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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**IN RE:** )  
 )  
**TIMOTHY JOHN HARDT and** )  
**MICHELLE RENE HARDT** )  
 )  
                  **Debtors.** )  
\_\_\_\_\_ )  
**MARK DELL DONNE, individually, as a** )  
**participant in THE JOURNEY** )  
**ELECTRICAL TECHNOLOGIES, INC.** )  
**401K PLAN, and as trustee of THE** )  
**JOURNEY ELECTRICAL** )  
**TECHNOLOGIES, INC. 401K PLAN;** )  
**THE JOURNEY ELECTRICAL** )  
**TECHNOLOGIES, INC. 401K PLAN;** )  
**and THE JOURNEY ELECTRICAL** )  
**TECHNOLOGIES, INC., a California** )  
**corporation,** )  
                  **Plaintiffs,** )  
                  **v.** )  
**TIMOTHY JOHN HARDT, an individual;** )  
**MICHELLE RENE HARDT, and** )  
**individual, and DOES 1-200,** )  
                  **Defendants.** )  
\_\_\_\_\_ )

**1:10-CV-02014 AWI**  
  
**ORDER TO SHOW CAUSE WHY  
RELATED CASES SHOULD NOT  
BE CONSOLIDATED**

In 2002, Timothy Hardt and Mark Dell Donne formed Hardel Enterprises, Inc., Journey Electronic Technologies, Inc., and Tri-State, Inc. (collectively "JET"). In that year they created an employee benefit plan ("JET 401(k) Plan"), whereby employees could direct JET to withhold

1 salary and put it into the JET 401(k) Plan to be invested on their behalf. Timothy Hardt and  
2 Mark Dell Donne were the trustees. The U.S. Department of Labor is alleging that Timothy  
3 Hardt and/or Mark Dell Donne failed to place all of the withheld salary into the JET 401(k) Plan  
4 in violation of ERISA. Husband and wife, Timothy and Michelle Hardt filed for chapter 7  
5 bankruptcy on January 7, 2010.

6 Civil Case No. 10-2283 was filed by the Secretary of Labor against Timothy Hardt and  
7 Mark Dell Donne, seeking to recover funds owing to the JET 401(k) Plan. Civil Case No. 10-  
8 2341 was filed by Mark Dell Donne, JET, and the JET 401(k) Plan against Herbert Hardt, L.  
9 David Brandon, and Lisa Plank, alleging that they cooperated with Timothy and Michelle Hardt  
10 in embezzling money from JET and the JET 401(k) Plan.

11 Civil Case No. 10-1847 was filed by the Secretary of Labor, Hilda Solis, and Civil Case  
12 No. 10-2014 was independently filed by Mark Dell Donne, JET, and the JET 401(k) Plan against  
13 Timothy and Michelle Hardt, seeking to have the amount owed to the JET 401(k) Plan  
14 determined to be non-dischargeable. These cases appear to seek the same relief against the same  
15 defendants. The parties are ordered to provide briefing on whether it is possible and advisable  
16 for these two cases to be consolidated. The parties are also invited to share alternate proposals  
17 for dealing with this constellation of cases that they feel would serve to expedite litigation.

18 The parties are ordered to file an initial brief by 4:00 PM, Friday, February 25, 2011.

19 If they so choose, parties may file a response by 4:00 PM, Tuesday, March 8, 2011.

20 A hearing on this matter is scheduled for 1:30 PM, Monday, March 14, 2011 in  
21 Courtroom 2.

22  
23 IT IS SO ORDERED.

24 Dated: February 8, 2011

25   
26 CHIEF UNITED STATES DISTRICT JUDGE  
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