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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

MAX ZWEIZIG,

Plaintiff,

v.

TANYA ROTE and TIMOTHY ROTE,
wife and husband; and NORTHWEST
HOLDING, LLC, an Oregon limited
liability company,

Defendants.

Case No.: 19CV01547

ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

Hon. Ulanda Watkins

TIMOTHY ROTE,

Third Party Plaintiff,

v.

JOEL CHRISTIANSEN, SANDRA WARE,
TARYN BASAURI, and WILLIAMS
KASTNER,

Third Party Defendants.

TANYA ROTE,

Fourth Party Plaintiff,

v.

JOEL CHRISTIANSEN, SANDRA WARE,
TARYN BASAURI, and WILLIAMS
KASTNER,

Fourth Party Defendants.

1 This matter came before the Court in the regular course for a hearing and oral
2 argument by video conference on March 9, 2021, at 9:00 am on *Defendants' Motion for*
3 *Summary Judgment Post Discovery* filed on January 22, 2021 ("Motion"). Defendants Tanya
4 Rote and Northwest Holding, LLC ("NWH") were represented at the hearing by Brooks M.
5 Foster, of Chenoweth Law Group. Defendant Timothy Rote appeared and represented
6 himself. Plaintiff Max Zweizig appeared and was represented by Anthony V. Albertazzi of
7 Albertazzi Law Firm.

8 Having reviewed the filings and submissions of the parties related to the Motion and
9 relevant portions of the court record, having heard oral argument, and being therefore well
10 informed, THE COURT HEREBY ORDERS AND CONCLUDES AS FOLLOWS:

11 (1) the Motion is GRANTED;

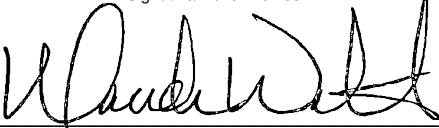
12 (2) the court DENIES Plaintiff's request for an award of attorney fees
13 pursuant to ORS 20.105;

14 (3) there is no genuine issue of material fact that the transfer of ownership of
15 the real property located at 58009 Cypress Lane, Sunriver, Oregon (also
16 referred to as 4 Cypress Lane, Sunriver, Oregon) ("Sunriver property")
17 from Timothy Rote to NWH was made for reasonably equivalent value, in
18 good faith, and not to hinder, delay, or defraud any creditor of Timothy
19 Rote, as evidenced by the 2012 *Asset Contribution Agreement* and 2012
20 tax return of Northwest Holding, LLC;

21 (4) there is no genuine issue of material fact that the 2018 transfer of the
22 Sunriver property from NWH to Tanya Rote was not a transfer by a debtor
23 because it is undisputed that NWH has never been a debtor of Zweizig;
24 and

1 (5) Defendants are entitled to summary judgment dismissing Plaintiff's First
2 Claim for Relief ("Fraudulent Transfer") and Second Claim for Relief
3 ("Insider Fraud") with respect to the Sunriver property.
4

Signed: 3/24/2021 07:56 AM

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Circuit Court Judge Ulanda Watkins

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14 RESPECTFULLY SUBMITTED BY:

15
16 Brooks M. Foster, OSB #042873
17 Benjamin R. Scissors, OSB #204428
18 Chenoweth Law Group PC
19 510 SW 5th Ave 4th Fl.
20 Portland OR 97204
21 Bfoster@chenowethlaw.com
22 Bscissors@chenowethlaw.com

23
24 *Attorneys for Defendants*
25 *Northwest Holding, LLC*
26 *and Tanya Rote*

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3 IN THE CIRCUIT COURT OF THE STATE OF OREGON
4 FOR THE COUNTY OF CLACKAMAS
5

6 MAX ZWEIZIG,

7 Plaintiff,

8 v.

9 TANYA ROTE and TIMOTHY ROTE,
10 wife and husband; and NORTHWEST
11 HOLDING, LLC, an Oregon limited
12 liability company,

Defendants.

Case No.: 19CV01547

UTCR 5.100 CERTIFICATE OF
COMPLIANCE

13 TIMOTHY ROTE,

14 Third Party Plaintiff,

15 v.

16 JOEL CHRISTIANSEN, SANDRA WARE,
17 TARYN BASAURI, and WILLIAMS
18 KASTNER,

Third Party Defendants.

19 TANYA ROTE,

20 Fourth Party Plaintiff,

21 v.

22 JOEL CHRISTIANSEN, SANDRA WARE,
23 TARYN BASAURI, and WILLIAMS
24 KASTNER,

Fourth Party Defendants.

25
26 This proposed order or judgment is ready for judicial signature because

1 1. Each opposing party affected by this order or judgment has stipulated to the
2 order or judgment, as shown by each opposing party's signature on the document being
3 submitted.

4 2. Each opposing party affected by this order or judgment has approved the order
5 or judgment, as shown by signature on the document being submitted or by written
6 confirmation of approval sent to me.

7 3. I have served a copy of this order or judgment on all parties entitled to service
8 and:

9 a. No objection has been served on me.

10 b. I received objections that I could not resolve with the opposing party
11 despite reasonable efforts to do so. I have filed a copy of the objections I received and
12 indicated which objections remain unresolved.

13 c. After conferring about objections, [role and name of opposing party]
14 agreed to independently file any remaining objection.

15 4. Service is not required pursuant to UTCR 5.100(3), or by statute, rule, or
16 otherwise.

17 5. This is a proposed judgment that includes an award of punitive damages and
18 notice has been served on the Director of Crime Victims' Assistance Section as required by
19 subsection (4) of this rule.

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6. □ Other: _____

DATED: March 23, 2021

CHENOWETH LAW GROUP, PC

/s/ Brooks M. Foster
Brooks M. Foster, OSB No. 042873
510 SW Fifth Ave., Fifth Floor
Portland, OR 97204
Phone: (503) 221-7958
Fax: (503) 221-2182
Email: bfoster@chenowethlaw.com
Attorneys for Northwest Holdings, LLC

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

MAX ZWEIZIG,

Plaintiff,

v.

TANYA ROTE and TIMOTHY ROTE,
wife and husband; and NORTHWEST
HOLDING, LLC, an Oregon limited
liability company,

Defendants.

Case No.: 19CV01547

OBJECTIONS OF PLAINTIFF TO
PROPOSED FORM OF
ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

Hon. Ulanda Watkins

TIMOTHY ROTE,

Third Party Plaintiff,

v.

JOEL CHRISTIANSEN, SANDRA WARE,
TARYN BASAURI, and WILLIAMS
KASTNER,

Third Party Defendants.

TANYA ROTE,

Fourth Party Plaintiff,

v.

JOEL CHRISTIANSEN, SANDRA WARE,
TARYN BASAURI, and WILLIAMS
KASTNER,

Fourth Party Defendants.

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2 argument by video conference on March 9, 2021, at 9:00 am on *Defendants' Motion for*
3 *Summary Judgment Post Discovery* filed on January 22, 2021 ("Motion"). Defendants Tanya
4 Rote and Northwest Holding, LLC ("NWH") were represented at the hearing by Brooks M.
5 Foster, of Chenoweth Law Group. Defendant Timothy Rote appeared and represented
6 himself. Plaintiff Max Zweizig appeared and was represented by Anthony V. Albertazzi of
7 Albertazzi Law Firm.

8 Having reviewed the filings and submissions of the parties related to the Motion and
9 relevant portions of the court record, having heard oral argument, and being therefore well
10 informed, THE COURT HEREBY ORDERS AND CONCLUDES AS FOLLOWS:

11 (1) the Motion is GRANTED;

12 (2) the court DENIES Plaintiff's request for an award of attorney fees
13 pursuant to ORS 20.105;

14 ~~(3) there is no genuine issue of material fact that the transfer of ownership of~~
15 ~~the real property located at 58009 Cypress Lane, Sunriver, Oregon (also~~
16 ~~referred to as 4 Cypress Lane, Sunriver, Oregon) ("Sunriver property")~~
17 ~~from Timothy Rote to NWH was made for reasonably equivalent value, in~~
18 ~~good faith, and not to hinder, delay, or defraud any creditor of Timothy~~
19 ~~Rote, as evidenced by the 2012 Asset Contribution Agreement and 2012~~
20 ~~tax return of Northwest Holding, LLC;~~

21 ~~(4) there is no genuine issue of material fact that the 2018 transfer of the~~
22 ~~Sunriver property from NWH to Tanya Rote was not a transfer by a debtor~~
23 ~~because it is undisputed that NWH has never been a debtor of Zweizig;~~

24 ~~(5) Defendants are entitled to summary judgment dismissing Plaintiff's First~~
25 ~~Claim for Relief ("Fraudulent Transfer") and Second Claim for Relief~~
26 ~~("Insider Fraud") with respect to the Sunriver property;~~

Commented [BF1]: PARAGRAPHS 3-5 REMAIN IN DISPUTE

Plaintiff objected to paragraphs 3, 4, and 5, and asked Defendants to strike them from this proposed form of order. Defendants want the order to include these paragraphs to concisely explain the basis for the Court's decision.

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~~(6) by order dated March 15, 2019, this Court granted Defendants' Emergency Motion for Summary Judgment as to the properties located at 5710 Alva Avenue, Klamath Falls, Oregon, and 24790 SW Big Fir Road, West Linn, Oregon, which are the only other properties (other than the Sunriver property) put at issue by Plaintiff's Complaint; and~~

~~(7) Zweizig's Third Claim for Relief ("Possible Punitive Damage Claim") alleges that Zweizig "reserves the right to amend the Complaint in the future to include such a claim", but this does not state a claim for relief. Zweizig has no other remaining claims for relief in his Complaint, and the Court has never authorized Zweizig to allege a claim for punitive damages in this action; THEREFORE,~~

~~(8) Plaintiff's First Claim for Relief ("Fraudulent Transfer"), Second Claim for Relief ("Insider Fraud"), and Third Claim for Relief ("Possible Punitive Damages Claim") are hereby DISMISSED IN FULL AND WITH PREJUDICE.~~

Commented [BF2]: PARAGRAPHS 6-8 ARE NOT IN DISPUTE

Plaintiff objected to paragraphs 6, 7, and 8 on the grounds that they would be more appropriate in a separate judgment. Defendants removed these paragraphs from their proposed form of order granting summary judgment and intend to include them in a proposed form of judgment to be filed with the court in the near future.

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RESPECTFULLY SUBMITTED BY:

Brooks M. Foster, OSB #042873
Benjamin R. Scissors, OSB #204428
Chenoweth Law Group PC
510 SW 5th Ave 4th Fl.
Portland OR 97204
Bfoster@chenowethlaw.com
Bseissors@chenowethlaw.com

*Attorneys for Defendants
Northwest Holding, LLC
and Tanya Rote*

1 **DECLARATION OF SERVICE**

2 I hereby certify that I served the foregoing **ORDER GRANTING DEFENDANTS’**
3 **MOTION FOR SUMMARY JUDGMENT, UTCR 5.100 CERTIFICATE OF**
4 **COMPLIANCE, and OBJECTIONS OF PLAINTIFF TO PROPOSED FORM OF**
5 **ORDER GRANTING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT** on
6 the following:

7 Anthony V. Albertazzi
8 Albertazzi Law Firm
9 296 SW Columbia St. Ste. B
10 Bend, OR 97702
11 a.albertazzi@albertazzilaw.com
12 *Attorney for Plaintiff*

13 Tanya Rote
14 24790 SW Big Fir Rd.
15 West Linn, OR 97068
16 Tanyarote5@gmail.com
17 *Defendant*

18 Timothy Rote
19 24790 SW Big Fir Rd.
20 West Linn, OR 97068
21 Timothy.rote@gmail.com
22 *Defendant*

23 by the following method(s):

24 _____ by **emailing** a full, true and correct copy thereof to the parties at the email
25 addresses shown above, which are the last-known email addresses of the parties,
26 on the date set forth below.

27 xx by **e-serving** a full, true and correct copy thereof to the parties through OJD eFile,
28 on the date set forth below.

29 _____ by **mailing** a full, true and correct copy thereof in a sealed, first-class, postage
30 pre-paid envelope, addressed to the last-known address of the parties as shown
31 above, and deposited with the United States Postal Service at Portland, Oregon,
32 on the date set forth below.

33 I hereby declare that the above statement is true to the best of my knowledge and
34 belief, and that I understand it may be used as evidence in court and is subject to penalty for
35 perjury.

36 Dated: March 23, 2021

CHENOWETH LAW GROUP, PC

/s/ Skylar Washabaugh
Skylar Washabaugh, Paralegal