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6 Attorneys for Plaintiff
 CAPITAL TRUST, INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12 CAPITAL TRUST, INC.,

13 Plaintiff,

14 v.

15 WALTER R. LEMBI, individually and as
 trustee of the WALTER AND LINDA
 16 LEMBI FAMILY TRUST DATED JUNE
 30, 2004; FRANK E. LEMBI, individually
 17 and as trustee of the OLGA LEMBI
 RESIDUAL TRUST CREATED UNDER
 18 THE PROVISIONS OF PART THREE
 OF THE LEMBI FAMILY REVOCABLE
 19 TRUST DATED FEBRUARY 17, 1984,
 and as the trustee of the FRANK E.
 20 LEMBI SURVIVOR'S TRUST DATED
 FEBRUARY 17, 1984; BILLIE
 21 SALEVOURIS, individually, BILLIE Z.
 SALEVOURIS, as trustee for THE
 22 BILLIE SALEVOURIS TRUST DATED
 AUGUST 23, 1983 AS RESTATED ON
 23 MAY 24, 2002; DAVID M. RAYNAL,
 individually and as trustee for the DAVID
 24 M. RAYNAL REVOCABLE TRUST
 DATED MAY 9, 2002; RALPH DAYAN,
 25 individually and as co-trustee for the
 AMENDED AND RESTATED DAYAN
 26 FAMILY REVOCABLE TRUST DATED
 DECEMBER 31, 1991,

27 Defendants.
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Case No. 09-cv-2492-JSW

Action Filed: June 4, 2009

~~[AMENDED PROPOSED]~~ ORDER
 GRANTING PLAINTIFF'S MOTION
 FOR RIGHT TO ATTACH ORDER
 AND ORDER FOR ISSUANCE OF
 WRIT OF ATTACHMENT AGAINST
 DEFENDANTS

Date: August 21, 2009

Time: 9:00 a.m.

Dep't: Courtroom 11, 19th Floor

Judge: Hon. Jeffrey S. White

1 This Court, having considered Plaintiff's Motion for Right to Attach Order And
2 Order for Issuance of Writ of Attachment ("Motion") and supporting documents, [and
3 after a hearing on the Motion on August 21, 2009 where all parties were represented by
4 counsel] hereby GRANTS Plaintiff's Motion. For the reasons set forth in the separate order issued
5 this date granting Plaintiff's motion,

6 This Court finds that Defendants are natural persons, the claim upon which the
7 application is based is one upon which an attachment may be issued, Plaintiff has
8 established the probable validity of the claim upon which the attachment is based, the
9 attachment is not sought for a purpose other than the recovery on the claim upon which
10 the attachment is based; and the amount to be secured by the attachment is greater than
11 zero. Code Civ. Proc. § 484.090.

12 This Court also finds that Defendants have failed to prove that all the property
13 sought to be attached and described in Plaintiff's application is exempt from attachment.
14 An undertaking in the amount of \$10,000 is required before a writ shall issue, and
15 Plaintiff has not filed an undertaking in that amount. This ruling is without prejudice to the
16 Defendants seeking to increase that amount.

17 This Court orders that Plaintiff has a right to attach property as follows:

- 18 (i) of Defendant Walter R. Lembi in the amount of \$16,914,098.90;
- 19 (ii) of Defendant Frank E. Lembi in the amount of \$16,993,136.74;
- 20 (iii) of Defendant Billie Salevouris in the amount of \$7,068,091.06;
- 21 (iv) of Defendant David M. Raynal in the amount of \$4,816,039.38; and
- 22 (v) of Defendant Ralph Dayan in the amount of \$1,909,554.35.

23 Defendants' primary residences as listed in Schedule A of the Guarantees of
24 Payment attached to the Amended Complaint are exempt and shall not be attached. The
25 clerk shall issue a writ of attachment upon the filing of an undertaking in the amount of
26 \$10,000* for the following property of Defendants that is subject to attachment
27 under California Code of Civil Procedure section 487.010: real property, accounts
28 receivable, chattel paper, general intangibles, equipment, farm products, inventory, final
money judgments, money, deposit accounts, negotiable documents of title, instruments,
*The Court's ruling is without prejudice to the Defendants seeking to increase the amount of the
undertaking.

1 and securities.

2 IT IS SO ORDERED

3 Dated: September 16, 2009

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Honorable Jeffrey S. White