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2 FILED
3 April 11, 2003

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5
6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA

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9 In re:) Bankruptcy Case
10 STUDIO 2000 USA, INC.,) No. 02-32634-TC
a corporation,) Chapter 11
11)
12 Debtor.) **MEMORANDUM RE**
SANCTIONS

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15 On March 14, 2003, the court held a hearing regarding Timea
16 Terestyak's motion for sanctions, and regarding the court's order
17 to show cause why sanctions should not be imposed. Albert M. Kun
18 appeared for respondents Jozsefne Bajkai, Zoltan Gyula, Kinga
19 Spanitz, and Albert M. Kun (Respondents). Lawrence D. Murray
20 appeared for movant Timea Terestyak.

21 Upon due consideration, and for the reasons set forth below,
22 which shall constitute the court's findings of fact and conclusions
23 of law, the court determines that Respondent Albert M. Kun has
24 violated Rule 9011 of the Federal Rules of Bankruptcy Procedure,
25 and has also attempted to deceive this court in violation of
26 Civil Local Rule 11-4(a)(1)-(4) and Rule 5-200(B) of the Rules of
27 Professional Conduct of the State Bar of California. Kun shall

28 **MEMORANDUM RE SANCTIONS**

1 pay Terestyak the sum of \$7,500. I determine that the other
2 Respondents have not been properly served, and deny relief against
3 those parties without prejudice.

4 **BACKGROUND**

5 In the course of handling a marital dissolution proceeding
6 between Timea Terestyak and Zoltan Gyula, the San Mateo Superior
7 Court made certain findings and orders regarding Studio 2000 USA,
8 Inc., the corporation that later became the debtor in this case
9 (the Corporation).

10 In November 2001, Neiman's Coffee Shop, previously held in
11 the name of the Corporation, was placed under the control of
12 Terestyak by stipulation of the parties. See Superior Court Order,
13 at 2, ¶ 1.

14 In August 2002, the Superior Court found that both the
15 Corporation and its parent corporation, Studio 2000 Hungary
16 Wholesale Inc. (the Hungarian Corporation), were alter egos of
17 Gyula and assets of the marital community.

18 Respondent Gyula is and has been the sole owner of the
19 Studio 2000 Hungary Wholesale, (Hungarian corporation)
20 as well as its subsidiary, Studio 2000 U.S.A. Inc, and
21 has acted consistently in the past [sic] treated the
22 assets of both corporations as if it were his personal
property, commingling such funds, failing to act in the
corporate format, and using the corporate assets to pay
for his own expenses and not the expenses of the
corporation.

23 Id. at ¶ 2.

24 Shortly thereafter, Gyula caused the Corporation "as though
25 it were a separate entity" to file an action against Terestyak
26 asserting an interest in Neiman's Coffee Shop. Id. at ¶ 3.

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MEMORANDUM RE SANCTIONS

1 In June 2002, the Superior Court entered orders directing the
2 sale of two parcels of real property in Hillsborough owned by the
3 marital community. Attorney Craig Collins represented the
4 Corporation at those hearings. An order of June 27, 2002 provided
5 that "Craig Harris Collins would act in the capacity of the agent
6 for the corporation as numerous outsiders were acting to defeat the
7 redemption of the property and prevent the community from realizing
8 any of the equity in the property." Id. at 3, ¶¶ 4-7.

9 In July and August 2002, Collins asked to be relieved both as
10 attorney and agent for the Corporation, "because those who claim to
11 act on behalf of the corporation are countermanding the order of
12 the court, including, but not limited to Kinga Spantz [sic]. In
13 his declaration he stated that Spantz, on behalf of ZOLTAN GYULA,
14 has taken it upon herself to attempt to sabotage in any manner
15 possible the quick and ordered [sic] sale of Hillsborough
16 properties." Id. at 4, ¶¶ 8-9.

17 On August 19, 2002, the Superior Court granted Collins' motion
18 to be relieved and appointed Terestyak to act as sole agent for the
19 Corporation.

- 20 1. The other member of the community, Petitioner
21 Timea Terestyak, formerly a Vice President of Studio
22 2000 USA, Inc., shall take charge of the corporation
23 known as Studio 2000 USA, Inc., act as the agent for
24 Studio 2000 USA, Inc., secure the sale of all
25 properties in California in which Studio 2000 USA,
26 Inc. holds any interest, and render an accounting to
27 this court for all such properties and the sale of
28 such properties. She shall represent the
corporation known as Studio 2000 USA, Inc. before
all government bodies and this court, to the
exclusion of all others, including the Internal
Revenue Service, and shall execute and sign in the
name of Studio 2000 USA, Inc., all necessary
documents, deeds and other papers. Any and all
documents and property in the State of California

1 for Studio 2000 USA, Inc. shall be delivered to her
2 forthwith.

3 2. Her powers to sign documents for the sale or
4 transfer of any interest in any and all properties
5 in the State of California shall be concurrent with
6 the same power remaining with the Clerk of the
7 Superior Court for the County of San Mateo.

8 3. It is further ordered that any and all escrow
9 officers shall, until further ordered by this court,
10 disregard any and all communications from anyone
11 else propo[rt]ing [sic] to act in the interest of,
12 in the name of, or as an agent for Studio 2000 USA,
13 Inc., and Studio 2000 Hungary Wholesale Inc.,
14 including Kinga Spanitz, Zoltan Gyula and or [sic]
15 anyone else retained for such a representation.

16 On September 17, 2002, the Corporation filed a chapter 11
17 petition in this court. The petition was signed by
18 Jozsefne Bajkai, as president for the Corporation, and by Kun, as
19 bankruptcy counsel for the Corporation. Kun does not deny
20 knowledge of the Superior Court Order at the time he filed the
21 petition.¹

22 On September 23, 2002, Terestyak's attorney, Lawrence D.
23 Murray, sent a letter to M. Kun, demanding that the chapter 11
24 petition be withdrawn. Enclosed with the letter was a copy of the
25 Superior Court Order.

26 On October 18, 2002, Kun, on behalf of the Corporation, filed
27 a motion against Terestyak for turnover of property known as
28 Neiman's Coffee Shop. Kun set the turnover motion for hearing on
November 15, 2002. The moving papers, signed by Kun, asserted that
the Coffee Shop was property of the Corporation, but failed to
disclose in any way the Superior Court Order.

¹ For the reasons explained on pages 10-11, *infra*, Kun's
failure to deny knowledge of the Order should be deemed to
establish such knowledge for purposes of this proceeding.

1 The failure to disclose the Superior Court Order was not the
2 result of a general failure to address the circumstances in which
3 Terestyak came to have possession of Neiman's Coffee Shop. The
4 motion for turnover stated in relevant part:

5 Among the assets that constitute property of
6 this Chapter 11 bankruptcy estate (the "Estate") is
7 a certain property named NEIMAN'S COFFEE SHOP located
8 at 580 California Street, San Francisco, California.

9 Debtor is informed and believes that the above-
10 mentioned property is currently under the control of
11 TIMEA TERESTYAK.

12 TIMEA TERESTYAK has refused to return control of
13 the property and continue to refuse to return control
14 of the property to the Estate.

15 The declaration of Kinga Spanitz stated in relevant part:

16 The corporation operated NEIMAN'S COFFEE SHOP until
17 approximately September 2001 when, through a stipulation
18 between TIMEA TERESTYAK and ZOLTAN GYULA, TIMEA TERESTYAK
19 operated NEIMAN'S COFFEE SHOP on a temporary basis.

20 The memorandum of points and authorities even more directly
21 addresses the status of the Coffee Shop without disclosing the
22 Superior Court Order. The memorandum mentions the Superior Court
23 Action, and states that a trial date has been set, but does not
24 disclose the Order.

25 Debtor operated NEIMAN'S COFFEE SHOP continu-
26 ously until approximately September 2001 when Debtor
27 temporarily relinquished custody of the operation
28 pursuant to a stipulation between ZOLTAN GYULA and
TIMEA TERESTYAK in a San Mateo County Family Court
proceeding. Trial in that matter is set for December 8,
2002. The operation by TIMEA TERESTYAK has not been
financially successful and the Internal Revenue Service
("IRS") has threatened to seize the operation. Debtor
demanded return of the operation but TIMEA TERESTYAK
refused to turnover the operation of NEIMAN'S COFFEE
SHOP. Debtor is now seeking a turnover of the property.

1 On October 22, 2002, Terestyak filed a motion to dismiss the
2 chapter 11 petition on the basis that Bajkai was not authorized to
3 act on behalf of the Corporation in light of the Superior Court
4 Order. The motion also sought sanctions under Bankruptcy Rule 9011
5 against Bajkai, Spanitz, Gyula, and Kun.

6 On October 28, 2002, the court dismissed the chapter 11
7 petition on the basis that the filing of the petition had not
8 been properly authorized by the Corporation in light of the
9 Superior Court Order. The court declined to rule on the motion for
10 sanctions, because no separate motion for sanctions had been filed,
11 and because there was no need for an expedited ruling regarding
12 sanctions. The court stated orally that Terestyak could file a
13 separate motion, and reserved jurisdiction to consider such a
14 motion. On October 29, 2002, Terestyak filed and served a
15 separate sanctions motion, which was set for hearing on December 6,
16 2002.

17 At the December 6th hearing, the court very clearly advised
18 Kun that it believed the petition was filed in subjective bad
19 faith.

20 As I often do, I'm going to give you a tentative
21 ruling in this case, and I'll be glad to let you respond
to it.

22 I think there has been a significant Rule 11
23 violation here. On the record I have in front of me,
24 I am prepared to find that the petition was filed in
subjective [bad] faith and that sanctions are
appropriate.

25 Transcript of December 6, 2002 Hearing, at 1:9-15. The court did
26 not, however, rule on Terestyak's motion immediately following the
27 December 6th hearing. Instead, the court issued an order to show
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1 cause why sanctions should not be imposed upon Respondents under
2 Rule 9011 of the Federal Rules of Bankruptcy Procedure for filing
3 the chapter 11 petition and the motion for turnover on behalf of
4 the Corporation after the Superior Court had ordered that only
5 Terestyak could act on behalf of that entity. The court also
6 directed Kun to show cause why sanctions should not be imposed upon
7 him under Civil Local Rule 11-4(a)(1)-(4) and Rule 5-200(B) of the
8 Rules of Professional Conduct of the State Bar of California for
9 seeking through the motion for turnover in substance to undo the
10 Superior Court Order without disclosing the existence of that
11 order. The reasons for issuing the order to show cause were:
12 (a) sanctions could not otherwise be imposed for the filing of the
13 turnover motion because Terestyak did not comply with the safe
14 harbor provisions of Rule 9011; and (b) the court believed that the
15 turnover motion likely represented serious misconduct. Terestyak's
16 motion was continued to the March 14, 2003 hearing on the order to
17 show cause.

18 **DISCUSSION**

19 **A. Are all the Respondents Properly Before this Court?**

20 Terestyak's motion for sanctions was served upon Kun, who has
21 appeared as counsel for the Corporation, and upon Dana Mendelson,
22 who apparently represents Gyula in the Superior Court action but
23 has not appeared in this court. The proof of service lists Kun as
24 counsel for Bajkai and Spanitz, but there is no indication in the
25 record that Kun has purported to represent those parties before
26 this court or that those parties have authorized Kun to accept
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1 service on their behalf. The court's order to show cause was
2 served only on the persons served with Terestyak's motion.

3 The court concludes that Bajkai, Spanitz, and Gyula have not
4 properly been served and have not properly been made respondents to
5 Terestyak's motion or the order to show cause. The motion is thus
6 denied without prejudice, and the order to show cause discharged,
7 regarding these parties. The court will consider the motion and
8 order to show cause only as they apply to Kun and the Corporation.

9 **B. Do the "Safe Harbor" Provisions Bar Sanctions?**

10 Kun argues that sanctions cannot be granted under Rule 9011
11 because Terestyak did not comply with the "safe harbor" provisions
12 of that rule. The safe harbor provisions specify that a motion for
13 sanctions must be served upon the respondent 21 days before it may
14 be filed with the court. If the respondent withdraws the pleading
15 in question within that 21-day period, no sanctions may be imposed.
16 Fed. R. Bankr. P. 9011(c)(1)(A).

17 The safe harbor provisions do not bar imposition of sanctions
18 here. First, one of the pleadings upon which the motion is based
19 is the chapter 11 petition itself. The safe harbor provisions
20 expressly do not apply to the filing of petitions. Id. Second,
21 this court considers the imposition of sanctions regarding the
22 second pleading at issue (Debtor's turnover motion) pursuant to its
23 own order to show cause. The safe harbor provisions apply only to
24 motions filed by a party, and do not limit the issuance of an order
25 to show cause by the court. Fed. R. Bankr. P. 9011(c)(1)(B).

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1 **C. Has Kun Violated Rule 9011?**

2 This court previously ruled that the bankruptcy petition must
3 be dismissed because it was not authorized by the Corporation and
4 that Debtor's motion for turnover must be denied for the same
5 reason. The central question at issue here is whether that result
6 was so certain that Kun should be sanctioned under Rule 9011 for
7 signing the petition and turnover motion.

8 Rule 9011(b) provides that an attorney who signs a pleading
9 filed in a bankruptcy case certifies that, to the best of his
10 knowledge, information and belief, formed after reasonable inquiry,
11 it is well grounded in fact and is warranted by existing law or a
12 good faith argument for the extension, modification, or reversal of
13 existing law. The test for whether a pleading meets this standard
14 is an objective one, determined in light of what a reasonable
15 inquiry regarding the applicable facts and law conducted at the
16 time the pleading was filed would have disclosed. Golden Eagle
17 Distributing Corp. v. Burroughs Corp., 801 F.2d 1531, 1536-38 (9th
18 Cir. 1986).

19 Whether Mr. Kun violated Rule 9011 by signing the bankruptcy
20 petition and the turnover motion turns upon the effect of the
21 Superior Court Order. If he can make a plausible argument that the
22 Order did not bar Bajkai from acting on behalf of the Corporation,
23 sanctions should not be imposed.

24 Kun does not dispute that state law governs whether a
25 corporation has authorized the filing of a bankruptcy petition on
26 its behalf. Price v. Gurney, 324 U.S. 100, 106 (1945). Kun also
27 does not contest generally the power of a state court, acting
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1 pursuant to state law, to order that only a specified party may
2 file a bankruptcy petition on behalf of a corporation.

3 Kun also does not deny that he knew of the Superior Court
4 Order when he filed the petition. For the following reasons, it is
5 appropriate to expect Kun rather than Terestyak to bear the burden
6 of coming forward regarding his knowledge of the Superior Court
7 Order, and to construe Kun's silence as an admission that he knew
8 of the Order on the petition date. First, Kun has unique access to
9 information regarding his knowledge of the Superior Court Order,
10 and discovery is generally not allowed for preparation of Rule 9011
11 motions.² Second, Kun had a duty under Rule 9011 to investigate
12 whether there was a basis to file the petition. It is appropriate
13 to expect him to describe his state of knowledge regarding the
14 Superior Court Order in response to a motion for sanctions and an
15 order to show cause. Third, the court expressly suggested at the
16 December 6, 2002 hearing that Kun may have filed the petition in
17 bad faith. Kun had a strong incentive to assert any lack of
18 knowledge of the Order, because such lack of knowledge would
19 obviously cause the court to reexamine the issue of subjective bad
20 faith. Fourth, it is not reasonable to infer that Kun would have

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22 ² The 1983 Advisory Committee Notes regarding Rule 11 of the
23 Federal Rules of Civil Procedure state in relevant part:

24 To assure that the efficiencies achieved through
25 more effective operation of the pleading regimen will
26 not be offset by the cost of satellite litigation over
27 the imposition of sanctions, the court must to the
28 extent possible limit the scope of sanction proceedings
to the record. Thus, discovery should be conducted only
by leave of the court, and then only in extraordinary
circumstances.

1 acted in conformity with the Superior Court Order if he had known
2 about it, because he filed the turnover motion after he had
3 indisputable knowledge of that Order.

4 Kun does, however, suggest four separate reasons why it is at
5 least arguable in this case that the Superior Court Order did not
6 bar him from filing a bankruptcy petition on behalf of the
7 Corporation.

8 Kun first contends that he had reason to question whether the
9 Superior Court Order was genuine. Kun's declaration states that
10 Gyula's attorney told him there was no hearing before the Superior
11 Court on August 16, 2002, the hearing date recited in the Order.
12 This argument is unpersuasive. There is no doubt the Order was
13 filed on August 16, 2002. Terestyak's attorney produced a
14 certified copy of the Order at the October 28, 2002 hearing on
15 Terestyak's motion to dismiss. Kun's reliance on the comments of
16 Gyula's attorney was not reasonable. Kun should have contacted the
17 Superior Court to determine whether the Order was genuine before
18 taking any action that would violate that Order.

19 Kun also argues that he acted reasonably in filing the
20 bankruptcy petition on behalf of the Corporation because the
21 Superior Court had no jurisdiction to enjoin the shareholders of
22 the Corporation from filing the petition. The sole basis for this
23 argument is Kun's contention that the Corporation's sole share-
24 holder (the Hungarian Corporation) was not properly before the
25 Superior Court.³ This argument is unpersuasive. The key provision

27 ³ Kun's Declaration in Opposition to Motion for Sanctions,
28 at 2, ¶ 2.

1 of the Superior Court Order is the one that directs the Corporation
2 to act only through Terestyak. The relevant question is not
3 whether the shareholder was properly enjoined from filing a
4 petition, but whether a petition filed at the direction of the
5 shareholder was an effective act on behalf of the Corporation in
6 the face of the Order directing the Corporation to act only through
7 Terestyak. Kun acknowledges that the Corporation had appeared in
8 the Superior Court through its attorney, Craig Collins. Moreover,
9 Gyula, the sole shareholder of the Hungarian Corporation, was a
10 party to the Superior Court Action and had appeared through
11 counsel. Kun cites no authority whatsoever suggesting that the
12 provision of the Superior Court Order specifying that only
13 Terestyak could act on behalf of the Corporation is not entitled
14 to full faith and credit.⁴

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17 ⁴ The full extent of Kun's lack of care can be seen in the
18 limited argument he submitted on this issue. The full text of his
19 arguments regarding Superior Court jurisdiction is forth below.

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MEMORANDUM RE SANCTIONS

1 Kun next argues that in ordering Terestyak to represent the
2 Corporation "before all government bodies and this court, to the
3 exclusion of all others," the Superior Court did not clearly
4 preclude Bajkai from filing a bankruptcy petition, because the
5 bankruptcy court is not a "government body." This is not a
6 plausible interpretation of the Superior Court Order. The central
7 findings of the Superior Court were: (a) that the Corporation
8 should be disregarded as a separate entity and its assets treated
9 as property of the marital community; and (b) that Gyula had
10 frustrated efforts to sell these assets through his manipulation
11 of the Corporation.⁵ The central purpose of the Order was to
12 enable and direct Terestyak to sell all assets of the Corporation
13 for the benefit of the marital community. To interpret the Order
14 in a way that permits Gyula (through his control of the Hungarian
15 Corporation) to file a bankruptcy petition on behalf of the
16 Corporation and compel Terestyak to turnover assets of the
17 Corporation would frustrate the central purpose of the Order.
18 Against this backdrop, the only reasonable interpretation of the
19 term "government body" is that it means any agency, board, court,
20 department, etc., that might affect Terestyak's ability to sell
21 property as directed by the Superior Court. That the bankruptcy
22 court is such an agency is proved by the fact that Kun admits the

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28 ⁵ Superior Court Order, at 1-4, especially ¶¶ 9 & 10.

1 petition was filed to prevent Terestyak from selling property
2 pursuant to the Superior Court Order.⁶

3 Kun argues finally that it is inappropriate to impose
4 sanctions under Rule 9011 because the authorities are split as to
5 whether Bajkai had authority to file a bankruptcy petition on
6 behalf of the corporation. This argument is unpersuasive, because
7 the only case that Kun cites does not stand for the proposition
8 that Bajkai had authority to file on behalf of the Corporation in
9 the face of the Superior Court Order. Hager v. Gibson, 108 F.3d 35
10 (4th Cir. 1997), involved a petition filed by a corporation
11 following a shareholder meeting at which only one of the two 50-
12 percent shareholders was present. The court held that the other
13 shareholder's twelve-month delay in filing a motion to dismiss
14 the petition constituted a ratification of the filing. Id. at 40.
15 Nothing in Hager suggests that the Superior Court Order did not
16 prevent all persons except Terestyak from filing a voluntary
17 petition on behalf of the Corporation. Hager actually supports
18 the proposition that the Superior Court Order should be given full
19 effect, because it holds that state law governs who has authority
20 to file a bankruptcy petition on behalf of a corporation. Id.
21 at 38.

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26 ⁶ "Debtors filed for Chapter 11 to enable the corporation to:
27 1) avoid the sale of two Hillsborough properties at fireside [sic]
28 sale prices, and 2) provide for the payment of approximately \$1.6
million owed to the Internal Revenue Service." Response to Order
to Show Cause, at 5.

1 In sum, it is apparent that even at this late date Kun is
2 unable to assemble any plausible theory under which he and Bajkai
3 had authority to file a chapter 11 petition on behalf of the
4 Corporation. Reasonable investigation by Kun would have revealed
5 Kun's lack of authority to file the chapter 11 petition and the
6 motion for turnover.

7 For the following reasons, the court finds that Kun filed both
8 the petition and the motion for turnover in subjective bad faith.
9 First, Kun filed those papers with the express purpose of
10 frustrating the Superior Court Order, without any plausible theory
11 under which he could act on behalf of the Corporation. Second,
12 Kun failed to disclose in the turnover motion the existence of the
13 Superior Court Order, or the fact that he was seeking to attack
14 that Order collaterally. Kun acknowledges that the bankruptcy
15 petition and turnover motion constituted a collateral attack on
16 the Superior Court Order.⁷ It is worthy of note that Kun's moving
17 papers explain in some detail how Terestyak came to have possession
18 of the property to be turned over without mentioning the Superior
19 Court Order.⁸ The Superior Court Order is a fact so clearly
20 material to whether this court should grant the motion for turnover
21 that the failure to disclose it must be considered an affirmative
22 misrepresentation that violates Rule 5-200(B) of the Rules of

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26 ⁷ See Memorandum of Points and Authorities in Opposition to
Sanctions, at 4-5; Response to Order to Show Cause, at 5.

27 ⁸ See quotations from Kun's moving papers on page 5 of this
28 memorandum.

1 Professional Conduct of the State Bar of California.⁹ Kun's failure
2 to disclose the existence of the Order suggests a consciousness of
3 the weakness of his claim to have the Order set aside, and negates
4 the likelihood that the filing of the petition in the face of the
5 Superior Court Order was the result of some innocent mistake.
6 Kun's failure to disclose the Order also suggests an intent to
7 achieve the desired result by stealth--to cause this court to take
8 action in contradiction of the Superior Court Order without knowing
9 that it was doing so.

10 **D. What Sanctions are Appropriate?**

11 Rule 9011 provides that sanctions for violation of that rule
12 "shall be limited to what is sufficient to deter repetition of
13 such conduct or comparable conduct by others similarly situated."
14 Fed. R. Bankr. P. 9011(c)(2). The court may order a violator to
15 pay the injured party "the reasonable attorneys fees and other
16 expenses incurred as a direct result of the violation," if the
17 award is made upon motion of the injured party, but not when
18 sanctions are imposed upon the court's own initiative. Id.

19 Terestyak seeks an order directing Kun to reimburse her
20 \$21,742 for attorneys fees she incurred in responding to the
21 petition. To grant this relief, the court must find: (a) that
22 the fees sought are reasonable, and (b) that the amount of the

23 _____
24 ⁹ Rule 5-200(B) provides:

25 "In presenting a matter to a tribunal, a member:

26 . . .

27 (B) Shall not seek to mislead the judge, judicial
28 officer, or jury by an artifice or false statement of fact
or law[.]"

1 award is necessary for deterrence. Terestyak's request fails this
2 test in part.

3 First, the fees sought were not all reasonably necessary to
4 contest the petition. After consideration of the papers filed by
5 Terestyak, the time records submitted by her attorney, and the
6 nature and duration of the hearings before this court, the court
7 determines that the fees reasonably incurred in contesting the
8 petition do not exceed \$10,000.

9 Second, the fees sought exceed the amount necessary for
10 deterrence. The court determines that a sanction of \$7,500 is
11 necessary and sufficient for that purpose.

12 Because the fee award is fully sufficient for deterrence,
13 the court determines that it is not necessary to impose further
14 sanctions under Rule 9011 payable to the court pursuant to the
15 court's order to show cause.

16 The court notes that in failing to disclose the Superior Court
17 Order in the turnover motion, Kun violated his duty of candor to
18 the court and sought to frustrate the Superior Court Order in
19 subjective bad faith. If it is for any reason inappropriate to
20 impose the sanctions ordered here under Rule 9011, the court in
21 the alternative orders Kun to pay Terestyak \$7,500 pursuant to the
22 court's inherent powers to remedy litigation abuses conducted in
23 bad faith. In re DeVille, 280 B.R. 483, 495 (9th Cir. B.A.P. 2002).

24 It is not appropriate to award sanctions against Kun's
25 purported client, the Corporation. This court has found that all
26 the acts in question were undertaken without authorization by the
27 Corporation. Kun did not purport to act on behalf of any other
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1 client and, as noted above, the other Respondents were not properly
2 served.

3 **CONCLUSION**

4 Kun shall pay Terestyak sanctions of \$7,500 pursuant to
5 Federal Rule of Bankruptcy Procedure 9011, as provided in the
6 separate order entered on this date.

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10 Dated: April 11, 2003

11 Thomas E. Carlson
United States Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re:) Bankruptcy Case
) No. 02-32634-TC
STUDIO 2000 USA, INC.,) Chapter 11
a corporation,)
)
) **ORDER RE SANCTIONS**
Debtor.)
_____)

Upon due consideration, and for the reasons stated in the accompanying memorandum, the court hereby orders Albert M. Kun to pay Timea Terestyak \$7,500, in care of her attorney Lawrence D. Murray, within twenty days of the date this order is filed. Kun's request for a stay of this order is denied.

Dated: April 11, 2003 _____
Thomas E. Carlson
United States Bankruptcy Judge

ORDER RE SANCTIONS