

EXHIBIT H

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15 Attorneys for Plaintiff
16 GARY KREMEN

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION

20 GARY KREMEN, an individual,
21 Plaintiff,

22 v.

23 STEPHEN MICHAEL COHEN, an individual,
24 OCEAN FUND INTERNATIONAL, LTD., a
25 foreign company, SAND MAN
26 INTERNACIONAL LIMITED, a foreign
27 company, SPORTING HOUSES
28 MANAGEMENT CORPORATION, a Nevada
Company, SPORTING HOUSES OF AMERICA,
a Nevada company, SPORTING HOUSES
GENERAL, INC., a Nevada, company, and DOES
1-20 inclusive,

Defendants.

Case No.: C 98 20718 JW PVT

**DECLARATION OF RICHARD J. IDELL IN
SUPPORT OF PLAINTIFF GARY KREMEN'S
OPPOSITION TO ARIN'S MOTION FOR
CLARIFICATION, OR, IN THE
ALTERNATIVE, FOR MODIFICATION OF
ORDER DATED SEPTEMBER 17, 2001,
ENTITLED "ORDER RE: REGISTRATION OF
IP NUMBERS (NETBLOCKS) IN THE NAME
OF JUDGMENT CREDITOR**

Date: September 11, 2006

Time: 9:00 a.m.

Location: Courtroom 8, 4th Floor

Judge: The Honorable James Ware

DECLARATION OF RICHARD J. IDELL IN SUPPORT OF PLAINTIFF GARY KREMEN'S OPPOSITION TO ARIN'S MOTION FOR CLARIFICATION, OR, IN THE ALTERNATIVE, FOR MODIFICATION OF ORDER DATED SEPTEMBER 17, 2001, ENTITLED "ORDER RE: REGISTRATION OF IP NUMBERS (NETBLOCKS) IN THE NAME OF JUDGMENT CREDITOR

1 I, Richard J. Idell, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and am the attorney of record herein for Plaintiff Gary Kremen in the above-described action.
4 I am familiar with all of the records and files in this action. All of the matters stated herein are of my
5 own personal knowledge and if sworn as a witness I could and would testify competently to the matters
6 stated herein.

7 2. On July 10, 1998, Kremen filed suit against Defendant Stephen Michael Cohen
8 (“Cohen”) and others arising out of the theft of the “sex.com” domain name in the Northern District of
9 California, San Jose Division, Case No. 98 20718 JW (PVT) (the “Main Action”).

10 3. On February 23, 2001, Kremen filed an Ancillary Complaint (the “Ancillary Action”) to
11 set aside the fraudulent transfer and impose a constructive trust on 17427 Los Morros, Rancho Santa Fe,
12 California (the “Rancho Santa Fe property”) and 5959 Rail Court, San Ysidro, California (the “San
13 Ysidro property”) (collectively the “Properties”).

14 4. A true and correct copy of this Court’s April 3, 2001 Judgment against Cohen and in
15 favor of Kremen (the “Judgment”) in the Main Action is attached hereto as Exhibit “A”. The Judgment
16 imposed a constructive trust “upon all monies and properties of Defendants.”

17 5. A true and correct copy of this Court’s April 3, 2001 Findings of Fact and Conclusions of
18 Law is attached hereto as Exhibit “B”. The April 3, 2001 Findings of Fact and Conclusions of Law
19 concluded that “[t]he corporate defendants, along with any entity (including Omnitec) that was
20 connected in any way with the domain name “sex.com,” are the alter egos of Stephen M. Cohen, and the
21 alter egos o[f] one another.”

22 6. A true and correct copy of this Court’s September 17, 2001 Judgment and Order
23 Conveying Title of Property Based on Constructive Trust in the Ancillary Action is attached hereto as
24 Exhibit “C”.

25 7. On September 17, 2001, this Court ordered the American Registry of Internet Numbers
26 (“ARIN”) to change the registration of the certain blocks of Internet Protocol (“IP”) addresses
27 (“Netblocks”) and Autonomous System Numbers (“ASNs”) to Plaintiff Gary Kremen. A true and
28 correct copy of the Court’s September 17, 2001 Order (the “Netblock Order”) is attached hereto as

1 Exhibit "D". The Netblock Order specifically required ARIN to register in Kremen's name the
2 following Netblocks: (1) 209.205.192.0 to 209.205.239.255, (2) 208.214.46.0 to 208.214.47.255, (3)
3 64.19.192.0 to 64.19.239.255. Further, the Netblock Order specifically required ARIN to register in
4 Kremen's name ASNs 20288 and 11083. The Netblock Order was in aid of perfection of the
5 constructive trust created by the Judgment.

6 8. ARIN learned of the Netblock Order in the Fall of 2001. In the Fall of 2001, I
7 understood that Richard Yankwich, of the law firm of Gray, Cary, Ware & Friedenrich, represented
8 ARIN. I communicated with Mr. Yankwich and provided him with a copy of the Netblock Order.
9 Requests for acknowledgement of service were made to Mr. Yankwich, however no acknowledgement
10 was forthcoming. Just before the Netblock Order was formally served, Stephen Ryan, ARIN's general
11 counsel, wrote to me and stated that he would soon thereafter convey a "written proposal for a quick and
12 complete resolution of this matter. . . ." In addition, Mr. Yankwich was copied on my letter of
13 November 6, 2003 to Stephen Usoz of Pacnet S.A. de C.V. regarding Mr. Kremen's intent to proceed
14 with execution and enforcement of the Netblock Order (a copy of which is attached as Exhibit "L" to the
15 Declaration of Raymond Plzak filed with ARIN's Motion). The Netblock Order was formally served on
16 ARIN (by service on Dennis Malloy, ARIN's statutory registered agent) in late December 2003.

17 9. A true and correct copy of this Court's October 26, 2004 Order in Aid of Execution of
18 Judgment re: Trademark Application is attached hereto as Exhibit "E".

19 10. A true and correct copy of this Court's September 28, 2005 Order Granting Motion for
20 Turnover of Property; Order Setting Hearing with Respect to Fixtures in Otay Mesa Property is attached
21 hereto as Exhibit "F".

22 11. On or about January 16, 2004, I attended a meeting in Washington, D.C. with Stephen
23 Ryan of Manatt, Phelps & Phillips, LLP and general counsel for ARIN, and Gary Kremen regarding
24 ARIN's compliance with the Netblock Order. At the January 16, 2004 meeting, I explained to Mr. Ryan
25 that Kremen would not agree to any greater obligations than those to which Cohen was subject, and it
26 was always made clear to ARIN that Kremen was not going to agree to any greater obligations than
27 those to which Cohen was subject. Though Kremen filled out some ARIN paperwork in 2004 in an
28 effort to resolve the enforcement of the Netblock Order without resort to further litigation, Kremen

1 ultimately rejected ARIN's terms. Prior to the filing of ARIN's instant Motion for Clarification, in the
2 nearly five (5) years since the Netblock Order was issued and throughout all my negotiations with ARIN
3 regarding the Netblock Order, ARIN never once advised that any of the subject Netblocks or ASNs were
4 out of ARIN's control.

5 12. On or about July 25, 2005, I issued and served on the Custodian of Records for ARIN a
6 subpoena for documents in order to better understand the history and current status of Cohen's
7 registration of the Netblocks and ASNs. A true and correct copy of the July 25, 2005 subpoena is
8 attached hereto as Exhibit "G". The July 25, 2005 subpoena requested, among other things, documents
9 that presumably would shed light on the history and current status of Cohen's registration of the
10 Netblocks and ASNs, as well as to understand ARIN's insistence on having Kremen "apply" for
11 property he had already been awarded by the Judgment for constructive trust. ARIN responded to the
12 July 25, 2005 subpoena by producing a few thousand pages of documents. However, most of ARIN's
13 document production was useless "fill" constituting computer print-outs; notably missing from ARIN's
14 production were any contracts or applications that would have been responsive to the subpoena's
15 document requests and which would reflect the information sought.

16 13. When ARIN's instant Motion for Clarification was filed and served, in order to ensure
17 that Kremen had all documents necessary to understand the underlying facts, Kremen served additional
18 discovery on July 28, 2006 in the form of subpoenas to Stephen M. Ryan of Manatt, Phelps & Phillips,
19 LLP, who acts as ARIN's general counsel, as well as to the Custodian of Records of Manatt, Phelps &
20 Phillips, LLP, and eight (8) of ARIN's board members. A true and correct copy of the July 28, 2006
21 subpoena to Stephen M. Ryan of Manatt, Phelps & Phillips, LLP is attached hereto as Exhibit "H". The
22 subpoenas to Manatt's Custodian and the eight ARIN board members are substantially similar to the
23 subpoena to Stephen M. Ryan of Manatt, Phelps & Phillips, LLP, and are similar to the July 25, 2005
24 subpoena served on the Custodian of Records for ARIN, except that the subsequent subpoenas seek an
25 additional ten (10) categories worth of documents. ARIN has failed to produce any documents
26 whatsoever in response to these subpoenas.

27 14. I am informed and believe that in a meet and confer conference call held on Tuesday,
28 August 15, 2006, ARIN steadfastly refused to produce any more documents, and served numerous

1 objections to the further subpoenas on Wednesday, August 16, 2006. ARIN, in a meet and confer letter
2 dated August 17, 2006, has indicated that it might respond to discrete narrowed requests voluntarily and
3 informally (without the threat of legal process). A true and correct copy of the August 17, 2006 meet
4 and confer letter is attached hereto as Exhibit "F".

5 15. On August 17, 2006, Ory Sandel, an associate with my firm, asked for production of any
6 extant contract documents between Cohen, his alter egos and/or affiliates, on the one hand, and ARIN or
7 ARIN's predecessor-in-interest (believed to be InterNIC), on the other hand. ARIN's lawyers will
8 neither confirm nor deny the existence of such contract documents. See the Declaration of Ory B.
9 Sandel filed herewith at paragraphs 4 and 5.

10 16. A true and correct copy of Kremen's Complaint for Violation of Antitrust Laws,
11 Conversion, Unfair Business Competition and Breach of Fiduciary Duty filed by Gary Kremen in the
12 United States Court for the Northern District of California, being Case No. C 06 2554 and styled as
13 *Kremen v. American Registry for Internet Numbers, Ltd.* (the "Antitrust Complaint") is attached hereto as
14 Exhibit "F".

15 I declare under penalty of perjury that the foregoing is true and correct and this Declaration was
16 executed on the 21st day of August, 2006 at San Francisco, California.

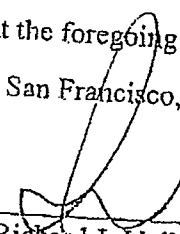
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19 
Richard J. Idell

Exhibit "A"

4/3/1

APR 3 5 29 PM '01
RICH. E. EBY
U.S. DISTRICT COURT
NO. DIST. OF CALIF., S.J.

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

GARY KREMEN,

NO. C 98-20718 JW

Plaintiff,

JUDGMENT

v.

STEPHEN MICHAEL COHEN,

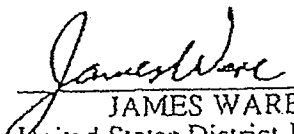
Defendant.

The Court hereby enters judgment in favor of Plaintiff Gary Kremen against Defendants, Stephen Michael Cohen, Ocean Fund Internacional, Ltd., Ynata ltd. and SandMan Internacional, Lt jointly in the amount of \$40,000,000, plus punitive damages in the sum of \$25,000,000 00.

A constructive trust is imposed upon all monies and properties of the Defendants. The Receiver is ordered to collect and hold such properties pending further order of this Court.

The warrant of arrest issued on ^{March 2, 2001} shall remain outstanding until defendant Stephen M. Cohen surrenders the property of each defendant to this Court

Dated: April 3, 2001


JAMES WARE
United States District Judge

United States District Court
For the Northern District of California

United States District Court
For the Northern District of California

1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN MAILED TO:

2 George C. Fisher
3 Ritchey Fisher Whitman & Klein
4 1717 Embarcadero Road
5 P.O. Box 51050
6 Palo Alto, CA 94043

7 Charles Carreon
8 814 East Jackson St., Suite C
9 Medford, OR 97504

10 Robert Selvidge
11 819 Eddy Street
12 San Francisco, CA 94109

13 Robert S. Dorband
14 Duboth & Ross LLC
15 Hampton Oaks, Second Floor
16 6665 Southwest Hampton Street
17 Portland, OR 97223

18 James M. Wagstaffe
19 Pamela Urueta
20 Kerr & Wagstaffe
21 100 Spear Str., Suite 1800
22 San Francisco, CA 94105-1528

23 Richard S. Diestel
24 Alison M. Fee
25 Bledsoe, Cathcart, Diestel & Pedersen, LLP
26 601 California Street, 16th Floor
27 San Francisco, CA 94108

28 Robin Offner
Robin Offner & Associates APC
501 West Broadway, Suite 2020
San Diego, CA 92101

Martin Moroski
Steven Adamski
SINSHEIMER, SCHIEBELHUT, BAGGETT
& TANGEMAN
1010 Peach Street, Post Office Box 31
San Luis Obispo, CA 93406-0031

24 Dated: 4/3/01

Richard W. Wieking, Clerk

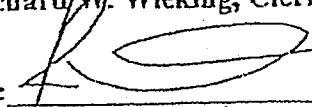
By: 
Ronald L. Davis
Courtroom Deputy

Exhibit "B"

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GARY KREMEN,

Plaintiff,

vs.

STEPHEN MICHAEL COHEN, an individual,
OCEAN FUND INTERNACIONAL, LTD., a
British Virgin Islands corporation, et al.,
Defendants.

Case No.: CV 98 20718 JW

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

INTRODUCTION

This is an action by Gary Kremen against Stephen M. Cohen and Sand Man Internacional Limited, Ocean Fund Internacional, Ltd. and Ynata Ltd., companies controlled by Cohen. Kremen is the original registrant of the Internet domain name "sex.com." Kremen sued Cohen and Cohen's corporations for unlawfully taking control of the domain name and profiting from its use. Previous to the trial, based on undisputed evidence that the letter requesting transfer of the domain name was forged, the Court granted partial summary judgment in favor of Kremen and ordered that the domain name be transferred back to him.

On March 8, 2001, the case came before the Court for non-jury trial of the remaining claims in the case: Kremen's claim for damages for Cohen's unfair business practices and his trespass to personal property; and Kremen's request that the Court impose a constructive trust on certain assets of Cohen and his companies which they allegedly acquired with revenue generated during Cohen's

1 unlawful use of the domain name.

2 H. Sinclair Kerr, Jr., James M. Wagstaffe and Pamela Urueta of Kerr & Wagstaffe, LLP, and
3 Martin P. Moroski of Sinsheimer, Scheibelhut, Baggett & Tangeman P.C. appeared as counsel for
4 plaintiff Gary Kremen.

5 Robert S. Dorband of DuBoff, Dorband, Cushing & King PLLC appeared as counsel for the
6 defendants.

7 Findings of Fact

8 1. In 1994 Gary Kremen's validly and effectively registered the domain name sex.com with
9 Network Solutions, Inc. ("NSI").

10 2. Cohen devised and executed a fraudulent plan to steal the domain name "sex.com" from
11 Gary Kremen.

12 3. Cohen fraudulently forged, or instructed someone to forge, the Dimmick letter.

13 4. Cohen utilized a similar forgery scheme in 1982 and 1995 when he fraudulently forged, or
14 instructed someone to forge, two letters from one "Araldo Peralta" to the California Secretary of
15 State for Cohen's fraudulent purpose of obtaining clearance to use the name "Ornitec" for one of his
16 businesses.

17 5. Cohen did not appear for trial. His deposition testimony was that a friend, Vito Franco,
18 contacted "Sharon Dimmick" by telephone or otherwise, obtained authority from her to transfer the
19 sex.com domain name for the payment of \$1,000. Cohen testified that in October, 1995, he and
20 Franco traveled to 242 Cole Street, and obtained Dimmick's signature on the letter. In fact, no such
21 contacts ever occurred. Neither Cohen nor Franco ever visited Dimmick or any other person at the
22 242 Cole Street address and paid her any money. The contents and letterhead of the Dimmick letter
23 were the fraudulent creations of Stephen M. Cohen. Dimmick testified by deposition that she did no
24 sign the letter and, most significantly, she testified that she had no authority to transfer the domain
25 name to anyone.

26 6. Cohen sent the forged Dimmick letter to NSI with the intent to steal the domain name
27 "sex.com" from Gary Kremen.

28 7. After submitting the Dimmick letter to NSI, Cohen sent an e-mail message to NSI that
purported to be from Gary Kremen, further authorizing the transfer and providing his (Cohen's)

1 telephone number and e-mail address as the place to contact Mr. Kremen for verification.

2 8. At the time of the transfer, Cohen had no right to the domain name "sex.com." In an effort
3 to prove that he had prior rights to the trade name "sex.com," Cohen submitted documents
4 purporting to be a print-out of computer "Bulletin Board" pages where he used the name "sex.com"
5 prior to 1995. These documents were bogus. They were fabricated after 1995.

6 9. Cohen fraudulently and without consideration purported to transfer his supposed interest
7 in "sex.com" to the other defendants; in fact, none of these transfers to the defendants or any other
8 entity were *bona fide*, and Cohen's testimony on the existence and timing of these transfers was false
and inconsistent.

9 10. No transferee of the "sex.com" domain name after October 15, 1995 took that name in
10 good faith or for a reasonably equivalent value.

11 11. Defendants applied the fraudulently transferred domain name "sex.com" to their own use
12 and purpose, and substantially interfered with Kremen's use of the domain name.

13 12. But for Cohen's actions in inducing the transfer of the "sex.com" domain name, Kremen
14 would have otherwise had possession of that domain name.

15 13. Defendants appropriated the "sex.com" domain name to their own use, thereby depriving
16 Kremen of its use, and earning substantial rents, income and profits

17 14. Cohen's transfers of the "sex.com" domain name to the other Cohen defendants, and any
18 subsequent transfers among them, were made with an actual intent to hinder, delay or defraud
Kremen.

19 15. Kremen has been damaged by defendants' misuse of his asset by the loss of possession of
20 the domain name and the loss of the profits and other property obtained by Cohen.

21 16. Defendants have refused to produce any meaningful discovery concerning their financial
22 condition, including the profits derived from the "sex.com" domain name.

23 17. Despite defendants' refusal to produce financial information, plaintiffs have obtained
24 partial financial information from third parties located in the United States. This information shows
25 that defendants realized at least \$20.5 million in profits, including prejudgment interest, for the
26 period 1996 through and including November 2000.

27 18. The \$20.5 million amount understates the worldwide profits derived from the "sex.com"

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1 domain name. The testimony and financial evidence indicating higher profits amount include: AIS's
2 instruction to banner advertisers to send money directly offshore; Cohen's refusal to produce bank
3 statements for the foreign accounts or financial statements for the foreign entities (Sand Man, Ocean
4 Fund, and Ynata); Cohen's statements that the website has 8.5 million members at a monthly rate of
5 \$24.95 per member; Cohen's statement that net income for "sex.com" was \$95.5 million for the
6 quarter ending June 30, 1998; Cohen's testimony that he had a single banner advertiser who paid \$2
7 million per month; Cohen's testimony that he turned down multi-million dollar offers to purchase the
8 domain name.

9 19. Although the precise amount of profits cannot be ascertained due to the conduct of
10 defendants, the Court finds that as a result of their wrongful possession and use of the "sex.com"
11 domain name, defendants received profits for the period 1996 through November 2000, in an
12 excess of \$40,000,000.

13 20. Defendants have a substantial net worth in addition to the profits they received from the
14 "sex.com" domain name, including, but not limited to, the following: (a) all profits from membership
15 in "sex.com" or other domain names owned by the defendants, including the over \$200 million in
16 membership fees acknowledged by Stephen M. Cohen in his prior sworn statements; (b) the over \$1
17 billion in profits described in statements made by defendants or on their behalf to the press; (c) the
18 other domain names owned by the defendants; (d) the money generated by the operation of the
19 websites under the other domain names owned by the defendants; (e) the fiber optic assets of
20 Sandman and the \$10 million amount deposited with the joint venture in the name of the defendants;
21 (f) the Rancho Santa Fe and San Ysidro Properties; and (g) Ynata's ownership of Arab Gulf Bank,
22 Bank of Nevis and interests in oil corporations.

23 21. In contrast to the sworn testimony of Stephen M. Cohen, and in order to shield the fruits
24 of their conspiratorial efforts, the defendants have transferred the profits from their "sex.com"
25 enterprise to undisclosed offshore locations, and they continue to conceal the funds flowing from the
26 immense volume of revenue generated by the "sex.com" domain name in various undisclosed offshore
27 locations.

28 22. After this Court ordered defendants and their agents the morning of November 27, 2000
to freeze their assets and the proceeds of "sex.com," defendants willfully and deliberately thereafter

United States District Court

For the Northern District of California

1 transferred assets to offshore locations in violation of the order.

2 23. Proceeds from defendants' "sex.com" enterprise were utilized to obtain multiple other
3 domain names (as separately described in the Request for Judicial Notice).

4 24. The "'sex.com'" money received by defendants was transferred to Banco Internacional,
5 S.A., Bansomar, S.A. Banco Nacional de Mexico, S.A., ABN AMRO, Bank NV (the Netherlands),
6 ATU General Trust (BVI) Limited (British Virgin Islands), Banque Internationale, A Luxembourg
7 S.A. (Belgium), Liechtensteinische Landes Bank, Aktiengesellschaft (Lichenstein), Rabobank
8 Nederland (Utrecht), Rabobank International/Rabobank Utrecht, Rabo Robeco Bank (Luxembourg)
9 S.A., Robeco Bank (Luxembourg) S.A., UBS Warberg LLC/UB Stamford, VP Bank Gruppe
10 (Lichenstein), the Bank of N.T. Butterfield; Sun Limited, and VP Bank (BVI) Limited., and the
11 domain names (itemized in the Request for Judicial Notice) registered with NSI and the
12 corresponding IP addresses therefore controlled by ARIN are held in constructive trust for plaintiff by
13 Kremen.

14 25. Omnitec, created and owned by Stephen M. Cohen, is an entity through which defendants
15 transferred money generated by "sex.com" in the United States

16 26. All the money coming to Omnitec, which was doing business as "sex.com" from 1996
17 through and including November, 2000, came from "sex.com" operations.

18 27. Stephen M. Cohen utilized substantial sums of money held by Omnitec to pay personal
19 expenses and for other non-Omnitec matters for which there has been no evidence of reimbursement
20 or loans.

21 28. The evidence was clear and convincing that the corporate defendants, along with
22 Omnitec, were the alter egos of Stephen M. Cohen.

23 29. The evidence was clear and convincing that the defendants and each of them, in engaging
24 in the conduct that is the subject of these findings, were acting with malice, fraud and oppression, as
25 well as engaging in despicable conduct, all as defined in California Civil Code section 3294.

26 30. The evidence was clear and convincing that the defendants and each of them, when actin
27 to thwart plaintiff's reasonable discovery requests and other orders of this Court, and in the way in
28 which they interacted with plaintiff Gary Kremen, were acting with and motivated by malice, fraud
and oppression, as well as engaging in despicable conduct, all as defined in California Civil Code

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For the Northern District of California

1 section 3294.

2 31. Stephen M. Cohen purchased property at 17427 Los Morros, Rancho Santa Fe, CA
3 90267 ("Rancho Santa Fe Property") on November 6, 1998 with an approximately \$1 million down
4 payment generated solely from "sex.com" proceeds.

5 32. Stephen M. Cohen qualified for the home loan on the Rancho Santa Fe property with
6 income identified as coming from Omnitec, whose sole source of money was "sex.com."

7 33. Stephen M. Cohen paid off the bank loan for the Rancho Santa Fe property with funds
8 obtained exclusively from "sex.com."

9 34. Montano Properties, a California LLC was created in January, 1999, consisting of
10 Cohen's wife and two daughters as members, albeit with varying percentage interests described in
11 multiple documents.

12 35. In contrast to his own testimony on the subject, Stephen M. Cohen transferred the
13 Rancho Santa Fe property to Montano Properties, LLC on January 15, 1999 for no consideration.

14 36. Even after the formation of Montano Properties, LLC and its receipt of the Rancho
15 Santa Fe property, "sex.com" funds (through Omnitec) continued to be used to pay property
16 expenses and accountants with no evidence of repayment or loan, and Stephen M. Cohen continued
17 to exercise control over the LLC.

18 37. Even after the formation of Montano Properties, LLC, Stephen M. Cohen continued to
19 assert rights as a member of the LLC and he retained a reversionary interest to buy back the shares of
20 the LLC for \$1.00.

21 38. Stephen M. Cohen purchased the property at 5959 Rail St., San Ysidro, CA 92173 ("San
22 Ysidro property") with "sex.com" funds on June 25, 1999.

23 39. In contrast to his deposition testimony, Stephen M. Cohen transferred the San Ysidro
24 property to Montano Properties, LLC on July 7, 2000 for no consideration.

25 40. Cohen transferred title to the California real properties in Rancho Santa Fe and San
26 Ysidro for the purpose of protecting those properties from claims of creditors, and he discussed such
27 "restructuring" topics with his accountants during the pendency of this litigation
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Conclusions of Law

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3 1. Jurisdiction over the action rests on 28 U.S.C. §§ 1331-1367.

4 2. The transfer of the domain name "sex.com" effectuated solely as a result of Cohen's
5 submission of the forged Dimmick letter, is void and constitutes a nullity

6 3. Gary Kremen is the rightful owner of the domain name "sex.com" and is entitled to its
7 return and a declaratory judgment that he is the rightful owner of this domain name

8 4. Any subsequent "transfers" of the "sex.com" domain name among the Cohen defendants
9 were fraudulent, without good faith or *bona fide* consideration, and were intended to hinder, delay
10 and defraud its rightful owner, Gary Kremen.

11 5. The transfers of the domain name "sex.com" originally to Stephen M. Cohen, and later by
12 and between the alter-egos of Stephen M. Cohen, constitute fraudulent conveyances pursuant to
13 California Civil Code section 3439.01 et seq.

14 6. By inducing NSI to transfer the "sex.com" domain name from Kremen to himself, Cohen
15 gained the "sex.com" domain name by fraud, mistake or other wrongful act, thus creating a
16 constructive trust pursuant to California Civil Code section 2224.

17 7. As a result of the transfer of the domain name "sex.com" to defendants, they became
18 involuntary trustees of the "sex.com" domain name for the benefit of Kremen

19 8. Defendants intentionally and without authorization substantially interfered with Kremen's
20 possessory interest in the "sex.com" domain name.

21 9. Cohen has engaged in unfair business practices in violation of California Business &
22 Professions Code §17200. Defendants and all persons or companies in privity with them are
23 permanently enjoined from interfering with Plaintiff's use of the domain name "sex.com."

24 10. As a result of defendants' wrongful acts, Plaintiff is entitled to recover the sum of
25 \$40,000,000 by way of restitution and disgorgement for the profits generated by defendants' use of
26 the "sex.com" domain name.

27 11. The corporate defendants, along with any entity (including Omnitec) that was connected
28 in any way with the domain name "sex.com," are the alter egos of Stephen M. Cohen, and the alter
egos or one another.

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12. The Rancho Santa Fe property and the San Ysidro property are subject to a constructive trust for the benefit of Gary Kremen.

13. The domain names identified in the Request for Judicial Notice and the corresponding IP addresses are subject to a constructive trust for the benefit of Gary Kremen.

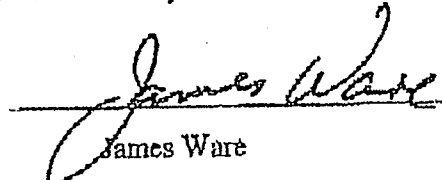
14. The "sex.com" funds transferred to offshore financial institutions and as described more specifically above are subject to a constructive trust for the benefit of Gary Kremen.

15. Cohen does not have a valid trademark in the term "sex.com"

16. There is clear and convincing evidence that the defendants were guilty of oppression, fraud and malice. Therefore, the Plaintiff is entitled to recover punitive damages.

None of the affirmative defenses asserted by defendants in their answers have any merit.

Dated: April 3, 2001


James Ware
United States District Judge

United States District Court
For the Northern District of California

MAR-09-1900 21:01

United States District Court
For the Northern District of California

1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN MAILED TO:

2 George C. Fisher
3 Ritchey, Fisher, Whitman & Klein
4 1717 Embarcadero Road
5 P.O. Box 51050
6 Palo Alto, CA 94043

7 Charles Carreon
8 814 East Jackson St., Suite C
9 Medford, OR 97504

10 Robert Selvidge
11 819 Eddy Street
12 San Francisco, CA 94109

13 Robert S. Dorband
14 Duboth & Ross LLC
15 Hampton Oaks, Second Floor
16 6665 Southwest Hampton Street
17 Portland, OR 97223

18 James M. Wagstaffe
19 Pamela Urueta
20 Kerr & Wagstaffe
21 100 Spear Str., Suite 1800
22 San Francisco, CA 94105-1528

23 Richard S. Diestel
24 Alison M. Fee
25 Bledsoe, Cathcart, Diestel & Pedersen, LLP
26 601 California Street, 16th Floor
27 San Francisco, CA 94108

28 Robin Offner
Robin Offner & Associates APC
501 West Broadway, Suite 2020
San Diego, CA 92101

Martin Moroski
Steven Adamski
SINSHEIMER, SCHIEBELHUT, BAGGETT
& TANGEMAN
1010 Peach Street, Post Office Box 31
San Luis Obispo, CA 93406-0031

24 Dated:

Richard W. Wieking, Clerk

25

By: Ronald L. Davis
Courtroom Deputy

26

27

28

Exhibit "C"

ORIGINAL FILED

SEP 18 2001

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GARY KREMEN,
Plaintiff,

vs.

STEPHEN MICHAEL COHEN, an individual,
OCEAN FUND INTERNACIONAL, LTD., a
foreign company, et al.,
Defendants.

Case No. CV 98 20718 JW PVT ENE

JUDGMENT AND ORDER CONVEYING
TITLE OF PROPERTY BASED ON
CONSTRUCTIVE TRUST

GARY KREMEN,
Ancillary Plaintiff,

vs.

STEPHEN MICHAEL COHEN, an individual,
MONTANO PROPERTIES, LLC, a California
Limited Liability Company, JOHN H.
BROWNFIELD, an individual, ROBERT
McFARLAND, an individual and ROES 1
through 20,
Ancillary Defendants.

DATE: September 17, 2001
TIME: 3:00 P.M.
PLACE: Courtroom 8

The Honorable James Ware

IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. Montano Properties LLC ("Ancillary Defendant") holds legal title, in constructive trust for the use and benefit of Gary Kremen (Ancillary Plaintiff), to two parcels of improved real property with respect to which Commonwealth Land Title Insurance Company has issued its 1st Amended Preliminary Report No. 1057612-4, dated as of August 3, 2001, a copy of which is attached hereto as Exhibit A (the "Report").

2. The first property so held in constructive trust for the use and benefit of Ancillary Plaintiff is commonly known as 17427 Los Morros, Rancho Santa Fe, California, is referenced as Parcel 1A and Parcel 1B in the Report, and is legally described in Exhibit B hereto (the "Rancho Santa Fe Property").

1 3. The second property so held in constructive trust for the use and benefit of
2 Ancillary Plaintiff is commonly known as 5959 Rail Court, San Ysidro, California, is referenced
3 as Parcel 2 in the Report, and is also legally described in Exhibit B (the "San Ysidro Property").
4 In this Order, the Rancho Santa Fe Property and the San Ysidro Property, together with all
5 improvements thereon, are collectively referred to as the "Properties".

6 4. Ancillary Plaintiff is entitled to have legal title to the Properties conveyed to him
7 and is entitled to the sole possession of the Properties.

8 5. Ancillary Defendant, and all persons, other than Ancillary Plaintiff, claiming
9 under Ancillary Defendant, have no estate, right, title, lien, or interest in or to the Properties.

10 6. Ancillary Defendant, and all persons, other than Ancillary Plaintiff, claiming
11 under Ancillary Defendant, are permanently enjoined and restrained from asserting any estate,
12 right, title, lien, or interest in or to the Properties, or any part thereof, adverse to the rights and
13 claims of plaintiff in or to the Properties.

14 7. Ancillary Defendant is directed within two (2) business days of execution of this
15 Order to execute, acknowledge and deliver to Ancillary Plaintiff a good and sufficient grant deed
16 conveying to Ancillary Plaintiff all the estate, right, title, lien, or interest in or to the Properties,
17 and every part thereof, held or claimed to be held by defendant. Title to the Rancho Santa Fe
18 Property shall be conveyed by Ancillary Defendant to Ancillary Plaintiff subject to no more than
19 those exceptions to title shown for Parcels 1A and 1B in the Report. Title to the San Ysidro
20 Property shall be conveyed by Ancillary Defendant to Ancillary Plaintiff subject to no more than
21 those exceptions to title shown for Parcel 2 in the Report.

22 8. In the event Ancillary Defendant fails or refuses to execute, acknowledge, and
23 deliver such grant deed within two (2) business days of the execution of this Order, this
24 judgment and decree shall have the effect and operation, at law and in equity, of such a
25 conveyance, and shall vest in plaintiff all estate, right, title, lien, or interest in or to the
26 Properties.
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9. The San Diego County Recorder is hereby ordered to record this Order with respect to the referenced properties.

Dated: September 17, 2001

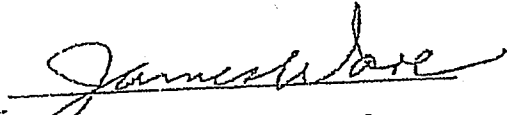

United States District Judge

Exhibit "D"

1 JAMES M. WAGSTAFFE, ESQ. #95535
PAMELA URUETA, ESQ., #184579
2 KERR & WAGSTAFFE LLP
100 Spear Street, Suite 1800
3 San Francisco, CA 94105
Telephone: (415) 371-8500
4 Facsimile: (415) 371-0500

5 RICHARD J. IDELL, ESQ., #069033
JENNIFER A. MARONE, ESQ., #208858
6 IDELL, BERMAN & SEITEL
530 Bush Street, Suite 601
7 San Francisco, CA 94108
Telephone: (415) 986-2400
8 Facsimile: (415) 392-9259

9 Attorneys for Plaintiff
GARY KREMEN

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
13

14 GARY KREMEN

15 Plaintiff,

16 vs.

17 STEPHEN MICHAEL COHEN, et al.,

18 Defendants.

) Case No.: C 98 20718 JW PVT
)
) ORDER RE: REGISTRATION OF IP
) NUMBERS (NETBLOCKS) IN THE NAME
) OF JUDGMENT CREDITOR
)
) Date: September 17, 2001
)
) Time: 3:00 p.m.
)
) Place: Courtroom 8
) Honorable Judge James Wa:
)

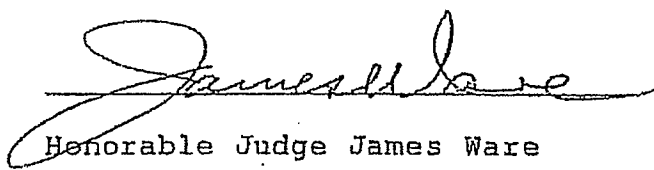
19 Pursuant to the Application of Plaintiff, Gary Kremen, and as
20 based on the record before this Court, and good cause shown,
21
22
23

24 ORDER RE: REGISTRATION OF IP NUMBERS (NETBLOCKS) IN THE NAME OF JUDGMENT CREDITOR
25

ORIGINAL
COPY

1 IT IS HEREBY ORDERED that the IP Numbers identified as Exhibit
2 "A" to the Declaration of Gary Kremen on file herein be registered
3 the name of Plaintiff Gary Kremen. In furtherance of this Order,
4 AMERICAN REGISTRY OF INTERNET NUMBERS ("ARIN") is ORDERED to regist
5 IP Numbers on the list to Gary Kremen forthwith. Specifically ARIN
6 is ordered to change the registration record of each of these IP
7 Numbers (netblocks) as follows: all fields (registrant,
8 administration contact, etc.) shall be in the name of Gary Kremen,
9 listing his address as 2542 Third Street, San Francisco, CA 94107,
10 telephone number as (415) 217-5121; facsimile number as (415) 285-
11 7111; and E-mail as Gary@sex.com.

12 Dated: September 17, 2001

13 
14 Honorable Judge James Ware

1 JAMES M. WAGSTAFFE, ESQ. #95535
2 PAMELA URUETA, ESQ., #184579
3 KERR & WAGSTAFFE LLP
4 100 Spear Street, Suite 1800
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6 Telephone: (415) 371-8500
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8 RICHARD J. IDELL, ESQ., #069033
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10 IDELL, BERMAN & SEITEL
11 530 Bush Street, Suite 601
12 San Francisco, CA 94108
13 Telephone: (415) 986-2400
14 Facsimile: (415) 392-9259

15 Attorneys for Plaintiff
16 GARY KREMEN

ORIGINAL
FILED

SEP 18 2001

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION

20 GARY KREMEN

21 Plaintiff,

22 vs.

23 STEPHEN MICHAEL COHEN, et al.,

24 Defendants.

) Case No.: C 98 20718 JW PVT
)
) EX PARTE APPLICATION FOR ORDER
) REQUIRING REGISTRATION OF IP
) NUMBERS (NETBLOCKS) IN THE NAME
) OF JUDGMENT CREDITOR
)
) Date: September 17, 2001
)
) Time: 3:00 p.m.
)
) Place: Courtroom 8
) Honorable Judge James Ware

25 COMES NOW, Gary Kremen, and files this ex parte application for
Order requiring registration of IP Numbers (netblocks) in the name of
Gary Kremen which are now registered in the name of the judgment

EX PARTE APPLICATION FOR ORDER REQUIRING REGISTRATION OF IP NUMBERS (NETBLOCKS) IN
THE NAME OF JUDGMENT CREDITOR - 1

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1 debtors, Stephen Michael Cohen and his companies, their alter egos o
2 affiliates.

3 Attached to the Declaration of Gary Kremen as Exhibit "A" is a
4 list of IP Numbers (netblocks) under which Stephen Michael Cohen, hi
5 companies, their alter egos or affiliates are doing business or have
6 been doing business.

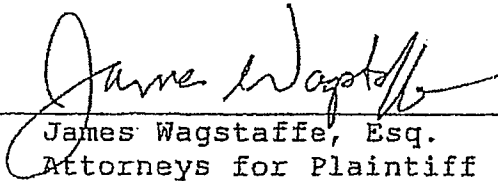
7 As the Court is well aware, Gary Kremen obtained a judgment for
8 Sixty-Five Million Dollars (\$65,000,000.00) and a judgment imposing
9 constructive trust on assets of the judgment debtors.

10 By this ex parte motion, Gary Kremen seeks an order requiring
11 registration of these IP Numbers (netblocks) in the name of Mr.
12 Kremen. The registrant for these IP Numbers (netblocks) is the
13 American Registry of Internet Numbers ("ARIN").

14 This ex parte motion is based upon this Notice of Motion, the
15 Declaration of James M. Wagstaffe, the Declaration of Gary Kremen and
16 the exhibit thereto and such other and further matters as may come
17 before the Court on the hearing of this matter.

18
19 Dated: 9/17/01

KERR & WAGSTAFFE LLP

20
21
22 By: 
James Wagstaffe, Esq.
Attorneys for Plaintiff
GARY KREMEN
23
24
25

1 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION
2 FOR ORDER REQUIRING REGISTRATION OF IP NUMBERS (NETBLOCKS) IN THE
3 NAME OF JUDGMENT CREDITOR

4 The Court may make such orders as are necessary and appropriate
5 in order to aid in the execution of its judgments.

6 Fed. Rule of Civ. Proc. Rule 69(a), 28 U.S.C.A.; Cal. Rule of
7 Court Rule 303(a)(2).

8 DECLARATION OF JAMES M. WAGSTAFFE IN SUPPORT OF EX PARTE APPLICATION
9 FOR ORDER REQUIRING REGISTRATION OF IP NUMBERS (NETBLOCKS) IN THE
10 NAME OF JUDGMENT CREDITOR

11 I, James M. Wagstaffe, do state as follows:

12 1. I am an attorney at law, licensed to practice before all
13 the courts of the state of California. I am a partner of the firm
14 Kerr & Wagstaffe. That firm represents Gary Kremen in the above
15 action. All of the matters stated herein are of my own personal
16 knowledge and if sworn in as a witness I could testify competently to
17 the matters stated herein.

18 2. I am familiar with all the records and files in this
19 action.

20 3. Attached as Exhibit "A" to the Declaration of Gary Kremen
21 is a copy of certain IP Numbers (netblocks) that are currently
22 registered to Stephen Michael Cohen, his companies, their alter egos
23 or affiliates. These Internet IP Numbers (netblocks) are registered
24 with American Registry of Internet Numbers ("ARIN").

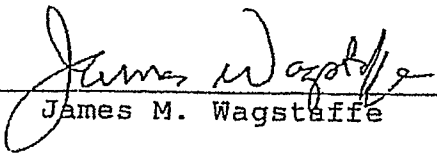
25 4. Pursuant to the Court's judgment of April 3, 2001,
Plaintiff, Gary Kremen, is entitled to the imposition of constructive
trust on all assets of Stephen Michael Cohen and his companies.

5. It is respectfully submitted that the Court enter an order

1 requiring ARIN to register these IP Numbers (netblocks) listed on t
2 said Exhibit "A" to Gary Kremen. As shown by the Declaration of Ga
3 Kremen, investigation and search has shown that these IP Numbers a
4 currently in use by Cohen, his companies, their alter egos
5 affiliates.

6 I declare under penalty of perjury under the laws of the State
7 of California that the foregoing is true and correct and that this
8 declaration is executed on this 17th day of Sept, 2001 at S
9 Francisco, California.

10 Dated: 9/17/01


James M. Wagstaffe

12 DECLARATION OF GARY KREMEN IN SUPPORT OF EX PARTE APPLICATION FOR
13 ORDER REQUIRING REGISTRATION OF IP NUMBERS (NETBLOCKS) IN THE NAME OF
JUDGMENT CREDITOR

14 I, GARY KREMEN, do state as follows under penalty of perjury:

15 1. I am the Plaintiff in the above action. All of the matter
16 set forth in this declaration are of my own personal knowledge and I
17 sworn as a witness I can testify competently as to the matters state
18 herein.

19 2. IP Numbers are the actual numeric addresses linked to
20 domain names. IP stands for internet protocol. American Registry o
21 Internet Numbers ("ARIN") is a non-profit organization that allocate
22 IP Numbers to users. Netnames are an English language phrase that
23 corresponds to a range of IP Numbers. This is done because it is
24 easier to use an English pneumatic than a range of numbers.

1 Netblocks are the actual blocks of numbers. Autonomous System
2 Numbers are numbers used by computer routers to optimize the flow of
3 IP traffic. ARIN assigns such numbers as relates to computer
4 networks under common control. Sand Man, a Cohen company, is one of
5 the supporters of ARIN who make voluntary donations to ARIN.

6 2. I have reviewed Internet listings of net blocks and
7 autonomous system addresses currently in use by Steven Michael Cohen
8 and/or his companies, their alter egos or affiliates ("Cohen
9 Parties") and I have determined that the netblocks and autonomous
10 system names and numbers listed on Exhibit "A" attached hereto are
11 currently in use by Cohen Parties. I made this determination by
12 analyzing prior Internet addresses, as to which this Court made a
13 prior order, to determine which IP Numbers (netblocks) and autonomou
14 system addresses were utilized for those addresses. I compared the
15 addresses for the registration of the netblocks and automomous syste
16 numbers and determined in all cases that all were registered to
17 Cohen's address of P.O Box 433168, San Diego, California 92143 and
18 registered by Cohen himself, his companies, Cohen alter egos or
19 affiliates.

20 I declare under penalty of perjury that the foregoing is true
21 and correct and that this declaration was executed on the 17th day of
22 September, 2001, at San Francisco, California.

23 Dated: 9/17/2001

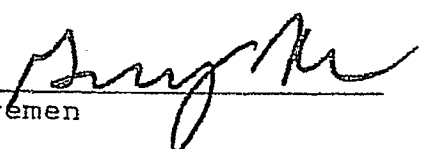
24 
Gary Kremen

Exhibit "A"

Net Blocks:

Netname: PACNET-MX1
Netblock: 209.205.192.0 – 209.205.239.255
Maintainer: PCNT

Paenet, S.A. de C.V. (NETBLK-PACNET-MX1)
P.O. Box 433168
San Diego, CA 92143
US

Coordinator:

Pacnet, S.A. de C.V. (SCP1-ARIN) ip@pacnet.com.mx
52 66 33 90 71

Including but not limited to: NS1.PACNET.COM.MX 209.205.195.50 and
NS2.PACNET.COM.MX 209.205.195.70

Netname: UU-208-214-46
Netblock: 208.214.46.0 – 208.214.47.255
Maintainer: SAND

Sand Man International
San Diego, CA 92101
US

Coordinator:

Cohen, Stephen Michael (SMC43-ARIN) steve@SEX.COM
0115266 343480 (FAX) 0115266 343480

Netname: PACNET-MX
Netblock: 64.19.192.0- 64.19.239.255
Maintainer: SAND

Sand Man International Limited S.A. de C.V. (NET-PACNET-MX)
P.O. Box 433168
San Diego, CA 92143
USA

Coordinator:

de C.V., PACNET S.A. (MM1338-ARIN) ip@pacnet.com.mx

52 66 34 34 80 (FAX) 52 66 34 64 86

Autonomous System Numbers:

Autonomous System Name: PACNET-MX
Autonomous System Number: 20228

Pacnet S.A. de C.V. (ASN-PACNET-MX)
P.O. Box 433168
San Diego, CA 92143
US

Coordinator:

de C.V. PACNET S.A. (MM 1838-ARIN) IP@pacnet.com.mx
52 66 34 34 80 (FAX) 52 66 34 64 86

Autonomous System Name: SEXCOM
Autonomous System Number: 11083

Ocean Fund International Ltd.
Paseo De Los Heroes, #10105
Piso 7th, Del Rio Tijuana
Del Rio Tijuana
Tijuana, Baja California CP 22320
MX

Coordinator:

Cohen, Stephen Michael (SMC4-ARIN)
steve@omnitec.com
0115266343480 (FAX) 0115266 346486

Exhibit "E"

1 RICHARD J. IDELL, ESQ., #069033
2 IDELL, BERMAN & SEITEL
3 530 Bush Street, Suite 601
4 San Francisco, CA 94108
5 Telephone: (415) 986-2400
6 Facsimile: (415) 392-9259

7 Attorneys for Plaintiff
8 GARY KREMEN

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 RECEIVED
13 SEP 14 2004

14 RICHARD W. WIEKING
15 CLERK, U.S. DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE

18 GARY KREMEN
19 Plaintiff,

20 vs.

21 STEPHEN MICHAEL COHEN, et al.,
22 Defendants.

23 Case No.: C 98 20718 JW PVT

24 PROPOSED ORDER IN AID OF
EXECUTION OF JUDGMENT RE:
TRADEMARK APPLICATION

25 The Court, having issued a judgment in the above matter, on April 3, 2001, in the amount of
Sixty-Five Million Dollars (\$65,000,000.00) and imposing a constructive trust on all of the assets of
Stephen Michael Cohen ("Cohen"), and good cause appearing therefore, the Court makes the following
findings and order:

1. Stephen Michael Cohen, at times and places prior to the entry of judgment, to wit, on
May 20, 1996, filed at the United States Patent and Trademark Office Application Serial No. 75/10662
for the mark "SEX.COM". Said application was deemed registrable by the United States Patent and
Trademark Office and approved for publication in connection with "providing access to an electronic

FILED
OCT 26 10 06 AM '04
RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIS. OF CA. S. J.

1 bulletin board in the field of adult entertainment", in Class 42. Said application was published for
2 opposition in the Official Gazette of the USPTO on December 2, 1997.

3 2. Moving party and Ancillary Plaintiff in this action Gary Kremen opposed said
4 Application Serial No. 75/106638, primarily on the ground that Kremen was the rightful owner of the
5 trademark "SEX.COM" and of the domain name "sex.com", and that Cohen had misappropriated the
6 domain name "sex.com" by making false representations to Network Solutions, Inc.

7 3. On August 14, 1998, Cohen filed a Motion with the USPTO to suspend Gary Kremen's
8 Opposition to the Cohen Application pending the outcome of the civil action. On December 2, 1998, the
9 USPTO suspended Gary Kremen's Opposition to the Cohen Application.

10 4. On June 3, 2003, the USPTO entered a default judgment against Cohen, refused
11 registration of the Cohen Application and sustained Kremen's Opposition to the Cohen Application.

12 5. On July 2, 2003, Gary Kremen petitioned the USPTO to reconsider the default judgment
13 against Cohen, on the basis that the default judgment would render the Cohen Application worthless,
14 which would frustrate the judgment for Gary Kremen in the civil action. On March 8, 2004, the USPTO
15 set aside its order of June 3, 2003, and suspended the proceedings pending the assignment of the Cohen
16 Application to Gary Kremen in accordance with an order in aid of execution by this Court.

17 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that any and all rights of Stephen
18 Michael Cohen in and to the certain Trademark Application Serial No. 75/106638, now pending before
19 the Trademark Office and the subject of pending Trademark Trial & Appeal Board Opposition No.
20 110,033, are, in accordance with the judgment ordering the imposition of a constructive trust, now the
21 property of Gary Kremen.

22 The Court further finds that the public use by Stephen Michael Cohen and the goodwill
23 associated with the prior use of the domain name and of the mark inures to the benefit of Gary Kremen
24 by virtue of the imposition of the constructive trust as set forth in the judgment of April 3, 2001, on the
25 assets of Stephen Michael Cohen.

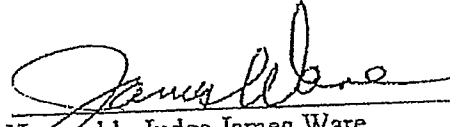
1 Pursuant to the judgment ordering the imposition of a constructive trust, Gary Kremen, is
2 deemed to have acquired the goodwill associated with the use of the mark

3 The United States Patent and Trademark Office is hereby ordered to transfer the pending
4 Application Serial No. 75/106638 for the mark "SEX.COM" to Gary Kremen, and to comply with any
5 requests by Gary Kremen required to effect full right, title and interest to the Cohen Application to Gary
6 Kremen, with no rights remaining in the name of Stephen Michael Cohen.

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It is so ordered.

Dated: October 25, 2004


Honorable Judge James Ware
United States District Court Judge

United States District Court
For the Northern District of California

1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

2 Richard Idell
3 530 Bush Street, Suite 601
4 San Francisco, CA 94108

4

5 Dated: 10/26/06

6

Richard W. Wieking, Clerk

By: 

Ronald L. Davis
Courtroom Deputy

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Exhibit "F"

SEP 30 2005 12:52PM

US DISTRICT COURT SJ

NO 656 P 2

FILED

SEP 28 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

<p>GARY KREMEN, an individual, Plaintiff, v. STEPHEN MICHAEL COHEN, an individual, OCEAN FUND INTERNATIONAL, LTD., a foreign company, SAND MAN INTERNACIONAL LIMITED, a foreign company, SPORTING HOUSES MANAGEMENT CORPORATION, a Nevada Company, SPORTING HOUSES OF AMERICA, a Nevada company, SPORTING HOUSES GENERAL, INC., a Nevada, company, and DOES 1-20 inclusive, Defendants.</p>

Case No.: C 98 20718 JW PVT

**ORDER GRANTING MOTION FOR
TURNOVER OF PROPERTY;
ORDER SETTING HEARING WITH
RESPECT TO FIXTURES IN OTAY MESA
PROPERTY**

This Court's Order to Show Cause re: Determination of Ownership and Turnover of Property re: Execution on Judgment came before this Court for hearing on September 22, 2005. Richard J. Idell of Idell, Berman, Seitel and Rutchik, LLP appeared on behalf of Plaintiff Gary Kremen ("Kremen"). Jack Hanna Brownfield, Miguel Betancourt and all other interested parties appeared on their own behalves and on behalf of the entities they represent.

The Court, being satisfied that all interested parties were served with this Court's September 12, 2005 Temporary Restraining Order and Order to Show Cause re: Determination of Ownership and

SEP 30 2005 12:52PM

US DISTRICT COURT SJ

NO 656 P 3

1 Turnover of Property re: Execution on Judgment ("TRO"), and having heard the arguments of counsel
2 and all interested parties, finds as follows:

3 **L. General Findings of Fact.**

4 (a) The property subject to the TRO is in the constructive possession, custody or control of
5 Defendant Stephen Michael Cohen ("Cohen") and/or other individuals and/or entities acting in concert
6 with Cohen to evade the enforcement of Kremen's valid, final Judgment, as issued by this Court on
7 April 3, 2001 in the amount of Sixty-Five Million Dollars (\$65,000,000.00) (the "Judgment");

8 (b) Kremen has shown that the following individuals and/or entities are all acting in concert
9 with Cohen to evade the enforcement of the Judgment, including entities which have already been
10 determined by this Court to be alter egos of Cohen:

11 1. Entities acting in concert with Cohen ("Cohen Affiliated Entities"):

- 12 o Pacnet, Incorporated, a California corporation ("Pacnet CA"), Pacnet, Inc., a
13 Nevada corporation ("Pacnet NV"), Pacnet, S.A. de C.V., a Mexican corporation
14 ("Pacnet MX") (Pacnet CA, Pacnet NV and Pacnet MX are collectively referred
15 to as "Pacnet");
- 16 o WLCOM, S.A. de C.V a.k.a. WL Com Del Noroeste, SA de CV a.k.a. WL Com
17 a.k.a. WL Com Del Noroeste, a Mexican corporation. ("WLCOM");
- 18 o Speednet Ltd., a Vanuatu corporation a.k.a. Speednet, an Israeli company
19 ("Speednet");
- 20 o Mexico Lending, Ltd., a Nevada corporation ("Mexico Lending");
- 21 o Fastcalled, Inc., a California corporation ("Fastcalled");
- 22 o Sandman Internacional Limited, S.A. de C.V., a Mexican corporation a.k.a. Sand
23 Man International, S.A., a Mexican corporation ("Sandman");
- 24 o Omnitec a.k.a. Omnitec International, a Nevada corporation ("Omnitec");
- 25 o Ocean Fund International, Ltd, a British Virgin Islands company ("Ocean Fund");
- 26 o International Sea Farms, Inc., a Nevada corporation ("Sea Farms");
- 27 o Montano Properties, LLC ("Montano Properties");

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- o Pinche Galicot, Inc., a Nevada corporation ("Pinche");
- o Ezcallme.com ("Ezcallme.com");
- 2. Individuals acting in concert with Cohen ("Cohen Affiliated Individuals"):
 - o Jack Brownfield a.k.a. John Brownfield a.k.a. John Hanna Brownfield a.k.a. Jack Hanna Brownfield ("Brownfield");
 - o Jhuliana Cohen a.k.a. Jhuliana Aramis Urias Montano a.k.a. Jhuliana Aramis Cohen a.k.a. Jhuliana Urias ("Jhuliana Cohen");
 - o Rosa Cohen a.k.a. Rosa A. Montano De Cohen a.k.a. Rosa Armida a.k.a. Rosa Armida Montano a.k.a. Rosa Montano a.k.a. Rosa Montano Ruiz ("Rosa Cohen");
 - o Miguel Betancourt a.k.a. Miguel Antonio Betancourt Ochoa ("Betancourt");
 - o Juan José Martínez Ifigüez a.k.a. Juan Jose (Steve) Martínez ("Martínez");
 - o Roy Diaz ("Diaz");
 - o Anthony Soberanes ("Soberanes");

The Cohen Affiliated Entities, Cohen Affiliated Individuals and those unknown acting in concert with Cohen are collectively referred to herein as the "Cohen Affiliates";

II. Otay Mesa Facility.

(a) Kremen has shown that Cohen is the owner of certain personal property located at 8675 Avenida Costa Norte, Suite A, Otay Mesa, California 92154 (the "Otay Mesa Facility");

(b) Kremen has determined the nature and extent of the assets in the constructive possession, custody or control of Cohen and the Cohen Affiliates located at the Otay Mesa Facility;

(c) The personal property located at the Otay Mesa Facility, subject to the TRO and listed in the attached Exhibit A hereto, is in the constructive possession, custody or control of Cohen and/or the Cohen Affiliates;

(d) An order directed to the owners and/or those in possession, care, custody or control of the Otay Mesa Facility to turn over certain property located at the Otay Mesa Facility will aid in Kremen's ability to execute on the Judgment;

1 **III. San Ysidro Facility.**

2 (a) Kremen has shown that Cohen is the owner of certain personal property located at 4650
3 Border Village Road, San Ysidro, California 92173 (the "San Ysidro Facility");

4 (b) Kremen has determined the nature and extent of the assets in the constructive possession,
5 custody or control of Cohen and the Cohen Affiliates located at the San Ysidro Facility;

6 (c) The personal property located at the San Ysidro Facility, subject to the TRO and listed in
7 the attached Exhibit A hereto, is in the constructive possession, custody or control of Cohen and/or the
8 Cohen Affiliates;

9 (d) An order directed to the owners and/or those in possession, care, custody or control of the
10 Otay Mesa Facility to turn over certain property located at the San Ysidro Facility will aid in Kremen's
11 ability to execute on the Judgment;

12 **IV. Cohen Affiliated Entities.**

13 (a) Kremen has shown that the Cohen Affiliated Entities are companies actually or
14 beneficially owned by Cohen and/or others acting in concert with Cohen to avoid paying Kremen the
15 Judgment amount;

16 (b) All assets of the Cohen Affiliated Entities (including but not limited to any and all
17 personal, tangible or intangible property, real property, bank accounts, accounts receivable, contracts,
18 Domain Names, customer lists, customers, vendor relationships, ASN numbers, IP addresses, BGP-4
19 routing tables and telephone numbers) are deemed to be held in constructive trust for the benefit of
20 Kremen;

21 (c) An order turning over any tangible or intangible property of the Cohen Affiliated Entities
22 will aid in Kremen's ability to execute on the Judgment;

23 **V. Domain Names.**

24 (a) Kremen has shown that Cohen and/or the Cohen Affiliates are the registrant owners of
25 the following domain names (the "Domain Names"):

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	DOMAIN NAME	REGISTRANT	INTERNET SERVICE PROVIDER, REGISTRAR, REGISTRY OR EMAIL PROVIDER
1	Bajatel.com	Sand Man International (In legal lock)	Network Solutions, LLC
2	Bajatel.net	(In Legal Lock)	Network Solutions, LLC
3	Ezhotmail.com	Ocean Fund International (In legal lock)	Network Solutions, LLC
4	montanoproperties.com	Montano Properties LLC (In legal lock)	Network Solutions, LLC
5	Nudistcamps.com	Ocean Fund International, Ltd. (In legal lock)	Network Solutions, LLC
6	Thead.com	Sand Man International. (In legal lock)	Network Solutions, LLC
7	Stonedoctors.com	(In Legal Lock)	Network Solutions, LLC
8	17q.com	Speednet Ltd.	Namescout Corp. (via Versign, Inc.)
9	Babyrock.com	WL Com Del Noroeste, SA de CV	Go Daddy Software, Inc.
10	Bajacom.com	WL Com Del Noroeste, SA de CV	Namescout Corp. (via Versign, Inc.)
11	Bajacom.net	WL Com Del Noroeste, SA de CV	Namescout Corp. (offshore, to be changed at Versign, Inc.)
12	Lalifestyles.com	WL Com Del Noroeste, SA de CV	Go Daddy Software, Inc.
13	4fuck.info	Speednet Ltd.	Afilias USA, Inc.
14	4fuck.net	Speednet Ltd.	Go Daddy Software, Inc.
15	Ezfuck.net	Speednet Ltd.	Go Daddy Software, Inc.
16	Ezhotfuckers.com	Speednet Ltd.	Go Daddy Software, Inc.
17	Ezhotfuckers.net	Speednet Ltd.	Go Daddy Software, Inc.
18	Fuckinglove.com	Speednet Ltd.	Go Daddy Software, Inc.
19	Fuckinglove.net	Speednet Ltd.	Go Daddy Software, Inc.
20	Letsfuckandsuck.com	Speednet Ltd.	Go Daddy Software, Inc.
21	Letsfuckandsuck.net	Speednet Ltd.	Go Daddy Software, Inc.
22	Love2fuck.net	Speednet Ltd.	Go Daddy Software, Inc.
23	Nastydate.com	Sandman International, Ltd., SA de CV	Network Solutions, LLC
24	Wantafuck.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
25	Wefuck.net	Speednet Ltd.	Go Daddy Software, Inc.
26	Welove2fuck.com	Speednet Ltd.	Go Daddy Software, Inc.
27	Welove2fuck.net	Speednet Ltd.	Go Daddy Software, Inc.
	Worldfucking.com	Speednet Ltd.	Go Daddy Software, Inc.
	Worldfucking.net	Speednet Ltd.	Go Daddy Software, Inc.
	Nastydate.com	Sandman International, Ltd., SA de CV	Network Solutions, LLC
	14n.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	7us.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Bolersmensclub.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
	Bolerotijuana.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
	Cybertravel.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Desnudo noticias.com	WL Com del Noroeste, SA de CV	Go Daddy Software, Inc.
	Desnudo noticias.net	WL Com del Noroeste, SA de CV	Go Daddy Software, Inc.

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	DOMAIN NAME	REGISTRANT	INTERNET SERVICE PROVIDER, REGISTRAR, REGISTRY OR EMAIL PROVIDER
1	Dreunervo.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
2	Earthstation5.org	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
3	Eqchat.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
4	Eqsecrets.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
5	Es5.be	Speednet Ltd.	Versign GRS
6	Es5.cc	WL Com Del Noroeste, SA de CV	Versign GRS
7	Es5.com	WL Com Del Noroeste, SA de CV	Namescout Corp. (offshore, to be changed at Versign, Inc.)
8	Es5.info	EarthstationV, Ltd.	Afilias USA, Inc.
9	Es5.org.uk	Speednet, Ltd.	Versign GRS
10	Ezcallme.com	EZCallMe Ltd.	Onlinenic, Inc.
11	Ezcallme.net	EZCallMe Ltd.	Onlinenic, Inc.
12	Ezcallme.org	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
13	Ezdateme.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
14	Ezfuckme.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
15	Fastcalled.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
16	Fastcalled.net	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
17	Fuckersnet.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
18	Fuckheads.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
19	Go15.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
20	Granjasdelmar.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
21	Happyfuckers.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
22	Intseafarms.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
23	Ladyfuck.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
24	Ladyfuckers.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
25	Livevideodate.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
26	Mexicolending.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
27	Mexicolending.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Net-speed.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Oceantel.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Orientalfucking.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	P2news.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
	P2news.info	WL Com Del Noroeste, SA de CV	Afilias USA, Inc.
	P2news.net	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
	Seafarmsint.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Speed-net.com	WL Com Del Noroeste, SA de CV	Namescout Corp. (via Versign, Inc.)
	Speed-net.net	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	Thefuckers.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
	W82.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.

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DOMAIN NAME	REGISTRANT	INTERNET SERVICE PROVIDER, REGISTRAR, REGISTRY OR EMAIL PROVIDER
Wantaeatme.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
Wantaeatpussy.com	WL Com Del Noroeste, SA de CV	Wild West Domains, Inc.
Wantafuck.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
Youwannafuck.com	WL Com Del Noroeste, SA de CV	Onlinenic, Inc.
Earthstation5.com	Speednet Ltd. A Vanuatu Corporation	Namescout Corp. (via Versign, Inc.)
Earthstation5.net	Speednet Ltd. A Vanuatu Corporation	Namescout Corp. (via Versign, Inc.)
Corenoc.net	WL Com Del Noroeste, SA de CV	Go Daddy Software, Inc.
Globalteleport.com	Global Teleport-using Wlcom.com.mx Domain Servers and Cohen PO Box	Go Daddy Software, Inc.

(b) An order directed to the internet service providers, registrars, registries and/or electronic mail ("email") providers of the Domain Names, directing them to turn over the Domain Names, will aid in Kremen's ability to execute on the Judgment;

VI. Bank Accounts.

(a) Kremen has shown that Cohen and/or the Cohen Affiliates are the actual or beneficial owners of the following bank accounts (the "Bank Accounts"):

Bank	Account Number	Name on Account
Washington Mutual	4291344657	Miguel Betancourt
San Diego National Bank	1700187680	Miguel Betancourt
MBNA	10014000265	Stephen Cohen
Wells Fargo	784364614	Stephen Cohen
Wells Fargo	784964614	Stephen Cohen
Wells Fargo	2000455358	FastCalled, Inc.
Wells Fargo	8350041250	Miguel Betancourt
MBNA	10014000265	Stephen Cohen

(b) An order directed to the banks maintaining the Bank Accounts, directing them to turn over the Bank Accounts, will aid in Kremen's ability to execute on the Judgment;

1 VII. Receiving Facilities.

2 (a) Kremen has shown that Cohen and those acting in concert with Cohen have used the
3 following receiving facilities (the "Receiving Facilities") to receive personal property and
4 correspondence in an effort to evade Kremen's Judgment:

- 5 o 511 E. San Ysidro Boulevard, #246, San Ysidro, CA 92173
- 6 o 4650 Border Village Road, San Ysidro, CA 92143
- 7 o P.O. Box 530069, San Diego, CA 91253
- 8 o 8675 Avenida Costa Norte, Suite A, San Diego, CA 92154
- 9 o 482 W. San Ysidro Boulevard, Suite 190, San Ysidro, CA 92173
- 10 o P.O. Box 433168, San Diego, CA 92143

11 (b) An order directed to the owners and/or those in possession, care, custody or control of the
12 Receiving Facilities, directing them to turn over all property and correspondence received at the above-
13 referenced addresses, will aid in Kremen's ability to execute on the Judgment by allowing Kremen to
14 inventory the property and correspondence received at the Receiving Facilities and determine the nature
15 and extent of the payments, correspondence related to payments and other assets of Cohen and personal
16 property sent to Cohen and/or the Cohen Affiliates at the Receiving Facilities;

17 IX. Cohen Affiliated Individuals

18 (a) Kremen has shown that the Cohen Affiliated Individuals have acted in concert with
19 Cohen to evade, avoid or otherwise make more difficult Kremen's collection efforts on the Judgment.
20 Kremen has further shown that the Cohen Affiliated Individuals have actively aided and abetted Cohen
21 in disobeying previous orders issued by this Court;

22 (b) An order directed to the Cohen Affiliated Individuals, that they be prevented from further
23 assisting Cohen and/or the Cohen Affiliates from evading, avoiding and making more difficult Kremen's
24 collection efforts on the Judgment, will aid in Kremen's ability to execute on the Judgment;

25 (c) All assets of the Cohen Affiliated Individuals that are deemed to originate from Cohen or
26 those acting in concert with Cohen are deemed to be held in constructive trust for the benefit of Kremen;

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1 X. Further Encumbrance of Assets Held in Constructive Trust of Cohen

2 (a) Kremen has shown that Cohen and those acting in concert with Cohen have encumbered
3 Cohen's assets, to the detriment of Kremen, by increasing debt and obtaining credit lines and other debt
4 instruments;

5 (b) Kremen has shown that Cohen and/or those acting in concert with Cohen have utilized
6 the following debt accounts, all paid by Cohen, to encumber Cohen's assets (the "Credit Card
7 Accounts"):

Company	Account Numbers	Holder	Authorized Signators and Respective Sub-Accounts
AMEX ¹	3722-625133-8100	Stephen Cohen for Omnitec	Stephen Cohen
AMEX	3713-880200-02002	Stephen Cohen	Stephen Cohen
AMEX	3727-119940-1107	Stephen Cohen	Jack Brownfield (3727-119940-11056) Miguel Betancourt (3727-119940-11031)
AMEX	3715-502526-61009	Steve Cohen for WL Com Noroeste, SA de CV	Miguel Betancourt (3715-502526-61017) Jhuliana Cohen (3715-502526-61025)
AMEX	3723-147459-05005	Stephen Cohen	Stephen Cohen
AMEX	3723-147459-04008	Stephen Cohen	Stephen Cohen
AMEX	3727-119940-12005	Stephen Cohen for Pacnet SA de CV	Jack Brownfield (3727-119940-12054)
AMEX	3783-475421-84006	Stephen Cohen for sex.com	Rosa Armida Cohen (3783-475421-81028)
AMEX	3713-880200-03000	Stephen Cohen	Rosa Cohen (3713-880200-03034)
AMEX	3783-475421-85003	Stephen Cohen	Stephen Cohen
AMEX	3783-475421-87009	Stephen Cohen for sex.com	Stephen Cohen
AMEX	3783-475421-86001	Stephen Cohen for sex.com	Stephen Cohen
AMEX	3727-147459-02002	Stephen Cohen	Stephen Cohen
Citibank ²	5410-6545-2487-4812	Stephen Cohen	Stephen Cohen
Citibank	4271-3821-0079-3484	Stephen Cohen	Stephen Cohen
Citibank	5410-6546-4697-4615	Stephen Cohen	Stephen Cohen

25 ¹ AMEX as used herein refers to American Express Company, a New York Corporation.

26 ² Citibank as used herein refers to Citigroup, Inc.