

1 FITZGERALD YAP KREDITOR LLP
Eric D. Dean (SBN 56854)
2 edean@fyklaw.com
16148 Sand Canyon Avenue
3 Irvine, California 92618
Telephone: (949) 788-8900
4 Facsimile: (949) 788-8980

5 Attorneys for Secured Creditor
CELTIC BANK CORPORATION
6

7
8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

10
11 **SECURITIES & EXCHANGE
COMMISSION,**

12 **Plaintiff,**

13 **v.**

14 **ROBERT YANG, et al.,**

15 **Defendants,**

16 **and**

17 **YANROB’S MEDICAL, INC., et al.,**

18 **Relief Defendants.**
19
20

Case No.: 5:15-CV-02387-SVW (KKx)

**DECLARATION OF ERIC D. DEAN IN
SUPPORT OF OPPOSITION OF
CELTIC BANK CORPORATION TO
MOTION FOR ORDER ON
RECOMMENDED TREATMENT OF
CLAIMS AND DISTRIBUTIONS**

Date: November 13, 2017
Time: 1:30 p.m.
Ctrm. 10A
Judge: Hon. Stephen V. Wilson

21
22 ////
23 ////
24 ////
25 ////
26 ////
27 ////
28 ////

DECLARATION OF ERIC D. DEAN

I, Eric D. Dean, declare and state:

1. I am an attorney duly licensed to practice law before all courts of the State of California. I am a member of the bar of the United States District Court for the Central District of California, a partner in the law firm of FitzGerald Yap Kreditor LLP, and counsel for Celtic Bank in this Action. I know the following facts to be true of my own knowledge, and would, if asked, testify competently as to the truth of the same.

2. The Receiver's request for turnover of funds was received on March 4, 2016. Since that date, I have had multiple and regular communications, both verbal and written, dating back to the first week in March 2016 with Receiver's counsel, Joshua del Castillo ("del Castillo"), in which we repeatedly discussed that the funds on deposit with regard to those loans were in Celtic Bank's view, cash collateral security for the loan obligations that had been pledged to Celtic Bank and as to which Celtic Bank maintained a security interest and not simply funds on deposit with Celtic Bank.

3. On or about March 9, 2016, I received an email from del Castillo. In that email and in a phone conference on or about that date, counsel del Castillo acknowledged that Celtic Bank had provided loan documents to the SEC which the SEC had shared with the Receiver:

"Also, I am advised that the SEC has already shared its Celtic Bank materials with the Receiver. Those materials relate almost exclusively to the construction loans and various underwriting/ guaranty issues ..."
[March 9, 2016 email from counsel del Castillo to Affiant].

4. In or around late March 2016, I, on behalf of Celtic Bank, notified counsel del Castillo that Celtic Bank would stipulate with the Receiver that the funds on deposit with Celtic Bank be turned over to the Receiver under a stipulation and order so long as it maintained Celtic Bank's claims to the funds as pledged security and the rights arising therefrom, and which would have required the \$2 million that Borrowers had pledged as collateral for Loans 1 and 2 to be held in trust by the Receiver, his counsel or the Court Clerk in a segregated interest bearing account pending a final determination of whether Celtic Bank or the Receiver had a right to such proceeds.

5. Rather than accept the proposed stipulation as referenced in the immediately preceding paragraph, on April 5, 2016, the Receiver filed an Ex Parte Application seeking an Order to Show

1 Cause as to why Celtic Bank should not be held in contempt for failing to turn over the \$2 million
2 pledged to Celtic Bank (Dkt. No. 48).

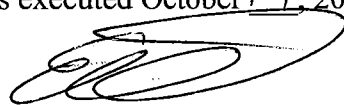
3 6. On June 6, 2016, at the hearing of the Order to Show Cause re: Contempt, the Receiver offered
4 to and did stipulate to the proposal made by Celtic Bank before the filing of the Receiver's ex parte
5 application (Dkt. No. 48).

6 7. On June 6, 2016, a Minute Order was entered by this Court denying the contempt citation and,
7 as stipulated, that Celtic Bank turn over the pledged funds to the Receiver to be held by the Receiver
8 with Celtic Bank reserving its rights and claims. (Dkt. No. 83).

9 8. On June 22, 2016, the June 6, 2016 Minute Order was amended (Dkt. No. 94) to read, in part,
10 as follows:

11 "In light of the representations at the hearing, the Court orders Celtic
12 Bank to turn over the property at issue. *The Court further orders the*
13 *receiver, Stephen J. Donnell, to hold such property in trust in a separate*
14 *account pending a final determination of who has a right to such*
15 *property. The parties agreed that the marshaling of property does not*
16 *resolve the question of which party has the superior right to the property*
and the receiver agreed to retain possession of the property until such
time as there is a resolution of the seniority of the claims to the
property."

17 I declare under penalty of perjury under the laws of the State of California that the foregoing is
18 true and correct and that this declaration was executed October 19, 2017 at Irvine, California.

19 

20 Eric D. Dean

21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dorothy White v. John R. Warren, Trustee of the John and Laura Warren Trust U/T/D August 24, 1995, et al.

U.S.D.C., Southern District of California Case No.: 17-cv-1059-AJB-NLS

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 16148 Sand Canyon Avenue, Irvine, California 92618.

On October 23, 2017, I served the foregoing document(s) described as:

DECLARATION OF ERIC D. DEAN IN SUPPORT OF OPPOSITION OF CELTIC BANK CORPORATION TO MOTION FOR ORDER ON RECOMMENDED TREATMENT OF CLAIMS AND DISTRIBUTIONS

in the manner(s) indicated as follows:

(MAIL) Service will be accomplished by placing a true and correct copy thereof in a sealed envelope with postage prepaid addressed to the following party(ies) listed on the manual notice list as determined by the CM/ECF Mailing Info for a Case for the above-entitled case. I am readily familiar with FitzGerald Yap Kreditor LLP’s ordinary business practice of collection and processing correspondence for mailing. via mail by depositing with the U.S. Postal Service I followed this business practice and I placed the envelope for collection and mailing on the date identified above. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage date is more than one day after date of deposit for mailing in affidavit.

(ELECTRONIC SERVICE VIA THE COURT’S NOTICE OF ELECTRONIC FILING) (“NEF”) Service will be accomplished via electronic transmission through the Court’s Case Management/Electronic Case Filing System (“CM/ECF”) in accordance with the rules governing electronic case filing and the subsequent service of documents in the United States District Court, Central District of California. The NEF that is automatically generated by the Court’s CM/ECF constitutes service of the filed document. The CM/ECF Mailing Info for a Case indicates the following parties in the above-entitled case are on the electronic mail notice list to receive NEF transmission:

- **Zachary T. Carlyle**
carlylez@sec.gov, kasperg@sec.gov, karpeli@sec.gov, blomgrene@sec.gov, pinkstonm@sec.gov, NesvigN@sec.gov
- **Eric David Dean**
edean@fyklaw.com
- **Stephen J. Donell**
jdelcastillo@allenmatkins.com
- **Mark T. Hiraide**
mth@msk.com, kjue@phlcorplaw.com, bag@msk.com, hitabashi@phlcorplaw.com, eganous@phlcorplaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- **Leslie J. Hughes**
HughesLJ@sec.gov, kasperg@sec.gov, pinkstonm@sec.gov, nesvign@sec.gov
- **David J. Van Havermaat**
vanhavermaatd@sec.gov, LAROFiling@sec.gov, longoa@sec.gov, irwinma@sec.gov
- **David R. Zaro**
dzaro@allenmatkins.com, mdiaz@allenmatkins.com
- **Melissa Katherine Zonne**
mzonne@allenmatkins.com, mlyons@allenmatkins.com
- **Joshua Andrew del Castillo**
jdelcastillo@allenmatkins.com, mdiaz@allenmatkins.com

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

/s/ Eric. D. Dean