

FILED

MAR 30 2015

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT**UNITED STATES BANKRUPTCY APPELLATE PANEL****OF THE NINTH CIRCUIT**

In re:)	BAP Nos.	NV-15-1048
)		NV-15-1064
DEBRA LEIGH JACOBS,)		(Cross-Appeals)
)		
Debtor.)	Bk. No.	2:04-bk-19619-GS
_____)		
)		
DEBRA LEIGH JACOBS,)		
)		
Appellant/)		
Cross-Appellee,)		
v.)	ORDER TRANSFERRING CROSS-	
)	APPEALS TO THE UNITED	
BRAIN POWER AMERICA INC.;)	STATES DISTRICT COURT	
JOHN W. MUIJE,)		
)		
Appellees/)		
Cross-Appellants.)		
_____)		

Before: KIRSCHER, PAPPAS and DUNN, Bankruptcy Judges.

By order entered March 30, 2015, the Panel overruled the untimely election filed by appellees/cross-appellants. However, a third appeal has been filed wherein the appellant timely elected to have the appeal heard by the U.S. district court (USDC no. 2:15-cv-00533-JAD). The three appeals have identical parties and similar subject matter, though the third appeal is from a different order. There is some potential that inconsistent rulings could result from the three appeals being heard before different courts.

Under 9th Cir. BAP Rule 8001(e)-1(a),

The Panel may transfer an appeal to the district court to further the interests of justice, such as when a timely statement of election has been filed in a related appeal, or for any other reason the Panel deems appropriate.

The Panel finds that it would be in the interests of justice and judicial economy for these cross-appeals to proceed before the United States District Court.

Therefore, these cross-appeals are hereby ORDERED TRANSFERRED to the United States District Court for the District of Nevada.

1 CHRISTOPHER P. BURKE, ESQ.
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218 S. Maryland Pkwy.
3 Las Vegas, Nevada 89101
(702) 385-7987
4 Attorney for Debtor

ECF Filed on 2/10/15

5
6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8
9 In re:
10 **DEBRA LEIGH JACOBS,**
11 Debtor.

Case No.: BK-S-04-19619-GS
Chapter 13

12
13 **NOTICE OF APPEAL**

14 COME NOW, Debra Leigh Jacobs, by and through her counsel, Christopher P. Burke,
15 Esq., and hereby appeals under 28 U.S.C. §158(a) the Bankruptcy Court's Order Addressing
16 Various Requests for Relief and Briefly Maintaining Open Status of File, entered on January
17 27, 2015 in the above entitled matter. (See Ex. 'A' Dkt. #224). The Parties to the Appeal of
18 this Order and the names and addresses of their respective attorneys are as follows:

19
20 Debra L. Jacobs
c/o Christopher P. Burke Esq.
21 218 S. Maryland Parkway
22 Las Vegas, NV 89101

Brain Power America Inc.
and John W. Muije
c/o John W. Muije, Esq.
1840 E. Sahara Ave. #106
Las Vegas, NV 89104

23 Dated this 10th day of February, 2015

24 /S/ CHRISTOPHER P. BURKE, ESQ.
CHRISTOPHER P. BURKE, ESQ.
25 Nevada Bar. No.: 004093
26 218 S. Maryland Pkwy.
Las Vegas, NV 89101
27 (702) 385-7987
Attorney for Debtor

28

Ex. A

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Honorable Gary Spraker
United States Bankruptcy Judge



Entered on Docket
January 27, 2015

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ORDER
JOHN W. MUIJE & ASSOCIATES
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

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In Re:

DEBRA L. JACOBS,

Debtor(s).

Case No: BK-S-04-19619-GS
Chapter 13
Date of Hearing: Dec. 15, 2014
Time of Hearing: 2:30 P.M.

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23
24

ORDER ADDRESSING VARIOUS REQUESTS FOR RELIEF AND
BRIEFLY MAINTAINING OPEN STATUS OF FILE

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This matter came on for hearing upon the Debtor's Motion to Reopen Chapter 13 Case and to Hold John W. Muje and Brain Power America Incorporated In Contempt (Docket No. 193), the Court having considered the parties briefing regarding the same and having entered a preliminary

1 Order providing for the limited reopening of the case (Docket No. 206), and having requested
2 supplemental briefing regarding perfection of Brain Power America, Inc.(hereinafter "Brain Power")
3 judgment lien *vis a vis* the subsequently recorded homestead of the debtor, pursuant to the Court's
4 prior ordered Brain Power also having filed a Motion for Rule 9011 Sanctions against the Debtor
5 and her counsel, Christopher Burke, the Court having very carefully reviewed and considered the
6 various pleadings, briefs, and documents on file herein and having reviewed the applicable case law
7 and good cause appearing,

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court entertained
9 a final hearing on the time and date noted above, after having afforded the parties an opportunity to
10 file supplemental briefs on or about December 8, 2014;

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Brain Power was
12 represented by John W. Muije of the firm of John W. Muije & Associates, and the Debtor, Debra
13 L. Jacobs was represented by Christopher Burke, with both counsel present in Court;

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court carefully
15 reviewed the Points and Authorities submitted by the parties, and read the applicable case law;

16 **IT IS FURTHER ORDERED, ADJUDGED AN DECREED** that the Court specifically
17 finds and holds that neither Brian Power America, Inc. nor its attorney, John W. Muije were in
18 contempt of court;

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court specifically
20 finds and holds that neither Brain Power America, Inc. or its attorney John W. Muije violated either
21 the automatic stay or the discharge injunction;

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Debtor's reliance on
23 the Nevada Supreme Court decision in *Contrevo* is misplaced, insofar as *Contrevo* deals with a
24 different set of facts, i.e., a homestead which was perfected prior to the recording of the judgment
25 lien;

26

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1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Debtor's citation
2 to the Nevada Supreme Court decisions in Herndon vs. Grilz, 112 Nev., 873, 878 and In Re Wally's
3 Estate, 11 Nev. 259, 264-265 (1876) are misplaced, insofar as both cases merely reaffirm the long-
4 standing Nevada proposition that a homestead can be recorded and perfected at any time prior to a
5 judicial sale to preclude or prevent said judicial sale, but that neither case reached the issue as to the
6 validity of a perfected judgment lien upon a subsequently recorded homestead;

7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court expressly
8 finds and holds that Brain Power properly perfected its original judgment lien herein in October,
9 2002, and that the Debtor never appealed nor properly challenged the same, despite being aware of
10 the renewal of that judgment lien in 2008, until the present proceedings;

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that under Nevada law, as
12 applied by this Court, the renewal of an existing judgment lien is a mere ministerial act, acting "*In*
13 *Rem*," and exerts a judgment creditor's rights against the property, and that said judgment lien is
14 perfected only against the property, but not against the original judgment debtor, when the actual
15 underlying judgment debt has been discharged in bankruptcy;

16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** stated in other way, that
17 the judgment lien is perfected and operates *In Rem*, but no longer impacts or has any effect *in*
18 *persona* as regards the Debtor in this case, Debra L. Jacobs;

19 Based upon the above and foregoing, the Court hereby denies, with prejudice, Debtor's
20 Motion to Hold Brain Power and its counsel in contempt or to impose sanctions against them for
21 their conduct in renewing their previously perfected judgment lien.

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court also
23 recognizes that Brain Power and its counsel filed and served a Motion for Rule 9011 Sanctions
24 against Debtor and her counsel in these proceedings;

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court finds that
26 the filing of the original Motion for Contempt was not brought in bad faith, insofar as the factual
27 pattern and the legal issues bearing thereon were complex. A substantial amount of review,
28

1 consideration, and research were even necessary for the Court, in determining the interplay between
2 the bankruptcy process, Nevada homestead laws, and Nevada judgment lien and judgment creditor
3 rights, and accordingly, the Court denies without prejudice the request for 9011 Sanctions as against
4 Debtor and her counsel, Christopher P. Burke.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, based upon the request
6 of Christopher P. Burke in open Court, that this case will remain open for an additional 45 days
7 subsequent to the entry of this Order, in order to deal with and address any administrative matters
8 that may arise.

9 DATED this _____ day of _____, 20____.

10
11 UNITED STATES BANKRUPTCY JUDGE

12 Submitted by:
13 JOHN W. MUIJE & ASSOCIATES

14
15 By: 
16 JOHN W. MUIJE, ESQ.
17 Nevada Bar No. 2419
18 1840 E. Sahara Ave #106
19 Las Vegas, Nevada 89104
20 Telephone: 702-386-7002
Facsimile No: 702-386-9135
E-Mail: jmuije@mujelawoffice.com
Attorneys for Plaintiff/Creditor
Brain Power America Incorporated

21 APPROVED/DISAPPROVED:

22 By: See Attached
23 Christopher P. Burke, Esq.
24 Nevada Bar No. 004093
25 218 South Maryland Parkway
26 Las Vegas, Nevada 89101
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Attorney for Debtors
for this proceeding only

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Phone: (702) 386-7002 Fax: (702) 386-9135

1 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

2 The court has waived the requirement set forth in LR 9021(b)(1).

3 No party appeared at the hearing or filed an objection to the motion.

4 I have delivered a copy of this proposed order to all counsel who appeared at the hearing,
5 and each has approved or disapproved the order, or failed to respond, as indicated below [list each
6 party and whether the party has approved, disapproved, or failed to respond to the document]:

6 Christopher P. Burke, Esq.
7 Nevada Bar No. 004093
8 218 South Maryland Parkway
9 Las Vegas, Nevada 89101
10 Telephone: 702-385-7987
11 Facsimile: 702-385-7986
12 E-Mail: atty@cburke.lvcoxmail.com
13 *Attorney for Debtors*
14 *for this proceeding only*

11 APPROVED DISAPPROVED FAILED TO TIMELY RESPOND

12 I certify that this is a case under chapter 7 or 13, that I have served a copy of this order with
13 the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

14 JOHN W. MUIJE & ASSOCIATES

15
16 By: 
17 JOHN W. MUIJE, ESQ.
18 Nevada Bar No. 2419
19 1840 E. Sahara Ave #106
20 Las Vegas, Nevada 89104
21 Telephone: 702-386-7002
22 Facsimile No: 702-386-9135
23 E-Mail: jmuje@mujelawoffice.com
24 *Attorneys for Plaintiff/Creditor*
25 *Brain Power America Incorporated*

26 R:\K Files\Southern Nevada Optical.K530\MBK File\Pleadings\12.15.14 Order.wpd

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1 JOHN W. MUIJE & ASSOCIATES
2 JOHN W. MUIJE, ESQ.
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4 1840 East Sahara Avenue, Suite 106
5 Las Vegas, Nevada 89104
6 Telephone: 702-386-7002
7 Facsimile: 702-386-9135
8 Email: jmuije@muijelawoffice.com
9 *Attorneys for Creditor and*
10 *Counsel, individually*

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

DEBRA LEIGH JACOBS,

Debtor.

CASE NO: BK-S-04-19619-GS

CHAPTER 13

NOTICE OF CROSS-APPEAL

COME NOW, BRAIN POWER AMERICA, INC., by and through their counsel, JOHN W. MUIJE, ESQ., of the Law Offices of JOHN W. MUIJE & ASSOCIATES, and hereby appeals under 28 U.S.C. §158(a) and B.R. 8002(a)(3), the Bankruptcy Court's Order Addressing Various Requests for Relief and Briefly Maintaining Open Status of File, entered on January 27, 2015 in the above-

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entitled matter. (See Ex. "A", Docket #224). The Parties to the Appeal of this Order and the names and addresses of their respective attorneys are as follows:

Brain Power America, Inc.
and John W. Muije
c/o John W. Muije, Esq.
1840 East Sahara Avenue
Suite 106
Las Vegas, Nevada 89104

Debra L. Jacobs
c/o Christopher P. Burke, Esq.
218 South Maryland Parkway
Las Vegas, Nevada 89101

DATED this 24th day of February, 2015.



JOHN W. MUIJE, ESQ.
Nevada Bar No. 2419
1840 East Sahara Avenue, Suite 106
Las Vegas, Nevada 89104
Telephone: (702) 386-7002
Attorney for Creditor and Counsel, individually

EXHIBIT “A”

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Honorable Gary Spraker
United States Bankruptcy Judge



Entered on Docket
January 27, 2015

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ORDER
JOHN W. MUIJE & ASSOCIATES
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Attorneys for Plaintiff/Creditor
Brain Power America Incorporated

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:

DEBRA L. JACOBS,

Debtor(s).

Case No: BK-S-04-19619-GS
Chapter 13
Date of Hearing: Dec. 15, 2014
Time of Hearing: 2:30 P.M.

**ORDER ADDRESSING VARIOUS REQUESTS FOR RELIEF AND
BRIEFLY MAINTAINING OPEN STATUS OF FILE**

This matter came on for hearing upon the Debtor's Motion to Reopen Chapter 13 Case and to Hold John W. Muje and Brain Power America Incorporated In Contempt (Docket No. 193), the Court having considered the parties briefing regarding the same and having entered a preliminary

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1 Order providing for the limited reopening of the case (Docket No. 206), and having requested
2 supplemental briefing regarding perfection of Brain Power America, Inc.(hereinafter "Brain Power")
3 judgment lien *vis a vis* the subsequently recorded homestead of the debtor, pursuant to the Court's
4 prior ordered Brain Power also having filed a Motion for Rule 9011 Sanctions against the Debtor
5 and her counsel, Christopher Burke, the Court having very carefully reviewed and considered the
6 various pleadings, briefs, and documents on file herein and having reviewed the applicable case law
7 and good cause appearing,

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court entertained
9 a final hearing on the time and date noted above, after having afforded the parties an opportunity to
10 file supplemental briefs on or about December 8, 2014;

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Brain Power was
12 represented by John W. Muje of the firm of John W. Muje & Associates, and the Debtor, Debra
13 L. Jacobs was represented by Christopher Burke, with both counsel present in Court;

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25 lien;

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1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Debtor's citation
2 to the Nevada Supreme Court decisions in Herndon vs. Gritz, 112 Nev., 873, 878 and In Re Wally's
3 Estate, 11 Nev. 259, 264-265 (1876) are misplaced, insofar as both cases merely reaffirm the long-
4 standing Nevada proposition that a homestead can be recorded and perfected at any time prior to a
5 judicial sale to preclude or prevent said judicial sale, but that neither case reached the issue as to the
6 validity of a perfected judgment lien upon a subsequently recorded homestead;

7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court expressly
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9 2002, and that the Debtor never appealed nor properly challenged the same, despite being aware of
10 the renewal of that judgment lien in 2008, until the present proceedings;

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that under Nevada law, as
12 applied by this Court, the renewal of an existing judgment lien is a mere ministerial act, acting "*In*
13 *Rem*," and exerts a judgment creditor's rights against the property, and that said judgment lien is
14 perfected only against the property, but not against the original judgment debtor, when the actual
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16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** stated in other way, that
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18 *persona* as regards the Debtor in this case, Debra L. Jacobs;

19 Based upon the above and foregoing, the Court hereby denies, with prejudice, Debtor's
20 Motion to Hold Brain Power and its counsel in contempt or to impose sanctions against them for
21 their conduct in renewing their previously perfected judgment lien.

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24 against Debtor and her counsel in these proceedings;

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26 the filing of the original Motion for Contempt was not brought in bad faith, insofar as the factual
27 pattern and the legal issues bearing thereon were complex. A substantial amount of review,
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1 consideration, and research were even necessary for the Court, in determining the interplay between
2 the bankruptcy process, Nevada homestead laws, and Nevada judgment lien and judgment creditor
3 rights, and accordingly, the Court denies without prejudice the request for 9011 Sanctions as against
4 Debtor and her counsel, Christopher P. Burke.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, based upon the request
6 of Christopher P. Burke in open Court, that this case will remain open for an additional 45 days
7 subsequent to the entry of this Order, in order to deal with and address any administrative matters
8 that may arise.

9 DATED this ____ day of _____, 20__.

11 UNITED STATES BANKRUPTCY JUDGE

12 Submitted by:
13 JOHN W. MUIJE & ASSOCIATES

14
15 By: 
16 JOHN W. MUIJE, ESQ.
17 Nevada Bar No. 2419
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20 Telephone: 702-386-7002
Facsimile No: 702-386-9135
E-Mail: jmuje@mujelawoffice.com
Attorneys for Plaintiff/Creditor
Brain Power America Incorporated

21 APPROVED/DISAPPROVED:

22 By: See Attached
23 Christopher P. Burke, Esq.
24 Nevada Bar No. 004093
25 218 South Maryland Parkway
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Phone: (702) 386-7002 Fax: (702) 386-9135

1 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

2 The court has waived the requirement set forth in LR 9021(b)(1).

3 No party appeared at the hearing or filed an objection to the motion.

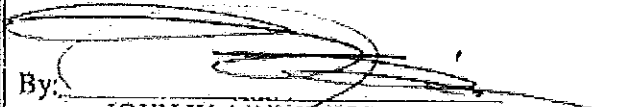
4 I have delivered a copy of this proposed order to all counsel who appeared at the hearing,
5 and each has approved or disapproved the order, or failed to respond, as indicated below [list each
6 party and whether the party has approved, disapproved, or failed to respond to the document]:

6 Christopher P. Burke, Esq.
7 Nevada Bar No. 004093
8 218 South Maryland Parkway
9 Las Vegas, Nevada 89101
10 Telephone: 702-385-7987
11 Facsimile: 702-385-7986
12 E-Mail: atty@cburke.lycoxmail.com
13 *Attorney for Debtors*
14 *for this proceeding only*

15 APPROVED DISAPPROVED FAILED TO TIMELY RESPOND

16 I certify that this is a case under chapter 7 or 13, that I have served a copy of this order with
17 the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

18 JOHN W. MUJJE & ASSOCIATES

19 By: 
20 JOHN W. MUJJE, ESQ.
21 Nevada Bar No. 2419
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23 Las Vegas, Nevada 89104
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25 Facsimile No: 702-386-9135
26 E-Mail: jmujje@mujjelawoffice.com
27 *Attorneys for Plaintiff/Creditor*
28 *Brain Power America Incorporated*

29 BAR Files\Southern Nevada Optical\K5301\BK File\lending\12.15.14 Order.wpd

1 JOHN W. MUIJE & ASSOCIATES
2 JOHN W. MUIJE, ESQ.
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6 Telephone: 702-386-7002
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8 Email: jmuije@muijelawoffice.com
9 *Attorneys for Creditor and*
10 *Counsel, individually*

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

DEBRA LEIGH JACOBS,

Debtor.

CASE NO: BK-S-04-19619-GS

CHAPTER 13

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COME NOW, BRAIN POWER AMERICA, INC., by and through their counsel, JOHN W. MUIJE, ESQ., of the Law Offices of JOHN W. MUIJE & ASSOCIATES, and hereby appeals under 28 U.S.C. §158(a) and B.R. 8002(a)(3), the Bankruptcy Court's Order Addressing Various Requests for Relief and Briefly Maintaining Open Status of File, entered on January 27, 2015 in the above-

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Brain Power America, Inc.
and John W. Muije
c/o John W. Muije, Esq.
1840 East Sahara Avenue
Suite 106
Las Vegas, Nevada 89104

Debra L. Jacobs
c/o Christopher P. Burke, Esq.
218 South Maryland Parkway
Las Vegas, Nevada 89101

DATED this 24th day of February, 2015.



JOHN W. MUIJE, ESQ.
Nevada Bar No. 2419
1840 East Sahara Avenue, Suite 106
Las Vegas, Nevada 89104
Telephone: (702) 386-7002
Attorney for Creditor and Counsel, individually

EXHIBIT “A”

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January 27, 2015

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ORDER
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Attorneys for Plaintiff/Creditor
Brain Power America Incorporated

**UNITED STATES BANKRUPTCY COURT
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In Re:

DEBRA L. JACOBS,

Debtor(s).

Case No: BK-S-04-19619-GS
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Date of Hearing: Dec. 15, 2014
Time of Hearing: 2:30 P.M.

**ORDER ADDRESSING VARIOUS REQUESTS FOR RELIEF AND
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This matter came on for hearing upon the Debtor's Motion to Reopen Chapter 13 Case and to Hold John W. Muje and Brain Power America Incorporated In Contempt (Docket No. 193), the Court having considered the parties briefing regarding the same and having entered a preliminary

LAW OFFICES
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1 Order providing for the limited reopening of the case (Docket No. 206), and having requested
2 supplemental briefing regarding perfection of Brain Power America, Inc.(hereinafter "Brain Power")
3 judgment lien *vis a vis* the subsequently recorded homestead of the debtor, pursuant to the Court's
4 prior ordered Brain Power also having filed a Motion for Rule 9011 Sanctions against the Debtor
5 and her counsel, Christopher Burke, the Court having very carefully reviewed and considered the
6 various pleadings, briefs, and documents on file herein and having reviewed the applicable case law
7 and good cause appearing,

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court entertained
9 a final hearing on the time and date noted above, after having afforded the parties an opportunity to
10 file supplemental briefs on or about December 8, 2014;

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Brain Power was
12 represented by John W. Muje of the firm of John W. Muje & Associates, and the Debtor, Debra
13 L. Jacobs was represented by Christopher Burke, with both counsel present in Court;

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court carefully
15 reviewed the Points and Authorities submitted by the parties, and read the applicable case law;

16 **IT IS FURTHER ORDERED, ADJUDGED AN DECREED** that the Court specifically
17 finds and holds that neither Brain Power America, Inc. nor its attorney, John W. Muje were in
18 contempt of court;

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court specifically
20 finds and holds that neither Brain Power America, Inc. or its attorney John W. Muje violated either
21 the automatic stay or the discharge injunction;

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Debtor's reliance on
23 the Nevada Supreme Court decision in *Contrevo* is misplaced, insofar as *Contrevo* deals with a
24 different set of facts, i.e., a homestead which was perfected prior to the recording of the judgment
25 lien;

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1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Debtor's citation
2 to the Nevada Supreme Court decisions in Herndon vs. Gritz, 112 Nev., 873, 878 and In Re Wally's
3 Estate, 11 Nev. 259, 264-265 (1876) are misplaced, insofar as both cases merely reaffirm the long-
4 standing Nevada proposition that a homestead can be recorded and perfected at any time prior to a
5 judicial sale to preclude or prevent said judicial sale, but that neither case reached the issue as to the
6 validity of a perfected judgment lien upon a subsequently recorded homestead;

7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court expressly
8 finds and holds that Brain Power properly perfected its original judgment lien heroin in October,
9 2002, and that the Debtor never appealed nor properly challenged the same, despite being aware of
10 the renewal of that judgment lien in 2008, until the present proceedings;

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that under Nevada law, as
12 applied by this Court, the renewal of an existing judgment lien is a mere ministerial act, acting "*In*
13 *Rem*," and exerts a judgment creditor's rights against the property, and that said judgment lien is
14 perfected only against the property, but not against the original judgment debtor, when the actual
15 underlying judgment debt has been discharged in bankruptcy;

16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** stated in other way, that
17 the judgment lien is perfected and operates *In Rem*, but no longer impacts or has any effect *in*
18 *persona* as regards the Debtor in this case, Debra L. Jacobs;

19 Based upon the above and foregoing, the Court hereby denies, with prejudice, Debtor's
20 Motion to Hold Brain Power and its counsel in contempt or to impose sanctions against them for
21 their conduct in renewing their previously perfected judgment lien.

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court also
23 recognizes that Brain Power and its counsel filed and served a Motion for Rule 9011 Sanctions
24 against Debtor and her counsel in these proceedings;

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court finds that
26 the filing of the original Motion for Contempt was not brought in bad faith, insofar as the factual
27 pattern and the legal issues bearing thereon were complex. A substantial amount of review,
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1 consideration, and research were even necessary for the Court, in determining the interplay between
2 the bankruptcy process, Nevada homestead laws, and Nevada judgment lien and judgment creditor
3 rights, and accordingly, the Court denies without prejudice the request for 9011 Sanctions as against
4 Debtor and her counsel, Christopher P. Burke.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, based upon the request
6 of Christopher P. Burke in open Court, that this case will remain open for an additional 45 days
7 subsequent to the entry of this Order, in order to deal with and address any administrative matters
8 that may arise.

9 DATED this ____ day of _____, 20__.

11 UNITED STATES BANKRUPTCY JUDGE

12 Submitted by:
13 JOHN W. MUIJE & ASSOCIATES

14
15 By: 
16 JOHN W. MUIJE, ESQ.
17 Nevada Bar No. 2419
18 1840 E. Sahara Ave #106
19 Las Vegas, Nevada 89104
20 Telephone: 702-386-7002
Facsimile No: 702-386-9135
E-Mail: jmuije@mujelawoffice.com
Attorneys for Plaintiff/Creditor
Brain Power America Incorporated

21 APPROVED/DISAPPROVED:

22 By: See Attached
23 Christopher P. Burke, Esq.
24 Nevada Bar No. 004093
25 218 South Maryland Parkway
26 Las Vegas, Nevada 89101
27 Telephone: 702-385-7987
Facsimile: 702-385-7986
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for this proceeding only

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1 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

2 The court has waived the requirement set forth in LR 9021(b)(1).

3 No party appeared at the hearing or filed an objection to the motion.

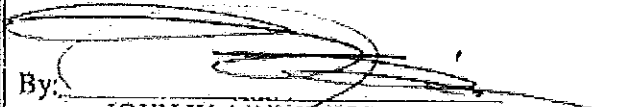
4 I have delivered a copy of this proposed order to all counsel who appeared at the hearing,
5 and each has approved or disapproved the order, or failed to respond, as indicated below [list each
6 party and whether the party has approved, disapproved, or failed to respond to the document]:

6 Christopher P. Burke, Esq.
7 Nevada Bar No. 004093
8 218 South Maryland Parkway
9 Las Vegas, Nevada 89101
10 Telephone: 702-385-7987
11 Facsimile: 702-385-7986
12 E-Mail: atty@cburke.lycoxmail.com
13 *Attorney for Debtors*
14 *for this proceeding only*

15 APPROVED DISAPPROVED FAILED TO TIMELY RESPOND

16 I certify that this is a case under chapter 7 or 13, that I have served a copy of this order with
17 the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

18 JOHN W. MUJJE & ASSOCIATES

19 By: 
20 JOHN W. MUJJE, ESQ.
21 Nevada Bar No. 2419
22 1840 E. Sahara Ave #106
23 Las Vegas, Nevada 89104
24 Telephone: 702-386-7002
25 Facsimile No: 702-386-9135
26 E-Mail: jmujje@mujjelawoffice.com
27 *Attorneys for Plaintiff/Creditor*
28 *Brain Power America Incorporated*

29 BAK Files\Southern Nevada Optical\K5301\BK File\lending\12.15.14 Order.wpd

**U.S. Bankruptcy Appellate Panel
of the Ninth Circuit**

125 South Grand Avenue, Pasadena, California 91105
Appeals from Central California (626) 229-7220
Appeals from all other Districts (626) 229-7225

In Re: DEBRA LEIGH JACOBS

BAP No.: NV-15-1048 & NV-15-1064

Bk. Ct. No.: 04-19619

ADV. NO.:

Bk. Ct. No.: 04-19619

ADV. NO.:

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

The Panel has issued an Order transferring these appeals to the District Court. (Copy of order attached.)

Consequently, these appeals are herewith transferred to your court.

Susan M Spraul, BAP Clerk

By: Edwina Clay, Deputy Clerk

Date: March 30, 2015

Please acknowledge receipt of
the case file listed above.

Dated: _____

Signed: _____

District Court Deputy

Assigned District Court No.

cc: Bankruptcy Court
All Parties