

**EXHIBIT “7”**

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

THE FLORIDA BAR

Complainant,

Supreme Court Case Nos.

SC18-532 and SC18-546

v.

Frederick Joseph Keitel, III,

-----/

TELECONFERENCE HEARING

EXCERPTS OF PROCEEDINGS

September 17, 2020

9:00 a.m.

Hearing in above-styled cause taken  
before the Honorable John Joseph Murphy, III,  
Referee of the above-styled court, remotely  
reported by Sonnia Martinez, Shorthand  
Reporter and Notary Public in and for the  
State of Florida at Large, pursuant to Notice  
filed in the above cause.

1 APPEARANCES:

2  
3 ON BEHALF OF THE COMPLAINANT:

4 The Florida Bar  
5 Lake Shore Plaza II  
6 1300 Concord Terrace, Suite 130  
7 Sunrise, Florida 33323  
8 by: Linda Ivelisse Gonzalez,  
9 Bar Counsel

10 ON BEHALF OF THE RESPONDENT:

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25  
17 Frederick Joseph Keitel, III, pro se  
18 rickkeitel@aol.com  
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2 THE COURT: Mr. Webber, could you do  
3 me a favor, raise your hand right for us.

4 Do you solemnly swear or affirm the  
5 testimony you're about to give in this  
6 court will be the truth, the whole truth  
7 and nothing but the truth?

8 THE WITNESS: Yes.

9 THE COURT: Thank you. You can put  
10 your hand down.

11 Tell us your true and lawful name,  
12 and spell your last name for the court  
13 reporter, please.

14 THE WITNESS: Richard Blackstone  
15 Webber, II. Webber has two b's,  
16 W-E-B-B-E-R.

17 THE COURT: Thank you.

18 Mr. Keitel, you may proceed.

19 \*\*\*\*\*

20 BY MR. KEITEL:

21 Q. Do you remember receiving a contract  
22 from me for \$5.5 million to purchase a piece  
23 of land at 237 Brazilian Avenue?

24 A. I remember an offer. I don't  
25 remember the exact amount.

1           Q.    If I told you it was 5.5 million,  
2    would that refresh your memory?

3           A.    Sounds about right. You wanted -- I  
4    think the offer was free and clear, when there  
5    was a mortgage on there, so you couldn't have  
6    that. And then you had all of these other  
7    things that you wanted added, I can't remember  
8    what they are now, but none of which I could  
9    do so the contract offer was rejected.

10          Q.    So you rejected the offer on  
11       January 6th for \$5.5 million, correct?

12          A.    Well, you made a \$5.5 million offer  
13       but I believe there was a huge mortgage, multi  
14       millions, can't remember the amount now, and  
15       then you wanted all sorts of causes of action,  
16       and it was also on a piece of property that I  
17       did not own as trustee, I only owned the  
18       management interest, so that it could not have  
19       been a sale even in bankruptcy court.

20          Q.    Okay. And then you turned around  
21       within one month and you accepted an offer for  
22       the same property for \$4 million, correct?

23          MS. GONZALEZ: Objection, leading.

24          THE COURT: If he knows he can  
25       answer.

1                   THE WITNESS: There was another  
2                   offer, Judge, I don't remember the amount.  
3                   It was less than the other but it didn't  
4                   have the contingencies.

5                   BY MR. KEITEL:

6                   Q. Well, the contingencies were that I  
7                   wanted to buy the lawsuit against  
8                   Mr. D'agostino and the property, correct?

9                   MR. GONZALEZ: Objection, leading and  
10                   relevant.

11                   THE COURT: Overruled.

12                   THE WITNESS: You failed in your  
13                   offer to pay the existing mortgage.

14                   So you would have had to offer nine  
15                   or ten million and you offered 5.5, and  
16                   then you wanted to buy some causes of  
17                   action, my recollection, I don't remember  
18                   what causes of action now, and I rejected  
19                   it because the offer was inadequate.

20                   BY MR. KEITEL:

21                   Q. Then why would you sell it for \$4  
22                   million?

23                   A. Trying to see if D'agostino would  
24                   take four on the mortgage.

25                   Q. Well, why would he take four when I

1 offered you \$5.5 million?

2 A. But they also were dealing with the  
3 mortgage.

4 Yeah, and I don't know what they  
5 would take without me floating a (inaudible)  
6 and it was much cleaner than your offer.

7 Q. So your testimony is that you  
8 accepted \$4 million for the property, just the  
9 property itself, but you rejected 5.5 million  
10 from Keitel who wanted to own the property and  
11 the underlying lawsuit which you could be  
12 liable on, correct?

13 A. Well, first of all, I don't  
14 understand the last part of your question.

15 And second --

16 Q. Well, what was -- Keitel was trying  
17 to buy the assets of Florida Capital  
18 Management, which were the corporation that  
19 had a mortgage to Mr. D'agostino that was in  
20 doubt and the underlying property, right?

21 A. Yeah, and you would have had to offer  
22 at least ten million, and then you had causes  
23 of action that you wanted.

24 Q. How would --

25 A. You have to remember, Mr. Keitel,

1 that any sales have to be approved by  
2 Judge Kimball and that all I can do is take it  
3 to him. And at that point Judge Kimball did  
4 not approve the sale at four million and he  
5 definitely would have not approved your offer,  
6 so.

7 Q. Mr. Webber, let me ask you a  
8 question, the mortgage was with -- in a  
9 lawsuit, the final judgment on the mortgage  
10 was \$5,090,000, do you remember that? The  
11 hearing --

12 A. I remember a final judgment of  
13 foreclosure, I don't remember the amounts.

14 Q. Right. And you didn't put up any  
15 defense at all, you let Mr. D'agostino get a  
16 final foreclosure, correct?

17 A. Not asserting any defenses at all  
18 doesn't sound exactly right.

19 I know they got a final judgment of  
20 foreclosure.

21 Q. Okay. And here it is right here,  
22 final judgment of foreclosure before you.

23 \*\*\*\*\*

24 BY MR. KEITEL:

25 Q. Okay. So if there was a judgment for

1        \$5,090,000 for the property and there was a --  
2        legal fees of \$444,000, that's roughly  
3        \$5,500,000, correct?

4            A.    Whatever the math is.

5            Q.    Okay. So if you accepted  
6        Mr. Keitel's offer for \$5.5 million, you could  
7        have paid the D'agostinos and Mr. Keitel would  
8        have owned the land, correct?

9            A.    No. As I told you before, your offer  
10      was not one that could be accepted, and I've  
11      explained that to the Judge.

12          Q.    Well, how did you come up the figure  
13      of eight-or \$9 million that was owed on this  
14      property?

15          A.    Because you told me that's what it  
16      was worth. I think you told me it was worth  
17      \$14 million --

18          Q.    That's your testimony --

19          A.    -- that's how I came up with the  
20      value.

21          Q.    Your testimony today is that you  
22      valued the land, 100 feet by 180 in Palm  
23      Beach, behind my buildings, and I valued the  
24      land at \$14 million?

25          A.    Yep, that's what you told me.

1 Q. That's your testimony.

2 Did you read -- did you read the

3 appraisal I sent you for \$5.5 million when I

4 made the offer for \$5.5 million?

5 A. Don't remember an appraisal. But I

6 do remember you telling me it was worth 14

7 million.

8 Q. It was worth 14 million, okay.

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1 REPORTER'S CERTIFICATE

2 STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

4 I, Sonnia Martinez, Notary Public in and  
5 for the State of Florida at large, that I was  
6 authorized to and did report said remote  
7 hearing in stenotype; and that the foregoing  
pages, numbered from 1 to 10, inclusive, are a  
true and correct excerpt of my shorthand notes  
of said remote hearing.

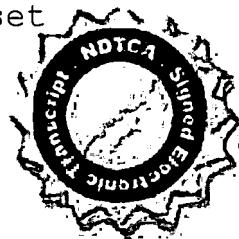
8 I further certify that said remote  
9 hearing was taken at the time and place  
10 hereinabove set forth remotely and that the  
taking of said remote hearing was commenced  
and completed as hereinabove set out.

11 I further certify that I am not an  
12 attorney or counsel of any of the parties, nor  
13 am I a relative or employee of any attorney or  
counsel of party connected with the action,  
nor am I financially interested in the action.

14 The foregoing certification of this  
15 excerpt transcript does not apply to any  
16 reproduction of the same by any means unless  
under the direct control and/or direction of  
the certifying reporter.

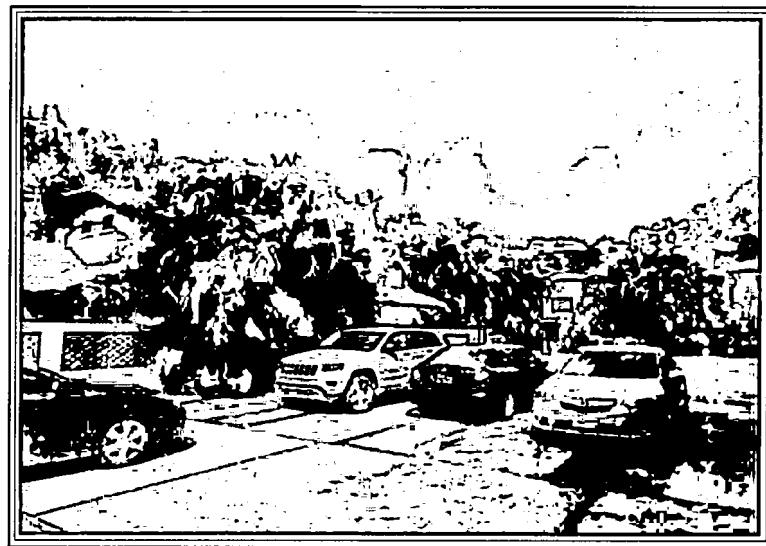
17 IN WITNESS WHEREOF, I have hereunto set  
my hand this 18th day of December, 2020. 

18  
19   
20 Sonnia Martinez



**EXHIBIT “10”**

APPRAISAL OF



LOCATED AT:

237 BRAZILIAN AVENUE  
PALM BEACH, FL 33480

FOR:

HAILE, SHAW & PFAFFENBERGER, P.A.  
660 U.S. HIGHWAY ONE, 3RD FL  
NORTH PALM BEACH, FL33408

BORROWER:

PETER CALLAHAN

AS OF:

October 17, 2016

BY:

ROGER A. FINCH

## LAND APPRAISAL REPORT

File No. 16-3102

Borrower <u>PETER CALLAHAN</u>	Census Tract <u>35.09</u>	Map Reference <u>LAND</u>
Property Address <u>237 BRAZILIAN AVENUE</u>		
City <u>PALM BEACH</u>	County <u>PALM BEACH</u>	State <u>FL</u>
Legal Description <u>ROYAL PARK ADD LOT 3 BLOCK E PLAT BOOK 4 PAGE 1</u>		
Sale Price <u>N/A</u>	Date of Sale <u>N/A</u>	Loan Term <u>  </u> yrs. Property Rights Appraised <input checked="" type="checkbox"/> Fee <input type="checkbox"/> Leasehold <input type="checkbox"/> De Minimus PUD
Actual Real Estate Taxes <u>34729 (15) (yr.)</u>	Loan charges to be paid by seller <u>N/A</u> Other sale concessions	
Lender/Client <u>HAILE, SHAW &amp; PFAFFENBERGER, P.A.</u>	Address <u>660 U.S. HIGHWAY ONE, 3RD FL NORTH PALM BEACH, FL33408</u>	
Occupant <u>VACANT</u>	Appraiser <u>ROGER A. FINCH</u>	Instructions to Appraiser <u>FAIR MARKET VALUE</u>

Location <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Rural	Good <input checked="" type="checkbox"/>	Avg <input type="checkbox"/>	Fair <input type="checkbox"/>	Poor <input type="checkbox"/>
Built Up <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25% to 75% <input type="checkbox"/> Under 25%	Employment Stability <input checked="" type="checkbox"/>			
Growth Rate <input type="checkbox"/> Fully Dev. <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Steady <input type="checkbox"/> Slow	Convenience to Employment <input checked="" type="checkbox"/>			
Property Values <input checked="" type="checkbox"/> Increasing <input type="checkbox"/> Stable <input type="checkbox"/> Declining	Convenience to Shopping <input checked="" type="checkbox"/>			
Demand/Supply <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply	Convenience to Schools <input checked="" type="checkbox"/>			
Marketing Time <input type="checkbox"/> Under 3 Mos. <input type="checkbox"/> 4-6 Mos. <input checked="" type="checkbox"/> Over 6 Mos.	Adequacy of Public Transportation <input type="checkbox"/>			
Present <u>70</u> % One-Unit <u>  </u> % 2-4 Units <u>  </u> % Apts <u>20</u> % Condo <u>10</u> % Commercial	Recreational Facilities <input checked="" type="checkbox"/>			
Land Use <u>  </u> % Industrial <u>  </u> % Vacant <u>  </u> %	Adequacy of Utilities <input checked="" type="checkbox"/>			
Change in Present Land Use <input checked="" type="checkbox"/> Not Likely <input type="checkbox"/> Likely <input type="checkbox"/> Taking Place(*)	Property Compatibility <input checked="" type="checkbox"/>			
(*)From <u>  </u> To <u>  </u>				
Predominant Occupancy <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <u>  </u> % Vacant				
One-Unit Price Range <u>2000</u> to <u>  </u> <u>100M+</u> Predominant Value <u>3.5M</u>				
One-Unit Age <u>NEW</u> yrs. to <u>100</u> yrs. Predominant Age <u>45</u> yrs.				
Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise) APN 50-43-43-23-05-025-0030. SEE THE ADDENDUM FOR NEIGHBORHOOD COMMENTS. PALM BEACH IS A SEASONAL MARKET IN WHICH THE MARKET ACTIVITY INCREASES FROM NOVEMBER TO MAY. THIS IS TYPICAL FOR OTHER SOUTH FLORIDA MARKETS.				

Dimensions <u>100' X 180'</u> SUBJECT TO SURVEY	- <u>18000</u> SQ.FT.	<input type="checkbox"/> Corner Lot
Zoning Classification <u>SINGLE FAMILY R-C</u>	Present Improvements <input checked="" type="checkbox"/>	<input type="checkbox"/> Do <input type="checkbox"/> Do Not Conform to Zoning Regulations
Highest and Best Use <input type="checkbox"/> Present Use <input type="checkbox"/> Other (specify) <u>SITE FOR CONSTRUCTION</u>		
Public <input checked="" type="checkbox"/> Other (Describe) <u>  </u>	Off-SITE IMPROVEMENTS	Topo <u>LEVEL ABOVE ROAD GRADE</u>
Elec. <input checked="" type="checkbox"/>	Street Access <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private	Size <u>LARGER THAN AVERAGE</u>
Gas <input checked="" type="checkbox"/>	Surface <u>ASPHALT</u>	Shape <u>RECTANGULAR</u>
Water <input checked="" type="checkbox"/>	Maintenance <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private	View <u>OTHER HOMES / CONDOMINIUM</u>
San. Sewer <input checked="" type="checkbox"/>	Storm Sewer <input checked="" type="checkbox"/> Curb/Gutter	Drainage <u>APPEARS ADEQUATE</u>
<input type="checkbox"/> Underground Elec & Tel	Sidewalk <input checked="" type="checkbox"/> Street Lights	Property located in a HUD identified Special Flood Hazard Area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments (favorable or unfavorable including any apparent adverse easements, encroachments or other adverse conditions) **THE INTENDED USER IS THE ADDRESSEE. THE INTENDED USE IS FOR INTERNAL USE. FLOOD ZONE AE PANEL # 120220 0002C. SEE THE ADDENDUM FOR SITE COMMENTS.**

The undersigned has recited three recent sales of properties most similar and proximate to the subject and has to be considered these in the market analysis. The description includes a dollar adjustment, reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to, or more favorable than subject property, a minus (-) adjustment is made, thus reducing the indicated value of the subject, if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made, thus increasing the indicated value of the subject.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address <u>237 BRAZILIAN AVENUE</u>	<u>212 CORAL LANE</u>	<u>307 CHILEAN AVENUE</u>	<u>232 CORAL LANE</u>	<u>PALM BEACH, FL 33480</u>
<u>PALM BEACH, FL 33480</u>	<u>PALM BEACH, FL 33480</u>	<u>PALM BEACH, FL 33480</u>	<u>PALM BEACH, FL 33480</u>	
Proximity to subject	<u>1.49 MILES NW</u>	<u>0.16 MILES SW</u>	<u>1.50 MILES NW</u>	
Sales Price \$	<u>4,200,000</u>	<u>1,900,000</u>	<u>3,750,000</u>	
Price \$/Sq. Ft.		<u>\$304</u>		<u>\$268</u>
Data Source	MLS/FIELD	MLS/FIELD	MLS/FIELD	
Date of Sale and Time Adjustment	DESCRIPTION	+(-) Adjust.	DESCRIPTION	+(-) Adjust.
Location	<u>GOOD</u>	<u>04/16 +3%</u>	<u>126,000</u>	<u>2/16 +4%</u>
Site/View	<u>HOMES/CONDO</u>	<u>0</u>	<u>GOOD</u>	<u>INFERIOR+5% \ 0</u>
LOT SIZE	<u>18,000 SQ. FT.</u>	<u>17,040 SQ. FT.</u>	<u>6,250 SQ. FT.</u>	<u>3,231,000</u>
TNHN CAPABLE	<u>YES</u>	<u>NO +5%</u>	<u>210,000</u>	<u>14,000 SQ. FT.</u>
APPROVALS	<u>YES</u>	<u>NO</u>	<u>100,000</u>	<u>1,100,000</u>
Sales or Financing Concessions				
Net Adj. (Total)	<u>(X) +</u> <u>□ -</u>	<u>\$ 925,000</u>	<u>(X) +</u> <u>□ -</u>	<u>\$ 3,632,000</u>
Indicated Value of Subject	<u>Gross Adj: 22.0 %</u>	<u>Net Adj: 22.0 %</u>	<u>Gross Adj: 201.7 %</u>	<u>Net Adj: 191.2 %</u>
	<u>\$ 5,125,000</u>	<u>\$ 5,125,000</u>	<u>\$ 5,532,000</u>	<u>\$ 5,515,000</u>

Comments on Market Data SEE SALE 4 AND THE ADDENDUM FOR THE DISCUSSION OF THE ADJUSTMENTS. MOST WEIGHT WAS PLACED SALES 2-4 IN THE MARKET ANALYSIS SINCE SALE 1 APPEARS TO HAVE SOLD BELOW MARKET BASED ON ALL OTHER INDICATIONS.

Comments and Conditions of Appraisal THE EXISTING STRUCTURES DO NOT CONTRIBUTE TO VALUE.

Final Reconciliation THE SALES COMPARISON APPROACH IS THE ONLY INDICATION OF VALUE FOR A SINGLE FAMILY HOMESITE, UTILIZING THE MARKET ANALYSIS OF COMPARABLE PROPERTIES TO ACCOUNT FOR THE DIFFERENCES IN LOCATIONAL AND PHYSICAL CHARACTERISTICS.

ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE SUBJECT PROPERTY AS OF OCTOBER 17, 2016 TO BE \$ 5,500,000

RECONCILIATION	APPRAYER	SUPERVISORY APPRAISER (if applicable)
Signature	<u>Roger A. Finch</u>	Signature
Name	<u>ROGER A. FINCH</u>	Name
Title		Title
Date Report Signed	<u>10/20/2016</u>	Date Report Signed
State Certification #	<u>CERT RES RD824</u>	State Certification #
State License #		State License #
Expiration Date of Certification or License	<u>11/30/2018</u>	Expiration Date of Certification or License
Date of Inspection	<u>OCTOBER 17, 2016</u>	Did <input type="checkbox"/> Did Not Inspect Property Date of Inspection

## LAND APPRAISAL REPORT

File No. 16-3102

The undersigned has recited three recent sales of properties most similar and proximate to the subject and has to be considered these in the market analysis. The description includes a dollar adjustment, reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to, or more favorable than subject property, a minus (-) adjustment is made, thus reducing the indicated value of the subject, if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made, thus increasing the indicated value of the subject.

ITEM	SUBJECT	COMPARABLE NO. 4	COMPARABLE NO. 5	COMPARABLE NO. 6
Address	237 BRAZILIAN AVENUE PALM BEACH, FL 33480	412 BRAZILIAN AVENUE PALM BEACH, FL 33480		
Proximity to subject		0.23 MILES SW		
Sales Price	\$	\$ 2,200,000	\$	\$
Price \$/Sq. Ft.		\$259		
Data Source	MLS/FIELD			
Date of Sale and Time Adjustment	DESCRIPTION	DESCRIPTION +(-) Adjust.	DESCRIPTION +(-) Adjust.	DESCRIPTION +(-) Adjust.
Location	GOOD	GOOD		
Site/View	HOMES/CONDO	HOMES/CONDO		
LOT SIZE	18,000 SQ. FT.	8,500 SQ. FT.	2,613,000	
TNHN CAPABLE	YES	NO +5%	120,000	
APPROVALS	YES	NO	325,000	
Sales or Financing Concessions				
Net Adj. (Total)		(X) + <input type="checkbox"/> - \$ 3,157,000	(X) + <input type="checkbox"/> - \$ 0	(X) + <input type="checkbox"/> - \$ 0
Indicated Value of Subject		Gross Adj: 143.5% Net Adj: 143.5% \$ 5,357,000	Gross Adj: 0.0% Net Adj: 0.0% \$ 0	Gross Adj: 0.0% Net Adj: 0.0% \$ 0

Comments on Market Data

COMMENTS

**ADDENDUM**

Borrower: PETER CALLAHAN	File No.: 16-3102
Property Address: 237 BRAZILIAN AVENUE	Case No.:
City: PALM BEACH	State: FL
Lender: HAILE, SHAW & PFAFFENBERGER, P.A.	Zip: 33480

**NEIGHBORHOOD COMMENTS**

THE SUBJECT PROPERTY IS LOCATED IN THE TOWN OF PALM BEACH. PALM BEACH IS A BARRIER ISLAND EAST OF THE CITY OF WEST PALM BEACH IN CENTRAL PALM BEACH COUNTY. IT IS BOUNDED TO THE EAST BY THE ATLANTIC OCEAN AND TO THE WEST BY THE INTRACOASTAL WATERWAY, ALSO KNOWN AS LAKE WORTH. THE ISLAND EXTENDS FROM THE LAKE WORTH INLET, FOURTEEN MILES SOUTH TO THE TOWN OF SOUTH PALM BEACH. FOUR BRIDGES PROVIDE ACCESS TO THE ISLAND FROM THE MAINLAND. THE NARROWEST PORTION IS APPROXIMATELY 1/4 MILE WIDE AND INCREASES TO ABOUT 3/4'S OF A MILE WIDE AT THE WIDEST PORTION.

THE NORTHERN PORTION OF THE ISLAND, NORTH OF THE PALM BEACH COUNTRY CLUB LARGELY CONSISTS OF BERMUDA STYLE HOMES BUILT IN THE 1950'S. MANY AREAS SOUTH OF THE PALM BEACH COUNTRY CLUB TO WORTH AVENUE ARE ZONED MULTIPLE FAMILY. HENCE, THESE ARE THE ONLY "IN TOWN" LOCATIONS WHICH CONSISTS OF MULTIPLE FAMILY USES IN ADDITION TO SINGLE FAMILY HOMES. THE AREA SOUTH OF WORTH AVENUE TO SLOAN'S CURVE IS LOCALLY REFERRED TO AS THE "ESTATE SECTION" OF PALM BEACH. THIS AREA PREDOMINANTLY CONSISTS OF 1920'S MEDITERRANEAN OR COLONIAL STYLE MANSIONS ON LARGER THAN AVERAGE LOTS DUE TO THE R-A ZONING. THE AREA SOUTH OF SLOAN'S CURVE TO THE TOWN OF SOUTH PALM BEACH CONSISTS OF HIGHRISE CONDOMINIUMS.

PALM BEACH IS WORLD RENOWNED FOR ITS EUROPEAN ATMOSPHERE AND EXCELLENT SHOPPING AND DINING FACILITIES. SHOPPING IS PROVIDED BY SEVERAL CENTERS, THE MOST FAMOUS OF WHICH IS WORTH AVENUE. LOCATED FIVE BLOCKS SOUTH OF ROYAL POINCIANA WAY, WORTH AVENUE WAS DESIGNED FOR SHOPPING AND STROLLING ALONG IT'S FOUR PALM LINED BLOCKS. THE ESPLANADE ON WORTH AVENUE, A 90,000 SQUARE FOOT SHOPPING MALL FEATURES A SAKS FIFTH AVENUE AND 48 SELECTED SHOPS AND BOUTIQUES. HISTORICALLY, PROPERTIES WITHIN WALKING DISTANCE TO WORTH AVENUE COMMAND PREMIUMS. NEIMAN MARCUS OPENED ON WORTH AVENUE AND THE CITY PLACE SHOPPING AND SOCIAL DEVELOPMENT IN WEST PALM BEACH OPENED IN 2000.

MAR-A-LAGO, THE CROWN JEWEL OF PALM BEACH IS THE LARGEST ESTATE ON THE ISLAND. CONSTRUCTED FROM 1923 TO 1927, THE HOME WAS BUILT BY CEREAL HEIRESS MARJORIE MERRIWEATHER POST AND FINANCIER HUSBAND E.F. HUTTON. THIS NON-CONTIGUOUS OCEAN TO INTRACOASTAL ESTATE CONTAINS 17.5 ACRES. THE MAIN RESIDENCE COMPRISES 34,500 +/- SQUARE FEET PLUS AN ADDITIONAL 35,000 SQUARE FEET IN OUT BUILDINGS. THE ESTATE CONTAINS 118 ROOMS, 52 BEDROOMS AND 32 BATHROOMS. PURCHASED IN 1985 BY DONALD TRUMP, THIS LANDMARKED RESIDENCE WAS CONVERTED INTO A PRIVATE SOCIAL CLUB IN 1995. OTHER PRIVATE CLUBS CONSIST OF THE BATH AND TENNIS CLUB, THE EVERGLADES CLUB, THE PALM BEACH YACHT CLUB, THE SAILFISH CLUB AND THE PALM BEACH COUNTRY CLUB. IN TOWN GOLF COURSES ARE LOCATED AT THE PALM BEACH COUNTRY CLUB, THE BREAKERS RESORT AND THE EVERGLADES CLUB. THERE IS A PUBLIC PAR THREE GOLF COURSE ON THE SOUTHERN END OF THE ISLAND.

**MARKET CONDITIONS**

VALUES INCREASED FROM 2000 TO 2007 AND STABILIZED IN MOST AREAS IN LATE 2008. DECLINES WERE NOTED FROM 2009 TO EARLY 2012 AND STABILIZED IN MID 2012. SINCE THEN, THERE WERE SIGNIFICANT SIGNS OF INCREASE UNTIL THE END OF THE 2016 SEASON WHICH VALUES APPEARED TO BE LEVELING OFF.

**ADDENDUM**

Borrower: PETER CALLAHAN	File No.: 16-3102
Property Address: 237 BRAZILIAN AVENUE	Case No.:
City: PALM BEACH	State: FL
Lender: HAILE, SHAW & PFAFFENBERGER, P.A	Zip: 33480

**COMMENTS ON THE SUBJECT SITE**

THE SUBJECT IS LOCATED BETWEEN ROYAL PALM WAY AND WORTH AVENUE ON THE CENTRAL PORTION OF THE ISLAND WHICH IS A VERY DESIRABLE LOCATION. IN REFERENCE TO THE TAX MAP AND PHOTOS, THE SITE HAS DIMENSIONS OF 100' X 180' AND IS ADJACENT TO A HIGH RISE CONDOMINIUM.

**HIGHEST AND BEST USE**

THE SITE IS CURRENTLY IMPROVED WITH RENTAL UNITS CONSTRUCTED IN 1925. HOWEVER, DUE TO THEIR AGE AND INCREASING LAND VALUES, THE IMPROVEMENTS WERE NOT CONSIDERED TO CONTRIBUTE TO VALUE

THE SITE IS ZONED MULTIPLE FAMILY R-C WHICH REQUIRES MINIMUM SITE SIZE OF 13,333 SQUARE FEET TO CONSTRUCT TWO ATTACHED LUXURY TOWNHOMES WHICH IS A COMMON USE FOR THE IMMEDIATE AREA. TOWNHOME DEVELOPMENT WAS CONSIDERED TO BE THE HIGHEST AND BEST USE FOR THE SUBJECT SITE SINCE THE SITE CONTAINS 18,000 SQUARE FEET.

**LAND VALUE ANALYSIS**

FOUR LAND SALES WERE ANALYZED TO ESTIMATE THE VALUE OF THE SUBJECT SITE. SINCE THIS MARKET IS INCREASING, ALL SALES WERE ADJUSTED UPWARD FOR TIME TO EQUATE THEM TO CURRENT MARKET CONDITIONS. WHILE THE SALES 1 AND 3 ON THE SAME STREET INDICATE A DECLINE IN VALUE WITH REGARDS TO THEIR PRICE PER SQUARE FOOT, THIS IS DUE TO THE IMPERFECTIONS OF THE MARKET. THE TIME ADJUSTMENTS WERE ESTIMATED AT .5% PER MONTH OF THEIR SALE PRICE WHICH WERE APPLIED FROM THEIR SALE DATES, UP TO AND INCLUDING OCTOBER 2016.

THE ADJUSTMENTS FOR LOCATION AND EXPOSURE WERE APPLIED ON A PERCENTAGE BASIS OF THE TIME ADJUSTED SALE PRICES WHICH WERE ROUNDED TO THE NEAREST \$10,000. CONSIDERATION WAS GIVEN TO THE SUBJECTS LOCATION NEXT TO THE BRAZILIAN OF PALM BEACH CONDOMINIUM WHICH WOULD OFFER INFERIOR VIEWS FROM THE HYPOTHETICAL EAST SUBJECT TOWNHOME COMPARED TO AN EXPOSURE TO A SINGLE FAMILY HOME. SALES 1 AND 3 ARE INFERIOR LOCATIONS NORTH OF ROYAL POINICIANA WAY. THE DOWNWARD ADJUSTMENTS FOR VIEW WERE OFFSET BY THEIR INFERIOR LOCATION.

THE LOT SIZE ADJUSTMENTS WERE BASED ON THE DIFFERENCE IN SIZE TIMES \$275 PER SQUARE FOOT.

THE PREMIUM FOR A TOWNHOME CAPABLE LOT WITH REGARDS TO ZONING AND LOT SIZE WAS ESTIMATED AT 5% OF THE TIME ADJUSTED SALE PRICE.

LASTLY, UPWARD ADJUSTMENTS WERE APPLIED FOR THE BUILDING APPROVAL COSTS WHICH WERE STATED TO BE \$325,000 TO DATE FROM THE OWNER.

THE LAND VALUE CONCLUSION OF \$5,175,000 EXCLUSIVE OF \$325,000 PERMITS FEES EQUATES TO \$288 PER SQUARE FOOT WHICH WAS CONSIDERED TO BE REASONABLE COMPARED TO THE OTHER INDICATIONS.

**DEFINITION OF MARKET VALUE:** The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions\* granted by anyone associated with the sale.

\*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the Appraiser's judgment.

#### STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

**CONTINGENT AND LIMITING CONDITIONS:** The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.
6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.
9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.
10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

**APPRAISERS CERTIFICATION:** The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.
2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.
3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and Limiting Conditions specified in this form.
4. I have no present or prospective interest in the property that is the subject to this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.
5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.
6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.
7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.
8. I have personally inspected the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.
9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

**SUPERVISORY APPRAISER'S CERTIFICATION:** If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

**ADDRESS OF PROPERTY APPRAISED:** 237 BRAZILIAN AVENUE, PALM BEACH, FL, 33480

**APPRAISER:**

Signature: Roger A. Finch  
 Name: ROGER A. FINCH  
 Date Signed: 10/20/2016  
 State Certification #: CERT RES RD824  
 or State License #: \_\_\_\_\_  
 State: FL  
 Expiration Date of Certification or License: 11/30/2018

**SUPERVISORY APPRAISER (only if required)**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_  
 State Certification #: \_\_\_\_\_  
 or State License #: \_\_\_\_\_  
 State: \_\_\_\_\_  
 Expiration Date of Certification or License: \_\_\_\_\_

Did  Did Not Inspect Property

SUBJECT PROPERTY PHOTO ADDENDUM

Borrower: PETER CALLAHAN  
Property Address: 237 BRAZILIAN AVENUE  
City: PALM BEACH  
Lender: HAILE, SHAW & PFAFFENBERGER, P.A.

File No.: 16-3102  
Case No.:  
State: FL Zip: 33480



FRONT VIEW OF  
SUBJECT PROPERTY

Appraised Date: October 17, 2016  
Appraised Value: \$ 5,500,000



REAR VIEW OF  
SUBJECT PROPERTY

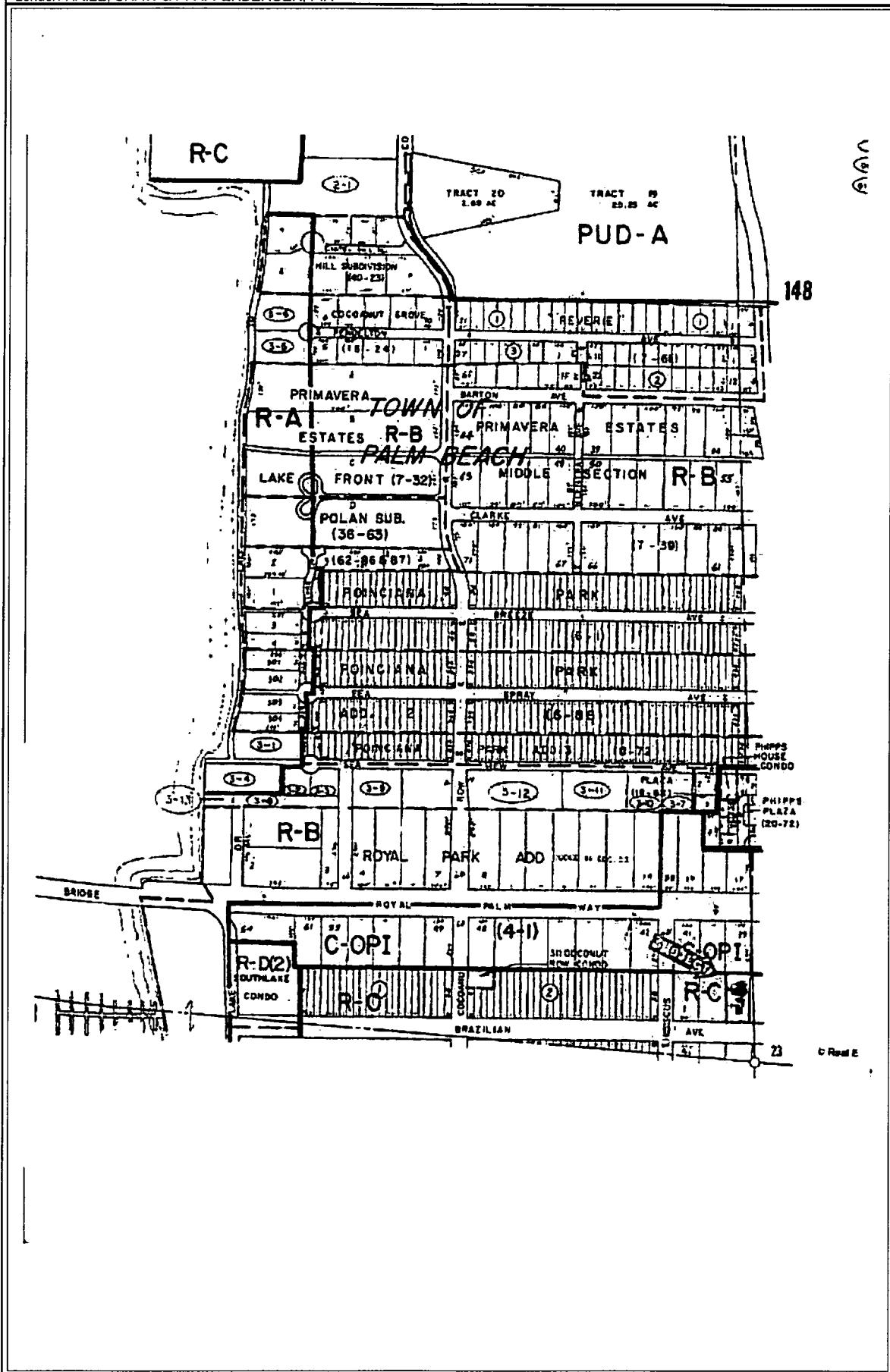


STREET SCENE

## PLAT MAP

Borrower: PETER CALLAHAN  
Property Address: 237 BRAZILIAN AVENUE  
City: PALM BEACH  
Lender: HAILE, SHAW & PFAFFENBERGER, P.A.

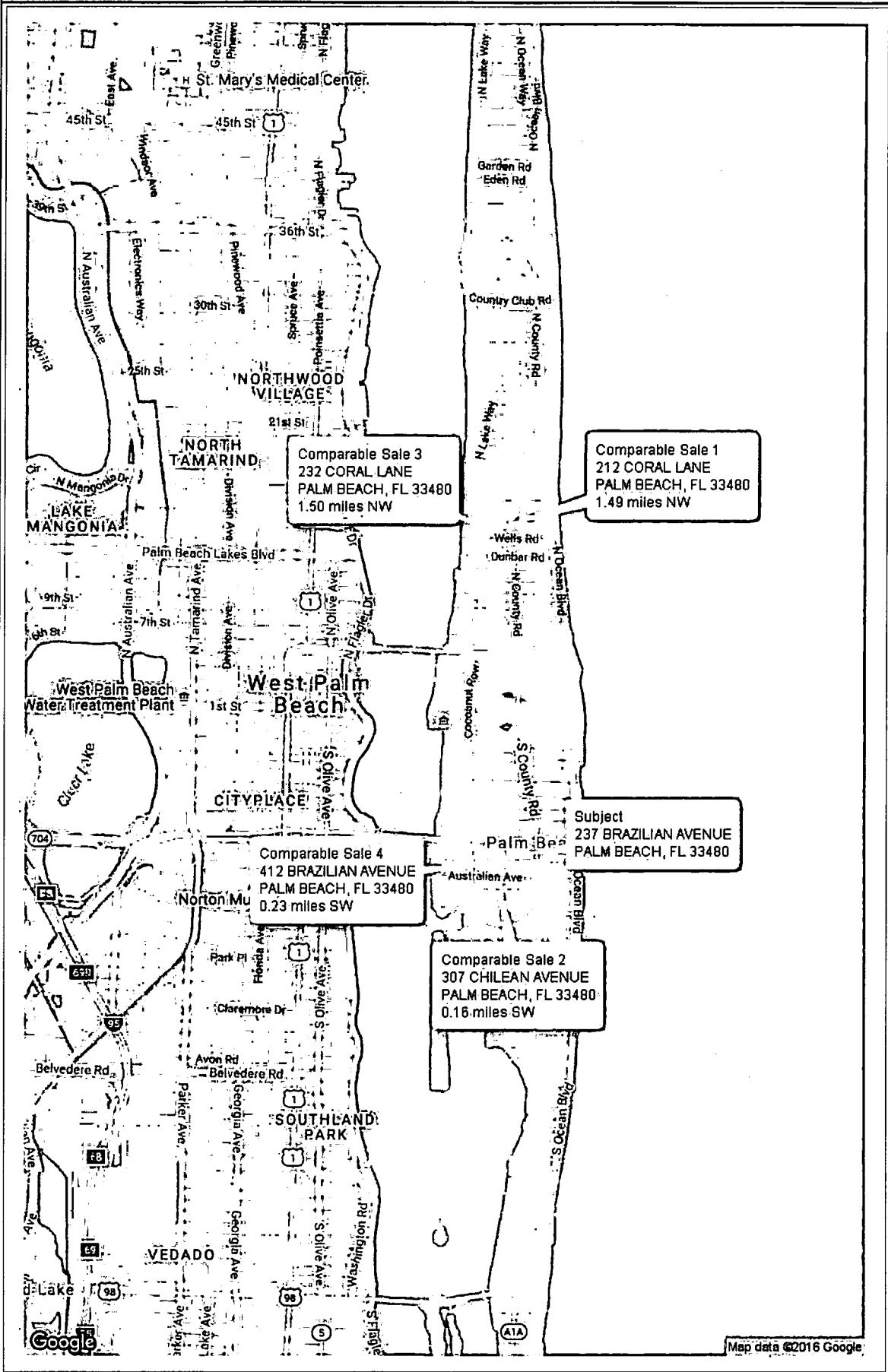
File No.: 16-3102  
Case No.:



LOCATION MAP

Borrower: PETER CALLAHAN  
 Property Address: 237 BRAZILIAN AVENUE  
 City: PALM BEACH  
 Lender: HAILE, SHAW & PFAFFENBERGER, P.A.

File No.: 16-3102  
 Case No.:  
 State: FL Zip: 33480



FINCH APPRAISAL SERVICE, INC.

File No. 16-3102

\*\*\*\*\* INVOICE \*\*\*\*\*

File Number: 16-3102

OCTOBER 20, 2016  
WILTON WHITE  
HAILE, SHAW & PFAFFENBERGER, P.A  
660 U.S. HIGHWAY ONE, 3RD FL  
NORTH PALM BEACH, FL 33408

Borrower : PETER CALLAHAN

Invoice # : 16-3102

Order Date :

Reference/Case # :

PO Number :

237 BRAZILIAN AVENUE  
PALM BEACH, FL 33480

APPRAISAL FEE	\$ 650.00
	\$ -----
Invoice Total	\$ 650.00
State Sales Tax @	\$ -----
Deposit	(\$ ----- )
Deposit	(\$ ----- )
Amount Due	\$ 650.00

Terms: DUE UPON RECEIPT

Please Make Check Payable To:

FINCH APPRAISAL SERVICE, INC.  
4912 BROADSTONE CIRCLE  
WEST PALM BEACH, FL 33417

Fed. I.D. #: 65-1055234

## ZIMMERMAN, KISER &amp; SUTCLIFFE, P.A.

ATTORNEYS AND COUNSELORS AT LAW  
P.O. BOX 3000 ORLANDO, FLORIDA 32802

(407) 425-7010

FED. I.D. #59-2339047

October 13, 2017

RICHARD B. WEBBER II, ESQUIRE  
315 E. ROBINSON STREET, SUITE 600  
ORLANDO, FL 32801Bill Number 282700  
Billed through 10/04/2017V KEITEL, III, FREDERICK J.  
(AP BANKRUPTCY)

11000 00898 RBWT

Balance forward as of bill dated	01/01/1900	\$0.00
Payments received since last bill		\$0.00
Net balance forward		\$0.00

FOR PROFESSIONAL SERVICES RENDERED

03/02/16	BJA	STRATEGIZING WITH TRUSTEE WEBBER RE STATUS OF INSURANCE ISSUES AND POTENTIAL FOR GLOBAL SETTLEMENT	0.20 hrs
11/18/16	RMS	RESEARCH DEBTOR AND ASSETS	3.00 hrs
11/21/16	RBW	REVIEW EMAIL CORRESPONDENCE FROM LARRY GLICK, ATTORNEY FOR THOMAS D'AGOSTINO RE: STATE COURT LITIGATION AND MOTION TO TRANSFER CASE	0.20 hrs
11/21/16	RBW	REVIEWING PLAINTIFF'S MOTION TO TRANSFER CASE (THOMAS D'AGOSTINO)	0.70 hrs
11/21/16	RBW	DRAFT E-MAIL CORRESPONDENCE TO LARRY GLICK, ATTORNEY FOR THOMAS D'AGOSTINO RE: STATE COURT LITIGATION WITH THE DEBTOR; NEW TO THE CHAPTER 7 CASE AND ALL THE LITIGATION; 341 MEETING OF CREDITORS IS SET FOR DECEMBER 19, 2016 AT 1:00 P.M. IN WEST PALM BEACH	0.20 hrs
11/22/16	RBW	TEL CONFS WITH LARRY GLICK AND ERIC CHRISTU, ATTORNEY FOR THOMAS D'AGOSTINO RE: LITIGATION ON THE PLEDGE CASE AND LITIGATION ON THE NOTE CASE AND ADMINISTRATIVE ORDER IN WEST PALM BEACH AND CONSOLIDATION BEFORE SAME JUDGE AND SAME DIVISION AND HEARING AND TIMING IN THAT REGARD ALSO DISCUSSED	0.50 hrs
11/22/16	BJA	REVIEW AND REVISE DECLARATION OF PROPOSED ATTORNEY IN SUPPORT OF APPLICATION TO EMPLOY	0.10 hrs
11/22/16	RMS	DRAFTING AND FILING APPLICATION TO EMPLOY ZKS,	1.50 hrs

V KEITEL, III, FREDERICK J.

Bill No. 282700

Page 2

		NOTICE OF HEARING, AND CERTIFICATE OF SERVICE	
11/28/16	RBW	TEL CONFS WITH ROBERT FURR RE: RECEIVED MY LETTER AND NEED AGREED COURT ORDER TO DISBURSE FUNDS FROM ESCROW TO ME AS TRUSTEE	0.20 hrs
11/28/16	RBW	REVIEW EMAIL CORRESPONDENCE FROM ROBERT FURR RE: \$305,958.81 IN TRUST ACCOUNT AND AGREED ORDER FOR TURNOVER DISCUSSED IN THAT REGARD	0.10 hrs
11/28/16	RBW	REVIEW EMAIL CORRESPONDENCE FROM THE DEBTOR RE: MOTION TO TRANSFER AND THOMAS D'AGOSTINO LITIGATION ALSO DISCUSSED	0.20 hrs
11/30/16	RMS	DRAFTING AGREED MOTION FOR TURNOVER OF FUNDS HELD BY FURR & COHEN	1.10 hrs
12/01/16	RBW	REVIEW, DRAFT AND REVISE AGREED MOTION FOR TURNOVER OF PROPERTY OF THE ESTATE	0.30 hrs
12/01/16	RBW	DRAFT E-MAIL CORRESPONDENCE TO ROBERT FURR RE ATTACHED AGREED MOTION FOR TURNOVER OF PROPERTY OF THE ESTATE	0.20 hrs
12/01/16	RBW	REVIEW DEBTOR'S MOTION FOR REHEARING OF ORDER CONVERTING CASE TO CHAPTER 7 CASE	0.40 hrs
12/01/16	RBW	REVIEW PROOF OF CLAIM 4-1	0.60 hrs
12/02/16	RBW	CONFERENCE CALL WITH DEBTOR, RICK KEITEL, ATTORNEY JAROLEM AND RENEE SCHOHL, TRUSTEE PARALEGAL, RE HEARING ON MONDAY, DECEMBER 5, 2016 BEFORE CIRCUIT COURT JUDGE SASSER IN WEST PALM BEACH AND 341 MEETING OF CREDITORS ON DECEMBER 19, 2016 AT 1:00 PM AND THE DOCUMENTS REQUESTED FOR REVIEW PRIOR TO HEARINGS AND THE 341 MEETING OF CREDITORS ALSO DISCUSSED	1.00 hrs
12/02/16	RBW	REVIEW APPRAISAL OF 237 BRAZILIAN AVENUE, PALM BEACH, FLORIDA	0.40 hrs
12/02/16	RBW	REVIEW E-MAIL CORRESPONDENCE FROM DEBTOR RE DEVELOPMENT AND PLANS FOR 237 BRAZILIAN AVENUE, PALM BEACH, FLORIDA	0.10 hrs
12/02/16	RBW	REVIEW D'AGOSTINO MOTION TO TRANSFER COMPANION CASE (NOTE TO PLEDGE CASE DIVISION)	1.40 hrs
12/02/16	RBW	REVIEW KEITEL RESPONSE TO MOTION TO TRANSFER COMPANION CASE	1.10 hrs
12/05/16	RBW	PREPARE FOR HEARINGS ON D'AGOSTINO MOTION TO TRANSFER COMPANION CASE (NOTE CASE TO PLEDGE CASE DIVISION) AND KEITEL'S RESPONSE TO D'AGOSTINO MOTION TO TRANSFER COMPANION CASE	1.30 hrs
12/05/16	RBW	ATTEND HEARINGS VIA TELEPHONE WITH CIRCUIT COURT JUDGE SASSER IN WEST PALM BEACH, FLORIDA ON UMC CALENDAR (HEARING WAS CONCLUDED WITH NO RULING WHEN THE JUDGE LEFT THE BENCH)	0.20 hrs
12/05/16	RBW	DRAFT E-MAIL CORRESPONDENCE TO ATTORNEY RICHARD JAROLEM, ATTORNEY FOR FCM, RE REQUEST FOR	0.20 hrs

ACCOUNTING ON D'AGOSTINO AND KEITEL DEBTS AND PAYMENTS OVER THE YEARS VIA E-MAIL AS DISCUSSED LAST FRIDAY ON THE CONFERENCE CALL STATUS REQUESTED

12/07/16	RBW	PREPARE FOR HEARING ON TRUSTEE'S APPLICATION TO EMPLOY ATTORNEY FOR TRUSTEE NUNC PRO TUNC TO NOVEMBER 17, 2016	0.40 hrs
12/07/16	RBW	REVIEW OBJECTION TO TRUSTEE'S APPLICATION TO EMPLOY ATTORNEY FOR TRUSTEE NUNC PRO TUNC TO NOVEMBER 17, 2016 BY DEBTOR	0.40 hrs
12/07/16	RBW	ATTEND HEARING VIA COURT CALL ON TRUSTEE'S APPLICATION TO EMPLOY ATTORNEY FOR TRUSTEE NUNC PRO TUNC TO NOVEMBER 17, 2016 AND OBJECTION BY DEBTOR AND DISCOVERY DISPUTE HEARING AS WELL	1.10 hrs
12/07/16	RBW	REVIEW OBJECTION TO DEBTOR'S MOTION TO RECONSIDER ORDER DENYING MOTION TO COMPEL ANSWERS TO DEPOSITION QUESTIONS BY D'AGOSTINO	0.30 hrs
12/07/16	BJA	ANALYZING DEBTOR'S OBJECTION TO TRUSTEE'S APPLICATION TO EMPLOY BRADLEY ANDERSON AS ATTORNEY FOR TRUSTEE	0.20 hrs
12/08/16	RBW	REVIEW DEPOSITION EXCERPTS FROM ROBERT KING DATED JULY 11, 2016	0.30 hrs
12/08/16	RBW	REVIEW FOURTH DISTRICT COURT OF APPEALS OPINION IN KEITEL V. D'AGOSTINO DATED OCTOBER 8, 2014 (INVOLVING CIRCUIT COURT JUDGE SASSER)	0.20 hrs
12/08/16	RBW	REVIEW THIRD AMENDED PLAN OF REORGANIZATION	0.30 hrs
12/08/16	RBW	REVIEW 5TH AMENDED DISCLOSURE STATEMENT	1.10 hrs
12/08/16	RBW	REVIEW E-MAIL CORRESPONDENCE FROM LARRY GLICK, ATTORNEY FOR D'AGOSTINO, RE EXHIBITS FOR NEXT WEEK'S HEARING ON ORDER CONVERTING CASE TO CHAPTER 7 IN WEST PALM BEACH AND GENERAL LITIGATION DISCUSSION RE SAME	0.10 hrs
12/08/16	RBW	DRAFT E-MAIL CORRESPONDENCE TO LARRY GLICK, ATTORNEY FOR D'AGOSTINO: RE I WILL ATTEND DECEMBER 15, 2016 HEARING IN WEST PALM BEACH, FLORIDA; E-MAIL ME EXHIBIT LIST AND WITNESS LIST FOR NOW AND HAVE A BINDER OF ALL THE EVIDENCE IN COURT WITH ALL THE PAPER EXHIBITS FOR MY REVIEW	0.30 hrs
12/08/16	RBW	REVIEW PROOF OF CLAIM FILED BY MCDONAL HOPKINS, LLC (\$14,912.81)	0.20 hrs
12/12/16	RBW	DRAFT E-MAIL CORRESPONDENCE TO ATTORNEY JAROLEM RE ACCOUNTING FOR D'AGOSTINO DEBT AND KEITEL PAYMENTS REQUESTED FOR A SECOND TIME	0.10 hrs
12/12/16	RBW	REVIEW RENEWED MOTION FOR ORDER ALLOWING RELEASE OF TAPE RECORDINGS AND REQUEST FOR EXPEDITED HEARING	0.10 hrs
12/12/16	RBW	REVIEW AND CALENDAR NOTICE OF HEARING ON RENEWED MOTION FOR ORDER ALLOWING RELEASE OF TAPE	0.10 hrs

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**EXHIBIT “11”**

Case 15-21654-EPK Doc 414 Filed 11/17/16 Page 1 of 1

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

In re:

CASE NO.: 15-21654 BKC-EPK

CHAPTER 7

FREDERICK J. KEITEL III

Debtor(s) /

NOTICE OF APPOINTMENT OF CHAPTER 7 TRUSTEE

Pursuant to 11 U.S.C. Section 701, Richard B. Webber II is hereby appointed as Trustee in the above referenced case and is hereby designated to preside at the meeting of creditors. The Trustee shall serve under the bond heretofore approved.

Dated: November 17, 2016

Guy G. Gebhardt  
Acting United States Trustee  
Region 21

by: 

STEVEN A. TURNER  
Assistant United States Trustee

Office of the United States Trustee  
51 S.W. First Avenue  
Suite 1204  
Miami, FL 33130  
(305) 536-7285

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## **EXHIBIT “12”**

**FREDERICK J. KEITEL, III**  
P.O. Box 3243  
PALM BEACH, FL 33480  
(561) 310-6864  
[rickkeitel@aol.com](mailto:rickkeitel@aol.com)

November 30, 2016

**VIA HAND-DELIVERY & FAXSIMILE**

The Honorable K. Michael Moore, Chief Judge  
United States District Court, Southern District of Florida  
400 N. Miami Avenue, Room 13-1  
Miami, Florida 33128

The Honorable Wifredo A. Ferrer, United States Attorney  
United States Attorney's Office  
99 N.E. 4th Street  
Miami, Florida 33132

Clifford J. White, III – Director  
Executive Office for the United States Trustee  
Office of Criminal Enforcement  
441 G Street, N.W., Suite 6150  
Washington, D.C. 20530

**Re: (1) In Re: Frederick J. Keitel, III, Case No.: 15-21654**

**(2) Judge Hyman's Orders to Investigate Robert Furr's Threats and Allegations of Public Corruption and Case Fixing Involving U.S. Trustee Heidi Feinman, Attorney Robert Furr of Furr & Cohen, P.A., and Which May Also Involve the Chief Judge of the United States Bankruptcy Court for the Southern District of Florida**

**(3) Obstruction of Justice by U.S. Trustees Ariel Rodriguez and Steven Turner**

**(4) Violation of Judge Hyman's Specific Order by U.S. Trustee Steven Turner**

**(5) Removal of Judge Erik Kimball for Obstruction of a Criminal Investigation<sup>1</sup>**

Dear Judge Moore, Mr. Ferrer, and Mr. White:

---

<sup>1</sup> See United States Department of Justice, Executive Office for United States Trustees; Report to Congress: Criminal Referrals by the United States Trustee Program Fiscal Year 2015 (April, 2016).

This letter is a request to remove Bankruptcy Judge Erik Kimball immediately and have the United States Attorney's Office investigate corruption and case fixing by U.S. Trustee, Heidi Feinman ("Feinman") and attorney Robert Furr ("Furr"), as per the July 13, 2016 order of the Honorable Paul G. Hyman, Chief Judge of the United States Bankruptcy Court for the Southern District of Florida (transcript attached).

It has been five (5) months since Judge Hyman ordered an investigation and nine (9) months since I first complained to Feinman that attorney, Robert Furr of Furr & Cohen, P.A., made threats to me in January of 2016 regarding the fixing of my case and extortion of fees with the assistance of herself, the U.S Trustee's Office, and Bankruptcy Judge Hyman (Furr also implicated Judge Kimball and the U.S. Trustee's Office, but at the time, Judge Kimball was not on my case).

The U.S. Trustee's Office, including but not limited to U.S. Trustees Heidi Feinman, Steven Turner, and Ariel Rodriguez, along with Judge Kimball, has done everything possible to impede, obstruct, delay and cancel Judge Hyman's order to investigate Robert Furr's criminal threats, extortion, and case fixing involving Feinman, the U.S. Trustee's Office, and Judges Hyman and Kimball. Their actions are intended to punish and retaliate against me for my whistleblower complaint.

#### **Furr's Allegations of Case Fixing and Corruption**

On July 13, 2016, in response to statements made by Shutts & Bowen lawyer, Larry Glick, devised to disqualify Paul G. Hyman, Jr., Chief Judge of the United States Bankruptcy Court for the Southern District of Florida ("Judge Hyman"), Judge Hyman issued a specific Order to Assistant U.S. Trustee, Steven Turner, to initiate an investigation into allegations of corruption and case fixing involving attorney Robert Furr, and U.S. Trustee Heidi Feinman, as a result of legally recorded threats and extortion by Robert Furr (see transcript of 7-13-16 hearing before Judge Hyman).

Judge Hyman directed Mr. Turner to refer the matter to an outside office of the U.S. Department of Justice free from conflict of interest, or, if necessary, the U.S. Attorney General's Office, due to the fact that Heidi Feinman, Steven Turner (and Ariel Rodriguez), all U.S. Trustees, co-workers, and friends:

**THE COURT: Mr. Turner, I hereby instruct you to investigate Mr. Furr, Ms. Feinman, and to the extent you need to investigate me, to do so, in order to ascertain whether there are grounds to refer this matter to the U.S. Attorney's Office. Do not hesitate to come, have whomever interview me.**

**MR. TURNER: Judge, I'm going to have to -- obviously, I understand. I'm writing it down about the investigation. If it involves one of the attorneys in our own office, it may be something that's outside of the local offices.**

**THE COURT: Good point. The same reason I'm recusing**

myself.

**MR. TURNER: I understand, Your Honor.**

**THE COURT: -- I guess what I'm really instructing you, to do whatever is appropriate in order to investigate the matter.**

**THE COURT: -- And part of the investigation will be, Mr. Keitel giving factual basis for those allegations.**

**THE COURT: -- I want you to put in all the testimony concerning the alleged conversations, so that whoever is going to investigate this thing has the basis of being what they should be investigating.**

(P. 54, L. 18-25; P. 55, L. 1, 4-15; P. 57, L. 11-13; P. 58, L. 1-4, Excerpt of Hearing – July 13, 2016, at 9:30 a.m., ECF #208, 209, 194, 235, attached hereto).

**Furr Was Recorded After Multiple Threats to Extort Fees, Refusing to Be Fired, and Threatening to Use Feinman and the Court to Fix the Case**

Judge Hyman ordered the investigation as a result of threats and allegations by Robert Furr, of Furr & Cohen, P.A., one of the highest paid, well-connected, distinguished bankruptcy firms and court appointed trustees in South Florida as well as confidants of U.S. Bankruptcy Judges Hyman and Kimball. Some of Furr's legally recorded threats shock the conscience, and raise serious criminal and ethical questions that Judge Hyman ordered to be investigated. Yet, despite Judge Hyman's direct order on July 13, 2016 (nearly five months ago), neither Assistant U.S. Attorney Steven Turner nor DOJ Trial Attorney Ariel Rodriguez have contacted me. Instead, they have attempted to bury the investigation with the aid of Judge Kimball. Their lack of action constitutes a willful obstruction of justice and attempt to quash any investigation.

**On March 16, 2016, Keitel Informed U.S. Trustee Heidi Feinman that Furr Had Been Making Threats Involving Her and Requested that She Recuse Herself**

On March 10, 2016, I gave notice of these threats to U.S. Trustee Heidi Feinman, who not only refused to investigate, but informed Furr and Judge Hyman, remained on the case despite her own conflicts, to protect Furr, herself, and the Court.

**Furr and Feinman Get Judge Hyman to Seal the Tapes to Prevent Criminal Investigations By the Palm Beach Police and Palm Beach County State Attorney's Office**

After being informed that I was contacting law enforcement to file a complaint, Mr. Furr stated that his "friends" could squash any investigation by the State Attorney's Office and he then immediately contacted Ms. Feinman. On April 8, 2016, Furr and Furr & Cohen, P.A., in coordination with the U.S. Trustee, filed a Motion to Convert and/or Appoint a Trustee in order to seize my assets in retaliation for my whistleblower allegations of corruption and case fixing by Furr, the U.S. Trustee's Office, and the Court. Furr then caused three creditors (all of whom previously filed fraudulent claims) to join him in

moving Judge Hyman to convert the case to Chapter 7 in an effort to quash any criminal investigation.

Furr also filed a motion to quash the tape recording, in an effort to prevent anyone from hearing its contents and to have a trustee appointed for immediate control of the tape.

The Palm Beach Police and State Attorney's Office investigation was quashed and placed on hold by Judge Hyman's order sealing the tape in order to protect Furr's criminal conduct, as well as Feinman and the U.S. Trustee's Office.

On July 11, 2016, I filed a Motion for Order Allowing Release of Tape Recordings to the Palm Beach Police and State Attorney's Office (attached hereto) so that they may be provided to the Palm Beach Police and other law enforcement agencies for a criminal investigation of Furr's threats.

#### **Furr's Second Attempt to Extort Fees and Cause the U.S. Trustee's Office and Judge Hyman to Engage in Case Fixing**

On July 13, 2016, Furr and his partner, Charles Cohen, of Furr & Cohen, P.A., notified me that they could secure Judge Hyman's help to quash the Motions to Convert and/or Appoint a Trustee [ECF 194], as well as the joinder motions [ECF 208 and 209] for a payment of "fees" in the amount of \$30,000.00 and the turning over of the incriminating tape recording referenced in Judge Hyman's sealing Order [ECF 235].

Furr further advised me on July 13, 2016, in the courthouse conference room, that Judge Hyman and the U.S. Trustee's Office would dismiss Furr's Motion to Convert or Appoint a Trustee, as well as the joinder motions he obtained from the D'Agostino Creditors. In exchange for the payment, Furr agreed to drop his Motion to Convert. Furr guaranteed that Judge Hyman would dismiss the Motion to Convert and deny the Creditors' joint motions to convert as well, or he would not be paid the \$30,000.00 settlement.

#### **Furr's Testimony on April 7 and September 29, 2016 is False and Contrary to Legally Recorded Threats**

On September 29, 2016, and April 7, 2016, Mr. Furr gave two depositions. A copy of the transcripts, which clearly prove Furr lied under oath, will be provided to the U.S. Attorney's Office for investigation of perjury.

#### **Judge Hyman Recognized That U.S. Trustee Steven Turner (and Therefore U.S. Trustee Ariel Rodriguez) Had Conflicts of Interest and Should Have Recused Themselves and Referred the Matter to the Department of Justice**

It is clear from Judge Hyman's own orders that U.S Trustee Turner (as well as Rodriguez and the local U.S. Trustee's Office) should have been disqualified due to their conflicts of interest (see Judge Hyman's comments above about referral to an outside office). Instead, they filed a Motion to Convert in an effort to discredit me, obstruct justice, and prevent an investigation into Furr's incriminating comments made directly to me (some

of which were taped) in order to protect Furr, U.S. Trustee Feinman, Judge Hyman, and the Court in West Palm Beach.

In particular, Furr said that he could get U.S. Trustee Feinman to do whatever he wanted and that Judge Hyman would approve it. In other conversations, he bragged about his influence over Judges Hyman and Kimball.

During a legally recorded conversation, after he was fired as counsel, Furr can be heard screaming that there will be a “fucking” trustee brought into the case to take control away from me, that I will let him handle all matters or “fuck you”, and that I might as well put a gun to my head and kill myself.

Assistant U.S. Trustee Ariel Rodriguez is acting unprofessionally, should have recused himself per Judge Hyman’s order, and his Motion to Convert is a transparent attempt to retaliate against me, as well as impede and obstruct the investigation, with the help of Judge Kimball, for my whistleblower allegations of corruption.

At the time of the filing of my case, my companies and their assets were valued at over \$50,000,000.00, with debt of less than \$25,000,000.00, and I agreed to pay 100 cents on the dollar immediately.

The retaliation by Judge Kimball and the Office of the U.S. Trustee against me will result in the loss of between \$12,000,000.00 and \$20,000,000.00, trigger millions of dollars in long term capital gains, forego the malpractice action against Furr and Furr & Cohen, P.A., and squander \$6,000,000 in profits from the development of the 2 townhouses I have ready to begin in November, 2016.

#### **Judge Kimball and the U.S. Trustee’s Office Conspired to Impede and Obstruct the Criminal Investigation**

The actions of Judge Kimball and the Office of the U.S. Trustee were intentionally designed to retaliate against me for whistleblowing, obstruct justice by killing the corruption investigation ordered by Judge Hyman, and bury the tape recordings containing the criminal threats uttered by Furr.

As a result, the actions of Judge Kimball, U.S. Trustee Turner and U.S. Trustee Rodriguez should be investigated for corruption, obstruction of justice, using their public judicial and trustee positions to shield friends and co-workers from prosecution, and violation of court orders.

I would respectfully request that you:

- 1) Enforce Judge Hyman’s original orders set forth on July 13, 2016, and remove Judge Kimball, U.S. Trustee Ariel Rodriguez, and U.S. Trustee Steven Turner, immediately;

- 2) Assign this matter to an outside office of the Department of Justice;
- 3) Refer this matter to the U.S Attorney General's Office and the Federal Bureau of Investigation for a formal investigation into corruption, criminal threats, extortion, and case fixing; and
- 4) Investigate the actions of Robert Furr, U.S. Trustees Heidi Feinman, Steven Turner, and Ariel Rodriguez, as well as Judge Kimball; and 5) Investigate Judge Hyman's actions to seal the tape in an effort to prevent a criminal investigation into Furr's threats and the extent of the involvement of the U.S. Trustee's Office.

I will immediately provide the U.S. Attorney's Office and FBI with all of the evidence that the U.S. Trustee's Office refuses to investigate, including but not limited to, the legally recorded tape of Furr's threats.

Thank you in advance for your prompt responses.

Respectfully,

FREDERICK J. KEITEL, III  
FJK/jso  
Enclosures

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Federal Bureau of Investigation  
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Miramar, FL 33027  
(754) 703-2000

The Honorable Jorge Labarga, Chief Justice  
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1 UNITED STATES BANKRUPTCY COURT	1
2 SOUTHERN DISTRICT OF FLORIDA	2 INDEX
3 Judge Paul G. Hyman, Jr.	3 PAGE
4	4
5 In Re:	5 WITNESS: ROBERT FURR
6	6 DIRECT EXAMINATION BY MR. GLICK ----- 22
7	7
8 FREDERICK J. KEITEL, III,	8 WITNESS: FREDERICK KEITEL, III
9 Debtor.	9 DIRECT EXAMINATION BY MR. GLICK ----- 29
10	10 DIRECT EXAMINATION BY MR. CHRISTU ----- 44
11	11
12 ECF #208, 209, 194, 235	12
13	13
14	14
15 July 13, 2016	15
16	16
17	17
18 The above entitled cause came on for hearing before	18
19 the HONORABLE PAUL G. HYMAN, JR., the Chief Judge in	19
20 the UNITED STATES BANKRUPTCY COURT, in and for the	20
21 Drive, West Palm Beach, Palm Beach County, Florida, on	21
22 July 13th, 2016, commencing on or about 9:30 a.m., and	22
23 the following proceedings were had:	23
24	24
25 Transcribed from a digital recording by: Jacquelyn Ann Jones, Court Reporter	25

Page 2	Page 4
1 APPEARANCES:	1 THE COURT: Good morning. Please be seated.
2 SHUTTS & BOWEN, LLP	2 Keitel. Appearances for the record.
3 By: LARRY GLICK, ESQUIRE	3 MR. KEITEL: Your Honor, on behalf of the
4 ERIC CHRISTU, ESQUIRE	4 Debtor Keitel.
5 On behalf of Thomas D'Agostino, Sr.	5 THE COURT: Thank you.
6 BRIAN K. MCMAHON, P.A.	6 MR. COHEN: Charles Cohen on behalf of Furr
7 By: BRIAN MCMAHON, ESQUIRE	7 and Cohen. And Mr. Furr is here as well.
8 On behalf of Frederick Joseph Keitel, III	8 THE COURT: Thank you.
9 LAW OFFICE OF FREDERICK JOSEPH KEITEL, III	9 MR. GLICK: Larry Glick on behalf of Thomas
10 By: FREDERICK J. KEITEL, III, ESQUIRE	10 D'Agostino, Sr. And with me in Eric Christu and John
11 FURR & COHEN, P.A.	11 Hart.
12 By: CHARLES COHEN, ESQUIRE	12 THE COURT: Thank you.
13 ROBERT FURR, ESQUIRE	13 MS. RIES: Heather Ries on behalf of
14 On behalf of Furr & Cohen	14 Jonathan D'Agostino, Thomas D'Agostino, Jr., Tee Jay
15 FOX ROTHSCHILD, LLP	15 and FJK-Tee Jay.
16 By: HEATHER RIES, ESQUIRE	16 THE COURT: Thank you. And Mr. Turner,
17 On behalf of Jonathan D'Agostino,	17 I think you're on the phone?
18 Thomas D'Agostino, Jr., FJK-Tee Jay	18 MR. TURNER: -- Your Honor.
19 U.S. DEPARTMENT OF JUSTICE	19 THE COURT: Say it again, Mr. Turner, there
20 U.S. TRUSTEE OFFICE	20 was a lag.
21 By: STEVEN R. TURNER, ESQUIRE	21 MR. TURNER: Yes, sir, Your Honor. Steven
22	22 Turner, on behalf of the United States Trustee's
23	23 Office.
24	24 THE COURT: Okay. Thank you.
25	25 Where are we, gentlemen, and lady?

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1 THE COURT: Sustained. You've done enough.  
 2 Anything else?  
 3 THE WITNESS: Can I answer that question?  
 4 THE COURT: Nope. Not when your attorney  
 5 objects.  
 6 MR. CHRISTU: Your Honor, may I provide you,  
 7 if you'd like, copies of the documents I just --  
 8 THE COURT: I assume they're within your  
 9 judicial notice request.  
 10 MR. CHRISTU: We did the judicial notice, it  
 11 was sort of -- I mean, there's many, many pleadings in  
 12 there.  
 13 THE COURT: Did you understand what I just  
 14 said?  
 15 MR. CHRISTU: Yes.  
 16 THE COURT: Are they within your request for  
 17 judicial notice? You filed it, don't you know --  
 18 MR. CHRISTU: I believe it was all  
 19 pleadings, so in that sense, it is. But I just don't  
 20 know that Your Honor is going to be able to just kind  
 21 of --  
 22 MR. GLICK: Your Honor, let me try and  
 23 answer that question directly, and the reason why  
 24 we're having trouble answering it.  
 25 We put in the entire case file on three

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1 be transferred to Judge Kimball.  
 2 And Mr. Turner, you started to say  
 3 something?  
 4 MR. TURNER: Judge, I'm going to have to --  
 5 obviously, I understand. I'm writing it down about  
 6 the investigation. If it involves one of the  
 7 attorneys in our own office, it may be something  
 8 that's outside of the local offices.  
 9 THE COURT: Good point. Same way -- the  
 10 same reason I'm recusing myself.  
 11 MR. TURNER: I understand, Your Honor.  
 12 THE COURT: I forgot that. So do  
 13 whatever -- I guess what I'm really instructing you,  
 14 to do whatever is appropriate in order to investigate  
 15 the matter. Because it should -- if I granted the  
 16 motion, I don't want me to be, my reputation to be  
 17 harmed by there being allegations I, for some reason,  
 18 fixed the case.  
 19 MR. TURNER: I can understand that, Your  
 20 Honor, and that's why I'm on the phone today on this  
 21 matter. And I was going to assign it to another  
 22 attorney in the office anyway, based on the, you know,  
 23 allegations, just simply for the same reason you're  
 24 talking about, to have the impartiality. So yes, sir,  
 25 I understand that.

Page 54

1 cases, some of which had exhibits from the State Court  
 2 proceedings. We also attached certain recent State  
 3 Court proceedings, which I can tell you, is not one of  
 4 the ones that Mr. Christu just referred to.  
 5 The reason I can't answer the question  
 6 directly, is because I don't know for certain whether  
 7 or not it was attached as an exhibit from one of the  
 8 bankruptcy cases.  
 9 So I think the request, Your Honor, would be  
 10 be that if it's not there, that we supplement the  
 11 judicial notice after the hearing, if these are, you  
 12 know, publicly filed documents.  
 13 THE COURT: Okay. Anything else?  
 14 MR. CHRISTU: No, Your Honor.  
 15 THE COURT: Let me tell you my dilemma. And  
 16 I'm going to end the hearing now. There's been  
 17 allegations that I, personally, am case fixing.  
 18 Mr. Turner, I hereby instruct you to  
 19 investigate Mr. Furr, Ms. Feinman, and to the extent  
 20 you need to investigate me, to do so, in order to  
 21 ascertain whether there are grounds to refer this  
 22 matter to the U.S. Attorney's Office. Do not hesitate  
 23 to come, have whomever interview me.  
 24 But based on these allegations, I hereby  
 25 recuse myself and transfer the case -- the case will

Page 56

1 THE COURT: For the record, I don't fix any  
 2 cases. Anyone who thinks I don't call it the way I  
 3 see it, hasn't appeared in front of me. But with the  
 4 allegations, I have no choice, I believe.  
 5 MR. MCMAHON: I have a question. I know  
 6 Judge Kimball had this case. I don't know if it was  
 7 referred to you because of the affiliated cases or  
 8 not. Do you know --  
 9 THE COURT: I don't know the answer to that.  
 10 MR. MCMAHON: I just wanted to --  
 11 THE COURT: Judge Kimball and I haven't  
 12 talked about the case.  
 13 MR. MCMAHON: No, no. But I don't know if  
 14 it was referred because they were related to the other  
 15 ones, and you had the lower number, is the only  
 16 thing.  
 17 THE COURT: I'll bet you that -- my guess  
 18 is, that's it.  
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 21 THE COURT: Judge Kimball, when it's  
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 23 for him to handle it, it will go to either Judge Ray  
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 25 because of the nature of the allegations, and frankly,

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21 THE COURT: Judge Kimball, when it's  
22 transferred to him, if he thinks it's inappropriate  
23 for him to handle it, it will go to either Judge Ray  
24 or Judge Olson. So frankly, I have no other choice,  
25 because of the nature of the allegations, and frankly,

Page 57

1 the e-mails.  
 2 MR. TURNER: Although honestly, Your Honor,  
 3 it's kind of difficult, based on the limited  
 4 information that was provided, based on the sentence  
 5 or two in that particular e-mail that was attached as  
 6 an exhibit, really to understand what the debtor's  
 7 allegations are with regard to case fixing. It's just  
 8 making that broad allegation, but not indicating  
 9 exactly how there was the alleged case fixing or  
 10 whatever.

11 THE COURT: And I agree. And part of the  
 12 investigation will be, Mr. Keitel giving factual basis  
 13 for those allegations. But I really feel I have no  
 14 other choice. And again, I don't think Ms. Feinman  
 15 did anything. I think Mr. Furr was maybe puffing more  
 16 than he should be. But that's not what's before me.  
 17 That's not the allegations that are before me. So I  
 18 have no choice but to do that.

19 And Jordan just told me that it was assigned  
 20 to me sua sponte without any reason, but that doesn't  
 21 mean anything. Oh, she believes it was because I had  
 22 the lower number also, which is usually what we do.  
 23 But frankly, if there was cause, we don't state the  
 24 cause, we just transfer the case. Anyway, that's what  
 25 I'm going to do.

Page 59

1 ?  
 2 C E R T I F I C A T E  
 3

4 I, JACQUELYN ANN JONES, Court Reporter and  
 5 Notary Public in and for the State of Florida at  
 6 Large, do hereby certify that the foregoing  
 7 proceedings were transcribed by me from a digital  
 8 recording held on the date and from the place as  
 9 stated in the caption hereto on page 1, to the best of  
 10 my ability.

11 In witness whereof I have hereunto set my  
 12 hand and seal this 18th day of July, 2016.

13  
 14 JACQUELYN ANN JONES  
 15 Commission DD 853019  
 16 Expires Feb. 18, 2017

20 ?  
 21  
 22  
 23  
 24  
 25

Page 58

1 I want you to put in all the testimony  
 2 concerning the alleged conversations, so that whoever  
 3 is going to investigate this thing has the basis of  
 4 being what they should be investigating.

5 So anyway, sorry, but I feel I have no other  
 6 choice. We'll be in recess.

7 (A brief recess.)

8 THE COURT: We're going to do a simple order  
 9 transferring the case to Judge -- recusing myself, and  
 10 on transferring it to Judge Kimball. My oral  
 11 instructions to you will serve for whatever duties you  
 12 think are appropriate.

13 MR. TURNER: Okay. Thank you very much,  
 14 Your Honor.

15 THE COURT: You're welcome.

16 MR. TURNER: And thank you for letting me  
 17 appear by phone.

18 THE COURT: You're welcome.

19 (The proceedings were concluded.)

15 (Pages 57 to 59)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

IN RE:

FREDERICK KEITEL,

CASE NO. 15-21654  
CHAPTER 11

Debtor.

MOTION FOR ORDER ALLOWING RELEASE OF TAPE RECORDINGS FOR  
PURPOSES OF TURNING OVER TO TOWN OF PALM BEACH POLICE  
DEPARTMENT AND OTHER LAW ENFORCEMENT AGENCIES AND REQUEST  
FOR EXPEDITED HEARING

(Reason for expedited hearing: Debtor has made serious allegations as to the criminal conduct evidenced in the recordings. It is necessary for a law enforcement agency to receive and review these tapes to determine whether criminal activity has taken place.)

Comes now the Debtor, FREDERICK KEITEL (the "Debtor"), by and through undersigned counsel, and files this Motion for Order Allowing Release of Tape Recordings for Purposes of Turning Over to Town of Palm Beach Police Department and other Law Enforcement Agencies, and states:

1. On January 13, 2016, the Debtor legally recorded a conversation with Robert C. Furr.
2. After the Debtor fired Furr and Cohen, he scheduled a deposition of Robert C. Furr to take place on April 7, 2016.
3. At the deposition, the Debtor asked Mr. Furr about certain threats made against the Debtor. When Mr. Furr denied the threats, the Debtor attempted to play the recording. Mr. Furr terminated the deposition and walked out of the room.
4. In early April, the Debtor filed a complaint with the Palm Beach Police Department alleging that Mr. Furr made threats against him.
5. On April 13, 2016, the Court entered an Order on Final Fee Application of Furr and Cohen, P.A., Attorneys for Chapter 11 Debtor which ordered that the Debtor "shall

not cause spoliation, publication or dissemination of any tape recordings or other recordings between the Debtor and Robert C. Furr.”

6. The Court further ordered the Debtor to “keep all Recordings between himself and Robert C. Furr in his possession alone.”
7. The Debtor has complied with the Court’s ruling.
8. The Debtor believes, however, that criminal activity is evidenced in the recording and that, as such, he should be permitted to turn the tapes over to the Town of Palm Beach Police Department, the State Attorney, and any other law enforcement agency, for further investigation.
9. The Town of Palm Beach Police Department is the proper authority to investigate the allegation and determine whether a criminal act has been committed.
10. The Palm Beach Police Department has been attempting to investigate the case since April but cannot do so without listening to the recording. A copy of an e-mail from the Palm Beach Police Department is attached hereto.

WHEREFORE the Debtor respectfully requests that this Court:

- a) enter an order permitting him to release the tape recording to the Town of Palm Beach Police Department, the State Attorney, and any other necessary law enforcement agencies, and
- b) refrain from making any determination of the legality of the recording and leave

not cause spoliation, publication or dissemination of any tape recordings or other recordings between the Debtor and Robert C. Furr."

6. The Court further ordered the Debtor to "keep all Recordings between himself and Robert C. Furr in his possession alone."
7. The Debtor has complied with the Court's ruling.
8. The Debtor believes, however, that criminal activity is evidenced in the recording and that, as such, he should be permitted to turn the tapes over to the Town of Palm Beach Police Department, the State Attorney, and any other law enforcement agency, for further investigation.
9. The Town of Palm Beach Police Department is the proper authority to investigate the allegation and determine whether a criminal act has been committed.
10. The Palm Beach Police Department has been attempting to investigate the case since April but cannot do so without listening to the recording. A copy of an e-mail from the Palm Beach Police Department is attached hereto.

WHEREFORE the Debtor respectfully requests that this Court:

- a) enter an order permitting him to release the tape recording to the Town of Palm Beach Police Department, the State Attorney, and any other necessary law enforcement agencies, and
- b) refrain from making any determination of the legality of the recording and leave

such determination up to legal authorities.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished electronically to Charles I Cohen, Esquire, [ccohen@furrcohen.com](mailto:ccohen@furrcohen.com), 2255 Glades Road, #337W, Boca Raton, FL 33431 this 8th day of July, 2016.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court as set forth in Local Rule 2090-1(A).

BRIAN K. MCMAHON, P.A.  
1401 Forum Way, 6<sup>th</sup> Floor  
West Palm Beach, FL 33401  
Tel (561)478-2500  
Fax (561)478-3111

s/ Brian K. McMahon  
Brian McMahon  
FL Bar No. 853704



Brian McMahon &lt;briankmcmahon@gmail.com&gt;

**Robert Furr and U.S Trust Heidi Feinman**

4 messages

**RickKeitel@aol.com <RickKeitel@aol.com>**  
To: briankmcmahon@gmail.com  
Cc: RickKeitel@aol.com

Thu, Jul 7, 2016 at 10:05 AM

From: MLane@TownofPalmBeach.com  
To: RickKeitel@aol.com  
Sent: 5/12/2016 9:55:18 A.M. Eastern Daylight Time  
Subj: Re: Fwd: Robert Furr and U.S Trust Heidi Feinman

Mr. Keitel,

At our initial meeting, at your residence, you informed myself and Det. Medeiros of the existence of a legally recorded audio tape of a threatening conversation you had with Mr. Furr and informed us that the tape had been sealed. Additionally you showed us a copy of a transcript, which you then turned over and told us that we could not see the transcript because it too had been sealed and is part of ongoing litigation.

When asked when there would be a hearing in regards to the audio tape and transcript, you informed us that you did not know when that hearing would take place.

I have been in communication with the State Attorney's Office in regards to your complaint. I spoke with you last week and you also had a conversation with my Captain in regards to your complaint who also informed you that this investigation would move forward as soon as you furnished us with the audio tape of the conversation between yourself and Mr. Furr.

After speaking with the State Attorney's Office, they reaffirmed what I had spoken to you about in regards to this investigation. The only way an opinion could be given as to whether or not anything one party said to the other rises to a criminal offense could only be determined through information provided by an independent source. These sources are usually in the form of written correspondence, text messages, emails or voice mails.

The only email I have received from you is your request to Mr. Furr not to proceed with a court hearing and his response of No. Additionally, an email you sent to Ms. Feinman asking her to step aside and her reply to you.

I am in the process of scheduling interviews with Mr. Furr and Ms. Feinman.

If the audio tape has become available, please let me know so I may obtain a copy of the tape to further this investigation.

Detective Michael Lane  
Palm Beach Police Department  
345 South County Road  
Palm Beach, FL. 33480  
(561) 227-6377  
mlane@palmbeachpolice.com

RickKeitel--05/10/2016 06:03:07 PM--Detective Lane It's been almost 30 days since I filed my complaint with you and the Palm

From: RickKeitel@aol.com  
To: mlane@palmbeachpolice.com  
Cc: RickKeitel@aol.com  
Date: 05/10/2016 06:03 PM  
Subject: Fwd: Robert Furr and U.S Trust Heidi Feinman

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**Detective Lane**

It's been almost 30 days since I filed my complaint with you and the Palm Beach Police Department. Please give me an update. Have you or anyone from the PB Police Department met with a lawyer-Assistant State Attorney, and/or anyone from the PB County State Attorney's Office? If I don't hear from you within 24 hours, I have been advised to request help from the FBI, U.S. Attorney's Office, and Justice Department.

Please advise if there is any movement since I filed my complaint.

Respectfully  
Rick Keitel

---

From: RickKeitel@aol.com  
To: mlane@palmbeachpolice.com  
CC: RickKeitel@aol.com  
Sent: 5/4/2016 12:05:52 P.M. Eastern Daylight Time  
Subj: Robert Furr

**Detective Lane**

The legally recorded tape of my conversation with Robert Furr, who was screaming, is just additional collaboration of my contemporaneous notes I took on January 13, 2016 (and other times), during our conversation of Furr's threats and exhortation to get fees from me. While I can't yet release the tape, I do have my notes.

Furr's threat including but not limited to January 13th conversation when I fired him verbally and in writing and told him, I'll get-hire another lawyer, he responded:

"there will be a fucking trustee in there tomorrow and you'll lose control" "you let me handle it the way I want or fuck you"

"you won't get any property sold"

"you want to lose the entire deal"

"if you don't have us, you're dead. You want to be dead..go die..go kill yourself..you might as well get a gun, put it to your head and pull the trigger."

When I again told him to cancel the hearing he responded:

"I'm going to have a motion typed up and be ready to file at 2 o'clock if you pull that" ....meaning if I cancel the hearing or interfere with his statements to the court.

On other occasion and telephone calls, Furr said that the'll have Heidi Feinman, the U.S. Trustee, move to convert my case so I'll lose everything, just like she did on WMK (property on 45th street), and I'll be left with nothing.

Furr said during some of his threats, that Heidi will do whatever he wants, and she get Judge Hyman to go along with it.

Furr's repeated threats, and said he..."I can get Feinman to do whatever I want, and Hyman will approve it.", directly saying he could make it happen

Serious questions are raised by Furr's threats, exhortation and allegations by Furr, and later backed up by Feinman's action of alleged corruption and case fixing between Furr, Feinman and, if there

7/8/2016

Case 15-21654-PCHall - Page 235 and 236 of 240 dated 07/08/2016 Page 6 of 6

statements are true, Judge Hyman himself.

Furr's threats included that Feinman will work with him.

Please call me again, regarding motions filed by both Furr and Feinman since our conversation, to directly carry out there threats using Furr, Feinman and Judge Hyman.

Furr's deliberate actions have cost me millions of dollars in loses.

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## **EXHIBIT “13”**



U.S. Department of Justice

Office of the United States Trustee

362 Richard Russell Building Tel: (404) 331-4437  
75 Ted Turner Dr., S.W. Fax: (404) 331-4464  
Atlanta, Georgia 30303

January 20, 2017

Frederick J. Keitel, III, Esq.  
P.O. Box 3243  
Palm Beach, FL 33480

Re: Frederick J. Keitel, III  
Case No. 15-21654  
United States Bankruptcy Court  
Southern District of Florida

Dear Mr. Keitel:

Your inquiry dated November 30, 2016, to Clifford J. White, III, Director of the Executive Office for United States Trustees, *et al.*, has been forwarded to me for review and reply. In addition to Mr. White, your letter was addressed to United States Attorney Wilfredo A. Ferrer and shows that the Federal Bureau of Investigation received a copy.

In your letter you state that the United States Trustee's Office has failed to investigate allegations you have raised in the above-referenced bankruptcy case. The United States Trustee Program is the component of the Department of Justice responsible for supervising the administration of bankruptcy cases and private trustees under title 11 of the United States Code. I am the Acting United States Trustee for Region 21, which includes the Southern District of Florida. Prior to responding to your letter, I reviewed the docket and certain pleadings and transcripts in your bankruptcy case.

I am prohibited from commenting on the status of any investigation which may be pending or may have been conducted. If you believe a crime may have been committed in your bankruptcy case you may contact the United States Attorney directly, which you decided to do. Your letter indicates you also reached out to both federal and state law enforcement agencies.

The docket in your bankruptcy case indicates there are several unresolved matters, including a notice of appeal you filed. I cannot comment on the status of pending litigation.

Very truly yours,

  
GUY G. GEBHARDT  
ACTING UNITED STATES TRUSTEE

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**EXHIBIT “14”**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

In re:

FREDERICK J. KEITEL III

Case No. 15-21654-EPK  
Chapter 7

Debtor.

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FJK TEE JAY LTD.  
and  
TEE JAY OF FLORIDA, RLLP,

Plaintiffs,

Adv. Proc. No. 16-1440-EPK

v.

FREDERICK J. KEITEL, III

Defendant.

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**DEBTOR'S EMERGENCY MOTION TO  
DISQUALIFY JUDGE ERIK P. KIMBALL**

COMES NOW the Debtor/Defendant Frederick J. Keitel III ("Keitel"), *pro se*, and submits this Motion to Disqualify United States Bankruptcy Judge Erik P. Kimball ("Judge Kimball"), and as grounds therefore, states as follows:

**BACKGROUND**

1. In a series of previous motions in these bankruptcy proceedings, Keitel has laid out the essential factual framework underlying the instant motion. *See* Bankr. Case No. 15-21654-EPK, Doc. 431 (filed Nov. 30, 2016), Doc. 485 (filed Dec. 17, 2016), Doc.

507 (filed Jan. 3, 2017), Doc. 580 (Filed Jan. 27, 2017), Doc. 608 (Filed Feb. 14, 2017), Doc. 612 (filed Feb. 14, 2017). Keitel hereby incorporates by reference those documents as if fully restated herein.

2. Based on newly discovered evidence (i.e., transcripts of audio recording) Keitel can now demonstrate beyond a reasonable doubt that Judge Kimball misrepresented material evidence in this matter in an effort to cover up criminal activity and to otherwise impede and obstruct the ongoing criminal investigation into the actions of Judge Kimball and United States Bankruptcy Judge Paul G. Hyman Jr. ("Judge Hyman"), Keitel's former attorney Robert C. Furr ("Attorney Furr"), and United States Bankruptcy Trustee Heidi Feinman ("Trustee Feinman").

#### STATEMENT OF THE RELEVANT FACTS

##### **Attorney Furr**

3. From October 2015 through January 2016, Attorney Furr threatened Keitel, including assertions of influence over the United States Trustee's Office, generally, and Trustee Feinman, Judge Hyman, and Judge Kimball, specifically. *See* Doc. 485 ¶¶ 3-4; Doc. 431 ¶¶ 4, 8; Doc. 507 ¶¶ 4-7; Doc. 580 ¶ 6.

4. During that same time period, Furr refused to comply with Keitel's specific instructions about certain matters (including but not limited to Furr's withdrawal as Keitel's legal counsel, a 1031 exchange on the sale of property, and contested interest on mortgage and participation agreement) which actions caused Keitel to incur significant

financial losses in excess of \$10 million. *See* Doc. 507 ¶¶ 8-12; Doc. 612 pp. 20-28; *see also* Various Emails from Keitel to Furr, copies attached hereto as Exhibit A.

5. On January 13, 2016, Keitel fired his then-attorney Furr and informed Furr of his intention to hire new counsel. *See* Doc. 485 ¶ 2; Doc. 507 ¶ 11; Doc. 612 p. 20; *see also* Ex. A.

6. On that same day, Keitel made an audio recording of one such conversation with Furr, who had previously consented to the telephone recordings. *See* Doc. 485 ¶ 2; Doc. 431 ¶ 16; Doc. 507 ¶ 21; Doc. 580 ¶ 1.

7. In late March 2016/early April 2016, Keitel contacted the Palm Beach Police Department to file a criminal complaint against Furr for making threats of extortion in an effort to extract additional, over-inflated legal fees from Keitel. *See* Doc. 507 ¶ 16.

8. On April 7, 2016, Keitel took Furr's deposition. *See* Doc. 507 ¶ 17. Furr gave false answers to numerous questions while under oath, which Keitel could prove because of his previous audio recording of Furr. *See id.*

9. On April 13, 2016, Judge Hyman entered an order sealing Keitel's previous audio recording of Furr and prohibited Keitel from publishing same. *See id.*; Doc. 431 ¶ 5; Doc. 580 ¶ 2.

10. The Court rejected Keitel's subsequent attempts to unseal the audio record and/or have the recording turned over to the police. *See* Doc. 507 ¶¶ 18-20.

**Judge Hyman**

11. On July 13, 2016, at a hearing before Judge Hyman, Attorney Larry I. Glick, representing some of Keitel's alleged creditors in these bankruptcy proceedings, raised allegations of case fixing, at which time Judge Hyman instructed United States Bankruptcy Trustee Steven Turner to interview Keitel and to refer the matter to the United States Justice Department. *See* Doc. 485 ¶ 1; Doc. 580 ¶ 16; Doc. 612 ¶¶ 1-2.

12. Despite Judge Hyman's ~~unambiguous~~ verbal direction to interview Keitel, the complaining party, no one has yet to even contact Keitel to discuss the matter. *See* Doc. 485 ¶¶ 5-6 (indeed, Judge Kimball expressly indicated that he would ignore Judge Hyman's directive); Doc. 507 ¶ 23; Doc. 580 ¶ 17; Doc. 608 ¶¶ 1-2; Doc. 612 ¶¶ 3-4; *see also* Ltr. from Guy G. Gebhardt to Frederick J. Keitel III, dated Jan. 20, 2017 (refusing to comment on or even acknowledge any ongoing criminal investigation of the matter even though Furr testified that there was an ongoing investigation) [a copy of which is attached hereto as Exhibit B].

**Judge Kimball**

13. In Keitel's fourth and fifth amended disclosure statements, *see* Docs. 391 & 407, Keitel summarized the threats from Furr based on his contemporaneous recollection and his contemporaneously-made notes. *See, e.g.*, Doc. 391 p. 4 [a copy of which is attached hereto as Exhibit C].

14. On November 16, 2016, during a hearing about Keitel's fourth and fifth

amended disclosure statements, Judge Kimball suddenly began interrogating Keitel about Furr's threats, which were referenced in the disclosure statements. *See Doc. 485 ¶ 7; Doc. 431 ¶ 1; Doc. 608 ¶ 8.* In short, Judge Kimball asked Keitel if Keitel had disclosed Furr's threats therein in violation of Judge Kimball's previous order not to publish same. *See Doc. 485 ¶¶ 7-8; Doc. 431 ¶ 2.*

15. Keitel responded that he merely summarized the threats based on his contemporaneous recollection and his contemporaneously-made notes rather than a word-for-word transcription of the audio recording, only the latter of which was prohibited by the Court's prior order. *See Doc. 485 ¶¶ 7-8; Doc. 431 ¶¶ 2-3, 6, 9-11, 14-17.*

16. Concluding that Keitel was lying, even though Keitel's testimony was undisputed by any evidence in the matter, Judge Kimball then relied on that conclusion to convert Keitel's bankruptcy from a Chapter 11 case to a Chapter 7 case pursuant to 11 U.S.C. § 1112(b)(4). *See Doc. 485 ¶¶ 7-8; Doc. 431 ¶¶ 2-3; Doc. 608 ¶ 8; Doc. 612 ¶ 8.*

17. Moreover, Judge Kimball converted the case without any prior notice and thus effectively deprived Keitel of any reasonable opportunity to be heard on the matter. *See supra ¶ 16.*

18. At a subsequent hearing, on December 15, 2016, Judge Kimball stated that he had compared Keitel's disclosure statements to the actual audio recording (in camera and with no one else present) and concluded that Keitel's statements were "verbatim" reproductions of the recording, in the exact order as stated in the recording, in violation of

the Court's prior order. *See* Doc. 608 ¶¶ 8-9; Doc. 612 ¶ 8.

19. Furthermore, Judge Kimball determined that the audio recording was illegal because he did not believe Keitel that Furr had consented to the recording as required under Florida law, and thus ordered that the recording be released to the Palm Beach Police Department for investigation of the Debtor for criminal violation of Florida's anti-wiretapping statute, § 934.04, Fla. Stat. *See* Doc. 612 pp. 2, 52.

**Newly Discovered Evidence—Transcripts**

20. Several days ago, Keitel obtained two independent certified transcriptions, by two different firms, of the recorded telephone conversation he had with Furr on January 13, 2016, copies of which are attached hereto as Exhibits D & E.

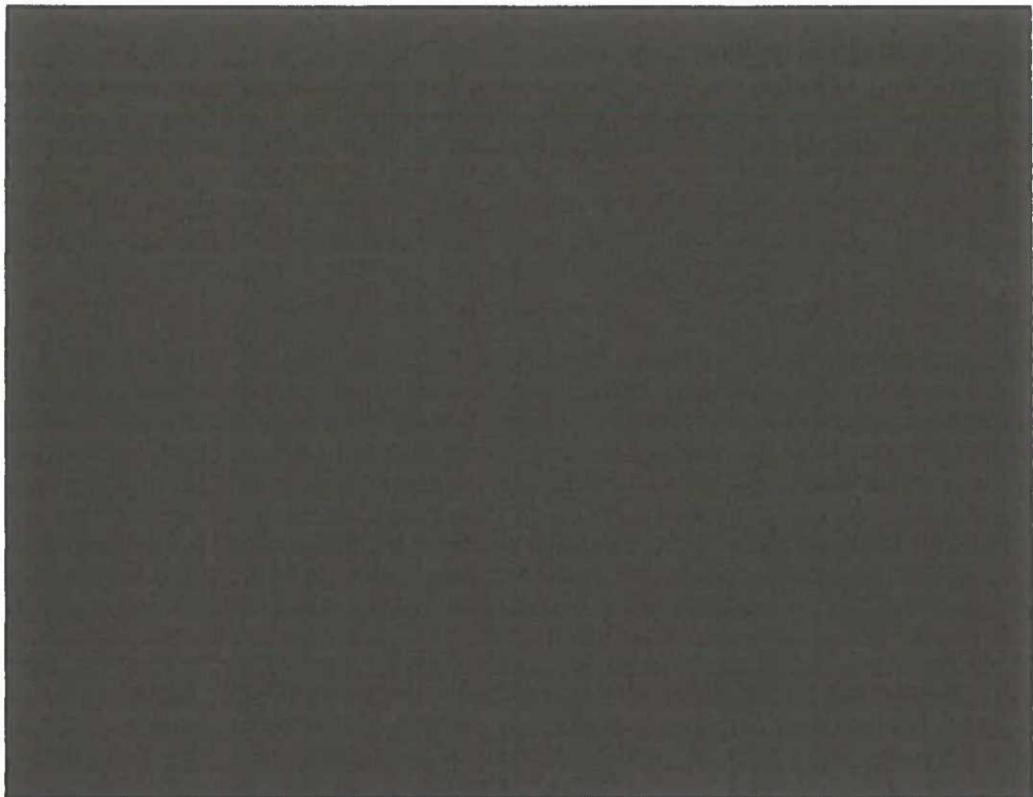
21. As clearly demonstrated by an examination of the transcripts, contrary to Judge Kimball's assertions/conclusion, Keitel's fifth disclosure statement is not a "verbatim" reproduction of the audio recording, nor does Keitel's fifth disclosure statement follow the same order as the text of the audio recording. *See* Exs. C-E.

22. [REDACTED]

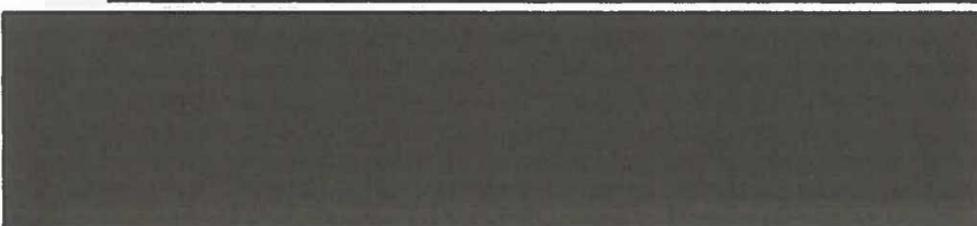
[REDACTED]

23. [REDACTED]

[REDACTED]

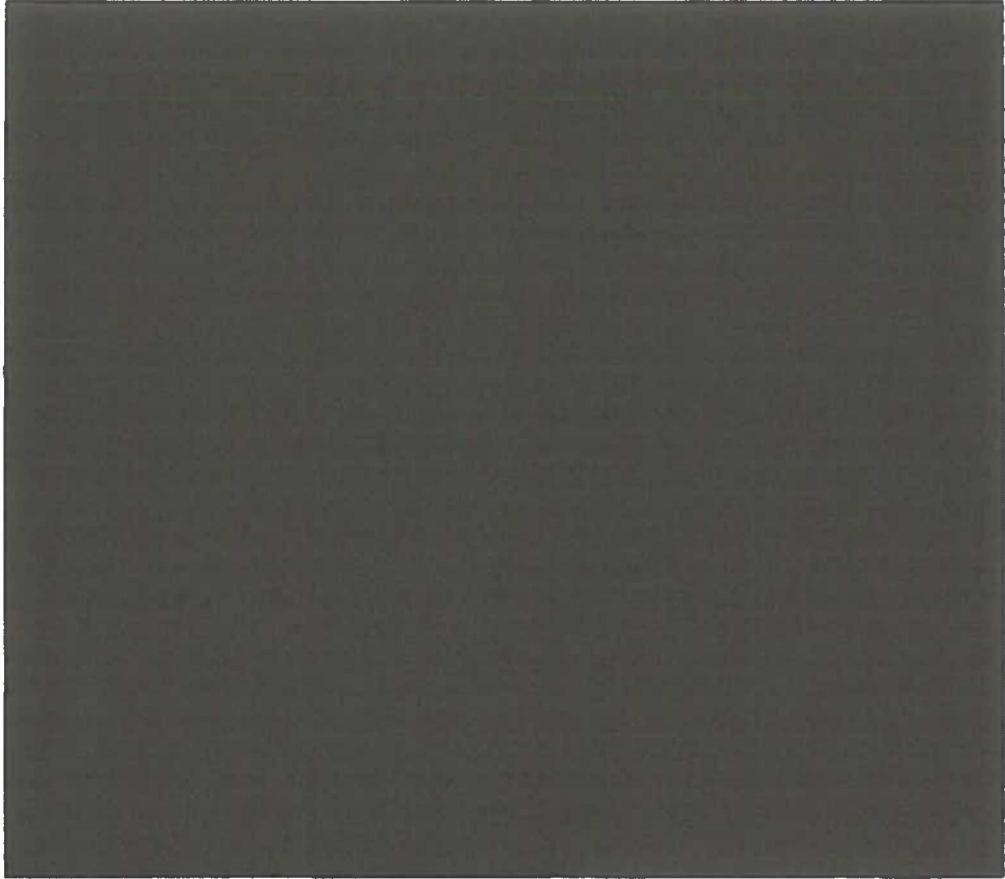


24. [REDACTED]



25. [REDACTED]





## ARGUMENT

26. "A bankruptcy judge shall be governed by 28 U.S.C. § 455, and disqualified from presiding over the proceeding or contested matter in which the disqualifying circumstances arises or, if appropriate, *shall be disqualified* from presiding over the case." Bankr. Rule 5004(a) (emphasis added).

27. Pursuant to the referenced statute, a federal "judge shall disqualify himself in any proceeding in which his impartiality *might reasonably be questioned*." 28 U.S.C. § 455(a) (emphasis added).

28. Clearly, then, this rule is intended to avoid even the appearance of partiality or bias, so that actual bias or prejudice is not required to trigger disqualification. *See Liteky v. United States*, 510 U.S. 540, 548 (1994); *Parker v. Connors Steel Co.*, 855 F.2d 1510, 1523 (11th Cir. 1988).

29. And if there is a reasonable question of bias or prejudice, then recusal is mandatory. *See Kingdomware Techs., Inc. v. United States*, \_\_ U.S. \_\_, \_\_, 136 S. Ct. 1969, 1977 (2016) ("Unlike the word 'may,' which implies discretion, the word 'shall' usually connotes a requirement.").

30. Moreover, for purposes of the disqualification analysis, a judge's partiality or bias is determined by an objective analysis. *See Williams v. Pennsylvania*, \_\_ U.S. \_\_, \_\_, 136 S. Ct. 1899, 1905 (2016) ("The Court asks not whether a judge harbors an actual, subjective bias, but instead whether, as an objective matter, the average judge in his position is likely to be neutral, or whether there is an unconstitutional potential for bias." (internal quotation marks omitted)); *accord Parker*, 855 F.2d at 1523-24.

31. And being that "outside observers are less inclined to credit judges' impartiality and mental discipline that the judiciary itself will be," in "a close case, the balance tips in favor of recusal." *United States v. Holland*, 519 F.3d 909, 912, 914 (9th Cir. 2008). In other words, "when a judge harbors any doubts concerning whether his disqualification is required he should resolve the doubt in favor of disqualification." *Parker*, 855 F.2d at 1524.

32. In the instant case, on November 16, 2016 (and again on December 15, 2016), without any proof, Judge Kimball accused Keitel of lying when Keitel stated that the language in his fourth and fifth disclosure statements was taken from his contemporaneous notes and from notes sent to the Palm Beach Police Department for a criminal investigation of extortion and threats by Furr. However, on December 15, 2016, Judge Kimball took the audio recording alone into his chambers in camera and listened to the recording, after which he deliberately lied about the content with the intent to impede and obstruct the two criminal investigations as well as to discredit Keitel as a material witness for such investigations.

33. In the instant case, by comparing the certified transcripts of the telephone conversation between Keitel and Furr with Keitel's fourth and fifth amended disclosure statements, it is readily apparent that Keitel's amended disclosure statements were not verbatim transcription of the audio recording as asserted by Judge Kimball but, rather, were accurate summary or synopsis of the audio recording as asserted by Keitel. See *supra ¶¶ 20-25 & Exs. C-E.*

34. Thus, when Judge Kimball asserted and concluded that Keitel's amended disclosure statements were "verbatim" reproductions of the sealed audio recording, Judge Kimball fraudulently misrepresented and/or concealed relevant and material facts and evidence in this case. See *Nehme v. Smithkline Beecham Clinical Labs., Inc.*, 863 So. 2d 201, 205 (Fla. 2003) ("[C]oncealment' is defined as (1) the act of refraining from

disclosure; esp. an act by which one prevents or hinders the discovery of something; and (2) the act of removing from sight or notice; hiding."); "Fraud" is generally defined as (1) a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment; and (2) a misrepresentation made recklessly without belief in its truth to induce another person to act. 'Intentional misrepresentation of fact' is the intentional (done with the aim of carrying out the act) act of making a false or misleading statement about something." (quoting Black's Law Dictionary 282, 670, 814, 1016 (7th ed. 1999))); e.g., *Inquiry Concerning a Judge No. 14-488 Re Shepard*, 217 So. 3d 71, 82 (Fla. 2017) (clear and convincing evidence supported conclusion that judicial candidate's campaign advertisement quoting newspaper's 1994 endorsement of candidate for legislative office, but removing reference to legislative service and the fact that the endorsement was 20 years old, constituted a knowing misrepresentation of fact); *In re Kinsey*, 842 So. 2d 77, 90 (Fla. 2003) (judicial candidate's campaign literature knowingly misrepresented the facts of a particular defendant's case by stating that candidate's opponent did not revoke the defendant's bond when, in fact, defendant's bond was revoked).

35. At best, Judge Kimball misrepresented the true contents of the audio recording that he listened to in chambers without any witnesses; at worst, Judge Kimball intentionally lied in an effort to cover up his false statements in court and/or impede and obstruct the criminal investigations with which he was familiar and personally implicated.

36. Furthermore, by converting Keitel's bankruptcy from a Chapter 11 case to a Chapter 7 case on November 16, 2016, without notice or an opportunity to be heard, *see supra* ¶ 17, Judge Kimball violated Keitel's due process rights, *see In re TLFO, LLC*, 572 B.R. 391, 431-32 (Bankr. S.D. Fla. 2016) ("the requirement of notice is the cornerstone underpinning Bankruptcy Code procedure" (internal quotation marks and brackets omitted); "The notice requirements . . . are founded in fundamental notions of procedural due process," which requires "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections" (internal quotation marks omitted)).

37. Moreover, when Judge Kimball referred Keitel for criminal investigation himself, *see supra* ¶ 19, Judge Kimball clearly exceeded his authority as a bankruptcy judge. *See Stern v. Marshall*, 564 U.S. 462, 473-74 (2011) (bankruptcy courts have limited jurisdiction, and can only hear and decide matters related to the bankruptcy case); *Matter of Terrebonne Fuel & Lube, Inc.*, 108 F.3d 609, 613 n. 3 (5th Cir. 1997) ("[B]ankruptcy courts lack the power to hold persons in criminal contempt." (citing *Matter of Hipp, Inc.*, 895 F.2d 1503, 1509 (5th Cir. 1990))).<sup>1</sup> Indeed, this was one of the

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<sup>1</sup>Although the Eleventh Circuit has not squarely addressed this issue, two Florida courts have cited to *Hipp* with approval on this point. *See In re Lickman*, 288 B.R. 291, 292-93 (Bankr. M.D. Fla. 2003) (the bankruptcy court has civil contempt powers but does not have criminal contempt powers, at least for contempts committed outside of its presence); *Growers Packing Co. v. Cnty. Bank of Homestead*, 134 B.R. 438, 444 (S.D. Fla. 1991) (no implied power in the bankruptcy court to impose criminal contempt).

reasons why Keitel asked Judge Kimball to release and send the audio recording to the Palm Beach Police Department.

38. As such, a reasonable and objective lay person would readily conclude that Judge Kimball's actions in this matter give the appearance of impropriety, or stated otherwise, that Judge Kimball's impartiality in this matter might reasonably be questioned. *See supra ¶¶ 28-31.*

39. In light of Judge Kimball's past conduct in this matter (i.e., falsely accusing Keitel of lying under oath, falsely accusing Keitel of criminal behavior, obstructing the criminal investigation begun by Keitel's complaint to the local police department, and obstructing the ongoing criminal investigation implicating Judge Kimball, Judge Hyman, Trustee Feinman, and Attorney Furr), there is no reason to believe that Judge Kimball will be a fair and impartial decision maker in the upcoming bench trial of Adversary Proceeding Number 16-1440. *See Williams, \_\_\_ U.S. at \_\_\_, 136 S. Ct. at 1905* (the Due Process Clause guarantees litigants a neutral and unbiased judge).

40. Therefore, even if Judge Kimball did not in fact have any bias or prejudice against Keitel, Judge Kimball nevertheless *must* be disqualified from presiding in this matter. *See supra ¶¶ 26-28.*

41. As a proximate result of the foregoing, Judge Kimball wrongfully converted Keitel's bankruptcy case from a Chapter 11 case to a Chapter 7 case and, further, obstructed and impeded the criminal investigation based on Keitel's complaint to the

police. *See supra* ¶¶ 11-12, 16; *Sardell v. Malanio*, 202 So. 2d 746, 747 (Fla. 1967) (proximate cause is that which, as the direct and natural result, causes the injury or damage, and without which the injury or damage would not have occurred).

42. As a proximate result of converting Keitel's bankruptcy from a Chapter 11 case to a Chapter 7 case, U.S. Bankruptcy Trustee Richard Webber was appointed to represent the bankruptcy estate and promptly terminated all legal counsel for Keitel, dismissed various filings and complaints filed by Keitel, and otherwise wrongfully caused Keitel to needlessly suffer several million more dollars in damages.

#### **CONCLUSION**

43. In light of the foregoing arguments and authorities cited, it is clear that Judge Kimball should be disqualified from presiding over the above-captioned bankruptcy proceedings.

44. WHEREFORE, Keitel respectfully requests that this Court enter an order:

- A. Enjoining Judge Kimball from presiding over the above-captioned bankruptcy proceedings;
- B. Reassigning the above-captioned bankruptcy proceedings to another United States Bankruptcy Judge outside of the Southern District of Florida;
- C. Dismissing Adversary Proceeding Number 16-1440-EPK in its entirety;

D. Vacating the order converting Keitel's bankruptcy case from a Chapter 11 to a Chapter 7;

E. Striking and vacating the Court's previous order(s) sealing Keitel's audio recording of his telephone conversation with Furr on January 13, 2016; and

F. Granting Keitel any other and further relief the Court deems just and equitable.

Respectfully submitted,

FREDERICK J. KEITEL, III  
P.O. Box 3243  
Palm Beach, FL 33480  
Ph: (561) 310-6864  
Email: [RickKeitel@aol.com](mailto:RickKeitel@aol.com)

*/s/ Frederick J. Keitel, III*  
FREDERICK J. KEITEL, III  
Florida Bar No. 884936

**CERTIFICATION OF ATTORNEY**

I HEREBY CERTIFY that this Motion is filed in good faith and that the statements made herein are believed to be true.

*/s/ Frederick J. Keitel, III*  
FREDERICK J. KEITEL, III  
Florida Bar No. 884936

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

In re:

**FREDERICK J. KEITEL III**

Case No. 15-21654-EPK  
Chapter 7

Debtor.

**FJK TEE JAY LTD.**  
and  
**TEE JAY OF FLORIDA, RLLP,**

Plaintiffs,

Adv. Proc. No. 16-1440-EPK

v.

**FREDERICK J. KEITEL, III**

Defendant.

**AFFIDAVIT OF FREDERICK J. KEITEL III IN SUPPORT OF DEBTOR'S  
EMERGENCY MOTION TO DISQUALIFY JUDGE ERIK P. KIMBALL**

I, Frederick J. Keitel III, first duly sworn on oath, do hereby depose and state that I have personal knowledge of the facts stated in this Affidavit, and certify the following:

1. My name is Frederick J. Keitel, III ("Keitel"). I am over the age of 18 years and capable of making this affidavit and giving an oath.
2. I have personal knowledge of all matters set forth herein and the statements made in this Affidavit are made based upon that personal knowledge.
3. On November 16, 2016, despite my uncontested testimony, U.S.

Bankruptcy Court Judge Erik P. Kimball ("Judge Kimball") opined that I was lying, dishonest, untruthful, and lacked credibility regarding my testimony about the contents of a tape recording made on January 13, 2016, which opinion he repeated after listening to the audio recording in camera and outside my presence on December 15, 2016.

4. Judge Kimball has had multiple opportunities to correct his false and fraudulent assertions but has refused to do so because he deliberately and falsely discredited me due to two criminal investigations into Panel Trustee Robert C. Furr ("Furr"), U.S. Bankruptcy Judge Paul G. Hyman ("Judge Hyman"), and U.S. Bankruptcy Trustee Heidi Feinman ("Feinman").

5. I recently found a copy and/or original of the tape and had it transcribed by two independent court reporting firms: Dianne S. Morris of Esquire Reporting (dated Oct. 12, 2017) and Karen M. Bellmare of Court Reporters, Inc. (dated Oct. 12, 2017).

6. The transcripts definitively prove that Judge Kimball deliberately lied about the contents and wording of the audio recording on December 15, 2016, and in his various related rulings and orders.

7. Upon information and belief, Judge Kimball was deliberately untruthful in order to impede and obstruct justice into the two criminal complaints I filed with the Palm Beach Police Department in April of 2016 against Furr for criminal threats and extortion as well as the ongoing criminal investigation referred and ordered by the Chief Judge of the U.S. Bankruptcy Court for the Southern District of Florida on July 13, 2016 into

Judge Hyman, Feinman, Furr, the U.S. Department of Justice ("DOJ"), the U.S. Bankruptcy Trustee's Office, and this Court regarding corruption, case fixing, and extortion.

8. Judge Kimball deliberately lied about the evidence to retaliate, defame, and discredit me to protect himself and his colleagues from an ongoing investigation by the U.S. Trustee's Office and/or DOJ, referred and ordered by Judge Hyman on July 13, 2016 himself.

9. Judge Kimball knew that his intentional and fraudulent misrepresentation of the evidence and contents of the recording would discredit me and end the investigation without the U.S. Trustee's Office interviewing me and/or reviewing the evidence.

10. Judge Kimball knew that by falsely discrediting me and lying about the contents of the tape and evidence, that his actions would empower and enable the newly appointed Bankruptcy Trustee Richard Webber ("Webber") to lie, discredit, and defraud me in the Florida Capital Management ("FCM"), FJK IV Properties, and Adversary litigation.

11. Despite the substantial evidence and testimony by Robert King, proving that Robert King and Thomas D'Agostino perjured themselves with the help of Attorney Eric Christu, Webber went against the best interests of the uncontested creditors, the Bankruptcy Estate, and myself, and dropped an \$8 million counterclaim against D'Agostino Trust in the FCM case and caused me to incur over \$15 million in damages.

12. In a hearing before Judge Kimball on October 24, 2017, Webber submitted that he was wrong about his previous assertion in the FCM case regarding the issue of res judicata; which he deliberately lied about to discredit Keitel in an effort to gain favor from Judge Kimball.

13. Judge Kimball has deliberately lied about the contents of the January 13, 2016 audio recording in an effort to punish and falsely discredit me for legally recording criminal extortion and threats by Panel Trustee Furr, which started the whole criminal investigations, and leading directly to Judge Kimball himself.

14. Judge Kimball has covered up the evidence from the various law enforcement authorities who wanted to review the evidence in the pending criminal investigations in an effort to punish and discredit me, the sole material witness in the above-referenced criminal investigations.

15. Judge Kimball has taken these actions in an effort to impede and obstruct and collude with Webber, Furr, Feinman, Judge Hyman, and the U.S. Trustee's Office to end the criminal investigation before reviewing the evidence, including the January 13, 2016 audio recording and a sworn statement from me (the latter of which was directed by Judge Hyman on July 13, 2016).

16. Based on all of the above, I have a reasonable fear that Judge Kimball has a personal bias against me because I am the complaining and material witness in the criminal investigation against him (and others) for corruption.

17. Accordingly, I have a reasonable fear that I cannot get a fair and impartial trial in this matter with Judge Kimball being the sole arbiter of facts.

**VERIFICATION**

I HEREBY VERIFY that this Affidavit is true and correct to the best of my knowledge and belief and this Affidavit is filed in good faith.

*Frederick J. Keitel III*  
Isi Frederick J. Keitel, III  
FREDERICK J. KEITEL, III  
Florida Bar No. 884936

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

Po Box 3243  
Palm Beach, FL 33480

The foregoing verification was acknowledged before me by FREDERICK J. KEITEL III who is personally known by me or who has produced the following form of identification known to me, and who did not take an oath.

DATED, this 26th day of October, 2017.

*Barbara C. Garcia*  
NOTARY PUBLIC  
My Commission Expires: June 09, 2018  
No. FF 23874  
BARBARA C. GARCIA  
NOTARY  
STATE OF FLORIDA  
NOTARY PUBLIC

Respectfully submitted,

FREDERICK J. KEITEL, III  
P.O. Box 3243  
Palm Beach, FL 33480  
Ph: (561) 310-6864  
Email: RickKeitel@aol.com

/s/ Frederick J. Keitel, III  
FREDERICK J. KEITEL, III  
Florida Bar No. 884936

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of October 2017, I personally filed this document with the Clerk of Court or electronically using CM/ECF. I also certify that the document and any attachment are being served this day on all counsel of record or pro se parties identified on the attached Service List and official Court Mailing Matrix in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF, first class U.S. mail, or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Filing.

/s/ Frederick J. Keitel, III  
FREDERICK J. KEITEL, III

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26th day of October 2017, I personally filed this document with the Clerk of Court or electronically using CM/ECF. I also certify that the document and any attachment are being served this day on all counsel of record or pro se parties identified on the attached Service List and official Court Mailing Matrix in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF, first class U.S. mail, or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Filing.

*/s/ Frederick J. Keitel, III*  
FREDERICK J. KEITEL, III

1  
Subj: Re: Cancel the Hearings today  
Date: 1/13/2016  
To: [rffm@furrcohen.com](mailto:rffm@furrcohen.com)  
CC: [ccohen@furrcohen.com](mailto:ccohen@furrcohen.com)

Cancel the hearings, or we part ways immediately

In a message dated 1/13/2016 9:05:11 A.M. Eastern Standard Time, [rffm@furrcohen.com](mailto:rffm@furrcohen.com) writes:

2  
No

Robert C. Furr  
Furr and Cohen, P.A.  
2255 Glades Rd. Suite 337w  
Boca Raton, FL 33431  
Office 561-395-0500  
Direct 561-417-1563  
Cell. 561-866-6976  
[www.furrcohen.com](http://www.furrcohen.com)

3  
> On Jan 13, 2016, at 8:18 AM, "rickkeitel@aol.com" <[rickkeitel@aol.com](mailto:rickkeitel@aol.com)> wrote:

>

> Robert

> Cancel the hearing today on all issues. I need to get a definitive response from Peter & Wil in writing, as to all interest.

> You don't have my authority to represent FJK & FJK III at the hearings.

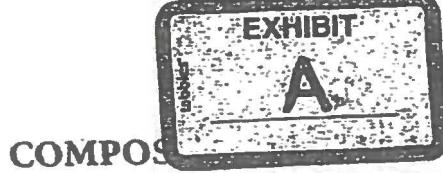
> I'll call you at 9:00 AM. The hearings will need to be rescheduled until next week. There are too many loose ends that need to be addressed prior to me FJK -FJK III, getting court approval.

> Rick

>

>

> Sent from my iPhone



3  
Subj: Cancel the Hearings today  
Date: 1/13/2016 8:18:07 A.M. Eastern Standard Time  
From: rickkercher@zgcl.com  
To: 13001257@msn.com, 13001258@msn.com

Robert

Cancel the hearing today on all issues. I need to get a definitive response from Peter & WI in writing, as to all interest.

You don't have my authority to represent FJK & FJK III at the hearings.

I'll call you at 9:00 AM. The hearings will need to be rescheduled until next week. There are too many loose ends, that need to be addressed prior to me FJK -FJK III, getting court approval.

Rick

Sent from my iPhone=

Subj: **D'agostino Motion**  
Date: 1/13/2016 9:11:35 A.M. Eastern Standard Time  
From: RickKeitel@aol.com  
To: rfurr@furcohen.com, 2goldstein@furcohen.com, ccohen@furcohen.com, RickKeitel@aol.com, jkmgmt@gmail.com, jackos71@att.net, jlesson@medicalchopkins.com  
CC: RickKeitel@aol.com

4  
Robert, Charles

Another reason to cancel all the hearings today, until keys issues are resolved. There is also the set-off issue that I emailed you about re \$1,500,000. from FJK-TeeJay, Ltd., that FJK IV Properties & myself are entitled to (50%).

I don't want to argue over this point, cancel all the hearings, until we can address all the issues. I'm on my way to court. I want to make 100% sure that all the issues are covered before the sale is approved by the court.  
Reschedule for next week

From: bnasralla@furcohen.com  
To: rfurr@furcohen.com, 2goldstein@furcohen.com, ccohen@furcohen.com, RickKeitel@aol.com, jkmgmt@gmail.com, jackos71@att.net, jlesson@medicalchopkins.com  
Sent: 1/13/2016 8:54:01 A.M. Eastern Standard Time  
Subj: keitel

=

Subj: FJK, FJKIII, & 412 1031 Exchange  
Date: 1/13/2016 7:57:16 A.M. Eastern Standard Time  
From: rfurr@fjk.com  
To: rfurr@fjk.com, cccsis@fjk.com

Robert, Charles

The Plan(s) don't cover the 1031 exchanges, and the money must properly go to a third party directly in order to get tax savings. The money or supersedes bond will cover the judgment, plus interest.

I need to need the exact amount of all the money

Have you got an answer from Wk, Peter Callahan?

The hearing needs to be rescheduled to cover all the basics, cccsis & 1031 questions

Sent from my iPhone=

Subj: Cancellation of hearings and Motions Wednesday Jan 13, 2016  
Date: 1/13/2016 1:20:48 A.M. Eastern Standard Time  
From: RickKelej@msn.com  
To: rick@lurrochen.com, rick@lurrochen.com  
CC: RickKelej@msn.com

6  
Robert

Please call me and cancel the hearings and Motions scheduled for today, and reschedule for Tuesday, January 16, 2016  
Thanks, Rick

7  
Subj: Re: FJK & FJK III Legal Fees  
Date: 1/12/2015 4:02:23 P.M. Eastern Standard Time  
From: [rurn@furrcohen.com](mailto:rurn@furrcohen.com)  
To: [RickKeitel@aol.com](mailto:RickKeitel@aol.com)

Call us.

Robert C. Furr  
Furr and Cohen, P.A.  
2255 Glades Rd. Suite 337w  
Boca Raton, FL 33431  
Office 561-395-0500  
Direct 561-417-1563  
Cell. 561-866-6976  
[www.furrcohen.com](http://www.furrcohen.com)

On Jan 12, 2016, at 3:20 PM, "[RickKeitel@aol.com](mailto:RickKeitel@aol.com)" <[Rick.Keitel@aol.com](mailto:Rick.Keitel@aol.com)> wrote:

Robert

You told me the fees would be about \$100,000. When we meet on December 28, 2015, you said the fees would be not higher than \$125,000, but you asked me to sign the filing with fees as high as from \$125,000. to \$150,000., telling me it was a range and wouldn't be that high. Now I see that you filed for fees of \$230,000, almost a 100% higher fee.

The closing has been delayed from January 8th, costing me another \$50,471.

Palm Beach Executive Suites is stuck for \$157,500. in rent it cannot not pay.

The total is \$297,971. that I cannot afford to give up.

8  
I asked both you and Charles to find out if PJC Funding will eliminate or reduce the default rate, and I still haven't heard back. I need an answer today or we need to cancel the hearing tomorrow and reschedule for for next Monday.

Please call me ASAP to discuss

Thanks, Rick

In a message dated 12/15/2015 11:59:19 A.M. Eastern Standard Time, [rurn@furrcohen.com](mailto:rurn@furrcohen.com) writes:

Rick,

The Gross billings on FJK are \$7,617.85 less a 12,500 retainer for a net of 45,117.85.

FJK III is 23199.13 less \$12,500 retainer fro a net of 10,699.13

This is very rough and I don't know if all the time is in the system as our billing person is on vacation.

I need all the legal fees, costs and expenses on the deal. I have asked everyone to send them to me

In a message dated 12/15/2015 9:12:38 A.M. Eastern Standard Time, [ruff@furcohen.com](mailto:ruff@furcohen.com) writes.

~~Why?~~

Robert C. Furr  
Furr and Cohen, P.A.  
2255 Glades Rd. Suite 337w  
Boca Raton, Fl. 33431  
(561) 395-0500  
Direct (561) 417-1563  
Cell. (561) 866-6976  
[www.furcohen.com](http://www.furcohen.com)

> On Dec 15, 2015, at 7:43 AM, "[nickrelief@aol.com](mailto:nickrelief@aol.com)" <[nickrelief@aol.com](mailto:nickrelief@aol.com)> wrote:  
>  
> Robert, Charles  
> Please give me an up to date invoice for all legal fees services prior to 10 am today. I need  
to know what I owe from each and every lawyer in this case.  
> Thanks, Rick  
>  
> Sent from my iPhone

Subj: Re: Keitel Florida Capital Mgmt Payments (wo Credit)  
Date: 1/12/2016  
To: awernick@attneycorner.com, rwm@attneycorner.com  
CC: RickKeitel

Aaron, Robert

We had a great meeting and a plan almost a month ago about how to proceed in a Debtor's Plan to develop the property and 2 town homes at 237 Brazilian Ave., Palm Beach. However, nothing has happened since. Please let me know when your going to submit the plan to the court.

Thanks, Rick

In a message dated 12/19/2015 9:57:57 A.M. Eastern Standard Time, RickKeitel@aol.com writes:

Attached is a copy of the Florida Capital Management, LLC ("FCM")

1. Mortgage dated 2-28-2005 for \$2,000,000.
2. Warranty Deed dated 2-28-2005
3. Wire Transfer dated 3-15-2005 for \$1,230,000. from FCM lawyer Chuck Lubitz/Boose Casey to D'Agostino Lawyer Robert King Trust Account.

All 3 have the identical "Client file number K689-39606

The Mortgage and Warranty Deed have the file number at the top under  
Charles A. Lubitz, Esq  
BOOSE, CASEY, CIKLIN, ET AL  
515 North Flagler Drive Suite 1900  
West Palm Beach, FL 33401

File Number K689-39607

The Wire Transfer has "Client File NO. K689-39606" at the bottom of the page, under the Date 3/15-05 and next to the Authorized Signature of Charles A. Lubitz.

You have a copy of the Wire Transfer dated 2-24-2005 for \$2,000,000. from my company "812 Investors", checking account at Citibank, NY to my law firm Boose Casey Trust account dated 2-24-2005.

Lubitz and Boose Casey then sent the wire transfer for \$1,230,000. to Robert King Trust Account (D'agostino's Florida lawyer on 3-15-2005.

I was living in Rye, NY at the time. I was in the process of switching bookkeeper.(who would sign checks. I was in custody battle with my ex-wife (I had been give sole custody and all decision making, it was appealed and in trial again)

Apparently the partial payment was never recorded. and my new bookkeepers continued to pay the \$2,000,000. at 7% until Sept 2010. As the check register-payment schedule given to you shows, by Sept 2010. the mortgage was over paid by \$74,000

The problem was that the wire transfer was not accounted for until Dec 2012. I had tried for over 2 years to get an accounting from D'Agostino Trust who refused to co-operate.

Tom D'Agostino took the wire transfer and multiple payment in his own name in violation of the D'Agostino 1997 CRT (trust), and never reported payment.

Judge Sasser signed an Order- Motion in Limine to exclude all evidence of the payment attached, and then issued an Summary Judgment to D'agostino, and ordered a Jury trial (it was Sasser's 3rd Order on Jury Trial in the case), on only 3 payments.

Judge Sasser then canceled the Jury trial , held only evidence on 3 checks. refused to allow any evidence on the wire transfer for \$1,230,000. or any other checks. and ruled against me.

I had previous filed motion and pleadings. Motion to Disqualify Sasser on 2 occasions previous to the Summary Judgment, and Sasser was denied the Federal Bench appointment.

I have also included

Subj: Keitel FJK IV Properties Set off

Date: 1/11/2016

To: rjurn@funcchen.com, ocohen@funcchen.com

CC: acoldstein@funcchen.com, wwhite@railesnaw.com, opemhargi@mcdonaldhcokins.com,  
RickKeitel

Robert, Charles

Attached please find a Motion To Compel Accounting of FJK-TeeJay, Ltd, and for Distribution Setoff of the \$1,500,000. in collected funds by FJK-TeeJay, Ltd (owner of 241 RPW, P8 .First Republic Bank Bldg). 50% of the funds are the property of FJK\_IV properties, and should either go to FJK IV and/or Keitel as a Setoff against the Bond FJK IV Properties/Keitel has to put up towards the Judgement directly, or should be used to reduce the expected \$4.3 million Supersedes Bond

Judge Sasser, at today's UMC, refused to rule on the Motion and stated that Judge Hyman needs to rule.  
If Judge Hyman gives me credit for 50% of the money that was received, it means that FJK IV Prop/Keitel requested bond will be substantially reduced.

This can be handled in a 30 minute evidentiary hearing within the next 2 weeks, and could save putting up an additional \$500,000.

Please give me your comments.

Thanks, Rick



U.S. Department of Justice

Office of the United States Trustee

362 Richard Russell Building Tel: (404) 331-4437  
75 Ted Turner Dr., S.W. Fax: (404) 331-4464  
Atlanta, Georgia 30303

January 20, 2017

Frederick J. Keitel, III, Esq.  
P.O. Box 3243  
Palm Beach, FL 33480

Re: Frederick J. Keitel, III  
Case No. 15-21654  
United States Bankruptcy Court  
Southern District of Florida

Dear Mr. Keitel:

Your inquiry dated November 30, 2016, to Clifford J. White, III, Director of the Executive Office for United States Trustees, *et al*, has been forwarded to me for review and reply. In addition to Mr. White, your letter was addressed to United States Attorney Wilfredo A. Ferrer and shows that the Federal Bureau of Investigation received a copy.

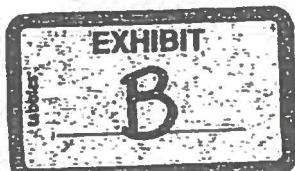
In your letter you state that the United States Trustee's Office has failed to investigate allegations you have raised in the above-referenced bankruptcy case. The United States Trustee Program is the component of the Department of Justice responsible for supervising the administration of bankruptcy cases and private trustees under title 11 of the United States Code. I am the Acting United States Trustee for Region 21, which includes the Southern District of Florida. Prior to responding to your letter, I reviewed the docket and certain pleadings and transcripts in your bankruptcy case.

I am prohibited from commenting on the status of any investigation which may be pending or may have been conducted. If you believe a crime may have been committed in your bankruptcy case you may contact the United States Attorney directly, which you decided to do. Your letter indicates you also reached out to both federal and state law enforcement agencies.

The docket in your bankruptcy case indicates there are several unresolved matters, including a notice of appeal you filed. I cannot comment on the status of pending litigation.

Very truly yours,

  
GUY G. GEBHARDT  
ACTING UNITED STATES TRUSTEE



THE COURT: Good point. The same reason I'm recusing myself.

MR. TURNER: I understand, Your Honor.

THE COURT: I forgot that. So do whatever -- I guess what I'm really instructing you, to do whatever is appropriate in order to investigate the matter.

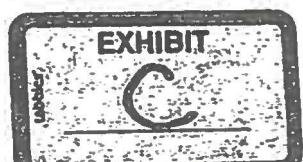
(P. 54, L. 16-25; P. 55, L. 1-15, Excerpt of Hearing – July 13, 2016, at 9:30 a.m., ECF #208, 209, 194, 235, attached hereto as Exhibit "A").

During the Debtor's legally recorded conversation with Robert Furr, Mr. Furr reiterated threats previously made during their earlier conversation on January 13, 2016, when the Debtor fired him verbally and in writing, and wielded additional threats in response to the Debtor's announced intention to hire new counsel. Mr. Furr's threats included, but were not limited to:

- a) Having the U.S. Trustee's Office remove control from the Debtor: "There will be a fucking trustee in there tomorrow and you'll lose control! You let me handle it the way I want or fuck you!"
- b) Preventing the Debtor from reorganizing or selling any property: "You won't get any property sold!" "You want to lose the entire deal?" "If you don't have us, you're dead!" "You want to be dead... go die... go kill yourself! You might as well get a gun, put it to your head and pull the trigger!"
- c) Claims of influence over U.S. Trustee, Heidi Feinman, and through her, Judge Hyman: "I can get Feinman to do whatever I want, and Hyman will approve it!"

Yet, despite Judge Hyman's direct order on July 13, 2016 (nearly four months ago), neither Assistant U.S. Attorney Steven Turner nor DOJ Trial Attorney Ariel Rodriguez have contacted the Debtor. The Debtor believes that this lack of action constitutes a willful obstruction of justice.

Upon being assigned to this case, Rodriguez, a friend and co-worker of both Feinman and Turner, immediately moved for a Motion to Convert and Appoint a Trustee, effectively stripping Debtor of his rights, including but not limited to the right to prosecute his complaints against Feinman



**EXHIBIT “15”**

Subj: **Judge Sasser**  
Date: 5/14/2014 8:34:08 P.M. Eastern Daylight Time  
From: [gmk@gmichaelkeenanlaw.com](mailto:gmk@gmichaelkeenanlaw.com)  
To: [RickKeitel@aol.com](mailto:RickKeitel@aol.com)

Rick – based upon what Judge Sasser said today about your efforts to depose her, I would recommend that you move to recuse her. You have 10 days to do so.

G. Michael Keenan, Esq.  
1700 Old Okeechobee Road  
Suite 103  
West Palm Beach, Florida 33409  
561-684-9601 (Telephone)  
561-684-9602 (Fax)

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**EXHIBIT “16”**

**AFFIDAVIT AND SWORN STATEMENT OF MARY LOU SCOTT IN SUPPORT OF  
FREDERICK J. KEITEL, III's MOTION FOR REHEARING AND RECONSIDERATION OF THE  
AMENDED REPORT OF THE REFEREE**

BEFORE ME, the undersigned authority and officer, authorized to administer oaths and take acknowledgement, appeared, Mary Lou Scott, known to me, who provided her North Carolina Driver's License and whom, after having been duly sworn, deposes and says the following:

My name is Mary Lou Scott, I am over the age of 21 years, competent to make this sworn statement and I have personal knowledge of all the facts and opinions stated herein:

1. I am writing this Affidavit to provide my sworn testimony and statements of facts relating to my depositions that were scheduled for March 27<sup>th</sup> and 28<sup>th</sup> of 2014 in North Carolina.
2. I was also ready willing and able to testify on September 18, 2020 via ZOOM, to rebut all misrepresentations and/or false testimony by Eric Christu who testified on September 17, 2020, as well as answer any questions about the July 21<sup>st</sup> and 23<sup>rd</sup>, 2014 hearing in North Carolina, which I have knowledge of.
3. I also have and used my contemporaneous notes from all my discussions with Shutts & Bowen lawyers and paralegals from March, April, May 2014, and Mr. Keitel in July 2014.
4. I provided Mr. Keitel with my notes, and reviewed my transcript of the deposition from 2014, and provided information and corrections to the true facts.
5. While I was represented by another lawyer from North Carolina in 2014, contrary to everything I read, Mr. Keitel not only paid for my attorney, but worked in concert with her, and myself, and we all got along and agreed on the terms of my deposition.
6. Since the deposition of March 28, 2014, opposing counsel(s) have used my deposition in various court motions, filings and pleadings, making false statements, that I have never had any opportunity to respond to, or rebut, or correct, even though I showed up for trial to testify in October/November 2014, before Judge Sasser, who refused to let me testify.

7. On March 19, 2014, I first received a phone call at work from person called Lisa McNesby, a paralegal for Shutts & Bowen, LLP. She advised me that documents regarding my deposition, had been mailed to me from their office and that they were incorrect, to disregard them.
8. I told her I had received them the day before, but had not reviewed them yet. She stated that she had made a mistake and listed the location and times of the depositions to be somewhere in West Palm Beach and to simply disregard those papers. I told her I would do so.
9. She did ask me if I was going to attend the depositions, to see if I would attend, and as of that time, it was my intention do so.
10. I asked her to send me an email and to copy Mr. Keitel to confirm her statements regarding the incorrect documents and she said she would do so.
11. Ms. McNesby later stated in her affidavit, that she asked me "if I had a lawyer." I do not agree with Ms. McNesby's statement, because Mr. Keitel was my lawyer. She asked me "If I had retained an attorney" to which I answered no, "but that Mr. Keitel would be there". There was no retainer agreement or money exchanged between myself and Mr. Keitel. So when she used the term "retained", I assumed she meant a new lawyer in North Carolina, so I answered correctly.
12. She then said that she did not want to create any problems by speaking with me if I had an attorney to which I responded "it was not a problem as we had not discussed anything regarding working for Mr. Keitel from late 2007."
13. Mr. Keitel, had previously represented me, and given me legal advice as a lawyer on different matters, at no charge, including the Legal Medical Guardianship of my father who lived in Michigan and was ill.

14. I had/have personal knowledge of ongoing exchanges over my deposition in March of 2014, involving out of state depositions, commissioner, sanctions and other legal matters that went on from March 13, 2014 through March 27, 2014. I even offered to come to West Palm Beach for my deposition.
15. I have personal knowledge of the March 24, 2014 letter from Mr. Keenan, co-counsel with Mr. Keitel, who sent a letter to Mr. Hart, co-counsel with Mr. Christu at Shutts & Bowen.
16. Mr. Keenan's letter to Mr. Hart thanked him for his letter of March 21, 2014, (regarding discussions about my deposition), and stated that as a result of [Shutts & Bowen lawyers], not complying with Florida law, that I, Mary Lou Scott. "Ms. Scott will not be attending the depositions scheduled this week in North Carolina." (March 24, 2014 letter from Mr. Keenan to Mr. Hart, attached as exhibit "A").
17. Mr. Keitel was in Europe for a few weeks in March 2014 and didn't return until March 24<sup>th</sup> or 25<sup>th</sup>. On March 26, 2014 Mr. Keitel read an email received from Mr. Jonathan Hart that they will not be attending the deposition of March 27, 2014, due to a hearing on Motion for Protective Order in Florida. He advised that they would be attending my deposition that was scheduled for March 28, 2014. This email was copied to Mr. Eric Christu and Mr. Michael Keenan.
18. As a result of that information exchanged between Mr. Hart, Ms. McNesby and Mr. Keenan's letter of March 24<sup>th</sup>, I did not appear for the March 27, 2014 deposition because Mr. Hart stated that they were not going to appear. I did appear for the March 28, 2014 deposition.
19. During my March 28, 2014 deposition, Mr. Christu spent the beginning of the deposition inappropriately trying to intrude on my attorney-client relationship with Mr. Keitel about the when, where, how, payment, etc. regarding my having Mr. Keitel as my attorney for the purposes of this deposition.

20. Mr. Christu spent pages 9 through 15 of my deposition asking questions about this issue which resulted in at least 20 to 25 questions that were totally unrelated to the purpose of my deposition.

21. I felt that Mr. Christu's questions were harassment and none of the questions were relevant to the purpose of my deposition. I found his line of questioning to be intimidating and argumentative.

22. Mr. Keitel who flew in for my deposition and arrived 15 minutes before it begun. We had briefly discussed the deposition.

23. I told Mr. Keitel, that I had all the documents requested by the deposition, but I didn't have any time to review them with Mr. Keitel before the deposition.

24. Mr. Jonathan Hart had been listening to the entire deposition via a speaker phone. He asked Mr. Christu to go off the record and call him. The deposition stopped at 11:32 and went back on record at 11:43 am.

25. Mr. Christu advised Mr. Keitel that he had a Cabarrus County Judge who would hear their Motion on attorney-client privilege at 12:30.

26. Mr. Keitel objected, stated that he spoke with Mr. Keenan who advised Mr. Keitel, and stated that he would get Judge Sasser or Judge Brunson on the phone to rule on any questions since the deposition was being taken under Florida law.

27. At no time did Mr. Christu produce a copy of any Motion they said they had filed, and after conversations with Mr. Keenan, Mr. Keitel stated there was no due process for a hearing in North Carolina.

28. Mr. Christu and Mr. Keitel went back and forth and Mr. Christu went off the record at 11:48. Mr. Keitel and I left the room and he advised me that Mr. Christu had ended the deposition and leaving.

29. When he did ask for the documents responsive to the depositions, I had documents, but I told him that I misunderstood that he also wanted emails, which I didn't have, but told him I would go home and get for him.

30. I believed as a result of Mr. Christu's action, advice from Mr. Keenan to Mr. Keitel, that the deposition was over, cancelled by Mr. Christu and I did not feel comfortable with what appeared to be underhanded actions by Mr. Hart and Mr. Christu to blindsides myself and Mr. Keitel at 11:43 stating that "a judge" in "a Cabarrus County court" will hear some motion on attorney-client privilege under Florida law.

31. In addition, Mr. Christu had not provided a copy of any Motion nor the name of the Judge or relating documents that were presented to any judge and there was no notice.

32. I personally reviewed the affidavits of both Ms. McNesby, paralegal, and Ms. Hutchins the lawyer hired in North Carolina, and the Order to Show Cause against myself and Mr. Keitel was sent via FedEx on two separate occasions guaranteed never to reach Mr. Keitel, at a post office box, and then to 237 Brazilian Ave, Palm Beach. a vacant property, never an address for Mr. Keitel.

33. Mr. Keenan and Mr. Keitel made several attempts to have my deposition rescheduled to take place in Palm Beach County, Florida with tentative dates of April 24th and April 25th. They refused and insisted on it taking place in North Carolina, even though Florida law controlled my deposition. I did not understand their wanting to incur all those expenses when I had family to visit with and I could stay with in Boca Raton for free, and the most expense I would have incurred would have been around \$600 or \$700 for an airline ticket.

34. Instead it appeared as Mr. Christu wanted to get reimbursement for all his expenses and out of town invoices for travel for thousands of dollars.

35. I was also aware that Mr. Keenan and Mr. Keitel received a court order from Judge Brunson instructing Mr. Christu, Mr. Hart and Shutts & Bowen to hire a commissioner in North Carolina required under Florida law and rules, as previously ruled on by Judge Sasser, and discussed in Mr. Keenan's March 24, 2014 letter to Mr. Hart.

36. At a later date, Mr. Keitel retained Attorney Catherine Barr to represent me for the Sanctions filed against me by Mr. Hart and Mr. Christu. As a result of their refusal to have the deposition held in Florida, Mr. Keitel incurred additional legal costs on my behalf so Attorney Catherine Barr could attend my deposition that took place on April 28, 2014, in Concord, NC.

37. I also have personal knowledge of all the checks written by Mr. Keitel and his companies to Mr. D'Agostino and his Trust for payment of three different mortgage-loans.

38. I also have personal knowledge that Mr. Lubitz, at Boose Casey law firm sent a wire transfer on March 15, 2005 to Mr. D'Agostino's lawyer for \$1,230,000.00 from Mr. Keitel and his company Florida Capital Management that they never received credit for.

39. I personally reviewed the wire transfer, mortgage documents and documentation to testify that the \$1,230,000.00 was sent by Florida Capital Management and Mr. Keitel, for partial payment of a \$2,000,000.00 Mortgage held by the D'Agostino trust.

40. I met with Mr. D'Agostino on more than one occasion and Mr. D'Agostino never questioned the check or payments from Mr. Keitel.

41. I have read the April 15, and May 6, 2015 transcript of the evidentiary hearing in which Judge Hyman stated on eight separate occasions that he didn't believe the testimony of Mr. D'Agostino, and found he lacked credibility, and found Mr. Keitel's testimony as truthful.

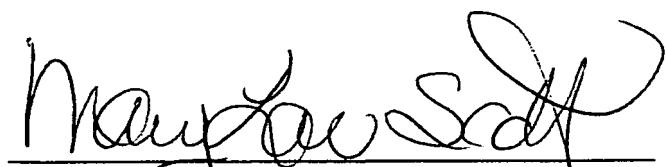
42. I have reviewed the Report of the Referee, and find that Mr. Christu's testimony regarding the depositions, North Carolina case and payments by Mr. Keitel to Mr. D'Agostino was not accurate and intended to mislead the court.

43. I have personal knowledge of Mr. Keitel's hospitalization in July 2014, his unavailability for the July 21, 2014, and July 23, 2014 hearing in North Carolina.

44. I had/have personal knowledge of Mr. Keitel's July 25, 2014 affidavit submitted to Judge McGee in North Carolina, recently reviewed his affidavit, letters and emails to Judge McGee, and they are truthful and accurate to all the facts, and Mr. Keitel was truthful, whereas Mr. Christu's testimony on September 17, 2020 in this proceeding that Mr. Keitel never

complained he could not hear most of the hearing by a phone in the NC courtroom is truthful.

*untruthful*

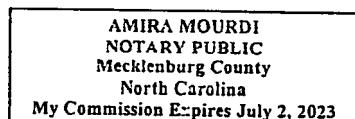


Mary Lou Scott  
4635 Dunberry Place SW  
Concord, NC 28027

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I do hereby certify that Mary Lou Scott personally appeared before me this day and who provided her North Carolina Drivers license as identification. This is in support of the Affidavit herein. Witness my hand and official seal.

This the 17<sup>th</sup> day of October 2020



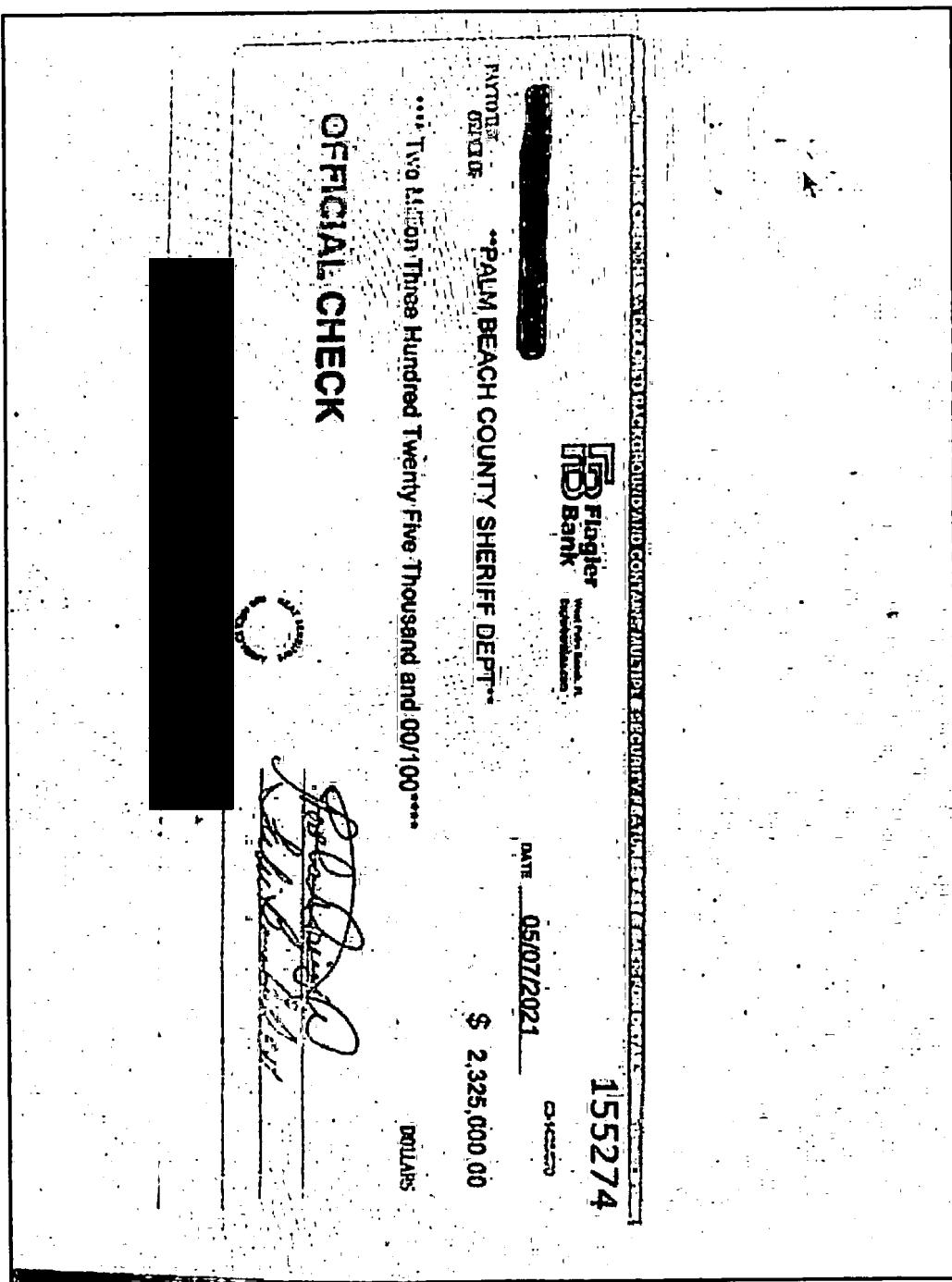
Notary Public

Printed Name: AMIRA MOUDI

**EXHIBIT “17”**

From: FREDERICK KEITEL rickkeitel@aol.com  
Subject: \$2,325,000.00 PB Polo  
Date: July 1, 2021 at 3:40 PM  
To: Rick Keitel rickkeitel@aol.com, FJKMgmt Frederick J Keitel FJKmgmt@gmail.com

R



Sent from my iPhone