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16 Special Counsel for James S. Proctor, Chapter 7 Trustee

17 UNITED STATES BANKRUPTCY COURT
18 DISTRICT OF NEVADA

19 IN RE:

20 PAUL R. DEMPSEY,
21 Debtor.

22 Case No. BK-N-98-31961 GWZ
23 Chapter 7

24 JAMES S. PROCTOR, in his
25 capacity as trustee of the
26 chapter 7 bankruptcy estate
27 of PAUL R. DEMPSEY,

28 Adv. Proc. No. 99-3172

NOTICE OF PENDING ACTION
(LIS PENDENS)

Plaintiff,

v.

29 PAUL R. DEMPSEY, STAR
30 JORDAN-DEMPSEY, EURO-
31 PACIFIC CONSULT COMPANY,
32 LTD., DOES I through X,
33 BLACK AND WHITE
34 CORPORATIONS 1 through 10,

35 Defendants.

36 NOTICE IS HEREBY GIVEN that an action has been
37 commenced in the United States Bankruptcy Court, District of
38

0502371

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HEATON AND DOESCHER, LTD.

P.O. BOX 605

CARSON CITY, NEVADA 89702

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1 Nevada, by the above-named Plaintiff against the above-named
2 Defendants to determine that the property described in
3 Exhibit "B" should be turned over to the bankruptcy estate.
4 For further particulars, reference is made to the Complaint,
5 which is attached hereto as Exhibit "A", and incorporated
6 herein by this reference. The premises affected by this suit
7 are situated in Douglas County, State of Nevada, more
8 particularly described in Exhibit "B" attached hereto and
9 incorporated herein by this reference.

10 DATED this 18th day of October, 2000.

11 HEATON & DOESCHER, LTD.
12 Attorneys for Plaintiff
13 3064 Silver Sage Dr., Suite 102
14 Post Office Box 605
15 Carson City, Nevada 89702

16 By Scott J. Heaton
17 Scott J. Heaton
18 Nevada Bar No. 000249

19 I certify that this is a true copy:

20 Attest: Walter L. Lamm
21 Deputy Clerk, Bankruptcy Court
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SEAL

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Special Counsel for James S. Proctor, Chapter 7 Trustee

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UNITED STATES
BANKRUPTCY COURT
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
PAUL R. DEMPSEY,
Debtor.

Case No. BK-N-98-31961
Chapter 7

JAMES S. PROCTOR, in his
capacity as trustee of the chapter
7 bankruptcy estate of PAUL R.
DEMPSEY,

Plaintiff,

v.

PAUL R. DEMPSEY, STAR
JORDAN-DEMPSEY, EURO-
PACIFIC CONSULT
COMPANY, LTD., DOES I
through X, BLACK AND
WHITE CORPORATIONS 1
through 10,

Defendants.

ADV 993172

ADVERSARY PROCEEDING _____

COMPLAINT

(NO HEARING REQUIRED)

Plaintiff James S. Proctor, in his capacity as trustee of the chapter 7
bankruptcy estate of Paul R. Dempsey, pending in the United States Bankruptcy Court

EXHIBIT "A"

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1 for the District of Nevada as case number BK-N-98-31961-GWZ, alleges as follows:

2 **JURISDICTIONAL ALLEGATIONS**

3 1. Debtor Paul R. Dempsey ("Debtor") filed a voluntary petition under
4 chapter 7 of the bankruptcy code on July 15, 1998, thereby commencing case number
5 BK-N-98-31961-GWZ (the "bankruptcy case").

6 2. Plaintiff James S. Proctor (the "Trustee") was thereafter appointed
7 the trustee of the bankruptcy case, and has served in that capacity since his appointment.

8 3. This court has jurisdiction over this adversary proceeding pursuant
9 to 28 U.S.C. section 1334 and 28 U.S.C. section 2201(a). This action is a core
10 proceeding pursuant to 28 U.S.C. section 157(b)(2)(A), (E) and (H).

11 **GENERAL ALLEGATIONS**

12 4. Lorraine H. Weikel ("Weikel") is an individual residing in Carson
13 City, Nevada and is the duly appointed Executrix of the Estate of Maurice M. Weikel,
14 also known as Maurice Marcel Weikel, deceased, the administration of which is
15 currently pending as Case Number 91-02140P in the First Judicial District Court, State
16 of Nevada.

17 5. Plaintiff is informed and believe and thereupon alleges that Debtor
18 and Defendant Star Jordan-Dempsey ("Star Jordan" or "Mrs. Dempsey") met in 1977.

19 6. Plaintiff is informed and believe and thereupon alleges that Debtor
20 and Star Jordan cohabited in California and Nevada from approximately 1977 until July
21 1992.

22 7. Debtor moved to the state of Nevada in 1991 and that Star Jordan
23 moved to Nevada before the couple's marriage in July 1992.

24 8. Plaintiff is informed and believe that Debtor and Star Jordan were
25 married in July 1992 and that they reside in Douglas County, Nevada as husband and
26 wife.

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1 9. Plaintiff is informed and believes and thereupon alleges that
2 Defendant Euro-Pacific Consult Company, Ltd. ("Euro-Pacific", and, together with
3 Debtor and Star Jordan, the "Defendants") is a Nevada corporation doing business in the
4 State of Nevada.

5 10. Plaintiff is informed and believes and thereupon alleges that Debtor
6 formed Euro-Pacific in approximately March 1992.

7 11. Debtor and Star Jordan each owned 50 percent of the stock in Euro-
8 Pacific at the time it was formed.

9 12. Plaintiff is informed and believes and on that basis alleges that,
10 from the date of their marriage, Mrs. Dempsey was not employed in any capacity other
11 than for Euro-Pacific, for which she did not receive compensation.

12 13. Debtor commenced his employment with Wykle Research in late
13 1991, and his wages and salary, which, along with other benefits, totaled approximately
14 \$1,000,000.00 from 1991 through 1995, were the primary source of income to the couple
15 during their marriage.

16 14. Debtor's earnings from Wykle Research are presumptively
17 community property.

18 15. Plaintiff does not know the true names and identities of those
19 Defendants herein referred to by fictitious names, but are informed and believe and on
20 that basis alleges that they are persons or entities who are servants, agents, employees,
21 or representatives of the named Defendants, or persons acting in concert with said
22 Defendants, with reference to the premises pleaded herein, and are liable to the Plaintiff
23 by reason thereof. Plaintiff specifically prays for leave to amend this Complaint to
24 allege such true names, identities, and capacities with appropriate allegations when same
25 become more fully known to Plaintiff.

26 16. Plaintiff is informed and believes that the Defendants, and each of
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1 them, were at all times pertinent hereto the agents of each and every other Defendant
2 identified herein and that all acts and omissions to act referenced herein were within the
3 scope and course of the agency of each Defendant for every other Defendant, but that if
4 any act or omission to act was not within the scope and course of the agency of any
5 Defendant, then the benefits of each such act or omission to act have been ratified by the
6 appropriate principal thereof in that the acts and omissions to act have been adopted and
7 the benefits thereof have been retained by the principal of each agent.

8 17. Euro-Pacific is and at all times pertinent hereto has been the alter
9 ego of Debtor and Mrs. Dempsey and it would be unsound and in promotion of the fraud
10 perpetrated on Plaintiff to recognize the separate existence of Euro-Pacific.

11 18. Prior to the Debtor's voluntary bankruptcy petition, Weikel and
12 Debtor were engaged in two cases pending in the First Judicial District Court of the State
13 of Nevada, In and For Carson City, commonly known as *In the Matter of the Estate of*
14 *Maurice M. Weikel, also known as Maurice Marcel Weikel*, Case Number 91-02140P
15 (*"First Action"*) and *Lorraine H. Weikel, individually and as Executrix of the Estate of*
16 *Maurice Weikel, deceased, and Wykle Research, Inc., a Nevada corporation, Plaintiffs,*
17 *versus Paul R. Dempsey, Defendant, and related third party actions*, Case Number
18 94-00493A (*"Second Action"*).

19 19. On or about February 4, 1998, the court in the First Action entered
20 Judgment in favor of the Estate and against Debtor in the amount of \$336,954.00, plus
21 attorney's fees in the amount of \$24,367.50 and costs in the amount of \$3,893.76, for a
22 total judgment in the amount of \$365,215.26 (the *"Judgment"*).

23 20. Weikel, Debtor and Mrs. Dempsey entered into a Settlement
24 Agreement and Release on April 10, 1998, a copy of which is attached hereto, marked
25 Exhibit "A", and by this reference incorporated herein, in connection with the
26 satisfaction of the Judgment, the dismissal of the Second Action and mutual releases as
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between Weikel and Debtor.

21. Pursuant to the Settlement Agreement and Release, the parties agreed that Debtor would submit to a debtor's examination and, in the event Weikel determined, within 120 days from the date of execution of the Settlement Agreement and Release, that they did not want to accept a \$50,000.00 promissory note secured by a deed of trust as satisfaction of the Judgment, Weikel would be permitted to cancel the note and deed of trust and pursue any separate property or community property assets of Debtor for purposes of satisfying the Judgment.

22. In the course of negotiating the Settlement Agreement and Release, Debtor, through his counsel, consistently represented that he did not have sufficient assets to pay the Judgment, on the basis of which Weikel entered into the Settlement Agreement and Release.

23. Beginning in 1977, when he began to cohabit with Star Jordan, throughout the entire course of his marriage to her in 1992, and continuing to the present, Debtor has not acquired a single piece of real property in his own name that he did not forthwith transfer to either Mrs. Dempsey or another entity, such as Euro-Pacific.

24. Plaintiff is informed and believes and on that basis alleges that the purpose, at least in part, for Debtor not acquiring real property in his own name was to shield his assets from the claims of his creditors.

25. In his Schedule of Assets and Liabilities, filed in the bankruptcy case on July 31, 1998, Debtor represents under penalty of perjury that he does not own any real property.

26. In his Schedule of Assets and Liabilities, filed in the bankruptcy case on July 31, 1998, Debtor represents under penalty of perjury that he does not have any secured creditors.

27. In his Schedule of Assets and Liabilities, filed in the bankruptcy

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1 case on July 31, 1998, Debtor represented under penalty of perjury that he has five
2 unsecured creditors, two of which include attorneys who represented the Debtor in the
3 litigation with Weikel, two of which are owed to Weikel, and one of which is for
4 goods/services supplied to PRD Consult, Ltd., an entity in which Debtor also represents
5 he has an ownership interest.

6 **ALLEGATIONS RELATING TO THE VENICE PROPERTY**

7 28. Prior to their marriage, Mrs. Dempsey acquired real property
8 commonly known as 631 Mildred, Venice, California (the "Venice Property").

9 29. Mrs. Dempsey acquired the Venice Property during the period of
10 time that she and Debtor were cohabiting in California.

11 30. Plaintiff is informed and believes and on that basis alleges that the
12 Venice Property sustained annual losses, which were paid from Debtor's earnings while
13 employed at Wykle Research.

14 31. In June 1992, the Venice Property was refinanced.

15 32. Plaintiff is informed and believes and on that basis alleges that the
16 refinance was based, at least in part, on Debtor's financial ability to repay the loan.

17 33. Star Jordan contributed a portion of the funds from the refinance of
18 the Venice Property to Euro-Pacific, which funds were then used to purchase the Florida
19 Property, as set forth more fully below.

20 34. Star Jordon used a portion of the funds from the refinance of the
21 Venice Property as a down payment on the residence she currently shares with Debtor
22 located at 639 Riven Rock Road, Zephyr Cove, Nevada (the "Riven Rock Property"), as
23 set forth more fully below.

24 35. The Venice Property is, at least in part, community property.

25 36. The proceeds of the Venice Property are, at least in part, community
26 property.

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1 37. The interests of the Debtor and Mrs. Dempsey in the community
2 property interests alleged in paragraphs. 33 and 34 are property of the Debtor's
3 bankruptcy estate.

4 ALLEGATIONS RELATING TO THE FLORIDA PROPERTY

5 38. Plaintiff is informed and believes and on that basis alleges that in
6 or about June 1992, Euro-Pacific acquired real property located in the State of Florida
7 (the "Florida property").

8 39. Mrs. Dempsey managed the Florida property from the time it was
9 purchased until it was sold in 1997.

10 40. Plaintiff is informed and believes and on that basis alleges that Mrs.
11 Dempsey did not receive a salary or other direct compensation from Euro-Pacific for her
12 services in managing the Florida property.

13 41. Plaintiff is informed and believes and on that basis alleges that the
14 source of funds for Euro-Pacific's purchase of the Florida Property was, in part, from
15 Mrs. Dempsey's refinance of the Venice Property.

16 42. Plaintiff is informed and believes and on that basis alleges that the
17 balance of the funds for Euro-Pacific's purchase of the Florida Property was from
18 Debtor.

19 43. Euro-Pacific's down payment on the Florida Property was
20 \$70,000.00.

21 44. Debtor's earnings while employed at Wykle Research were utilized
22 to pay the expenses relating to the Florida Property.

23 45. In approximately March 1997, when Debtor and Mrs. Dempsey
24 each owned 50 percent of the stock in Euro-Pacific, Euro-Pacific sold the Florida
25 Property.

26 46. The net proceeds of the sale was approximately \$200,000.00.
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1 47. Mrs. Dempsey received approximately \$100,000.00 of the net
2 proceeds.

3 48. Debtor received approximately \$93,000.00 of the net proceeds from
4 the sale.

5 49. Based on information and belief, Plaintiff alleges that Debtor
6 transferred all but one share in Euro-Pacific back to the corporation, purportedly in
7 "consideration" of receipt of approximately \$93,000.00 from the sale of the Florida
8 Property.

9 50. The transfer of all but one share of Debtor's stock in Euro-Pacific
10 was without consideration.

11 51. Mrs. Dempsey's stock in Euro-Pacific is community property and
12 is property of Debtor's bankruptcy estate.

13 52. Debtor's stock in Euro-Pacific is community property and is
14 property of the Debtor's bankruptcy estate.

15 53. The interests of Euro-Pacific, the Debtor and Mrs. Dempsey in the
16 Florida property and its proceeds are community property and property of the Debtor's
17 bankruptcy estate

18 **ALLEGATIONS RELATING TO THE RIVEN ROCK PROPERTY**

19 54. After their marriage in July 1992, Debtor and Mrs. Dempsey
20 purchased real property located at 639 Riven Rock Road, Zephyr Cove, Nevada (the
21 "Riven Rock Property").

22 55. Debtor and Mrs. Dempsey have resided at the Riven Rock Property
23 since they bought it in 1992.

24 56. Mrs. Dempsey used a portion of the proceeds of refinance of the
25 Venice Property to purchase the Riven Rock Property.

26 57. In 1994, Debtor and Mrs. Dempsey parceled a portion of the Riven
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Rock Property and sold it.

58. The net proceeds of the sale was \$100,000.00.

59. Debtor has not accounted for the disposition of the proceeds of sale.

60. Debtor's earnings from Wykle Research were utilized to pay the expenses relating to the Riven Rock Property.

61. In a Quitclaim Deed recorded at Book 1297 Page 5199 of Official Records, Douglas County on December 29, 1997, Debtor quitclaimed his interest in the Riven Rock Property to Mrs. Dempsey.

62. Plaintiff is informed and believes and on that basis alleges that the Riven Rock Property is presumptively community property.

63. The Riven Rock Property is property of the Debtor's bankruptcy estate.

ALLEGATIONS RELATING TO THE MALIBU PROPERTY

64. During a period of time that she was cohabiting with Debtor, Star Jordan acquired title in her name only to real property commonly known as 21832 Lamplighter Lane, Malibu, California (the "Malibu Property").

65. The Malibu Property incurred consistent losses, which were paid from Debtor's earnings at Wykle Research.

66. The Malibu Property was, at least in part, community property.

67. Debtor and Mrs. Dempsey ceased making payments on the Malibu Property, which was ultimately destroyed in a fire.

68. The loss of the Malibu Property resulted in the ability of the Debtor and Mrs. Dempsey to jointly apply for and receive a loan from the Small Business Administration.

69. But for the Debtor's financial wherewithal, the Debtor and Mrs. Dempsey would not have received the Small Business Administration loan.

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1 70. The proceeds of the loan from the Small Business Administration
2 were used by Debtor and Mrs. Dempsey to acquire the Zephyr Heights Property as joint
3 tenants in 1996, as set forth more fully below.

4 71. The proceeds of the loan from the Small Business Administration
5 are, at least in part, community property and property of the Debtor's bankruptcy estate.

6 **ALLEGATIONS RELATING TO THE ZEPHYR HEIGHTS PROPERTY**

7 72. In late 1995 or early 1996, Debtor and Mrs. Dempsey acquired
8 property located at 617 Highway 50, Zephyr Cove, Nevada, known as Douglas County
9 Assessor's parcel 05-182-18 (the "Zephyr Heights Property").

10 73. The Zephyr Heights Property consists of an 18-unit apartment
11 complex.

12 74. The purchase price for the Zephyr Heights Property was
13 \$450,000.00.

14 75. Debtor and Mrs. Dempsey took title to the Zephyr Heights Property
15 as joint tenants.

16 76. In a deed dated February 7, 1996, Debtor and Mrs. Dempsey
17 transferred the Zephyr Heights Property to Euro-Pacific.

18 77. Debtor and Mrs. Dempsey did not pay a real property transfer tax
19 in connection with the transfer to Euro-Pacific.

20 78. Plaintiff is informed and believes and thereupon alleges that the
21 transfer was made during the pendency of the First Action and Second Action and
22 shortly after an Order was entered in the First Action by the Court on December 8, 1995
23 ordering Debtor to turn over various assets to Weikel, the value of which were
24 subsequently reduced to the Judgment.

25 79. The transfer of the Zephyr Heights Property is described as a
26 "related party transfer" by the records of the Douglas County Recorder, State of Nevada,
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who also list the transfer as a "non-sale".

80. Plaintiff is informed and believes and thereupon alleges that the tax bills on the Zephyr Heights Property are mailed to Mrs. Dempsey's address at Post Office Box 1325, Zephyr Cove, Nevada 89448 and that the tax bills on the Zephyr Heights Property are paid by Euro-Pacific.

81. Debtor and Mrs. Dempsey acquired the Zephyr Heights Property with proceeds of a Small Business Administration loan, for which Debtor's financial condition was a basis in obtaining the loan.

82. Debtor and Mrs. Dempsey executed a promissory note and deed of trust in favor of the Small Business Administration to secure the repayment of the loan to acquire the Zephyr Heights Property.

83. The Zephyr Heights Property is community property and is property of the Debtor's bankruptcy estate.

**FIRST CLAIM FOR RELIEF
DECLARATORY RELIEF**

84. The Trustee realleges and incorporates by this reference the allegations contained in paragraphs 1-83 as though set forth fully herein.

85. A controversy exists with respect to the Debtor's interest and Mrs. Dempsey's interest in the Malibu Property, the Zephyr Heights Property, the Riven Rock Property, the Venice Property and the stock in Euro-Pacific and the proceeds thereof of each of these properties.

86. The Trustee alleges that the Debtor's interest in these properties and their proceeds are community property.

87. The Trustee alleges that Mrs. Dempsey's interest, or at least a portion of her interest, in the Malibu Property, the Zephyr Heights Property, the Riven Rock Property, the Venice Property and her stock in Euro-Pacific, and their proceeds, are community property.

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88. The Trustee alleges that the Debtor's interest in these properties and their proceeds are property of this bankruptcy estate.

89. The Trustee alleges that Mrs. Dempsey's interest, or at least a portion of her interest, in the Malibu Property, the Zephyr Heights Property, the Riven Rock Property, the Venice Property and her stock in Euro-Pacific, and proceeds thereof, are property of this bankruptcy estate.

90. The Trustee alleges that he is entitled to judgment declaring that the Debtor's interest and Mrs. Dempsey's interest, or at least a portion thereof, in these properties and their proceeds are property of this bankruptcy estate.

**SECOND CLAIM FOR RELIEF
TURNOVER**

91. The Trustee realleges and incorporates by this reference the allegations contained in paragraphs 1-90 as though set forth fully herein.

92. Debtor's interest and Mrs. Dempsey's community property interest in the Malibu Property, the Zephyr Heights Property, the Riven Rock Property, the Venice Property and the stock in Euro-Pacific, or the value thereof, is not of inconsequential value.

93. The Trustee may use, sell or lease the Debtor's interest and Mrs. Dempsey's community property interest in these properties.

94. Debtor's interest and Mrs. Dempsey's community property interest, or the value thereof, should be turned over to the Trustee for administration in this bankruptcy case.

**THIRD CLAIM FOR RELIEF
AVOIDANCE OF FRAUDULENT TRANSFERS**

95. Plaintiff realleges and incorporates by this reference the allegations contained in paragraphs 1-83 as though set forth fully herein.

96. The transfer of the Zephyr Heights Property by Debtor and Mrs.

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1 Dempsey to Euro-Pacific was made by these Defendants with the intent to hinder, delay
2 or defraud unsecured creditors, including Weikel, of their claims against Debtor.

3 97. The transfer of the Debtor's interest in all but one share of Euro-
4 Pacific stock was without consideration of for less than reasonably equivalent value.

5 98. The transfers of the Zephyr Heights Property and of the Debtor's
6 Euro-Pacific stock was to protect and preserve these assets for the use and benefit of the
7 Defendants, and to prevent and hinder unsecured creditors, including Weikel, from
8 collecting and receiving from the proceeds of any sale of these assets, on execution or
9 otherwise, the amount due Weikel on their Judgment against Defendants.

10 99. The transfers of the Zephyr Heights Property and the Euro-Pacific
11 stock was without consideration, left Debtor insolvent, and was done by Defendants to
12 avoid unsecured claims, including Weikel's Judgment.

13 100. Defendant Euro-Pacific accepted the conveyance of the Zephyr
14 Heights Property and the Euro-Pacific stock with knowledge of the fraudulent intent on
15 the part of Debtor and Mrs. Dempsey, and with the intent on its part to assist in such
16 fraudulent purpose, and for the purpose of holding both assets as a secret trust for the use
17 and benefit of Debtor and Mrs. Dempsey.

18 101. The Zephyr Heights Property and the Euro-Pacific stock would
19 have been subject to the lien of an execution had it not been fraudulently transferred.

20 WHEREFORE, Plaintiff prays for judgment, as follows:

21 1. On his First Claim for Relief, the Trustee seeks judgment declaring
22 that the interests of Debtor Paul R. Dempsey and Star Jordan Dempsey, or at least a
23 portion thereof, in the Malibu Property, the Venice Property, the Riven Rock Property,
24 the Zephyr Heights Property and the Euro-Pacific stock, and their proceeds, are property
25 of this bankruptcy estate;

26 2. On his Second Claim for Relief, the Trustee seeks judgment for
27

1 turnover of that portion of the Malibu Property, the Venice Property, the Riven Rock
2 Property, the Zephyr Heights Property and the Euro-Pacific stock, and their proceeds,
3 that are property of this bankruptcy estate;

4 3. On their Third Claim for Relief, Plaintiff seeks judgment against
5 Debtor Paul R. Dempsey, Star Jordan Dempsey and Euro-Pacific Consult Co., Ltd.
6 avoiding the transfers of Debtor's Euro-Pacific stock and the Debtor's interest in the
7 Zephyr Heights Property, and recovering the property from the immediate or mediate
8 transferee;

9 4. For attorney's fees and costs.

10 5. For such other and further relief as the Court deems just and proper
11 in the premises.

12 DATED this 10th day of December, 1999.

KERN & ROSENAUER, LTD.

15 Cecilia L. Rosenauer
16 CECILIA L. ROSENAUER, ESQ.

17 DATED this 13th day of December, 1999.

HEATON & DOESCHER, LTD.

20 Scott J. Heaton
21 SCOTT J. HEATON, ESQ.

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EXHIBIT A

CONFIDENTIAL

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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into as of April 3, 1998, by and between Lorraine H. Weikel, individually and as Executrix of the Estate of Maurice Weikel, deceased, Wykle Research, Inc., a Nevada corporation, and Joni L. Weikel (sometimes collectively "Weikel") and Paul R. Dempsey, Star Jordan-Dempsey and Leo's Products, Inc., a Nevada corporation (sometimes collectively "Dempsey").

WHEREAS, the parties hereto (with the exception of Star Jordan-Dempsey) are presently engaged in two cases pending in the First Judicial District Court of the state of Nevada, in and for Carson City, commonly known as In the Matter of the Estate of Maurice M. Weikel, also known as Marcel Weikel, case number 91-02140P ("First Action"), and Lorraine H. Weikel, individually and as Executrix of the Estate of Maurice Weikel, deceased, and Wykle Research, Inc., a Nevada corporation, Plaintiffs v. Paul R. Dempsey, defendant, and related third party actions, case number 94-00493A ("Second Action");

WHEREAS, on or about February 4, 1998, judgment was entered against Paul R. Dempsey in the Matter of the Estate of Maurice M. Weikel (case number 91-02140P) in the amount of \$336,954 plus attorney fees in the amount of \$24,367.50 and costs in the amount of \$3,893.76 (the "Judgment"), which Judgment is presently on appeal to the Nevada Supreme Court;

WHEREAS, Star Jordan-Dempsey is the wife of Paul R. Dempsey and is a party to this Agreement solely due to her community property interest in the residence at 639 Rivenrock, Zephyr Cove, Nevada; and

WHEREAS, the parties hereto desire to resolve all pending litigation and other claims between them and to provide for the satisfaction of the Judgment on the terms and conditions set forth below.

NOW, THEREFORE, the parties hereto agree as follows:

1. Dismissal of Litigation. Upon the execution of this Agreement, Weikel and Dempsey shall each execute and file with the Court dismissals with prejudice of all actions (including all third party claims) pending in the Second Action (case number 94-00493A). In addition, Dempsey shall withdraw and dismiss his presently pending appeal to the Nevada Supreme Court of the Judgment entered in the First Action.
2. No Contempt. Weikel agrees not to seek any fine, punishment or additional contempt citation against Paul R. Dempsey regarding any of the matters set forth in, or arising out of, the Judgment or the First Action.
3. Acknowledgment regarding Formulas. Paul R. Dempsey represents that neither he nor any corporation, partnership or other business entity he controls, presently utilizes any formulas which are the same as formulas utilized by Leo's Products, Inc., or Wykle Research,

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Inc., during the term of employment of Paul R. Dempsey with said corporations. Paul R. Dempsey further represents that any formulas he is presently using, either individually or through a business entity controlled by Paul R. Dempsey, were obtained by Paul R. Dempsey from sources other than Leo's Products, Inc., or Wykle Research, Inc.

4. Satisfaction of Judgment. The Judgment against Paul R. Dempsey dated February 4, 1998, in the First Action shall be satisfied as follows:

A. Paul R. Dempsey shall deliver to Lorraine H. Weikel a gold nugget paper weight which he received from Maurice M. Weikel within five (5) days upon the execution of this Agreement.

B. Paul R. Dempsey shall deliver to Lorraine H. Weikel that certain 1985 Mercedes 190E automobile (vehicle identification number WDBDA24DOFF101423) free and clear of all liens and encumbrances within five (5) days upon the execution of this Agreement.

C. Paul R. Dempsey shall deliver a letter of apology to Lorraine H. Weikel admitting to, and expressing regret for, the matters set forth in the Judgment. Said letter shall not be admissible in evidence in any pending or subsequent legal proceeding between any of the parties hereto.

D. Paul R. Dempsey shall execute and deliver to Lorraine H. Weikel, individually and as the Executrix of the Estate of Maurice M. Weikel, his Promissory Note in the original principal amount of \$50,000, which shall bear interest at a rate of 7% per annum from the date of execution until paid, and which shall be payable in monthly installments of \$990.76, principal and interest, or more, commencing on the 150th day following the execution of this Agreement, and continuing on the same day of each month thereafter for a total of 60 monthly payments. Interest on the Promissory Note shall commence on the 120th day following the execution of this Agreement.

(1.) The Note shall be secured to a Deed of Trust encumbering the residence of Paul R. Dempsey commonly known as 639 Rivenrock, Zephyr Cove, Nevada. Star Jordan-Dempsey shall join in the execution of the Deed of Trust so as to secure the Note to her interest in the residence. Dempsey shall have no obligation to provide Lorraine H. Weikel with any title insurance for said Deed of Trust.

a. Paul R. Dempsey represents that in 1996 he received oral notification of an appraisal from GMAC for the residence commonly known as 639 Rivenrock, Zephyr Cove, Nevada, of approximately \$229,500. Paul R. Dempsey will use his best efforts to obtain and deliver to Weikel a copy of said appraisal. Paul R. Dempsey further represents that said property is encumbered by a First Deed of Trust in the

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approximate remaining unpaid principal amount of \$160,000 and a Second Deed of Trust in the approximate remaining unpaid principal amount of \$4,000.

(2.) The Note shall also be secured to a Confession of Judgment executed by Paul R. Dempsey. The Confession of Judgment shall be in the amount of the Judgment, but shall provide that the Judgment may be satisfied by the payment in full of the \$50,000 Note. The Confession of Judgment shall not be filed with the Court nor recorded with any county recorder, but shall be held by John L. Shadek, Esq., attorney for Dempsey, until and unless Lorraine H. Weikel elects to cancel and release the Note, Deed of Trust and the Confession of Judgment pursuant to paragraph 4(E), below. In such event, the Confession of Judgment shall be destroyed by John L. Shadek, Esq., and shall be of no further force and effect. In the event that Lorraine H. Weikel does not elect to cancel and release the Note, Deed of Trust and the Confession of Judgment pursuant to paragraph 4(E), below, the Confession of Judgment shall be delivered to Scott Heaton, Esq., attorney for Weikel, who shall hold said Confession of Judgment unfiled and unrecorded until and unless Paul R. Dempsey defaults in the terms of the Note and Deed of Trust. In such event, Lorraine H. Weikel shall be entitled to file the Confession of Judgment with the Court and take any and all other actions necessary to enforce and/or collect said Confession of Judgment.

E. At any time prior to the 120th day following the execution of this Agreement, Lorraine H. Weikel shall have the option to cancel and release the Note, Deed of Trust, and Confession of Judgment, and in lieu thereof, pursue any other separate property or community property assets of Paul R. Dempsey for purposes of satisfying the Judgment. In this regard, Lorraine H. Weikel shall be entitled to conduct a debtor's examination of Paul R. Dempsey within the 120 day period for purposes of determining the nature and the extent of the separate property and community property assets of Paul R. Dempsey. Such debtor's examination shall not be conducted before, nor under the jurisdiction of, Judge Michael E. Fondi. In no event shall Judge Fondi have jurisdiction over, or the ability to issue any orders in furtherance of, said debtor's examination. In the event that Lorraine H. Weikel fails to cancel and release the Note, Deed of Trust and Confession of Judgment on or before the 120th day following the execution of this Agreement, the Judgment shall be deemed satisfied in full by virtue of the execution and delivery of the Note, Deed of Trust and Confession of Judgment, described above. Lorraine H. Weikel shall thereupon immediately execute and deliver to Paul R. Dempsey her Satisfaction of Judgment for filing with the Court.

5. Release. In consideration of the agreements set forth herein, and with the exception of the obligations of the parties hereto as set forth herein, each of the parties hereto (i.e. Dempsey and Weikel), and all of their respective heirs, personal representatives, predecessors, successors and assigns hereby fully release, remise and forever discharge each other and all of their predecessors, past and present, officers, directors, agents, employees, servants, partners, shareholders and attorneys from and against any and all claims, liens,

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demands, causes of action, controversies, obligations, judgments, losses, damages and liabilities of every kind and character whatsoever that the parties hereto, or any one or more of them, has had in the past or now has, against any of the others, whether known or unknown, whether asserted or unasserted, including, but not limited to, any claim relating to or arising out of, or in any way connected with or resulting from, the First Action and the Second Action.

6. Integration. This Settlement Agreement constitutes the entire agreement and final expression between the parties hereto with respect to the terms and conditions set forth in the Settlement Agreement. No supplement, modification or amendment of this Agreement shall be effective unless in writing and signed by the parties hereto.

7. Governing Law. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Nevada.

8. Attorneys Fees. In the event of any litigation or arbitration under this Settlement Agreement and Release the prevailing party shall be entitled to recover their costs and reasonable attorneys fees incurred in connection with said litigation or arbitration, as determined by the court or arbitrator.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

10. Mutual Agreement. The parties hereto agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and provisions are not to be construed more liberally in favor, nor more strictly against, any party. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if it had been prepared by all of the parties.

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IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement and Release on the dates set forth below to be effective as of the day and year set forth above.

Lorraine H. Weikel
Lorraine H. Weikel,
individually and as Executrix of the
Estate of Maurice Weikel

Dated: April 6 '98

Wykle Research, Inc.,
a Nevada corporation

By: Lorraine H. Weikel

Dated: April 6 '98

By: Joni L. Weikel
Joni L. Weikel

Dated: 4/10/98

William McGonigley & Associates, LLP

Paul R. Dempsey
Paul R. Dempsey

Dated: 4/10/98

Star Jordan-Dempsey
Star Jordan-Dempsey

Dated: 4/10/98

Leo's Products, Inc.,
a Nevada corporation

By: Paul R. Dempsey
Paul R. Dempsey, President

Dated: 4/10/98

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EXHIBIT "B"

The land referred to herein is situated in the State of Nevada, County of Douglas,, described as follows:

Beginning at the most Westerly corner of Lot 7 in Block 1 of ZEPHYR HEIGHTS SUBDIVISION, showing in addition, Block 1 as revised, being portions of Lot 2 of Section 9 and the Southwest 1/4 of Section 10, Township 13 North, Range 18 East, M.B.D.&M., filed in the office of the County Recorder of Douglas County, State of Nevada on June 5, 1947, a point of the Easterly boundary of U.S. Highway 50; thence along the lot line between Lots 7 and 8 in said Block 1, North 53 degrees 42'45" East 100 feet; thence South 38 degrees 15' East 92.96 feet; thence South 41 degrees 45' East 73 degrees 35' feet to a point on a line which line is paralleled with and 20 feet Northwesterly measured at right angles from the lot line between Lots 5 and 6 in said Block 1; thence along said line South 45 degrees 51'48" West 100.00 feet to the Easterly boundary of U.S. Highway 50, along the arc of a curve to the right having a radius of 14.60 feet, the Chord of which bears North 39 degrees 49'30" West for an arc distance of 179.92 feet, more or less, to the POINT OF BEGINNING.

TOGETHER WITH a right of way for access to and egress from said land as contained in Agreement, recorded January 11, 1962 in Book 10, Page 183 as Document No. 19380 of Official Records.

Also Together with an access easement over that portion of Parcel C, common area, as said parcel is shown on the certain Parcel Map, recorded July 30, 1980, Document No. 46977, more particularly described as follows:

Beginning at the most Westerly boundary corner of said Parcel Map, thence South 44 degrees 23'24" East 93.50 feet; thence South 54 degrees 33'01" East 73.47 feet to a point on the Southeasterly boundary of said Parcel Map; thence along said boundary South 45 degrees 51'00" West 26.28 feet; thence North 41 degrees 45'00" West 73.35 feet; thence North 38 degrees 15'00" West 2.96 feet to the POINT OF BEGINNING.

Assessors Parcel No. 05-182-18

617 Highway 50, Zephyr Cove, Nevada

REQUESTED BY

Heaton & Dorschner
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

2000 OCT 30 AM 11:47

LINDA SLATER
RECORDER

\$29⁰⁰ PAID *K2* DEPUTY

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