

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

INDEX NO. 0962477/09

GREENTECH RESEARCH LLC and  
HILARY J. KRAMER,

Date Purchased: 8/11/09

Plaintiffs,

NOTICE OF MOTION FOR

-against-

DEFAULT JUDGMENT

BARRETT WISSMAN, CLARK HUNT and  
HUNT FINANCIAL VENTURES, L.P.,

AGAINST CLARK HUNT &  
HUNT FINANCIAL

Defendants.

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PLEASE TAKE NOTICE, that upon the annexed Affirmation of Howard B. Sirota, Esq., dated December 22, 2009, Affidavit of Hillary J. Kramer, sworn to on the 13<sup>d</sup> day of December, 2009, Plaintiffs' Memorandum of Law, and the exhibits annexed thereto, and all pleadings and prior proceedings herein, plaintiffs will move at the New York County Courthouse, Submissions Part, 60 Centre Street, Room 130, New York, NY, on the 29<sup>th</sup> day of January 2010 at 9:30AM, or as soon thereafter as counsel may be heard, for an order for leave to enter Judgments upon default against defendants Clark Hunt and Hunt Financial Ventures, L.P., pursuant to C.P.L.R. 3215(a), and for such other and further relief as to the court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214 and 2103(b), responsive papers, if any, are to be served so as to be received by the undersigned at least seven (7) days prior to the return date of this motion.

Dated: Queens, New York

December 13, 2009

HOWARD B. SIROTA

By: 

Attorney for Plaintiffs

125 Beach 128<sup>th</sup> Street

Belle Harbor, NY 11694

(212) 425-9055

To: Clark Hunt

1601 Elm Street Suite 4000

Dallas, TX 75201

Clark Hunt

3920 Euclid Avenue

Dallas, TX 75205

Hunt Financial Ventures L.P.

Attn: Steven Caple, President

1601 Elm Street Suite 4000

Dallas, TX 75201

Garret Chambers, Esq. (courtesy copy)

McKool Smith

300 Crescent Court Suite 1500

Dallas, TX 75201

Counsel for Defendants Clark Hunt & Hunt Financial Ventures L.P.

Robert F. Dannhauser

Bickel & Brewer

767 Fifth Avenue

New York, NY 10153

(212) 489-1400

Michael S. Gardner

Bickel & Brewer

1717 Main Street Suite 4800

Dallas, Texas 75201

Counsel for Defendant Barrett Wissman

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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INDEX NO. 09602477/09

GREENTECH RESEARCH LLC and

Date Purchased: 8/11/09

HILARY J. KRAMER,

Plaintiffs

AFFIRMATION OF

-against-

HOWARD B. SIROTA

BARRETT WISSMAN, CLARK HUNT, and

HUNT FINANCIAL VENTURES, L.P.,

Defendants

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HOWARD B. SIROTA, affirms the following subject to the penalties for perjury:

1. I am an attorney admitted to practice law in the State of New York and counsel to plaintiffs herein. I have personal knowledge of the matters set forth below, and the exhibits annexed hereto are true copies of the original documents. I submit this Affirmation in support of plaintiffs' motion for leave to enter judgments by default against Defendants Clark Hunt and Hunt Financial Ventures L.P. ("HFV"), pursuant to C.P.L.R. 3215(a).
2. This action was commenced on August 11, 2009. A true copy of the summons and complaint is annexed hereto as Exhibit 1.
3. Defendant Barrett Wissman was been served and the parties have entered into a Stipulation extending time to move or answer the Complaint, a true copy of which is annexed hereto as Exhibit 2.
4. I engaged Demovsky Lawyer Service to handle service of process. Demovsky utilizes a number of databases to identify business and residence addresses for service of process. These databases showed that defendant Clark Hunt's offices were located at 1601 Elm Street, Dallas, Texas and that he resided at 3920 Euclid Avenue, Dallas, Texas. I personally confirmed, from publicly available records, that Clark Hunt's

- offices were at 1601 Elm Street and that he resided at 3920 Euclid Avenue with his wife Tavia and their three children.
5. On August 14, 2009, a licensed process server, Brandon Sachse, attempted to serve defendants Hunt and HFV, at their offices at 1601 Elm Street, Suite 4000, Dallas Texas. He was told by defendants' General Counsel, Alan Thompkins, Esq., that Thompkins would not accept service and to return on August 18, 2009. A true copy of the Affidavit of Due Diligence is annexed hereto as Exhibit 3.
  6. On August 18, 2009, a licensed process server, Kirk French, returned to 1601 Elm Street, Suite 4000, Dallas, Texas and served defendants Hunt and HFV by delivering a set of papers to Alan Thompkins, Esq., as a person of suitable age and discretion, and on August 20, 2009, the process server mailed the summons and complaint to defendants at 1601 Elm Street, Suite 4000, Dallas, Texas 75201. A true copy of the Affidavit of Service is annexed hereto as Exhibit 4.
  7. On September 1, 2009, a licensed process server, Dennis S. Hinshaw, served a man who identified himself as Clark Hunt at Hunt's residence at 3920 Euclid Avenue, Dallas, Texas. A true copy of the Affidavit of Service is annexed hereto as Exhibit 5.
  8. On September 1, 2009, Dennis S. Hinshaw served HFV at 3920 Euclid Avenue, Dallas, Texas, by service upon a man who identified himself as Clark Hunt, and who stated to Hinshaw that he was the "Principal" of HFV. A true copy of the Affidavit of Service is annexed hereto as Exhibit 6.
  9. On October 8, 2009 I e-mailed Steven Caple, President of HFV, requesting that his counsel contact me regarding its failure to respond to the complaint since I presumed that Hunt and HFV did not intend to default in this action. A true copy of my e-mail is annexed hereto as Exhibit 7.
  10. Thereafter, I had a series of telephone conversations with Garret Chambers, Esq., counsel for defendants Hunt and HFV, in an unsuccessful effort to enter into a stipulation extending their time to respond to the complaint. Chambers advised me that his clients claimed

to have never been served with the summons and complaint. Chambers took the position that, regarding service at Hunt's offices at 1601 Elm Street, Alan Thompkins had advised the process server that he would not accept service of process, and that this refusal to "accept" service made the service a nullity. Chambers stated that the service at Hunt's residence at 3920 Euclid Avenue was a nullity because the person who identified himself as Clark Hunt was not in fact, Clark Hunt.

11. Upon information and belief, the sources of which are publicly available information about defendant Hunt and the Hunt family, the NFL lineman-sized man who answered the door at Hunt's residence lied to the process server when he stated that he was Clark Hunt. In fact, the real Clark Hunt is of diminutive stature. Defendant Hunt and the Hunt family employ security personnel, including persons authorized to open the door at 3920 Euclid Avenue, as necessary, due to their wealth, controversial history and the high-profile role of defendant Hunt in various political causes, ownership of the Kansas City Chiefs NFL team, and the pending criminal investigations of bribery of public officials, as alleged in the complaint herein. However, the man who lied to the licensed process server was an agent or employee of defendant Hunt.
12. Even assuming that defendant Hunt can benefit by hiding behind security personnel who commit a fraud upon a licensed process server, the service upon defendant Hunt at 1601 Elm Street stands as independent good service sufficient to enter a default judgment against him.
13. Counsel to defendants Hunt and HFV never claimed that his clients had not received the summons and complaint herein, but stood upon his objections to service and refused to take any action to respond to the complaint, thus willfully defaulting.
14. On November 24, 2009 I e-mailed Garret Chambers, Esq. , counsel to defendants Hunt and HFV, to advise that I would seek to enter a judgment by default against his clients if he failed to take any action to respond to the complaint herein. A true copy of my e-mail is annexed hereto as Exhibit 8.

15. Counsel to defendants Hunt and HFV has not appeared in this action, and these defendants have defaulted in this action as a litigation strategy. The default is willful, intentional and deliberate. There is no neglect or excuse involved.
16. The sole available remedy is for this Court to grant leave to enter a default judgment against these non-appearing defendants for their willful refusal to appear and defend this action. Defendants apparently intend to contest service thereafter so as to protract litigation, engage in unnecessary motion practice, consume plaintiffs' resources, and waste the time of the Court.

Dated: Queens, New York

December 16, 2009

A handwritten signature in black ink, appearing to read "Howard B. Sirotta", written over a horizontal line.

HOWARD B. SIROTA

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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GREENTECH RESEARCH LLC and

HILARY J. KRAMER,

Plaintiffs

Index No. 09602477/2009

-against-

Date Purchased: 8/11/09

BARRETT WISSMAN, CLARK HUNT and

SUMMONS

HFV VENTURES, L.P.,

Defendants

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TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiffs' attorney an answer to the complaint in this action within twenty(20) days after the service of this summons, exclusive of the day of service, or within thirty(30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of the venue designated is residence of plaintiff Greentech Research LLC, whose principal place of business is 250 West 57<sup>th</sup> Street, New York, New York.

Dated: August 11, 2009

HOWARD B. SIROTA

By: Howard B. Sirota

Howard B. Sirota

Attorney for Plaintiffs

125 Beach 128<sup>th</sup> Street

Belle Harbor, NY 11694

(212) 425-9055



SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

INDEX NO. 09602477/2009

Date Purchased: 8/11/09

GREENTECH RESEARCH LLC and

HILARY J. KRAMER,

Plaintiffs

COMPLAINT

-against-

BARRETT WISSMAN, CLARK HUNT, and

HUNT FINANCIAL VENTURES, L.P.,

Defendants

Plaintiffs GREENTECH RESEARCH LLC and HILARY J. KRAMER, through their counsel, HOWARD B. SIROTA, allege the following as and for their Complaint against the Defendants:

Preliminary Statement

1. This action arises from the scheme of defendants Barrett Wissman ("Wissman"), Clark Hunt and Hunt Financial Ventures, L.P. ("HFV"), which was co-owned and controlled by Defendants Wissman and Clark Hunt, to defraud plaintiffs into entering into agreements and continuing the business relationship with defendant HFV regarding an alternative energy hedge fund managed by Greentech Research LLC and its affiliated entities ("Greentech") substantially owned and controlled by plaintiff Hilary J. Kramer ("Kramer").

2. Defendants concealed from Greentech and Kramer that defendants were engaged in a pervasive criminal conspiracy to bribe public officials in order to obtain from these corrupt public officials funding for hedge funds from public employee pension funds controlled by these bribed public officials. Defendant Wissman has pleaded guilty to felony charges based upon his

bribery of public employee pension plan officials in the State of New York, numerous other co-conspirators of the defendants have also pleaded guilty to similar charges, while a number of the conspirators await trial. Public reports indicate the investigation is ongoing and appears to involve corrupt public employee pension plans across the United States.

3. Kramer, an experienced and well-respected and honest financial analyst and author, would not have entered into a business relationship to receive funding through the defendants from qualified institutional investors, including public employee pension funds, with knowledge that the defendants were obtaining such funding through a pattern of criminal conduct. The defendants' scheme proximately caused damages to plaintiffs, including but not limited to inability to retain and secure funding from institutional investors( including public employee pension funds, union pension plans and endowments) loss of income and invested capital by Kramer, injury to reputation and interference with prospective economic advantage. In short, defendants' fraud destroyed the only woman-owned alternative energy hedge fund in America.

#### PARTIES and JURISDICTION

4. Plaintiff Greentech is a Delaware limited liability company with its principal place of business in the County of New York.
5. Plaintiff Kramer is a resident of the State of New York and the controlling person of Greentech.
6. Defendant Wissman is a resident of the State of Texas who was, at all relevant times, an officer and co-owner of defendant HFV.
7. Defendant Clark Hunt is a resident of the State of Texas who was, at all relevant times, an

officer and co-owner of defendant HFV.

8. Defendant HFV is a Texas limited partnership with its principal place of business in Dallas, Texas.

9. Many of the acts complained of herein occurred in New York County, and defendants' conduct outside the State of New York foreseeably caused injury to plaintiffs in New York County.

#### THE FACTS GIVING RISE TO THIS ACTION

10. Plaintiff Kramer is an experienced and well-known financial analyst , commentator and money manager who organized Greentech as a hedge fund group for the purpose of investing in alternative energy stocks engaged in, among other efforts, wind and solar power development.

11. Kramer held discussions in 2006 with Wissman and Clark Hunt regarding a potential relationship in which HFV would "seed" Greentech with its own capital, which was substantial because HFV was beneficially co-owned and controlled by Clark Hunt, one of the richest men in the United States and the owner of the NFL team Kansas City Chiefs, and would then obtain additional, larger investments from institutional investors, including public employee pension plans. In October 2006, HFV seeded the Greentech 21<sup>st</sup> Century Master Fund (managed by Greentech Research LLC) with \$10 million and, in April 2007, added an additional \$10 million of seed capital to the Greentech 21<sup>st</sup> Century Master Fund. In June 2007 HFV provided plaintiff herein Greentech with \$300,000 of working capital.

12. Wissman and Clark Hunt represented to Kramer that Wissman and Clark Hunt had excellent relations with many institutional investors, including public employee and union pension funds interested in funding a woman-owned socially responsible alternative energy fund, and expected to raise substantial capital for Greentech from their contacts, for a fee

upon all funds raised by Greentech even if the funds were from investors obtained without any assistance from HFV.

13. Wissman and Clark Hunt represented to Kramer that HFV was a prestigious and substantial entity with many legitimate clients and relationships, that Greentech and Kramer would benefit from their association with HFV, and that HFV would raise substantial capital for Greentech. Ultimately, HFV did raise minimal capital (\$750,000) for Greentech but, behind the backs of Greentech and Kramer, raised very substantial capital (\$500 million) for Greentech's competitor Riverstone Holdings, controlled by Carlyle Group, contrary to Wissman's and Clark Hunt's prior false assurances to Greentech and Kramer. Unknown to Kramer at the time, but since revealed by the criminal and civil proceedings by the federal and New York authorities, Carlyle and Riverstone surreptitiously funneled \$5 million to Wissman and HFV for arranging Riverstone's financing through HFV, and also funneled another \$5 million to Hank Morris, Hevesi's "bag man."

14. Wissman and Clark Hunt did not reveal to Kramer that Wissman, Clark Hunt and HFV were engaged in a conspiracy to obtain such investments from public employee pension funds through bribery of the public officials who controlled these public employee pension plans.

15. Kramer has a life-long reputation for integrity and had absolutely no interest in being funded by "dirty money" obtained through criminal bribery of public officials. Had Kramer known the truth, she would have never had any dealings with Wissman or Clark Hunt or HFV.

16. Kramer did not know, and could not reasonably have known, that Wissman, Clark Hunt and HFV were engaged in a criminal conspiracy to bribe public officials. Wissman, Clark Hunt, HFV, the intermediaries and the corrupt public officials necessarily attempted to conceal their unlawful activities for as long as possible, including concealing the truth from Kramer.

17. On or about March 2, 2007, as a result of defendants' fraudulent inducement and ongoing fraudulent concealment of their criminal enterprise, Greentech entered into an Agreement

with HFV providing in relevant part that, in exchange for fees, HFV would “seed” Greentech with HFV’s own capital and would obtain additional investors in Greentech. Greentech and Kramer would not have signed the Agreement if they had known the truth about the defendants’ unlawful business practices.

18. Thereafter, Wissman and HFV held numerous discussions and meetings with Kramer regarding obtaining additional investors, particularly public employee pension plans. There were also numerous telephone conferences and in-person meetings held, including joint communications with public officials and their staffs regarding potential investments in Greentech by these various public employee pension funds. These potential investors received disclosures that Greentech was seeded by HFV and that HFV would receive compensation if these investments in Greentech were made, which occurred in fact.

19. This close relationship between HFV and Greentech necessarily and foreseeably tied Greentech and Kramer’s future success and reputations to those of Wissman, Clark Hunt and HFV. Wissman, Clark Hunt and HFV had actual knowledge that they were willfully engaged in criminal conduct, and knew that they had purposely concealed the ongoing conspiracy from Kramer, who would never have been remotely associated with them if she had known the truth.

20. Within months after the March 2, 2007 fraudulently induced Agreement was signed, reports surfaced of investigations of corrupt public officials who controlled public employee pension plans, including reports of investigations in the State of New York. The defendants herein denied to plaintiffs that there was any truth to the allegations of massive bribery of public officials even after the defendants themselves were specifically identified in published reports as among those who were the subjects or targets of the federal and New York investigations. Indeed, defendant Clark Hunt defended his integrity directly to Kramer, emphasizing his deeply held religious beliefs and “family values.”

21. In reliance upon the defendants' further false assurances, plaintiffs attempted to move forward but it became increasingly difficult to persuade institutional investors to invest in Greentech as the published reports of the widening investigations became a drumbeat of negative publicity. Consultants and counsel to such institutional investors became increasingly concerned about becoming associated with Greentech. Public employee pension plan officials became increasingly concerned that an investment linked to the defendants would create the impression that they too were receiving bribes.

22. Throughout 2007 and 2008 the defendants continued to falsely deny to Kramer that they were guilty of the conduct under investigation and never told Kramer the truth just as they never, at any time in 2007-2008, made any public disclosure to anyone of their unlawful conduct.

23. Greentech's performance was above average compared to its peers, but that could not overcome the reluctance of institutional investors to invest in a fund when the very investment itself raised issues as to the decision-maker's own integrity and involvement in the wrongdoing under investigation. Greentech and Kramer, through no fault of their own, became tainted and unable to raise capital to continue and grow Greentech, and have been forced to liquidate Greentech, with consequent losses to Greentech and Kramer and future lost income.

24. Wissman, Clark Hunt and HFV knew of and recklessly disregarded the impact upon Greentech and Kramer of their purposely inducing Greentech and Kramer into becoming so closely associated with them, when they knew, in truth and in fact, they were not the honest and prestigious operation they pretended to be and were instead deliberately luring and manipulating Greentech and Kramer into becoming "patsies" whose prior good names and reputations would be damaged by their close association with criminals engaged in a pattern of bribing corrupt public officials across the country.

25. By reason of the foregoing, plaintiffs were proximately damaged in an amount to be

determined at trial.

#### THE DEFENDANTS' CONSPIRACY COLLAPSES

26. On March 19, 2009, the New York State Attorney General and the U.S. Securities & Exchange Commission publicly filed civil and criminal proceedings alleging securities fraud, bribery and money laundering charges against a number of individuals and entities engaged in a conspiracy to bribe public officials to obtain investments in hedge funds by public employee pension funds, including former New York Comptroller Alan Hevesi, Hank Morris(Hevesi's chief strategist and fundraiser), David Loglisci, who was then the top investment officer of the New York pension fund under Hevesi, and defendants herein Wissman and HFV affiliated entities. Wissman, identified as "Individual A" in the SEC civil action, was alleged to have paid \$600,000 in kickbacks to Morris and Loglisci to land \$100 million worth of investments from the New York State pension fund controlled by Hevesi. The SEC alleged that, from 2003 to 2007, about \$5 billion, more than half of New York's \$9.5 billion in alternative investments were tainted by kickbacks.

27. In April 2009, defendant Wissman pleaded guilty to a felony charge of securities fraud, agreed to pay \$12 million in penalties, and is said to be cooperating in the ongoing investigation encompassing corrupt public officials across America who control public employee pension funds. Wissman has been barred for life from any association with the securities industry.

28. In April 2009, without admitting or denying the truth of the allegations, HFV Management and HFV Asset management, affiliates of defendants Wissman, Clark Hunt and HFV herein, agreed to pay a \$150,000 penalty.

29. In June 2009 Carlyle Group and Riverstone Holdings respectively settled with New York Attorney General Andrew Cuomo for \$30 and \$20 million. Riverstone's founder David Leuschen was not covered by the settlement and remained a target of the investigation.

30. Defendant HFV herein has removed the "HFV" name from its office door and its beneficial co-owner and controlling person, Clark Hunt, continues his various business activities under different names.

#### THE AFTERMATH FOR PLAINTIFFS

31. On May 26, 2009 The New York State Common Retirement Fund, under the control of Hevesi's successor, announced that it was ceasing to do business with a number of entities involved in the bribery and corruption scandal described above, including, in relevant part, HFV Management, an affiliate of defendants Wissman, Clark Hunt and HFV herein.

32. Other public employee pension funds have also terminated any relationship with HFV because of HFV's and Wissman's and Clark Hunt's participation in bribery, money laundering and securities fraud.

33. Greentech attempted a costly effort to obtain investors directly but the taint of the public corruption scandal resulted in numerous potential investors advising Greentech and Kramer that, under the circumstances, they could not have their names, and their clients, even remotely associated with criminals in a notorious public corruption scandal.

34. The New York and other funds have "blacklisted" plaintiffs herein and other fund managers who were associated with defendants Wissman, Clark Hunt and HFV although there has never been any allegation by any governmental agency that plaintiffs even knew of the wrongdoing by Wissman, Clark Hunt and HFV.

35. Greentech is liquidating its hedge funds and been deprived of substantial management fees and lost opportunity, the Greentech name is tainted, Kramer has lost substantial income she would have otherwise earned had she not been duped by the defendants herein and lost her hard-earned capital put into Greentech, and her good name and reputation have been tainted, resulting in losses and lost future income for plaintiffs herein.



36. Defendants' fraudulent inducement to plaintiffs and ongoing fraudulent concealment from plaintiffs has proximately caused damage to plaintiffs in an amount to be determined at trial.

FIRST CAUSE OF ACTION

Fraud

(Against All Defendants)

37. Plaintiffs repeat and reallege the prior paragraphs of the Complaint as if fully set forth herein.

38. Defendants' intentional or reckless failure to disclose to plaintiffs that defendants were engaged in wrongdoing in order to raise funds for hedge funds constituted a material omission of fact.

39. Defendants' intentional or reckless representations that HFV was a legitimate and prestigious entity with legitimate access to capital from public employee pension funds constituted material false statements.

40. Defendants' intentional or reckless ongoing concealment of their wrongdoing constituted a fraud upon plaintiffs.

41. Plaintiffs did not know, and could not have reasonably known, of defendants' scheme and reasonably relied upon defendant's material misrepresentations and were unaware of the true facts omitted and concealed from plaintiffs by defendants herein.

42. By reason of the foregoing, plaintiffs were proximately damaged in an amount to be determined at trial.

SECOND CAUSE OF ACTION

(Negligent Misrepresentation)

(Against All Defendants)

43. Plaintiffs repeat and reallege the prior paragraphs of the Complaint as if fully set forth herein.

44. Defendants were negligent in making the misrepresentations made and in failing to disclose the omitted material facts to plaintiffs.

45. By reason of the foregoing, plaintiffs were proximately damaged in an amount to be determined at trial.

WHEREFORE, Plaintiffs respectfully request judgment against Defendants granting relief as follows:

- (i) Compensatory damages in an amount to be determined at trial;
- (ii) Punitive damages in an amount to be determined at trial;
- (iii) Costs and disbursements, including reasonable attorneys' fees;
- (iv) Such other and further relief as the Court deems just and proper.

Dated: August 11, 2009

HOWARD B. SIROTA

By: 

Howard B. Sirota

Attorney for Plaintiffs

125 Beach 128<sup>th</sup> Street

Belle Harbor, NY 11694

(212) 425-9055

howard.sirota@gmail.com



**GREENTECH RESEARCH LLC AND HILARY J. KRAMER  
VS  
BARRETT WISSMAN, CLARK HUNT AND HFV VENTURES, L.P.**

**AFFIDAVIT OF DUE DILIGENCE**

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned affiant, who, being by me duly sworn states on oath that:

1. My name is **Brandon Sachse**. I am of legal age and of sound mind and have personal knowledge of the facts set forth in this affidavit. I am duly authorized to make this affidavit and am competent to testify to the matters contained in this affidavit. I swear that every statement made in this affidavit is made on my personal knowledge and is true and correct.

2. I am an agent of Demovsky Lawyer Service, 401 Broadway, Suite 510, New York, NY, 10013. I am a Private Process Server in the State of Texas. I am not a party, or otherwise interested in the outcome of this lawsuit.

3. On the **14th** day of **August, 2009**, I was assigned a **Summons and Complaint** and was instructed to attempt service on **HFV Ventures, LP and Clark Hunt at 1601 Elm Street, Suite 4000, Dallas, Texas 75201**.

4. I made the following attempts to serve said Summons and Complaint on defendant:

Date	Time	Results
8-14-09	2:00 pm	I was told by the receptionist that everyone that could accept was out of the office.
8-17-09	2:05 pm	I spoke to the General Counsel, Allan Thompkins, and was told he could not accept the documents and that no entity exists by the name "HFV" or "HFV Ventures, LP" associated with Hunt. I was told to come back 8-18-09 in the afternoon to give the documents to Clark Hunt.

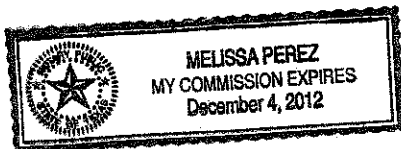
**FURTHER AFFIANT SAYETH NOT.**



AFFIANT

**Brandon Sachse**  
Supreme Court No. SC000001082

SUBSCRIBED AND SWORN THIS 30TH DAY OF NOVEMBER, 2009.

  
NOTARY PUBLIC



# Demovsky Lawyer Service

Premier Nationwide Document Retrieval  
and Process Service Company

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
GREENTECH RESEARCH LLC and HILARY J.  
KRAMER,

Plaintiffs,

Index No. 14602477/2009

-against-

AFFIDAVIT OF SERVICE

BARRETT WISSMAN, CLARK HUNT and HFV  
VENTURES, L.P.,

Defendants.

NEW YORK  
COUNTY CLERK'S OFFICE

OCT 05 2009

NOT COMPARED  
WITH COPY FILE

-----X  
STATE OF TEXAS )  
S.S.:  
COUNTY OF DALLAS)

KIRK FRENCH, being duly sworn, deposes and says that he is over the age of eighteen years, is an agent of the attorney service, DLS, INC., and is not a party to this action.

That on the 18<sup>th</sup> day of August, 2009, at approximately 2:55 pm, deponent attempted to serve a true copy of the **SUMMONS AND COMPLAINT** upon CLARK HUNT at 1601 Elm Street, Suite 4000, Dallas, TX but was told that Clark Hunt was out of town.

At that time, therefore, deponent served a true copy of the aforementioned papers upon CLARK HUNT by personally delivering and leaving the same with ALAN THOMPCKINS a person of suitable age and discretion at that address, the actual place of business, who stated that he did not "accept" the papers. At the time of service, deponent asked if Clark Hunt is in active military service for the United States of America or for the State in any capacity whatever or dependent upon a person in active military service and received a negative reply.

Alan Thompkins is a white male, approximately 53 years of age, stands approximately 6 feet 3 inches tall, weighs approximately 230 pounds with dark hair.



# Demovsky Lawyer Service

Premier Nationwide Document Retrieval  
and Process Service Company

That on the 20 day of August, 2009, deponent served another true copy of the foregoing upon CLARK HUNT by first class mail, by enclosing a true copy thereof in a securely sealed and postpaid wrapper with the words "PERSONAL AND CONFIDENTIAL" written on the same envelope, and not indicating on the outside that is from an attorney or concerns an action against the person to be served, and depositing the same into an official depository maintained by the Government of the United States, City of Dallas and State of Texas, addressed as follows:

CLARK HUNT  
1601 Elm Street  
Suite 4000  
Dallas, TX 75201

KIRK FRENCH

Kirk French  
Supreme Court No. SCH000000484

Sworn to before me this  
14<sup>th</sup> day of SEPTEMBER, 2009

  
NOTARY PUBLIC



**Demovsky Lawyer Service**

Premier Nationwide Document Retrieval  
and Process Service Company

**5**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
GREENTECH RESEARCH LLC and  
HILARY J. KRAMER

Plaintiffs,

-against-

BARRETT WISSMAN, CLARK HUNT and  
HFV VENTURES, L.P.,  
Defendants.

Index No. 09602477/2009

AFFIDAVIT OF SERVICE

NEW YORK  
COUNTY CLERK'S OFFICE

SEP 22 2009

NOT COMPARED  
WITH COPY FILE

-----X  
STATE OF TEXAS            )  
                                  S.S.:  
COUNTY OF DALLAS        )

DENNIS S. HINSHAW, being duly sworn, deposes and says that he is over the age of eighteen years, is an agent of the attorney service, DLS, INC., and is not a party of this action.

That on the 1<sup>st</sup> day of SEPTEMBER 2009, at approximately the time of 8:19AM, deponent served a true copy of the SUMMONS and COMPLAINT upon CLARK K. HUNT at 3920 EUCLID AVENUE, DALLAS, TEXAS by personally delivering and leaving the same with CLARK K. HUNT at that address. At the time of service, deponent asked CLARK K. HUNT if he is in active military service for the United States of America or for the State in any capacity whatever or dependent upon a person in active military service and received a negative reply.

CLARK K. HUNT is a white male, approximately 55 years of age, stands approximately 6 feet 3 inches tall, and weighs approximately 250 pounds with black hair.

DENNIS S. HINSHAW

Sworn to before me this  
21<sup>st</sup> day of SEPTEMBER 2009

  
NOTARY PUBLIC



# Demovsky Lawyer Service

Premier Nationwide Document Retrieval  
and Process Service Company

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
GREENTECH RESEARCH LLC and  
HILARY J. KRAMER

Index No. 602477/2009

Plaintiffs,  
  
-against-

AFFIDAVIT OF SERVICE

BARRETT WISSMAN, CLARK HUNT and  
HFV VENTURES, L.P.,  
Defendants.

NEW YORK  
COUNTY CLERK'S OFFICE  
OCT 05 2009  
NOT COMPARED  
WITH COPY FILE

-----X  
STATE OF TEXAS            )  
                                  S.S.:  
COUNTY OF DALLAS        )

DENNIS S. HINSHAW, being duly sworn, deposes and says that he is over the age of eighteen years, is an agent of the attorney service, DLS, INC., and is not a party of this action.

That on the 1<sup>st</sup> day of SEPTEMBER 2009, at approximately the time of 8:19AM, deponent served a true copy of the SUMMONS and COMPLAINT upon HFV VENTURES, L.P. at 3920 EUCLID AVENUE, DALLAS, TEXAS by personally delivering and leaving the same with CLARK K. HUNT who informed deponent that he holds the position of PRINCIPAL with that company and is authorized by law to receive service at that address.

CLARK K. HUNT is a white male, approximately 55 years of age, stands approximately 6 feet 3 inches tall, and weighs approximately 250 pounds with black hair.

  
DENNIS S. HINSHAW

Dennis S. Hinshaw  
Supreme Court No. SC000000628

Sworn to before me this  
2<sup>nd</sup> day of SEPTEMBER 2009

  
NOTARY PUBLIC







Howard Sirota <howard.sirota@gmail.com>

# Greentech v. Wissman et al

1 message

Howard Sirota <howard.sirota@gmail.com>

Thu, Oct 8, 2009 at 8:06 AM

To: scaple@hvfunds.com

Cc: hilary@hilarykramer.com, Bob Napodano <rnap@dlsny.com>

Mr. Steven Caple, President  
Hunt Financial Ventures  
1601 Elm Street 4th Floor  
Dallas TX 75201

Dear Mr. Caple,

I represent Greentech and Hilary Kramer in the above action against Barrett Wissman, Clark Hunt and Hunt Financial Ventures, filed in New York on August 11, 2009. I am attaching a text copy for your convenience.

I am writing because neither Clark Hunt or HFV have appeared through counsel although I have received and filed affidavits of service upon Clark Hunt and HFV made on August 20, 2009 in Dallas.

I presume that HFV and Clark Hunt do not intend to default, and so I am writing to request that you have your counsel contact me to schedule a date to move or answer the Complaint.

Thank you in advance for your anticipated courtesy and cooperation.

Howard B. Sirota

--  
Howard B. Sirota  
Attorney At Law  
125 Beach 128th Street  
Belle Harbor, NY 11694  
(212) 425-9055  
(917) 363-0619 Mobile  
[howard.sirota@gmail.com](mailto:howard.sirota@gmail.com)

 **Complaint Greentech v. Wissman.docx**  
26K



Howard Sirota &lt;howard.sirota@gmail.com&gt;

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**Greentech v. Wissman & Hunt**

4 messages

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**Howard Sirota <howard.sirota@gmail.com>**

Tue, Nov 24, 2009 at 8:47 AM

To: Garret Chambers &lt;gchambers@mckoolsmith.com&gt;

Cc: Michael Gardner &lt;MZG@bickelbrewer.com&gt;

Bcc: hilary@hilarykramer.com

Garret

I will be available if you want to discuss what the next step should be procedurally, but upon further reflection I'm thinking that the logic of your position is that you were not served, so that it's not your move to remove to the SDNY and instead it's my move to enter a default judgment in Supreme NY which you oppose or not as you wish or later contest.

I wanted to give you advance notice that I will argue that this is an intentional default. You are betting that you can defeat service. There is no neglect. You are making a strategic decision. If you win on service, I have to start over. If you lose, you can't open an intentional default as a general rule but I'm not wearing the robes so maybe you'll be able to defend on the merits.

Without conceding anything above, let me know if you are filing a petition for removal to the SDNY or not so I can proceed in state court and we'll ultimately get a decision.

I am still prepared to do the standard stip in state court if you want to do so.

Let me know.

Happy Thanksgiving.

Regards,

Howard

—

Howard B. Sirota  
Attorney At Law  
125 Beach 128th Street  
Belle Harbor, NY 11694  
(212) 425-9055  
(917) 363-0619 Mobile  
[howard.sirota@gmail.com](mailto:howard.sirota@gmail.com)

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**Howard Sirota <howard.sirota@gmail.com>**

Tue, Nov 24, 2009 at 8:56 AM

To: Bob Napodano &lt;rnap@dlsny.com&gt;

Bcc: hilary@hilarykramer.com

Bob

I expect to file a motion to enter a default judgment next week, so please get me the Texas affidavit(s) of non-service re Clark Hunt & HFV so I'll have them as exhibits.

Thanks and regards,

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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GREENTECH RESEARCH LLC and

HILARY J. KRAMER,

Plaintiffs,

Index No. 0962477/2009

Date purchased: 8/11/09

-against-

BARRETT WISSMAN, CLARK HUNT, and

AFFIDAVIT OF MERIT

HUNT FINANCIAL VENTURES, L.P.,

Defendants.

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STATE OF NEW YORK)

COUNTY OF KINGS)

HILARY J. KRAMER, being duly sworn, deposes and says the following, under the penalties of perjury:

1. I am the individual plaintiff in this action and the principal of plaintiff Greentech Research LLC. ("Greentech"). I make this affidavit of merit in support of plaintiffs' motion for an order pursuant to C.P.L.R. 3215(a), granting leave to enter a default judgment against defendants Clark Hunt and Hunt Financial Ventures, L.P. ("HFV"). This action arises from the scheme of defendants to defraud plaintiffs into entering into agreements and continuing the business relationship with defendant HFV concerning an alternative energy hedge fund managed by plaintiff Greentech and its affiliated entities, which are substantially owned and controlled by me.
2. Defendants concealed from me and Greentech that they were engaged in a pervasive criminal conspiracy to bribe public officials in order to obtain from these corrupt public officials funding for hedge funds from public employee pension funds controlled by these public officials. Defendant Wissman has pleaded guilty to felony charges based upon his bribery of public employee pension plan officials in the State of New York. Numerous other co-conspirators of defendants have also pleaded guilty to similar charges, and a number of the conspirators await trial. Public reports indicate the investigation is ongoing and appears to involve corrupt public employee pension plans across the United States.

3. I was introduced to Defendants herein by David Loglisci, who was then the chief investment officer of the New York State Common Retirement Fund. I had no knowledge that Loglisci was receiving bribes from the defendants herein and other so-called "intermediaries" to obtain investments from New York and other public employee pension funds. Loglisci has subsequently been indicted and is awaiting trial on criminal charges of bribery and corruption.
4. I am an experienced and well-respected financial analyst and author, and I would not have entered into a business relationship with defendants who were involved in a pattern of criminal conduct. The defendants' scheme proximately caused damages to plaintiffs, including, but not limited to, interfering with plaintiffs' ability to retain and secure funding from institutional investors, including public employee pension funds, union pension plans and endowments, loss of income and capital invested in the venture, injury to reputation and interference with prospective economic advantage. In short, defendants' fraud destroyed the only woman-owned alternative energy hedge fund in America.
5. I organized Greentech as a hedge fund group for the purpose of investing in alternative energy companies engaged in, among other efforts, wind and solar power development.
6. I held discussions in 2006 with defendants Wissman and Hunt regarding a potential relationship in which HFV would "seed" Greentech with capital and then obtain additional, larger investments from institutional investors, including public employee pension plans. In October 2006, HFV funded the Greentech 21<sup>st</sup> Century Master Fund (managed by Greentech Research LLC) with \$10 million and, in April 2007, added an additional \$10 million to this Fund. In June 2007, HFV provided Greentech with \$300,000 of working capital.
7. Defendants Wissman and Hunt represented to me that they had excellent relations with many institutional investors, including public employee and union pension funds interested in funding a woman-owned socially responsible alternative energy fund. They stated that they expected to raise substantial capital for Greentech from their contacts, for a fee based on all of the funds raised by Greentech, even if the funds were from investors who were obtained without any assistance from defendants.
8. Defendants Wissman and Hunt represented to me that HFV was a prestigious and substantial entity with many legitimate clients and relationships, that Greentech and I would benefit from association with HFV, and that HFV would raise substantial capital for Greentech. Ultimately, HFV did raise de minimis capital for Greentech, but behind my back raised very substantial capital (\$500 million) for Greentech's competitor Riverstone Holdings, controlled by Carlyle Group ("Carlyle"), contrary to defendant Wissman's and Hunt's prior false assurances to me. Unknown to me at the time, but

since revealed in criminal and civil proceedings by the federal and New York authorities, Carlyle and Riverstone surreptitiously funneled \$5 million to Wissman and HFV for arranging for Riverstone's financing through HFV, and also funneled another \$5 million to Hank Morris, Alan Hevesi's "bag man." Defendants Wissman and Hunt did not reveal to me that defendants were engaged in a conspiracy to obtain such investments from public employee pension funds through the bribery of the public officials who controlled these public employee pension plans.

9. I have personal knowledge that defendant Clark Hunt was actively involved with his life-long friend, defendant Barrett Wissman, in conducting the business of HFV, and that Clark Hunt directly participated in the pay to play corruption scandal and had direct dealings with the so-called "intermediaries" who paid the bribes to public officials in charge of public employee pension plans. For example, I personally observed Clark Hunt meeting in Dallas with Alfred Villalobos and heard them discuss how Clark Hunt was providing Villalobos with private jet flights, private helicopter flights and other expenses in connection with HFV's effort to obtain business from CALPERS and other public employee pension plans. At the time I had no knowledge of the true role of Villalobos as an "intermediary." In December 2009 CALPERS disclosed it had discovered additional payments to Villalobos of \$18 million over and above the November 2009 disclosure that CALPERS had paid Villalobos, \$53 million, for a total of \$71 million disclosed to date. Villalobos is a target of continuing federal and state criminal investigations.
10. I believe that I have a life-long reputation for integrity and had absolutely no interest in being funded by "dirty money" obtained through criminal bribery of public officials. Had I known the truth, I would have never had any dealings with defendants .
11. I did not know, and could not reasonably have known, that defendants were engaged in criminal conspiracy to bribe public officials. As the intermediaries with corrupt public officials, they necessarily attempted to conceal their unlawful activities for as long as possible, including concealing the truth from me.
12. On or about March 2, 2007, as a result of defendants' fraudulent inducement and ongoing fraudulent concealment of their criminal enterprise, Greentech entered into an Agreement with defendant HFV, providing in relevant part that in exchange for fees, HFV would "seed" Greentech with HFV's own capital and would obtain additional investors in Greentech. I would not have signed the Agreement if I had known the truth about the defendants' unlawful business practices.
13. Thereafter, Wissman and HFV held numerous discussions and meetings with me regarding obtaining additional investors, particularly public employee pension plans. There were also numerous telephone conferences and in-person meetings , including joint communications with public officials and their staffs regarding potential investments in Greentech by these various public employee pension funds. These potential investors received disclosures that Greentech was seeded by HFV and that HFV would receive compensation if investments in Greentech were made, which in fact occurred.

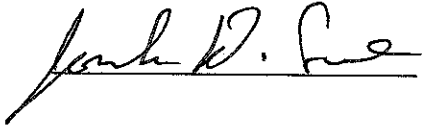
14. Within months after the March 2, 2007 fraudulently induced Agreement was signed, reports surfaced of investigations of corrupt public officials who controlled public employee pension plans, including reports of investigations in the State of New York. The defendants herein denied to me that there was any truth to the allegations of massive bribery of public officials, even after the defendants themselves were specifically identified in published reports as among those who were the subjects or targets of the federal and New York State investigations. Indeed, defendant Hunt defended his integrity directly to me, emphasizing his deeply held religious beliefs and "family values."
15. In reliance upon the defendants' further false assurances, plaintiffs attempted to move forward, but it became increasingly difficult to persuade institutional investors to invest in Greentech as the published reports of the widening investigations became a drumbeat of negative publicity. Consultants and counsel to such institutional investors became increasingly concerned about becoming associated with Greentech. Public employee pension plan officials became increasingly concerned that an investment linked to defendants would create the impression that they too were receiving bribes.
16. Throughout 2007 and 2008, defendants continued to falsely deny to me that they were guilty of the conduct under investigation and never told me the truth.
17. Greentech's performance was above average compared to its peers, but that could not overcome the reluctance of institutional investors to invest in a fund when the very investment itself raised issues as to the decision-maker's own integrity and involvement in the wrongdoing under investigation. Plaintiffs, through no fault of their own, became tainted and unable to raise capital to continue. I have been forced to liquidate Greentech, with consequent present losses and future lost income.
18. Defendants knew and recklessly disregarded the impact upon plaintiffs of their purposely inducing me and Greentech into becoming so closely associated with them, when they knew, in truth and in fact, that they were not the honest and prestigious operation they pretended to be, and were instead deliberately luring and manipulating Greentech and me into becoming "patsies", whose prior good names and reputations would be damaged by their close association with criminals engaged in a pattern of bribing corrupt public officials across the country.
19. By reason of the foregoing, plaintiffs were proximately damaged in an amount to be determined at trial.
20. On March 9, 2009, the New York State Attorney General and the United States Securities and Exchange Commission publicly filed civil and criminal proceedings alleging securities fraud, bribery and money laundering charges against a number of individuals and entities engaged in a conspiracy to bribe public officials to obtain investments in hedge funds by public employee pension funds, including former New York Comptroller Alan Hevesi, Hank Morris(Hevesi's chief strategist and fundraiser), David Loglisci, who was then the top investment officer of the New York pension fund under Hevesi, and defendants herein Wissman and HFV affiliated entities. Wissman, identified as "Individual A" in the SEC civil action, was alleged to have paid \$600,000 in

kickbacks to Morris and Loglisci to land \$100 million worth of investments from the New York State pension fund controlled by Hevesi. The SEC alleged that, from 2003 to 2007, about \$5 billion, more than half of New York's \$9.5 billion in alternative investments were tainted by kickbacks.

21. In April 2009, defendant Wissman pleaded guilty to a felony charge of securities fraud, agreed to pay \$12 million in penalties, and is said to be cooperating with the ongoing investigation of corrupt public officials across America who control public employee pension funds. Wissman was barred for life from any association with the securities industry.
22. In April 2009, without admitting or denying the truth of the allegations, HFV Management and HFV Asset Management, affiliates of defendants herein, agreed to pay a \$150,000 penalty.
23. In June 2009 Carlyle Group and Riverstone Holdings respectively settled with New York Attorney General Andrew Cuomo for \$30 and \$20 million. Riverstone's founder David Leuschen was not covered by the settlement. In December 2009 Leuschen agreed to pay \$20 million to settle the claims by New York Attorney General Andrew Cuomo.
24. Defendant HFV has removed the "HFV" name from its office door, and its beneficial co-owner and controlling person, defendant Hunt, continues his various business activities under different names.
25. On May 26, 2009, The New York State Common Retirement Fund, under the control of Hevesi's successor, announced that it was ceasing to do business with a number of entities involved in the bribery and corruption scandal described above, including, in relevant part, HFV Management, an affiliate of defendants Wissman, Hunt and HFV herein.
26. Other public employee pension funds have also terminated any relationship with HFV because of defendants' participation in bribery, money laundering and securities fraud.
27. Greentech attempted a costly effort to obtain investors directly, but the taint of the public corruption scandal resulted in numerous potential investors advising me that, under the circumstances, they could not have their names, and their clients even remotely associated with criminals in a notorious public corruption scandal.
28. The New York public employees' pension fund and other funds have "blacklisted" plaintiff and other fund managers who were associated with defendants, although there have never been any allegations by any governmental agency that plaintiffs even knew of the wrongdoing by defendants.
29. Greentech is liquidating its hedge funds and been deprived of substantial management fees and lost opportunity. The Greentech name is tainted and I have lost substantial income I would have otherwise earned had I not been duped by the defendants. I also lost the hard-earned capital I put into Greentech, and my good name and reputation have been tainted, resulting in pecuniary losses and lost future income for myself and Greentech.

30. Plaintiffs have a meritorious action and respectfully request that the court grant leave to enter a default judgment against defendants HFV and Hunt, who have willfully defaulted in this action.

Sworn to before me  
this 23 day of December, 2009



JOSEPH D. LOVE  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01LO6088118  
QUALIFIED IN QUEENS COUNTY  
COMMISSION EXPIRES MARCH 3, 2011



HILARY J. KRAMER



SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

INDEX NO. 09602477/09

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GREENTECH RESEARCH LLC and

Date Purchased: 8/11/09

HILARY J. KRAMER,

Plaintiffs

-against-

BARRETT WISSMAN, CLARK HUNT, and

HUNT FINANCIAL VENTURES, L.P.,

Defendants

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**Plaintiffs' Memorandum of Law in Support of Motion for Leave to Enter Default Judgments Against Defendants Clark Hunt and Hunt Financial Ventures L.P.**

Howard B. Sirota

125 Beach 128<sup>th</sup> Street

Belle Harbor, NY 11694

(212) 425-9055

Attorney for Plaintiffs

## Preliminary Statement

Plaintiffs respectfully submit this Memorandum of Law in support of their motion for leave to enter judgments by default against non-appearing defendants Clark Hunt and Hunt Financial Ventures L.P (“HFV”), pursuant to C.P.L.R. 3215(a).

## The Factual Record

The annexed affirmation of Howard B. Sirota, Esq., and the exhibits thereto, establish proper service of process by licensed process servers upon the defaulting defendants, and is incorporated by reference herein.

Plaintiffs have set out, in detail, step by step, how service was effected upon defendants Clark Hunt and HFV by licensed process servers at Hunt’s offices at 1601 Elm Street, Suite 4000, Dallas, Texas, 75201, and at Hunt’s residence 3920 Euclid Avenue, Dallas, Texas 75205.

Plaintiffs have also submitted documentary evidence of a notice of default, accompanied by a copy of the summons and complaint, requesting that the defaulting defendants have their counsel contact plaintiffs’ counsel.

Plaintiffs have further submitted documentary evidence that their counsel communicated with counsel for the defaulting defendants regarding the

continuing default, and advised counsel for the defaulting defendants that plaintiffs would seek a default judgment.

Defendants Hunt and HFV have not appeared and defended this action, although they are aware of the pendency of the action. It appears that these defendants claim to have never been served, or in the alternative, to not have been properly served, although they have not filed an answer or motion raising such an affirmative defense.

In these circumstances, it is respectfully submitted that the sole remedy is for the Court to enter a default judgment against the non-appearing parties where, as here, the record contains sworn affidavits of service by licensed process servers. These affidavits of service are entitled to a presumption of regularity. There is other documentary evidence set forth in the Sirota Affidavit which demonstrates that the defaulting defendants received the summons and complaint through service of process, a supplementary notice of default, a subsequent notice to counsel for the non-appearing defendants, and the instant motion.

DEFENDANTS HUNT AND HFV HAVE WILLFULLY DEFAULTED IN THIS ACTION

Pursuant to C.P.L.R. 3215(a), when a defendant has failed to appear or plead, plaintiff may obtain a default judgment. As the accompanying Affidavit of Howard B. Sirota, Esq. and exhibits demonstrate, these defendants were properly served with the summons and complaint in this action and have failed to appear within the requisite time period. Moreover, their counsel refused to state when, if ever, defendants would respond to the complaint. Accordingly, these defendants have willfully defaulted and plaintiffs are entitled to enter judgments against them. Less than a year has elapsed since their default, which occurred on September 20, 2009, at the latest.

Under C.P.L.R. 313, a person subject to the jurisdiction of the courts of New York, may be served with the summons and complaint without the state, in the same manner as service is made within the state, by any person authorized to make service by the laws of the state in which service is made. The complaint alleged jurisdiction over defendants Hunt and HFV based on acts committed within this state.

C.P.L.R. 308 provides that personal service upon a natural person shall be made either by delivering the summons within the state to the person to be

served or by delivering the summons to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and by either mailing the summons to the person to be served at his or her last known residence or by mailing the summons to the person to be served at his or her actual place of business. Where service cannot be made in either way with due diligence, pursuant to C.P.L.R. 308 (4), service can be effectuated by affixing the summons to the door of either the actual place of business, dwelling place or usual place of abode of the person to be served and by either mailing the summons to such person at his or her last known residence or actual place of business.

Defendant Hunt is a principal of HFV. The affidavit of service of Kirk French states that on August 18, 2009, he left the summons and complaint with a person of suitable age and discretion at defendant Hunt and HFV's actual place of business, and on August 20, 2009, he mailed the summons and complaint to the same address. In addition, the affidavit of service of Dennis S. Hinshaw indicates that he personally served the summons and complaint on Hunt and HFV at Hunt's residence on September 1, 2009. At that time, the person served admitted that he was a principal of HFV. The information concerning the addresses of HFV and Hunt's business and residence was obtained from public records and proprietary

databases utilized by Demovsky Lawyer Service and confirmed by an additional public records search by counsel.

Even if the person served by Hinshaw was not actually defendant, he is a person of suitable age and discretion and service was completed with the mailing by French. See, Albia v. Hillcrest General Hospital, 124 AD2d 499, 500 (1<sup>st</sup> Dept. 1986); Oxhandler v. Sekhar, 88 AD2d 817 (1<sup>st</sup> Dept. 1982). In Board of Managers of Le Trianon Condominium v. 1439 Realty Corp., 186 ADS2d 437, 438 (1<sup>st</sup> Dept. 1992), the court held that service on a security guard who would not permit the process server to enter the gated community was sufficient. See also, Costine v. St. Vincent's Hospital & Medical Center of New York, 173 AD2d 422 (1<sup>st</sup> Dept. 1991).

By accepting the papers in the name of defendant Hunt and HFV, the person who answered the door at Hunt's residence and identified himself as Hunt exhibited sufficient maturity and responsibility to deliver the summons and complaint to defendants. Moreover, French stated that AlanThompkins, defendants' General Counsel also received a copy of these documents, which were also served by mail addressed to these defendants at their business and residence addresses. The fact that Thompkins stated a few days before that he

would not accept service is not germane . In Spector v. Berman, 119 AD2d 565 (2d Dept. 1986), where a person of suitable age and discretion refuses to accept the summons and complaint, service may be effectuated by leaving it in the “general vicinity” of the person who resists service. Here, the documents were actually handed to Thompkins.

More than 20 days have elapsed since service was completed on defendants Hunt and HFV and they have not served a responsive pleading. In order to rebut an affidavit of service and test the service of process, defendant must personally contest the service on a motion. See, Walkes v. Benoit, 257 AD2d 508 (1<sup>st</sup> Dept. 1999). Defendants Hunt and HFV have failed to take any action to contest service upon them.

Plaintiffs have provided this court with proofs of service and an affidavit of plaintiff Hillary J. Kramer, attesting to the merits of the action. Leave to enter a default judgment is warranted under the circumstances. See, Melton v. Brotman Foot Care Group, 198 AD2d 481 (2d Dept. 1993).

Accordingly, it is respectfully requested that the court grant leave to enter a default judgment against defendants Hunt and HFV.

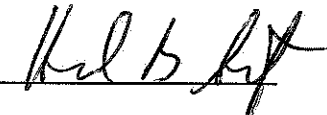
#### CONCLUSION

It is respectfully requested that the motion for leave to enter a default judgment against defendants Hunt and HFV be granted in its entirety.

Dated: Queens New York

December 23, 2009

HOWARD B. SIROTA

BY: 

Howard B. Sirota

Attorney for Plaintiffs

125 Beach 128<sup>th</sup> Street

Belle Harbor, New York 11694

(212) 425-9055



AFFIRMATION OF SERVICE

STATE OF NEW YORK )

COUNTY OF QUEENS )

HOWARD B. SIROTA, ESQ. affirms the following subject to the penalties for perjury:

1. I am over the age of 21 years, not a party to this action, reside in Queens County, and am counsel to Plaintiffs herein.
2. On December 23, 2009, I caused the foregoing motion for default judgment against Defendants Clark Hunt and Hunt Financial Ventures L.P. to be served by regular mail by placing same, postage paid, in a mailbox of the USPS addressed to:

Clark Hunt

1601 Elm Street Suite 4000

Dallas, TX 75201

Clark Hunt

3920 Euclid Avenue

Dallas, TX 75205

Hunt Financial Ventures L.P.

Attn: Steven Caple, President

1601 Elm Street Suite 4000

Dallas, TX 75201

Garret Chambers, Esq. (courtesy copy)

McKool Smith

300 Crescent Court Suite 1500

Dallas, TX 75201

Counsel for Defendants Clark Hunt & Hunt Financial Ventures L.P.

Robert F. Dannhauser

Bickel & Brewer

767 Fifth Avenue

New York, NY 10153

(212) 489-1400

Michael S. Gardner

Bickel & Brewer

1717 Main Street Suite 4800

Dallas Texas 75201

Counsel for Defendant Barrett Wissman