented no evidence of any effort to retrieve the subject vehicles from their present locations, and, instead, has fraudulently testified that he longer has any ownership interests in the subject vehicles.

Based upon the testimony and documentary evidence presented during the hearing and for good cause appearing, the Court hereby holds Mr. Foust in civil contempt of this Court's January 9, 2019, Order and finds, concludes, orders, adjudges, and decrees as follows:

FINDINGS OF FACT

1. On December 20, 2017, the Bank filed a motion seeking an order requiring Mr. Foust to deliver possession of various exotic vehicles to satisfy the Judgment.

2. In his written opposition to the motion, Mr. Foust indicated that he no longer

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

owned a single one of the fifty-nine (59) vehicles that were the subject of the motion and which he pledged to the Bank to secure the loan.

3. Throughout the proceedings, Mr. Foust later specifically indicated that he transferred many of these vehicles to HH.

4. The Court conducted two evidentiary hearings on February 15, 2018, and November 5, 2018; the Court conducted standard hearings on about a dozen occasions; and the parties have submitted approximately thirty (30) papers in support of these activities.

5. On January 9, 2019, the Court issued the Order, ruling in favor of the Bank and against Mr. Foust and HH in every respect.

6. The Order required, among other things, Mr. Foust "on penalty of contempt, to deliver up, surrender possession of, and turn over to the Bank promptly, in a manner that protects the cars from any damage, all [twenty] cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust . . . ." (1/9/2019 Order, Conclusions of Law, ¶ 29, on file herein.) The list of twenty (20) vehicles identified in Exhibit B to this Court's January 9, 2019, Order, is attached hereto as **Exhibit A**.

7. Mr. Foust never challenged the Order with any motion for reconsideration, or motion pursuant to NRCP 59 or 60 to alter or amend the Order. Instead, Mr. Foust waited until approximately three months later, on April 1, 2019, to file a late and unmeritorious Motion to Discharge Attachment, (*see* 4/1/2019 Mot. to Discharge, on file herein), the merits of which the Court has considered and denies.

8. Moreover, as discussed below, Mr. Foust is well aware of this Court's Order and the Bank's requests for compliance.

9. The Bank, through its counsel, wrote to Mr. Foust's counsel on January 23, 2019—nearly two weeks after the entry of the Order (the "Letter")—to inform Mr. Foust that the Bank was ready to take immediate possession of the vehicles identified in the Order.

10. The Bank's counsel has had several discussions with Mr. Foust's prior counsel, Cody Mounteer of the Marquis Aurbach Coffing law firm; Mr. Mounteer indicated in an email that he had spoken with Mr. Foust specifically regarding compliance, including on or about

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

January 15 and 23, 2019.

11. The Bank's counsel further telephoned Mr. Edward Detwiler, the manager of HH and a witness in the trial before this Court (1/9/2019 Order, Findings of Fact ¶ 23, on file herein), who also received the Letter on January 23, 2019. Despite having signed all the bankruptcy filings identifying the subject vehicles and having testified at a creditors' meeting about their locations (*see id.* ¶¶ 49, 76), Mr. Detwiler claimed to have no knowledge of the vehicles' current whereabouts.

12. Despite the Bank's aforementioned attempts, Mr. Foust has refused to comply with this Court's Order.

13. On February 21, 2019, the Bank filed an Application for Order to Show Cause Why Defendants Should Not Be Held in Civil Contempt ("Application"). (*See* 2/21/2019 Application, on file herein.)

14. The Court granted the Bank's Application, and held an evidentiary hearing on April 1, April 24, May 17, and May 21, 2019 regarding the same. (*See* 2/21/2019 Order to Appear, on file herein.)

15. Mr. Foust had notice of the contempt proceedings, and at the April 1 and May 21, 2019, evidentiary hearing, Mr. Foust appeared and testified on his own behalf; he also presented Mr. Detwiler and another associate, Thomas Larkin, as witnesses in his behalf.

16. As discussed herein, the Court finds that Mr. Foust fraudulently testified to this Court that he no longer had any ownership interests in the subject vehicles; he presented no valid excuse for violating the Court's Order; he presented no valid excuse for failing to turn over the subject vehicles; and he presented no evidence of any effort whatsoever to attempt to retrieve the subject vehicles from their present locations.

17. During the contempt proceedings, Mr. Foust once again claimed that he is unable to deliver any of the subject vehicles because he does not own them and that, instead, they are owned by either HH and/or StarDust Classics LLC ("StarDust"). (*See* 4/8/2019 Foust Decl., on file herein.)

18. However, the Court has previously held that Mr. Foust was in privy with HH and

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

StarDust at all relevant times herein when he transferred ownership of the subject vehicles. (*See* 1/9/2019 Order, Conclusions of Law, ¶¶ 2-3.)

19. The evidence presented in these proceedings to date has proved that, at all times pertinent hereto, Mr. Foust directly and/or indirectly controlled HH.

20. Mr. Foust was designated as the "managing initial director" through at least 2008, and filings with the Montana Secretary of State shows that Mr. Foust was the sole member and/or manager of HH. (*Id.*, Findings of Fact, ¶¶ 23, 30.)

21. In numerous bankruptcy filings of HH, which papers Mr. Detwiler repeatedly signed under penalty of perjury, and the testimony given during the 341 meeting of creditors, HH repeatedly contended that it is wholly owned by StarDust. (*Id.*, Findings of Fact, ¶ 24.)

22. The official records of the Wyoming Secretary of State indicate that Mr. Foust and his daughter have been filing the annual reports and paying the annual dues for StarDust since its organization in 2016. (*Id.*, Findings of Fact, ¶ 25.)

23. Mr. Detwiler, the supposed manager of HH, has testified that the Wyoming corporate documentation showed that Mr. Foust "ultimately owned" HH; he said "Boy, I didn't get an A in deducement, but it's – I – *yeah*." (11/5/18 Hr'g Trans., p. 65—66:13 (emphasis added).)

24. Significant evidence reflects that even if Mr. Foust transferred the subject vehicles to HH, he never received any consideration.

25. During Mr. Foust's deposition, he testified that he sold the subject vehicles to HH "in a lot all at the same time" and that there was a single contract related to the sale of a group of cars. However, at the November 5, 2018, evidentiary hearing, Mr. Foust changed his story, claiming that "there were several contracts at different times" in 2011 and 2012 relating to "a series of cars that were sold to [HH] by me." (11/5/18 Hr'g Trans., p. 75:12-23.) Mr. Foust claimed that these supposed sales contracts were "retrievable" and perhaps in his file cabinet in California or with HH's Montana attorneys. However, Mr. Foust has never produced a single copy of such contracts.

26. Furthermore, Mr. Foust has provided no evidence regarding the price HH allegedly

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

paid Mr. Foust to purchase any of the subject vehicles. Mr. Foust allowed at the November 5, 2018, evidentiary hearing that he had no recollection of the price received from these alleged sales. (*Id.* at 75:22-76:6.) At his deposition, Mr. Foust was flippant about this subject, claiming "I might have got a dollar, I might have got a million dollars. I don't know."

27. Mr. Foust has failed to provide into evidence car titles showing transfer of the subject vehicles to HH or anyone else.

28. This Court further incorporates herein any other evidentiary findings in the January 9, 2019, Order, which is not discussed herein to support Mr. Foust's ownership and control of the subject vehicles directly or indirectly through HH and/or StarDust.

29. The Court finds that, at all relevant times herein, Mr. Foust, HH, and StarDust were and are alter egos of each other with respect to all of the subject vehicles listed in Exhibit A.

30. In HH's Evidentiary Hearing Brief, filed herein on October 29, 2018, HH represented to this Court that it held an interest in at least the following four subject vehicles: 2007 Mercedes S550; 2007 Mercedes M50 SUV; 2007 Mercedes CLK 550 (hereinafter, collectively, "Mercedes Vehicles"); and 2000 GMC Yukon ("Yukon"). Each of these Mercedes Vehicles and the Yukon are listed in Exhibit A, and are the subject of the Court's January 9, 2019, Order for Mr. Foust to surrender and deliver to the Bank.

31. Mr. Foust in earlier filings with this Court, admitted that he has possession of the Mercedes Vehicles and the Yukon HH claims to own. In an affidavit given to this Court as part of an opposition to an earlier motion, Mr. Foust swore under oath that he has "sold and ha[s] received a leaseback on" these vehicles. The alleged owner and lessor is HH. During his deposition, Mr. Detwiler agreed that the Mercedes Vehicles and the Yukon were in the possession of Mr. Foust, his wife, or his daughters and that HH had not received any money from Mr. Foust for them. No lease documents were ever produced or offered into evidence, despite specific requests and orders from this Court to do so.

32. Thus, Mr. Foust owns the Mercedes Vehicles and the Yukon either directly or indirectly through HH. Mr. Foust and HH know where the Mercedes Vehicles and the Yukon are located, and Mr. Foust has the right, ability, and duty, under the Order to locate, surrender, and

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

deliver these four (4) vehicles to the Bank. As a result of Mr. Foust's violation of the Order regarding each of the Mercedes Vehicles and the Yukon, Mr. Foust is in civil contempt of Court.

33. A 2016 Kawasaki KR10 ("Kawasaki") is also listed in Exhibit A, and is the subject of the Court's Order for Mr. Foust to surrender and deliver to the Bank. Mr. Foust represents to this Court by sworn declaration on April 8, 2019, that the Kawasaki was in the possession of HH. (4/8/2019 Foust Decl., p. 3:10-12.) Mr. Foust has offered no valid reason, and indeed has no valid reason, to fail to surrender the Kawasaki, which he owns either directly or indirectly through HH. As a result of Mr. Foust's violation of the Order regarding the Kawasaki, Mr. Foust is in civil contempt of Court.

34. For several of the subject vehicles that is listed in Exhibit A and is the subject of the Order, Mr. Foust represented under oath that these vehicles were in the control of HH through at least 2018, but that they may have been "repossessed" by StarDust and/or individuals by the name of "Ronald Vega" and "Santander." (*See* 4/8/2019 Foust Decl.) These vehicles include: (1) 2007 Chevy Corvette Z06; (2) 1940 Ford Coupe; (3) 1957 Chevy Bel Air Convertible; (4) 1957 Chrysler 300 C Convertible; (5) 1955 Ford T-Bird (Chev); (6) 1957 Ford Fairlane 500; (7)1971 Ford Panteria; (8) 1973 Ford Panteria-GT4; (9) 1951 Jaguar XK 120 Race Car; (10) 1957 Oldsmobile 98 Rocket; and (11) 1998 Marathon Coach. (*See* Exhibit A hereto.)

35. In the bankruptcy schedules of HH, HH represented that it owned all twenty (20) of the subject vehicles listed in Exhibit A. In fact, Mr. Foust himself represented to the Court that HH owned the cars: "Here, [HH] claimed an interest in the classic cars that was adverse to Defendant's interest. [HH] provided copies of certificates of title demonstrating its ownership . . . ." (4/1/2019 Mot. to Discharge Attach., p. 5:13-15, on file herein.) Furthermore, Mr. Foust represented to this Court that, "[HH] . . . is the registered owner of the vehicles." (*Id.* at p. 6:2-3.) Yet in other documents, Mr. Foust continued to represent to the Bank that he owned the subject vehicles, through at least until the end of 2015. (*See* Order, ¶¶ 45-51.)

36. Whether Mr. Foust claimed to own the subject vehicles in his name, or whether they were held indirectly by HH—the entity that Mr. Foust "ultimately owned"—Mr. Foust has no valid excuse for not surrendering all twenty (20) subject vehicles over to the Bank.

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

37. Furthermore, as noted above, StarDust is an alter ego of Mr. Foust, and thus, Mr. Foust has no valid reason for failing to surrender the aforementioned eleven (11) vehicles in Paragraph 34, which he either owns directly, or indirectly through StarDust.

38. With regard to Mr. Foust's representation that the subject vehicles had been subject to security interests by "Santander" and/or "Ronald Vega," Mr. Foust did not know if any such secured creditors had commenced any proceedings to enforce their security interests. Mr. Foust did not provide any evidence about the existence of any such security interests, and Mr. Foust further failed to mention to the Court of any amounts that remained due and owing by him and/or HH to these supposed third party creditors. Most importantly, neither Mr. Foust nor HH provided any proof or evidence to the Court that they have lost control over the subject vehicles. They only offered rank speculation, which the Court rejects.

39. Furthermore, Mr. Foust has in the past made a bare assertion that Ronald Vega owned StarDust. This Court rejected such assertion *ipse dixit* because the official records of Wyoming, which were generated between 2016 and 2018 before this dispute over the subject vehicles came before this Court, showed Mr. Foust's role as an officer and owner of StarDust. Again, this is yet another example of what this Court previously found regarding Mr. Foust's demeanor: he appears untrustworthy because he seems to be willing to say whatever appears convenient to him in the moment without regard to established or incontrovertible facts.

40. The existence of any purported third-party security interest in the subject vehicles is no excuse for Mr. Foust's disregard of this Court's Order. As a result of Mr. Foust's violation of the Order regarding each of the aforementioned eleven (11) vehicles, Mr. Foust stands in civil contempt of this Court.

41. With regard to the four (4) remaining subject vehicles listed in Exhibit A hereto and that are the subject of this Court's Order, Mr. Foust represents that these vehicles are not held by him, HH, or StarDust. (*See* 4/8/2019 Foust Decl.) These vehicles include (1) 1966 Ford Thunderbird – red; (2) 1966 Plymouth Belvedere; (3) 2000 Plymouth Prowler; and (4) 1963 Chevy 425/409 S/S. (*See* Exhibit A hereto.)

42. While it is perfectly clear, and supported by clear and convincing evidence, that as

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

of April 1, 2009, the twenty (20) subject vehicles that are identified in Exhibit A hereto, were in the possession, custody, control of, and owned by, either Mr. Foust directly, or by Mr. Foust indirectly through HH, and remain in the control of Mr. Foust, this Court will give Mr. Foust the benefit of the doubt and hereby finds that the four (4) remaining subject vehicles are possibly not held by Mr. Foust, HH, or StarDust. These four vehicles only are not the proper subject of a contempt citation.

43. Accordingly, the Court finds that each of Mr. Foust's failure to turn over each of the sixteen (16) vehicles listed in Exhibit A hereto, excluding the four mentioned in the prior paragraph (the 1966 Ford thunderbird – red; 1966 Plymouth Belvedere; 2000 Plymouth Prowler; and 1963 Chevy 425/409 S/S), constitutes a separate act of civil contempt of the Court's Order.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the parties and venue is proper in this Court.

2. Mr. Foust, HH, and StarDust are and have been agents of one another with respect to any past action involving the subject vehicles at issue in these proceedings (Exhibit A) and have been agents of one another regarding notice of these proceedings.

3. The Bank offered clear and convincing evidence that Mr. Foust owned HH, both directly and indirectly, and that Mr. Foust is the owner, member, and/or officer of StarDust.

4. Mr. Foust is the owner of all vehicles identified in Exhibit A over which StarDust claims an interest.

5. Mr. Foust is the owner of all vehicles identified in Exhibit A over which HH claims an interest.

6. Mr. Foust fraudulently testified to this Court that he no longer had any ownership interests in the vehicles identified in Exhibit A; he presented no valid excuse for violating the Court's Order; he presented no valid excuse for failing to turn over the subject vehicles; and he presented no evidence of any effort whatsoever to attempt to retrieve the subject vehicles from their present locations.

7. The Court maintains contempt power to address "[d]isobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers." NRS 22.010(3);

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

see also NRS 1.210(2) (providing that the district court has the power to "enforce order in the proceedings before it"); *see also In re Water Rights of the Humboldt River*, 118 Nev. 901, 906-07, 59 P.3d 1226, 1229-30 (2002) (explaining that the district court has "inherent power to protect dignity and decency in its proceedings, and to enforce its decrees" and because it has particular knowledge of whether contemptible conduct occurred, its contempt decisions are reviewed for an abuse of discretion).

8. Contempt proceedings may be criminal or civil in nature. *Lewis v. Lewis*, 132 Nev., Adv. Op. 46, 373 P.3d 878, 880 (2016). A civil contempt action is remedial in nature because it is meant to secure compliance with the court order. *Id.*; *see also* NRS 22.110.

9. As discussed herein, Mr. Foust has violated two separate contempt statutes: NRS 22.010 and NRS 21.340.

10. First, the Court may hold a person in contempt when the person has failed to comply with a lawful order or rule. NRS 22.010(3). To be held in contempt for disobeying a court order, the order must clearly put the person on notice of what is required. *Sw. Gas Corp. v. Flintkote Co.*, 99 Nev. 127, 131, 659 P.2d 861, 864 (1983); *see also Cunningham v. Dist. Ct.*, 102 Nev. 551, 559-60, 729 P.2d 1328, 1333-34 (1986) ("An order on which a judgment of contempt is based must be clear and unambiguous, and must spell out the details of compliance in clear, specific and unambiguous terms so that the person will readily know exactly what duties or obligations are imposed on him.").

11. The Court's January 9, 2019 Order is unmistakable. It required, among other things, that Mr. Foust "on penalty of contempt, to deliver up, surrender possession of, and turn over to the Bank promptly, in a manner that protects the cars from any damage, all [twenty] cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust . . . ." The Order further identifies the subject vehicles by make, model, and VIN.

12. Second, this action is a supplemental proceeding. A "supplemental proceeding" is "held in connection with the enforcement of a judgment, for the purpose of identifying and locating the debtor's assets available to satisfy the judgment." *Supplemental Proceeding*, BLACK'S LAW DICTIONARY (8th ed. 2004). In Nevada, a supplementary proceeding is "incident to

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

the original suit" and "is not an independent proceeding or the commencement of a new action." *See State ex rel. Groves v. Dist. Ct.*, 61 Nev. 269, 276, 125 P.2d 723, 726 (1942).

13. This Court is enforcing a Washington State judgment domesticated in Nevada. NRS Chapter 21 propounds supplemental procedures. Under, this law, disobedience to a court's order in supplemental proceedings constitutes a contempt: "If any person, party or witness disobey an order of the master, properly made in the proceedings before the master under this chapter, he or she may be punished by the court or judge ordering the reference, for a contempt." NRS 21.340.

14. The Court's Order clearly and unambiguously directed Mr. Foust to deliver the subject vehicles identified in the Order. Counsel for the Bank also wrote to Mr. Foust, insisting on compliance with the Order and offering a common-sense beginning point: Mr. Foust's delivery of the subject vehicles that he and his family are currently using.

15. Mr. Foust has refused to respond to any communications by the Bank regarding the Order, let alone deliver any of the vehicles that are the subject of the Order; thus, Mr. Foust stands in contempt of the Order.

16. Mr. Foust's demonstrated intransigence requires stringent treatment: he will clearly refuse to comply with the Order and turn over the subject vehicles to the Bank unless this Court exercises its power of incarceration to detain him until he complies.

17. Coercive incarceration is within the inherent power of the Court, insofar as it depends on the contemnor's ability to comply, thereby purging himself of contempt, and is designed to coerce, rather than punish and therefore the ordinary requirements of due process do not attach. *Shillitani v. United States*, 384 U.S. 364, 369-70 (1966); *see also S.E.C. v. Solow*, 396 Fed. App'x 635 (11th Cir. 2010) (affirming the district court's adjudication of civil contempt and ordering defendant's incarceration until he purged his contempt in compliance with the court's directive). With civil contempt, "the contemnor is able to purge the contempt and obtain his release by committing an affirmative act." *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 844 (1994) (internal quotation marks omitted).

18. Several Nevada statutes empower district courts to issue a bench warrant for the

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

arrest of a person guilty of contempt:

> **NRS 22.040 Issuance of warrants of attachment and commitment**. When the contempt is not committed in the immediate view and presence of the court or judge, a warrant of attachment may be issued to bring the person charged to answer, or, without a previous arrest, a warrant of commitment may, upon notice, or upon an order to show cause, be granted; and no warrant of commitment shall be issued without such previous attachment to answer, or such notice or order to show cause.

19. In addition to this Court's inherent authority, Nevada's statutes explicitly permit imprisonment:

> **NRS 22.100 Penalty for contempt.**
>
> 1. Upon the answer and evidence taken, the court or judge or jury, as the case may be, shall determine whether the person proceeded against is guilty of the contempt charged.
> 2. Except as otherwise provided in NRS 22.110, if a person is found guilty of contempt, a fine may be imposed on the person not exceeding $500 or the person may be imprisoned not exceeding 25 days, or both.
> 3. In addition to the penalties provided in subsection 2, if a person is found guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may require the person to pay to the party seeking to enforce the writ, order, rule or process the reasonable expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.

20. Although NRS 22.100(2) sets a default rule prohibiting imprisonment for more than 25 days, subsequent sections in the same statute provide for an indefinite term of imprisonment. Specifically, where, as here, one has refused to perform an affirmative act required by the provisions of an order, no limitation on the term exists:

> **NRS 22.110 Imprisonment until performance if contempt is omission to perform an act; penalty for failure or refusal to testify before grand jury.**
>
> 1. Except as otherwise provided in subsection 2, when the contempt consist in the omission to perform an act which is yet in the power of the person to perform, the person may be imprisoned until the person performs it. The required act must be specified in the warrant of commitment.

See also TRACY DIFILLIPPO ET AL. EDS., NEVADA CIVIL PRACTICE MANUAL, Sixth Edition § 31.34 ([updated] 2016) ("The person guilty of contempt may be imprisoned until he or she perform the ordered act, if it is within his or her power to perform."). Nevada's statute corresponds with the general jurisprudence:

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

> Imprisonment for civil contempt may be ordered where a defendant has refused to perform an affirmative act required by the provisions of an order that, either in form or substance, is mandatory in character. A contemnor who has the ability to comply with the underlying court order ***can be imprisoned indefinitely*** until the contemnor complies with the underlying court order, even if it appears that the contemnor is never going to comply.

17 C.J.S. CONTEMPT § 186 (West [updated] 2019) (emphasis added).

21. Imprisonment for civil contempt usually is not for a definite term, but the party in contempt stands committed unless and until the affirmative act required by the order of the court is performed. *See Lewis*, 373 P.3d at 881 (2016) ("A purge clause [in the contempt order] gives the defendant the opportunity to purge himself of the contempt sentence by complying with the terms of the contempt order."). Thus contemnors carry the prison keys in their own pockets. *Shillitani v. United States*, 384 U.S. 364, 368 (1966). A defendant has the choice to "pay or stay." 17 C.J.S. CONTEMPT § 183.

22. In Nevada, the cases treating the subject of imprisonment for failure to perform an affirmative act typically arise in spousal-and child-support lawsuits. *Foley v. Foley*, 432 P.2d 736 (Nev. 2018) (unpublished) (observing that courts may imprison parents who refuse to pay child support); *Hildahl v. Hildahl*, 95 Nev. 657, 662, 601 P.2d 58, 61 (1979) ("The use of the contempt power to enforce the provisions of a divorce decree has been approved many times in this state.").

23. However, in the judgment enforcement context, violating a "turn-over" order, such as the Court's Order, often prompts imprisonment until the contemnor agrees to turn over the property. *See, e.g., S.E.C. v. Princeton Econ. Int'l Ltd.*, 152 F. Supp. 2d 456, 459-63 (S.D.N.Y. 2001) (committing the principal of a fraudulent investment scheme to jail for at least one year for failing to honor the court's orders to turn over $14.9 million in assets, including 102 gold bars, 699 gold bullion coins, ancient coins, and a $750,000 bust of Julius Caesar); *U.S. ex rel. Thom v. Jenkins*, 760 F.2d 736, 737-38 (7th Cir. 1985) (committing a judgment debtor to indefinite custody of the U.S. Marshall for failing to return confidential documents taken from an employer and failure to disgorge profits made in conducting a forbidden, competing enterprise).

24. Mr. Foust's failure to turn over each of the sixteen (16) subject vehicles identified in Exhibit A and which are the subject of the Court's January 9, 2019, Order, excluding the four

Lewis Roca ROTHGERBER CHRISTIE 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996

vehicles discussed in Paragraph 43 of the Findings of Fact herein, constitutes a separate and distinct act of civil contempt of Court, for a total of sixteen (16) separate acts of civil contempt.

25. Pursuant to this Court's authority under NRS 22.100, the Court hereby fines Mr. Foust for the sum of $8,000.00, to be paid to the Bank immediately.

26. This Court further hereby orders Mr. Foust to pay the Bank its reasonable attorney fees and expenses incurred in connection with all of the proceedings to seek enforcement of the Court's Order. The Bank shall submit an affidavit in support of such fees and expenses for the Court to review.

27. Pursuant to NRS 22.100, this Court further hereby orders that Mr. Foust shall be imprisoned until he complies with the Order and delivers up, surrenders possession of, and turns over to the Bank, in a manner that protects the vehicles from any damage, all of the sixteen (16) vehicles identified in Exhibit A, which excludes the four vehicles discussed in Paragraph 43 of the Findings of Fact herein, or pays to the Bank in immediately available funds the value of the vehicles listed in Exhibit A, $521,575.

28. The Bank shall prepare a separate Warrant of Arrest and Commitment accordingly for this Court to review and sign, if appropriate.

29. Upon complying with the Order by delivering up, surrendering possession of, and turning over to the Bank all sixteen (16) vehicles identified in Exhibit A, excluding the four vehicles discussed in Paragraph 43 of the Findings of Fact herein, or paying to the Bank in immediately available funds the value of the vehicles listed in Exhibit A, $521,575, Mr. Foust will be purged of his contempt sentence and, if imprisoned, shall be released from imprisonment immediately thereafter.

30. Mr. Foust will further be afforded a reasonable opportunity to comply with the foregoing obligations without fear of arrest or imprisonment. Accordingly, the Court hereby stays the enforcement of this Order For Punishment of Contempt and the Warrant of Arrest and Commitment for ten (10) calendar days from the date of their issuance by the Court. During this period of stay, the Warrant of Arrest and Commitment will not be delivered to any law enforcement personnel for execution, and Mr. Foust shall not be subject to arrest during this

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

period of stay. Furthermore, during this period of stay, should Mr. Foust comply with all of his obligations provided in this Order for Punishment of Contempt, the Court will not issue the Warrant of Arrest and Commitment and will purge Mr. Foust of his contempt sentence.

31. If any Conclusions of Law are properly Findings of Fact, they shall be treated as if appropriately identified and designated.

Dated this 18th day of June, 2019

DISTRICT COURT JUDGE

TM

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: John E. Bragonje

John E. Bragonje
State Bar No. 9519
E-mail: jbragonje@lrrc.com
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
Tel: 702-474-2625
Fax: 702-216-6173

Attorneys for Plaintiff/Judgment Creditor Baker Boyer National Bank

Lewis Roca ROTHGERBER CHRISTIE
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Exhibit A

Exhibit A

HARRY HILDIBRAND

Titles as on BBB 7/26/2018 0:15

YEAR	MAKE	Model	Value	VIN
2007	CHEV	Corvette Z06	$ 35,000	1G1YY26E375121069
2007	Mercedes	M50 SUV	$ 11,000	4JGBB75E07A222537
1940	FORD	Coupe	$ 35,000	AZ152801
1957	CHEV	BEL AIR CONV. (FI)	$ 25,000	VC570141640
1957	CHRYSLER	300 C CONV.	$ 35,000	3N571810
1955	FORD	T-BIRD (CHEV)	$ 5,000	P5FH240647
1957	FORD	FAIRLANE 500	$ 15,000	D7LV162233
1966	FORD	THUNDERBIRD - red	$ 15,000	6Y85Z104010
1971	FORD	PANTERIA	$ 25,000	THPNLY01620
1973	FORD	PANTERIA -GT4	$ 35,000	THPNNU05291
1951	JAGUAR	XK 120 RACE CAR	$ 20,000	S671966
1957	OLDSMOBILE	98 ROCKET	$ 18,000	579M27665
1966	PLYMOUTH	BELVADIRE	$ 15,000	RACE CAR BODY & SHELL - N
2000	PLYMOUTH	PROWLER	$ 21,000	1P3EW65G1YV603597
2007	Mercedes	CLK 550	$ 12,000	WDBTK72F27T081009
2000	GMC	Yukon	$ 8,000	1GKEK13T9YJ1740142
2007	Mecedes	S550	$ 25,000	WDDNG71X57A075860
1963	CHEV	425/409 S/S	$ 25,000	31847L144085
1998	MARATHON	COACH	$ 129,875	2PCM3349XV1026183
2016	KAWASAKA	kr10	$ 11,700	JKAZX2A13FB505
		Total	$ 521,575	

SUPPORT FOR Z06 A/B #46. PAGE 5

5A