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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BEN GORDON, G7, INC., and
BG4, INC.,

Plaintiffs and Creditors,

No. 2:10-mc-00070 WBS KJN

v.

VITALIS PARTNERS, LLC; LARRY
HARMON & ASSOCIATES, P.A.;
KCD DEVELOPMENTS, LLC; LARRY
HARMON, and individual, and KENNY
CRUZ, an individual,

Defendants.

ORDER FOR APPEARANCE AND
EXAMINATION OF CUSTODIAN OF
RECORDS FOR MORGAN STANLEY
SMITH BARNEY

_____ /

Presently before the court is plaintiffs’ and judgment creditors’ (“plaintiffs”) Application For Appearance And Examination Of Third Party (“Application”).¹ (Application, Dkt. No. 60.) Pursuant to Federal Rule of Civil Procedure 69 and California Code of Civil Procedure § 708.130(a), plaintiffs seek an order requiring the Custodian of Records for Morgan Stanley Smith Barney, a third party witness, to appear as a witness and furnish information to aid in the enforcement of the money judgment entered in this case. (Application at 1). Defendants

¹ This matter proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(11) [“Examinations of judgment debtors”] and 28 U.S.C. § 636(b)(1).

1 and judgment debtors (“defendants”) have not filed an opposition to the Application. The court
2 having considered the pleadings filed in connection with the Application, and pursuant to Federal
3 Rule of Civil Procedure 69 and California Code of Civil Procedure § 708.130(a), grants the
4 Application. (Dkt. No. 60.)

5 IT IS HEREBY ORDERED:

6 1. The Custodian of Records for Morgan Stanley Smith Barney (“Custodian”)
7 shall appear personally before this court, on **Monday, July 9, 2012, at 9:00 a.m.**,² in Courtroom
8 25 of the United States District Courthouse, located at **501 “I” Street, Sacramento, California,**
9 **95814**, to furnish information to aid in the enforcement of a judgment against Larry Harmon.

10 2. This order may be served by the United States Marshal Service or registered
11 process server.

12 3. This order must be served not less than ten days before the date set for the
13 Custodian’s examination.

14 **NOTICE TO PERSON SERVED. If you fail to appear at the time and place**
15 **specified in this order, you may be subject to arrest and punishment for contempt of court**
16 **and the court may make an order requiring you to pay the reasonable attorney's fees**
17 **incurred by the judgment creditor in this proceeding.**


18 **NOTICE TO JUDGMENT DEBTOR. The person in whose favor the**
19 **judgment was entered in this action claims that the person to be examined pursuant to this**
20 **order has possession or control of property which is yours or owes you a debt. This**
21 **property or debt is as follows: Real or personal property of any nature kind or description**
22 **and all claims, debts and/or obligations of any nature kind or description now owing or**
23 **hereafter owing to you by Harmon-Castillo, LLP. If you claim that all or any portion of**

24 _____
25 ² If the parties and witness wish to select a different date and time for this examination
26 and are in agreement on such a change, they are welcome to select a different date and time and
so inform the court.

1 **this property or debt is exempt from enforcement of the money judgment, you must file**
2 **your exemption claim in writing with the court and personally serve a copy on the**
3 **judgment creditor not later than three days before the date set for the examination. You**
4 **must appear at the time and place set for this examination to establish your claim of**
5 **exemption or your exemption may be waived.**

6 IT IS SO ORDERED.

7 DATED: May 16, 2012

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10 KENDALL J. NEWMAN
11 UNITED STATES MAGISTRATE JUDGE
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