

## A LETTER FROM THE ATTORNEY

# JERRY ENGELMAN

I am the attorney who both named and incorporated Bouganvilla Investments, Inc., owner of the property at issue in this litigation. Kelly Hyman testified in court at the trial that she retained me and paid me to incorporate the company and commence the original litigation against Jordan Schwartz, the former owner of the property. My testimony in the same trial was that Kelly Hyman's testimony on that point was completely false — the fact is that Alex Daoud retained me and paid me, not Kelly Hyman (then Kelly Daoud).

The written transcript of Judge John Thornton's comments at the end of the trial included the following comments by the Judge: "And I've got to tell you, I think Mr. Engleman was a truth-teller. You know, the vast majority of what he said, you know, is absolutely — there is a lot of belief that I have that he was telling the truth."

As to Kelly Hyman's testimony, Judge Thornton stated the following: "On the other hand, you know, Ms. Hyman, I'm not convinced that, you know, you went into this thing believing that you are the owner of Bouganvilla. I don't think that you think that you are. I think now you've testified to that, and maybe you've convinced yourself of that, but I got to tell you, you are not the 100 percent owner of Bouganvilla."

As quoted by the Miami Herald on June 26th and re-quoted by CBS Channel 4 News the next day, Kelly Hyman says that: "The house my father lives in is owned by the corporation Bouganvilla Investments. I formed the corporation and have been the owner of it from the inception."

Half of what Kelly says is certainly true — the house that Alex Daoud lives in is owned by the corporation, Bouganvilla Investments, Inc.

As to the other half of Mrs. Hyman's statement: "I formed the corporation and have been the owner of it from the inception," that is a completely different story.

Kelly Hyman has testified in deposition and at trial that she, personally, came to my law office in 2005 and retained me as her attorney to form the corporation, Bouganvilla Investments. She states on the record that she personally paid me to form the corporation and prepare the Purchase Contract, and prepare the litigation. Of course, other than the initial electronic filing

of the corporate Articles of Incorporation, filed by me from my office, she has no documents whatsoever to support her theory. But to be fair – everything is so old, and the records don't exist any more. And, as I have testified in the same trial before the same Judge Thornton, it never happened.

Kelly Daoud, now Hyman, who at that time in 2005 was living in her father's apartment along with her brother Alexander, never came to my office to retain me to form the corporation, prepare the purchase contract, or institute the litigation. She no doubt was instrumental in having me fired as attorney for the Plaintiff in Bouganvilla Investments, Inc. vs. Jordan Schwartz, but for sure she had nothing to do with initially hiring me or making the initial payments to me. All of that was done by her father, Alex Daoud.

The fact that Kelly (Daoud) Hyman was the "incorporator" of the corporation says nothing about her "ownership interest", if any, in the corporation. Mrs. Hyman's attorney, Bernardo Burstein, is listed by the Secretary of the State of Florida as "incorporator" of three corporations: 2142 S Palm Circle, Inc. in 2005, Lydia Entertainment, Inc. in 2007, and The Guitar Nook, Inc. in 2012. Does Mr. Burstein claim an "ownership interest" in any of these corporations by virtue of having been the "incorporator"? I doubt it.

In the year 2005 I had been representing Alex Daoud as his attorney, and attorney for Garden Apartments, Inc., since 2001. Alex had been talking to me about possibly buying that house on Michigan Avenue since at least 2004 – told me Jordan Schwartz was getting too old and tired to keep it up.

In 2005 he told me Jordan Schwartz had agreed to sell. We formed a corporation to purchase the property. I – personally – came up with the name "Bouganvilla Investments, Inc.", and it was I – personally – who left the "i" out of "Bougainvilla".

Alex didn't want his name on the corporate papers. We discussed it with Kelly, who was living with her father and her brother all together at that time – and we agreed to list Kelly as the "incorporator" and initial Director.

I drew up a Purchase Contract. After the Purchase Contract was signed by both parties, Jordan Schwartz refused to close the deal. I drew up and filed a lawsuit in Miami-Dade Circuit Court, Case No: 05-11470 CA 01 (02), Bouganvilla Investments, Inc. vs. Jordan S. Schwartz, for Specific Performance of the Purchase Contract. Shortly thereafter, Bernardo Burstein substituted into the case as attorney for the Plaintiff, and I had no further interest in the case.

No stock was ever issued by Bouganvilla Investments. I never issued any, and the parties have testified that they never did. So who owns Bouganvilla Investments? If Alex and Kelly each own a portion, to what percentages? It's all up to the Honorable Judge John Thornton who is

presiding over the case in the Complex Litigation section of the Miami-Dade Circuit Court. The Judge has not yet entered a written opinion.

But at the end of the trial hearing on Tuesday, January 7, 2014, which ran from 11:18 a.m. – 8:53 p.m., the Judge made the following remarks:

“You know, Ms. Hyman, you know, sometimes, I got to tell you, I know what you did and what you folks put on paper and what happened in Mr. Engelman’s office. There are certain things that I believe that you told the truth about, and there are also certain things that I think that you either lied about or are mistaken about.”

“I say the same thing to you, Mr. Daoud. There is no question in my mind. There were some things that I think you were telling the truth about, and I think there were certain things that you lied or were mistaken about.”

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