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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Plaintiff,

v.

BAYONE REAL ESTATE INVESTMENT
CORPORATION, et al.,

Defendants.

Case No. [15-cv-02248-BLF](#)

**ORDER (1) DISSOLVING ORDER TO
SHOW CAUSE; AND (2) STRIKING
THIRD-PARTY DEFENDANT SARAH
HUANG'S MOTION TO DISMISS
WITHOUT PREJUDICE TO RE-FILING**

[Re: ECF 27]

On October 15, 2015, the Court ordered Third-Party Defendant Sarah Huang's attorney of record, Kent Pearce Tierney, to show cause why Third-Party Defendant Sarah Huang's motion to dismiss should not be stricken for practicing law without being a member of the bar of this Court. ECF 27. On October 30, 2015, Mr. Tierney filed a response to the order to show cause. ECF 34. Mr. Tierney's response indicates that he has now filed a petition admission with the Clerk. *Id.* at 2, 4-5. According to Mr. Tierney, he never intended to practice law without being a member of this Court and that he immediately filed a petition for admission immediately upon notice by this Court.¹ *Id.* at 2. Mr. Tierney's response explains that his business partner, Michael Mercado prepared Ms. Huang's motion to dismiss and it is Mr. Mercado's signature that appears on the motion to dismiss. *Id.* at 2-3.

The Court's records indicate that Mr. Tierney's petition for admission was granted effective October 15, 2015. Accordingly, based on Mr. Tierney's response, the Court dissolves

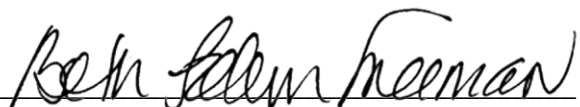
¹ Although Mr. Tierney immediately filed for petition for admission after being notified by this Court, the Court notes that Mr. Tierney was previously notified in August 2015 by another court in this district about his inactive status and Mr. Tierney failed to take any action despite indicating that he would do so. Mr. Tierney's response did not explain Mr. Tierney's failure to act after being notified in August 2015.

1 the order to show cause and will not strike the motion to dismiss for practicing law without being
2 a member of the bar of this Court. However, Third-Party Defendant Sarah Huang’s motion to
3 dismiss was signed by Mr. Mercado who is not an attorney of record in this case. The Federal
4 Rules of Civil Procedure do not allow an attorney who has not appeared to sign a pleading. *See*
5 Fed R. Civ. P. 11(a) (“Every pleading, written motion, and other paper must be signed by at least
6 one attorney of record.”).

7 Accordingly, the Court STRIKES Third-Party Defendant Sarah Huang’s motion to dismiss
8 for not being signed by an attorney of record. Third-Party Defendant Sarah Huang may re-file the
9 motion to dismiss in accordance with the rules. Finally, the Court notes that this case is scheduled
10 for a case management conference on November 19, 2015 at 11 a.m. Counsel for Ms. Huang
11 failed to appear at the previously scheduled case management conference on October 15, 2015.
12 The Court expects all parties to comply with the Federal Rules of Civil Procedure, Civil Local
13 Rules² and the Court’s standing orders.

14 **IT IS SO ORDERED.**

15 Dated: November 2, 2015

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17 BETH LABSON FREEMAN
18 United States District Judge

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27 ² The Court notes that Mr. Tierney’s response to the Court’s order to show cause appears to have
28 been scanned and filed. The Court reminds the parties of Civil L.R. 5-1(e)(2) which indicates that
“[d]ocuments which the filer has in an electronic format must be converted to PDF from the word
processing original, not scanned, to permit text searches and to facilitate transmission and
retrieval.”