Exhibit FFFF :
IRS Warning Letters
(January 16, 2004 and June 25, 2004)

GREENBERG
& ASSOCIATES, INC.

January 16, 2004

Mr. Leonard Cohen
1044 Keniston Ave
Los Angeles, CA 90019-1707

Dear Leonard,

On April 13, 2001 we sent you a letter warning you that you are spending too much money. On March 21, 2002 you and I discussed the issue again in detail and you resolved that you were going to spend less and, in particular, limit how much you were spending on gifts to friends. Furthermore, I have discussed this issue numerous times with Kelley in the past few years.

However, things have not improved despite our warnings. At this point, you only have an estimated $2.1MM left in capital in Traditional Holdings, LLC. The rest consists of loans to you and Kelley. The total loan amount currently stands at $1,648,634 notwithstanding over $1MM that was also withdrawn during the 2nd quarter of 2002.

The only other source of investment income is from the charitable trusts. While they have a combined principal amount of $1.6MM, you only have limited access to the income. In 2003, this amounted to $29,633 per quarter from the Cohen Family CRT. In the case of Sabbath Day CRT, you are entitled to income only the extent there is gain inside the trust.[1] Most of this gain has also been withdrawn and this leaves less than $30K in total currently available.

ESTATE & FINANCIAL PLANNING
CHARITABLE TAX PLANNING
4141 ARAPAHOE AVE., SUITE 207
BOULDER, COLORADO 80303
TELEPHONE 303-440-6500
FAX 303-440-9712

[1] Up to a maximum of 20% per year.

Sent Fedex 8415 6764256
1-16-04

TLB

1. Please make sure the loans from Traditional Holdings, LLC are properly documented.

2. We haven't been reflecting any unearned interest in the value of the loans from Traditional Holdings on our monthly statements. Hence, the loan amounts are larger. Also, the monthly earnings amount would be larger if we reflected the accrued interest.

3. By borrowing so much money, there is an argument, perhaps remote, that the IRS may question the original transaction. If the loans have been documented, there is a better case. There would be millions of dollars of back taxes if the IRS successfully challenges the original transaction.

4. Considering how quickly you are spending money, I think you should consider your situation quite desperate. I don't know much about your ability to create another album and sell it, so I can't speak to that. But I do know that at the rate funds are being withdrawn, you will run out in a few years. The loans would be questionable if so. The company would then be impaired, and your future annuity contract could be jeopardized. I'm not sure what the tax implications would be, but if you like I can check that out.

5. If you spend all of the capital, you would be destitute except for the income from the charitable trusts and any income from your music. I URGE YOU TO CURB YOUR SPENDING. It is at a very dangerous level.

6. Even if Kelley is able to negotiate an album sale, at your current spending rate, you will not be able to support yourself indefinitely. You will only have a few extra years at the current spending rate.

Sorry to be the heavy. I hate to be such a harbinger of doom and gloom. But I remain,

Yours Sincerely,

Neal Greenberg

CC: Kelley Lynch

GREENBERG
& ASSOCIATES, INC.

June 25, 2004

Fedexed on
8457 8831 9983

Mr. Leonard Cohen
1044 Keniston Ave
Los Angeles, CA 90019-1707

Dear Leonard,

I hate to always be the harbinger of doom, but your situation is getting quite desperate. Since my last letter of January 16, 2004, you have taken additional withdrawals amounting to $1,170,000 from Traditional Holdings and $35,000 from the Sabbath Day CRT. I want to nag you once again about two issues that you should be concerned about. One is your spending rate and how little capital is left remaining, and the other is two potential tax dangers:

1. SPENDING AND REMAINING CAPITAL: You currently are down to $845,539 in Traditional Holdings, and $1,495,131 in the two charitable trusts (note: most of this represents the remainder interest that ultimately goes to charity). You are spending approximately $210,000 per month (average over the last 6 months). Even if the pending sale goes through, it's not really certain that you'll have enough money to match your current spending rate. The annual taxes as Sony converts the advance are going to be potentially quite large. You have to pay taxes each year on that amount. Meanwhile, much of the proceeds will go to repaying the loan. We can't possibly earn enough on your assets to overcome the spending rate you have been maintaining.

   I AGAIN STRONGLY URGE YOU TO CURB YOUR SPENDING OR YOU WILL OUTLIVE YOUR MONEY.

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CHARITABLE TAX PLANNING
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BOULDER, COLORADO 80303
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AGD 00789

EXHIBIT 8

2. IRS DANGERS: TWO ISSUES
   a. The first issue is that Traditional Holdings is being run without all of the formalities required of a business. The IRS might find it easier to recharacterize the original transaction (the sale for a private annuity). The fact that our monthly email to you shows that Traditional Holdings treats the loan as an asset is good. If you pay the loans back, that too is good.
   b. A second issue can arise. Insofar as you have been taking loans from an operating business, the IRS might classify them as disguised salary. If so, there are huge back taxes to pay. Once again, our monthly email which shows you treating the assets as loans effectively (by treating total assets as including the loan balances) probably only helps a tiny bit. Paying back the loans will indeed help.

3. BAD FINANCIAL STATEMENTS: In our view, the way you are directing us to do the financial statements is quite incorrect. Your assets consist of the value of the private annuity, not the value of the assets in the company. You also have the value of the charitable trusts for your use. A perfect financial statement might subtract the value of the remainder interest that ultimately goes to charity, but I don't think for an informal financial statement that is necessary. We will continue to do the statements as you direct, but we want to start sending you a more correct set of statements. We'll send it to you in hardcopy form each month. From this we will footnote the value of the charitable interest.

In closing, please contact us so we can set up a meeting with you to discuss these issues in more detail. I can fly out to L.A. whenever you are next available or you can call me anytime.

Yours truly,

Neal Greenberg

CC: Kelley Lynch

Exhibit HHHH:
Emails between Robert Kory,
Michelle Rice & Stephen Gianelli

Monday, October 12, 2015

Kelley Lynch's Email To Leonard Cohen's Lawyers Who Are Arguing Their Legal Matters Through The Criminal Stalker

From: **Kelley Lynch** <kelley.lynch.2010@gmail.com>
Date: Mon, Oct 12, 2015 at 12:30 PM
Subject: Fwd: Cease and Desist
To: Michelle Rice <mrice@koryrice.com>, rkory <rkory@rkmgment.com>, "*IRS.Commisioner" <*IRS.Commisioner@irs.gov>, Washington Field <washington.field@ic.fbi.gov>, ASKDOJ <ASKDOJ@usdoj.gov>, "Division, Criminal" <Criminal.Division@usdoj.gov>, "Doug.Davis" <Doug.Davis@ftb.ca.gov>, Dennis <Dennis@riordan-horgan.com>, MollyHale <MollyHale@ucia.gov>, nsapao <nsapao@nsa.gov>, fsb <fsb@fsb.ru>, rbyucaipa <rbyucaipa@yahoo.com>, khuvane <khuvane@caa.com>, blourd <blourd@caa.com>, Robert MacMillan <robert.macmillan@gmail.com>, a <anderson.cooper@cnn.com>, wennermedia <wennermedia@gmail.com>, Mick Brown <mick.brown@telegraph.co.uk>, "glenn.greenwald" <glenn.greenwald@firstlook.org>, Harriet Ryan <harriet.ryan@latimes.com>, "hailey.branson" <hailey.branson@latimes.com>, Stan Garnett <stan.garnett@gmail.com>, Mike Feuer <mike.feuer@lacity.org>, "mayor.garcetti" <mayor.garcetti@lacity.org>, Opla-pd-los-occ <OPLA-PD-LOS-OCC@ice.dhs.gov>, "Kelly.Sopko" <Kelly.Sopko@tigta.treas.gov>, Whistleblower <whistleblower@judiciary-rep.senate.gov>, Attacheottawa <AttacheOttawa@ci.irs.gov>, tips@radaronline.com, Paulmikell.A.Fabian@irscounsel.treas.gov

Michelle Rice and Robert Kory,

I do not want to be copied on the Cover Your Ass emails. This has gone on for over six years - since Gianelli heard from Rice in May 2009. My sons and many others have been targeted. That includes, but is not limited to, Paulette Brandt.

Gianelli was in touch with Bergman a number of years ago and I have that evidence. Furthermore, Rice's email notes that she fired Bergman for incompetence but that also looked like a cover your ass operation unless your firm is one of the more unprofessional law firms in the United States.

I will be filing a RICO suit. Tax Court will decide if it has jurisdiction over fraud upon the court. As the appellate division tends to rubber stamp LA Superior Court's decision, I will more than likely be pursuing these matters to the U.S. Supreme Court. They might find your interpretations of Hazel-Atlas fascinating.

The Tax Court matter pre-dates the fraud judgment so I don't think that argument works. The fraud tax refunds pre-date the fraud default judgment. The requirement that Cohen provide me with IRS required tax and corporate information pre-dates the judgment.

This conduct should cease and desist.

Kelley Lynch

---------- Forwarded message ----------
From: **Stephen R. Gianelli** <stephengianelli@gmail.com>

Date: Mon, Oct 12, 2015 at 3:32 AM
Subject: RE: Cease and Desist
To: Kelley Lynch <kelley.lynch.2010@gmail.com>
Cc: mrice@koryrice.com, rkory@koryrice.com

Ms. Lynch,

There is no "three of you".

I keep my own counsel and I act on my own – as I always have.

Please note the italicized and yellow highlighted portion of Robert Kory's email to me dated July 27, 2015, quoted in pertinent part below:

"The fact remains, you were the first to copy Dan. ***Had you not copied Dan, Michelle would not have had to fire him.*** Your effort to enlist Dan in criticism of Michelle forced her hand. ***You are not part of the Cohen legal team.*** [...] What Michelle may have said to Dan ... follows directly from your efforts to enlist Dan as your ally." (R. Kory email dated July 27, 2015, emphasis added.)

Therefore, your continued efforts to conflate Gianelli with Kory-Rice-Cohen are inappropriate as are your imputation of my emailed correspondence to anyone except me. I am not part of the "Cohen legal team" – officially or unofficially. I don't even like them very much at this point. How much clearer do facts need to be for you to get it?

And, for your information, no one much cares what crazy inferences you pull out of thin air. No one has any apparent motive to pretend to "distance" themselves from each other. There is a $14M civil judgment against you that became final in 2006 and that you tried unsuccessfully to attack on January 17, 2014, June 23, 2015, and October 6, 2015 and the validity of service and the judgment has stood fast. At least one federal court has already given the judgment full faith and credit. Your 2009 motion to vacate the 2008 Colorado protection order was summarily denied, as was your motion to set aside the 2011 California registration of that order.

You are fresh out of legal moves.

Your July 2015 tax court petition – that also seeks to undermine the factual underpinnings of the 2006 civil judgment – is about to be dismissed.

Your pending appeals (including the notice of appeal you filed on October 6) are going nowhere.

Any "federal court lawsuit" will be slapped down by the court before the ink is dry on the filing stamp.

Simply stated, no one cares that you absurdly claim that my emails are on behalf of Kory-Rice-Cohen – because you are powerless to take any effective legal action of any kind. It's over.

As for your cease and desist, I am REPLYING to YOUR emails to me, you disparage me daily on your public blog (which public posts I have every right to respond to), and after YOU sent to me 20,000 +/- unsolicited emails (many of them obscene, vulgar, and threatening) I pretty much own you.

Any questions?

Very truly yours,

Stephen R. Gianelli
Attorney-at-Law (ret.)
Crete, Greece

From: Kelley Lynch [mailto:kelley.lynch.2010@gmail.com]
Sent: Monday, October 12, 2015 12:08 AM
To: rkory; Michelle Rice; STEPHEN GIANELLI; *IRS.Commisioner; Washington Field; ASKDOJ; Division, Criminal; Doug.Davis; Dennis; MollyHale; nsapao; fsb; rbyucaipa; khuvane; blourd; Robert MacMillan; a; wennermedia; Mick Brown; glenn.greenwald; Harriet Ryan; hailey.branson; Stan Garnett; Mike Feuer; mayor.garcetti; Opla-pd-los-occ; Kelly.Sopko; Whistleblower; Attacheottawa; tips@radaronline.com; Paulmikell.A.Fabian@irscounsel.treas.gov
Subject: Re: Cease and Desist

IRS, FBI, and DOJ,

Let me know if I'm unclear with these three stark raving lunatics.

Kelley

On Sun, Oct 11, 2015 at 2:07 PM, Kelley Lynch <kelley.lynch.2010@gmail.com> wrote:

Robert Kory, Michelle Rice, and Stephen Gianelli,

I am advising the three of you to cease and desist. That includes with respect to my sons, Paulette Brandt, and others.

Kelley Lynch

Declaration of Ray Charles Lindsey

http://riverdeepbook.blogspot.com/2014/09/ray-charles-lindsey-kelley-lynchs-son.html

Declaration of John Rutger Penick

http://riverdeepbook.blogspot.com/2015/07/declaration-of-john-rutger-penick-filed.html

Declaration of Ann Diamond

http://riverdeepbook.blogspot.com/2015/06/anne-julia-macleans-insightful.html

(No one has accused Rice, who appears to be an insane sycophant, of being a child molester; the Colorado order - issued without findings - was not properly registered in California; and Cohen, his legal team, and Party-At-Interest are clearly associates-in-fact and this situation was pre-meditated). See Ann Diamond's Declaration:

From: **Stephen R. Gianelli** <stephengianelli@gmail.com>
Date: Sat, Sep 19, 2015 at 9:39 PM
Subject: Your recent blog posted email claiming a "cover your ass" email
To: kelley.lynch.2010@gmail.com
FYI

---Forwarded message---

From: Michelle Rice [mailto:mrice@koryrice.com]
Sent: Saturday, July 25, 2015 11:35 AM
To: Stephen Gianelli
Subject: Re: So where is your oft threatened, but never quite filed "motion to vacate the fraud domestic violence matter"? (See 4/14/2015 email)

And who cannot control their emotions? Booo hooo Kelley Lynch called me a child molester in emails that no one ever reads....

Boooo fucking hoooooo..... man up and put on your big boy pants and shut the f*&k up.

Do me a favor and keep inciting her to file more motions, you are making me richer than f*&k. In fact, I think I can pay off my mortgage on my $2 million Hollywood Hills home with jetliner views by the end of this year.

Michelle L. Rice, Esq.
Kory & Rice LLP
9300 Wilshire Blvd., Suite 200
Beverly Hills, CA 90212
Phone: (310) 285-1633
Fax: (310) 278-7641

From: **Stephen R. Gianelli** <stephengianelli@gmail.com>
Date: Sun, Oct 11, 2015 at 3:06 AM
Subject: FW: Fw:
To: kelley.lynch.2010@gmail.com

From: Michelle Rice <mrice@korvrice.com>
To: Stephen Gianelli <stephengianelli@gmail.com>
Cc: Robert Kory <rkory@korvrice.com>; Dan Bergman <DBergman@bergman-law.com>
Sent: Friday, July 24, 2015 11:17 PM
Subject: Re: So where is your oft threatened, but never quite filed "motion to vacate the fraud domestic violence matter"? (See 4/14/2015 email)

Stephen:

No, Stephen, it is your ego that is in the way here.

The reason Robert requested you only email him is because you were sending dozens of emails to me a day sending me unsolicited emails regarding Kelley Lynch, which I did not even read. Your fixation on Kelley Lynch is truly pathological.

The truth is Stephen, now that the gloves are off, so to speak, is that you did not have the balls or the "juice" to get her arrested when she was harassing you for years in San Francisco. I have all of the emails where you were reporting her to the police, FBI, etc. All to no avail. Some big criminal lawyer you are. You did not have any viable contacts in law enforcement that could help you out after your long self-proclaimed illustrious career as a criminal lawyer ?

It took little ole me - the lawyer who you claim produces "workmanlike" product for my client - to get Lynch arrested. Through connections I made. That's right, I got it done. In fact you wrote me following her March 1, 2012 arrest in Berkeley expressing your surprise (still have that email, shall I send it to you, with a copy to Dan, to refresh your memory?) that I was able to get it done when you could not. So your claiming now that you were instrumental in getting her arrested is nothing more than assuaging your own fragile ego. Your pathological jealousy of me is as sick as Lynch's jealousy of our firm's success as Leonard's lawyers, managers, and representatives. Throughout our ten year tenure Leonard was inducted into the Rock N Roll Hall of Fame, achieved the Grammy Lifetime Achievement Award, saw his album Old Ideas debut on Billboard at Number 2, behind Lana Del Rey, the highest charting album of Leonard's entire career. And yes, I attended all of those events. You did not Stephen.

Now that we are speaking truth and dispensing with civilities - I will say it - you have been trying for years to take credit for my work because unlike you, I do not self-promote my considerable successes, but rather let
has-runs and never-weres like yourself step in to try to get a little bit of my considerable light. Shamelessly discussing with Leonard Cohen fans on your blog what actor is going to play you in any Cohen-Lynch bio-pic.

What a shameless starf*ker you are. The cold, hard truth of the matter is your career was nowhere and you glommed onto the Cohen-Lynch matter and my successes seeking your proverbial 15 seconds of fame.

So do not think we have not seen your shameless self-promoting postings on leonardcohenfiles.com as if you had anything to do with any of the ten years' worth of litigation involving Cohen/Lynch.

I did not need anyone's help to properly register the out-of-state restraining order. It is properly registered as you have repeatedly stated in your numerous bloviated emails regarding the restraining order that you did not file.

By the way, I also did not need any help flying with Leonard Cohen on a private jet from Burbank to Denver in August and September 2008 to get the permanent restraining order in Colorado either.

Dan: your firm is fired and you are no longer needed in BC 338322 and BC 341120. Please prepare your notice of withdrawal for filing Monday. Robert and I have been discussing in private how little your firm contributed to the recent effort against Lynch. I did all of the work and drafted the two dispositive filings, including the Opposition and Sanctions Motion. The only motion that was barely passable was the Motion to Seal and even then it was barely literate. Robert and I were shocked that you proposed to file a declaration for LC's signature with a sentence "Lynch refused to return documents *to him.*" You will not be assisting in either the restraining order matter, the appeals, nor in the federal court RICO suit she has threatened to file because I did a PACER search and none of your attorneys, including yourself, have done any litigation in federal courts. I have over ten years in federal district courts all over the country, including in Colorado, Nevada, New York and California.

P.S. I do not want to tell you what Leonard Cohen is paying me to defend him in all of the litigation against Lynch, a rate I can command because of my previous record of success. Suffice it to say, it would make both of you sick with more envy than you already seem to have.

Yours very truly,

Michelle L. Rice, Esq.
Kory & Rice LLP
9300 Wilshire Blvd., Suite 200
Beverly Hills, CA 90212
Phone: (310) 285-1633
Fax: (310) 278-7641

from: Michelle Rice <mrice@koryrice.com> reply-to: Michelle Rice <mrice@koryrice.com> to: "STEPHEN R. GIANELLI" <stephengianelli@gmail.com> date: Fri, Aug 16, 2013 at 11:58 PM Great stuff. I concur that her motion is a total non-starter. I note that she did not sign her "declaration" (while Rutger did) nor the Notice of Motion and failed to attach her "proposed answer", which is referenced in the Notice as "Exhibit 'E'", all of which make her filing critically and fatally defective, even for a pro se litigant. On the three factor test for equitable relief (as in Gibble), she fails all three prongs. When a judge is finally appointed to the case (Suarez reported back to KL that it would take several weeks for new judge to be assigned), I doubt they will even set a hearing date. Do you think they will give her a chance to attempt to "cure" the defects (the signatures and providing her proposed answer) ? We still have not been served on LC's behalf. Michelle L. Rice, Esq. Kory & Rice LLP 9300 Wilshire Blvd., Suite 200 Beverly Hills, CA 90212 Phone: (310) 285-1633 Fax: (310) 278-7641 NOTICE: This email is confidential and may be legally privileged. It is intended solely for the addressee. If you have received this email in error, please destroy this message immediately along with all attachments, if any, and please report the receipt of this message to the sender at the address listed above. Thank you for your cooperation. From: STEPHEN R. GIANELLI <stephengianelli@gmail.com> To: blind <distribution@gmail.com> Sent: Friday, August 16, 2013 9:37 AM Subject:

Here is my take on Kelley's motion to vacate the May 2006 $7.9M embezzlement based default J. Her entire legal argument is underpinned by County of San Diego v. Gorham (2010) 186 Cal.App.4th 1215 -- the case wherein there was no disputing that the proof of personal service underpinning the judgment was intentionally falsified, because Mr. Gorham -- the moving party – was incarcerated at the time of "service" at another location.

Gorham made it explicit that "Because of the strong public policy in favor of the finality of judgments, equitable relief from a default judgment or order is available only in exceptional circumstances." (Id. at pp. 1229-1230, italics added.) In Gorham, the exceptional circumstances involved a process server who committed "perjury" in his declaration of service. He falsely claimed he served Gorham at one address at a time when "Gorham was in custody in jail." (Id. at p. 1231.) The court said this "constitutes evidence of an intentional false act that was used to obtain fundamental jurisdiction over Gorham." (Id. at p. 1232, italics added.)" The incontrovertible evidence in Gorham that the proof of service was intentionally falsified is a far cry from the showing made by Kelley's moving declarations, which in any event materially conflict on whether nonfamily members resided in the home where service occurred. (See (La Jolla Casa De Manana v. Hopkins (1950) 98 Cal.App.2d 339, 345-346 ["[A] trial judge has an inherent right to disregard the testimony of any witness . . . when he [or she] is satisfied that the witness is not telling the truth . . . ."] and (In re Marriage of Hofer (2012) 208 Cal.App.4th 454, 460 [That is the case even where appellant's declaration is uncontradicted.].) Moreover, by asserting a nonstatutory, equitable basis to move to set aside the judgment, Kelley is subject to the rule articulated in In re Marriage of Park (1980) 27 Cal.3d 337, 345 ["A motion to vacate a judgment should not be granted where it is shown that the party requesting equitable relief has been guilty of inexcusable neglect or that laches should attach"]. See Gibble v. Car-Lene Research, Inc. (1998) 67 Cal.App.4th 295, 314 ["Where '"a motion to vacate a default judgment is made' beyond the statutory deadline for relief, it is '"directed to the court's inherent equity power."'"]. As stated in Gibble: "But a party seeking equitable relief "must satisfy three elements: 'First, the defaulted party must demonstrate that [he or she] has a meritorious case. Secondly, the party . . . must articulate a satisfactory excuse for not presenting a defense to the original action. Lastly, the moving party must demonstrate diligence in seeking to set aside the default once . . . discovered."' (Gibble v. Car-Lene Research, Inc., supra, 67 Cal.App.4th at p. 315, italics added.) Assuming the first is somehow established by the 83 pages of unverified narrative appended to Kelley's declaration, the moving declarations do not even attempt to establish the later two elements, thereby removing any discretion the court might have otherwise had to grant the motion. I give it zero chance of success.

Michelle rice email to stephen r gianelli dated august 16, 2013

This email from Kory Rice LLP partner Robert Kory is published in direct rebuttal to his Junior partner Michelle Rice's malicious and false scribd.com posts dated January 3, 2016 and March 4, 2016 - falsely stating that I have "fraudulently" misrepresented whom I represent or that my emails to her firm were unwanted or harassing.

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https://webcache.googleusercontent.com/search?q=cache:SVO3TxExz4sJ:https://issuu.com/stephengianelli/docs/michelle_rice_email_to_stephen_r._g_1bb23b65e00f99+&cd=5&hl=en&ct=clnk&gl=us

from: Michelle Rice <mrice@rbklaw.com> reply-to: Michelle Rice <mrice@rbklaw.com> to: "STEPHEN R. GIANELLI" <stephengianelli@gmail.com> date: Tue, Aug 13, 2013 at 10:15 PM subject: Re: MOTION VACATE

PLEASE KEEP CONFIDENTIAL - PLEASE DO NOT DISTRIBUTE OR ATTRIBUTE TO OUR OFFICE ! THANKS Dear Stephen: Thank you for your emails. I hope you are enjoying retirement in sunny Greece. From the pics you have sent, it looks like you are in paradise ! I attach the documents Lynch filed with LASC Friday afternoon. She references in the Motion a "proposed answer" as an exhibit, but it was either not attached to her original filing or it has been "lodged" because she has not been granted to leave to file it yet, and is not available for download from the LASC website. We have not received service on behalf of Leonard. She declares that the motion and declarations were mailed care of our office. KL posted last Friday on

her River Deep blog several emails regarding her court filing from Francisco Suarez, her court-appointed attorney in her criminal appeal. He appears to have been helping her file and calling the court on her behalf, although he is not attorney of record in the case. I doubt, however, after reading the motion to vacate, that Suarez wrote it - it is too polished and articulate. I do, however, believe that some pro bono attorney or legal services group has been helping her with her filings. In any event, as with her criminal appeal, I view this is an opportunity to put her ridiculous arguments to bed once and for all. Having lost her criminal appeal, I see this as her back-handed way to continue the harassment of LC and our office. She is obviously creating an ongoing legal controversy with LC so that she can argue that she has a right to continue to contact (read, harass) our office on her own behalf regarding her court filings.

Suarez says in an email posted to her blog last Friday that he was told to leave the hearing date blank because a judge has not been assigned and that "it will take several weeks" to get a new judge assignment and a hearing date. I do not know whether Ken Freeman is still on the bench. I concur with you - the question she will have to answer to the court is that if she can file an answer 7 years after she was served the complaint, why did she refuse to participate in the litigation in the first instance and instead engage in a protracted multi-year course of harassment, which lead to her incarceration for 6 1/2 months ? In my opinion the court is not going to buy it - it is an extraordinary hurdle for her to overcome. Suffice it to say, even if the court buys her bogus "I was not served" b*s*, we have ample evidence that she had knowledge of both the complaint and the Notice of Default. She said so in many, many emails and voicemails. Unfortunately for us, we have to "suit up" once again to battle her. Unfortunately for her, I have every email she has every sent LC and our office and we have every voicemail she has ever left recorded and archived. I hope all is well otherwise.

From: STEPHEN R. GIANELLI <stephengianelli@gmail.com> To: mrice@rbklaw.com Sent: Thursday, August 8, 2013 7:40 AM Subject: MOTION VACATE

http://www.scribd.com/doc/157961469/Kelley-Lynch-vs-Leonard-CohenDeclaration?post_id=100001042643899_605677296143686#_=_ FYI. KL just posted this on scribed.com. It is unsigned and does not reference a hearing date. It fails to address when she learned of the default J or why she waited so long to move to vacate. She claims she was evicted on December 28, 2005 and that it was video taped.

However 6 Angeles LLC vs. Kelley Lynch (the UD action) indicates that a writ of execution was not issued until after the service date in 2006. I have no idea if it has been filed. She said in an email it was being filed today.

Michelle rice email to stephen r gianelli dated august 13, 2013

This email from Kory Rice LLP partner Robert Kory is published in direct rebuttal to his Junior partner Michelle Rice's malicious and false scribd.com posts dated January 3, 2016 and March 4, 2016 - falsely stating that I have "fraudulently" misrepresented whom I represent or that my emails to her firm were unwanted or harassing.

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https://webcache.googleusercontent.com/search?q=cache:lX7LnYXD_pcJ:https://issuu.com/stephengianelli/docs/michelle_rice_email_to_stephen_r._g+&cd=4&hl=en&ct=clnk&gl=us

from: Michelle Rice <mrice@rbklaw.com> reply-to: Michelle Rice <mrice@rbklaw.com> to: "STEPHEN R. GIANELLI" <stephengianelli@gmail.com> date: Fri, Sep 13, 2013 at 10:06 PM subject: Re: Here is the restraining order you requested

Thanks so much for sending this. I will forward it to the Prosecutor from the LA City Attorney's Office who will be covering KL's probation hearing on 9/25 and will be opposing KL's efforts to terminate probation. Streeter will not by the Prosecutor at the hearing. At the sentencing hearing last April, KL was ordered to attend 52 weekly AA meetings, which I doubt she has completed. In addition to showing that she completed all court ordered counseling/classes, she will have to show that she has paid all fees/fines and court costs from last year's criminal trial. I seriously doubt she has paid the court fines and fees (including the cost of her two PDs) associated with her criminal case, which were several thousand dollars.

Michelle rice email to stephen r gianelli dated september 13, 2013 #2

This email from Kory Rice LLP partner Robert Kory is published in direct rebuttal to his Junior partner Michelle Rice's malicious and false scribd.com posts dated January 3, 2016 and March 4, 2016 -

falsely stating that I have "fraudulently" misrepresented whom I represent or that my emails to her firm were unwanted or harassing.

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https://webcache.googleusercontent.com/search?q=cache:mJMq5Kj22CkJ:https://issuu.com/stephengianelli/docs/michelle_rice_email_to_stephen_r._g_9a85bef4962899+&cd=6&hl=en&ct=clnk&gl=us

from: Michelle Rice <mrice@koryrice.com> reply-to: Michelle Rice <mrice@koryrice.com> to: STEPHEN GIANELLI <stephengianelli@gmail.com> date: Fri, Sep 13, 2013 at 3:21 AM subject: Re: Fwd: Kelley lynch now has yet ANOTHER permanent anti-harassment order against her, issued this morning:

Do you happen to have a copy of Ray Lawrence's restraining order ? I would like to be able to send it to the City Attorney's office for the purposes of KL's probation hearing on 9/25. Thanks. Michelle L. Rice, Esq. Kory & Rice LLP 9300 Wilshire Blvd., Suite 200 Beverly Hills, CA 90212 Phone: (310) 285-1633 Fax: (310) 278-7641 NOTICE: This email is confidential and may be legally privileged. It is intended solely for the addressee. If you have received this email in error, please destroy this message immediately along with all attachments, if any, and please report the receipt of this message to the sender at the address listed above. Thank you for your cooperation.

Michelle rice email to stephen r gianelli dated september 13, 2013

This email from Kory Rice LLP partner Robert Kory is published in direct rebuttal to his Junior partner Michelle Rice's malicious and false scribd.com posts dated January 3, 2016 and March 4, 2016 - falsely stating that I have "fraudulently" misrepresented whom I represent or that my emails to her firm were unwanted or harassing.

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https://webcache.googleusercontent.com/search?q=cache:jDiKaw_sDHgJ:https://issuu.com/stephengianelli/docs/michelle_rice_email_to_stephen_r._g_51366460166904+&cd=7&hl=en&ct=clnk&gl=us

From: Robert Kory [mailto:rkory@koryrice.com] Sent: Wednesday, April 29, 2015 8:37 PM To: STEPHEN R. GIANELLI Subject: Re: The pending motion The Opposition has already been drafted; that is a central point that Michelle covers. She address all of your points, economically in 15 pages; I think the judge will appreciate the tightly written Opposition. She really covers it all. Please do not mention anything about the status of Michelle's efforts, or even that she is drafting the Opposition. That said, your emails remain welcome. Robert B. Kory, Esq. Kory & Rice, LLP 9300 Wilshire Blvd., Suite 200 Beverly Hills, CA 90212 Tel: 310-285-1630 ext.601 Fax: 310-278-7641 NOTICE: This email is confidential and may be legally privileged. It is intended solely for the addressee. If you have received this email in error, please destroy this message immediately along with all attachments, if any, and please report the receipt of this message to the sender at the address listed above. Thank you for your cooperation.

Robert b kory email of 4 29 2015 to stephen r gianelli

This email from Kory Rice LLP partner Robert Kory is published in direct rebuttal to his Junior partner Michelle Rice's malicious and false scribd.com posts dated January 3, 2016 and March 4, 2016 -

falsely stating that I have "fraudulently" misrepresented whom I represent or that my emails to her firm were unwanted or harassing.

https://webcache.googleusercontent.com/search?q=cache:ImCJ1Ywvh6wJ:https://issuu.com/stephengianelli/docs/robert_b._kory_email_of_4-29-2015_t+&cd=8&hl=en&ct=clnk&gl=us

Exhibit IIII:
U.S. Treasury Check
Interpleader Funds
Natural Wealth Case

2008 U.S. District of Colorado - U.S. Treasury Check

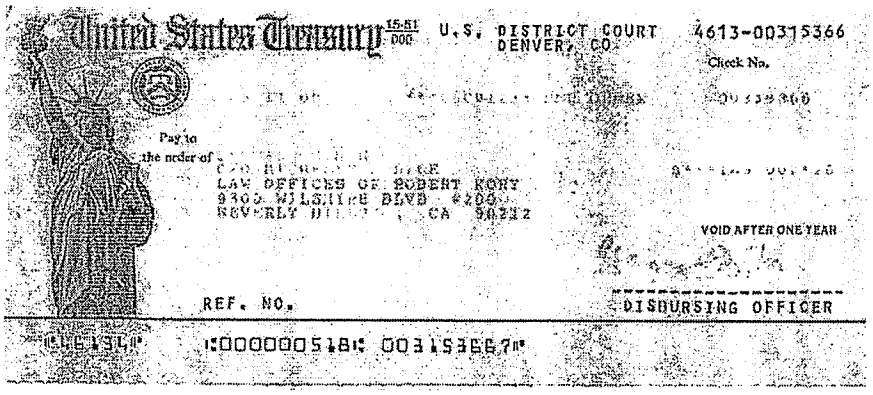
Jan 02, 2016 by Michelle Rice

DESCRIPTION

Copy of check for the last $169,007.25 remaining in Traditional Holdings, LLC recovered on behalf of client disbursed c/o Michelle L. Rice as attorney of record - UNITED STATES DISTRICT COURT, DISTRICT OF COLORADO.

Lithographic copy of check of the recovered funds now hanging in my office.

https://www.scribd.com/doc/294420577/2008-U-S-District-of-Colorado-U-S-Treasury-Check


United States Treasury 15-61/000 U.S. DISTRICT COURT DENVER, CO. 4613-00315366

Check No.

Pay to the order of

LAW OFFICES OF ROBERT KORT
9300 WILSHIRE BLVD #200
BEVERLY HILLS, CA 90212

VOID AFTER ONE YEAR

REF. NO.

DISBURSING OFFICER

⑈613⑈ ⑆000000518⑆ 00315366⑈

Exhibit MISC-1:
Indemnity Agreement

INDEMNITY AGREEMENT

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

WHEREAS Kelley Lynch has agreed to assist Leonard Cohen with certain personal financial arrangements that entail the creation of Traditional Holdings, LLC, and in so doing has provided and will provide value assistance to Leonard Cohen:

NOW THERFORE:

FOR VALUED RECEIVED, the undersigned Leonard Cohen ("Indemnitor")agrees to indemnify, save, and hold harmless Kelley Lynch("Indemnitee") from any and all claims, actions, damages, liabilities, or litigation arising out of the following circumstances: any obligation on her part to make good on a certain note for $240,000 in favor of Traditional Holdings, LLC ("TH") in the event that TH is for any reason unable to:

1. Pay in the full the promise of full payment of a "put" described in the said; or

2. Causes her to have to make any payment to TH (or the assignee or transferee or successor of TH) with respect to the note, but only to the extent Indemnitee has not theretofore in the year in which indemnification is claimed, received sufficient cash from TH, net of any and all income taxes payable by Indemnitee on such cash, to make good on such liability as to which indemnification hereunder is sought by Indemnitee.

In the event of any cause of action or claim asserted by a party to this Agreement or any third party, the Indemnitee will provide the undersigned timely notice of such claim, dispute or notice. Thereafter, the undersigned shall, at its own expense, faithfully and completely defend and protect the Indemnitee against any and all liabilities arising from this claim, cause of action and/or notice, and shall at once stand in the shoes of Indemnitee and pay all amounts due as they become payable with no right offset or to her claim for immediate and full payment.

If the undersigned should fail to so successfully defend, the Indemnitee may defend, pay or settle the claim with full rights of recourse against the undersigned for any and all fees, costs, expenses, and payments, including but not limited to attorney fees and settlement payments, made or agreed to be paid, in order to discharge the claim, cause of action, dispute or litigation.

Indemnitor shall pay, to or for the benefit of (as she may direct) Indemnitee, all costs and attorneys' fees associated with the enforcement of this agreement.

This Agreement is binding upon and is to inure to the benefit of the parties, their

successors, assigns, and personal representatives.

Signed under seal this 8 day of ~~December~~ JANUARY 2001.

Leonard Cohen, Indemnitor

State of California)
) ss.:
County of Los Angeles)

On this 8 day of ~~December~~ JAN, in the year ~~2000~~ 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Kelley Lynch, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed it.

WITNESS my hand and official seal.

[Signature, printed name, and title of notary public or other officer administering oath]

RICHARD L BERNSTEIN NOTARY PUBLIC [Seal]

RICHARD L. BERNSTEIN
Commission # 1165906
Notary Public — California
Los Angeles County
My Comm. Expires Jan 15, 2002

State of California)
) ss.:
County of Los Angeles)

On this 8 day of ~~December~~ JAN., in the year ~~2000~~ 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Leonard Cohen, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed it.

WITNESS my hand and official seal.

[Signature, printed name, and title of notary public or other officer administering oath]

RICHARD L BERNSTEIN NOTARY PUBLIC [Seal]

RICHARD L. BERNSTEIN
Commission # 1165906
Notary Public — California
Los Angeles County
My Comm. Expires Jan 15, 2002

Exhibit MISC-2:
Schedule of Statutes & Doctrines

RELEVANT DOCTRINES, CONSTITUTIONAL ISSUES, & STATUTES

Fraudulent Concealment

The RICO Defendants fraudulent concealment of the conspiracy addressed in Plaintiff Kelley's Lynch Complaint tolled the limitations period. The RICO Defendants, as part of their scheme to defraud Lynch, have intentionally run statute of limitations so that Lynch is unable to find a legal remedy for many issues addressed in this Complaint. The 9th Circuit follows the "injury discovery" rule. Lynch discovered the injury which is the basis for this action in or around April 2012. She was falsely imprisoned from March 1, 2012 through September 12, 2012 so the statute of limitations would be tolled during that period of time. Lynch had no "actual or constructive knowledge of the fraud" prior to that period of time. She may have felt that she had a garden variety breach of contract suit. However, there is nothing other than sham transactions, shell companies, a scheme to defraud Lynch (and others), fraud upon numerous courts, and the recent renewal of the fraudulent default judgment that includes two suspended corporations. Lynch has acted with diligence. If she dares inquire about these matters she exposed to potential further unlawful arrests due to the fraudulent restraining orders and LA Superior Court's secretive assignment of a "dating" relationship between Lynch and Cohen although one never existed. Lynch's injuries flow from the predicate acts described in the Complaint. Lynch understood that she had been injured, as well as the basis nature of her injuries, during her April 2012 trial and thereafter. New injuries continue to accrue and that includes with respect to the Renewal of the fraudulent Default Judgment and the addition of millions of dollars in fraudulent financial interest as well as the inability to find a legal remedy related to vacating the fraudulent Default Judgment.

See Stitt v. Williams, 919 F.2d 516, 525 (9th Cir. 1990) ("The limitations period [for civil RICO actions] begins to run when a plaintiff knows or should know of the injury which is the basis for the action."); Beneficial Standard Life Ins. Co. v. Madariaga, 851 F.2d 271, 275 (9th Cir. 1988) (holding that civil RICO claim accrues "when [the plaintiff has] actual or constructive knowledge of the fraud."); Volk v. D.A. Davidson Co., 816 F.2d 1406, 1415 (9th Cir. 1987) ("The limitations period begins to run when a plaintiff knows or should know of the injury which is the basis for the action.");Compton v. Ide, 732 F.2d 1429, 1433 (9th Cir. 1984) (reasoning that the general rule for accrual, plaintiff's discovery of the injury, should apply to civil RICO claims). This Circuit has also adopted the separate accrual rule. See, e.g., State Farm Mut. Auto. Ins. Co. v. Ammann, 828 F.2d 4, 5 (9th Cir. 1987).

RICO focuses on the predicate acts. See Sedima, 473 U.S. at 497, 105 S.Ct. at 3285 ("[T]he essence of the [RICO] violation is the commission of those [predicate] acts in connection with the conduct of an enterprise. . . . Any recoverable damages occurring by reason of a violation of § 1962(c) will flow from the commission of the predicate acts.")

A court wishing to give a plaintiff who knows of her injury time to investigate the pattern can always toll the statute of limitations period. See McCool, 972 F.2d at 1465.

Equitable tolling doctrines, including fraudulent concealment, apply in civil RICO cases. *Emrich v. Touche Ross Co.*, 846 F.2d 1190, 1199 (9th Cir. 1988) ("As to the RICO claim . . . federal equitable tolling doctrines apply."); see Volk, 816 F.2d at 1415.

See Grimmett v. Brown, 75 F.3d 506, 511 (9th Circuit 1996).

Full Faith & Credit

The fraudulent obtained multi-million Default Judgment (Los Angeles Superior Court Case No. BC338322) is not a valid judgment. The merits of the case were not litigated. The Court failed to obtain jurisdiction over Lynch. And, the judgment itself is void. The Full Faith and Credit Clause applies to valid judgments based on the constitutional protections with respect to due process found in the United States Constitution. A default judgment procured by fraud is not a valid judgment. Nothing whatsoever has been litigated. The RICO Defendants have done everything in their power to assure that outcome. Kelley Lynch has not had a full and fair opportunity to be heard.

The Full Faith and Credit Clause—Article IV, Section 1, of the U.S. Constitution—provides that the various states must recognize legislative acts, public records, and judicial decisions of the other states within the United States. It states that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." The statute that implements the clause, 28 U.S.C.A. § 1738, further specifies that "a state's preclusion rules should control matters originally litigated in that state."

In drafting the Full Faith and Credit Clause, the Framers of the Constitution were motivated by a desire to unify their new country while preserving the autonomy of the states. To that end, they sought to guarantee that judgments rendered by the courts of one state would not be ignored by the courts of other states. The Supreme Court reiterated the Framers' intent when it held that the Full Faith and Credit Clause precluded any further litigation of a question previously decided by an Illinois court in Milwaukee County v. M. E. White Co., 296 U.S. 268, 56 S. Ct. 229, 80 L. Ed. 220 (1935). The Court held that by including the clause in the Constitution, the Framers intended to make the states "integral parts of a single nation throughout which a remedy upon a just obligation might be demanded as of right, irrespective of the state of its origin."

The Full Faith and Credit Clause is invoked primarily to enforce judgments. When a valid judgment is rendered by a court that has jurisdiction over the parties, and the parties receive proper notice of the action and a reasonable opportunity to be heard, the Full Faith and Credit Clause requires that the judgment receive the same effect in other states as in the state where it is entered.

Rooker-Feldman Exception – Fraud

There are arguments in favor of the fraud exception to Rooker Feldman. It is the antithesis of justice to permit an individual to walk into court with unclean hands and argue that the court itself is incapable of remedying the situation. The United States Supreme Court has stated for at least ninety years that only "in the absence of fraud or collusion" does a judgment from a court with jurisdiction operate as res judicata. Riehle v. Margolies, 279 U.S. 218, 225 (1929). In the instant case, there is fraud, collusion and a complete lack of jurisdiction.

In Powell v. American Bank & Trust Co., 640 F. Supp. 1568 (N.D. Ind. 1986), refused to apply res judicata to a case involving a proposed order "containing untrue factual assertions." The court reasoned: To sanction the preclusion of the plaintiffs' claim via res judicata under facts such as these would be to sanction the defrauding of any litigant by an opponent fast enough and shifty

enough to get a state court order pertaining to the issues which the innocent litigant seeks to argue before a court. Surely res judicata was not created to protect such fraud upon the courts." Lynch has argued, with respect to all three orders, that fraud was used to procure the judgments and orders. The fraud conclusions in this complaint are not conclusory and are supported by specific facts to support the allegations of fraud. Lynch is primarily addressing the improper methods the RICO Defendants used in obtaining the Colorado order issued without findings; fraudulent California domestic violence order issued without jurisdiction, the necessary statutory "dating" relationship, and issued without notice; and, the fraudulent default judgment issued in the Los Angeles Litigation without jurisdiction based upon extrinsic fraud in the proof of service. The RICO Defendants have committed fraud upon every court that have been before with respect to all matters that relate to Kelley Lynch. Being unopposed, while forcing her to represent herself (including when she does not have the financial wherewithal to do so due to their own conduct), has permitted this inconceivable fraud to play out in numerous jurisdictions and with both judicial and administrative entities.

The United States Court of Appeals for the Ninth Circuit has addressed the fraud exception to Rooker Feldman. In Kougasian v. TMSL, Inc. No. 02-56781 (9th Cir. February 26, 2004) the court held that the Rooker-Feldman doctrine has evolved from the two Supreme Court cases from which its name is derived. See Rooker v. Fidelity Trust Co., 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983). Rooker-Feldman prohibits a federal district court from exercising subject matter jurisdiction over a suit that is a de fact appeal from a state court judgment. Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir. 2003).

The Court, in *Kougasian v. TMSL*, Inc. explicitly referred to Noel v. Hall, 341 F.3d 1148, 1154 (9th Cir. 2003) as a case which provided guidance to the district courts in the application of Rooker-Feldman: If a federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a state court judgment based on that decision, Rooker-Feldman bars subject matter jurisdiction in a federal court. If, on the other hand, a federal plaintiff asserts as a legal wrong an alleged illegal act or omission by an adverse party, Rooker-Feldman does not bar jurisdiction.

Finally, in *Kougasian v. TMSL, Inc.*, the Ninth Circuit held that Rooker–Feldman doctrine did not apply where plaintiff sought relief from a state court judgment based on extrinsic fraud by her adversaries in those proceedings. The court reasoned that "extrinisic fraud on a court is, by definition, not an error by [the state] court." *Id.* at 1141. Similarly in *Noel v. Hall*, the Court held that the Rooker–Feldman doctrine did not bar the plaintiff's claims alleging that his adversaries in the state court proceedings illegally wire-tapped him because the "plaintiff assert[ed] as a legal wrong an allegedly illegal act or omission by an adverse party." *Id.* at 1164. The court went on, however, to state that "a plaintiff alleging extrinsic fraud . . . is **not alleging a legal error by the state court**; rather, he or she is alleging a wrongful act by the adverse party." Thus, the court held Rooker-Feldman did not apply. In creating this exception, the Ninth Circuit relied on two sources: (1) California state law providing its courts with the equitable power to set aside judgments on grounds of fraud, mistake, or lack of jurisdiction, Zamora v. Clayborn Contracting Grp., Inc., 47 P.3d 1056, 1063 (Cal. 2002), and (2) an 1878 Supreme Court case holding that, under Louisiana law, a judgment is a nullity if "obtained through fraud, bribery, forgery of documents, &c." Barrow, 99 U.S. at 84.

It has long been the law that a plaintiff in federal court can seek to set aside a state court judgment

obtained through extrinsic fraud. In Barrow v. Hunton, 999, U.S. (9 Otto) 80, 25 L.Ed. 407 (1878), the U.S. Supreme Court distinguished between errors by the state court, which could not be reviewed in federal circuit court, and fraud on the state court, which could be the basis for an independent suit in circuit court. Anticipating the Rooker-Feldman doctrine, the Court wrote: The question presented with regard to the jurisdiction of the Circuit Court is, whether the proceeding is or is not in its nature a separate suit, or whether it is a supplementary proceeding so connected with the original suit as to form an incident to it, and substantially a continuation of it. If the proceeding is merely tantamount to the common-law practice of moving to set aside a judgment for irregularity, or to a writ of error, or to a bill of review or an appeal, it would belong to the latter category, and the United States court could not properly entertain jurisdiction of the case. Otherwise, the Circuit Courts of the United States would become invested with power to control the proceedings in the State courts, or would have appellate jurisdiction over them in all cases where the parties are citizens of different States. Such a result would be totally inadmissible. On the other hand, if the proceedings are tantamount to a bill in equity to set aside a decree for fraud in the obtaining thereof, then they constitute an original and independent proceeding, and according to the doctrine laid down in Gaines v. Fuentes (92 U.S. [(2 Otto)] 10, 23 L.Ed. 524), the case might be within the cognizance of the Federal courts. The distinction between the two classes of cases may be somewhat nice, but it may be affirmed to exist. In the one class there would be a mere revision of errors and irregularities, or of the legality and correctness of the judgments and decrees of the State courts; and in the other class, the investigation of a new case arising upon new facts, although having relation to the validity of an actual judgment or decree, or the party's right to claim any benefit by reason thereof. Id. at 82-83 (emphasis added); see also MacKay v. Pfeil, 827 F.2d 540, 543-44 (9th Cir.1987).

Full & Fair Opportunity to Present One's Case

An issue or claim is not precluded in federal court merely because it already has been, or could have been, decided by a California state court (particularly if they had jurisdiction). Issue and claim preclusion (collateral estoppel and res judicata) have specific requirements that must be satisfied before preclusion can be found. For example, under California state law a litigant must have had an appropriate opportunity to litigate an issue in the earlier suit before he or she will be preclude from **reliltigating** that issue in a later suit. See, e.g., Johnson v. City of Loma Linda, 24 Cal.4th 61, 99 Cal.Rptr.2d 316, 5 P.3d 874, 884 (2000); see also McCutchen v. City of Montclair, 73 Cal.App.4th 1138, 87 Cal.Rptr.2d 95, 99 (1999) (litigants must have a "full and fair opportunity" to present their case for res judicata to apply) (quoting 7 Witkin, California Procedure, Judgment Section 339 (4th ed. 1997)); Lucido v. Superior Court, 51 Cal.3d 335, 272 Cal.Rptr. 767, 795 P.2d 1223, 1225 (1990) (setting for the requirements for issue preclusion). Further, a litigant will be claim-precluded (barred by res judicata) from bringing a previously unbrought claim only if that claim is part of the same "primary right" as a claim decided in earlier litigation. See, e.g., Mycogen Corp. v Monsanto Co., 28 Cal.4th 888, 123 Cal.Rptr.2d 432, 51 P.3d 297, 306 (2002; Crowley v. Katleman, 8 Cal.4th 666, 34 Cal.Rptr.3d 386, 881 P.2d 1083, 1090 (1994). See *Kougasian v. TMSL, Inc.*

Default Judgment Pro Confesso

The default judgment system is filled with inherent problems, potentially exposes parties to judgments based on fraud and collusion, and open to very serious issues related to service of process and due process violations. It seems fundamentally flawed to base an entire system of laws on an

assumption that a party was neglectful in answering a complaint.

The purpose of default judgments is to protect a diligent party, "lest he be faced with interminable delay and continued uncertainty as to his rights" whenever "the adversary process has been halted because of an essentially unresponsive party." H. F. Livermore Corp. v. Aktiengesellschaft Gebruder Loepfe, 432 F.2d 689, 691 (D.C. Cir. 1970); see also Adam Owen Glist, *Enforcing Courtesy: Default Judgments and the Civility Movement*, 69 FORDHAM L. REV. 757, 765 (2000) ("The mechanism of default fosters efficiency and discourages delay by severely penalizing dilatory or procrastinating conduct."). This is an ideal concept that has very few practicalities in today's world. At the end of the day, however, the court's role is to promote justice. The default judgment system is not a license for parties to disregard service of process, due process considerations, and evade – at all costs – the litigation process and the adverse party's right to be heard on the merits. If the system was used to promote this conduct, then all one has to do is "gutter serve" the opposing party, and the person engaged in fraud wins while the injured party essentially has no remedy. That is precisely what has happened in this case and, due to Cohen's ability to hire teams of lawyers, the RICO Defendants have taken every tactical and procedural advantage of Lynch because she is a self-represented litigant. The RICO Defendants have gone to the desperate lengths of attempting to terminate Lynch's "fee waiver" in order to prevent her from filing legal pleadings. The situation is especially egregious when one considers the fact that singer-songwriter Leonard Cohen is not a U.S. citizen. The premise of the default is that the party failed to answer after being served. Obviously, the party should only be deemed liable if it intentionally failed to answer after being properly served. Lynch immediately notified the RICO Defendants' co-counsel that she was not served. She relentlessly attempted to address this fact. Leonard Cohen is an extremely wealthy individual, who has routinely fedex'd packages to Lynch in response to her motion to vacate the default judgment and terminating sanctions (fraud upon the court). It seems beyond reasonable to assume that the moment Lynch brought to their attention the fact that she was served, the RICO Defendants had every opportunity to effect service. In the alternative, they refused to communicate with Lynch, used the situation to escalate hostilities between the parties, and immediately proceeded to file Cohen's tax returns, amend others, and apply for tax refunds – six months in advance of the default judgment. Therefore, the RICO Defendants felt utterly confident that the default judgment was assured. Otherwise, they would have intentionally filed fraudulent tax returns, and applied for a fraudulent refund, if there was a possibility the court refused to provide them with the desired default judgment. Their logic defies reality. Furthermore, Lynch has submitted approximately four to five declarations to Los Angeles Superior Court confirming that she did not resemble the individual allegedly served and further confirming that she did not have a female co-occupant. Nevertheless, the RICO Defendants submitted photographs of Kelley Lynch to Los Angeles Superior Court in an attempt to prove that she was in fact the Jane Doe who, for inexplicable reasons, simply decided to evade service. Lynch is perfectly capable of responding to a complaint. There is no incentive for a party willing to engage in fraud and misconduct to render proper service when improper service achieves the desired result. The injured party should not be subjected to illusory time frames that promote further problems with the default justice system. It seems more than obvious that the best way to resolve some of the problems with fraud in the default judgment system is to send a strong rebuke to parties willing to promote fraud upon the court, and their adverse parties, to achieve highly suspect goals that do not promote justice.

The equitable decree pro confesso can be traced back to the days of the Roman Emperor Justinian. The initial English practice was to allow a decree pro confesso only if the defendant "had appeared but failed to file an answer after a demurrer was overruled." The default was not applied broadly

because the courts were cautious to accept as true every "fruitful fancy . . . a counsel could invent, suggest, or put into a bill." Hawkins v. Crook, (1729) 24 Eng. Rep. 860 (Ch.) 860; 2 P. Wms. 556 (Eng.). English practice concerning default judgments was changed drastically in 1732 with the enactment of the Process Act. The Process Act stated that a court could issue an equitable decree pro confesso even if the defendant did not appear. The Process Act, 1732, 5 Geo. 2, c. 25 (Eng.). The Act required that, upon good showing to the court by plaintiff, the court could: first, place and publish the process in the London Gazette; second, publish the process on "some Lord's Day, immediately after divine service, in the parish church of the parish;" and finally, post the process at some public place in the jurisdiction of the court. The court could now enter a decree pro confesso after the plaintiff established that service had been published in accordance with the statute. Once such a decree was entered, the defendant had seven years in which to appear. The early American system, including the Federal Equity Rules of 1822, followed the Process Act English model for a decree pro confesso: By our rules a decree pro confesso may be had if the defendant, on being served with process, fails to appear within the time required; or if, having appeared, he fails to plead, demur, or answer to the bill within the time limited for that purpose; or if he fails to answer after a former plea, demurrer, or answer is overruled or declared insufficient. Thomson v. Wooster, 114 U.S. 104, 112 (1885).

At no time has Lynch, who was not served the summons and complaint in either Los Angeles Superior Court case (No. BC338322 and BC341120) or confessed through her adversaries to the fraudulent misrepresentations set forth in either Complaint.

Defaults & Issue Preclusion – 9th Circuit

Kelley Lynch did not discover the Complaint (Los Angeles Superior Court Case No. BC338322) until it was posted online in April 2010. Lynch was immediately threatened, by the RICO Co-conspirators (Stephen Gianelli, Susanne Walsh, and others), when she publicly stated that she planned to file a motion to vacate. By the time Lynch discovered the Complaint online, she was not able to avail herself of the time constraints CCCP § 473.5. Lynch did not actually have "knowledge" of the default judgment. The media accounts she reviewed referred to a $9.5 million judgment entered against Lynch in March 2006. Lynch has no idea what that default judgment relates to. Lynch did not reside in California from the late spring, early summer of 2010, until approximately December 2011. At that time, she relocated from Ft. Lauderdale, Florida to Berkeley, California. At no time was Lynch in a financial position to file any documents with LA Superior Court, attend hearings, or participate in any type of legal proceedings. When she relocated to Los Angeles on June 4, 2013, she moved diligently and filed her motion to vacate the default judgment by August 9, 2013. Her witnesses were not permitted to testify.

We must apply California issue preclusion law to determine the preclusive effect of Shah's California state court judgment. See Gayden v. Nourbakhsh (In re Nourbakhsh), 67 F.3d 798, 800 (9th Cir. 1995); see also 28 U.S.C. § 1738 (requiring federal courts to give "full faith and credit" to state court judgments). Under California issue preclusion law, the proponent must establish the following: 1) the issue sought to be precluded . . . must be identical to that decided in the former proceeding; 2) the issue must have been actually litigated in the former proceeding; 3) it must have been necessarily decided in the former proceeding; 4) the decision in the former proceeding must be final and on the merits; and 5) the party against whom preclusion is being sought must be the same as the party to the former proceeding. In re Honkanen, 446 B.R. at 382; Lucido v. Super. Ct., 51 Cal.3d 335, 341 (1990).

We are confronted with the question of the preclusive effect of a default judgment. Most jurisdictions do not consider a default judgment capable of satisfying the requirements for the application of issue preclusion. See Murray v. Alaska Airlines, Inc., 522 F.3d 920, 924 (9th Cir. 2008) (citing Restatement (Second) Judgments § 27, cmt. e). However, California courts have adopted a different view. In California, issue preclusion may apply to a default judgment so long as two conditions are met. These conditions supplement the standard issue preclusion requirements and are as follows: (1) the defendant must have had "actual notice of the proceedings and a 'full and fair opportunity to litigate,'" Cal–Micro, Inc. v. Cantrell (In re Cantrell), 329 F.3d 1119, 1123–24 (9th Cir. 2003) (citing In re Harmon, 250 F.3d at 1247 n.6); and (2) the material factual issues must have been raised in the pleadings and must have been necessary to sustain the judgment.3

Conceptually, the second condition is a variation on the actually litigated requirement, which must be met for issue preclusion to apply to any prior judgment – not just default judgments. See In re Harmon, 250 F.3d at 1247. Additionally, in the default judgment context, if a particular issue has been necessarily decided, that issue also has been actually litigated. See id. at 1248.

In re Cantrell addressed this same issue. Relying on California law, In re Cantrell held that, when, as here, the defendant learns of the default judgment in time to seek relief therefrom under California Code of Civil Procedure ("CCCP") § 473.5,4 the defendant has been given sufficient notice of the default judgment and a full and fair opportunity to litigate for issue preclusion purposes. Baloch here has admitted that he learned of the litigation and the default judgment roughly fifteen months before the deadline expired to seek relief under CCCP § 473.5. Notwithstanding his actual knowledge of the default judgment, Baloch did not avail himself of the opportunity to seek relief from the default judgment under CCCP § 473.5(a). Accordingly, following In re Cantrell, we hold that the first condition is met for applying issue preclusion to the state court's default judgment.

See In re: Abdul J. Baloch and Tasneem Baloch, AZ-12-1557-KuDPa (9th Cir. BAP 2014).

U.S. Constitution & Due Process

Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power. Thus, where a litigant had the benefit of a full and fair trial in the state courts, and his rights are measured, not by laws made to affect him individually, but by general provisions of law applicable to all those in like condition, he is not deprived of property without due process of law, even if he can be regarded as deprived of his property by an adverse result. Marchant v. Pennsylvania R.R., 153 U.S. 380, 386 (1894).

Exactly what procedures are needed to satisfy due process, however, will vary depending on the circumstances and subject matter involved. Hagar v. Reclamation Dist., 111 U.S. 701, 708 (1884). "Due process of law is [process which], following the forms of law, is appropriate to the case and just to the parties affected. It must be pursued in the ordinary mode prescribed by law; it must be adapted to the end to be attained; and whenever necessary to the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought. Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law." Id. at 708; *Accord*, Hurtado v. California, 110 U.S.

516, 537 (1884).

Although due process tolerates variances in procedure "appropriate to the nature of the case," (Mullane v. Central Hanover Trust Co., 339 U.S. 306, 313 (1950)), it is nonetheless possible to identify its core goals and requirements. First, "procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." Carey v. Piphus, 435 U.S. 247, 259 (1978). "Procedural due process rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases." Mathews v. Eldridge, 424 U.S. 319, 344 (1976). Thus, the required elements of due process are those that "minimize substantively unfair or mistaken deprivations" by enabling persons to contest the basis upon which a State proposes to deprive them of protected interests. Fuentes v. Shevin, 407 U.S. 67, 81 (1972). At times, the Court has also stressed the dignitary importance of procedural rights, the worth of being able to defend one's interests even if one cannot change the result. Carey v. Piphus, 435 U.S. 247,266-67 (1978); Marshall v. Jerrico, Inc., 446 U.S. 238, 242 (1980); Nelson v. Adams, 120 S. Ct. 1579 (2000) (amendment of judgement to impose attorney fees and costs to sole shareholder of liable corporate structure invalid without notice or opportunity to dispute). The core of these requirements is notice and a hearing before an impartial tribunal. Due process may also require an opportunity for confrontation and cross-examination, and for discovery; that a decision be made based on the record, and that a party be allowed to be represented by counsel.

"Some form of hearing is required before an individual is finally deprived of a property [or liberty] interest." Mathews v. Eldridge, 424 U.S. 319, 333 (1976). "Parties whose rights are to be affected are entitled to be heard." Baldwin v. Hale, 68 U.S. (1 Wall.) 223, 233 (1863). This right is a "basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment ..." Fuentes v. Shevin, 407 U.S. 67, 80-81 (1972). *See* Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 170-71 (1951) (Justice Frankfurter concurring). Thus, the notice of hearing and the opportunity to be heard "must be granted at a meaningful time and in a meaningful manner." Armstrong v. Manzo, 380 U.S. 545, 552 (1965).

"In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses." Goldberg v. Kelly, 397 U.S. 254, 269 (1970). *See also* ICC v. Louisville & Nashville R.R., 227 U.S. 88, 93-94 (1913). *Cf.* § 7(c) of the Administrative Procedure Act, 5 U.S.C. § 556(d). Where the "evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealously," the individual's right to show that it is untrue depends on the rights of confrontation and cross-examination. "This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, . . . but also in all types of cases where administrative . . . actions were under scrutiny." Greene v. McElroy, 360 U.S. 474, 496-97 (1959). *But see* Richardson v. Perales, 402 U.S. 389 (1971) (where authors of documentary evidence are known to petitioner and he did not subpoena them, he may not complain that agency relied on that evidence). *Cf.* Mathews v. Eldridge, 424 U.S. 319, 343-45 (1976).

Suspended Corporations

The RICO Defendants, including those who are officers of the court, acted in bad faith when they inserted suspended corporations into the original default judgment (Los Angeles Superior Court Case No. BC338322) and again into the renewal of judgment. The RICO Defendants clearly understood Blue Mist Touring Company, Inc. and Traditional Holdings, LLC were suspended at the time the default judgment was entered.

The rule is clear that a corporation suspended for nonpayment of taxes may not defend itself in litigation. Blue Mist Touring Company, Inc. was suspended under the Corporations Code, for failure to file required statements, and the Revenue and Taxation Code, for failure to file tax returns. It was therefore disabled from participating in litigation activities which would include the transfer of corporate assets during the period of suspension. Traditional Holdings, LLC was administrative dissolved in Kentucky and had never registered to do business in California. Therefore, it took was disabled from participating in litigation activities which would include the transfer of corporate assets during the period of suspension. The corporations at issue were suspended under the Corporations Code as well as under the Revenue and Taxation Code for nonpayment of taxes. A corporation suspended under Corporations Code Section 2205 for failure to file a required information statement is disabled from participating in litigation, as is a corporation suspended under Revenue and Taxation Code Section 23301 for Nonpayment of Taxes. Knowing concealment of material facts is not the hallmark of good faith. The RICO Defendants, and in particular the officers of the court, had an obligation to reveal to the court the suspended status of these entities. The status of these two corporations was concealed from the U.S. District Court in Colorado which relied on the fraudulent Los Angeles Superior Court default judgment.

A California Corporation or Limited Liability Company ("LLC") can be suspended for a number of reasons, including the nonpayment of taxes under California Revenue and Taxation Code or for their failure to file updated information under the Corporations Code.

When a corporation or LLC is suspended, it loses its rights and privileges under California law. Thus, the company cannot legally operate until revived (reinstated) with the Secretary of State. Powers which the suspended company can no longer exercise include its ability to defend or prosecute any action in court. This creates a tricky problem when the company's legal rights are at stake. A member attorney of the California State Bar Association cannot ethically represent a suspended company until they are "revived" with the Secretary of State. In fact, when a corporation or LLC has been suspended, it is required to close its doors, and stop all business related activity. Even its insurer, who may have a significant financial interest in the outcome of a lawsuit, may not intervene in the court action to take over the prosecution or defense of the company's claims. In Palm Valley Homeowners Ass'n v. Design MTC, a law firm that continued to represent a suspended subcontractor in a construction defect lawsuit brought by homeowners was sanctioned more than $14,000 for its representation. (2000) 85 Cal. App. 4th 553.

In some cases a suspended company has been allowed to enter into certain types of contracts such as a release-of-liability. See Performance Plastering v. Richmond American Homes of California, Inc. (2007) 153 Cal. App. 4th 659.

Alter Ego Doctrine

Leonard Cohen is the alter ego of the corporate entities at issue in this case and the alter ego doctrine should be invoked and applied.

"In California, two conditions must be met before the alter ego doctrine will be invoked. First, there must be such a unity of interest and ownership between the corporation and its equitable owner that the separate personalities of the corporation and the shareholder do not in reality exist. Second, there must be an inequitable result if the acts in question are treated as those of the corporation alone." Sonora Diamond Corp. v. Superior Court (2000) 83 Cal.App.4th 523, 538; accord Troyk v. Farmers Group, Inc. (2009) 171 Cal.App.4th 1305, 1341 (Troyk); Tomaselli v. Transamerica Ins. Co. (1994) 25 Cal.App.4th 1269, 1285.

Factors relevant to this analysis include: "the disregard of legal formalities and the failure to maintain arm's length relationships among related entities," "the failure to maintain minutes or adequate corporate records," "the confusion of the records of the separate entities," the "failure to segregate funds of the separate entities," "commingling of funds and other assets," "the total absence of corporate assets, and undercapitalization," the failure "to issue stock," "sole ownership of all of the stock in a corporation by one individual or the members of a family," overlapping officers and directors, "the use of the same office or business location," "the employment of the same employees and/or attorney," "the unauthorized diversion of corporate funds or assets to other than corporate uses," "the use of a corporation as a mere shell, instrumentality or conduit," and "the diversion of assets from a corporation by or to a stockholder. " Associated Vendors, Inc. v. Oakland Meat Co. (1962) 210 Cal.App.2d 825, 838-840.)

U.S. Supremacy Clause
Tax Information

Leonard Cohen and the corporate entities he controls should be required to provide Lynch with the IRS required tax and corporate information she requires; rescind the wrongful K-1s LC Investments, LLC transmitted to IRS; and provide Lynch with corporate accountings, financial statements, and profit and loss statements. The RICO Defendants should not be permitted to invoke arguments related to the state court judgment as that judgment conflicts with laws related to taxation and IRS rules and regulations. The fraudulently obtained local restraining orders should not prohibit Lynch from requesting this tax information or the RICO Defendants from transmitting it.

The Supremacy Clause, found in Article VI of the U.S. Constitution, establishes the Constitution, Federal Statutes, and U.S. treaties as "the supreme law of the land." Therefore, if a state law conflicts with a federal law, the federal law must be followed.

The Supreme Clause States:

"This Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be Supreme Law of the land; and the Judges in every state shall be bound thereby, anything in the Constitution or Laws of any state to the contrary notwithstanding."

According to U.S. law treaties are those international agreements that receive the advice and consent of the Senate. (Article II, section 2, clause 2 of the Constitution). A treaty to which United States is a party is given status equal to that of a federal legislation and therefore forms a part of the Supreme law of the land.

This concept of federal supremacy was first developed by Chief Justice John Marshall in McCulloch v. Md., 17 U.S. 316, 406 (U.S. 1819), where the court held that the State of Maryland could not tax the Second Bank of United States, a branch of the National Bank. It was concluded that "the government of the Union, though limited in its power, is supreme and its laws, when made in pursuance of the constitution, form the supreme law of the land, "anything in the constitution or laws of any State to the contrary notwithstanding."

In Edgar v. Mite Corp., 457 U.S. 624, 632 (U.S. 1982) it was held that "a state statute is void to the extent that it actually conflicts with a valid federal statute" and that a conflict will be found either where compliance with both federal and state law is impossible or where the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. Similarly in Stone v. San Francisco, 968 F.2d 850, 862 (9th Cir. Cal. 1992) the court held on the issue of injunction and remediation, that "otherwise valid state laws or court orders cannot stand in the way of a federal court's remedial scheme if the action is essential to enforce the scheme. State policy must give way when it operates to hinder vindication of federal constitutional guarantees."

In effect, this means that a State law will be found to violate the Supremacy Clause either of the following two conditions (or both) exist:[2]

1. Compliance with both the Federal and State laws is impossible

2. "State law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress"

The Supremacy Clause of the United States Constitution establishes the United States Constitution, federal statutes, and treaties as "the supreme law of the land." It provides that these are the highest form of law in the United States legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either a state constitution or state law of any state.

In the case of California v. ARC America Corp., 490 U.S. 93 (1989), the Supreme Court held that if Congress expressly intended to act in an area, this would trigger the enforcement of the Supremacy Clause, and hence nullify the state action. The Supreme Court further found in Crosby v. National Foreign Trade Council, 530 U.S. 363(2000), that even when a state law is not in direct conflict with a federal law, the state law could still be found unconstitutional under the Supremacy Clause if the "state law is an obstacle to the accomplishment and execution of Congress's full purposes and objectives." Congress need not expressly assert any preemption over state laws either, because Congress may implicitly assume this preemption under the Constitution.

The Internal Revenue Code (IRC), formally the Internal Revenue Code of 1986, is the domestic portion of federal statutory tax law in the United States, published in various volumes of the United States Statutes at Large, and separately as Title 26 of the United States Code (USC). The Internal

Revenue Code includes most but not all federal tax statutes. The IRS administers the tax laws enacted by Congress and has translated them into detailed regulations, rules, and procedures.