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10 H&H64, Inc.

11 CENTRAL DISTRICT OF CALIFORNIA  
12 U.S. BANKRUPTCY COURT  
13 SANTA ANA DIVISION

14 In re

15 MURAD SHUQOM,

16 Debtor.

17 H&H64, INC., a Hawaii Corporation,

18 Plaintiff,

19 v.

20 MURAD SHUQOM, an Individual; RBS  
21 ROYALTY MOTORSPORTS, INC., a California  
22 Corporation; MOTORSPORTS STANDARD,  
23 INC., a California; and DOES 1-100, Inclusive,

24 Defendants.  
25  
26

Adversary Proceeding Case No. 8:14-ap-  
01269

Bankruptcy Case No. 8:14-bk-14461-ES

PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

Date of Hearing: July 9, 2015

Time: 2:00 PM

Courtroom 5A

Hon. Erithe Smith

Location: Ronald Reagan Courthouse

411 West Fourth Street

Santa Ana, CA 92701

27  
28 ///

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. Factual Background

3 Plaintiff H&H64, Inc., seeks an order granting this motion for summary judgment  
4 pursuant to FRCP §53(e) and FRBP §7012(b).

5  
6 On October 9, 2014, this adversary proceeding was filed by plaintiff against Chapter 7  
7 debtor Murad Shuqom, RBS Royalty Motorsports, Inc., and Motorsports Standard, Inc. Plaintiff  
8 filed this complaint to determine the dischargeability of a debt pursuant to 11 U.S.C. §523(a)(2),  
9 and §523(a)(6).

10 At all relevant times, Plaintiff was in the business of exporting automobiles. Export  
11 companies for luxury automobiles are required to wire deposit funds in advance for full payment  
12 of each ordered automobile. The buyer takes delivery in four to twelve weeks. H&H64, Inc., is  
13 owned and operated Hiromasa Horikawa.

14  
15 On or about May 24, 2014, Shuqom contacted Horikawa through the website  
16 Alibaba.com. Shuqom represented to Horikawa that he was actively in the business of selling  
17 luxury automobiles to companies who desired to export such vehicles to Japan and China.

18 Horikawa said he wanted to buy a Mercedes-Benz SUV, and Shuqom said he could obtain  
19 one for him. Shuqom knew at that time that this representation was false, as all of his lines of  
20 credit for vehicle purchases that he used to purchase Mercedes-Benz vehicles had been cancelled  
21 and he had no way of purchasing vehicles for Horikawa. Instead, Shuqom intended to use any  
22 money obtained from Horikawa to satisfy other debts or operational business costs, which he did,  
23 and he intentionally concealed those facts from plaintiff. Horikawa would never have transacted  
24 business with Shuqom if he had known that Shuqom's credit lines were cancelled and that  
25 Shuqom intended to use the money for purposes other than purchasing the vehicles that Horikawa  
26 paid him to secure.  
27  
28

1 Shuqom represented that he had expertise and experience as a broker for such  
2 automobiles, and that he conducted his business through MSI and RBS.

3 Shuqom told Horikawa that he could secure certain vehicles for him. Shuqom knew at that  
4 time that this representation was false, as all of his lines of credit for vehicle purchases had been  
5 cancelled. Shuqom knew at the time he made these representations that there was no way he  
6 could secure the vehicles for Horikawa that he promised to purchase, however, he assured  
7 Horikawa that he had in fact secured the vehicles. Shuqom knew at that time that this  
8 representation was false, and he never intended to secure and purchase vehicles for plaintiff, but  
9 rather he intended to use any money obtained from Horikawa to satisfy Shuqom's other debts or  
10 operational business costs.  
11

12 Horikawa and Shuqom entered into three separate purchase agreements in which  
13 Horikawa would buy three vehicles from Shuqom. The terms of each purchase was set forth in  
14 invoices, specifications, and wiring instructions sent by Shuqom to plaintiff. Each document was  
15 materially false with respect to Shuqom's financial condition and was provided to Horikawa in  
16 order to deceive him into relying on the statements.  
17

18 Shuqom intentionally made false representations to Horikawa for the express purpose of  
19 obtaining his money with no intent to use it to purchase any of the vehicles ordered by him. As  
20 part of his scheme to defraud Horikawa, Shuqom required Horikawa to make advance payment in  
21 full for each vehicle prior to delivery. After receiving the funds, Shuqom falsely represented that  
22 he would deliver the vehicles with a few weeks even though he knew at the time this was false, as  
23 such delivery was impossible because he lacked either credit or cash to pay for the vehicles on  
24 Horikawa's behalf.  
25

26 On June 11, 2014, Shuqom offered to sell to plaintiff Mercedes-Benz 350 GL, VIN  
27 4JGDF2EEXEA395818, hereinafter referred to as "Vehicle 1," that he falsely claimed to have  
28

1 secured. Shuqom knew when he made this offer that it was a false representation because he had  
2 not secured Vehicle 1, and because he did not have the credit or cash to be able to deliver it to  
3 Horikawa. At the time he made the offer, Shuqom's business was collapsing and he already owed  
4 money to other purchasers to whom he had failed to deliver vehicles.

5  
6 Shuqom concealed from Horikawa that if he paid him for Vehicle 1, Shuqom would use  
7 the money for purposes other than the purchase of Vehicle 1, which is exactly what he did.

8 Shuqom further concealed that his lines of credit had been cancelled.

9 Horikawa accepted the offer pursuant to the terms of the invoice submitted to him by  
10 Shuqom based on Shuqom's false representations that he had secured the vehicle and could  
11 purchase and deliver the vehicle to Horikawa. A true and correct copy of the wire transfer  
12 confirmation is attached as *Exhibits 1 and 3, Wire Transfer Receipts*.

13  
14 Horikawa relied on the offer for Vehicle 1, and his reliance was justified because Shuqom  
15 had a gold star rating on Alibaba.com, leading plaintiff to conclude that Shuqom was able to  
16 deliver on such purchases.

17 Horikawa's reliance was also justified because he requested a copy of Shuqom's driver  
18 license, articles of incorporation, sales tax permit from the state's Franchise Tax Board, and a  
19 printout from the Secretary of State website to confirm that Shuqom's business was a going  
20 concern. *Exhibit 2, Business Documents Submitted by Shuqom to Horikawa*.

21  
22 Shuqom provided these documents showing his financial condition with intent to deceive  
23 plaintiff into paying him money for cars he did not intend to deliver.

24 Horikawa wired \$89,460.00 to Motorsports Standard, Inc., a corporation wholly owned  
25 and controlled by Shuqom, as advance payment in full for Vehicle 1 on June 11, 2014. *Exhibits 1*  
26 *and 3, Wire Transfer Receipts*.

1 On June 11, 2014 Shuqom falsely represented in an email that he would deliver Vehicle 1  
2 to plaintiff's warehouse in Long Beach, after photographing the vehicle. Shuqom knew this  
3 representation was false. Shuqom never, secured, paid for, or took delivery of the vehicle.

4 Shuqom falsely represented to Horikawa in an email dated June 19, 2014, that Vehicle 1  
5 would be delivered on Wednesday, June 25, 2014. Shuqom confirmed in a subsequent email that  
6 the vehicle would arrive on the afternoon of June 25, 2014. Shuqom knew this representation was  
7 false, as he had never purchased Vehicle 1 and had no intention of doing so.

8  
9 On June 22, Shuqom, knowing that his business lacked the credit or cash to do so, falsely  
10 represented that he had secured a second car for sale to Horikawa, but that plaintiff should pay  
11 quickly in order not to lose the car. Shuqom said that he had arranged to pay for the car on  
12 Tuesday, June 24, in order to keep the car for Horikawa.

13 Shuqom knew when he made this offer was false because he had not located or secured  
14 Vehicle 2, and because he would not be able to deliver it to Horikawa due to Shuqom's lack of  
15 purchasing credit or cash. At the time he made the offer, Shuqom's business was collapsing and  
16 he already owed money to other purchasers to whom he had failed to deliver vehicles. Shuqom  
17 knew that if Horikawa paid him for Vehicle 2, he would use the money for purposes other than  
18 the purchase of Vehicle 2, and he did so.

19  
20 Shuqom concealed the facts of his collapsing business from Horikawa, because he knew  
21 that if plaintiff was aware of the business's collapse, Horikawa would not wire Shuqom the  
22 money for Vehicle 2.

23  
24 Horikawa accepted the offer of sale for the second car from Shuqom, Mercedes-Benz 350  
25 GL, VIN 4JGDF2EEXEA430695, hereinafter referred to as "Vehicle 2," and wired advance  
26 payment in full in the amount of \$88,670.00 to MSI on June 23, 2014. Plaintiff accepted the offer  
27 pursuant to the terms of the invoice submitted to him by Shuqom. A true and correct copy of the  
28

1 invoice, vehicle specifications, and wire transfer confirmation is attached as *Exhibit 3, Wire*  
2 *Transfer for Vehicles 2 and 3.*

3 Horikawa relied on the offer for Vehicle 2, and his reliance was justified because Shuqom  
4 had a reputation in the export community as someone who was able to deliver on such purchases.

5 Shuqom then falsely represented that he had secured a third car for sale to Horikawa.  
6 Plaintiff accepted the third and final offer of sale from Shuqom for Mercedes-Benz 350 GL, VIN  
7 4JGDF2EE0EA432603, hereinafter referred to as "Vehicle 3," and wired advance payment in full  
8 in the amount of \$67,300.00 to MSI on June 26, 2014. Horikawa accepted the offer pursuant to  
9 the terms of the invoice submitted to him by Shuqom. A true and correct copy of the vehicle  
10 specifications and wire transfer confirmation is attached as *Exhibit 3, Invoice and Wire Transfer*  
11 *for Vehicles 2 and 3.*

12 Shuqom knew when he made this offer that it was false because he had not located or  
13 secured Vehicle 3, and because he would not be able to deliver it to Horikawa due to his absence  
14 of purchasing credit or cash. At the time he made the offer, Shuqom's business was collapsing  
15 and he already owed money to other purchasers to whom he had failed to deliver vehicles.  
16 Shuqom knew that if Horikawa paid him for Vehicle 3, he would use the money for purposes  
17 other than the purchase of Vehicle 3, and he did so.

18 Plaintiff relied on the offer for Vehicle 3, and his reliance was justified because Shuqom  
19 had a reputation in the export community as someone who was able to deliver on such purchases.

20 Shuqom concealed the facts of his collapsing business from Horikawa, because he knew  
21 that if Horikawa was aware of the business's collapse, he would not wire Shuqom the money for  
22 Vehicle 3. Horikawa would never have wired money for any of the vehicles if he had known that  
23 Shuqom's business was collapsing, that the representations were false, and that Shuqom had  
24 concealed facts about his business, including his canceled lines of credit.  
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1 On June 27, 2014, Shuqom continued the fraud when he told Horikawa that he would get  
2 photographs of Vehicle 1 for him, which he said was in Shuqom's warehouse. This was untrue, as  
3 Shuqom had never secured, purchased, or taken possession of Vehicle 1, and actively concealed  
4 this fact from Horikawa.

5 On June 30, Shuqom told Horikawa in an email that he would send the photographs of  
6 Vehicle 1 that day. This was untrue, as Shuqom had never taken possession of Vehicle 1. *Exhibit*  
7 *4, Email from Shuqom to Horikawa re: Photos of Vehicle 1.*

8 On July 1, 2014, Shuqom promised to deliver photos and titles to the purchased vehicles  
9 to plaintiff. This was untrue, as Shuqom had never taken possession of Vehicle 1, 2, or 3. *Exhibit*  
10 *5, Email from Shuqom to Horikawa re: Photos and Titles of Purchased Vehicles.*

11 On July 10, 2014, Shuqom promised to deliver photos of the purchased vehicles, which he  
12 claimed in an email were in his warehouse. This was untrue, as Shuqom had never taken  
13 possession of Vehicles 1, 2, or 3. *Exhibit 6, Email from Shuqom to Horikawa re: Photos of*  
14 *Vehicle 1.*

15 On July 11, 2014, Shuqom said in an email that he still needed documentation for  
16 Vehicles 1 and 2, implying that he was already in possession of them. This was untrue, as  
17 Shuqom had never secured, purchased, or taken possession of the vehicles. *Exhibit 7, Email from*  
18 *Shuqom to Horikawa re: Documentation of Purchased Vehicles.*

19 On July 18, Shuqom broke off all communications with Horikawa regarding the status of  
20 the vehicles, filed bankruptcy, and advised plaintiff to direct all communications to Shuqom's  
21 attorneys. *Exhibit 8, Email from Shuqom to Horikawa re: Bankruptcy.*

22 Throughout the course of dealing, Horikawa repeatedly requested updates on all three  
23 vehicles. Shuqom never advised that he had not in fact secured or purchased the vehicles or that  
24 there would be any problems with delivering the vehicles to Horikawa. To the contrary, he  
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1 continued his fraudulent scheme when he concealed material facts by falsely assuring Horikawa  
2 that the vehicles were in his possession and concealed the material facts that he lacked credit or  
3 cash to buy the vehicles, that he never intended to purchase them, and that he had never secured  
4 or taken delivery for them on plaintiff's behalf.

5  
6 At all times Shuqom concealed the fact that his business had no more lines of credit for  
7 vehicle purchases. Shuqom concealed the fact that he intended to use Horikawa's money for other  
8 purposes than buying the vehicles specified in the invoices.

9 Horikawa justifiably relied on each of Shuqom's false representations as Shuqom had  
10 provided him with business documents showing that his business was a going concern, and  
11 Shuqom had an excellent business rating on Alibaba.com.

12  
13 Horikawa performed all that he was obligated to do under the terms of the three purchase  
14 agreements as memorialized in the invoices submitted by Shuqom to Horikawa.

15 To date Shuqom has not refunded plaintiff's money or delivered the vehicles, and  
16 Horikawa has been damaged in an amount to be proved at trial. Shuqom engaged in conduct with  
17 malice, oppression, and fraud, and thus the debt is non-dischargeable pursuant to 11 U.S.C. §  
18 523(a)(2)(A).

19 II. Standard for Summary Judgment

20 Federal Rule of Civil Procedure 56(c) authorizes summary judgment if no genuine issue  
21 exists regarding any material fact and the moving party is entitled to judgment as a matter of law.  
22 The moving party must show an absence of a genuine issue of material fact. *Celotex Corp. v.*  
23 *Catrett*, 477 U.S. 317, 322 (1986). Once the showing is made, the nonmoving party must go  
24 beyond the pleadings and designate specific facts showing a genuine issue for trial. *Id.* At 324,  
25 citing FRCP 56(e). A scintilla of evidence, or evidence that is merely colorable or not  
26 significantly probative does not present a genuine issue of material fact. *United Steelworkers of*  
27  
28



1 *Am. v. Phelps Dodge Corp.*, 865 F.2d 1539, 1542 (9th Cir.), cert denied, 493 U.S. 809 (1989)  
2 (emphasis in original) (citation omitted).

3 III. Defendant's Deposition and Admissions, and the Declaration of Plaintiff Show That  
4 No Genuine Issue Exists Regarding Any Material Fact in this Case

5 *A. Shuqom had no lines of credit or bank funds sufficient for purchasing vehicles for*  
6 *plaintiff at the time he took money from plaintiff H&H64, Inc.*

7  
8 In his deposition, Shuqom claimed that up until July 15 or July 16, 2014, everything in his  
9 business was fine and that he had no problems obtaining lines of credit. *Exhibit 9, Deposition of*  
10 *Shuqom, p. 63, line 25; p. 64, lines 1-7.* However, he confirmed that the lines of credit issued by  
11 particular dealers could only be used to purchase vehicles from those dealers. *Exhibit 10,*  
12 *Deposition of Shuqom, p. 86, lines 4-6.* Therefore, the lines of credit he listed from Toyota,  
13 Lexus, and Ford dealers could not be used to fill plaintiff's order, as Horikawa had purchased  
14 new Mercedes-Benz vehicles. *Exhibits 1 and 3, Wire Transfer Receipts for Vehicles 1-3.*

15  
16 Shuqom then claimed that he had other lines of credit available for the purchase of the  
17 vehicles from American Express, Strategic Funding, Horizon, and AFC. *Exhibit 11, Deposition of*  
18 *Shuqom, p. 87, lines 4-13.* Shuqom also claimed that he had a line of credit with American  
19 Express for "close to a million dollars. *Exhibit 12, Deposition of Shuqom, p. 86, lines 7-11.* At the  
20 time Shuqom took orders from Horikawa, he had no line of credit with American Express, as his  
21 account had been cancelled and assigned to collection. *Exhibit 13, AMEX May 2014 statement.*

22  
23 Shuqom, after stating that he had a line of credit with Strategic Funding, immediately  
24 contradicted himself by admitting a few moments later in his deposition that his \$100,000 line of  
25 credit with Strategic Funding, Inc. owed a balance in May as shown in the bankruptcy, and he  
26 therefore knew that he could not purchase Horikawa's vehicles as he had promised. *Exhibit 14,*  
27  
28

1 *Deposition of Shuqom, p. 107, lines 5-8; Bankruptcy Schedule F; Strategic Funding 2014 Letter*  
2 *of Credit, p. 1.*

3 Shuqom first claimed in his deposition that he had a line of credit with Horizon Funding  
4 for about \$65,000. *Exhibit 15, Deposition of Shuqom, p. 86, lines 17-22.* Minutes later however,  
5 he admitted that in May 2014, he had no further line of credit with Horizon. *Exhibit 16,*  
6 *Deposition of Shuqom, p. 107, lines 9-12.* He could therefore not have used this line of credit to  
7 purchase vehicles for plaintiff.

8  
9 Finally, Shuqom admitted that he was desperately trying to arrange a new line of credit  
10 with Bank of America to keep his business afloat, conclusively showing that he lacked the credit  
11 to purchase plaintiff's vehicles. *Exhibit 17, Email from Shuqom to Bank of America re: new line*  
12 *of credit.* Shuqom never received the line of credit from BOA. *Exhibit 18, Deposition of Shuqom,*  
13 *p. 108, lines 12-13.*

14  
15 At the time he took Horikawa's money, Shuqom knew that he could not purchase the  
16 vehicles ordered by plaintiff because he testified that the only other way to purchase a vehicle  
17 was through money in his business bank account. *Exhibit 19, Deposition of Shuqom, p. 3, lines*  
18 *19-22.* He then testified that the average balance of his bank account was \$3 to \$4 million every  
19 month. *Exhibit 20, Deposition of Shuqom, p. 85, lines 12-17.*

20  
21 However, banking statements submitted by Shuqom and authenticated by him as genuine  
22 show no such cash flow or anything remotely approaching it, especially in May and June of 2014.  
23 *Exhibit 21, Bank statements, June 2014.* Therefore, at the time he solicited business from  
24 plaintiff, Shuqom knew that he had neither sufficient cash nor sufficient credit to secure or obtain  
25 the promised vehicles, and he intentionally concealed this material fact in order to induce  
26 Horikawa's reliance.

1 Shuqom admitted the authenticity of emails and documents listed as Exhibits 1-70 in  
2 *Exhibit 22, Shuqom's Verified Responses to Plaintiff's Requests for Admission of the Genuineness*  
3 *of Documents, Set One.*

4 On June 11, 2014, Shuqom represented to Horikawa in an email titled "Secured: Mercedes  
5 GL 350 8500 over MSRP" that he had secured the first vehicle ordered by plaintiff. *Exhibit 23,*  
6 *Plaintiff's Requests for Admission of the Genuineness of Documents, Set one, Exhibit 4.* This  
7 representation was false, as Shuqom, later admitted that he had never actually secured any  
8 vehicles for Horikawa. *Exhibit 24, Shuqom's Amended Responses to Plaintiff's Requests for*  
9 *Admissions, Set One, Response No. 24, with Verification.* Shuqom sent this email, which he knew  
10 was false, in order to get Horikawa to wire him money for the vehicle, which Horikawa did.  
11

12 A few days later, on June 20, 2014, seeing that Horikawa had fallen for his scheme,  
13 Shuqom sent Horikawa a second email falsely representing that he had secured a second vehicle  
14 for purchase by plaintiff. *Exhibit 25, Plaintiff's Requests for Admission of the Genuineness of*  
15 *Documents, Set one, Exhibit 26.*

16 Shuqom repeated the scam with a third "ghost" vehicle in an email on June 21, 2014, in  
17 which he falsely represented that he had secured another Mercedes-Benz, despite admitting in  
18 written discovery and in his deposition that he had never secured any vehicles for Horikawa.  
19 *Exhibit 26, Plaintiff's Requests for Admission of the Genuineness of Documents, Set one, Exhibit*  
20 *34.*

21 Additionally, after receiving Horikawa's money, Shuqom did not use it to purchase the  
22 vehicles ordered and paid for by plaintiff. Instead, he used each of plaintiff's wire transfers to pay  
23 off pre-existing debts to other creditors. *Exhibit 27, June 2014 Bank of America Acct. No.*  
24 *xxxx5797 bank statement.* Shuqom concealed the true state of his financial affairs, concealed the  
25  
26  
27  
28

1 fact that he was going to use Horikawa's money to pay other creditors, and falsely represented to  
2 Horikawa that he intended to purchase the cards ordered by plaintiff.

3 Shuqom told Horikawa in an email after receiving money for the first vehicle that he had  
4 begun the purchase process for this vehicle. *Exhibit 28, Plaintiff's Requests for Admission of the*  
5 *Genuineness of Documents, Set one, Exhibit 10.*

6 Shuqom's bank account clearly shows that no purchase was ever initiated with  
7 Horikawa's funds, and that instead Shuqom used the money to pay other creditors such as  
8 American Express. *Exhibit 27, June 2014 Bank of America Acct. No. xxxx5797 bank statement.*

9 In order to induce Horikawa to make further payments for vehicles that Shuqom had no  
10 intention of buying, he assured Horikawa that a second Mercedes-Benz had been secured. *Exhibit*  
11 *29, Plaintiff's Requests for Admission of the Genuineness of Documents, Set one, Exhibits 11 and*  
12 *12.*

13 Shuqom admitted that he never secured any vehicles for plaintiff. *Exhibit 30, Shuqom's*  
14 *Amended Responses to Plaintiff's Requests for Admissions, Set One, Response No. 22.*

15 After ordering and paying for the vehicles, Shuqom continued the fraud by falsely  
16 representing to Horikawa that he had actually taken possession of the purchased vehicles. When  
17 Horikawa asked for pictures of the vehicles, Shuqom said that the vehicles were at his warehouse  
18 and that he would work on getting the photos. *Exhibit 31, Plaintiff's Requests for Admission of*  
19 *the Genuineness of Documents, Set one, Exhibits 15 and 16.*

20 By June 30, now that he had paid for three vehicles, Horikawa was becoming very  
21 anxious to see proof that the vehicles actually existed. Shuqom continued the false representations  
22 to Horikawa even as he made preparations to file bankruptcy, assuring Horikawa that he would  
23 send the photos "later today." *Exhibit 32, Plaintiff's Requests for Admission of the Genuineness of*  
24 *Documents, Set one, Exhibit 18.*

1 By July 7, Horikawa was frantic. Shuqom coolly continued to promise that he would  
2 provide pictures and titles for vehicles he now admits he never purchased or secured. *Exhibit 33,*  
3 *Plaintiff's Requests for Admission of the Genuineness of Documents, Set one, Exhibit 24.*

4 After Shuqom had hired a bankruptcy attorney, and the day before he filed his Chapter 7  
5 petition, Shuqom continued the fraud up until the very end, promising Horikawa that he would  
6 "try his best" to get the documentation showing he had actually purchased the vehicles. *Exhibit*  
7 *34, Plaintiff's Requests for Admission of the Genuineness of Documents, Set one, Exhibits 57-58.*  
8 Shuqom's amended statement of financial affairs shows that at the time of this email he had  
9 already paid his bankruptcy attorney \$10,000, and the case was filed the very next day. *Exhibit*  
10 *35, Shuqom's Amended Statement of Financial Affairs, No. 9.*

11 Shuqom's deposition testimony and his admissions of genuineness regarding the  
12 documents produced in discovery prove that no genuine issue exists regarding his intentional and  
13 knowing misrepresentation that he would purchase the vehicles ordered by Horikawa. Shuqom  
14 concealed the facts of his inability to purchase the vehicles through misrepresentations designed  
15 to mislead Horikawa and induce him to pay for vehicles that Shuqom knew he could not purchase  
16 or deliver. These misrepresentations and the concealment of material facts continued up to the  
17 day before filing bankruptcy and led Horikawa to send Shuqom the money.

18 Shuqom knowingly and willfully made false representations to Horikawa with intent to  
19 oppress and defraud him, as described above. At the time of the representations, Horikawa was  
20 ignorant of the falsity of such representations, and believed them to be true. Had Horikawa known  
21 of the falsity of the representations, plaintiff would have never contracted to buy the vehicles  
22 from defendants. *Declaration of Horikawa, par. 10.*

23 *B. Horikawa justifiably relied on Shuqom's misrepresentations and suffered damages as a*  
24 *result.*

1 Horikawa relied on the representations made by Shuqom. Horikawa wired funds for full  
2 payment in advance for Vehicles 1, 2, and 3 based on Shuqom's false representations that he  
3 would procure them for plaintiff. *Exhibits 1 and 3, Wire Transfer Receipts*. The funds were  
4 deposited in Shuqom's account, and promptly used by him to pay other creditors. *Exhibit 27,*  
5 *June 2014 Bank of America Acct. No. xxxx5797 bank statement.*  
6

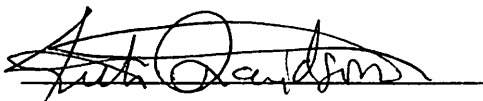
7 Horikawa's reliance was justified because Shuqom had provided him with business  
8 documents and because of Shuqom's rating on Alibaba.com. *Exhibit 2; Declaration of Horikawa,*  
9 *par. 48.*

10 Further, Horikawa sustained damages in an amount of at least \$245,430 as a result of  
11 Shuqom's intentional misrepresentations and concealment of material facts. *Exhibits 1 and 3,*  
12 *Wire Transfer Receipts*. Shuqom never delivered the vehicles that he promised, resulting in  
13 damages to plaintiff. *Exhibit 36, Deposition of Shuqom, p. 33, lines 13-16.*  
14

15 IV. CONCLUSION

16 Based on Shuqom's admissions, deposition testimony, documentary evidence, and the  
17 declaration of Horikawa, the court should grant plaintiff's motion for summary judgment,  
18 awarding costs and reasonable attorney fees to plaintiff.  
19

20  
21 May 20, 2015

22  
23 

24 Seth Davidson

25 Attorney for Plaintiff H&H64, Inc.  
26  
27  
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Pacific Tower, Suite 500, 21250 Hawthorne Blvd., Torrance, CA 90503

A true and correct copy of the foregoing document entitled (specify): PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) MAY 20, 2015 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Melissa A. Clark, [bk\\_hearings@higbeeassociates.com](mailto:bk_hearings@higbeeassociates.com); [mclark@firstsourcelaw.com](mailto:mclark@firstsourcelaw.com)
- Matt Higbee, [mhigbee@higbeeassociates.com](mailto:mhigbee@higbeeassociates.com)
- Frank Cadigan, [frank.cadigan@usdoj.gov](mailto:frank.cadigan@usdoj.gov)
- John Wolfe, [john.wolfe@txitrustee.com](mailto:john.wolfe@txitrustee.com)

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) FEBRUARY 18, 2015, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

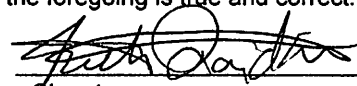
Service information continued on attached page

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

MAY 20, 2015 FRANKLIN SETH AVIDSON

Date

Printed Name

  
Signature

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