

CAUSE NO. _____

JEROME DURHAM	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
VS.	§	
	§	
NANIK SONAL BHAGIA, N.K. RESOURCES,	§	
INC., SAIHAT CORPORATION, DARA	§	HARRIS COUNTY, TEXAS
INVESTMENTS, INC., INTERSTATE	§	
INVESTMENT CORPORATION, TAMARA	§	
INVESTMENTS, INC., SUDHIR BHAGIA	§	
SAROJINI BHAGIA	§	
Defendants.	§	_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Jerome Durham (“Plaintiff”) complains of the actions of Nanik Sonal Bhagia, N.K. Resources, Inc., Saihat Corporation, Dara Investments, Interstate Investments, Inc., Tamara Investments, Inc., Sudhir Bhagia and Sarojini Bhagia (collectively “Defendants”) and would respectfully show the Court as follows:

I.
DISCOVERY LEVEL

1.1 Discovery in this case should be conducted under Discovery Control Plan Level 3 in accordance with Rule 190.4 of the Texas Rules of Civil Procedure.

II.
THE PARTIES

2.1 Plaintiff, Jerome Durham, is an individual residing in Georgia.

2.2 Defendant N.K. Resources, Inc. is a closely held Texas corporation controlled by Nanik Bhagia. It may be served with process by serving its registered agent for service of process, Nick Bhagia, 3126 Latrobe Lane, Katy, Texas 77450.

2.3 Defendant Saihat Corporation is a Texas corporation. It may be served with process by serving its registered agent for service of process, attorney Jerry L. Schutza, 11 Greenway Plaza, suite 2820, Houston, Texas 77046.

2.4 Defendant Dara Investments, Inc. is a closely held Texas corporation controlled by Nanik Bhagia. It may be served with process by serving its registered agent for service of process, N. S. Bhagia, 3126 Latrobe Lane, Katy, Texas 77450.

2.5 Defendant Interstate Investment Corporation is a closely held Texas corporation controlled by Nanik Bhagia. It may be served with process by serving its registered agent for service of process, N. S. Bhagia, 3126 Latrobe Lane, Katy, Texas 77450.

2.6 Defendant Tamara Investments, Inc. is a closely held Texas corporation controlled by Nanik Bhagia. It may be served with process by serving its registered agent for service of process, Nanik Bhagia, 3126 Latrobe Lane, Katy, Texas 77450.

2.7 Defendant Nanik S. Bhagia may be served with process by serving him at his residence, 3126 Latrobe Lane, Katy Texas 77450.

2.8 Defendant Sudhir Bhagia may be served with process by serving him at his residence, 3126 Latrobe Lane, Katy Texas 77450.

2.9 Defendant Sarojini Bhagia may be served with process by serving her at her residence, 3126 Latrobe Lane, Katy Texas 77450.

III. **JURISDICTION AND VENUE**

3.1 The amount in controversy in this case is within the Court's jurisdictional limits.

3.2 Venue is proper in Harris County, Texas, pursuant to TEX.CIV.PRAC. & REM. CODE § 15.002, because all or a substantial part of the fraudulent acts, transfers or omissions giving rise to Plaintiff's claims in this lawsuit occurred in Harris County, Texas. This lawsuit is brought out of the same transactions, occurrences and/or series of transactions or occurrences involving Plaintiff and Defendants.

IV. **INTRODUCTION**

4.1 This is an action to recover actual, exemplary, and statutory damages, attorney's fees, interest, and costs, for conspiracy, aiding, abetting and violations of the Texas Uniform Fraudulent Transfer Act ("TUFTA"), Tex. Bus. & Com. Code §§ 24.001-24.012 by Defendants' based upon their ongoing wrongful acts in preventing Plaintiff from recovering on a final judgment rendered by this Court on July 28, 2009.

V. **BACKGROUND**

5.1 On January 25, 2006 Plaintiff file suit for fraud, theft and breach of contract against Defendants' Nanik Sonal Bhagia and N. K. Resources, Inc. Cause No. 2006-04790; captioned *Jerome Durham v. Nanik Sonal Bhagia and N. K. Resources, Inc.*; 129th Judicial District Court of Harris County, Texas. (Attached to this Petition as Exhibit 1 is a copy of Plaintiff's Original Petition).

5.2 On July 28, 2009 a judgment was entered in favor of Plaintiff in the amount of \$252,103.83 plus post judgment interest at a rate of 5% from the date of judgment. (Attached to this Petition as Exhibit 2 is a copy of the Final Judgment).

5.3 During the course of the underlying litigation and immediately thereafter Defendant Nanik Bhagia systematically transferred the vast majority of assets held by Defendant N.K. Resources, Inc., to family members Nanik Bhagia, Sudhir Bhagia, and Sarojini Bhagia either directly or indirectly through a closely held corporation. Nanik Bhagia also transferred numerous assets to corporations he directly controls including, but not limited to, Saihat Corporation, Dara Investment, Inc., Interstate Investment, Inc., and Tamara Investments, Inc. The Purpose of these transfers was to hinder, delay and defraud Plaintiff from satisfying the outstanding judgment rendered by this court in the underlying cause.

A.) Fraudulent asset transfers to immediate family members in violation of TUFTA

5.4 On January 10, 2005, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred property located at 2324 Chew Street, Houston Texas to his son, Sudhir Bhagia. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff, Jerome Durham from satisfying the underlying judgment in Cause No. 2006-04790.

5.5 On February 1, 2005, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred property located at 3320 Delhi Street, Houston Texas to his son, Sudhir Bhagia. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff, Jerome Durham from satisfying the underlying judgment in Cause No. 2006-04790.

5.6 On July 14, 2008, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred Lots One Hundred Sixty One (161) and One Hundred Sixty Two (162) of Kenwood Place to his son, Sudhir Bhagia. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff from satisfying the underlying judgment in Cause No. 2006-04790.

5.7 On May 18, 2008, N.K. Resources, Inc., and Tamara Investments, Inc., by and through their president Nanik Bhagia, transferred 25202 Firewood Lane, Spring Texas to his

wife, Sarojini Bhagia. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff from satisfying the underlying judgment in Cause No. 2006-04790.

B.) Fraudulent asset transfers to corporations controlled by Nanik Bhagia in violation of TUFTA

5.8 On January 25, 2005, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred property located at 10211 Sugar Branch Drive, Houston, Texas to an affiliate, Interstate Investment Corporation. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff from satisfying the underlying judgment in Cause No. 2006-04790.

5.9 On January 15, 2006, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred property located at 27 Magnolia Street, Huffman, Texas to an affiliate, Interstate Investment Corporation. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff from satisfying the underlying judgment in Cause No. 2006-04790.

5.10 On November 20, 2005, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred property located at 212 Virginia Street, Houston, Texas to an affiliate, Dara Investment, Inc. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff from satisfying the underlying judgment in Cause No. 2006-04790.

5.11 On June 18, 2008, N.K. Resources, Inc., by and through its president Nanik Bhagia, transferred property located at 11210 Almeda Road, Houston, Texas to an affiliate, Tamara Investments, Inc. The sole purpose for this conveyance was to hinder, delay and defraud Plaintiff from satisfying the underlying judgment in Cause No. 2006-04790.

VI.
CLAIMS FOR RELIEF

A.) Request for Declaratory Judgment pursuant to TEX.CIV.PRAC. & REM CODE § 37.001 et seq.

6.1 Plaintiff, Jerome Durham is a creditor within the meaning of TEX. BUS. & COM. CODE § 24.002 (4).

6.2 Defendants' Nanik Bhagia and N.K. Resources, Inc., are Debtors within the meaning of TEX. BUS. & COM. CODE § 24.002 (6).

6.3 Defendants' Sudhir Bhagia, Sarojini Bhagia, Saihat Corporation, Dara Investments, Inc., Interstate Investment Corporation, and Tamara Investments, Inc. are all Insiders within the meaning of TEX. BUS. & COM. CODE § 24.002 (7).

6.4 Based upon the foregoing allegations, Plaintiff seeks a declaratory judgment pursuant to TEX.CIV.PRAC. & REM. CODE § 37.001 et seq., declaring that all conveyances made by N.K. Resources from January 2005 to present are void as a fraudulent conveyance pursuant to Chapter 24 of the Texas Business and Commerce Code. The transfers were made by the judgment debtor to a related party for inadequate consideration, in an effort to delay, hinder, and defraud an existing creditor, Plaintiff Jerome Durham. The majority of these asset transfers took place at a time when Defendants' knew or should have known that Plaintiff had established a valid claim. Furthermore, N.K. Resources continued to transfer assets to closely related parties during the course of the underlying litigation and after final judgment was rendered in Cause No. 2006-04790. As a result, Defendants' violations of TEX. BUS. & COM. CODE § 24.001-24.012 have caused and continue to cause substantial injury to Plaintiff, giving rise to this action to recover from Defendants' exemplary damages and cost of suit, including reasonable attorneys' fees pursuant to TEX. BUS. & COM. CODE § 24.013.

B.) Conspiracy, Aiding and Abetting.

6.5 The Defendants' continue to retain possession of the assets transferred and have made further efforts to conceal or dispose of said property. Defendants' have transferred assets back and forth between the various corporate entities and continue to accomplish the wrongful acts set forth above with the direct and material assistance of one another. As a result of their conduct Defendants' are liable for conspiracy as well as aiding and abetting in an attempt to defraud Plaintiff.

C.) Foreclosure of Judgment Lien and Order of Sale

6.6 If the Court finds that conveyances made by N.K. Resources to related third parties since 2005 were insufficient to convey title, Plaintiff asks this Court to Order Foreclosure of Plaintiff's judgment lien and order sale of N.K. Resources properties to the extent required to satisfy the underlying judgment.

**VII.
CONDITIONS PRECEDENT**

7.1 All conditions precedent to Plaintiff's right of recovery and Defendants' liability have occurred or been performed.

**VIII.
REQUEST FOR DISCLOSURE**

8.1 Pursuant to Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants disclose the information or material described in Texas Rule of Civil Procedure 194.2 (a)-(l). Failure to timely respond shall constitute an abuse of discovery pursuant to Texas Rule of Civil Procedure 215.

IX.
RULE 193.7 NOTICE

9.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives notice that any and all documents produced by Defendants' may be used at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

X.
ATTORNEY'S FEES

10.1 Pursuant to the Texas Declaratory Judgment Statute, TEX.CIV.PRAC. & REM CODE § 37.001 et seq., and Texas Uniform Fraudulent Transfer Act, TEX.BUS. & COM. CODE § 24.001 et seq., Plaintiff seeks recovery of his reasonable and necessary attorneys' fees occurred herein.

XI.
PRAYER

11.1 Plaintiff prays for judgment against Defendants, for damages in excess of the minimum jurisdiction of this Court, including the following:

Actual damages;

Exemplary damages;

Reasonable and necessary attorneys' fees;

Costs of court;

Prejudgment and post-judgment interest as allowed by law;

Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

RALEY & BOWICK, LLP

By: 

Bradford T. Laney

State Bar No. 24070102

Robert M. Bowick

Texas Bar No. 24029932

RALEY & BOWICK, LLP

1800 Augusta Dr., Suite 300

Houston, Texas 77057

Tel: (713) 429-8050

Fax: (713) 429-8045

Email: blaney@raleypowick.com