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6
7 **UNITED STATES DISTRICT COURT**
8
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 INTERNAL REVENUE SERVICE
11 FRANCHISE TAX BOARD
12 SAN DIEGO COUNTY TREASURER-
13 TAX COLLECTOR
14 SAN DIEGO COUNTY/ASSESSORS/
15 RECORDER/COUNTY CLERK
16 CALIFORNIA DEPARTMENT OF
17 BUSINESS OVERSIGHT
18 STATE OF CALIFORNIA
19 *Ex rel.* David Katz

20 Plaintiff

21 V.

22 STEVEN R. WEDEKING
23 THOMPSON|WEDEKING
24 VANESSA VEYTIA
25 GARY KREEP
26 SUMMIT LENDING SOLUTIONS, INC
27 QUALITY LOAN SERVICE CORP
28 AURORA LOAN SERVICES, LLC
DEUTSCHE BANK TRUST COMPANY
AMERICAS

Defendants.

Case No.

FILED UNDER SEAL

COMPLAINT
(31 U.S.C. §§ 3729-3732)
(FEDERAL FALSE CLAIMS ACT)

TRIAL BY JURY DEMANDED

**QUI TAM PLAINTIFF/REALTOR DAVID KATZ'S COMPLAINT PURSUANT
TO 31 U.S.C. §§ 3729-3732, FEDERAL FALSE CLAIMS ACT**

The Internal Revenue, Franchise Tax Board, San Diego County Treasurer-Tax Collector,
San Diego County/Assessors/Recorders/County Clerk, California Department of Business
Oversight and the State of California by and through *qui tam* Plaintiff/Relator, David Katz

1 (“Katz” or Realtor”), brings this action under 31 U.S.C. §§ 3729-3732 (“False Claims Act” or
2 “FCA”) against Steven R. Wedeking, Thompson|Wedeking, Vanesss Veytia, Gary Kreep
3 Summit Lending Solutions Inc, Quality Loan Service Corp, Aurora Loan Service LLC, and
4 Deutsche Bank Trust Company Americas (“SRW”, “TW”, “VV”, “GK”, “SLSI”, “QLSC”,
5 “ALSL”, “DBTCA” are Defendants”) to recover all damages, penalties and other remedies
6 available under the False Claims Act on behalf of the Internal Revenue Service and Katz, and
7 would show the following:
8

9 **PARTIES**

- 10 1. Realtor, is one of the people of the State of California and a resident in the State of
11 California and has actual knowledge of information through his course of business.
12 Mr. Katz reviewed recorded forged documents on his property in the office of the San
13 Diego Recorder.
- 14 2. Plaintiff/Attorney became aware that “SLSI” did not have a valid license through the
15 Commissioner of the State of California to conduct business transactions on behalf
16 and/or through all the other Defendant’s listed in this complaint and that “SLSI”
17 previous license was “FTB Suspended as of _____, 2005 while continuing to
18 conduct business in California thereafter.
- 19 3. “SRW and “TW” is a third-party debt collector/foreclosure mills firm(s) whom allow
20 false procured documents on individual’s home without “substantial attorney review
21 of documents” in the preparation of grand larceny, hostile takeover, evading taxes
22 both state/federal for unjust enrichment. Furthermore, they claim to be the
23 Beneficiary of Record of a Suspended Corp in which they file sham lawsuits based
24 upon forged/false documents. Exhibit “A”
- 25 4. Doe Defendants 1 through 5 are corporations, partnerships, limited liability
26 companies, and/or other entities which are liable and responsible for “CORPORATE
27 FRAUD” and unlawful actions against the property title of California homeowners in
28 San Diego counties of the State of California while unlicensed by the Commissioner
for the Secretary of the State of California between _____ through

_____, 2007.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331, and 31 U.S.C. §3732, the latter of which specifically confers jurisdiction on this Court for actions brought pursuant to 31 U.S.C. §§3729 &3730.
6. There have been no public disclosures of the allegations or transactions contained herein that bar jurisdiction under 31 U.S.C. §3730(e).
7. This Court has personal jurisdiction over the Defendants pursuant to 31U.S.C.§3732(a) because that section authorizes nationwide service of process and because all the Defendants have at least minimum contacts with the State of California, and can be found in, reside, or transact or have transacted, business in the State of California.
8. Venue exists in the United States Southern District Court pursuant to 31 U.S.C. § 3730(b) (1) because all of the Defendants have at least minimum contacts with the State of California, and all the Defendants can be found in, reside, or transact or have transacted business in the State of California.

GENERAL ALLEGATIONS

9. Defendants, and the listed co-conspirators herein this complaint with full knowledge, and/or reckless disregard, and/or willful ignorance harmed Plaintiff by engaging in the business of recording forged/false documents within the office of land records and knowingly conducting business transactions without obtaining authorization and posting a bond or a exemption from the Commissioner of the Secretary of State for California.
10. Pursuant to California Financial Code section §22712 “SLSI” did not obtain a license from the Commissioner, nor an exemption from engaging in business in the State of California. California Financial Code section §22712 provides in pertinent part: that any person engaged in the business as a broker or finance lender, as defined in this division, without a license from the commissioner, the commissioner may order that person to cease and desist and /or refrain from engaging in business in the State of California. A "finance lender" is defined; in pertinent part, as including "any person

1 who is engaged in the business of making consumer loans or making commercial
2 loans. The business of making consumer loans may include lending money and taking
3 in the name of the lender, or in any other name, in whole or in part, as security for the
4 loan, any contract or obligation involving the forfeiture of rights in or to personal
5 property, the use and possession of which property is retained by other than a
6 mortgagee or lender, or any lien on, assignment of, or power of attorney.

7 11. "SLSI" and all co- conspirators conducted unlawful activities in California from 2004
8 through present which constitutes a violation of Federal RICO Statutes. In 'true-sale',
9 'disguised loan' or 'assignment', which are all fraudulent transactions which serve as
10 'predicate acts' under Federal RICO statutes.

11 The specific RICO sections implicated are:

- 12 a) Section §1341 (mail fraud)
- 13 b) Section §1343 (wire fraud)
- 14 c) Section §1344 (financial institution fraud)
- 15 d) Section §1957 (engaging in monetary transactions in property derived
16 from specified unlawful activity)
- 17 e) Section §1952 (racketeering)

18 12. In the case of qui tam, QUALITY LOAN SERVICE CORPORATION illegally
19 recorded the following documents without authorization of Lender 1) Notice of
20 Default (DOC# 2014-0494033) [read paragraph 22 Acceleration Remedies/Deed of
21 Trust]; "appears" to be a violation of California Penal Code 115. 2) Substitution of
22 Trustee (DOC #2014-0494032), [read paragraph 24 Substitute Trustee/Deed of
23 Trust]; instrument not executed and acknowledged by Lender, no book and page
24 listed where the Security Instrument is recorded; "appears" to be a violation of
25 California Penal Code 115. 3) Corporate Assignment of the Deed of Trust (DOC #
26 2009-0191023) recorded 3 years later; pursuant Deed of Trust California Commercial
27 Code 9312 the instrument must be assigned within 20 days. It "appears" that
28 Assignment was not hand delivered for deposit with the Trustee with the original note
indorsed in blank; 4) Corporate Assignment of the Deed of Trust (DOC #2014-
0124528); Aurora Loan Service, LLC was in "CANCELED STATUS" and managed
to record an instrument "8" years later after the trust closed in 2006; Section 2.01,
subsection 1 of the PSA requires that the Depositor transfer all right, title, interest in
the mortgages to the Trustee, on behalf of the trust, as of the Closing Date. The

1 Closing Date as provided in the PSA is November 8, 2006. "Under New York Trust
2 Law", every sale, conveyance or other act of the trust on contravention of the trust is
3 void. EPTL §7-2.4. Therefore, the acceptance of the note and mortgage by the trustee
4 after the date the trust closed, would be "VOID". It "appears" to be another violation
of California Penal Code 115.

5 13. (a) Any person who attempts or purports to exercise the powers, rights, and
6 privileges of a corporation that has been suspended pursuant to the section 23301 or
7 who transacts or attempts to transact business in this state on behalf of a foreign
8 corporation, the rights and privileges of which have been forfeited pursuant to the
9 section, is punishable by a fine of not less than two hundred fifty dollars (\$250) and
10 not exceeding one thousand dollars (\$1,000), or by imprisonment not exceeding one
year, or both fine and [11] imprisonment."

11 14. Defendant Steven R. Wedeking/"TW", Gary Kleep/"GK", was made aware that
12 Corporation was suspended; however, based upon their lack of ethics they knowingly
13 and willfully continued to pursue/allow litigation with a suspended corporation and
14 continues to proffer fraudulent documents in a attempt to steal Plaintiff home/along
15 with evading taxes and defrauding and cheating all entities out of fees.

16 **ATTEMPT TO EVADE OR DEFEAT TAX**

17 15. Plaintiff realleges and restates the forgoing jurisdictional allegations and general
18 factual allegations.

19 16. The following list of people, corporations, willfully conspired to defraud the Internal
20 Revenue Service based upon the following Real Estate Transactions.

21 17. Defendants willfully failed to file Form 4219 "Statement of Liability of Lender,
22 Surety, or Other Person for Withholding Taxes" pursuant to Section 3503 of the Internal
Revenue Code;

23 18. willfully failed to file Form 8288/8288A " U.S. Withholding Tax Return for
24 Dispositions by Foreign Persons of U.S. Real Property Interest" pursuant to Foreign
25 Investment in Real Property Tax Act of 1980 (FIRPTA);

26 19. willfully failed to file Form 1023 "Application for Recognition of Exemption"
27 pursuant to Internal Revenue code section 501(c)(3);
28

1 20. willfully failed to file Form 990 "Return of Organization Exempt from Income Tax"
pursuant to 501(c), 527, or 4947 (a)(1) of the Internal Revenue Code;

2 21. willfully failed to file Form 1099-INT "Interest Income";

3 22. willfully failed to file Form 1099-S "Proceed from Real Estate Transactions"
4 pursuant to Internal Revenue Pub 523.

5 23. As a direct result of Defendants using, or causes to be made or used a false record or
6 statement material to a false or fraudulent claim, or failure to evade, defeat a tax, the
7 following entities suffered damages.

8 **CALIFORNIA PENAL CODE SECTION 115**

9 24. Plaintiff realleges and restates the forgoing jurisdictional allegations and general
10 factual allegations.

11 25. **115.** (a) Every person who knowingly procures or offers any false or forged instrument
12 to be filed, registered, or recorded in any public office within this state, which instrument,
13 if genuine, might be filed, registered, or recorded under any law of this state or of the
14 United States, is guilty of a felony.

15 26. The following false, forged documents were knowingly procured in a public office,
16 8/28/2006 Deed of Trust Recorded; 4/15/2009 Corporate Assignment of Deed of Trust
17 Recorded; 4/1/2014 Corporate Assignment of Deed of Trust; 11/13/14 Substitution of
18 Trustee Recorded; 11/13/14 Notice of Default and Election to Sell under Deed of Trust
19 Recorded; 6/19/2015 Notice of Trustee's Sale Recorded; 6/27/16 Trustee Deed Upon Sale
20 Recorded; 9/19/2016 Grant Deed Recorded; See Exhibit "A"

21 27. As a direct result of Defendants fraud, the county/state/federal were cheated out of
22 fees/revenue.

23 **REV & TAX CODE SECTION 19719**

24 28. Plaintiff realleges and restates the forgoing jurisdictional allegations and general
25 factual allegations.

26 29. "(a) Any person who attempts or purports to exercise the powers, rights, and privileges of a
27 corporation that has been suspended pursuant to the section 23301 or who transacts or attempts
28

1 to transact business in this state on behalf of a foreign corporation, the rights and privileges of
2 which have been forfeited pursuant to the section, is punishable by a fine of not less than two
3 hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000), or by
4 imprisonment not exceeding one year, or both fine and [11] imprisonment.”

5 30. On August 22, 2006 Plaintiff executed a mortgage with an suspended corporation [SUMMIT
6 LENDING SOLUTIONS, INC].

7 31. As a direct result of Defendants violation, contract is voided/nullity. A contract that is
8 contrary to an express provision of law is unlawful. Cal. Civ. Code section 1667. It is settled law
9 that a contract founded on an act penalized by statute is void. California Delta Farms v Chinese
10 Am. Farms, 207 Cal. 298 (1928).

11
12 **REV & TAX CODE SECTION 23304.1, 23304.1(b)**

13 32. Plaintiff realleges and restates the foregoing forgoing jurisdictional allegations and
14 general factual allegations.

15 33. (a) Every contract made in in this state by a taxpayer during the time that the taxpayer’s
16 powers, rights and privileges are suspended or forfeited pursuant to section 23301, 23301.5 or
17 23775 shall, subject to section 23304.5, be voidable at the request of any party to the contract
18 other than the taxpayer. (b) If a foreign taxpayer that neither is qualified to do business nor has
19 an account number from the Franchise Tax Board, fails to file a tax return required under this
20 part, any contract made in this state by that taxpayer during the applicable period specified in
21 subdivision(c) shall, subject to section 23304.5, be voidable at the request of any party to the
22 contract other than the taxpayer.
23

24 34. Defendant “SLSI” knowingly procured a contract in a scheme of fraud by advancing a
25 writing, which it knew was false with the intention that Plaintiff rely on the written contract to
26 his detriment.
27
28

1 NON-COMPLIANCE TO SENATE BILL 1137 AND TRESPASS ON COVENANT

2 FORM 3005 “DEED OF TRUST”

3 35. Plaintiff realleges and restates the foregoing forgoing jurisdictional allegations and
4 general factual allegations.

5 36. Upon a breach of the obligation of a mortgage or transfer of an interest in
6 property, existing law requires the trustee, mortgagee, or beneficiary to record in the
7 office of the county recorder wherein the mortgaged or trust property is situated, a
8 notice of default, and to mail the notice of default to the mortgagor or trustor. Existing
9 law requires the notice to contain specified statements, including, but not limited to,
10 those related to the mortgagor’s or trustor’s legal rights, as specified. Existing law also
11 requires that the notice of sale in the case of default be posted on the property, as
12 specified stability to California’s statewide and regional economies and housing
13 market by requiring early contact and communications between mortgagees,
14 beneficiaries, or authorized agents and specified borrowers to explore options that
could avoid foreclosure and by facilitating the modification or restructuring of loans in
appropriate circumstances.

15 37. **2923.5.** (a) (1) A mortgagee, trustee, beneficiary, or authorized agent may not file a
16 notice of default pursuant to Section 2924 until 30 days after contact is made as required by
17 paragraph (2) or 30 days after satisfying the due diligence requirements as described in
subdivision (g).

18 *A mortgagee, beneficiary, or authorized agent shall contact the borrower in person or by*
19 *telephone in order to assess the borrower’s financial situation and explore options for the*
20 *borrower to avoid foreclosure. During the initial contact, the mortgagee, beneficiary, or*
21 *authorized agent shall advise the borrower that he or she has the right to request a*
22 *subsequent meeting and, if requested, the mortgagee, beneficiary, or authorized agent shall*
23 *schedule the meeting to occur within 14 days. The assessment of the borrower’s financial*
24 *situation and discussion of options may occur during the first contact, or at the subsequent*
25 *meeting scheduled for that purpose. In either case, the borrower shall be provided the toll-*
26 *free telephone number made available by the United States Department of Housing and*
27 *Urban Development (HUD) to find a HUD- certified housing counseling agency. Any*
28 *meeting may occur telephonically. EMPHASIS ADDED [SENATE BILL 1137] Exb “B”*

1 38. Upon information and belief, my Note is not in default, I have received no presentment
2 from the Mortgagee, Trustee of record per the constraints of this state's UCC to the
3 contrary, and I owe nothing to the agency for which the defendants are working for.

4 39. It "appears" that the defendants are masquerading as the Lender/Beneficiary of record
5 and/or Trustee in a concerted effort, of "LONG-TERM TAX EVASION SCHEMES, AND
6 IDENTITY THEFT RING, WITH THE FILING OF LAW SUITS WITH SUSPENDED
7 CORPORATIONS IN AN EFFORT TO ROB THE ESTATE OF ITS ASSETS, AND
8 MASQUERADE AS THE EXECUTOR, ADMINSTRATOR, TRUSTEE OR ATTORNEY IN
9 FACT OF THE ESTATE, THUS CAUSING A "BETRAYAL OF THE PUBLIC TRUST".

10 **26 U.S.C. §§ 671 to 679 IRS GRANTOR TRUST RULES**

11 40. Plaintiff realleges and restates the forgoing jurisdictional allegations and general factual
12 allegations.

13 41. Defendant "SRW" claims that a trust now owns title to plaintiff home.

14 42. § 671 - Trust income, deductions, and credits attributable to grantors and others as substantial owners
15 § 672 - Definitions and rules
16 § 673 - Reversionary interests
17 § 674 - Power to control beneficial enjoyment
18 § 675 - Administrative powers
19 § 676 - Power to revoke
20 § 677 - Income for benefit of grantor
21 § 678 - Person other than grantor treated as substantial owner
22 § 679 - Foreign trusts having one or more United States beneficiaries.

23 43. **671** - Where it is specified in this subpart that the grantor or another person shall be treated as the owner of any
24 portion of a trust, there shall then be included in computing the taxable income and credits of the grantor or the other
25 person those items of income, deductions, and credits against tax of the trust which are attributable to that portion of
26 the trust to the extent that such items would be taken into account under this chapter in computing taxable income or
27 credits against the tax of an individual. Any remaining portion of the trust shall be subject to subparts A through D.
28 No items of a trust shall be included in computing the taxable income and credits of the grantor or of any other
person solely on the grounds of his dominion and control over the trust under section 61 (relating to definition of
gross income) or any other provision of this title, except as specified in this subpart.
(Aug. 16, 1954, ch. 736, 68A Stat. 226.)

24 **44. 672 - (a) Adverse party**

25 For purposes of this subpart, the term "adverse party" means any person having a substantial beneficial interest in
26 the trust which would be adversely affected by the exercise or non exercise of the power which he possesses
27 respecting the trust. A person having a general power of appointment over the trust property shall be deemed to have
28 a beneficial interest in the trust.

26 **(b) Nonadverse party**

27 For purposes of this subpart, the term "nonadverse party" means any person who is not an adverse party.

1 **(c) Related or subordinate party** For purposes of this subpart, the term “related or subordinate party” means any nonadverse party who is—

2 **(1)** the grantor’s spouse if living with the grantor;

3 **(2)** any one of the following: The grantor’s father, mother, issue, brother or sister; an employee of the grantor; a corporation or any employee of a corporation in which the stock holdings of the grantor and the trust are significant from the viewpoint of voting control; a subordinate employee of a corporation in which the grantor is an executive. For purposes of subsection (f) and sections 674 and 675, a related or subordinate party shall be presumed to be subservient to the grantor in respect of the exercise or non exercise of the powers conferred on him unless such party is shown not to be subservient by a preponderance of the evidence.

4 **(d) Rule where power is subject to condition precedent**

5 A person shall be considered to have a power described in this subpart even though the exercise of the power is subject to a precedent giving of notice or takes effect only on the expiration of a certain period after the exercise of the power.

6 **(e) Grantor treated as holding any power or interest of grantor’s spouse**

7 **(1) In general** For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

8 **(A)** any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

9 **(B)** any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

10 **(2) Marital status**

11 For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

12 **(f) Subpart not to result in foreign ownership**

13 **(1) In general**

14 Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

15 **(2) Exceptions**

16 **(A) Certain revocable and irrevocable trusts** Paragraph (1) shall not apply to any portion of a trust if—

17 **(i)** the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

18 **(ii)** the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

19 **(B) Compensatory trusts**

20 Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

21 **(3) Special rules** Except as otherwise provided in regulations prescribed by the Secretary—

22 **(A)** a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

23 **(B)** paragraph (1) shall not apply for purposes of applying section 1297.

24 **(4) Recharacterization of purported gifts**

25 In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

26 **(5) Special rule where grantor is foreign person** If—

27 **(A)** but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

28 **(B)** such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

(6) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.

(Aug. 16, 1954, ch. 736, 68A Stat. 226; Pub. L. 99–514, title XIV, § 1401(a), Oct. 22, 1986, 100 Stat. 2711; Pub. L. 100–647, title I, § 1014(a)(1), Nov. 10, 1988, 102 Stat. 3559; Pub. L. 101–508, title XI, § 11343(a), Nov. 5, 1990,

104 Stat. 1388–472; Pub. L. 104–188, title I, § 1904(a), Aug. 20, 1996, 110 Stat. 1910; Pub. L. 105–206, title VI, § 6011(c)(1), July 22, 1998, 112 Stat. 818.)

45. 673 - (a) General rule

The grantor shall be treated as the owner of any portion of a trust in which he has a reversionary interest in either the corpus or the income therefrom, if, as of the inception of that portion of the trust, the value of such interest exceeds 5 percent of the value of such portion.

(b) Reversionary interest taking effect at death of minor lineal descendant beneficiary In the case of any beneficiary who—

(1) is a lineal descendant of the grantor, and

(2) holds all of the present interests in any portion of a trust,

the grantor shall not be treated under subsection (a) as the owner of such portion solely by reason of a reversionary interest in such portion which takes effect upon the death of such beneficiary before such beneficiary attains age 21.

(c) Special rule for determining value of reversionary interest

For purposes of subsection (a), the value of the grantor’s reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

(d) Postponement of date specified for reacquisition

Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such income would not be so includible in the absence of such postponement.

(Aug. 16, 1954, ch. 736, 68A Stat. 227; Pub. L. 91–172, title II, § 201(c), Dec. 30, 1969, 83 Stat. 560; Pub. L. 99–514, title XIV, § 1402(a), Oct. 22, 1986, 100 Stat. 2711; Pub. L. 100–647, title I, § 1014(b), Nov. 10, 1988, 102 Stat. 3559.)

46. 674 - (a) General rule

The grantor shall be treated as the owner of any portion of a trust in respect of which the beneficial enjoyment of the corpus or the income therefrom is subject to a power of disposition, exercisable by the grantor or a nonadverse party, or both, without the approval or consent of any adverse party.

(b) Exceptions for certain powers Subsection (a) shall not apply to the following powers regardless of by whom held:

(1) Power to apply income to support of a dependent

A power described in section 677(b) to the extent that the grantor would not be subject to tax under that section.

(2) Power affecting beneficial enjoyment only after occurrence of event

A power, the exercise of which can only affect the beneficial enjoyment of the income for a period commencing after the occurrence of an event such that a grantor would not be treated as the owner under section 673 if the power were a reversionary interest; but the grantor may be treated as the owner after the occurrence of the event unless the power is relinquished.

(3) Power exercisable only by will

A power exercisable only by will, other than a power in the grantor to appoint by will the income of the trust where the income is accumulated for such disposition by the grantor or may be so accumulated in the discretion of the grantor or a nonadverse party, or both, without the approval or consent of any adverse party.

(4) Power to allocate among charitable beneficiaries

A power to determine the beneficial enjoyment of the corpus or the income therefrom if the corpus or income is irrevocably payable for a purpose specified in section 170(c) (relating to definition of charitable contributions) or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(g)(1)).

(5) Power to distribute corpus A power to distribute corpus either—

(A) to or for a beneficiary or beneficiaries or to or for a class of beneficiaries (whether or not income beneficiaries) provided that the power is limited by a reasonably definite standard which is set forth in the trust instrument; or

(B) to or for any current income beneficiary, provided that the distribution of corpus must be chargeable against the proportionate share of corpus held in trust for the payment of income to the beneficiary as if the corpus constituted a

separate trust.

A power does not fall within the powers described in this paragraph if any person has a power to add to the beneficiary or beneficiaries or to a class of beneficiaries designated to receive the income or corpus, except where such action is to provide for after-born or after-adopted children.

(6) Power to withhold income temporarily A power to distribute or apply income to or for any current income beneficiary or to accumulate the income for him, provided that any accumulated income must ultimately be payable—

(A) to the beneficiary from whom distribution or application is withheld, to his estate, or to his appointees (or persons named as alternate takers in default of appointment) provided that such beneficiary possesses a power of appointment which does not exclude from the class of possible appointees any person other than the beneficiary, his estate, his creditors, or the creditors of his estate, or

(B) on termination of the trust, or in conjunction with a distribution of corpus which is augmented by such accumulated income, to the current income beneficiaries in shares which have been irrevocably specified in the trust instrument.

Accumulated income shall be considered so payable although it is provided that if any beneficiary does not survive a date of distribution which could reasonably have been expected to occur within the beneficiary's lifetime, the share of the deceased beneficiary is to be paid to his appointees or to one or more designated alternate takers (other than the grantor or the grantor's estate) whose shares have been irrevocably specified. A power does not fall within the powers described in this paragraph if any person has a power to add to the beneficiary or beneficiaries or to a class of beneficiaries designated to receive the income or corpus except where such action is to provide for after-born or after-adopted children.

(7) Power to withhold income during disability of a beneficiary A power exercisable only during—

(A) the existence of a legal disability of any current income beneficiary, or

(B) the period during which any income beneficiary shall be under the age of 21 years,

to distribute or apply income to or for such beneficiary or to accumulate and add the income to corpus. A power does not fall within the powers described in this paragraph if any person has a power to add to the beneficiary or beneficiaries or to a class of beneficiaries designated to receive the income or corpus, except where such action is to provide for after-born or after-adopted children.

(8) Power to allocate between corpus and income

A power to allocate receipts and disbursements as between corpus and income, even though expressed in broad language.

(c) Exception for certain powers of independent trustees Subsection (a) shall not apply to a power solely exercisable (without the approval or consent of any other person) by a trustee or trustees, none of whom is the grantor, and no more than half of whom are related or subordinate parties who are subservient to the wishes of the grantor—

(1) to distribute, apportion, or accumulate income to or for a beneficiary or beneficiaries, or to, for, or within a class of beneficiaries; or

(2) to pay out corpus to or for a beneficiary or beneficiaries or to or for a class of beneficiaries (whether or not income beneficiaries).

A power does not fall within the powers described in this subsection if any person has a power to add to the beneficiary or beneficiaries or to a class of beneficiaries designated to receive the income or corpus, except where such action is to provide for after-born or after-adopted children. For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual.

(d) Power to allocate income if limited by a standard

Subsection (a) shall not apply to a power solely exercisable (without the approval or consent of any other person) by a trustee or trustees, none of whom is the grantor or spouse living with the grantor, to distribute, apportion, or accumulate income to or for a beneficiary or beneficiaries, or to, for, or within a class of beneficiaries, whether or not the conditions of paragraph (6) or (7) of subsection (b) are satisfied, if such power is limited by a reasonably definite external standard which is set forth in the trust instrument. A power does not fall within the powers described in this subsection if any person has a power to add to the beneficiary or beneficiaries or to a class of beneficiaries designated to receive the income or corpus except where such action is to provide for after-born or after-adopted children.

(Aug. 16, 1954, ch. 736, 68A Stat. 227; Pub. L. 99-514, title XIV, § 1402(b)(1), Oct. 22, 1986, 100 Stat. 2712; Pub. L. 100-647, title I, § 1014(a)(3), Nov. 10, 1988, 102 Stat. 3559; Pub. L. 105-34, title XV, § 1530(c)(6), Aug. 5, 1997, 111 Stat. 1078.)

1
2 47. 675 - The grantor shall be treated as the owner of any portion of a trust in respect of which—

3 **(1) Power to deal for less than adequate and full consideration**

4 A power exercisable by the grantor or a nonadverse party, or both, without the approval or consent of any adverse party enables the grantor or any person to purchase, exchange, or otherwise deal with or dispose of the corpus or the income therefrom for less than an adequate consideration in money or money's worth.

5 **(2) Power to borrow without adequate interest or security**

6 A power exercisable by the grantor or a nonadverse party, or both, enables the grantor to borrow the corpus or income, directly or indirectly, without adequate interest or without adequate security except where a trustee (other than the grantor) is authorized under a general lending power to make loans to any person without regard to interest or security.

7 **(3) Borrowing of the trust funds**

8 The grantor has directly or indirectly borrowed the corpus or income and has not completely repaid the loan, including any interest, before the beginning of the taxable year. The preceding sentence shall not apply to a loan which provides for adequate interest and adequate security, if such loan is made by a trustee other than the grantor and other than a related or subordinate trustee subservient to the grantor. For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual.

9 **(4) General powers of administration**

10 A power of administration is exercisable in a nonfiduciary capacity by any person without the approval or consent of any person in a fiduciary capacity. For purposes of this paragraph, the term "power of administration" means any one or more of the following powers: (A) a power to vote or direct the voting of stock or other securities of a corporation in which the holdings of the grantor and the trust are significant from the viewpoint of voting control; (B) a power to control the investment of the trust funds either by directing investments or reinvestments, or by vetoing proposed investments or reinvestments, to the extent that the trust funds consist of stocks or securities of corporations in which the holdings of the grantor and the trust are significant from the viewpoint of voting control; or (C) a power to reacquire the trust corpus by substituting other property of an equivalent value.
11 (Aug. 16, 1954, ch. 736, 68A Stat. 229; Pub. L. 100-647, title I, § 1014(a)(2), Nov. 10, 1988, 102 Stat. 3559.)

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14
15 **48. 676 - (a) General rule**

16 The grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under any other provision of this part, where at any time the power to revest in the grantor title to such portion is exercisable by the grantor or a non-adverse party, or both.

17 **(b) Power affecting beneficial enjoyment only after occurrence of event**

18 Subsection (a) shall not apply to a power the exercise of which can only affect the beneficial enjoyment of the income for a period commencing after the occurrence of an event such that a grantor would not be treated as the owner under section 673 if the power were a reversionary interest. But the grantor may be treated as the owner after the occurrence of such event unless the power is relinquished.
19 (Aug. 16, 1954, ch. 736, 68A Stat. 230; Pub. L. 99-514, title XIV, § 1402(b)(2), Oct. 22, 1986, 100 Stat. 2712.)

20
21 **49. 677- (a) General rule** The grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under section 674, whose income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be—

22 **(1)** distributed to the grantor or the grantor's spouse;

23 **(2)** held or accumulated for future distribution to the grantor or the grantor's spouse; or

24 **(3)** applied to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse (except policies of insurance irrevocably payable for a purpose specified in section 170(c) (relating to definition of charitable contributions)).

25 This subsection shall not apply to a power the exercise of which can only affect the beneficial enjoyment of the income for a period commencing after the occurrence of an event such that the grantor would not be treated as the owner under section 673 if the power were a reversionary interest; but the grantor may be treated as the owner after the occurrence of the event unless the power is relinquished.

26 **(b) Obligations of support**

1 Income of a trust shall not be considered taxable to the grantor under subsection (a) or any other provision of this
2 chapter merely because such income in the discretion of another person, the trustee, or the grantor acting as trustee
3 or co-trustee, may be applied or distributed for the support or maintenance of a beneficiary (other than the grantor's
4 spouse) whom the grantor is legally obligated to support or maintain, except to the extent that such income is so
5 applied or distributed. In cases where the amounts so applied or distributed are paid out of corpus or out of other
6 than income for the taxable year, such amounts shall be considered to be an amount paid or credited within the
7 meaning of paragraph (2) of section 661(a) and shall be taxed to the grantor under section 662.
8 (Aug. 16, 1954, ch. 736, 68A Stat. 230; Pub. L. 91-172, title III, § 332(a), Dec. 30, 1969, 83 Stat. 599; Pub. L. 99-
9 514, title XIV, § 1402(b)(3), Oct. 22, 1986, 100 Stat. 2712.)

6 **50. 678 - (a) General rule** A person other than the grantor shall be treated as the owner of any portion of a trust
with respect to which:

7 **(1)** such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself, or
8 **(2)** such person has previously partially released or otherwise modified such a power and after the release or
modification retains such control as would, within the principles of sections 671 to 677, inclusive, subject to grantor
of a trust to treatment as the owner thereof.

9 **(b) Exception where grantor is taxable**

10 Subsection (a) shall not apply with respect to a power over income, as originally granted or thereafter modified, if
the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the
provisions of this subpart other than this section.

11 **(c) Obligations of support**

12 Subsection (a) shall not apply to a power which enables such person, in the capacity of trustee or cotrustee, merely
to apply the income of the trust to the support or maintenance of a person whom the holder of the power is obligated
13 to support or maintain except to the extent that such income is so applied. In cases where the amounts so applied or
distributed are paid out of corpus or out of other than income of the taxable year, such amounts shall be considered
14 to be an amount paid or credited within the meaning of paragraph (2) of section 661(a) and shall be taxed to the
holder of the power under section 662.

14 **(d) Effect of renunciation or disclaimer**

15 Subsection (a) shall not apply with respect to a power which has been renounced or disclaimed within a reasonable
time after the holder of the power first became aware of its existence.

15 **(e) Cross reference**

16 For provision under which beneficiary of trust is treated as owner of the portion of the trust which consists of stock
in an S corporation, see section 1361(d).

17 (Aug. 16, 1954, ch. 736, 68A Stat. 231; Pub. L. 94-455, title X, § 1013(b), Oct. 4, 1976, 90 Stat. 1615; Pub. L. 97-
18 448, title I, § 102(i)(2), Jan. 12, 1983, 96 Stat. 2373; Pub. L. 106-554, § 1(a)(7) [title III, § 319(8)(A)], Dec. 21,
2000, 114 Stat. 2763, 2763A-646.)

19 **51. 679 - (a) Transferor treated as owner**

20 **(1) In general**

21 A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in
section 6048(a)(3)(B)(ii)) shall be treated as the owner for his taxable year of the portion of such trust attributable to
such property if for such year there is a United States beneficiary of any portion of such trust.

22 **(2) Exceptions** Paragraph (1) shall not apply—

23 **(A) Transfers by reason of death**

To any transfer by reason of the death of the transferor.

24 **(B) Transfers at fair market value**

To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred
property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair
market value.

25 **(3) Certain obligations not taken into account under fair market value exception**

26 **(A) In general** In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii)
or (iii) of subparagraph (C), there shall not be taken into account—

27 **(i)** except as provided in regulations, any obligation of a person described in subparagraph (C), and

1 (ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

2 **(B) Treatment of principal payments on obligation**

Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

3 **(C) Persons described** The persons described in this subparagraph are—

4 (i) the trust,

(ii) any grantor, owner, or beneficiary of the trust, and

5 (iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor, owner, or beneficiary of the trust.

6 **(4) Special rules applicable to foreign grantor who later becomes a United States person**

7 **(A) In general**

If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

8 **(B) Treatment of undistributed income**

9 For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

10 **(C) Residency starting date**

11 For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

12 **(5) Outbound trust migrations** If—

13 **(A)** an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

14 **(B)** such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.

15 **(b) Trusts acquiring United States beneficiaries** If—

16 **(1)** subsection (a) applies to a trust for the transferor's taxable year, and

17 **(2)** subsection (a) would have applied to the trust for his immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust, then, for purposes of this subtitle, the transferor shall be treated as having income for the taxable year (in addition to his other income for such year) equal to the undistributed net income (at the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

18 **(c) Trusts treated as having a United States beneficiary**

19 **(1) In general** For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

20 **(A)** under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

21 **(B)** if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

22 For purposes of subparagraph (A), an amount shall be treated as accumulated for the benefit of a United States person even if the United States person's interest in the trust is contingent on a future event.

23 **(2) Attribution of ownership** For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

24 **(A)** in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),

25 **(B)** in the case of a foreign partnership, a United States person is a partner of such partnership, or

26 **(C)** in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).

27 **(3) Certain United States beneficiaries disregarded**

1 A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of
2 property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of
3 such transfer.

4 **(4) Special rule in case of discretion to identify beneficiaries** For purposes of paragraph (1)(A), if any person has
5 the discretion (by authority given in the trust agreement, by power of appointment, or otherwise) of making a
6 distribution from the trust to, or for the benefit of, any person, such trust shall be treated as having a beneficiary who
7 is a United States person unless—

8 **(A)** the terms of the trust specifically identify the class of persons to whom such distributions may be made, and
9 **(B)** none of those persons are United States persons during the taxable year.

10 **(5) Certain agreements and understandings treated as terms of the trust**

11 For purposes of paragraph (1)(A), if any United States person who directly or indirectly transfers property to the
12 trust is directly or indirectly involved in any agreement or understanding (whether written, oral, or otherwise) that
13 may result in the income or corpus of the trust being paid or accumulated to or for the benefit of a United States
14 person, such agreement or understanding shall be treated as a term of the trust.

15 **(6) Uncompensated use of trust property treated as a payment**

16 For purposes of this subsection, a loan of cash or marketable securities (or the use of any other trust property)
17 directly or indirectly to or by any United States person (whether or not a beneficiary under the terms of the trust)
18 shall be treated as paid or accumulated for the benefit of a United States person. The preceding sentence shall not
19 apply to the extent that the United States person repays the loan at a market rate of interest (or pays the fair market
20 value of the use of such property) within a reasonable period of time.

21 **(d) Presumption that foreign trust has United States beneficiary** If a United States person directly or indirectly
22 transfers property to a foreign trust (other than a trust described in section 6048(a)(3)(B)(ii)), the Secretary may treat
23 such trust as having a United States beneficiary for purposes of applying this section to such transfer unless such
24 person—

25 **(1)** submits such information to the Secretary as the Secretary may require with respect to such transfer, and

26 **(2)** demonstrates to the satisfaction of the Secretary that such trust satisfies the requirements of subparagraphs (A)
27 and (B) of subsection (c)(1).

28 **(e) Regulations**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this
section.

(Added Pub. L. 94-455, title X, § 1013(a), Oct. 4, 1976, 90 Stat. 1614; amended Pub. L. 96-603, § 2(b), Dec. 28,
1980, 94 Stat. 3509; Pub. L. 104-188, title I, § 1903(a)-(f), Aug. 20, 1996, 110 Stat. 1909, 1910; Pub. L. 105-34,
title XVI, § 1601(i)(2), Aug. 5, 1997, 111 Stat. 1093; Pub. L. 105-206, title VI, § 6018(g), July 22, 1998, 112 Stat.
823; Pub. L. 111-147, title V, §§ 531, 532(a), 533(c), Mar. 18, 2010, 124 Stat. 113, 114.)

52. As a direct result of defendants fraudulent scheme to declare themselves as the beneficiary/
authorized agent, defendants have defrauded the true owners of the mortgage [investors],
Certificateholders/Noteholders, as well the county/state/federal of fees/revenue.

RELIEF

53. On behalf of the Internal Revenue Service and all other entities, Realtor seeks to
recover all relief available under the False Claims Act, as amended. He seeks monetary
damages equal to three (3) times the damages suffered by the Internal Revenue Service and
all other entities. In addition, Realtor seeks to recover all civil penalties and other relief on
behalf of the Internal Revenue Service and all other entities and the Realtor in accordance
with the False Claims Act.

1 54. Relator should be, for his contribution to the Government's investigation and recovery,
2 be awarded a fair and reasonable Relator's share pursuant to 31 U.S.C. § 3730(d) of the
3 False Claims Act.

4 55. Realtor seeks to be awarded all cost and expenses for this action, including statutory
5 fees, expenses, court costs, and any available pre-judgment or post-judgment interest at the
6 highest rate allowed by law.

7 **PRAYER**

8 WHEREFORE, premises considered, Realtor prays that this District Court enter judgment
9 on behalf of the Internal Revenue and all other entities against the Defendants for the
10 following:

11 a) damages in the amount of three (3) times the actual damages suffered by the Internal
12 Revenue Service and all other entities and all statutory penalties arising from the
13 Defendant's unlawful conduct which violated the False Claims Act;

14 b) a Relator's Share from the recoveries in a statutory amount which is fair and reasonable
15 under the circumstances;

16 c) Relator's statutory fees, expenses and cost of court;

17 d) pre-judgment and post judgment interest, at the highest rate allowed by law; and

18 e) all other relief to which Realtor and/or the Internal Revenue Service and all other entities
19 may be justly entitled, whether at law or inequity, and which the District Court deems just
20 and proper.

21 Dated this 14th day of November, 2016

22 **INTERNAL REVENUE SERVICE**
23 **FRANCHISE TAX BOARD**
24 **SAN DIEGO COUNTY TREASURER-**
25 **TAX COLLECTOR**
26 **SAN DIEGO COUNTY/ASSESSORS/**
27 **RECORDER/COUNTY CLERK**
28 **CALIFORNIA DEPARTMENT OF**
BUSINESS OVERSIGHT
STATE OF CALIFORNIA, ex rel. David Katz

Respectfully submitted,

David Katz

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EXHIBIT "A"