

Albert L. Peia, Pro Se
P.O. Box 862156
Los Angeles, CA 90086
(213) 219-7649

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Albert L. Peia, Plaintiff)	CASE NO. 3:08cv01584 JCH
-vs-)	
Richard M. Coan,)	
Coan, Lewendon, Gulliver, & Miltenberger, LLC)	
John Doe Surety 1, John Doe Insurer 2,)	
John Does 3 – 10, Defendants)	November 22, 2008

- 1) **DECLARATION/CERTIFICATION IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION;**
- 2) **PLAINTIFF'S CROSS-MOTION FOR ENTRY OF JUDGMENT ON THE PLEADINGS IN THE SUM CERTAIN AMOUNT OF \$5 MILLION AS DEMANDED IN THE VERIFIED COMPLAINT;**
- 3) **REQUEST FOR CRIMINAL REFERRAL AS PROVISIONALLY SET FORTH IN THE CORRESPONDENCE TO FBI DATED OCTOBER 20, 2008 AND ANNEXED HERETO AS EXHIBIT "A".**

I, Albert L. Peia, plaintiff in the instant cause, of full age, hereby declare/certify in response and opposition to defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction and proffer in support of plaintiff's cross-motion for the entry judgment on the pleadings in the sum certain amount of \$5 Million as demanded in the Verified Complaint as supported therein and by the Affidavit, Rico Statement, and Exhibits thereto and filed concurrently therewith, as follows:

DEFENDANT COAN FAILED TO SUBMIT A FILING AS ORDERED BY THE BANKRUPTCY COURT WITHIN THE TIME DESIGNATED WHICH CAUSED THE DISMISSAL WITH PREJUDICE OF ADVERSARY PROCEEDINGS RIPE FOR RESOLUTION/JUDGMENT/TRIAL

1. Plaintiff has annexed hereto for ease of reference Exhibit "B" which is a copy of the order by Alan Shiff dismissing adversary proceedings as to all defendants with prejudice in light of defendant Coan's failure to submit a filing by the designated date.

DEFENDANT COAN INVOKED THE SUBJECT MATTER JURISDICTION OF THIS COURT IN THE ACTION BROUGHT BY DEFENDANT COAN AGAINST PLAINTIFF WITH A BANKRUPTCY COURT REFERENCE VIZ., BANKRUPTCY NO. 95-51862, NO. 3:97-CV1165 (RNC), SEEKING TO PREVENT PLAINTIFF FROM SUING COAN WITHOUT LEAVE OF COURT PRIOR TO THE FILING OF ANY ACTION AGAINST DEFENDANT COAN.

- 2. Defendant Coan through counsel Miltenberger had previously claimed the lack of relevance of the actions filed, particularly after plaintiff elucidated defendant Coan's attempts to evade jurisdiction and accountability for his wrongful, illegal acts. He also fails to inform this Court of the plenary hearing before Judge Robert N. Chatigny, Chief Judge, U.S.D.C., District of Connecticut, in an action brought by defendant Coan against plaintiff with a Bankruptcy Court reference viz., Bankruptcy No. 95-51862, No. 3:97-CV1165(RNC), seeking to prevent plaintiff from suing Coan without Leave of Court prior to the filing of any action against defendant Coan. It is also noteworthy that on cross-examination of Coan by plaintiff, Coan acknowledged his fiduciary duty to debtor's estate and hence, creditors and debtor thereby, despite subsequent bad faith denials thereof. Annexed hereto as Exhibit "C" at page 37 et seq in pertinent part, page 26 hereof. [It should be noted that Mr. Miltenberger was present at said hearing]. Sworn testimony by plaintiff was also given. After witness testimony and consideration of the papers/documents submitted, Judge Chatigny denied defendant Coan's relief as to Coan, discussed *infra*, but did rule that plaintiff could not sue Alan Shiff, U.S.B.C.J.. Plaintiff has abided by said ruling which should be honored and given effect herein in light of the plenary nature of the proceeding for which plaintiff was required to fly into Hartford, Connecticut. This plenary proceeding preceded the paper proceedings referenced/relied upon by defendant Coan.**

- 3. The RICO Summary in five pages under penalty of perjury plaintiff was asked to prepare and forward to the FBI is a concise, thoroughly reviewed and vetted summary of this case and where Coan fits into the RICO pattern and though also appended to the Affidavit in Support of the Verified Complaint herein, is annexed hereto as Exhibit “D” for ease of reference. The Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. Sections 1961-1968, Section 904(a) of the Organized Crime Control Act of 1970 expressly provided that “the provisions of this title [RICO] shall be liberally construed to effectuate its remedial purposes.” its remedial purposes.” The RICO predicate acts of (illegal drug) money laundering, bankruptcy fraud/offenses involving fraud connected with a case under Title 11, U.S.C., obstruction of justice, and racketeering are set forth with particularity at pages 4-18 in Plaintiff’s Verified Complaint, pages 10-35 in Plaintiff’s Affidavit, and pages 1-12, 18-30 in Plaintiff’s RICO Statement, and in Exhibits thereto. RICO also provides for joint and several liability. *Id.***
- 4. The first case was commenced in the U.S. District Court for the Central District of California which was presided over by new appointee J. Matz and for which defendant Coan contested personal jurisdiction. The second case was filed in the U.S. District Court for the District of Connecticut, was presided over by J. Dorsey and in which defendant Coan, though acknowledging receipt of the papers, contested sufficiency of service, and in which plaintiff was ordered to effect personal service. Plaintiff effected personal service upon defendant Coan therein, at which time, despite the prior ruling of The Honorable Robert N. Chatigny, Chief Judge, U.S.D.C., District of Connecticut, to the contrary as discussed *infra*, defendant Coan moved to dismiss as here, for lack of subject matter**

jurisdiction, which (quite embarrassingly for the court in light of Judge Chatigny's prior ruling) was granted by J. Dorsey.

- 5. It is also of note that as set forth in plaintiff's Affidavit filed concurrently herein, plaintiff attempted for the stated purpose of any purported leave of court application to determine the precise status of plaintiff/debtor's estate by way of some 25 phone calls to Defendant Coan et als spanning almost five months (1-5-04 to 5-14-04) with no response other than from Mr. Miltenberger that his client had not gotten back to him.**
- 6. The third action was filed and served along with a concurrent application for leave filed in both the RICO enterprise/associated in fact RICO enterprise bankruptcy court as well as in the U.S. District Court, District of Connecticut, with bankruptcy court reference, which case was assigned to Judge Kravitz, New Haven Division.**
- 7. On or about April 22, 2005, I received a call from a person named Sandra who identified herself as an employee of the U.S. Bankruptcy Court, Bridgeport Division, who stated that the subject bankruptcy case had been closed on October 20, 2004 and a final report filed, the details of which I set forth in my affidavit dated 5-2-05, filed with the court on 5-4-05, and referenced in my motion/application to withdraw as moot the application for leave to file the complaint in light of same, which was granted by Judge Kravitz without prejudice while denying the request for criminal referral except as to the local police which I delivered by hand to the LAPD, Attention: William Bratton (LAPD Chief) in accordance therewith.**

NEITHER LEGITIMATE CREDITORS NOR I SHOULD BE DAMAGED BY DEFENDANT COAN'S ILLEGAL/WRONGFUL ACTS WITHOUT RECOMPENSE UNDER THE LAW AS APPLICABLE HERETO, PARTICULARLY AT THIS TIME OF WELL FOUNDED MISTRUST OF AND COGNIZANCE OF CORRUPTION IN GOVERNMENT FUNCTIONS AS SET FORTH HEREIN.

8. The Chapter 13 plan provided for 100% payment to the (relative to assets) small (minimal amount of debt) number of creditors and as well designated the proceeds of the #3:93cv02065 (AWT) judgment to Norwalk Savings relative to the 62 Barnum Road, Danbury, CT property. As set forth in plaintiff's Verified Complaint, RICO Statement, and Affidavit, the Chapter 13 proceeding was converted to a case under Chapter 7 on or about 5-1-96 on Alan Shiff's own motion, after plaintiff had already filed a petition under Chapter 7 in California on or about 3-11-96 [this date may have on some papers owing to scrivener error(?) appeared incorrectly] , and had already consummated the 341A hearing in the California proceeding. Alan Shiff, U.S.B.C.J., (as defendant Coan), did utilize the mails in perpetrating said fraud (on courts, creditors, plaintiff, etc.), constituting the RICO predicate violation of mail fraud thereby, violative of Section 1341, fraudulently misrepresented the date of dismissal of a proceeding over which he himself had presided perpetrating a fraud connected with a case under Title 11 as proscribed in Title 18 U.S.C. Section 1961(1) (D); and further, brought a (retaliatory against a witness/victim/informant violative of Section 1513) spurious contempt proceeding against plaintiff, obstructing justice thereby in violation of Section 1503 (and additionally was without jurisdiction to legitimately do so). Quite simply, he lied (materially false fraudulent representation); knew he lied (scienter); lied with the intention of deceiving (intent); the lies were relied upon (ie., government, courts, etc.)(reliance); said offense/fraud in connection with a case under Title 11 directly causing damage to plaintiff's property and business (and as well to plaintiff's estate and creditors), which lie/false statement was brought to the attention of the court presiding over the contempt proceeding by counsel on my behalf; viz., Robert Sullivan, Esq., Westport, CT.. The

separate referenced judgment entered (9-18-96/filed 9-19-96 dkt. 393cv02065(AWT) in my favor by Judge Thompson in the U.S. District Court for the District of Connecticut is now worth well in excess of \$300,000 with interest and/or trebling and remains unaccounted for.

9. Neither I, nor I presume by reasonable inference (not properly a part of this declaration/certification) any creditor received notice of this consummated fraud by defendant Coan et als. I did contact my largest general creditor, who had filed a claim, Edward and Sandra Lundblad, who with two children are long-time residents of Connecticut and who (Edward) stated they had received nothing from either defendant Coan or the RICO enterprise/associated in fact RICO enterprise bankruptcy court (\$11,000 which according to their recent statement to me has grown to \$45,000 with interest). Other legitimate creditors, scheduled/unscheduled/pre-post conversion, in Connecticut [ie., Union Bank and Trust (?), Danbury, CT., (approx. \$750), Ken Williams, Bethel, CT, (\$500), David Mabe (\$267), Reher (\$135), and Guaranteed Subpoena, Union N.J. (approx. \$300 service – O’Gorman, Crassus Group), Tom Williams, Totowa, N.J. (\$100), Neil Solt, Houston, Texas (\$200), Ashkar, CA (approx.\$700), etc., should not be damaged by the culpable conduct of defendant Coan et als, and upon entry of judgment and payment thereof, I am willing to do under penalty of perjury what defendant Coan has failed to do, by paying, performing, and filing a report with this or other court. Alternatively, the John Doe Insurer/Surety should assume their duties and obligations as contractually they are so bound in the within matter. The assets substantially exceeded liabilities herein, and included real property with substantial equity (ie., one property purchased in 1974 and sold in violation of the automatic stay pursuant to §362, etc.).

THE LAW

10. The Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. Sections 1961-1968, Section 904(a) of the Organized Crime Control Act of 1970 expressly provided that “the provisions of this title [RICO] shall be liberally construed to effectuate its remedial purposes.” The RICO predicate acts of (illegal drug) money laundering, bankruptcy fraud/offenses involving fraud connected with a case under Title 11, U.S.C., obstruction of justice, and racketeering are set forth with particularity at pages 4-18 in Plaintiff’s Verified Complaint, pages 10-35 in Plaintiff’s Affidavit, and pages 1-12, 18-30 in Plaintiff’s RICO Statement, and in Exhibits thereto. RICO is a criminal statute with civil remedies, the presumption being that the treble damages/civil money damages remedy will vindicate the law with plaintiffs relegated [according to the somewhat naïve, owing to pervasive corruption in the process, discussion of RICO by Justice David Sutter, U.S.S.C., *Rotella v. Wood*, 120 S.Ct. 1075(2000)] to a role tantamount to private attorneys general. There is no immunity for criminal acts thereunder, for defendant Coan or any other such RICO violators.

11. It should be noted that a cause of action under RICO is fundamentally recognized for losses (to ie., creditors, the debtor, lienholders, etc.) caused by sales of a debtor’s assets in bankruptcy proceedings at submarket prices. *See, e.g., Bivens Gardens Office Bldg., Inc. v. Barnett Banks of Fla.*, 140 F.3d 898,908(11th Cir. 1998). In the instant case, defendant Coan’s acts are even more egregious and within the ambit of RICO inasmuch as he has at all times relevant hereto purposefully and flagrantly damaged assets of plaintiff debtor’s estate, purposefully causing dismissal of adversary proceedings involving RICO claims ripe for entry of default (judgment), Exhibit “B”, “A” Verified Complaint, Exhibit “B” Affidavit, Exhibit “A” RICO Statement, obstructing justice thereby, damaging plaintiff (debtor, as well as, ie.,

creditors, lienholders, etc.) , while concomitantly benefiting RICO co-conspirators, and committing a fraud upon the estate of debtor and creditors/lienholders thereby (violations of Sections 1513, 102 and that concerning mail fraud would also have been appropriate). The same violations apply to the adversary proceeding where the Trustee was named as a party plaintiff concerning junkie and thief, David George Swann (DOB 4-6-60; three guilty pleas to theft in less than 5 years residence in California) who stole (bankruptcy) estate among other assets of plaintiff and against whom default (judgment) was ripe for entry. Defendant Coan has neither abandoned nor re-brought same, violating Section 1503 and (defrauding) damaging plaintiff thereby.

12. There has never been a hearing on the merits of the RICO claims against defendant Coan who at all times has attempted to evade jurisdiction and avoid accountability for his wrongful and illegal conduct.

13. It should be emphasized as a fundamental principle of RICO law that RICO standing requires only harm resulting proximately from the predicate offenses. It does not also require that this harm give rise to a civil claim based upon those predicate offenses. *Holmes v. Securities Investor Protection Corp.*, 503 U.S. 258 (1992).

Additionally, the RICO plaintiff need not have suffered harm from each predicate offense comprising the pattern. *H.J. Inc. v Northwestern Bell Tel. Co.*, 492 U.S. 229, 242 (1989). *See, e.g., Ford Motor Co. v. Summit Motor Prods., Inc.*, 930 F.2d 277 (3d Cir.), *cert. denied*, 502 U.S. 939 (1991) (permitting a RICO claim based on violation of a court order to which plaintiff was not a party: the “standing inquiry in any civil RICO case depends solely on demonstrating injury to business or property, and not on satisfying any standing requirement attached to the predicate act”). Defendant Coan’s wrongful

and illegal acts have proximately caused plaintiff's damages within the meaning of RICO. The case of *Hecht v. Commerce Clearing House, Inc.*, 879 F.2d 21 (2d Cir. 1990) is instructive and apposite herein stating in pertinent part, "the RICO pattern or acts proximately cause a plaintiff's injury if they are a substantial factor in the sequence of responsible causation, and if the injury is reasonably foreseeable or anticipated as a natural consequence". Engaging in the RICO violation (ie., "any offense involving fraud connected with a case under Title 11, Title 18 U.S.C. § 1961(1)(D), among other violations as set forth), constitutes associating with the (RICO) enterprise within the meaning of §1962(c) of Title 18, U.S.C..

IN THE ALTERNATIVE, DEFENDANT COAN WAS NEGLIGENT

14. In the alternative, or additionally, defendant Coan was clearly negligent as set forth in Plaintiff's Verified Complaint, negligence being pleaded generally. It is hornbook law that a reasonable (and competent) person/lawyer would have foreseen the damage to plaintiff as documented under penalty of perjury in the instant case (Verified Complaint, RICO Statement, Affidavit, Exhibits incorporated therein). Moreover, defendant Coan's previous bad faith assertions that no duty, fiduciary or otherwise, existed between the trustee (Coan) and beneficiary (creditors, debtor, lienholders, etc.) were frivolous on their face and demonstrate defendant's unfitness to either practice law or act as a panel trustee. Moreover, defendant Coan et als have cost plaintiff the equivalent of hundreds of thousands of dollars attributable to defendant Coan's wrongful conduct alone over a 10+ year period based on current billing rates, fees, time expended, and for which plaintiff respectfully requests be awarded (compromised amount now set forth in RICO summary), in accordance with the

balance set forth in plaintiff's schedule of damages, and whose own lack of communication/notice of the case closure (despite my requests for status) and wrongful conduct necessitated the re-filing reflecting same herein.

15. It should be emphasized that the action brought by defendant Coan and heard at the subject hearing before The Honorable Robert N. Chatigny, Chief Judge, USDC (Dist.Conn) had this subject bankruptcy court case reference, viz., Bankruptcy No. 95-51862, No. 3:97-CV1165(RNC). Indeed, in light of defendant Coan's illegal acts to damage plaintiff and to benefit other RICO co-conspirators/defendants, I made no secret of my intent to utilize the judicial process to seek damages against defendant Coan for his intentional and illegal acts damaging me, and coincidentally, any legitimate creditors of my estate. (Parenthetically, it should once again be emphasized that it was defendant Coan's own knowledge of his own illegal/wrongful acts damaging me and constituting a fraud under Title 11 U.S.C. and a RICO violation thereby that did prompt the subject action before Judge Chatigny to preclude me from suing him without leave of court). This intent to sue defendant Coan for damages arising from his illegal acts in the context of his purported role as trustee of my Chapter 7 estate in bankruptcy was clearly articulated and subsumed in the proceeding before Judge Chatigny and included his past, current (and anticipated future) illegal acts in violation of RICO and other federal law. Specifically, in Judge Chatigny's own concluding words in pertinent part,

'On the existing record, a "leave of court" requirement should *not* (emphasis supplied) be imposed on Peia with regard to *any* (emphasis supplied) future legal action he might bring against plaintiff Coan..... If Peia does sue Coan, and the complaint proves to be frivolous, appropriate sanctions can be imposed by the judge who gets that complaint, including an order prohibiting Peia from filing another action without leave of court.'
212 B.R. 217, 220 (D.Conn.1997).¹

It should also be noted that the filings, viz., Verified Complaint/Affidavit/RICO Statement, have been sent to FBI . Defendant Coan, et als, utilized the mails in furtherance of this fraudulent (on plaintiff, the Court, creditors., etc.) scheme. The actual violation of 18 U.S.C. §1341, a RICO predicate act, is the mailing which must relate to but need not be an essential element of the scheme to defraud (ie., plaintiff, creditors, etc.). *Pereira v. United States*, 347 U.S. 1 (1954).].

I. THE 1881 CASE OF BARTON V. BARBOUR IS NOT APPOSITE OR ALTERNATIVELY MOOT IN LIGHT OF CLOSURE OF THE BANKRUPCY CASE ON OCTOBER 20, 2004, FINAL REPORT SUPPOSEDLY RENDERED, THE DAMAGE TO DEBTOR CONSUMMATED BY DEFENDANT COAN AT SAID POINT IN TIME (NO NOTICE TO EITHER PLAINTIFF OR CREDITORS), AND THE FACT THAT COAN'S PURPOSEFUL (NEGLIGENT IN THE ALTERNATIVE) ACTS DAMAGING PLAINTIFF'S ESTATE IRREVOCABLY BY DISMISSALS WITH PREJUDICE AS TO THE PENDING ADVERSARY PROCEEDINGS BY COAN'S FAILURE TO FILE. Exhibit "B".

The 1881 case of *Barton v. Barbour*, 104 U.S. 126 (1881), involved a plaintiff that had brought an action for injuries sustained while a passenger in a train, which railroad was currently in receivership. Said plaintiff brought the action against the receiver without having sought leave of court from the court that had appointed him. It is important to emphasize that there was no allegation or even a hint of impropriety, culpability, or illegality on the part of either the receiver or the subject court that had appointed him. Indeed, the fundamental and underlying *ratio decidendi* and policy considerations leading ineluctably to said Court's conclusion was that to permit such an action without leave of court would potentially impair the (value of the) property in the hands of the receiver, to the detriment of existing creditors and prior claimants. *Id.*,127-129. In the case *sub judice*, the precise opposite is true where defendant Coan has through his wrongful acts/conduct/negligence impaired the (value of the) property in to the detriment of existing creditors and prior claimants. Moreover, there was no RICO

statute extent at said time to address the endemic and pervasive corruption that has become synonymous with America today and that the RICO statute was enacted thwart consistent with the liberal construction to be accorded said remedial legislation as per the Court in *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479 (1989). Specifically, plaintiff/ appellant's action herein was to preserve the estate which has been purposefully and consistently damaged by defendant coan consistent with a pattern of racketeering activity by an enterprise of which defendant coan along with the U.S. Bankruptcy court that appointed him was a part. It should further be noted *a fortiori* that plaintiff/appellant's action would inure to the benefit of the estate and consequently, legitimate creditors and/or claimants thereof. It further is true that at the eviden- tiary hearing before Judge Chatigny as discussed infra, on cross examination by plaintiff/appellant and repeated in follow-up questioning by Judge Chatigny, defendant coan admitted he did not know of any legal way a real property as plaintiff/appellant's could have been sold during the pendency of the automatic stay (and the consequent fraud concerning surplus funds among other causes/predicate violations, etc.), and those ripe for the entry of default (/judgment), etc.. (ReCiting the 1951 case of *Mosser v. Darrow*, 341 U.S. 267, 71 S.Ct. 680, 95 L.Ed. 927 (1951), the Court in *Conn. Gen. Life Ins. V. Universal Ins. Cos.*, 838 F.2d 612 (1st Cir. 1988), sets forth the words of the Supreme Court as are apposite here and provided in pertinent part, "a trusteeship is serious business and is not to be undertaken lightly or so discharged. The most effective sanction for good administration is personal liability for the consequences of forbidden acts.....", Id. at 621, and hence, defendant coan's personal liability herein, having been sued individually herein. Indeed, said Court in *Conn. Gen. Life Ins.*, *supra*, continues stating that federal courts have uniformly held that bankruptcy trustees are subject to personal liability for the willful and deliberate violation of their fiduciary duties, and even

for negligent acts by said trustees. *Id.*; see e.g., *In re Gorski*, 766 F.2d. 723,727 (2d.Cir.1985); *In re Cochise College Park, Inc.*, 703 F.2d. 1339, 1357 (9th Cir. 1983). Moreover, the U.S. District Court has a significant in-terest in overseeing and correcting the conduct of (corrupt) trustees as defendant coan herein, and where jury trial is demanded as in Plaintiff/Appellant's Verified Complaint in the instant case. See generally, *In re Lehal Realty Associates*, supra at 275,277.

II. IN RE LEHAL ASSOCIATES DOES NOT EVEN REMOTELY SUPPORT DEFENDANT COAN'S POSITION.

In re Lehal Associates, 101 F.3d 272 (2nd Cir. 1996), is clearly distinguishable from the instant case inasmuch as the trustee in that case had benefited the estate through his actions, as opposed to coan who has without exception purposefully and illegally damaged plaintiff's estate, benefiting RICO defendants, consistent with the RICO violations and conspiracy. Specifically, in *In re Lehal Associates*, the trustee's efforts in the bankruptcy case resulted in payment of all legitimate creditors and administration expenses in full and a return to debtor of several million dollars. *Id.*

III. DEFENDANT COAN IS ESTOPPED FROM RELITIGATING AN ISSUE DECIDED AT THE PLENARY EVIDENTIARY HEARING BEFORE JUDGE CHATIGNY BY THE DOCTRINES OF RES JUDICATA/COLLATERAL ESTOPPEL.

Defendant Coan's illegal acts are part of the pattern of racketeering activity set forth in the subject litigation /adversary proceedings; that is, defendant coan is merely another RICO conspirator (continuing) in the RICO violation to commit bankruptcy fraud, obstruct justice, etc., as set forth in plaintiff's verified complaint, and to defraud plaintiff's estate, creditors thereof, and plaintiff herein.

16. In accordance with federal court Order of The Honorable Mark R. Kravitz, U.S.D.C.J., District of Connecticut, filed on May 19, 2005, along with the subject filings under penalty of perjury, viz., the RICO Verified Complaint, Affidavit, and RICO Statement, I respectfully requested the criminal prosecution of the culpable parties as clearly set forth therein. While the RICO statute is a federal criminal statute with civil damage remedies incorporated therein, there is concurrent jurisdiction between the state and federal authority. This is especially apposite in this case where Los Angeles County Authorities/entities have been directly impacted/damaged/defacto defrauded by the RICO violations set forth therein, including offenses involving fraud connected with a case under TITLE 11, U.S.C.. I have at all times disclosed the subject litigation and the substantial damages (assets involved substantially exceeded liabilities) for which a lien could be asserted. As set forth in the Supplemental Affidavit of Albert L. Peia dated May 2, 2005 and filed with the aforesaid Court on May 4, 2005, unbeknownst to me the Chapter 7 bankruptcy Case No. 95-51862 had been closed on October 20, 2004. As such, as of that point in time evidencing an intent not to cure the substantial damages caused to me by defendants' illegal, wrongful, and culpable conduct while concomitantly benefiting RICO co-conspirators/other culpable parties, the damages/causes of action have ripened/crystallized with insurance/surety coverages also applicable as of said date.

17. Contrary to defendant Coan's bad faith assertion, plaintiff has set forth at pages 4-18 in Plaintiff's Verified Complaint factually specific (what, who, when) instances of the RICO predicate/wrongful conduct/pattern of racketeering with the offense(s) involving fraud connected with a case under Title 11, violative of 18 U.S.C. § 1961(1)(D), said overt act causing damage to plaintiff's property and business, construed under RICO along with the "associated

in fact with the enterprise” as questions of fact. *See, eg., Miranda v. Ponce Fed. Bank*, 948 F.2nd 41, 48 (1st Cir. 1991).

18. The following counts from the verified complaint are set forth for the Court’s ease of reference in rebutting the previous bad faith, false assertions by and state of mind of defendant Coan my complaint never alleges, nor can it, that Mr. Coan owed a fiduciary duty – or any other kind of duty – to Mr. Peia. And that Mr. Peia never alleges that Mr. Coan had any duty whatsoever to Mr. Peia that could be breached by any act or failure to act.”

In contra-distinction to defendant Coan’s prior empty/false rhetoric, the Verified Complaint says:

“THIRD COUNT - NEGLIGENCE/BREACH OF FIDUCIARY DUTY

50. Plaintiff repeats and realleges the averments contained in paragraphs 1 through 49 as if set forth at length herein.

51. On or about May 1, 1996, defendant Richard M. Coan succeeded to the interests of the estate of plaintiff herein in his capacity as Chapter 7 Trustee, said case having originated under Chapter 13 of Title 11, U.S.C., and designated as Case No. 95-51862, United States Bankruptcy Court, in the District of Connecticut.

52. At all times relevant hereto, Richard M. Coan had a fiduciary duty to said estate, creditors thereof including the U.S. government, which duty he breached through wrongful and otherwise negligent and culpable conduct.

53. To wit, Richard M. Coan, in his capacity as successor plaintiff was ordered by the court to file papers consistent with his capacity and duty as successor plaintiff and Trustee, in a number of adversary proceedings brought by debtor/plaintiff herein for which the entry of default had been requested and the entry of default judgment appropriate inasmuch as proper service had been made with some matters being without defense, ie., properties (outside the state of Connecticut, ie., New Jersey) sold during the pendency of the automatic stay pursuant to §362 of Title 11, U.S.C., unaccounted for substantial funds (in New Jersey) generated from said wrongful acts, theft of personalty/business assets (in California, New Jersey, and Connecticut), loss of rents (in New Jersey, California, and Connecticut), among other causes and damages, including a substantial fraud on debtor/plaintiff herein perpetrated by R.I.C.O. defendants/co-conspirators involved in laundering drug

money through the Trump (of New York) casinos (in New Jersey) along with other criminal activities covered by and violative of federal law.

54. All of said matters were meritorious, substantial, some without defense, as well as some for which partial settlements and/or payments had been made.

55. Richard M. Coan, in his capacity as Trustee and to cover-up various criminal activities including, *inter alia*, illegal drug money laundering, bribery, fraud, theft, other violations of federal law including §362 of Title 11, U.S.C., and the illegal, wrongful and culpable failure to conclude the 1989 Virginia Chapter 7 proceeding under Title 11 in accordance with federal law, among others, wrongfully, negligently, and culpably failed to file any document whatsoever.

56. As a direct consequence of the aforesaid negligent, wrongful and culpable breaches of fiduciary duty the subject adversary proceedings were dismissed with prejudice as set forth in Exhibit "A", annexed hereto and incorporated herein by reference thereto, causing and resulting in great damage to plaintiff herein.

57. Defendant Richard M. Coan is liable to plaintiff for the damages caused by said negligent, wrongful and culpable breaches of fiduciary duty, in amounts compensatory and punitive, to be determined at trial.

FOURTH COUNT - NEGLIGENCE

58. Plaintiff repeats and realleges the averments contained in paragraphs 1 through 57 as if set forth at length herein.

59. On or about May 1, 1996, defendant Richard M. Coan succeeded to the interests of the estate of plaintiff herein in his capacity as Chapter 7 Trustee, said case having originated under Chapter 13 of Title 11, U.S.C., and designated as Case No. 95-51862, United States Bankruptcy Court, in the District of Connecticut.

60. At all times relevant hereto, defendant Richard M. Coan, acting within the scope of his employment, and defendant Coan, Lewendon, Gulliver, and Miltenberger, LLC., thereby

(1) had a duty to act as a reasonable and prudent person in performing his duties in his capacity as Chapter 7 Trustee, consistent with his duties as a fiduciary and the foreseeability of harm/injury/damage to plaintiff in failing to so conform to said standard of care;

(2) defendant Richard M. Coan, acting within the scope of his employment and defendant Coan, Lewendon, Gulliver, and Miltenberger, LLC., thereby, breached said duty of due care in failing to perform his duties in accordance with reasonable prudence by, *inter alia*, failing to timely file documents pursuant to court order and otherwise act in a reasonably prudent manner;

**(3) as a direct and proximate result of the aforesaid breach of duty by defendant Richard M. Coan, acting within the scope of his employment and defendant Coan, Lewendon, Gulliver, and Miltenberger, LLC., thereby,
(4) plaintiff has sustained substantial harm/injury/damage.**

61. As a result of the negligence of defendant Richard M. Coan, acting within the scope of his employment and defendant Coan, Lewendon, Gulliver, and Miltenberger, LLC., thereby, said defendants are liable to plaintiff for damages in an amount to be determined at trial.”

CONCLUSION

The within referenced filings with exhibits thereto, along with the specious, spurious opposition by defendant Coan have been sent to FBI. Defendant Coan has not rebutted even one sworn statement by plaintiff herein and in the paramount judicial interests of truth and justice, plaintiff respectfully requests that defendant Coan et als’ relief be denied and respectfully cross-moves and requests the entry of judgment in the sum-certain amount of \$5 million as demanded in the Verified Complaint, and supported by the sworn Affidavit, RICO Statement and exhibits thereto, subject to the allocations/compromised amount as set forth in RICO Summary under penalty of perjury sent to and at the request of the FBI. Exhibit “D”. In the alternative, plaintiff respectfully requests that defendant(s) be ordered to turn the instant case over to their (John Doe Surety1/ Insurer 2) carrier(s) pursuant to the duty to defend for independent evaluation in accordance with the contractual provisions and obligations under the applicable policies/coverages, the names of which I’ve been refused disclosure by defendant Coan, et als.

Finally, a rule of reason should obtain in this case, particularly in light of the numerous conflicts and hence, incentives to cover-up and further obstruct justice. Specifically, the Bankruptcy Court is part of the associated-in-fact enterprise. Moreover, Alan Shiff, U.S.B.C.J., has committed various RICO violations including that extortionate ploy (and

fraud) under color of right based on Shiff's false statement, the falsity of which was borne out by counsel on my behalf, Robert Sullivan, Westport, CT. Moreover, Albert Dabrowski, Chief Judge, U.S.B.C., was U.S. Attorney at the time of the spurious contempt proceeding, and Diedre Martini, now U.S. Trustee for the District, the prosecuting Assistant U.S. Attorney. To require leave of court from said Court is almost tantamount to requiring my seeking leave of a mafia godfather or under-boss before commencing a RICO action as here relating to the illegal money laundering. Additionally, in light of the closure of the case, as well as the destruction of any and all assets of the estate, and the consummation of the fraud by defendant Coan thereby, it would be but a fool's errand to pretend that justice could be served thereby. ¹

The foregoing statements made by me are true under penalty of perjury pursuant to the laws of the United States of America.

Dated: 11-22-08

Respectfully Submitted and Signed by: _____
Albert L. Peia, Plaintiff Pro Se

REQUEST FOR JUDICIAL NOTICE

In accordance with Federal Rule of Evidence 201, plaintiff respectfully requests
Judicial Notice of United States District Court Case #3:93cv02065(AWT), #92cv0166(JBA),

¹ An alternative approach might include this Court retaining jurisdiction while allowing the \$2 million of the \$5 million to be paid into (the Bankruptcy) Court for dispersal as set forth in the RICO Summary (\$1million to the government, \$1 million for dispersal to creditors – if the same couldn't be accomplished within 30 days of payment, I would pay all creditors immediately from the \$3 million and submit by way of assignment, a claim to the Court for reimbursement of the amounts so paid.

Bky.Case #95-51862 and the Adversary Proceedings filed therein, District of Connecticut, particularly the subject matter thereof, aswell as the Exhibits thereto.

Dated: 11-22-08

Signed: _____

Albert L. Peia

CERTIFICATION OF SERVICE

I, Albert L. Peia, hereby certify that copies of the documents, including exhibits, as set forth hereafter were served by way of regular first class mail, postage pre-paid ; viz.,

1) DECLARATION/CERTIFICATION IN OPPOSITION TO DEFENDANTS’MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION;

2) PLAINTIFF’S CROSS-MOTION FOR ENTRY OF JUDGMENT ON THE PLEADINGS IN THE SUM CERTAIN AMOUNT OF \$5 MILLION AS DEMANDED IN THE VERIFIED COMPLAINT;

3) REQUEST FOR CRIMINAL REFERRAL AS PROVISIONALLY SET FORTH IN THE CORRESPONDENCE TO FBI DATED OCTOBER 20, 2008 AND ANNEXED HERETO AS EXHIBIT “A”.

on this _____ day of November, 2008, upon the following:

Richard M. Coan,

Coan, Lewendon, Gulliver, and Miltenberger , LLC.,

**at 495 Orange St.
New Haven, Ct. 06511**

and,

**Walter W. Grattan, Jr., Supervisory Special Agent
Kimberly K. Mertz, Special Agent in Charge
Federal Bureau of Investigation
600 State Street
New Haven, Connecticut 06511**

Dated: 11-22-08

Signed: _____

Albert L. Peia