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4 In Pro Per

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6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **COUNTY OF SANTA CLARA, SMALL CLAIMS DIVISION**

8
9 Steven T. Kirsch

10 Plaintiff,

11 v.

12 Charles Cunningham *et al.*

13 Defendants

Case No: 2-04-SC-001191

**AFFIDAVIT SUPPORTING ORDER
TO SHOW CAUSE RE: CONTEMPT
(AMENDED)**

Date:

Time: 1:30pm

Dept: 84

Judge: Southard

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16 My name is Steven T. Kirsch. I am the Plaintiff in this action. I declare the following
17 facts, based on my personal knowledge, to be true:

- 18
19 1. I obtained a judgment in this case on 9/9/04 for \$2,636.
20 2. Defendant Charles Cunningham is deceased.
21 3. Defendant First Chartered Investments, Inc. is believed to be no longer operating having
22 transferred all of its business to a company with a different name, Chartered Financial &
23 Investment Corporation. I believe this was done to avoid paying judgments.
24 4. On January 13, 2005, this judgment was amended to add successor-in-interest, Chartered
25 Financial & Investment Corporation.
26 5. None of the judgment has been paid by Chartered Financial nor Katrina Hartwell
27 (“Defendants”) nor by any other defendant.
28

1 6. None of the Defendants has returned to me an SC-133 form.

2 7. I have notified the Defendants of their obligation to return the form many times but they
3 have still not complied.

4 8. I know that the Defendants knew of their obligation because they included the judgments
5 in their repeated filings for a writ of mandate in the Appellate Division and numerous other
6 courts. Also, the Defendants appeared at at least 3 hearings for contempt regarding their
7 obligation to the return the SC-133 form.

8 9. I had a wage garnishment on Katrina Hartwell personally served on Defendant Chartered
9 Financial & Investment Corporation by Jeffrey Cunningham, a registered process server, on
10 3/3/05.

11 10. I know that the Defendants knew of that order because they made reference to the wage
12 garnishment in one or more pleadings that they filed in an attempt to overturn the judgment.

13 11. I have received no response from that wage garnishment.

14 12. Ms. Hartwell was President of First Chartered Investments, Inc. and also is the chief
15 executive of Chartered Financial & Investment Corporation.

16 13. I have notified Ms. Hartwell of her obligation to return SC-133 by telephone, voice mail,
17 and email without response. For example, on November 23, 2004 at 1:54pm. I called the office
18 and spoke with the office manager Carolyn Gardiner. Ms. Gardiner confirmed that all my
19 messages have been received.

20 14. Ms. Hartwell is no stranger to the law. She has prepared and filed numerous legal
21 pleadings in this case including pleadings to the California Supreme Court and US Supreme
22 Court.

23 15. Based on the sophistication of her filings in 6 different courts (including the California
24 Supreme Court and the US Supreme Court) and her ability to manage her business which
25 employs several people, I believe that she is capable of filing out a simple statement of assets
26 form and responding to the wage garnishment papers.

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1 16. I am not aware of any reason that Ms. Hartwell would be unable to comply with these
2 orders.

3 17. Ms. Hartwell has made no attempt to return any of my communications to ascertain why
4 the forms have not been returned or why the wage garnishment has not been processed.

5 18. Ms. Hartwell has engaged the services of Howard Herships, a vexatious litigant who
6 apparently engages in the unauthorized practice of law. The purpose of Mr. Herships consulting
7 is to file legal proceedings so that Ms. Hartwell can avoid paying her judgments. One of my
8 friends admitted he heard Mr. Herships boast that he would “tie me up in court for 2 years.”

9 19. Mr. Herships has falsely portrayed himself as an employee of Chartered Financial saying
10 that he does “computer work” but has been admonished not to do so again by at least 5 judges
11 including Judge Cabrinha, Judge Kleinberg, Commissioners Saldivar, Madden, and Ryan.

12 20. I attempted earlier to bring an OSC re: contempt against Ms. Hartwell, but Ms. Hartwell
13 filed a CCP 170.6 motion against Judge Charles Hayden. In open court, Ms. Hartwell admitted
14 she knew “nothing” about Judge Hayden and assured him that it was “nothing personal.” The
15 case was transferred to DTS, but in the process, the OSC re: contempt and an Order to Examine
16 and Produce Statement of Assets was omitted from the court docket due to a clerical error
17 requiring me to start over from scratch.

18 21. In an attempt to overturn the judgments, Ms. Hartwell has re-filed her writ of mandate
19 with the Appellate Division each time it is denied. She is now on her 4th writ of mandate.

20 22. At her most recent contempt hearing in this case on July 26, 2005, Ms. Hartwell dismissed
21 Judge Cory under CCP 170.6. At the hearing, Judge Cory commented that he knew that Ms.
22 Hartwell’s dismissal request was being used as a delaying tactic. Ms. Hartwell expressly
23 requested the September 29 date at the hearing for the reset date claiming she was out of the
24 country on the other dates that were suggested. This resulted in a 2 month further delay.

25 23. Ms. Hartwell failed to appear at her contempt hearing on September 29, 2005. No notes or
26 explanations were received by the court or myself either prior to the hearing nor after the hearing
27 explaining her absence. In addition, the receptionist at her company claimed to be unaware of her
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whereabouts. Judge Southard issued a bench warrant for her arrest. In a related case number, 2-04-SC-001196, Judge Southard also granted a noticed motion to appoint a receiver for her assets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this affidavit was executed on October 20, 2005 at Los Altos Hills, California.

By: _____
Steven T. Kirsch