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ANDREW EARL FURER

IN THE FAMILY DIVISION  
IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

ANDREW EARL FURER,  
Plaintiff,

Case No. DV04-01626

Dept. No. 11

vs.

ELOISA BESADA FURER  
Defendant.

MOTION TO ENFORCE DECREE OR, IN THE ALTERNATIVE, MOTION TO  
HOLD ELOISA FURER IN CONTEMPT OF COURT FOR FAILING TO COMPLY  
WITH DECREE

Plaintiff, Andrew Furer, moves this Court for an Order enforcing this Court's Decree of Divorce or, in the alternative, holding Eloisa Furer in contempt for failing and refusing to comply with the Decree. This motion is brought pursuant to this Court's inherent equitable authority to enforce its orders and decrees and NRS chapter 22 and is supported by the

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accompanying memorandum of points and authorities.

DATED this 1 day of July, 2008.

KENT R. ROBISON  
ROBISON, BELAUSTEGUI,  
SHARP & LOW

WOODBURN AND WEDGE

By Shawn B Meador  
Shawn B Meador  
Attorneys for Andrew Earl Furer

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POINTS AND AUTHORITIES

I. ENFORCEMENT OF COURT'S DECREE

Mr. and Mrs. Furer are each entitled to receive certain real and personal property. Each is responsible for all obligations arising out of their respective properties. The parties are required to cooperate to transfer the properties to the respective owner. Mrs. Furer has failed to accomplish the transfer of the foreign condos, foreign bank accounts and Gstaad lease, to which she is entitled. Her refusal to take necessary steps to consummate the transfer of these assets puts Mr. Furer at risk of future liabilities and other harm.

The Findings of Fact, Conclusions of Law and Decree of Divorce (the "Decree") was entered herein over four months ago, on February 22, 2008. The Decree incorporates the parties' Marital Settlement Agreement ("MSA") including the terms incorporated from the Post Nuptial Agreement ("PNA"). The MSA and PNA define the specific properties which Andrew and Eloisa Furer are respectively entitled to receive. Since February Mr. Furer has made every reasonable effort to accomplish the transfer of the properties to the respective parties. See Exhibit "A" to the Affidavit of Counsel filed in support hereof.<sup>1</sup>

Mrs. Furer, consistent with her prior conduct, has failed to cooperate. For example, although there has never been any dispute about who would receive which vehicles, Mrs. Furer failed and refused to cooperate to get her three cars titled and registered in her name. Mr. Furer incurred approximately \$2,500 in fees that would have been totally unnecessary had Mrs. Furer simply cooperated to title and register her own cars and to confirm Mr. Furer's vehicle as his car. See Affidavit of Counsel at para. 3. Mrs. Furer should bear this cost.

<sup>1</sup> Mr. Furer offers this correspondence solely for the purpose of showing his reasonable efforts to accomplish the transfers.

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value of these assets. However, the parties paid \$500,000 U.S. for the Paris condo. At that time the Euro was trading at approximately \$98. The Euro is now trading at about \$1.57. Thus, assuming the intrinsic value of the condo has not gone up at all since it was purchased, the exchange rate alone would result in the condo having a value of \$800,000 U.S.

It would be an improper conflict of interest for Mr. Furer's counsel to have fiduciary duties to protect Mrs. Furer.

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1 fiduciary obligation to protect his client. Providing the necessary paperwork to complete the  
2 transfers to her is clearly an obligation that arises out of her receipt of such properties.

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4 Mr. Furer has an obligation to cooperate in good faith. He has advised Mrs. Furer's  
5 counsel that he will do so. See, Exhibit A. Although Mr. Furer and his counsel have no  
6 expertise with respect to the transfer of real properties in France, Switzerland or the  
7 Philippines, they have provided Mrs. Furer's counsel with the names and contact information  
8 of persons who could assist in the completion of these transfers. See, Exhibit A. Mr. Furer's  
9 counsel has written letters to the banks and to the manager of the Paris condo advising them  
10 of the divorce and Mrs. Furer's receipt of these assets. See, Exhibit B. Mrs. Furer, who is  
11 originally from the Philippines, acknowledges that she has better information and contacts in  
12 the Philippines than Mr. Furer.

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14 After ignoring Mr. Furer's numerous entreaties to complete these transfers for months,  
15 Mrs. Furer's most recent lawyer wrote Mr. Furer's counsel a letter on June 16 suggesting that  
16 Mrs. Furer is now prepared to complete the transfers. See, Exhibit C. Mr. Furer's counsel  
17 promptly responded again demonstrating his willingness to cooperate to complete the  
18 transactions. See, Exhibit D. Notwithstanding the passage of almost two weeks, Mr. Furer's  
19 counsel has heard nothing more from Mrs. Furer's counsel.<sup>4</sup>

20  
21 Mr. Furer, as the owner of record, continues to run the risk of potential financial  
22 liabilities arising out of these properties, such as taxes, assessments, tort liability, damage to  
23 his credit rating or other legal standing in these foreign countries. Until such time as Mrs.

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28 <sup>4</sup> Mrs. Furer, of course, could render this motion entirely moot simply by providing Mr. Furer with the  
documents necessary to complete the transfers.

1 Furer actually takes ownership and possession of her properties Mr. Furer runs the risk that  
2 she will file unfounded motions asserting that Mr. Furer has a duty to protect her properties or  
3 that he is responsible for damages that the properties may suffer due to neglect or lack of  
4 management in the meantime. Mrs. Furer must also have the utilities, taxes, homeowners'  
5 association charges, insurance and other obligations related to her properties transferred into  
6 her name and she must pay and hold Mr. Furer harmless from these obligations.  
7

8 This is an equitable proceeding in which this Court has broad equitable powers to  
9 enforce its Orders and Decrees, such as the powers of injunction, mandamus, the appointment  
10 of a receiver and other equitable relief. See, Dillon v. Dillon, 67 Nev. 428, 434, 220 P.2d 213  
11 (1950); Carroll v. Carroll, 51 Nev. 62, 268 P. 771, 772 (1928). As noted by the Nevada  
12 Supreme Court:  
13

14 [A] court of equity, having assumed jurisdiction for one purpose, will retain it  
15 for all purposes, legal or equitable, to the end that complete justice may be  
16 accomplished in one action; that the powers of the equity court are co-extensive with  
17 the rights of the parties to the suit in the subject matter involved; that equity will not  
18 suffer a wrong to be without a remedy; that equity delights to do justice and not by  
19 halves; . . . that he who seeks equity must do equity, and must come into court with  
20 clean hands. Many authorities are cited in support of these well recognized  
21 propositions. Smith v. Smith, 68 Nev. 10, 20, 226 P.2d 279 (1951).

19 Among other equitable powers, the court, when necessary, may appoint a receiver. See,  
20 Thompson v. Thompson, 49 Nev. 375, 247 P. 545, 547 (1926).

21 To assure that Mrs. Furer will comply with and honor the terms and obligations of this  
22 Court's Decree, Mr. Furer requests that this Court exercise its inherent equitable authority to  
23 enforce its Decree by entering the following proposed Order:  
24

25 Mrs. Furer shall have ten (10) days from the date of entry of the Order: 1) to provide  
26 Mr. Furer with appropriate deeds or other papers necessary to transfer the condominiums,  
27 Gstaad lease and foreign bank accounts to her and to provide proof that she has transferred all  
28 insurance, taxes, dues and other obligations relating to the properties to her name and that she

1 has paid such obligations; 2) to consent in writing to the appointment of a receiver, at her  
2 expense, to determine what paperwork is necessary to complete the transfers and to obtain and  
3 provide the parties with the necessary paperwork; or 3) to formally waive any right, title and  
4 interest in such properties.<sup>5</sup> Mr. Furer is concerned that Mrs. Furer will do nothing within the  
5 ten (10) day period. If Mrs. Furer does not elect one of these three options, in writing, within  
6 ten (10) days of the date of the Order, Option 3, waiver of her claim to the properties, should  
7 be automatically selected by default.  
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10 **II. CONTEMPT**

11 In the alternative, Mr. Furer asks this Court to use its contempt powers to enforce its  
12 Decree. Mrs. Furer is in contempt of court. See, NRS § 22.010(3). "The use of the contempt  
13 power to enforce the provisions of a divorce decree has been approved many times by this  
14 state." Hildahl v. Hildahl, 95 Nev. 657, 601 P.2d 58, 62 (1979). As noted by the Nevada  
15 Supreme Court over one hundred years ago: "The power of the courts to punish for contempt  
16 and to maintain decency and dignity in their proceedings is inherent, and is as old as courts  
17 are old." Lamb v. Lamb, 83 Nev. 425, 433 P.2d 265 (1967) quoting, In re Chartz, 29 Nev.  
18 110, 85 P. 352 (1907). "[T]he inherent power of the courts to protect and defend their decrees  
19 by contempt proceedings [is] beyond any power of the legislature to abridge." Id. citing,  
20 McCormick v. Sixth Judicial Dist. Ct., 67 Nev. 318, 218 P.2d 939 (1950). See also,  
21 Halverson v. Harcastle, 123 Nev. 29, 163 P.3d 428, 444 (2007).  
22

23 The Court's statutory and inherent powers of contempt are twofold: first, the Court  
24 may use contempt to punish a party for failure to comply with a decree; and second, the Court  
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27 <sup>5</sup> Expenses associated with the Gstaad lease are automatically deducted from the UBS account. Mrs. Furer must  
28 be required to demonstrate that all expenses associated with the lease have been paid before the funds in the UBS  
account are transferred to her. Mr. Furer believes that Mrs. Furer may have sublet the apartment and may be  
receiving rental income from the apartment. But, the lease remains in his name and any obligations would be  
reflected on his credit.

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may use contempt to compel performance by imprisoning the contemnor until such time as she complies with the Court's decree. See, Hildahl and Lamb. See also, Warner v. Dist. Ct., 111 Nev. 1379, 1383, 906 P.2d 707 (1995); Rodriguez v. Dist. Ct., 120 Nev. 798, 805, 102 P.3d 41, 46 (2004); In re Determination of the Relative Rights of the Claimants, etc., 118 Nev. 901, 59 P.3d 1226 (2002).

To best assure actual compliance with this Court's Orders and Decree, Mr. Furer respectfully requests that this Court enter an Order that finds Mrs. Furer in contempt and Orders that she be taken into custody and imprisoned until such time as she honors her obligations under the Decree. Provided, however, that the imprisonment be suspended for ten (10) days to give her a reasonable opportunity to purge her contempt.<sup>6</sup>

Mrs. Furer should be ordered to reimburse Mr. Furer the \$2,500 he incurred to complete the transfer of the car titles.

DATED this 1 day of July, 2008.

KENT R. ROBISON  
ROBISON, BELAUSTEGUI,  
SHARP & LOW

WOODBURN AND WEDGE  
By Shawn B Meador  
Shawn B Meador  
Attorneys for Andrew Earl Furer

<sup>6</sup> Mrs. Furer has had since February 22, 2008, to accomplish these transfers. This motion, itself, puts her on notice of her obligation. Thus, she will have had substantially longer than ten (10) days to actually comply.