

Great Committee

From: Chris Salem <chrissalem8@yahoo.com>
Sent: Sunday, May 21, 2023 9:55 PM
To: Great Committee
Cc: David M. Raatz; Richard E. Mitchell; Maui_County Council_mailbox
Subject: WRITTEN TESTIMONY GREAT-11(8) Reso 23-82
Attachments: Salter to CC 5 11 23 w Exh A.pdf; Salter Letter to CC Exh B.pdf; Salter Letter to CC Exh F.pdf

You don't often get email from chrissalem8@yahoo.com. [Learn why this is important](#)

*Law Office of
Bradley D. Salter*
24 Malialani Place, Lahaina, HI 96761
Phone: (808) 298-7873 - Fax: (808) 669-0800

Via Email: Kristin.Tarnstrum@co.maui,hi.us

May 11, 2023

KRISTIN K. TARNSTROM
Deputy Corporation Counsel
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

Re: Civil No. 2CCV-21-0000048; *Christopher Salem v. MICHAEL P. VICTORINO, et al.*

Dear Ms. Tarnstrom;

I am wrapping up my representation and professional obligations to my client Christopher Salem. I would like to make one final good-faith attempt to settle this case.¹

The Pre-Trial Statement filed on behalf of the County Defendants acknowledges the willingness to engage in mediation. The purpose of this final communication is to determine whether the County Defendants are willing to stipulate to mediation at the withdrawal hearing scheduled on May 12, 2023.

With that said, Mr. Salem has requested I forward his position statements, with the hope the County Defendants are conscious of the unjustified escalating injuries to the County of Maui and Mr. Salem's family.

Christopher Salem's Good Faith Settlement Offers:

Based on Maui County Council public records, my good faith settlement offers were never publicly posted for consideration by the Council members. I have never received a bona fide offer of settlement, or counter offer, from the County Defendants, or their legal counsel. As such, I will be seeking sanctions from the Court for the County Defendant's disregard and contempt of the Court Order.

¹ This communication is not being presented under Rule 408.

My legal counsel thoroughly evaluated this case and attempted to settle this case with multiple bona fide written offers to the County Defendants and Defendant Victorino's legal counsel. ("A") My multiple settlement offers included releasing the County from liability.

On March 1, 2022, a Pre Trial Order of the Court was issued by the Court. (Dkt 141 NTCE) Pursuant to the Court Order, the parties "must" have attempted settlement negotiations through an exchange of written bona fide offers prior to the Settlement Conference.

On May 16, 2022, my legal counsel Terry Revere presented a bona fide good faith offer and demand for settlement. On November 23, 2022, my legal counsel Brad Salter presented a bona fide good faith offer of settlement. Again, the settlement offers agreed to release the County from liability.

On May 25, 2022, I sent an email communication to Council Member Mike Molina, the Chair of the GREAT Committee. ("B") The email included a request to forward my good faith offer of settlement to the Committee members.

On March 30, 2023, my attorney Brad Salter sent you a letter stating; "The good faith settlement demand previously sent to your attention addresses this agreement which also serves the public interest. My research finds the settlement was never posted for consideration by the Council. If I am in error, please provide a copy of the transmission to your clients." ("C") To date, my attorney Brad Salter has not received the requested record from Corporation Counsel.

Corporation Counsel's Conflicts:

I have prepared a Motion to Recuse Corporation Counsel for the widespread undisclosed conflicts of interest, including, but not limited to; Corporation Counsel Attorney's direct role in executing the thousands of unaccounted for private developer infrastructure "deferral" agreements which are the foundation of the suspended County Audit, and one of my multiple staff employee whistleblower claims.

I assert the Audit of the "deferral" agreements will reveal Corporation Counsel has been defending and covering up their own malfeasance and servicing of private developers' financial interests for decades at the expense of the County and in violation of the County Charter. I believe depositions will reveal Corporation Counsel interfered with and influenced the County Audit.

The attached Motion for Partial Summary Judgment provides the proof and evidence of falsification of government records and conflicted conduct by Corporation Counsel which are relevant to my whistleblower claims and just cause for injunctive relief from the Court. ("D")

In the March 30, 2023 letter sent to your attention, my attorney Brad Salter stated; "To reduce the burden on the Court, we ask you to please consider recusing yourself from this case

as the whistleblower claims clearly involve actions by the Department of The Corporation Counsel.” In a follow-up communication, you stated you did not feel obligated to respond to the issues referenced in my attorney’s letter or his request for the recusal of Corporation Counsel.

The aforementioned May 25, 2022 email communication to Council Member Mike Molina, included evidence of conflicts of interest and falsified representations by attorneys within the Department of the Corporation Counsel relevant to my multiple whistleblower claims. (“E”) I further assert Corporation Counsel’s prior dual representations of myself and the Defendants Victorino and Defendant Mclean as County employees’ raises unresolvable conflicts with regards Corporation Council’s access to my personal whistleblower records.

Almost one year after my termination, Defendant Mclean admitted the “citizens” were correct on the Brown Development SMA and zoning violations. As evidenced by my staff employee report sent to Corporation Counsel, Defendant Victorino, and Defendant Mclean, the record shows it was myself as a County employee who was correct on the Brown Development violations.

In direct violation of State of Hawai’i whistleblower laws, the comprehensive reports and notices were not responded to, or acted upon by Corporation Counsel, Defendant Victorino, or Defendant Mclean. Produced employee records document the fact that my whistleblower notices regarding the Brown Development violations were the direct cause of the employee controversy with our Chief of Staff, Tyson Miyake.

Corporation Counsel had an absolute duty to advise their employee clients, Defendant Victorino and Defendant McLean, to honor the State of Hawai’i employee laws by responding to my staff report I submitted to their attention on the Brown Development violations. Instead, Corporation Counsel advised Defendant Victorino’s Chief of Staff to terminate my employment without any consultation with my employer, Defendant Victorino.

I believe Corporation Counsel has violated the State of Hawai’i Supreme Court Rules of Professional Conduct in multiple capacities.

Professional Attorney Violations:

I assert Corporation Counsel Director Moana Lutey failed in her upfront ethical and professional attorney obligations to disclose Judge Hamman’s conflicted attorney relationship with Corporation Counsel and Defendant Victorino

After being confronted in an open hearing about her undisclosed prior employment as a County attorney for seven years, Judge Hamman recused herself. After further investigation of Judge Hamman’s attorney representations, a Rule 60(b) Motion to reverse all of Judge Hamman’s conflicted and prejudiced decisions is justified.

Federal Bankruptcy Court:

In my bona fide settlement offer(s), I also agreed to waive my rights to seek sanctions against Corporation Counsel in the United States Bankruptcy Court for their documented role in the scheme to falsify and conceal government records relating to the illegitimate County induced liens on my real property title.

Since the offers were not accepted or responded to, I am prepared to file the attached Motion to Re-Open my Chapter 11 Petition to pursue professional attorney sanctions against The Department of Corporation Counsel. ("F")

Sandhills / Fairways Subdivision:

Through almost 2 years of complex negotiations with the developers of the Fairways Subdivision, the SandHills litigants, and County attorneys, my professional affordable housing team, Anuenue Housing Group ("AHG"), facilitated a global settlement that included:

- (1) Settlement of all litigation*
- (2) Remediation of the massive walls and grading*
- (3) AHG's design, development and construction of a 52 unit, 100% workforce affordable housing project under my direction as an experienced developer and builder of entry level housing.*

AHG's global negotiated settlement mitigated an estimated 10 million dollars in financial exposure to the County of Maui caused by County officials acting outside of their authority and County ordinances.

Defendant Victorino, a Council member at the time, has acknowledged that Director Wong personally concealed AHG's negotiated global settlement from the members of the Maui County Council. While failing to disclose his personal and professional relationship with the developer's legal counsel, Director Wong advised the Council to pay off the developer with upwards of 13 million dollars of County funds.

For two years thereafter, Director Wong claimed to be a highly successful gambler, reporting annual winnings in Las Vegas of between \$250,000.00 and \$500,000.00. When called upon by the Council to produce his tax records to support his financial disclosures, Director Wong informed the Council members that he was unable to do so.

Corporation Counsel's recent Council Resolution (No. 23-107) requesting authority to settle the Karen Goo, ET AL. v. Mayor Alan Arakawa, to pave the way for disposing of a portion of the Fairway's parcels without any financial consideration to the County, reignites a controversy over Director Wong's self-serving misrepresentations of procurement laws.

Forthcoming depositions will reveal that Director Wong's withholding of AHG's agreed-upon 100% affordable plan from the Council resulted in a significant financial loss to the County at the public expense, and imposed unjustified personal, financial, and professional injuries to myself and my family.

To resolve these unjustified injuries, I invite the Council and Mayor Bissen to work with my team of affordable housing professionals to revive and execute the AHG plan as the financial and public benefits are far superior to the current proposals.

Conclusion:

Ms. Tarnstorm, this lawsuit is clearly a direct result of the Corporation Counsel's interference with a contractual and employment relationship between Chris Salem and former Mayor Victorino.

As the record shows, Mayor Victorino agreed that pursuant to adopted laws and ordinances, the County has the responsibility to hold a private developer and their licensed consultants accountable to their signed subdivision agreements.

I cannot comprehend how Corporation Counsel did not support Mayor Victorino's and Chris Salem's agreement that released the County from financial liability, and has now redirected that liability back onto the County and taxpayers.

Mayor Victorino's agreement with Chris Salem also included the adoption of a system of collection on the thousands of developer "deferral" agreements executed by County attorneys, which provides recovery to the County of tens of millions of dollars, if not more.

Mr. Salem's relentless whistleblowing on these uncollected agreements is the trigger for the County's significant financial recovery. In open Court, you defamed Mr. Salem's efforts as "a campaign", when in truth he is simply demanding that the County attorneys uphold the County's laws, which, sadly, happens to place Corporation Counsel in a seriously conflicted position.

In conclusion, each one of M. Salem's bona fide settlement proposals released the County of Maui from all liability and called for lawful enforcement of County ordinances.

With that said, can you provide any justification why you have not posted Mr Salem's good-faith settlement offers for public consideration by the Maui County Council and have not attempted any settlement negotiations through an exchange of written bona fide offers prior to the Settlement Conference, as required by the Court. (Dkt 141 NTCE)

I remain hopeful that the change in County leadership will represent a shift towards a peaceful resolution of Chris Salem's claims and injuries. I think it's quite evident that unless reasonable minds seek an amicable resolution, this case will continue on for years.

Brad Salter

EXHIBIT "A"

REVERE & ASSOCIATES, LLLC

A LIMITED LIABILITY LAW COMPANY
PALI PALMS PLAZA, 970 NORTH KALAHEO AVENUE, SUITE A301
KAILUA, HAWAII 96734

MAGDALENA BAJON
AMANDA L. DUTCHER
TERRANCE M. REVERE
PAUL V.K. SMITH*
*Also licensed in Nevada

TELEPHONE: (808) 791-9550
FACSIMILE: (808) 791-9551

May 16, 2022

Rule 408 Settlement Offer

Kristin K. Tarnstrom, Esq.
Thomas W. Kolbe, Esq.
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E-mail: kristin.tarnstrom@co.maui.hi.us
E-mail: thomas.kolbe@co.maui.hi.us

Jeffrey S. Portnoy, Esq.
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813-4216
Telephone: (808) 521-9200
Email: jportnoy@cades.com

Re: Civil No. 2CCV-21-0000048
Christopher Salem v. Michael P. Victorino, et al.

Dear Jeff, Tom and Kristen:

This letter constitutes Mr. Salem's settlement demand. Please pass it on to the insurer, the Mayor, and the entire County Council. If not accepted by June 1, 2022, it is withdrawn.

DEMAND FOR SETTLEMENT

In consideration of Plaintiff Salem's whistleblower claims, employment retaliation, and resulting wrongful termination, and personal duress inflicted upon Plaintiff Salem and his family:

1. Two years' salary and health benefit's compensation equal to Plaintiff Salem's loss of wages as a staff member of the Office of the Mayor. (\$150,000.00)

In consideration of the release of the County of Maui and the named Defendants, current and future litigation relating to the financial harm suffered by Plaintiff Christopher Salem and his family, loss of personal home located at 5106 Lower Honoapiilani Road and investment property located at 10 Hui Road E, now valued at combined value of over \$8,000,000.00 dollars, and; for the destruction of his credit and subsequent loss of professional opportunities, including the global legal settlement for the Fairways subdivision (*Civil No. 07-1-0258(1)*) and Sand Hills Cabebe litigation (*Civil No. 09-10245(1)*) on behalf of the County of Maui to facilitate a 100% affordable housing development by Plaintiff Salem and the team of professionals with Anuenue Housing Group, LLC., and; for the documented physical and mental harm inflicted upon Plaintiff Salem and his family, the following terms and conditions:

2. As contractually agreed and repeatedly promised by Defendant Mayor Victorino, the County Directors shall act upon their duties:
 - a. Defendant Planning Director Mclean shall act upon the Planning Director's duty to issue a notice of violation and non-compliance to Developer Lot 48, LLC., for their incomplete roadway infrastructure and drainage improvements as represented in their signed and conditioned oceanfront subdivision SMA Permit SM2 2000 0042.
 - b. Defendant Planning Director Mclean act upon the Director's duty to issue the appropriate daily fines and penalties to Developer Lot 48A, LLC for their expired and unfulfilled SMA Permit SM2 2000 0042.
 - c. Defendant Victorino shall instruct Public Works Director Jordan Molina to act upon the Public Works Director's duty to provide notice to Warren S. Unemori Engineering, Inc. to correct their omissions of the roadway infrastructure and drainage improvements as represented in their signed and conditioned oceanfront subdivision SMA Permit SM2 2000 0042 into Developer Lot 48A, LLC's civil engineering drawings.
 - d. Defendant Victorino shall instruct Corporation Counsel to act upon their duty to expunge the illegitimate County liens on the property titles of five (5) parcels of land which are encumbered by a County of Maui "3 Lot or Less" subdivision agreement for LUCA file 4.805.
 - e. Mayor Victorino shall instruct Corporation Counsel to compel all communications, records, and ledgers of the unaccounted developer "3 Lot or Less" subdivision infrastructure agreements from the County Auditor, and release to the Chair of the Maui County Council and Director of Finance.
 - f. The Maui County Council shall agree to adopt by ordinance a fair and equitable formula for assessment of collection of the developer 3 Lots or Less" roadway infrastructure deferral agreements which shall account for the financial recovery Whistleblower Salem has recovered on behalf of the County of Maui.

Kristin K. Tarnstrom, Esq.
Thomas W. Kolbe, Esq.
Jeffrey S. Portnoy, Esq.
May 16, 2022
Page 3 of 3

- g. To provide a home for Plaintiff Salem's family, the County shall quitclaim their interest to the vacant land located at 125 & 133 Keonelo Street, Wailuku, Maui, Hawai'i.

- 4. Legal fees and costs, in the amount of \$150,000.

ALTERNATIVE DEMAND FOR SETTLEMENT

In consideration of the massive financial harm suffered by Plaintiff Christopher Salem and his family, the loss of their family home and investment property, destruction of credit and subsequent loss of professional opportunities; for the documented physical and mental harm inflicted upon Plaintiff Salem and his family; and for his legal fees and costs:

Plaintiff Salem will agree to dismiss all pending litigation pertaining to his SMA and workplace retaliation claims; including releasing all claims by Plaintiff Salem made in his Complaint against Defendants County of Maui, Mayor Victorino in both his official and individual capacity, and Planning Director Michelle McClean; as well as dismissing Mr. Salem's ICA Appeal; and agree to waive his right to seek sanctions against Corporation Counsel attorneys in the United States Bankruptcy Court for their role in a scheme with private developer Lot 48A, LLC to falsify and conceal government records, and their refusal to remove the illegitimate lien on Debtor Salem's real property title, thereby causing financial harm to Debtor Salem and the Creditors, for the sum equal to the buyback of the 10 Hui Road home, Mr. Salem demands \$6.5 million dollars.

Thank you for your attention to this matter. This letter was written per HRE 408.

Very truly yours,

/s/ Terrance M. Revere

TERRANCE M. REVERE

cc: Client

**Law Office of
Bradley D. Salter
24 Malialani Place, Lahaina, HI 96761
Phone: (808) 298-7873 ~ Email: Brad@Salterlaw.com
Licensed in California and Hawaii since 1978**

November 23, 2022

KRISTIN K. TARNSTROM
THOMAS W. KOLBE
Deputies Corporation Counsel
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793
Telephone No.: (808) 270-7741
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Re: Civil No. 2CCV-21-0000048; *Christopher Salem v. MICHAEL P. VICTORINO, et al.*

Dear Counsel;

On behalf of my client Christopher Salem, this offer of a global settlement to the County of Maui, Defendant Victorino, and Defendant Mclean, is presented pursuant to Rule 408 of the Hawaii Rules of Evidence.

To mitigate the escalating harm to our client's family and the County of Maui, in good faith, we make this demand for settlement the Defendants and the County of Maui to act upon their duties to hold the Developer Lot 48A, LLC and their professional consultants accountable for their violations of the Maui County Code.

Please provide verification of the transmissions of this settlement demand to the Alice Lee, the Chair of the Maui Council, and Mike Molina, the Chair of the GREAT Committee.

This offer of settlement shall expire on December 15, 2022

/Bradley Salter/

Attorney for Christopher Salem

SETTLEMENT PROPOSAL

In consideration of the terms and conditions of settlement set forth herein, Plaintiff Salem shall agree to dismiss all pending and potential further litigation pertaining to the attached Complaint (*Civil No. 2CCV-21-0000048*) against Defendants County of Maui, Mayor Victorino, and Planning Director Michelle McClean.

Therefore, to repair and mitigate the widespread financial harm inflicted upon Debtor Salem's family, including the loss of their family home, residential investment property, destruction of credit and subsequent loss of professional opportunities, unpaid Creditors who's security was extinguished through a wrongful foreclosure, and for hundreds of thousands of dollars of unwarranted legal fees and costs, the parties hereby agree to the following;

1. Pursuant to Defendant Michael P. Victorino's promises and duty to hold Developer Lot 48A, LLC's professional consultants in compliance with the adopted provisions of the Maui County Code, in accordance with the authorities adopted in Maui County Code, **Title 18.44 VIOLATION – PENALTY**;
 - i. Corporation Counsel Director Moana Lutey shall institute an action against Warren S. Unemori Engineering, Inc. to correct their omissions of the roadway infrastructure and drainage improvements to Lower Honoapiilani Road in their civil engineering drawings as represented in their Order of Magnitude Valuation of work to be performed for Developer Lot 48A, LLC's conditioned oceanfront subdivision SMA Permit SM2 2000 0042. (LUCA File No. 4.805)
 - ii. To effectuate and comply with the purposes of Title 18 in the illegal subdivision, Corporation Counsel Director Moana Lutey shall expunge the illegitimate County of Maui "3 Lot or Less" subdivision infrastructure "deferral" lien on the property titles of five (5) parcels of land created in 2 separate subdivisions. (Doc No. 95-145123 - LUCA File No. 4.686 / 4.805)
2. Pursuant to the SMA Rules adopted by the Maui County Planning Commission, Defendant Planning Director Mclean shall act upon the Planning Director's duty to issue a notice of violation to Developer Lot 48, LLC., for their failure to complete the roadway infrastructure and drainage improvements to Lower Honoapiilani Road as represented in their signed and conditioned oceanfront subdivision SMA Permit SM2 2000 0042.
 - i. On behalf of the County of Maui, Corporation Counsel Director Moana Lutey shall adjoin Christopher Salem in a Motion to the Circuit Court of the Second Circuit to expunge an illegitimate Developer Lot 48A, LLC judgment lien for legal fees. (*Civil No. 09-1-0040(3)*)

In consideration of the County's substantial financial exposure in the Fairways subdivision (*Civil No. 07-1-0258(1)*) and the Sand Hills Cabebe litigation (*Civil No. 09-10245(1)*) which was successfully resolved and mitigated through a global legal settlement executed by Plaintiff Salem and his team of affordable housing consultants with the Anuenue Housing Group, LLC,; and the unjustified loss of an affordable housing development opportunity caused by Corporation Counsel Director Patrick Wong's withholding of the resolution from the members of the Maui County Council, including Defendant Victorino;

3. The County shall quitclaim their interest to the vacant land located @ 125 & 133 Keonelo Street, Wailuku, Maui, Hawaii;

In consideration of Plaintiff Salem's whistleblower claims, retaliation, and resulting wrongful termination, and the physical duress inflicted upon Plaintiff Salem and his family by Defendant Victorino;

4. Two years' salary, health benefits, employing benefits, and compensation equal to Plaintiff Salem's loss of wages as a staff member of the Office of the Mayor in the amount of \$180,000.

In consideration of Plaintiff Salem's decades of dedication to serving the public's interests;

5. The Maui County Council shall agree to adopt by ordinance a fair and equitable formula for assessment of collection of the thousands of developer "deferral" agreements, which Whistleblower Salem's efforts has manifested potentially millions of dollars of financial recovery for the County of Maui.

/Bradley D. Salter/

Attorney for Christopher Salem

EXHIBIT “B”

From: Chris Salem <chrissalem8@yahoo.com>¹
To: Mike J. Molina <mike.molina@mauicounty.us>
Cc: David M. Raatz <david.raatz@mauicounty.us>; Richard E. Mitchell <richard.mitchell@mauicounty.us>; Moana Lutey <moana.lutey@co.maui.hi.us>; Ana Lillis <ana.lillis@mauicounty.us>; Laura McDowell <laura.mcdowell@mauicounty.us>; Michele McLean <michele.mclean@co.maui.hi.us>; Jordan Molina <jordan.k.molina@co.maui.hi.us>; Kathy Kaohu <kathy.kaohu@mauicounty.us>; Tamara A. Paltin <tamara.paltin@mauicounty.us>; Keani Rawlins-Fernandez <keani.rawlins@mauicounty.us>; Kelly King <kelly.king@mauicounty.us>; Tasha Kama <tasha.kama@mauicounty.us>; Gabe Johnson <gabe.johnson@mauicounty.us>; Shane Sinenci <shane.sinenci@mauicounty.us>; Yuki Lie Sugimura <yukilei.sugimura@mauicounty.us>; Alice Lee <alice.lee@mauicounty.us>; Mimi DesJardins <mimi.desjardins@co.maui.hi.us>; kristin.tarnstrom@co.maui.hi.us
kristin.tarnstrom@co.maui.hi.us

Sent: Wednesday, May 25, 2022 at 08:56:06 AM HST
Subject: Corporation Counsel withholding of Settlements

May 25, 2022

Good Morning Council Member Molina;

It is come to my attention that Corporation Council Director Moana Lutey is withholding our settlement proposals from the members of the Maui County Council. They were sent by my legal counsel over a week ago.

May I request the settlements be posted on the next GREAT Committee as they have a direct relationship to the breaches of duties by Planning Director Michele Mclean.

Thank you for your consideration and sincere efforts on the Brown Development controversy. Please confirm receipt of this communication.

Christopher Salem

PS: The list of GREAT Committee items on the Council Website is dated 10/1/20

EXHIBIT "F"

Christopher Salem
5100 Lower Honoapiilani Road
Lahaina, HI 96761
Tel: (808) 280-6050
Email: chrissalem8@yahoo.com
Debtor-in-Possession, pro Se

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re: CHRISTOPHER SALEM,

Debtor-in-Possession

Case No. 14-00878
(Chapter 11)

DEBTOR-IN-POSSESSION'S MOTION
TO REOPEN CHAPTER 11
BANKRUPTCY PURSUANT TO
F.R.Civ.P. RULE 60(b)(3) and (6) OF THE
FEDERAL RULES OF CIVIL
PROCEDURE; AFFIDAVIT OF
CHRISTOPHER SALEM; EXHIBITS A-
D; MEMORADUNDUM OF LAW;
CONCLUSION; CERTIFICATE OF
SERVICE

Judge: Honorable Robert J. Faris

**DEBTOR-IN-POSSESSION'S MOTION TO REOPEN
CHAPTER 11 BANKRUPTCY PURSUANT TO RULE 60(b)(3) and (6)
OF THE FEDERAL RULES OF
CIVIL PROCEDURE**

AND NOW COMES, Debtor-in-Possession, CHRISTOPHER SALEM (hereinafter "DIP Salem") who respectfully moves to the Honorable United States Bankruptcy Court (hereinafter "Bankruptcy Court") for the District of Hawaii to exercise its broad discretionary authority to reopen DIP Salem's Chapter 11 Reorganization, *See In re: Christopher Salem*, Case No. 14-00878 (Bankr. Haw. 2014), and pursuant to Rule 60(b)(3) of the Federal Rules of Civil

In re: Christopher Salem
Case No. 14-00878 (Chapter 11)
Debtor-in-Possession's Motion to Reopen Chapter 11 Bankruptcy

EXHIBIT "F"

Procedure to "resolve fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party" and Rule 60(b)(6) "any other reason that justifies relief."

This Motion is made pursuant to Rule 60(b)(3) and (6) of the Federal Rules of Civil Procedure, and is supported by Affidavit of Christopher Salem, Exhibits A-D, and Memorandum of Law.

WHEREFORE, pursuant to FRCP 60(b)(3), Debtor-in-Possession Salem Respectfully Requests that this Honorable Court reopen this case and grant such further relief and sanctions as the Bankruptcy Court deems appropriate.

Dated: Lahaina,_____

Respectfully Submitted,

Debtor-in-Possession
Christopher Salem, pro Se

In re: Christopher Salem
Case No. 14-00878 (Chapter 11)
Debtor-in-Possession's Motion to Reopen Chapter 11 Bankruptcy

EXHIBIT "F"

Christopher Salem
5100 Lower Honoapiilani Road
Lahaina, HI 96761
Tel: (808) 280-6050
Email: chrissalem8@yahoo.com
Debtor-in-Possession, pro Se

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re: CHRISTOPHER SALEM,

Debtor-in-Possession

Case No. 14-00878
(Chapter 11)

AFFIDAVIT OF CHRISTOPHER SALEM

AFFIDAVIT OF CHRISTOPHER SALEM

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

1. My name is Christopher Salem, and I am the Debtor-in-Possession in the above-captioned bankruptcy petition.

2. All of the facts and allegations presented herein are made with my personal knowledge and belief under penalty of perjury.

3. I am a former employee of the County of Maui as a staff member of the Office of Mayor Michael Victorino and former executive assistant to the Maui County Council member Sol Kaho'ohalahala, the Council Chair of the Planning Committee.

In re: Christopher Salem
Case No. 14-00878 (Chapter 11)
Debtor-in-Possession's Motion to Reopen Chapter 11 Bankruptcy

EXHIBIT “F”

4. This Motion is a prayer to the United States Bankruptcy Court to adjudicate the financial destruction my family and my unpaid Creditors have endured from a malicious scheme of falsification and concealment of government records by developer Creditor Lot 48A, LLC (hereinafter “Creditor Lot 48A”) and Creditor County of Maui. (hereinafter “Creditor CoM”)

5. I believe the findings and facts presented herein are just cause to seek an investigation into professional attorney misconduct by the conspiring legal representative of Creditor Lot 48A and Creditor CoM by the State of Hawai’i Supreme Court Office of Disciplinary Counsel.

5. On or about April 11, 2013, I filed the Voluntary Petition, initiating the referenced Chapter 11 Reorganization.

6. My Chapter 11 Bankruptcy was ultimately dismissed by Order of the Court on September 2, 2014. (*Dkt.* #106).

7. During the administration of the Plan, I issued a Rule 2004 Subpoena on July 10, 2014 to the Creditor CoM seeking government records from the Department of Planning relating to the final inspection and acceptance of Creditor Lot 48A’s conditioned subdivision SMA Permit SM2 2000 0042.

8. The instant Motion to Reopen my Chapter 11 Bankruptcy is a direct result of my recent discovery of Planning Department records which were requested and withheld in my related County employee whistleblower complaint against Creditor CoM. (Case No. 2CCV-21-0000048).

In re: Christopher Salem
Case No. 14-00878 (Chapter 11)
Debtor-in-Possession's Motion to Reopen Chapter 11 Bankruptcy

EXHIBIT "F"

9. The discovered government records provide further evidence of scheme to conceal government records by Creditor CoM as represented in their Motion to Quash Debtor Salem's Rule 2004 Subpoena issued to the Department of Planning in the United States Bankruptcy Court. The Creditor CoM allegation that "Planning has nothing whatsoever to do with the "acts, conduct, or property or to the liabilities and financial condition of the Debtor" was untrue and conspired falsification of government records by a professional government attorney.

10. The instant Motion to Reopen my Chapter 11 Bankruptcy is being presented to the Bankruptcy Court as a direct result of former Mayor Michael Victorino's willful and bold decision to execute a signed Agreement and make continuous promises to ensure the Department of Planning enforces an unfulfilled SMA Permit issued to Creditor Lot 48A, LLC.

11. A true and correct copy of this Agreement is attached as Exhibit A.

12. The evidence now reveals, Michele Mclean, the former Director of the Department of Planning, ("hereinafter Director Mclean") and Moana Lutey, the former Director of the Department of The Corporation Counsel (hereinafter "Corp Counsel Director Lutey") in direct disobeying of their established duties and County laws, conspired to tortuously interfere with Mayor Victorino's contractual agreement and lawful promises.

13. As the discovered Creditor CoM records now affirm, despite Corp Counsel Director Lutey's interference, Mayor Victorino attempted to perform multiple acts as Mayor of Maui County to ensure Creditor Lot 48A was noticed by the Department of Planning to return to their oceanfront subdivision to complete their unfulfilled roadway infrastructure improvements and drainage improvements as represented in their condition SMA Permit SM2 2000 0042.

In re: Christopher Salem

Case No. 14-00878 (Chapter 11)

Debtor-in-Possession's Motion to Reopen Chapter 11 Bankruptcy

EXHIBIT "F"

14. The Planning Department's performance upon former Mayor Victorino's signed settlement agreement and related promises affirm a malicious scheme by former Director Arakawa to slander my real property title with an illegitimate subdivision lien for "deferred" roadway infrastructure and drainage improvements which were the financial obligations of his private client, Creditor Lot 48A, LLC.

15. As a former Maui County Council Member since 2005, former Mayor Michael P. Victorino is direct witness to the conspiracy orchestrated by Director Arakawa; "Milton, when I look at what he did, took advantage of the situation to take care of his friends. There is a definite, I hate to use the word collusion, but there is. He deserves more than a slap on the wrist, far more than a slap on the hand."

16. Mayor Victorino was aware that the and performance upon the agreement and related promises resulting in the Planning Department's violation notices to Creditor Lot 48A, would expose years of concealment of Creditor Lot 48A's SMA application and government records and falsified pleadings by former Corp Council Director Moana Lutey, staff attorneys within Corp Counsel, and former Planning Director's in multiple Declarations and Motions in multiple judicial forums.

17. Regardless of my signed agreement with Mayor Victorino and his related acts and promises, pursuant to the Maui County Charter, Article 7: Section 7.5.17, the Mayor of Maui County has the power, authority, and duty to uphold and enforce the environmental laws and adopted ordinances of Maui County.

In re: Christopher Salem
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17. The Planning Department's performance upon former Mayor Victorino's signed settlement agreement and related promises validates the facts and allegations set forth in Debtor Salem's August 23, 2014, RESPONSE TO COUNTY OF MAUI'S DEPARTMENT OF CORPORATION COUNSEL'S MOTION TO QUASH RULE 2004 EXAMINATION, attached as Exhibit "B".

18. Former Mayor Victorino is a direct witness to the cover up a scheme by Creditor County former Public Works Director Milton Arakawa, (hereinafter "Director Arakawa") civil engineering consultant Warren S. Unemori Engineering, Inc., and Creditor Lot 48A, LLC to falsify and conceal government records to fraudulently slander Debtor Salem's former real property title(s) with illegitimate lien, the direct cause of a wrongful foreclosure of my personal home and investment proper

19. My former residence is now on the market for \$5.5 million dollars. A true and correct copy of the MLS Listing is attached as Exhibit C.

20. Therefore, as evidenced by the facts presented herein, the Bankruptcy Court, the Office of the United States Trustee, and the State of Hawaii; Supreme Court Office of Disciplinary Council is hereby noticed of discovered evidence of interference by Planning Director Mclean in conspiracy with Corp Counsel Director Lutey with Mayor Victorino's established duties, contractual relationship, and related promises to my family to cover up their prior falsifications of government records by former Director Arakawa and the falsified Motion to Quash by Corp Counsel Deputy attorney Caleb Rowe.

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21. As such, my instant Motion to ReOpen my Chapter 11 Bankruptcy is a direct result of the discovered further evidence of a cover up of a damaging scheme of bankruptcy fraud orchestrated by Corp Counsel on behalf of Creditor CoM and private developer Creditor Lot 48A, LLC.

22. As a direct result of the Creditor's furtherance of their vicious conspiracy, myself, my family, and the unpaid Creditors have suffered substantial ongoing financial harm and injuries. The premeditated infliction of emotional distress and financial injuries perpetrated upon my family and the unpaid Creditors by the conspiring parties is cold-hearted and liable under the United States Bankruptcy Code.

23. Through this Motion, the unpaid Creditors will have the opportunity to adjoin me in the recovery of their financial losses.

24. Further Affiant Sayeth Naught.

Dated: Wailuku,

Respectfully Submitted

Notary Public
My Commission Expires:

Christopher Salem
Debtor-in-Possession, pro Se

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Debtor-in-Possession, pro Se

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re: CHRISTOPHER SALEM, Debtor-in-Possession	Case No. 14-00878 (Chapter 11) MEMORADUNDUM OF LAW Judge: Honorable Robert J. Faris
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MEMORANDUM OF LAW

AND NOW COMES, Debtor-in-Possession, CHRISTOPHER SALEM (hereinafter "Debtor Salem") who offers the following Memorandum of Law in support of his DEBTOR-IN-POSSESSION'S MOTION TO REOPEN CHAPTER 11 BANKRUPTCY PURSUANT TO RULE 60(b)(3) and (6) of the Federal Rules of Civil Procedure. For the purposes of this Memorandum, Creditor County of Maui will be referenced as County of Maui (hereinafter "County of Maui").

I. STATEMENT OF FACTS

On April 11, 2013, Debtor Salem filed a Voluntary Petition in Chapter 11 to reorganize his debts. As a part of his Voluntary Petition, Debtor Salem filed Schedules A & B, listing all of his assets, and Schedules D, E, and F, listing all of his Creditors. At the time of the filing of his

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Bankruptcy Case, Debtor Salem’s real estate investment property title was unlawfully clouded with an open ended County of Maui roadway infrastructure “deferral” lien.

Debtor Salem is the private resident who discovered the thousands of the unaccounted-for private developer roadway infrastructure “deferral” agreements executed by Corp Counsel Staff attorneys which are currently under audit by the County Auditor. The untracked roadway infrastructure “deferral” agreements were executed and recklessly recorded against thousands real property titles by Corp Counsel Attorneys over the last four decades.

In consideration of Mayor Victorino’s performance upon the signed agreement and promises to Debtor Salem, Debtor Salem agreed to Mayor Victorino’s offer of employment as an executive assistant of the Office of the Mayor. The stated purpose of Debtor Salem’s employment duties was to establish a fair and equitable system of assessment and collection of the tens of millions of dollars of developer debts owed to the County of Maui through the previously unaccounted-for developer “deferral” agreements.

The County of Maui’s and taxpayer’s substantial financial recovery is a direct result of Debtor Salem’s discovery though his own financial injuries caused by the damaging scheme between the Creditor CoM and developer Creditor Lot 48A, LLC orchestrated by former Director Arakawa and the Department of Planning under the representation Corp Council.

Before the dismissal of the instant bankruptcy Petition, Debtor Salem issued a Rule 2004 Subpoena to the Department of Planning, County of Maui, seeking all records relating to Developer Lot 48A, LLC’s SMA Permit application, environmental studies, and government records supporting SMA Permit SM2 2000 0042.

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In response to the Rule 2004 Subpoena, under Corp Counsel Deputy Attorney Caleb Rowe authored a falsified Motion to Quash Debtor Salem's Rule 2004 Subpoena, arguing as follows:

Planning has nothing whatsoever to do with the "acts, conduct, or property or to the liabilities and financial condition of the debtor." Fed. R. Bankr. P. 2004(a). The operations of the Department of Planning have "no relationship to the bankrupt's affairs or the administration of his estate." In re: Johns-Manville Corp., 42 B.R. at 364. No information that might be obtained through debtor's proposed examination would have any relevance on whether the debtor is entitled to bankruptcy protection, and therefore are "not relevant to the basic inquiry." In re: Table Talk, Inc., 51 B.R. at 145.

Finally, the Director of Planning lacks any knowledge of the debtor's "acts, conduct or financial affairs so far as this relates to a debtor's proceeding in bankruptcy." In re GHR Energy Corp., 35 B.R. at 537. As their production would in turn have no bearing on the outcome of the debtor's personal bankruptcy or offer any insight into the debtor's personal assets or liabilities, the burden of complying is excessive and undue under the circumstances presented.

Evidenced by the attached Exhibit D, Plaintiff Salem's Motion for Partial Summary Judgement filed in the Circuit Court of the 2nd Circuit for the State of Hawai'i, County records affirm that Corp Council Deputy Attorney Rowe's Motion to Quash access to Planning Department' government records was an obstructive attorney act which had a direct bearing on Debtor Salem's financial condition and liabilities to the unpaid Creditors.

As evidenced by government records and Mayor Victorino's signed agreement, and direct knowledge and witnessing, Deputy Attorney Rowe's contention that Planning has nothing whatsoever to do with Debtor Salem's real property and bearing upon the outcome of Debtor Salem's personal bankruptcy was factually a falsification of government records.

Pursuant to the United States Code §1519: Obstruction of Justice - Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record,

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document, or tangible object with the intent to impede, obstruct, or influence the administration of any matter or Bankruptcy case filed under Title 11, shall be fined under this title, imprisoned not more than 20 years, or both.

To cause further harm and frustration to Debtor Salem and the Creditors, just weeks after Debtor Salem’s County employment, Corp Council Director Lutey crafted a letter to Debtor Salem which exposed Corp Counsel’s mission to interfere with Mayor Victorino’s performance on the signed agreement and related duties as the Mayor of Maui County. *See* Exhibit “E” Director Lutey’s fabricated claims that State environmental laws prevent Mayor Victorino from instructing the Planning Director to perform her duties to enforce the SMA Rules, is also factually false.

As the recently discovered records reveal, despite Director Lutey’s interference tactics, Mayor Victorino continued to act upon the agreement and promises to Debtor Salem by ordering and attending field inspections to document Creditor Lot 48A’s known SMA Permit violations into the County records. By doing so, Creditor CoM would be in a position to impose maximum fines and penalties upon developer Creditor Lot 48A, LLC. Instead, newly appointed Planning Director Mclean conspired with Corp Counsel Director Lutey to continue to obstruct Mayor Victorino’s lawful duties and ethical performance on his promises and the agreement.

As government records prove, under the representation of Corp Counsel, Director Arakawa sent a malicious claim for payment to Debtor Salem in a Notice of Intent to Collect upon the roadway infrastructure financial obligations to that concealed Planning Department

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government records prove were his private developer client Creditor Lot 48A, LLC’s financial obligations.

The falsified Creditor CoM claims for payment sent via US Mail inflicted damaging liens upon Debtor Salem’s real property title that were fraudulently executed by Corp Counsel and Director Arakawa through a scheme with Creditor Lot 48A, LLC. The illegitimate liens were direct cause of the wrongful foreclosure of Debtor Salem’s family home, investment property, and the extinguishing of the unpaid Creditors' security.

Pursuant to 18 United States Code § 134; under the representation of Corp Counsel, Director Arakawa committed mail fraud under the letterhead of the County of Maui by sending a falsified “Notice of Intent to Collect” claim to Debtor Salem that was the direct cause of the illegitimate County lien on his real property title. (*See United States v. Rosen*, 130 F.3d 5 (1st Cir. 1997)).

Factually, as the evidence now reveals, Mayor Victorino’s good faith attempts to hold Creditor Lot 48A, LLC liable for the damages inflicted upon Debtor Salem and the Creditors were interfered with by Corp Counsel Director Moana Lutey and Planning Director Michele Mclean.

II. SANCTIONABLE EVIDENCE OF ATTORNEY MISCONDUCT

As the Court records reveal, through the law firm of Kobayashi, Sugita, and Goda, LLC, (hereinafter “KSG”) Debtor Salem’s mortgage lender One West Bank and the FDIC as Receiver for La Jolla Bank, FDIC demanded the illegitimate Creditor CoM and Creditor Lot 48A, LLC liens to be removed from the real property titles as a one of their conditions of settlement to

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prevent foreclosure of his family home and investment property. As the Court records affirm, all other settlement conditions imposed by the One West Bank were fulfilled by Debtor Salem.

To further harm Debtor Salem and the unpaid Creditors, on a related act of professional malpractice, Corp Counsel employed with public funds the foreclosing law firm KSG to defend the County officials in their individual capacities who conspired with Creditor Lot 48A, LLC to harm Debtor Salem and the unpaid Creditors. Corp Counsel breached their professional duty to disclose KSG's attorney conflicts to the members of the Maui County Council.

Mayor Victorino, a voting member of the Maui County Council during KSG's employment by Corp Counsel, has acknowledged he was unaware of the fact KSG was the foreclosing law firm representing both One West Bank and the FDIC, as receiver for La Jolla Bank.

III. DISCUSSION

In the instant action, the time for moving for a new trial pursuant to Rule 9023 of the Federal Rules of Bankruptcy Procedure or an appeal of the judgment pursuant to Rule 8002 of The Federal Rules of Bankruptcy Procedure, both of which are fourteen (14) days after the entry Judgment, have long since lapsed.

However, Pursuant to 11 U.S.C. § 350(b), "[a] case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause." This Section immediately follows Section 350(a), which provides that a case shall be closed "[a]fter an estate is fully administered and the court has discharged the trustee[.]" 11 U.S.C. § 350(a).

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Courts in this and other districts have held that Section 350(b) of the Bankruptcy Code should not be read independently of Section 350(a). See Bowman v. Casamata (In re Bowman), 526 B.R. 802, 804 (8th Cir. BAP 2015). Stated otherwise, Section 350(b) permits reopening only of those cases that were properly closed under Section 350(a). See In re: Wassah 417 B.R. 175, 182 (Bankr. E.D.N.Y. 2009); see also Critical Care Support Serv. v. United States (In re Critical Care Support Servs.), 236 B.R. 137, 140-141 (E.D.N.Y. 1999) (holding that a bankruptcy case may be reopened pursuant to Section 350(b) only if it was originally closed pursuant to Section 350(a), after the estate was fully administered); Armel Laminates, Inc. v. Lomas & Nettleton Co. (In re Income Prop. Builders, Inc.), 699 F.2d 963, 965 (9th Cir. 1982) (per curiam) ("The word 'reopened' used in Section 350(b) obviously relates to the work 'closed' used in the same section.").

The closing of a case under Section 350(a) and dismissal of a case are two distinct events. Section 350(a) expressly provides for closing a case after the estate has been fully administered and the case trustee has been discharged. At that stage, the debtor's dischargeable pre bankruptcy debts have usually been discharged, the debtor's nonexempt assets have been dedicated to payment of creditors, and the debtor has received a fresh start. See Armel Laminates, 699 F.2d at 965. Upon dismissal, on the other hand, property of the estate generally reverts to the debtor under circumstances that existed pre-filing, and no debts are discharged. See 11 U.S.C. § 349; see also In re Kent Funding Corp., 290 B.R. 471 (Bankr. E.D.N.Y. 2003) ("Dismissal of a case under § 349(b) of the Bankruptcy Code is an event distinct from closure of a case."); Critical Care, 236 B.R. at 140-41 (citing Armel Laminates, 699 F.2d at 965).

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This case was automatically dismissed pursuant to Section 521(i)(1) of the Bankruptcy Code and not closed pursuant to Section 350(a). Accordingly, this case may not be reopened under Section 350(b). This Court, therefore, considers and treats the Motion as a motion for relief from a judgment or order under Rule 60 of the Federal Rules of Civil Procedure, which is incorporated by Rule 9024 of the Federal Rules of Bankruptcy Procedure. See FED. R. CIV. P. 60; FED. R. BANKR. P. 9024.

Federal Rule of Bankruptcy Procedure 9024 incorporates, with certain exceptions, Federal Rule of Civil Procedure 60, which sets forth the grounds for relief from a final judgment and the time requirements of filing such a motion. Rule 60(b) of the Federal Rules of Civil Procedure sets forth grounds for relief from a final judgment, order or proceeding for the following reasons: 1) mistake, inadvertence, surprise, or excusable neglect; 2) newly discovered evidence, that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); 3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; 4) the judgment is void; 5) the judgment has been satisfied, released, or discharged...; or 6) any other reason that justifies relief. The timing of the filing of motions to set aside judgment "...must be made within a reasonable time-- and for reasons (1), (2), and (3) no more than one year after the entry of the judgment or order or the date of the proceeding." Subsection (d) clarifies that the rule does not limit a court's power to: ..." (3) set aside a judgment for fraud on the court."

In addressing the timeliness issue, although the Chapter 11 case was previously dismissed, after years of Debtor Salem relentless efforts to seek justice for the ruthless harm to

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his family and the unpaid Creditors, Mayor Victorino was the only elected County of Maui official with the courage to step forward and confront the proven acts of collusion and fraud between County of Maui and Creditor Lot 48A, LLC.

Normally setting aside a Judgment on the basis of fraud requires the motion to be brought within one year after the entry of the Judgment. However, this rule does not limit a court's power to set aside a judgment for fraud on the court, and the recent evidence shows that Creditor Lot 48A, LLC and Creditor CoM were engaged in a continuous and ongoing scheme which now proves the fraud on the Bankruptcy Court by the conspiring parties.

IV. CONCLUSION

Undeniably, Debtor Salem's financial destruction falls at the feet of the unclean hands of conspiring Creditor CoM and Creditor Lot 48A, LLC. Mayor Victorino is a direct witness to the demoralizing acts by Corp Counsel which Debtor Salem's family has unjustifiably endured, including the loss of their family home and financial security from a scheme which was clearly intended to defraud Debtor Salem and the Creditors.

The United States Code § 157: Bankruptcy Fraud, Section 157 makes criminal a scheme or artifice intended to defraud when the person files a title 11 petition or document in a title 11 case or makes a false or fraudulent representation or claim concerning or in relation to a title 11 proceeding, before or after the filing of the petition, with the specific intent to defraud a specific identifiable victim or group of victims. A person attempting to do so, shall be fined under this title, imprisoned not more than 5 years, or both.

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As an act of vengeance towards Debtor Salem for exposing the Corp Counsel’s reckless roll in executing thousands of agreements with private developers with full knowledge of fact there was no adopted system of assessment or collection, former Corp Counsel Director Lutey has exhibited a continuous pattern of interference with Mayor Victorino’s pursuit of justice against the conspiring parties.

Although Debtor-in-Possession Christopher Salem is 1) time-barred from filing an Rule 8002 appeal or seeking a Rule 9023 new trial; 2) is unable to reopen the case pursuant to Section 350(b) because the case was never properly administered pursuant to Section 350(a); and 3) is time-barred from a typical Rule 60(b) motion for relief from Judgement pursuant to Subsections (1), (2), and (3), this case can still be reopened based on the documented evidence of a conspired scheme of fraud upon the Bankruptcy Court by Deputy attorney Caleb Rowe, CoM, and Creditor Lot 48A, LLC.

In conclusion, based on the documented evidence of a scheme of fraud upon the Bankruptcy Court, Debtor Salem respectfully prays for the appropriate sanctions against the Creditor CoM and Creditor Lot 48A, LLC, along with the sanctions for the conspired interference with a contractual relationship and falsification of government records by Corp Counsel Deputy attorney Caleb Rowe.

Respectfully Submitted,

Dated: May 1, 2023

*Debtor-in-Possession
Christopher Salem, pro Se*

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