

# UNOFFICIAL COPY

8001

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION



\*1912322078\*

ELITE FINANCIAL INVESTMENTS, INC., )  
and TOM KAPUT, )

Plaintiffs, )

v. )

MELISSA SWEISS, )

Defendant. )

No. 09 CH 12423

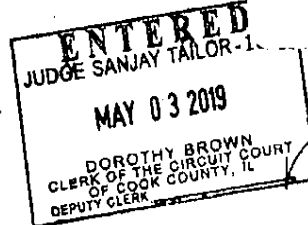
Doc# 1912322078 Fee \$60.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 05/03/2019 04:27 PM PG: 1 OF 12



### JUDGMENT

#### I. Introduction

This matter is before the Court for trial concerning a title dispute over unimproved property located at 1912 W. Division Street in Chicago ("1912"). The plaintiffs bring the following claims: Count I, quiet title; Count II, declaratory judgment; Count III, trespass to chattels; Count IV, accounting; and Count V, slander of title.

The defense relies on a notarized signature on a deed. Notarization, which remains a touchstone of modern property transfer documents, has its genesis in Roman times:

Then men learned to write, and it was found that cold letters remain after the fragile structures of memory failed. So transfers began to be made in writing. But it would inevitably happen that A or B or C would sign a paper and thereafter say he did not sign it; and that D or E or F would learn to forge another's name. So that, notwithstanding it had been at first thought that a written transfer would forever settle all disputes, it was found that a writing was only helpful, not always conclusive. So someone hit upon the idea of having the signature witnessed. From this it was but another step to having as such witness an officer under bond. The notary is that officer, that witness, and his authentication certificate means that he guarantees upon his oath as an officer, and subject to suit upon his bond, that the paper authenticated is indeed the very paper it purports to be, insofar as the signer and the signature are concerned.

Gerald Haberkorn and Julie Wulff, *The Legal Standard of Care for Notaries and Their Employers*, 31 J. Marshall L. Rev. 735, 735 (1988) (quoting I. Richard B. Humphrey, *The American Notary Manual*, 11-12 (4th ed. 1948)). The significance

*(Handwritten signatures and initials)*

# UNOFFICIAL COPY

of a notary's compliance with the law cannot be understated. Here, the notary's certificate that he witnessed the signature of the signer is admittedly false, and the credible evidence establishes that the deed was not signed by the person who it purports to be signed by. For the reasons stated herein, title to the subject property shall vest in the individual plaintiff.

## II. Discussion

The Court makes the following findings of fact and conclusions of law. Plaintiff Elite Financial Investments, Inc. ("EFII") operated a mortgage brokerage firm from 2003 until it closed in 2008. EFII was administratively dissolved on August 12, 2011, for failure to file an annual report and pay a franchise tax. At all times, plaintiff Thomas Kaput ("Kaput"), a licensed real estate broker, was EFII's sole officer, director, and shareholder. Before the mortgage and housing market downturn in late 2008, EFII had several offices in Chicago and employed 75 loan officers.

Kaput met the defendant Melissa Sweiss ("Melissa"), and her husband, Murad Sweiss ("Murad"), at a realtor convention where Murad was promoting the use of the internet to market mortgage brokerage services. EFII employed Murad and Melissa from 2004 to 2007. Kaput was EFII's president and secretary. Murad was given the title of chief executive officer of EFII, but Kaput was EFII's chief executive in all respects and Murad only managed EFII's Elm Street branch office in Chicago. Murad did not have a real estate broker's license and was not an officer or director of EFII. Nor did he have any ownership interest in EFII. Murad was paid on commission. Murad was Kaput's trusted confidant. At Murad's request, EFII hired Melissa to work as a loan processor on an independent contractor basis.

Between 2007 and 2008, Murad borrowed a total of \$950,000 from EFII to finance his real estate development projects outside of EFII. On June 12, 2007, Murad executed a promissory note in favor of EFII for \$237,000. Kaput also maintained a ledger of some of the money that Murad borrowed from EFII. Other than the note and ledger, there is no documentation of the money that Murad borrowed from EFII. However, Kaput credibly testified that he did not require Murad to execute a promissory note for the entire \$950,000 because he trusted him.

Murad owned the beneficial interest in a land trust that held legal title to 1912. In late 2007, Murad and Kaput agreed that, in order to satisfy Murad's indebtedness to EFII, Murad would direct Chicago Title Land Trust Company ("Chicago Title"), the trustee of the land trust, to transfer 1912, as well as property located at 1918 W. Division St. in Chicago, to EFII. On December 20, 2007, Chicago Title executed a trustee's deed conveying 1912 to Elite Financial Inc. ("EFI"). EFI did not exist at the time. The trustee's deed for 1912 contains a scrivener's error because Murad intended to transfer 1912 to EFII. "A court will reform a deed to correct a situation where the parties intended to say a certain thing and, by mistake, expressed another, provided that the mistake was mutual and

# UNOFFICIAL COPY

common to the parties and was in existence at the time the deed was prepared and executed.” *Fritzsche v. Union Pac. R.R.*, 303 Ill. App. 3d 276, 282 (5th Dist. 1999). The December 20, 2007, trustee’s deed is reformed to conform to Murad and Chicago Title’s intent to transfer 1912 to EFII. *See also Chance v Kimbrell*, 376 Ill. 615, 621 (1941)(“where the parties intend to pass a present estate to an existent grantee but under a name other than the correct one, such a conveyance passes title to the intended grantee.”). Melissa’s testimony that EFI was a company to be formed by Kaput and Murad to jointly develop 1912 lacked foundation and was based on hearsay.

Melissa’s claim to 1912 rests on a disputed warranty deed dated May 13, 2008, pursuant to which EFI, which did not exist at that time either, transferred the property to her. Melissa was called by the plaintiffs to testify as an adverse witness, and immediately launched into a harangue, protesting that the Court lacked jurisdiction over her (even though she has defended this case on the merits for several years), she had no time to prepare for trial (even though the trial date was set months ago), and that she did not feel safe (from whom or what Melissa did not say). She was evasive and oftentimes combative. Melissa was hardly the victim that she made herself out to be. Rather, the credible evidence shows that she played a star role in a scheme to defraud Kaput and EFII out of 1912. In short, she was not a credible witness.

Melissa’s defense theory is that Kaput owed Murad \$950,000, not the other way around, and that, pursuant to the May 13, 2008, warranty deed, EFI transferred 1912 to Melissa in satisfaction of Kaput’s debt to Murad. Remarkably, Melissa failed to call Murad as a witness. Rather, Melissa attempted to testify as Murad’s proxy, but most of her testimony relating to Murad’s business dealings with EFII and Kaput was excluded for lack of foundation, hearsay, and other evidentiary defects. As Melissa admitted, her knowledge of Murad’s business dealings with Kaput and EFII is based on what Murad told her. Thus, Melissa offered no evidence to challenge the \$237,000 promissory note that Murad executed in favor of EFII or the ledger evidencing some of the other amounts of money that Murad borrowed from EFII. Melissa’s shifting explanations about why Murad did not appear at trial despite his desire to do so – first, because Murad could not afford to fly to Chicago from Palm Beach, Florida, where he and Melissa live, and second because Murad had to attend to the activities of his minor children in Florida – were not credible. To be sure, Melissa’s explanations for Murad’s absence are pretextual, for Murad successfully moved to quash the Illinois trial subpoena that was served on him at his home in Florida.<sup>1</sup>

<sup>1</sup> Murad appears to be avoiding a judgment creditor that is presently attempting to serve him with a petition to revive an Illinois state court judgment. Shortly before trial, the plaintiffs moved to compel Murad’s appearance at trial, contending that his testimony was crucial because he admitted under oath in a citation to discover assets proceeding that he owed Kaput and EFII \$950,000, and that Melissa did not own any property in Illinois. Attached to their motion was the affidavit of a process server, who averred that, when he

# UNOFFICIAL COPY

In any event, the May 13, 2008, deed was forged. It purports to be signed by Kaput, as president of EFI. The Statement by Grantor and Grantee appear to be signed by the same person, but Melissa did not establish the identity of that person. Kaput credibly testified that he did not sign the deed, and was not aware of the deed. The deed was prepared by Aaron Spivack ("Spivack"), a notary public and attorney who represented Murad and Melissa in numerous matters and transactions. Spivack acknowledged that Murad was his friend. Spivack signed a certification on May 13, 2008, affixing his notary seal next to his signature, stating that "Thomas Kaput, personally known to me to be the President of Elite Financial Investments, Inc. [not the grantor, EFI] and \_\_\_\_\_, personally known to me to be Secretary of said Corporation personally known to me to be the same persons whose names are subscribed to the foregoing instrument, *appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument* and caused the corporate seal of said corporation to be affixed thereto, . . ." (emphasis added). However, Spivack admitted that Kaput did not appear before him and that he did not witness Kaput sign the May 13, 2008, deed.<sup>2</sup>

The credible evidence establishes that Kaput's name was signed without his knowledge or consent, either by Spivack, Melissa, or Murad, or at the direction of one of them. According to Spivack and his paralegal, Norma Garbutt ("Garbutt"), Murad came to Spivack's office on May 13, 2008, at which time Garbutt gave Murad the warranty deed that she pre-prepared and told him to have Kaput sign it. Murad then took the deed to a car parked in front of Spivack's office that had someone sitting inside of it. Murad returned to Spivack's office and gave Garbutt the deed with Kaput's purported signature along with a copy of Kaput's license, which Garbutt copied and returned to Murad. Spivack then notarized Kaput's purported signature. Spivack and Garbutt admitted that they never saw Kaput and

approached Murad at his home in Palm Beach, Florida. Murad told him that "this is the Schumacher residence and [sic] has been living here for the past 3 years." The process server further averred that he used a photograph of Murad to confirm the subject's identity and a property appraisal report that listed Murad and Melissa as the owners of the property to confirm that the house was Murad's. At the hearing on the plaintiff's motion to compel Murad's appearance, Melissa's counsel represented to the Court that he had no reason to believe that Murad would not appear at trial, and the Court denied the plaintiffs' motion as premature. A few days before trial, however, Murad moved to quash the subpoena, but the motion was stricken because it was filed by attorney Aaron Spivack, who was previously disqualified from representing Melissa because he is a material witness in this case. Naderh Elrabadi, another attorney who represents Melissa here, then filed another motion to quash on behalf of Murad, which was granted because the plaintiffs failed to cite any legal authority that would permit the Court to compel Murad, a Florida resident, to appear at trial based on, without more, a trial subpoena issued by this Court.

<sup>2</sup> Spivack's false certification that Kaput signed the deed in his presence does not appear to be an isolated incident. Norma Garbutt, Spivack's paralegal, testified that she has "no qualms" accepting a signature on a deed signed outside her presence so long as she is presented with a driver's license.

# UNOFFICIAL COPY

were not certain who was in the car parked outside of Spivack's office. Spivack also admitted that he wouldn't know Kaput if he walked by him. Spivack testified that he was sure it was Kaput's license, but was impeached with his prior deposition testimony that he did not remember if it was Kaput's license. Spivack also admitted that, even though he did not see Kaput sign the deed, he did not compare the signatures on the driver's license and deed.<sup>3</sup>

Melissa, however, contradicted Spivack and Garbutt. Melissa initially testified that she went to Spivack's office with her children on May 13, 2008. Later, Melissa changed course, insisting that Kaput signed the deed in April of 2008, a few weeks before Spivack notarized Kaput's signature on May 13, 2008. She testified that she had already sold her house on Erie Street in Chicago and moved her family to Jordan by May 13, 2008. Spivack, on the other hand, testified that he would never notarize a post-dated deed.

Aside from Melissa's hopelessly contradictory evidence of when and where Kaput signed the deed, Melissa's defense is belied for several other reasons. First, Naderh Elrabadi, Melissa's attorney in this case and Murad's cousin, represented to the Court at the summary judgment hearing that she understood that Spivack, acting as Kaput's agent, signed Kaput's name to the May 13, 2018, deed. (Report of Proceedings, June 4, 2018, p. 19). Second, Kaput lodged a claim for \$950,000 for false notarization with Accredited Surety and Casualty Co., Inc. ("Accredited"), Spivack's notary bond issuer, and Accredited paid Kaput \$5,000, its maximum bond liability, to satisfy Kaput's claim. Spivack's testimony that Accredited paid on its bond because he failed to timely respond to Kaput's claim was not credible. Kaput attached a copy of Spivack's response when he submitted his claim to Accredited. Third, the May 13, 2008, deed was not even recorded with the Cook County Recorder of Deeds until August 28, 2009, more than a year after Kaput purportedly signed it. A legitimate purchaser would not have waited so long to record a deed.

Melissa's claim to 1912 is also belied by the fact that, other than a recent payment on February 10, 2019, neither she nor Murad ever paid any property taxes on 1912. Instead, Kaput paid the property taxes for most years. Melissa's testimony that she tried to pay the property taxes but that Kaput had already paid them was not credible. Indeed, the property taxes on 1912 had been sold to a tax purchaser at least twice, before being redeemed, once by Kaput and once by Miden Property Holdings, LLC, a judgment creditor of Murad's in case no. 04 CH 2629 in this Court. Melissa received notice of a tax purchase at her home in Palm Beach, Florida, on or about April 5, 2017. Thus, she had plenty of opportunities to pay the property taxes. Melissa also testified that she brought a lawsuit in 2018 to challenge an easement on 1912 that hindered access to her adjoining property,

<sup>3</sup> Spivack's production of Kaput's driver's license is also suspect. Spivack resisted producing his files, failed to timely produce a copy of Kaput's driver's license in response to the plaintiff's discovery, and only produced Kaput's license after he (Spivack) was deposed.

# UNOFFICIAL COPY

presumably to show that she acted as the owner of 1912. Spivack represented Melissa in that suit. However, the easement was recorded in 2013, and Melissa did not sue until April, 19, 2018. In early 2017, Murad, without Kaput's knowledge or consent, leased 1912 to VIP Parking Systems, Inc. ("VIP"), a valet parking company, for \$500 per month. Thus, the lawsuit challenging the easement on 1912 was merely to protect Murad's rental income stream, which has generated \$15,000 for Murad to date.

Melissa nevertheless points to a mortgage that EFII granted to Murad on 1912 on January 24, 2007, securing a \$950,000 loan from Murad to EFII, which purports to be signed by Kaput. Spivack prepared the mortgage. Melissa's reliance on the purported mortgage fails for at least four reasons. First, Murad did not testify and Melissa could not lay a foundation for the purported loan or mortgage. Second, Kaput's signature was forged on the mortgage as well. It is signed, "Tom Kaput," and is notarized by Melissa. Melissa did not recall whether Tom appeared before her when she notarized his signature. Kaput credibly testified that he did not sign the mortgage, and that he signs formal documents as "Thomas Kaput," which is borne out by every corporate and transactional document admitted into evidence containing his signature. Melissa failed to introduce any document in evidence that Kaput signed as "Tom Kaput." Third, EFII could not have granted Murad a mortgage on 1912 because it did not even own 1912 on January 24, 2007. Rather, Chicago Title, as trustee of Murad's land trust, held legal title to 1912 on January 24, 2007. Murad did not direct Chicago Title to transfer 1912 to EFII until December 21, 2007, eleven months later. Fourth, Melissa's explanation that Murad employed a "shell mortgage" to protect his interest in 1912 while he and Kaput sought financing to develop it under a corporation to be formed called EF1, even if it was not hearsay and a foundation could be laid, was utterly nonsensical.<sup>4</sup>

Melissa also testified that Murad had an ownership interest in EFII. However, she offered no competent evidence to support her claim. Moreover, Melissa filed six affirmative defenses here, each alleging that EFII was Kaput's company. Finally, by neither admitting nor denying the plaintiffs' allegation that Kaput was at all times the "sole and only shareholder of" EFII, and failing to offer an affidavit of want of knowledge, Melissa has judicially admitted that Kaput was EFII's sole stockholder. See 735 ILCS 5/2-610(b) ("Every allegation, . . . , not explicitly denied is admitted, unless the party states in his or her pleading that he or she has no knowledge thereof sufficient to form a belief, and attaches an affidavit of the truth of the statement of want of knowledge, . . ."). Melissa's answer that the

<sup>4</sup> If Melissa's defense was not confounding enough, Murad assigned the mortgage on 1912 to a third party one month after he released it. Pursuant to an Assignment of Note and Mortgage dated April 16, 2018, and recorded on June 8, 2018, Murad assigned the fraudulent mortgage on 1912 to Ramzi Hattar. Spivack prepared the Assignment. But one month earlier, on March 6, 2018, Murad released the same mortgage on 1912. The release was prepared by Spivack also. Melissa could not explain how Murad could release his mortgage and later assign the same mortgage to a third party.



# UNOFFICIAL COPY

plaintiffs' allegation that Kaput was EFII's sole shareholder is a factual and legal conclusion lacks merit. It is an ultimate fact, which is deemed admitted by Melissa's failure to answer.

Melissa next contends that the deed that EFII filed with the Recorder of Deeds on September 29, 2009, which purports to correct the December 20, 2007, deed that transferred 1912 to EFI instead of EFII, has no legal effect because it was not authorized by the grantor, Chicago Title. The corrected deed is simply a copy of the December 20, 2007, deed, with EFI crossed out as the grantee and replaced with EFII by hand. In addition, an asterisk is added to the bottom of the document, next to which is written in hand, "Re-recorded to correct Grantee's Name." Chicago Title was not aware of and did not consent to the corrected deed. Melissa then points out that she and Murad caused EFI to be incorporated on March 22, 2018, with Spivack acting as EFI's registered agent. But the "corrected deed" and Melissa's formation of EFI, which is plainly another scheme to fraudulently lay claim to 1912 under the December 20, 2007, trustee's deed, is irrelevant because, as discussed earlier, the December 21, 2007, trustee's deed conveying 1912 to EFI contained a scrivener's error, and is reformed to substitute EFII as the grantee.<sup>5</sup>

Melissa next contends that when construing the validity of signatures on a deed and certificate of acknowledgment, the party seeking to set aside the deed can only overcome the validity of signatures by "clear and convincing evidence from disinterested witnesses." See *In re Estate of Bontkowski*, 337 Ill. App. 3d 72, 76 (1st Dist. 2003) (testimony of handwriting expert, a disinterested witness, was sufficient to establish that decedent's signature on deed was forged). However, the "clear and convincing evidence from disinterested witnesses" standard only applies when the deed includes a *valid* acknowledgment by a notary. In *Resolution Trust Corp. v. Hardisty*, 269 Ill. App. 3d 613 (3d Dist. 1995), one of the cases cited in *Bontkowski*, the court stated: "The mortgage in this case included an acknowledgement by a notary. *Where an instrument has been acknowledged by a notary and is in substantial compliance with the statute, it may not be impeached except for fraud and imposition.* Moreover, the party seeking to impeach such an acknowledgement, or record of conveyance, must do so by providing clear and convincing evidence coming from a disinterested witness. . . . The reason for such a strict rule is evident. Parties act on the faith of the certificate of acknowledgement. Consequently, public policy, security of titles, and peace of society require these instruments be given full credit." *Id.* at 616-17 (internal citations omitted and

<sup>5</sup> Presumably for good measure, Musa Tadros, a friend of Murad's, incorporated EFII once again on June 12, 2018. Melissa admitted that Murad spoke with Tadros about EFII, but feigned ignorance about whether Murad asked Tadros to incorporate EFII or if Murad is a shareholder in the newly incorporated EFII. In her trial memorandum, at paragraph 7, Melissa states "a new incarnation [of EFII] was apparently incorporated in 2018, but Kaput has no interest in that entity." Thus, it would appear that the original EFII – the one owned solely by Kaput – was not reinstated. In any case, the newly incarnated EFII does not have any interest in 1912.

# UNOFFICIAL COPY

emphasis added). *See also Krueger v. Dorr*, 22 Ill. App. 2d 513, 528 (2d Dist. 1959) (same).

Here, Spivack admits that Kaput did not appear before him, that he did not witness Kaput sign the deed, and that he would not recognize Kaput, making his notarization false on at least three levels<sup>6</sup> and, therefore, invalid. Under the Notary Public Act, each of the three types of notarial acts – taking an acknowledgment, taking a verification upon oath or affirmation; or witnessing or attesting a signature – expressly contemplate “the person appearing before the notary.” 5 ILCS 5/312/6-102(a), (b), and (c). Thus, in *Hatchett v. W2X, Inc.*, 2013 IL App (1st) 121758, a similar case, the court determined that the notarization was invalid where the person making the signature did not appear before the notary. There:

Attorney Gaston testified that, on October 6, 2005, Jackson arrived at Attorney Gaston's law office with signed copies of the closing documents which she had prepared the night before. Each of the closing documents bore what appeared to be Helen's signature. Jackson physically produced Helen's driver's license. According to Attorney Gaston, Jackson informed her that Helen was waiting in the car, and that she was ill and could not climb the stairs to the third-floor law office. Attorney Gaston testified that she did not go downstairs to see Helen and trusted Jackson's information to be the truth. She further testified that, based on her prior telephone conversation with Helen, it was clear to Attorney Gaston that Helen intended to convey her property. Thereafter, Attorney Gaston notarized the documents after comparing, to her satisfaction, the signatures on the documents with Helen's signature on her driver's license. Attorney Gaston's notary certification, however, stated in pertinent part that Helen “appeared before [her]” on that day to execute the documents.

*Id.* at ¶57. The court also held that “Attorney Gaston's conduct in comparing the signatures on the documents with Helen's signature on her driver's license, without seeing Helen in person, did not constitute a valid notarization.” *Id.* at ¶58. Because Spivack's notarization of May 13, 2008, deed is invalid, the “clear and convincing evidence from disinterested witnesses” standard that Melissa urges has no application here. Kaput competently and credibly testified that he did not sign the deed, or authorize anyone to sign the deed on his behalf.

Even if the plaintiffs are required to meet the heightened evidentiary standard that Melissa urges, they have done so here. Spivack is “disinterested” because he is no way aligned with the plaintiffs. To the contrary, his allegiances clearly lay with his friends, Melissa and Murad. Like the notary in *Bonkowski*, Spivack admitted that someone other than the signatory gave him the deed to notarize, that the signatory was not present when he notarized the deed, that he would not know the

<sup>6</sup> Spivack also stated in his signed notarization that a corporate seal was affixed to the instrument, but no such seal appears on the instrument.



# UNOFFICIAL COPY

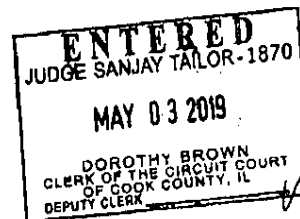
24, 2007, mortgage on 1912 in favor of Murad Sweiss is fraudulent and, therefore, void. The Assignment of Note and Mortgage recorded on June 8, 2018, and signed by Murad is fraudulent and, therefore, void. Compensatory damages are awarded in favor of Thomas Kaput and against Melissa Sweiss on Count III for trespass to chattel in the amount of \$15,000, representing the amount of rent collected by Melissa under its lease with VIP. Punitive damages, inclusive of attorney's fees, are awarded in favor of Thomas Kaput and against Melissa Sweiss on Count V for slander of title in the amount of \$175,000. Melissa did not dispute Kaput's testimony that the fair market value of 1912 in 2008 was \$350,000. A punitive damage award representing 50% of this amount is appropriate under the circumstances of this case. Together with the unpaid discovery sanctions of \$1,667 against Melissa entered on March 15, 2019, the total monetary judgment in favor of Thomas Kaput and against Melissa Sweiss is \$191,667. EFII's claims and count IV for accounting are dismissed.

The Court having determined that attorney Aaron Spivack's notarization was false, the Clerk is ordered to send a copy of this judgment to the Illinois Attorney Registration and Disciplinary Commission.

The Clerk shall notify all counsel of record of the entry of this judgment.

Entered:

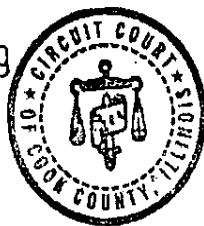
Sanjay T. Tailor



# UNOFFICIAL COPY

Property of Cook County Clerk's Office

I hereby certify that the document to which this certification is affixed is a true copy.  
**DOROTHY BROWN** MAY 03 2019  
Date *Dorothy Brown*  
Dorothy Brown  
Clerk of the Circuit Court  
of Cook County, IL



# UNOFFICIAL COPY

signatory if he walked by him, and that he did not know the purported signatory's signature. *Bontkowski*, 337 Ill. App. 3d at 75. The fact that Spivack produced a copy of Kaput's driver's license is not persuasive. Melissa and Murad had access to EFII and Kaput's papers when they worked at EFII, and Spivack failed to produce Kaput's driver's license when the plaintiffs originally sought it from him in discovery.

Finally, although a substantial portion of the basis of the plaintiffs' expert, Curt Baggett's, opinion was barred because it was not disclosed to Melissa on a timely basis, his opinion on the habits of signers and that Kaput did not sign the mortgage was persuasive. Melissa nevertheless argues that her expert, Rosemary Urbanski (who testified remotely from Phoenix via a telecommunications application), credibly established that Kaput signed the May 13, 2008, deed and January 24, 2007, mortgage. Melissa provided Urbanski with photocopies of the deed and mortgage, not originals. As to the mortgage, the best that Urbanski could opine was that there were "indications" that Kaput signed it. As to the deed, she opined that it was "highly probable" that Kaput signed it, but that without original documents she could not provide a definite conclusion of identity, which is the highest degree of confidence expressed by a document examiner. The questioned signature on the mortgage is clearly at odds with every other signature of Kaput's, and Urbanski even admitted that, based on the documents she reviewed, it was "highly irregular" for Kaput to sign the mortgage as "Tom" rather than "Thomas." As to the deed, Urbanski did not adequately address the differences between the questioned signature on the deed and Kaput's known signatures. For example, Urbanski did not measure differences in the angle of slants and size of letters. Urbanski's opinions are not persuasive.

As a remedy, the plaintiffs request that the Court issue a judicial deed placing 1912 in Kaput's name, as he was the only shareholder of EFII, a dissolved corporation. See *McGinley Partners, LLC v. Royalty Props., LLC*, 2018 IL App (1st) 171317, ¶36 ("... the remaining assets of the dissolved corporation, . . . , would pass to the shareholders by operation of law.") (quoting *Shute v. Chambers*, 142 Ill. App. 3d 948, 952-53 (1st Dist. 1986)). The reason for such relief is apparent. EFII was dissolved in 2011. Melissa and Murad's recent formation of EFI and EFII are merely the sequel to their fraudulent deed and mortgage relating to 1912, intended to unnecessarily prolong this litigation. Kaput is entitled to a judicial deed placing 1912 in his name.

### III. Conclusion

Judgment is entered in favor of plaintiff Thomas Kaput and against Melissa Swiss on Counts I, II, III and V of the amended complaint. The Court declares that Thomas Kaput is the rightful owner of 1912, and a judicial deed placing 1912 in Thomas Kaput's name, free and clear of any liens, shall issue. Kaput shall submit such deed to the Court in seven days for entry. The May 13, 2008, deed conveying 1912 to Melissa Swiss is fraudulent and, therefore, void. The January

# UNOFFICIAL COPY

## Office of the Cook County Clerk

### Map Department Legal Description Records

**P.I.N. Number: 17062260270000**

The legal description card(s) below is prepared in a format used for official county record-keeping, and can be used by the Cook County Recorder's Office to access their tract books.

If you need assistance interpreting this description, please obtain a copy of out instruction sheet "How to Read a Legal Description Card", available from the counter clerk or at our website [www.cookcountyclerk.com](http://www.cookcountyclerk.com)

Please verify the Property Identification Number or P.I.N. (also known as the "Permanent Real Estate Index Number). If this is not the item you requested, please notify the clerk.

170622602777015330147										
AREA	SUB-AREA	BLOCK	PARCEL	CODE	WARRANT	ITEM	ALLOT	FIRST SUFFIX	SECOND SUFFIX	THIRD SUFFIX

OFFICE OF THE CLERK OF COOK COUNTY, ILLINOIS  
PERMANENT REAL ESTATE INDEX NUMBER AND LEGAL DESCRIPTION

VOLUME [REDACTED]  
583

AREA SUB-AREA BLOCK PARCEL TAX CODE  
 17-6-226-27 7701  
 ASSESSORS DIV 6 39 14  
 NE 1/4 & E 1/2 NW 1/4 J PEACOCKS SUB 2  
 HEIRS OF J PEACOCK SUB 3 18

AREA	SUB-AREA	BLOCK	PARCEL	CODE	WARRANT	ITEM	ALLOT	FIRST SUFFIX	SECOND SUFFIX	THIRD SUFFIX	CARD
0	0	0	0	0	0	0	0	0	0	0	0
46	47	48	49	50	51	52	53	54	55	56	57
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9

170622602777015330147 24507