

Steve Kirsch
13930 La Paloma Rd Los Altos Hills, CA 94022
(650) 279-1008 fax: (408) 716-2493

September 26, 2005

Commissioner James P. Madden
Santa Clara Superior Court
270 Grant Avenue, Dept 86
Palo Alto, CA 94306

Re: Kirsch v. Cunningham et al., September 29, 2005 at 1pm in D-86

Case number: 2-04-SC-001196

Dear Commissioner Madden:

This Thursday, my motion to appoint a receiver to aid in the collection of my judgment in the above case is scheduled to be heard.

Such motions are extremely rare in small claims court because few people know about this technique. While it is plainly in the statute that a receiver can be appointed to aid in the collection of judgments, none of the books on collections for consumers mentions it and very few attorneys use receivers as an aid in collecting judgments. Commissioner Saldivar has never heard such a motion.

Nonetheless, it remains a powerful collection technique and it is necessary in this case because my debtor has taken steps to be judgment proof and has also decided not to obey any court orders while simultaneously trying to disqualify every judge in Santa Clara County from hearing her case.

I wanted to submit the paper to you ahead of the hearing so that you would have a chance to review them prior to the hearing. I'm also submitting the resumes and rates for 3 receivers. I wrote up the proposed Orders with Sorensen since he's the least expensive, but I'm fine with any of these 3 receivers or any receiver you would like to name.

Also, the receiver is empowered to pay any outstanding judgments from this court so that this will reduce the amount of time that the court need spend on this matter.

Hopefully, this will be the last motion I will make in these cases as I don't see how the debtor will be able to escape paying the judgment once a receiver is appointed.

Sincerely yours,



Steven T. Kirsch

Steve Kirsch
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Attachments:

- **Proposed Order Appointing Receiver**
- **Declaration Supporting Order Appointing Receiver**
- **Memorandum of Points and Authorities**
- **Proposed Order to Seize Property in Private Place**
- **Sorensen Resume**
- **Shannon Resume**
- **Poonja Resume**

Cc:

Katrina Harwell
1199 Howard Avenue, Suite 200
Burlingame, California 94010

Chartered Financial & Investment Corp.
1199 Howard Avenue, Suite 200
Burlingame, California 94010

1 Steven T. Kirsch
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2 Los Altos Hills, CA 94022
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4 Appearing In Pro Per

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6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SANTA CLARA

8
9 Steven T. Kirsch, an individual,

Case No: 2-04-SC-001196

10 Plaintiff,

ORDER APPOINTING RECEIVER

11 v.

12 Charles Cunningham et al.

Date: September 29, 2005

13 Defendants

Time: 1pm

14 Dept: 86

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18 Having considered the Application of plaintiff Kirsch, the supporting Declaration,

19 Memorandum of Points and Authorities, and the Court having determined that:

- 20
21 A. Good cause exists to appoint a Receiver with powers as hereinafter set forth;
- 22 B. Plaintiff must execute and file an undertaking in the sum of \$ 1,000.00 to the effect that plaintiff
- 23 will pay to defendant, all damages which defendant may sustain by reason of the ex parte
- 24 appointment of the receiver and receiver's performance of his duties, in case plaintiff shall have
- 25 procured the appointment wrongfully, maliciously, or without sufficient cause; and
- 26 C. Gerald Sorensen is qualified to act as receiver in this case,
- 27
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IT IS ORDERED that:

- 1 Gerald Sorensen is appointed receiver in this action,
- 2 On qualifying to act as receiver herein by taking and filing an oath to perform his duties as receiver, the receiver shall be authorized to take possession and control of the documents, records and assets, wherever located, of Katrina Hartwell (Hartwell), First Chartered Investments, Inc. (FCI), and Chartered Financial & Investment Corporation (Chartered) and any other business enterprise or activity of any of the defendants in this action, including, without limitation, the following:

All accounts, contract rights, general intangibles and payment intangibles including, without limitation, contracts and accounts with subscribers or customers, all proceeds thereof, and all writings which document any of them including, without limitation, written agreements, purchase orders, invoices, receipts, checkbooks, check registers, passbooks, journals, ledgers and books of account; identity and account information for Title and Escrow companies from which defendants receive payments or other data used in or related to the businesses.

- 3 DUTIES OF RECEIVER: The receiver is granted the following powers and duties:
 - (a) To enter the premises commonly known as 1199 Howard Ave., Ste 200, Burlingame, California, in order to take possession of the Collateral; -
 - (b) To enter the premises commonly known as 510 Barkentine Lane, Redwood City, CA California, in order to take possession of the Collateral;
 - (c) To take any and all steps necessary to receive, collect and review all mail addressed to FCI, to Chartered, to Hartwell, or to Hartwell in her capacity as officer or director of either such entity or of any other business enterprise; including, without limitation, mail addressed to the locations listed in Subparagraphs (a) and (b), and to any post office boxes held in the name of FCI or Chartered or defendant in her capacity as owner of either such entity or of any other business enterprise; and, at the receiver's discretion, s/he is authorized to instruct the U.S. Postmaster to reroute, hold, and/or release said mail to the receiver. Mail the receiver reviews

1 in the performance of his duties, will promptly thereafter be made available to defendant for
2 inspection.

3 (d) To take possession of all bank accounts of FCI, Chartered, or Hartwell in her capacity as
4 owner of either such entity or of any other business enterprise, wherever located, and
5 receive possession of any money on deposit in said bank accounts, and the receiver's
6 receipt for said bank accounts or said funds shall discharge the depository bank from
7 further responsibility for accounting to the account holder for funds for which the receiver
8 shall give his receipt.

9 (e) To demand, collect and hold all accounts receivable of defendant, whether in his capacity as
10 owner of FCI or Chartered or otherwise, and all proceeds thereof

11 (f) To present for payment any checks, money orders, negotiable instruments or commercial
12 paper by means of which FCI, Chartered, or Hartwell or otherwise are compensated for
13 products or services which they provide, and to endorse the same and collect the proceeds
14 thereof, such proceeds to be deposited in the Cash Collateral Account described in
15 Subparagraph (g), and thereafter used and maintained as elsewhere provided herein;

16 (g) To open and utilize bank accounts for receivership funds, including a separate account, to
17 be denominated "Cash Collateral Account," for the initial deposit of proceeds of the
18 accounts receivable and other items described in Subparagraphs (d), (e) and (f);

19 (h) In the receiver's sole discretion, to contact each of the accounts receivable debtors of
20 defendant, in her capacity as owner of FCI, Chartered, or otherwise ("Account Receivable
21 Debtors"), in order to instruct them to send no further payments to defendant, but rather to the
22 receiver.

23 (i) If there is insufficient insurance coverage on the Collateral, the receiver shall have thirty (30)
24 working days to procure such insurance, provided the receiver has funds available to do so
25 during said period. The receiver shall not be personally responsible for claims that would be
26 covered by such insurance, or for the procurement of such insurance.

27 (j) To arrange for the continuing operation of Chartered (FCI has terminated operations, per the
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- 1 California Secretary of State's web site).
- 2 (k) To compromise debts of defendants, including Hartwell in her capacity as owner of FCI or
3 Chartered or any other business enterprise, and to do all things and to incur the risks and
4 obligations of similar businesses and enterprises; provided however, that no such risk or
5 obligation shall be personal to the receiver, but shall be the risk or obligation of the
6 receivership estate.
- 7 (l) To execute and prepare all documents and to perform all acts, either in the name of
8 defendant or in the receiver's own name, as the circumstances may require, which are
9 necessary or incidental to preserving, protecting, managing and controlling the Collateral.
- 10 (m) To employ or engage any person or firm to perform the functions described in
11 subparagraphs (a) through (1);
- 12 (n) To employ or engage providers of bookkeeping or accounting services which the receiver
13 deems necessary to assist him in the discharge of his duties;
- 14 (o) To pay and discharge out of the funds coming into his hands all the expenses of the
15 receivership and the costs and expenses of performing the functions described in
16 subparagraphs (a) through (1);
- 17 (p) To expend funds to purchase merchandise, materials, supplies and services as the receiver
18 deems necessary and advisable to assist him in performing his duties and to pay therefor the
19 ordinary and usual rates and prices out of the funds that may come into the possession of the
20 receiver;
- 21 (q) To borrow such funds from plaintiff as may be necessary to satisfy the costs and expenses of
22 the receivership, to the extent that cash, or cash derived from the assets of which the receiver
23 takes control is insufficient to satisfy such costs and expenses. All sums the receiver may
24 borrow pursuant to this paragraph shall be deemed advances to protect the assets of which
25 the receiver takes control. The receiver is further authorized to issue and execute such
26 documents as may be necessary to evidence and secure the obligation to repay the advances;
- 27 (r) The funds coming into possession of the receiver and not expended for any of the purposes
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- 1 herein authorized, the receiver shall hold for the payment of the judgment herein, including
2 any past or future awards to plaintiff for costs and attorneys' fees, subject to such orders as
3 this Court may hereinafter issue as to the disposition of such funds.
- 4 (s) To file, within thirty (30) days after the effective date of this appointment, an inventory
5 setting forth a list of all assets, documents and records of which the receiver has taken
6 possession pursuant to his appointment, and to file a supplemental inventory if he later takes
7 possession of additional items other than Cash Collateral;
- 8 (t) To prepare monthly accounts pertaining to the receivables, their proceeds and any Cash
9 Collateral of which the receiver takes control at the commencement of the receivership and
10 upon completion, to mail such accounts to the parties and their counsel;
- 11 (u) To prepare periodic statements reflecting the receiver's fees and administrative costs and
12 expenses incurred in the operation and administration of the receivership estate. Upon
13 completion of such statements, and mailing the statements to the parties and their attorneys
14 of record, the receiver shall pay from estate funds, if any, the amount of each statement.
15 Despite the periodic payment of receiver's fees and administrative expenses, such fees and
16 expenses shall be submitted to the Court for approval and confirmation in the form of either
17 a noticed interim request for fees, a stipulation among parties, or the receiver's Final Account
18 and Report; and
- 19 (v) To generally do such other things as may be necessary or incidental to the foregoing
20 specific powers, directions and general authorities and to take actions relating to the
21 Collateral beyond the scope contemplated by the provisions set forth above, provided the
22 receiver obtains prior approval of this Court for any actions beyond the scope contemplated
23 herein.
- 24 5. NON-INTERFERENCE WITH RECEIVER: IT IS FURTHER ORDERED that defendant
25 Hartwell, her agents, representatives, employees and any persons acting in concert with her, are
26 enjoined from:
- 27 a. Interfering with the receiver, directly or indirectly, in the activities described in Paragraph
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- 1 4 (a) through 4 (1);
- 2 b. Collecting or attempting to collect any accounts receivable of defendant Hartwell,
- 3 including, without limitation, those of FCI and Chartered;
- 4 c. Expending, disbursing, transferring, assigning, selling, conveying, devising, pledging,
- 5 creating a security interest in or disposing of the whole or any part of any item described in
- 6 Paragraph 3 or any proceeds thereof, including without limitation the assets of FCI or
- 7 Chartered, without the prior written consent of plaintiff or the Court; and
- 8 d. Doing any act which will, or which will tend to, defeat, prevent or hinder the preservation
- 9 of any item described in Paragraph 3, or defeat or impair plaintiff's interest therein.
- 10 6. TURNOVER: IT IS FURTHER ORDERED that pending further order of this Court,
- 11 defendant Hartwell, her agents, employees, and all other persons with actual or constructive
- 12 knowledge of this Order and their agents and employees, except plaintiff; shall:
- 13 a. Turn over to the receiver the possession of all items described in Paragraph 3, wherever
- 14 located and in whatever mode maintained (including, without limitation, information
- 15 contained on computers and any and all software relating thereto as well as all banking
- 16 records, statements and cancelled checks); and
- 17 b. Turn over to the receiver all proceeds derived from the accounts receivable of
- 18 defendant Hartwell, including, without limitation, those of FCI and Chartered,
- 19 wherever and in whatsoever mode maintained.
- 20 7. DISCHARGE: IT IS FURTHER ORDERED that, immediately upon the **satisfaction of all**
- 21 **judgments** in which any party defendant is a judgment debtor, including all past and future
- 22 awards to those plaintiffs of attorneys' fees or costs; or upon the completion of a valid sale or
- 23 other disposition of the Collateral, as the case may be, and without further order of the Court, the
- 24 receiver shall relinquish possession and control of the items described in Paragraph 3 to defendant
- 25 if the judgment is satisfied, to the successful bidder at any sale of the any of the assets, whether
- 26 plaintiff or another party, pending approval of the receiver's final account and report. Upon
- 27 relinquishing possession and control of the items described in Paragraph 3, the receiver shall be
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discharged from all further duties, liabilities, and responsibilities relating to such items except to render his final account and report.

8. IT IS FURTHER ORDERED that the receiver or plaintiff may at any time apply to this Court for any further instructions or powers necessary to enable the receiver to perform his duties properly.
9. The receiver shall assume his duties and powers forthwith upon his compliance with Paragraph 2 of this Order.

Dated: _____, 2005 _____

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Appearing In Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Steven T. Kirsch, an individual,

Plaintiff,

v.

Charles Cunningham et al.

Defendants

Case No: 2-04-SC-001196

**ORDER TO SEIZE PROPERTY IN
PRIVATE PLACE
[CCP § 699.030 (b)]**

Date: September 29, 2005

Time: 1pm

Dept: 86

TO ANY LAW ENFORCEMENT OFFICER IN THE COUNTY OF SAN MATEO:
YOU ARE HEREBY DIRECTED AS FOLLOWS:

1. To enter the premises commonly known as 1199 Howard Ave., Ste 200, Burlingame, CA, and 510 Barkentine Lane, Redwood City, CA, accompanied by Gerald J. Sorensen of Los Altos, CA, the Receiver in this matter, or such persons as Receiver may designate.
2. To take possession any and all of the following items: all records of or pertaining to Katrina Hartwell, an individual, First Chartered Investments, Inc., and Chartered Financial & Investment Corporation, including without limitation, written agreements, purchase orders, invoices, receipts, checkbooks, check registers,

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- passbooks, journals, ledgers, books of account, and records of business dealings with Title or Escrow companies.
3. Access by Receiver to identified premises may be made at any time between the hours of 7am and 9pm and without notice.
 4. Any law enforcement officer accompanying the Receiver in this matter is directed to secure entry in the case that the identified premises are locked or the way is otherwise blocked.
 5. If attempts are made by any person to obstruct entry by Receiver to premises identified in this order, the accompanying law enforcement officer is directed to take that person into custody for violation of Penal Code § 166 (a).
 6. Turn over to the Receiver or his designee, all items described in Paragraph 2.

Dated: _____, 2005 _____

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6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SANTA CLARA

8
9 Steven T. Kirsch, an individual,

10 Plaintiff,

11 v.

12 Charles Cunningham et al.

13 Defendants

Case No: 2-04-SC-001196

**DECLARATION SUPPORTING
MOTION APPOINTING RECEIVER**

Date: September 29, 2005

Time: 1pm

Dept: 86

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18 I, Steven T. Kirsch, based on my personal knowledge, declare the following facts, to be
19 true:

20 1. Judgment debtors Katrina Hartwell (Hartwell), First Chartered Investments, Inc. (FCI), &
21 Chartered Financial & Investment Corporation (Chartered) have failed to satisfy 16 judgments
22 wherein I am judgment creditor and, additionally, failed to satisfy 3 judgments wherein Jimmy
23 A. Sutton is judgment creditor and 1 judgment wherein Propel Software Corporation is the
24 judgment creditor (as required by CCP § 116.620(a))

25 2. Bank levies have been successful in collecting only a small fraction of the total judgment
26 debt.

27 3. Hartwell has failed to comply with a wage garnishment order issued by the Court.
28

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- 1 4. Hartwell has failed to file the Judgment Debtor's Statement of Assets, as required by CCP
- 2 § 116.830(b), despite multiple notices from both the court and judgment creditors of the
- 3 requirement to complete SC-133 and return same to judgment creditors.
- 4 5. Hartwell has failed to comply with an assignment order issued by the Court.
- 5 6. The San Mateo County Sheriff's office has indicated that till taps and other typical
- 6 collection techniques have been unsuccessful in the past with these Defendants.
- 7 7. Hartwell has attempted to disqualify every judge in Santa Clara County.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct.

10 Executed at Los Altos Hills, Santa Clara County, California.

11
12 *Sept 25, 2005*
13 _____
14 Date

15 _____
16 Steven T. Kirsch

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6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SANTA CLARA

8
9 Steven T. Kirsch, an individual,
10 Plaintiff,
11 v.
12 Charles Cunningham et al
13 Defendants

Case No: 2-04-SC-001196

**MEMORANDUM OF POINTS AND
AUTHORITIES RE MOTION
APPOINTING RECEIVER**

Date: September 29, 2005

Time: 1pm

Dept: 86

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18 CCP § 708.620 states:

19
20 "The court may appoint a receiver to enforce the judgment where the judgment
21 creditor shows that, considering the interests of both the judgment creditor and the
22 judgment debtor, the appointment of a receiver is a reasonable method to obtain the
23 fair and orderly satisfaction of the judgment."

24 CCP § 712.600 states:

25 "The court may appoint a receiver pursuant to Article 7 (commencing with Section
26 708.610) of Chapter 6 of Division 2 to enforce a judgment for possession or sale of
27 property."
28

1 Judgment creditors' interests would be well served by this order, as judgment debtors
2 have failed in all ways to comply with the law and court orders with respect to fulfilling their
3 obligation with respect to these judgments, including:

- 4 1. Failure to pay judgments (as required by CCP § 116.620(a)),
- 5 2. Failure to comply with a wage garnishment order issued by the Court,
- 6 3. Failure to file the Judgment Debtor's Statement of Assets, as required by CCP §
7 116.830(b), and
- 8 4. Failure to comply with an assignment order issued by the Court.

9 It is clear that judgment debtors will not willingly comply with either the law or court
10 orders regarding collection of judgments.

11 Judgment debtor's interests would also be served by this order, as the judgments are
12 terminal and not further appealable. Continued failure to satisfy judgment debts will simply
13 result in increasing the amount ultimately paid as both interest and collections charges accrue.
14 Further, continued non-compliance with court orders may end in findings of contempt, including
15 potential incarceration for defendant Hartwell.

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GERALD J. SORENSEN
749 University Avenue
Los Altos, CA 94022
(650) 949-4900
GJSorensen@sbcglobal.net

230/1m

GENERAL MANAGEMENT

*Strategic Planning...Key Account Development...Sales/Marketing Management...P&L
Operations...Administration...Budgeting...Facilities/Property/Asset Management...
Event Management...Financial Management...Presentations*

More than 15 years of senior management experience in start-up, turnaround, reengineered and well-established companies, with a record of success... formulating an organizational vision, building motivated and productive teams, and working with highly diverse groups to consistently exceed corporate goals and objectives. Proven ability to create innovative ways to build additional revenue streams under the most difficult of circumstances.

Solid leadership, communication and negotiation skills, with additional strengths in: governmental compliance, H/R, special events, project management, vendor management, and working with legal counsel. Particular expertise in service, event-planning, and real estate-related industries as well as distribution sectors of technology and consumer products businesses.

CAREER OVERVIEW

BUSINESS MANAGEMENT CONSULTANT (1997-present)

**G.J. Sorensen and Associates
Los Altos, CA**

Consults to numerous technology, consumer products and non-profit organizations, either on a retainer or project basis, and as a court appointed Receiver. Clients have included: ABT Corporation, Project Leadership Conference, Tobar Computer Systems, Inc., MagePower, Pollard and Myers, Poonja and Co., McMillan Technology, Cobb Mtn Spring Water, General Bank, Imperial Bank, Comerica Bank, Cerrito Development, Sonoma National Bank, Foothill College, Silicon Valley Law Group, California Security Alarm, Tusk Partners.

ACTING CEO (1999-2003)

**McMillan Technology, Inc.
San Francisco, CA**

Reports to the State Court Receiver for this \$20 million hardware and software systems integrator, specializing in the installation and service of corporate technology security systems. Company employs 100 people in three branch locations (San Francisco, Sacramento and Denver) and two major installations in Southern California (Amgen corporate headquarters and LAX). Charged with recovering the bank's secured credit and operating the business in a fiscally responsible manner.

- Developed new process for reviewing sales proposals, increasing gross margins from 24% to 38%.
- Focused management attention on high margin service department, increasing service revenues 50%.
- Re-organized core management team, adding professional management in key operating positions.
- Changed basic business model, dramatically reducing company's risk exposure.
- Focused time and management attention on the A/R arena, reducing 90-day aging from 45% of total A/R to less than 10% of A/R.
- Implemented program to insure receivables for new jobs would be paid in a timely manner.
- Created company's first-ever field operational standards.
- Achieved recovery of secured creditors' debt.

**COO/GENERAL MANAGER
(1993-1997)**

**Portman Properties
San Francisco, CA**

Recruited to manage all aspects of operations of the San Francisco Fashion Center/Townsend Center, a 1 million sq. ft., \$100 million complex. Financed by a syndicate of banks, and developed/owned by the Atlanta Market Center Company (AMC), manager of 10 million sq. ft. of real estate and the fifth largest trade show company in the US.

- Within one year, eliminated a \$1 million loss, and dramatically increased the quality of the operations.
- Held attendance steady, while the available buyer pool shrank by more than 50% in declining industry.
- Reduced expenses more than 35%.
- Extended core tenant leases, and increased new lease rates by 90%.
- Improved collections from 67% of billings to better than 110% of billings, and collected 98% of new billings.
- Turned around an unprofitable trade show and special events business, growing business by 200%.
- Reengineered the organization to allow for a 30% reduction in staff while improving service.
- Increased "Other" revenue by more than 300%.

In 1996, the banking syndicate foreclosed on the owner/developer. Was asked to remain in leadership position to manage all aspects of the business and building while winding it down for closure.

- Kept expenses below revenues while reducing operations.

During last 10 months of operation, was responsible for managing all daily operations, overseeing and approving tenant improvements, developing a vision for the building, and creating new revenue opportunities.

- Implemented a program that created a new revenue stream of \$30,000 per month, increasing the value of the building by \$3 million (or more than 10% of the acquisition value).
- Developed master plan team and program for redevelopment of 750,000 sq. ft. building, converting it from an apparel mart event facility to a "class A" office complex.
- Saved owners over \$250,000 on a tenant improvement package.

**BUSINESS CONSULTANT
(1988-1993)**

**G.J. Sorensen Associates
Los Altos, CA**

Provided consulting services to technology companies and to developers interested in developing a technology mart. Clients included: AT&T, Fujitsu, Apple, NCR, Xerox, Wang, Plexus, Stanwill, Trammel Crow, and The Atlanta Market Center Company. Subsequently, entered the field of residential real estate sales and residential development. Negotiated showroom leases for technology companies with technology mart developers.

- Developed technology products marketing showroom strategy for numerous leading companies.
- Developed financing proposal and extensive business plans for \$100 million mixed use marketing center and event complex.
- Developed over \$3 million of real estate, completing over \$6 million in real estate transactions.
- Built political relationships for a Japanese company.

Additional Experience: Served as Executive Director for **Portman Properties** in Atlanta, GA from **1986-1988**, and in Sales, Marketing, and Project Management positions for **Kimball Small Properties, Boscom, and Exxon** from **1981-1986**.

Vincent J. Shannon
Certified Public Accountant
199 First Street, Suite#350
Los Altos, CA 94022

\$ 250/hr

650-941-6492
vjshannon@sbcglobal.net

B.S. BUSINESS/ACCOUNTING- SAN JOSE STATE COLLEGE
M.B.A. -SANTA CLARA UNIVERSITY
CERTIFIED PUBLIC ACCOUNTANT - STATE OF CALIFORNIA

RECEIVERSHIP, MANAGEMENT AND CONSULTING EXPERIENCE

Twenty six years experience serving as **State Court Receiver**, **Bankruptcy Court Receiver** and **Bankruptcy Court Trustee** and consultant to and CEO of financially challenged companies.

Thirty two years experience as forensic accountant and consultant to businesses and financial institutions.

CROSS SECTION OF BUSINESS EXPERIENCE

REAL ESTATE

DEVELOPER

Bankruptcy Court Trustee- Developed strategic alternatives for several partnerships of real estate developer.

OFFICE BUILDING MANAGEMENT

Bankruptcy Court Trustee- Managed office buildings, Managed executive suites providing secretarial and all business support services.

RESIDENTIAL PROPERTY MANAGEMENT

Bankruptcy Court Trustee- Managed residential properties. Sold under liquidation plan.

APARTMENTS and RENTAL HOUSES

Management – Participated in all aspects of management of rental partnership for seven years. Developed buyout of 50% partner.

Apartment Manager—On-site manager of apartment house while in college.

FINANCIAL SERVICES

MORTGAGE LENDER and LOAN SERVING COMPANY

President and CEO- Operated mortgage lender and loan servicing corporation making CRA loans. Loan servicing provided for financial institutions participating in the \$280 million loan portfolio. Transferred \$280 million serviced loan portfolio to major financial institution, serviced balance of loans. Closed down company and paid dividend to shareholders using the liquidation strategy developed for the Board of Directors.

CHECK CASHING

State Court Receiver- Operated a publicly traded check cashing company with eight locations. Sold assets at non-viable locations. Operated remaining locations at a profit. Sold the business as a going concern. Recovered approximately 40 % of \$3.0 million check kite and repaid to bank. Documented in Appellate Court Case: Shannon v Superior Court 217 Cal. App.3rd 986: 266 Cal.Rptr. 2424 (Jan 1990)

REGIONAL BANK

Bank Consultant and Forensic Accountant- Assisted publicly traded regional bank by determining financial exposure caused by loan officer making loans to self and friends. Developed loan confirmation process without raising loan customer awareness or public concern. Evaluated and quantified claims of affected third parties.

INTERSTATE BANK

Bank Consultant and Forensic Accountant- Long-term relationship with bank providing evaluation of loan customer viability, providing forensic accounting services and providing general consulting and business advice on loan portfolio.

TECHNOLOGY

MEDICAL EQUIPMENT MANUFACTURER

President and CEO of publicly traded company. Operated and turned around operations of manufacturer of cyclotrons. Assets and franchise subsequently sold.

ROBOTICS MANUFACTURER

State Court Receiver- Operated robotics company and in three months achieved profits in excess of \$250,000, first profits in the company's history. Bank collateral restructured and control of company daily operations returned to Board of Directors.

PHONE SWITCH MANUFACTURER

Evaluated strategic alternatives for one-product company. Advised venture capital group against future funding and set up cash recovery strategy.

MANUFACTURING

DOOR AND TRIM SUPPLIER

State Court Receiver- Operated to complete all contracts then liquidated a major door and trim supplier. Completed all open contracts and collected accounts receivable. Sold assets at public auction.

MODULAR HOUSING MANUFACTURER

Consultant to Bank- Evaluating viability of loan customer-Evaluated strategic alternatives for financial institution funding business. Recommended liquidation and developed liquidation plan. Provided oversight on the progress of the liquidation plan.

GARBAGE COLLECTION AND RECYCLING

WOOD WASTE RECYCLING

State Court Receiver-Prepared and implemented strategic alternatives for a struggling wood recycling plant. Developed an intermediate strategic plan and three one year operating plans. Operated plant for three years increasing volume to over 100,000 tons annually and established commercial viability of the facility. Wood recycling business sold as a going concern.

State Court Receiver- Started up bin/container wood recycling collection business. Business was sold as going concern.

GARBAGE AND RECYCLING COMPANY

Member Board of Directors- Board member of regional garbage company.

Turnaround Consultant - Developed cost saving and turnaround plan incorporating operational and financial changes to improve financial condition of regional garbage hauler and operator of state-of-the-art materials recycling facility. Worked daily with company management to improve operations.

Facilitated Sale of Business- Assisted management in preparation of sales information package for sale of \$65 million garbage hauler and recycling company. Worked with investment bankers and buyers to assist in the sales process.

Facilitated Sale of Business- Assisted management in preparation of sales information package for sale of \$5 million garbage hauler and recycling company.

RETAIL

AUTO DEALERSHIPS

State Court Receiver and Consultant- Operated and/or monitored the following types of auto dealerships: Isuzu, Ford, Lincoln Mercury; Ferrari, Mazda, Nissan, Toyota. Placed management emphasis on inventory control while I developed and implemented sales and promotion strategies.

CONSULTED TO FINANCIAL INSTITUTION PROVIDING DEALERSHIP FINANCING

Provided consulting services to major bank over several years on alternatives for dealing with out-of-trust customers and other automobile agency problems.

RESTAURANTS

State Court Receiver and Bankruptcy Court Trustee- Operated several restaurants profitably, including Cajun cuisine, Chinese cuisine, French cuisine, Pizza and Seafood and Mediterranean cuisine. Sold all restaurants as going concerns. Results of sales excellent to mixed.

TRANSPORTATION

MARINE SALVAGE

Bankruptcy Court Receiver/Bankruptcy Court Trustee- Developed strategic alternatives and liquidation plan of largest marine salvage company in the hemisphere on behalf of two major banks. Participated in profitable clearance of harbor in Venezuela with Venezuelan joint venture partner using bankrupt company's salvage equipment. Oversaw Lloyd's Open Form settlements of Lloyd's Open Form salvage contracts (rescues on high seas, no-cure no-pay contracts). Consolidated assets in four countries and numerous United States ports and sold assets at public auctions, lump-sum negotiated sales packages, and incidental sales of smaller equipment. Recovered approximately 90% of \$5.2 Million check kite and repaid the same to two banks.

TUGBOAT COMPANY

Bankruptcy Court Trustee- Assumed control of harbor tug business in Kingston, Jamaica. Developed strategic plan and implemented it. Turned money-losing operation into highly profitable partnership. Continued to operate the company profitably and fulfilled the contract obligations with the Port Authority of Kingston. Sold Equipment and tug and closed Jamaican operations.

INTERNATIONAL SHIPPING COMPANY

Bankruptcy Court Trustee- Developed liquidation alternatives available and liquidated company for benefit of financial institutions- secured creditors.

CONSTRUCTION

ELECTRICAL CONTRACTOR

Bankruptcy Court Receiver Operated and evaluated the operations of a major electrical contractor. Developed liquidation strategy and detail liquidation plan.

GENERAL CONTRACTOR

Consulted to construction company experiencing hyper growth with inadequate information systems.

GENERAL CONTRACTOR

Bankruptcy Court Trustee- Liquidated assets and sold spec houses.

AGRICULTURE

CATTLE FEED LOT

Stipulated Manager/COO- Prepared liquidation plan for major feedlot on behalf on financial institution and feedlot. Operated the feed lot for six months under the liquidation plan. Immature cattle were raised and sold to packing plants at full market price.

WHOLESALE PRODUCE

Consultant- Developed and implemented computerized management information systems for major wholesale produce company at Oakland Produce Market.

APPAREL

SLEEPINGBAG AND OUTWEAR MANUFACTURER

Vice President Finance- Developed and implemented short-term strategy on behalf of financial institution and company. Operated cutting edge manufacturer of sleeping bags and outerwear.

CHILDREN'S FASHION DESIGNER

Consulted to management of top designer of children's fashion. Developed strategic plan and operating plans. I oversaw the implementation of those plans.

Mohamed Poonja

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Los Altos, CA 94023-1510
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E-Mail: mpoonja@sbcglobal.net

\$475/hr

Mohamed is the Managing Director of Poonja & Company, a firm providing management and financial advisory services.

Mohamed's 37 year professional career includes domestic and international experience in a variety of industries, including financial institutions, restaurants, high technology, retail, real estate, construction, transportation, oil and gas, agriculture, health care and manufacturing. Prior to founding his own firm, Mohamed was Partner-in-Charge of the Business Investigation Services Group of Coopers & Lybrand (PricewaterhouseCoopers) in the San Jose/Menlo Park offices. He was associated with Coopers & Lybrand for over 20 years. In addition, he held the positions of chief financial officer of a financial institution and chief operating officer of an apparel manufacturer and retailer. Mohamed is a member of the Chapter 7 Bankruptcy Trustee Panel in the Northern District of California and has acted as an Examiner Arbitrator, Receiver, and Liquidating Trustee.

Mohamed has worked extensively with attorneys for over 30 years in the areas of bankruptcy, insolvency, receivership, valuation, dispute resolution, litigation consulting and corporate reorganization. He has provided a variety of services to attorneys in litigation, including testifying on business damage issues, construction claims and dispute resolution.

Mohamed has taught graduate and undergraduate courses in accounting and management. He has addressed numerous audiences and has appeared on several professional panels. He obtained his MS in Management and Organizational Development from the United States International University, San Diego.

Mohamed is a fellow of the Institute of Chartered Accountants in Ireland, fellow of the Institute of Chartered Accountants in England and Wales and fellow of the Chartered Institute of Certified Accountants in England. He is a member of the American Bar Association, the National Association of Bankruptcy Trustees, the National Association of Certified Fraud Examiners (Life Member) Receiver, the American Bankruptcy Institute, the Association of Insolvency Accountants and the Institute of Business

Appraisers. In addition, Mohamed was the former President of the Bay Area Bankruptcy Forum and formerly a board member of the California Bankruptcy Forum. Mohamed is also on the board of various non-profit organizations as a board member or advisory member.

Current Billing Rates Effective July 1, 2005

Rate per hour \$475 plus out of pocket expenses.

SELECTED EXPERIENCE

WORKOUTS, RECEIVERSHIP, REORGANIZATION, BANKRUPTCY AND EXAMINER

Hospitality Industry:

- ! Managed an internationally-known hotel in a ski resort which was in receivership as a result of operating losses and delays in construction. Returned the operation to profitability within one year and sold the hotel as a going concern. The assignment also included overseeing the completion of a 75-room extension begun before receivership.
- ! Managed three Quality Inn franchise hotels in receivership. Restructured the management and successfully implemented internal control procedures resulting in increased profitability and reduction in food costs. Sold the hotels as going concerns.
- ! Managed a 75-unit hotel in bankruptcy until the debtor was able to refinance and replace the secured lender.
- ! Managed several fast food, speciality restaurants and sports bars in receivership/bankruptcy and sold it as a going concerns.
- ! Managed a nationally known restaurant, in bankruptcy, located in the San Francisco Bay Area, restructured the management and financial controls and sold it as a going concern.
- ! Consults on an on-going basis with family businesses which include several hotels in the United States, Canada and Kenya.
- ! Valued several hotels on behalf of secured lenders.

High Technology Industry:

- ! Reviewed the viability of a disc drive manufacturer on behalf of the creditors' committee. The management of the corporation and the creditors' committee concurred with our assessment that it should be liquidated under Chapter 7.
- ! Conducted a review of the financial records of a computer manufacturer on behalf of a trustee in bankruptcy. Identified several fraudulent transfers which resulted in substantial recoveries for the estate.
- ! Liquidated a computer manufacturing company as Chapter 11 Trustee.
- ! Valued several high technology companies.

Retail Industry:

- ! Managed a corporation with over 200 employees (see experience: Apparel Industry). Successfully turned around the corporation which had been losing over \$500,000 each year for the previous five years. Negotiated the sale of the corporation as a going concern after turnaround.
- ! Acted as the financial consultant for the unsecured creditors of the fastest growing toy company in the United States and later as the accountant for the unsecured creditors' committee when the toy company filed for Chapter 11. Reviewed the initial Plan of Reorganization and Disclosure Statement.
- ! Acted as the accountant for a very large discount wine and liquor distributor in California and Arizona when they filed for Chapter 11. Assisted the management to review the viability of the going forward strategy and eventual sale of the assets.

Automotive Industry:

- ! Managed a dealership in receivership. Concluded the liquidation with a full payout to secured lender.
- ! Acted as an examiner for a used car dealership. Investigated the fraud allegations and reported the viability analysis to the Bankruptcy Court.
- ! Performed several liquidation valuations for dealerships.

! Valued an automotive leasing corporation which was wound up due to foreclosure of the assets by secured lender.

! Acted as an engagement partner on special projects for a major automobile manufacturer which included the manufacturer's credit finance subsidiary.

Construction and Real Estate Industry:

! Managed several commercial office properties as receiver and acted as property manager.

! Supervised completion of several residential buildings forming part of assets of a developer in receivership.

! Revised viability of a multi-division construction company experiencing severe financial problems. Developed a debt restructure plan acceptable to the bank.

! Liquidated a savings & loan (S & L) with assets over \$100 million. Reviewed the investment portfolio of the S & L and concluded that it would be beneficial to complete several partially constructed apartment buildings. This project was on behalf of Canadian Deposit Insurance Corporation.

! Valued several real estate developers and construction companies.

Transportation Industry:

! Successfully assisted a Fortune 500 company in restructuring the one billion dollars debt and analyzed the effect on the parent company, should a major internationally known subsidiary of the parent company, filed for Bankruptcy in United States and thirteen other countries.

! Managed a financially distressed transportation company and ultimately due to the inability to raise equity to fund operating losses during reorganization, liquidated the assets.

Agriculture Industry:

! Provided consulting and accounting services to the trustee operating a strawberry farm.

! Performed a liquidation valuation for a strawberry farm for the purpose of a plan of reorganization

Apparel Industry:

- ! Managed a corporation with over 200 employees. Successfully turned around the corporation which had been losing over \$500,000 each year for the previous five years. Negotiated the sale of the corporation as a going concern after turnaround.
- ! Managed a corporation in receivership with 48 stores specializing in ladies apparel. Consolidated the operations by relinquishing some of the leases and selling some. Sold the corporation with the remaining stores as a going concern.
- ! Valued an apparel distributor for purposes of restructuring secured debt.

Manufacturing Industry:

- ! Successfully reorganized a chain link manufacturer and returned the corporation to profitability within ten months. Negotiated the sale of the corporation at a price acceptable to the secured lender.

Oil and Gas Industry:

- ! Reviewed the viability of an oil and gas corporation on behalf of a bank. On our recommendation, the corporation sold some of its surplus assets, reduced staff, trimmed overhead expenses and revised the debt repayment schedule.
- ! Investigated cash embezzlement by the president of an oil and gas partnership. Investigations completed and report finalized within one week enabling the general partner to report promptly to the SEC in connection with the continued issuance of a prospectus.
- ! Valued a cogeneration facility and several oil and gas companies.

Toy Industry:

- ! Reviewed the viability of one of the fastest growing public companies which was in the process of filing Chapter 11. On my recommendation, the creditors' committee decided not to support the management business plan instead supported the secured lender's plan to change CEO and sell corporation as a going concern.

LITIGATION CONSULTING

Qualified as an expert witness in both the United States Federal Court and Bankruptcy Court

! Damages for Lost Profits:

!! Provided testimony as an expert on accounting and management issues, on behalf of the defendants.

! Personal Injury:

!! Refuted a claim on behalf of a major insurance company for lost profits in a private corporation following the injury of the president in a car crash.

! Business Interruption Insurance Claim:

!! Reviewed numerous claims on behalf of insurance companies. These claims resulted from fire which interrupted the business of the insured. The review and analysis in all cases resulted in substantial reduction in the claims.

! Dispute Resolution

!! Assisted three shareholders in a medium-size sheet metal manufacturing to resolve their business dispute and structured a plan to settle their differences amicably.

!! Acted as a mediator for three partners for a very successful San Francisco Bay-Area manufacturers' representative who, after several years of being partners, decided to split up the business. A review of the business and extensive interviews with the partners and employees indicated that communication amongst the partners was the core of the problem. After instituting a program for effective communication, the problem amongst the partners ceased and they decided not to split-up the business.

Examiner:

	<u>Case Number</u>
! Bijou Group, Inc.	95-33389-TC
! Broadcast Training, Inc. dba Columbia School of Broadcasting	BK-S-91-23777-LBR
! California Fidelity, Inc.	95-10110-AJ
! Anthony T Cocciardi	91-57664-MM
! Design Mechanical, Inc.	97-31866-DM

!	Richard A. Hirsch	98-51594-MM
!	Krishna Copy Center	90-04202-RN
!	Edward A & Miriam J Mueller	94-34083-DM
!	The Rental Place	91-56395-JRG
!	Red Brick Entertainment, Inc.	98-53779-ASW
!	Telenova, Inc.	91-51936-MM
!	Telenova International Inc.	91-52330-MM
!	Telenova Federal Systems Inc.	91-52355-MM
!	Transnational Board of Trade	95-31967-C-11
!	Viet Vu and Mai Vu	92-50827-JRG
!	Worldwide Auto Leasing	90-05845-JRG
!	Yaconelli Corporation	86-05361-ASW

Detailed Outline of Examiner Experience (Selected cases only)

!! ***Broadcast Training, Inc. dba Columbia School of Broadcasting***

This was a Nevada bankruptcy case and the Office of the United States Trustee selected Mr. Poonja because of his extensive expertise in bankruptcy matters and fraud examination in national and international bankruptcies. This case involved allegation that the owner of the Debtor Company was converting estate's assets for personal use and substantial preferential, fraudulent or improper transfers of funds or other assets. In addition, the Debtor was alleged to have falsified claims to Government Bodies for recovery of tuition fee for non-existing students.

Mr. Poonja was appointed Examiner on November 27, 1991 and the report was presented on December 15, 1991 to The Honorable Linda B. Riegle, United States Bankruptcy Court for the District of Nevada, as a result of which the United States Department of Education, State of Nevada and National Home Study Council were able to stop the falsified grant claims by the Debtor and cease payments for non existent students. This case was converted to Chapter 7.

!! ***Krishna Copy Center***

This was an Oakland, California case. The Office of the United States Trustee specially selected Mr. Poonja because of his reputation in forensic accounting. The Honorable Randall Newsome was appreciative of the report which enabled him to make a decision on the motion pending before his court. The Debtor successfully filed a plan of reorganization which was confirmed.

!! ***The Rental Place***

This was a San Jose case. Mr. Poonja was selected by the Office of the United States Trustee and the attorneys for the Creditors' Committee due to his knowledge in

assessing business viability. Mr. Poonja, as Examiner, very quickly concluded that the business was not viable and recommended conversion to Chapter 7. The Debtor's owners, both well renowned Certified Public Accountants in Gilroy, California, concurred with the Examiner's findings. This case was converted to Chapter 7.

!! ***Telenova, Inc., Telenova International Inc., Telenova Federal Systems Inc.***

These were three related cases and included complicated transactions to be investigated resulting from past corporate acquisitions. Mr. Poonja was selected because of his background and experience in mergers and acquisitions. Mr. Poonja found no wrongdoing on part of the Debtors, who filed liquidating plans.

!! ***Viet Vu and Mai Vu***

The Honorable James Grube, United States Bankruptcy Judge, San Jose Division was concerned regarding several million dollars of transfers, post-petition by the Debtors based on allegation by the Debtors' former attorney and business partner. Mr. Poonja was selected by the United States Trustee to investigate the allegations and the Court's concern. The Examiner's report concluded no evidence of fraud except for several breaches of administrative procedures during Chapter 11 and questionable business practices by the Debtors. Subsequent to the filing of the second report it was discovered that the Bank official who provided a comfort letter to the Examiner pertaining to the check kiting scheme had been compromised by Ms Vu. The case was converted to Chapter 7.

!! ***Worldwide Auto Leasing***

This was a complicated case involving a used car dealership which was a subsidiary of a public company. The Debtor had assets in Hawaii, Nevada, California and Costa Rica. The selection of Mr. Poonja as Examiner was competitive and was supported by all interested parties. The total fees in this case were in excess of \$400,000. The final analysis identified unapproved transfer of funds to the owner of the Debtor business and possible fraudulent transactions. This case was converted to Chapter 7.