

CAUSE NO. 2021-26091

JVH INTERESTS, INC.	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
	§	
F. KENNETH BAILEY AND	§	
BAILEY INVESTMENTS, L.P.	§	
	§	
Defendants.	§	269 th JUDICIAL DISTRICT

DEFAULT JUDGMENT

Came on to be heard the above-entitled and numbered cause wherein JVH Interests, Inc.'s ("JVH") is Plaintiff and F. Kenneth Bailey, Jr. and Bailey Investments, L.P. are Defendants. JVH appeared in person and by its attorney of record and announced ready for trial. F. Kenneth Bailey, Jr. and Bailey Investments, L.P. although having been duly and legally cited to appear and answer, have failed to appear and answer and have wholly made default.

Citation was served on F. Kenneth Bailey, Jr. and Bailey Investments, L.P. according to law and the returns of service were returned to the Harris County District clerk where they have remained on file for the time required by law. The Court has read the pleadings and the papers on file and is of the opinion that the allegations contained in the Plaintiff's Original Petition have been admitted and that the cause of action is liquidated and proven by instruments in writing. The Court has considered the Status Report Pursuant to the Military Lending Act, the Declaration of Kenneth Melber in support of the Plaintiff's claim for damages and has considered the Declaration of Robert J. Kruckemeyer in support of Plaintiff's claim for attorneys' fees. It is therefore

ORDERED, ADJUDGED and DECREED that the material allegations of Plaintiff's Original Petition be and the same are deemed admitted as F. Kenneth Bailey, Jr. and Bailey Investments, L.P. and that JVH Interests, Inc. have and recover of and from F. Kenneth Bailey, Jr. and Bailey Investments, L.P. as follows:

Actual damages in the amount of \$497,301.52 as of April 23, 2023;

Pre-judgment interest through April 23, 2023, in the amount of \$167,498.92 with interest accruing thereafter through the date of judgment at the rate of \$245.24 per day.

Attorneys' fees in the amount of \$5,000.00 through the trial of this matter; an additional attorneys' fee of \$25,000.00 should this matter be appealed to the court of appeals and such appeal is unsuccessful; the additional sum of \$25,000.00 is awarded to JVH in the event that this matter is appealed to the Texas Supreme Court and appeal is unsuccessful;

IT IS FURTHER ORDERED that the judgment here rendered shall bear interest at the rate of eighteen percent (18%) from the date of judgment until paid.

All costs of court expended or incurred in this cause are adjudged against F. Kenneth Bailey, Jr. and Bailey Investments, L.P.

All writs and processes for the enforcement and collection of this judgment or the costs of court may issue as necessary.

All relief not expressly granted herein is denied.

SIGNED this ____ day of _____, 2023.

Judge Presiding

APPROVED AS TO FORM AND SUBSTANCE:

*/s/ Robert J. Kruckemeyer*_____

Robert J. Kruckemeyer

State Bar No.: 11735700

244 Malone Street

Houston, Texas 77007

Telephone: (713) 600-7574

Facsimile: (713) 600-7579

Email: bob@kruckemeyerlaw.com

ATTORNEY FOR PLAINTIFF

JVH INVESTMENTS, INC.

CAUSE NO. 2021-26091

JVH INTERESTS, INC.

Plaintiff,

v.

F. KENNETH BAILEY AND
BAILEY INVESTMENTS, L.P.

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

269th JUDICIAL DISTRICT

AMENDED MOTION FOR DEFAULT JUDGMENT

EXHIBIT 1



**Forfeiture pursuant to Section 171.309 of the Texas Tax Code
of
BAILEY INVESTMENTS, L.P.**

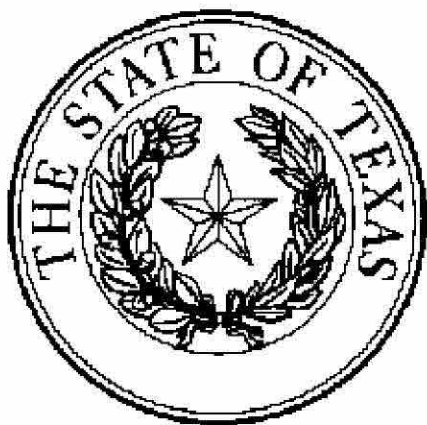
File Number : 11181010

Certificate / Charter forfeited : June 24, 2022

The Secretary of State finds that:

1. The Secretary has received certification from the Comptroller of Public Accounts under Section 171.302 of the Texas Tax Code indicating that there are grounds for the forfeiture of the taxable entity's charter, certificate or registration; and
2. The Comptroller of Public Accounts has determined that the taxable entity has not revived its forfeited privileges within 120 days after the date that the privileges were forfeited.

Therefore, pursuant to Section 171.309 of the Texas Tax Code, the Secretary of State hereby forfeits the charter, certificate or registration of the taxable entity as of the date noted above and records this notice of forfeiture in the permanent files and records of the entity.



A handwritten signature in cursive script, appearing to read "John B. Scott".

John B. Scott
Secretary of State

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

269th JUDICIAL DISTRICT

AMENDED MOTION FOR DEFAULT JUDGMENT

EXHIBIT 2



Status Report Pursuant to Military Lending Act

SSN: XXX-XX-2979
Birth Date: Sep-XX-1946
Last Name: BAILEY
First Name: FLOYD
Middle Name: KENNETH
Status As Of: Apr-25-2023
Certificate ID: C0BHP83Y11J15VT

Status

Based on the information you provided, DMDC does not possess information indicating that the individual is either on active duty for more than 30 days or a family member of a service member on active duty for more than 30 days based on the Status Inquiry Date.

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the Status Inquiry Date as to the following branches: Army, Navy, Marine Corps, Air Force, and Coast Guard.

A handwritten signature in black ink that reads "Michael V. Sorrento".

Michael V. Sorrento, Director
Department of Defense - Manpower Data Center
400 Gigling Rd.
Seaside, CA 93955

This inquiry system has been designed to support identification of borrowers covered by 32 C.F.R. Part 232, which legally protects covered military personnel and their family members from excessive interest rates. This Federal regulation, which implements 10 U.S.C. 987, defines covered borrowers as: (1) A regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or less, or such a member serving on Active Guard and Reserve duty as that term is defined in 10 U.S.C. 101(d)(6), (2) the member's spouse, (3) the member's child defined in 38 USC 101(4), or (4) an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered by 32 C.F.R. Part 232.

This inquiry system checks the enrollment of individuals in the centralized database of identity, military medical eligibility and enrollment, and benefits verification data on members of the DoD Components, members of the Uniformed Services, and other personnel as designated by the Department of Defense, and their eligible family members (called the Defense Enrollment and Eligibility Reporting System (DEERS) database).

The Defense Manpower Data Center (DMDC) is the Department of Defense organization that maintains the DEERS database. The data in DEERS is sent to DMDC from the Uniformed Services and DoD Components. The data is as current as the information received. The DEERS database can consistently identify most individuals included in the definition of covered borrowers with the exception of (4) above: an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered by 32 C.F.R. Part 232. Some covered borrowers in this category may not be included in the database.

This certificate was provided based on information provided by the requester. Providing an erroneous last name or SSN or date of birth will cause an erroneous certificate to be provided.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

269th JUDICIAL DISTRICT

AMENDED MOTION FOR DEFAULT JUDGMENT

EXHIBIT 3

CAUSE NO. 2021-26091

JVH INTERESTS, INC.	§	IN THE DISTRICT COURT OF
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Plaintiff,	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
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F. KENNETH BAILEY AND	§	
BAILEY INVESTMENTS, L.P.	§	
	§	
Defendants.	§	269 th JUDICIAL DISTRICT

DECLARATION OF KENNETH MELBER

My name is Kenneth Melber, my date of birth is April 10, 1943, and my address is 8681 Louetta Road, Suite 220, Spring, Texas 77379 USA.

I am the agent of JVH Interests, Inc. (“JVH”), and in that capacity, I act as the Custodian of Records with respect to F. Kenneth Bailey, Jr. and Bailey Investments, L.P. indebtedness to JVH. I am authorized on behalf of JVH to make this declaration, and every statement contained herein is within my personal knowledge and true and correct or is made upon a review of the business records of JVH and therefore, upon information and belief, is true and correct.

On or about July 1, 2013, JVH as Payee entered into a promissory note with Bailey and BILP as Maker(s) in the original principal sum of \$600,000.00 (the “Note”).

In consideration for JVH entering into the Note with Bailey and BILP, BILP entered into a guaranty agreement (“Guaranty”) whereby BILP absolutely and unconditionally guaranteed and promised to pay Lender the indebtedness of Bailey and BILP on the terms and conditions set forth in the Guaranty.

In additional consideration for Payee making the Note, BILP as Grantor and JVH as Lender and Beneficiary entered into a Deed of Trust (“Deed of Trust”) whereby BILP pledged

certain real property and improvements to Lender to secure repayment of the Note.

On or about August 1, 2019, Bailey and BILP and JVH entered into a First Renewal, Extension and Modification of the Note and Deed of Trust ("First Renewal Note").

The First Renewal Note has not been paid as agreed and therefore the First Renewal Note is in default.

By demand letter dated April 13, 2021, JVH made demand upon Bailey and BILP to pay to JVH their indebtedness to JVH pursuant to the First Renewal Note. The First Renewal Note was not paid as demanded.

As April 23, 2023, Bailey and BILP owe JVH the principal sum of \$497,301.52 and \$167,498.92 interest with interest accruing at the rate of \$245.24 per day.

Neither Bailey nor BILP have paid their indebtedness to JVH as of the date of the filing of this lawsuit.

I declare under penalty of perjury that the facts stated herein are within my personal knowledge and are true and correct.

Executed in Harris County, Texas, on April 26, 2023.

JVH Interests, Inc.



Kenneth Melber
Agent

CAUSE NO. 2021-26091

JVH INTERESTS, INC.

Plaintiff,

v.

F. KENNETH BAILEY AND
BAILEY INVESTMENTS, L.P.

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

269th JUDICIAL DISTRICT

AMENDED MOTION FOR DEFAULT JUDGMENT

EXHIBIT 4

JVH INTERESTS, INC.	§	IN THE DISTRICT COURT OF
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Plaintiff,	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
F. KENNETH BAILEY AND	§	
BAILEY INVESTMENTS, L.P.	§	
	§	
Defendants.	§	269 th JUDICIAL DISTRICT

DECLARATION OF ROBERT J. KRUCKEMEYER IN SUPPORT OF
JVH INTERESTS, INC.'S
MOTION FOR DEFAULT JUDGMENT

My name is Robert J. Kruckemeyer, my date of birth is July 14, 1959, and my address is 244 Malone Street, Houston, Texas 77007, USA.

1. I have been licensed to practice law in Texas since 1984, and I am duly admitted to practice in good standing in Texas and in various federal courts, including the Southern, Northern and Eastern districts of Texas.

2. I am experienced in state and federal court litigation and Litigation in Texas. Since 1984, I have concentrated my practice on civil litigation matters that include breach of contract, oil and gas, product liability, shareholder disputes, business divorce, business disputes of all kinds, as well as serious personal injury matters. I have represented both plaintiffs and defendants in these types of cases. I was recognized as the “Litigator of the Week” in the May 14, 2012, edition of Texas Lawyer magazine, and I am a Sustaining Life Fellow of the Texas Bar Foundation.

3. I graduated from St. Louis University in 1981 with a Bachelor of Arts degree in

Political Science, *magna cum laude*. In 1984, I received my Juris Doctor from the St. Louis University School of Law, *cum laude*.

4. I have represented Plaintiff since 2010 in general and in connection with the above-captioned litigation (the "Litigation") beginning in January of 2021. My customary hourly rate is \$500/hour.

5. Based on my education and experience, described above at paragraphs 2-4, my personal communications with lawyers handling similar types of matters, and my review of court filings, case law, and published literature pertaining to such hourly rates, I am familiar with the hourly rates that lawyers and support staff customarily charge in Houston, Harris County, Texas and elsewhere in complex cases and Litigations, such as this Litigation. Based on the foregoing, I am also familiar with the attorney and support staff time and effort that it takes and can reasonably take to prosecute and defend matters such as the Litigation and what constitutes reasonable and necessary attorneys' fees for doing so. As a result, I am able to offer opinions pertaining to the amount, reasonableness, and necessity of all attorneys' fees sought by Plaintiff in the Litigation. I was also requested to offer opinions pertaining to whether such attorneys' fees are equitable and just.

6. I am familiar with the nature of this case and the work that was performed in the course of this representation. I am familiar with the number of hours spent and the amounts I have charged and what would be a reasonable charge by the Plaintiff's attorneys.

7. I am familiar with and have considered the factors bearing upon the reasonableness of attorneys' fees in Texas, as articulated in Rule 1.04(b) of the Texas Disciplinary Rules of Professional Conduct and the Texas Supreme Court in *Arthur Andersen & Co. v. Perry Equipment*, 945 S.W.2d 812 (Tex. 1997), which are as follows: (1) the time and

labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly; (2) the likelihood ... that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent on the results obtained or uncertainty of collection before the legal services have been rendered.

8. Specifically, with reference to Paragraph 8 of this Affidavit and to form my opinions with regard to the reasonable and necessary attorneys' fees incurred by Plaintiff in this Litigation, I will address the factors bearing upon the reasonableness of attorneys' fees in Texas, as follows:

a. **The Time and Labor Required, the Novelty and Difficulty of the Questions Involved and the Skill Requisite to Perform the Legal Service Properly.** I have considered the time and labor required to handle Plaintiff's claims which has included, without limitation: (1) determining the proper amount of the claim and the method by which the defendant could be served; (2) filing pleadings; and (3) preparing Plaintiff's Motion for Default Judgment.

b. **The Likelihood, if Apparent to the Client, That the Acceptance of the Particular Employment Will Preclude Other Employment by the Lawyer.** Plaintiff has agreed to pay me on an hourly fee basis. Plaintiff understands that my working for Plaintiff necessarily precludes me from accepting other employment by other clients.

c. **The Fee Customarily Charged in the Locality for Similar Legal Services.** I have been practicing law in Harris County since 1984. Based on my education and experience, described above at paragraphs 2-4, my personal communications with lawyers handling similar types of matters, and my review of court filings, case law, and published literature pertaining to such hourly rates, I am familiar with the hourly rates that lawyers and support staff customarily charge in Houston, Harris County, Texas and elsewhere in complex cases and Litigations, such as this Litigation. My hourly rate of \$500.00 is reasonable.

d. **The Amount Involved and the Results Obtained.** Plaintiff's seeks recovery of \$1,300,000.00 principal together with prejudgment interest and late fees. Plaintiff anticipates obtaining a judgment for the amount requested.

e. **The Time Limitations Imposed by the Client or by the Circumstances.** No time limitations have been imposed by the client or by the circumstances.

f. **The Nature and Length of the Professional Relationship with the Client.** I have represented Plaintiff since 2010.

g. **The Experience, Reputation, and Ability of the Lawyer or Lawyers Performing the Services.** As noted above, I have been licensed to practice law in Texas since 1984. I was awarded an AV rating by Martindale-Hubbell in 1999 and have been a member of the Bar Register of Preeminent Lawyers since 2005. I was recognized as the "Litigator of the Week" in the May 14, 2012, edition of Texas Lawyer magazine, and I am a Sustaining Life Fellow of the Texas Bar Foundation.

h. **Whether the Fee is Fixed or Contingent on Results Obtained or Uncertainty of Collection Before the Legal Services Have Been Rendered.** Plaintiff has

agreed to pay me an hourly rate. My compensation is not fixed or contingent on the results obtained. My fees are not affected by the uncertainty of collection before the legal services have been rendered.

9. Attached hereto as Exhibit 1 are slip lists that detail the work that I have done on this matter. The slip lists total \$5,906.49. I have performed additional work in finalizing the Amended Motion for Default Judgment.

10. Based upon my experience, training, and expertise, it is my opinion that Plaintiff's request for attorneys' fees in the amount of \$5,000.00 is reasonable and necessary and equitable and just. Further, in the event an appeal to the Court of Appeals is made but is unsuccessful, reasonable attorney's fees would be an additional \$25,000.00; in the event an appeal is made to the Texas Supreme Court is made but is unsuccessful, reasonable attorney's fees would be an additional \$25,000.00;

I declare under penalty of perjury that the facts stated herein are within my personal knowledge and are true and correct. Executed in Harris County on April 26, 2023.


Robert J. Kruckemeyer

CAUSE NO. 2021-26091

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

269th JUDICIAL DISTRICT

DECLARATION OF ROBERT J. KRUCKEMEYER IN SUPPORT OF
JVH INTERESTS, INC.'S
MOTION FOR DEFAULT JUDGMENT

EXHIBIT 1

Selection Criteria

Slip.Transaction Dat 1/1/2017 - 4/25/2023
Slip.Classification Open
Clie.Selection Include: JVH-Bailey

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
22012	TIME	Bob	1.50	475.00	712.50
11/13/2020		Manage data	0.00	T	
Billed	G:12631 12/1/2020	JVH-Bailey	0.00		
Prepare and deliver demand letter to Bailey, Bailey F. Kenneth Bailey, Jr. Investments and Bailey Four Canyon Ranch Properties.					
22013	EXP	Bob	3	7.50	22.50
11/13/2020		Postage			
Billed	G:12631 12/1/2020	JVH-Bailey			
Certified Mail postage to deliver demand letter to F. Kenneth Bailey, Jr. Bailey, Bailey Investments and Bailey Four Canyon Ranch Properties.					
22453	TIME	Bob	0.75	450.00	337.50
4/13/2021		Manage data	0.00	T	
Billed	G:12745 5/1/2021	JVH-Bailey	0.00		
Revise demand letter and attend to certified mailing. F. Kenneth Bailey, Jr.					
22492	TIME	Bob	1.50	475.00	712.50
4/25/2021		Manage data	0.00	T	
Billed	G:12745 5/1/2021	JVH-Bailey	0.00		
Work on Plaintiff's Original Petition. F. Kenneth Bailey, Jr.					
22511	TIME	Bob	1.75	475.00	831.25
4/30/2021		Manage data	0.00	T	
Billed	G:12745 5/1/2021	JVH-Bailey	0.00		
Revise Plaintiff's Original Petition and attend to filing. F. Kenneth Bailey, Jr.					
22512	EXP	Bob	1	471.49	471.49
4/30/2021		Court fees			
Billed	G:12745 5/1/2021	JVH-Bailey			
Fee to file Plaintiff's Original Petition. F. Kenneth Bailey, Jr.					
22857	TIME	Bob	1.25	475.00	593.75
8/11/2021		Manage data	0.00	T	
Billed	G:12828 9/1/2021	JVH-Bailey	0.00		
Communicate with Ken, Ken2 and Susanna re status. Work on Motion for Default Judgment. F. Kenneth Bailey, Jr.					

Slip ID	Dates and Time	Timekeeper	Units	Rate	Slip Value
Posting Status		Activity	DNB Time	Rate Info	
Description		Client	Est. Time	Bill Status	
		Phase/Task	Variance		
22869	TIME	Bob	1.00	475.00	475.00
8/13/2021		Manage data	0.00	T	
Billed	G:12828	JVH-Bailey	0.00		
	9/1/2021	F. Kenneth Bailey, Jr.	0.00		
Work on Motion for Default Judgment and attendant documents. Communicate with Ms. Hanson re same.					
24847	TIME	Bob	0.75	500.00	375.00
4/19/2023		Manage data	0.00	T	
WIP		JVH-Bailey	0.00		
		F. Kenneth Bailey, Jr.	0.00		
Prepare Verified Motion to Retain.					
24848	TIME	Bob	0.75	500.00	375.00
4/20/2023		Manage data	0.00	T	
WIP		JVH-Bailey	0.00		
		F. Kenneth Bailey, Jr.	0.00		
Obtain notarization and attend to filing.					
24858	TIME	Bob	2.00	500.00	1000.00
4/23/2023		Manage data	0.00	T	
WIP		JVH-Bailey	0.00		
		F. Kenneth Bailey, Jr.	0.00		
Communicate with Mr. Melber re status. Obtain updated information on debt. Prepare Amended Motion for Default Judgment.					
Grand Total					
		Billable	11.25		5906.49
		Unbillable	0.00		0.00
		Total	11.25		5906.49