

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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**In re
GRAPHICS PROPERTIES
HOLDINGS, INC., et al.,
Debtors.**

**Chapter 11
Case No. 09-11701 (MG)
(Jointly Administered)**

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**ELIOT BERNSTEIN CLAIMANT-CREDITORS MOTION TO COMPEL THE
DISQUALIFICATION OF BANKRUPTCY JUDGE GLENN AND VACATE ORDERS UNDER
FEDERAL RULES OF CIVIL PROCEDURE 60, BANKRUPTCY RULE 9024 AND FOR A
STAY OF PROCEEDINGS AND OTHER RELIEF IN RELATION TO ORDER SUSTAINING
THE OBJECTION
OF THE DEBTORS TO CLAIM OF ELIOT I. BERNSTEIN**

**TO THE HONORABLE MARTIN GLENN
SDNY BANKRUPTCY JUDGE:**

1. I Eliot Bernstein, Creditor and Claimant previously filed an Emergency motion seeking injunctive and other relief in April of 2009, and filed Proof of Claim No. 225 herein, and recently moved for various relief including but not limited to an extension of time to respond to objections to my proof of claim with such objections filed by Special Counsel Ropes & Gray, motion for an adjournment of a hearing on Sept. 15, 2009 for the appointment of counsel to Eliot Bernstein, motion for the determination of conflicts of interest, and other relief now move to compel the immediate Disqualification of SDNY Bankruptcy Judge Martin Glenn, Vacating all Orders of SDNY Bankruptcy Judge Glenn in these jointly administered proceedings specifically including an Order dated September 15, 2009, and for an immediate stay of proceedings pending oversight and assignment of these proceedings to an independent and neutral Judge in accordance with due process and Rules and Codes of Conduct applicable herein.

**MOTION TO COMPEL DISQUALIFICATION OF SDNY BANKRUPTCY JUDGE MARTIN
GLENN 28 USC 455 AND OTHER**

1. SGI, hereinafter the Debtors, herein, filed for Ch. 11 Bankruptcy Protection on April 1, 2009 several months after emerging from a prior Ch. 11 case.
2. More importantly, however, is that SGI's filing in Ch. 11 on April 1, 2009 came within 6 days of the filing of a formal SEC complaint by myself against the Intel Corporation announcing a Trillion Dollar fraud to the SEC also involving Debtors SGI as well thru a Company which was mutually owned by Intel and SGI along with Lockheed Martin called Real3d Inc of Orlando, Florida.
3. That company Real3d Inc. is at the heart and central of a host of investigations and complaints as well as having been under signed NDA with myself and the Iviewit technologies dating back to 1998 or so.
4. The alleged "sales" transactions between Intel, the Debtors SGI, and Lockheed Martin

involving Real3d Inc. were expressly made a part of the Formal SEC Complaint filed on March 25, 2009, 6 days before the SGI bankruptcy on April 1, 2009.

5. As referenced in my Emergency Motion filed April 9, 2009, In House General Counsel for Debtors SGI Evelyn Ramirez was expressly placed on notice of the formal SEC Intel Real3d Inc and related complaint on March 25, 2009 just days before the Ch. 11 filing herein.
6. Despite this express notice on March 25, 2009, the April 1, 2009 Ch. 11 filing wholly failed to List the claims of Eliot Bernstein and related claims herein amounting to a Fraud in filing by SGI upon which THIS Court, SDNY Bankruptcy Judge Martin Glenn, was duly noticed.
7. SDNY Bankruptcy Judge Martin Glenn was further upon direct Notice as of April 9, 2009 with my Emergency filing of the existence of ongoing and open investigations involving multiple federal offices including at the USPTO where Harry Moatz, Director of the OED of the USPTO and a federal official had specifically directed me to file Fraud against the USPTO. Further, Moatz assembled a team of patent office officials to work with myself to file to remove all former counsel from the applications and respond to outstanding issues to move the IP into a suspended status. After review of the allegations, the Commissioner of Patents then Suspended various Patent applications herein pending investigation relating to the Trillion Dollar Technologies at issue. Inventor change forms filed to change the fraudulent inventors and certain IP that has falsified inventors were not changeable without an Act of Congress to change existing USPTO privacy policies, Senator Dianne Feinstein has been reviewing these matters, as well as, members of the House Judiciary Committee.
8. SDNY Bankruptcy Judge Martin Glenn was further placed on express notice of actions by the Office of Inspector General Glenn A. Fine of the US DOJ, pending matters with the OPR of the FBI and the federal whistleblower case of Christine Anderson now heading to trial in the Southern District of NY which my Amended Complaint at the US District Court was marked legally "related" to by District Court Judge Shira Scheindlin.
9. SDNY Bankruptcy Judge Glenn was further on direct notice that the Debtors SGI had simultaneously moved at the time of filing Ch. 11 on April 1, 2009 to simultaneously Employ as Special Counsel the law firm of Davis Polk Wardell (DPW) and Ropes and Gray, LLP by an application filed on such date by Ropes and Gray, LLP including a Declaration by William Kelly of DPW and that DPW was simultaneously representing the Lockheed Martin Corporation and SGI, the Debtors herein, both of whom were Equity owners in Real3d Inc which was under signed NDA with my technologies and at the heart of my complaints and investigations herein.
10. Most shockingly, the Declaration of DPW attorney William Kelly places Mr. Kelly as an Inside Officer at SGI during ALL of the Relevant initial years of the Technologies theft with SGI and Real3d Inc. and later as Outside counsel for SGI while at DPW who simultaneously represents Lockheed Martin, the other Company with Intel at the heart of the Technology thefts with Real3dInc and violations of signed NDAs.
11. Thus, Clear Facial Conflicts appeared on the Records and Dockets of these proceedings certainly as of the date of my Emergency Motion filing on April 9, 2009 and thus SDNY Bankruptcy Judge Martin Glenn should be charged with knowledge of such conflicts as of at least April 9, 2009.
12. Additional specified conflicts made in writing prior to the Sept. 15, 2009 hearing which have been knowingly, deliberately and intentionally disregarded as part of the wall of conflicts machinery of RICO activity in legal proceedings include DPW further simultaneously representing Lockheed, SGI owners in Real3d Inc, while also simultaneously representing the Financial Accountants KPMG employed by SGI in this Ch. 11 bankruptcy while further representing other major companies under NDA with my technologies such as CIBC and Morgan Stanley creating conflict within conflict herein.

13. It is noted for Historical reference at this time that the Formal SEC complaint filed in March of 2009 expressly referenced failures to follow FASB No. 5 and similar Accounting Rules in this Trillion dollar fraud. As of the filing of my Emergency Motion on April 9, 2009, the Nation (United States) has heard almost daily reports of Financial Fraud and related investigations after the collapse of Wall Street, the \$65 Billion plus Madoff fraud, and \$8Billion Stanford fraud and more while Davis Polk Wardell simultaneously represents multiple players in the Wall Street debacle and most interestingly Recruited and Hired back to DPW former head of Enforcement at the SEC Linda Chatman Thomsen who left the SEC under fire for the failures that lead to the \$65Billion Madoff fraud. Such facts involving the Madoff and SEC and Linda Chatman Thomsen matter were of such public knowledge that SDNY Bankruptcy Judge Martin Glenn should be presumed to have taken judicial notice herein. Published sources claim that Linda Thomsen was recruited back to DPW in April 2009 shortly after my filings herein.
14. Many threads tie together several of these financial schemes with the Iviewit technologies and companies, including Madoff, Dreier and Stanford, as pled in my federal RICO case, fully incorporated herein by reference, US 2nd Circ. Docket No. (08-4873-cv) Bernstein, et al. v Appellate Division First Department Disciplinary Committee, et al. and USDC SDNY Docket No. (07cv11196) Bernstein, et al. v Appellate Division First Department Disciplinary Committee, et al.

**FUNDAMENTAL NOTIONS OF DUE PROCESS REQUIRE
INDEPENDENT AND NEUTRAL JUDGE**

1. As noted by the US 7th Circuit Court of Appeals in an appeal of a case coming out of Operation Greylord, a massive FBI investigation into Judicial corruption in Cook County of Illinois, the United States Supreme Court “has observed that “[a] fair trial in a fair tribunal is a basic requirement of due process.” In re Murchison, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955); see also McBride, 428 F.3d at 667 (“Fairness of course requires an absence of actual bias in the trial of cases ...”).” See, Guest v McCann, <http://ftp.resource.org/courts.gov/c/F3/474/474.F3d.926.04-3736.html> .
2. 28 USC 455 provides in part as follows: “(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”
3. Disqualification is thus mandatory and shall be compelled where “impartiality might reasonably be questioned”.
4. SDNY Bankruptcy Judge Glenn is required under the federal Rules of Judicial Conduct as follows:

**“CANON 2: A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF
IMPROPRIETY IN ALL ACTIVITIES**

A. *Respect for Law.* A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

COMMENTARY

Canon 2A. An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the

judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. “

See, http://www.uscourts.gov/library/codeOfConduct/Code_Effective_July-01-09.pdf

1. At the time of the first hearing in which I participated by Telephonic testimony on May 8, 2009, I, Eliot I. Bernstein, specifically requested On the Record of proceedings for Special Counsel Ropes & Gray, LLP AND THIS Court, Hon. SDNY Bankruptcy Judge Glenn, to affirm and disclose affirmatively that no conflicts of interest exist. Also a Conflict of Interest disclosure form was submitted to the Court for review and affirmation or denial of any Conflicts.
2. Both Special Counsel Ropes & Gray, LLP and Judge Glenn Stood SILENT and knowingly, Intentionally and deliberately failed to affirm or disaffirm if conflicts of interest existed in the proceedings herein.
3. It was at ALL Times Reasonable then on May 8, 2009 to question the Impartiality of Bankruptcy Judge Glenn for failing to require Special Counsel Ropes & Gray to Affirm or disaffirm conflicts herein and also for the Judge himself to fail to affirm or disaffirm conflicts and it was further reasonable to question Judge Glenn's commitment to obligations to uphold law since the Court has an affirmative duty to address conflicts in the proceedings and regulate the conduct of the attorneys.

1. Nonetheless, I Eliot I. Bernstein in most reasonable fashion thereafter specifically outlined in further detail the conflicts of interest which were Facially existent on the Record of Proceedings as of April 9, 2009 by a Response to Special Counsel Ropes & Gray filed Sept. 10, 2009 which noted the Silence of Ropes and Gray and Judge Glenn on May 8, 2009, and again asked for affirmance or denial of conflict and to resolve conflicts prior to proceeding.
2. Special Counsel Ropes & Gray had been placed on further specified notice by myself in this filing of Sept. 10, 2009 that Ropes and Gray as Lawyers claim to own highly technical Patents in the realm of digital and video imaging which is not only precise part of the area where my Original owner status in Technologies exists, but further that the very nature of the Fraud on the USPTO urged to be filed by Federal official Harry Moatz as Director of the OED of the USPTO involved Fraud in filings and applications by Lawyers and likewise Judge Glenn and Ropes and Gray were informed in Writing by my filing on Sept 10, 2009 that the legally "related" federal Whistleblower case of Christine Anderson heading to trial in the District Court of Judge Scheindlin of the SDNY involved the Iviewit technology matters and systemic public corruption involving the whitewashing of professional complaints of attorneys at the DDC of the NYS First Department.
3. Yet, despite the prior request orally on May 8, 2009 and the now written motion and specified notice and request of Sept. 10, 2009, Special Counsel Ropes and Gray files a nearly 13 page reply to my response with Judge Glenn and yet STILL fails to affirm or deny conflict and deliberately glosses over and disregards all such matters which are at the heart and core of these proceedings.
4. At the hearing Sept. 15, 2009 appearing telephonically again, I reiterated and repeated my requests for conflict resolution and disclosure of both Special Counsel Ropes and Gray and Judge Martin Glenn making this the second request Orally now on two separate proceeding dates, May 8, 2009 and Sept. 15, 2009, in addition to the written filings of my Emergency motion dated April 9, 2009 which should have placed Judge Glenn on Notice of the conflicts and my subsequent written motion and response on Sept 10, 2009 which specifically demanded and requested conflict disclosure and resolution and of course the requirements and operation of

law and due process necessitating that the Judge be independent, neutral and free from conflict and regulate the proceedings in like manner.

5. Yet, in what appears to be the Standard Equation or Recipe as it were for RICO and corruption advanced through the machinery of Judicial Office, Judge Martin Glenn has knowingly, deliberately, purposely and intentionally disregarded law, Rule and codes of conduct by issuing an Order on Sept. 15, 2009 in writing which wholly, fully and absolutely disregards the core issues at hand and the requirements of law, the federal Rules of Judicial Conduct and other despite full knowledge of same by Judge Martin Glenn and by merely reciting somewhat meaningless facts to provide the Order with a false appearance of legitimacy.
6. Under such circumstances, the impartiality of Judge Glenn is reasonably in question along with failure to follow and enforce law including the law of conflicts and thus Judge Martin Glenn is compelled and mandated to Disqualify himself under 28 USC 455, federal Rules of Judicial Conduct, and law from these proceedings and Vacate all orders herein and any act short of this immediate result is a further Obstruction of Justice and actionable due process violation herein.
7. It is noted that this fraudulent Order of Sept. 15, 2009 contains no mention whatsoever of any request to address conflicts much less any analysis or reason or rationale and the Order therefore lacks a rationale basis and is likewise Void under FRCP 60 and is otherwise void and to be vacated under FRCP Rule 60 as a fraud upon the court and proceedings. More importantly there is no analysis, discussion or portion of the Order which address the Core Fraud and Factual issues contested in the proceedings which necessarily implicate the Conflicts not addressed and include but are not limited to Fraud by SGI in the original 2006 filings and the subsequent Fraud in filings on April 1, 2009 upon recent discovery of entanglement and a Formal SEC Complaint in a Trillion Dollar accounting and related fraud involving equity partners Lockheed Martin and Intel from Real3d Inc.
8. It is further noted for historical reference that the fraudulent and voidable Order of Judge Martin Glenn dated Sept. 15, 2009 was issued in less than a mere few hours of taking the motions of Eliot I. Bernstein “under advisement” and was issued without even a remote appearance or attempt at a full and fair Hearing which should have mandated Conflict resolution and provision for Discovery on contested issues and mandated an extension and adjournment of time herein.
9. Moreover such fraudulent and void Order fails to discuss or analyze in any manner the claims of Eliot I. Bernstein and the Specified list of Engineers and Business managers and officers referenced in the Formal SEC complaint of March 25, 2009 involving Real3d Inc, Intel, Lockheed Martin and SGI, the Debtors herein and that the Debtors SGI did not even attempt to advance any engineer or technical person to counter the claims of Eliot Bernstein involving the Technology herein at minimum creating contested factual issues appropriate for discovery and contested adversary proceedings.
10. It is noted that the actions herein shall be investigated against SDNY Judge Glenn and applicable staff for Title 18 obstruction of justice and related fraud crimes and for due process RICO conspiracy actions.
11. It is further noted that On the Record of proceedings on Sept. 15, 2009, SDNY Bankruptcy Judge Glenn was affirmatively requested to sign a Conflicts of interest disclosure which he wrongfully refused to affirm or deny.

**SDNY JUDGE GLENN FAILED TO CONTACT MR. DIAMOND, OPERATIONS
MANAGER AT SDNY BANKRUPTCY IN RELATION TO POLICIES ON THE
APPOINTMENT OF COUNSEL**

1. My Sept. 10, 2009 filing specifically referenced SDNY Bankruptcy Court Operations Manager

Mr. Diamond and Staff in relation to my attempts to secure appointment of counsel and other relief herein.

2. Despite Operations Manager Mr. Diamond indicating he should be consulted for Policies of the SDNY in relation to Appointment of Counsel, in prejudicial manner Judge Glenn disregarded all such matters and requests in a further abuse of discretion herein.

WHEREFORE, SELF REPORTING AND EIB REPORTING TO OVERSIGHT BODIES, US DOJ, OIG OF DOJ, FBI OPR, FBI, US ATTORNEY OF SDNY, NY AG CUOMO AND APPROPRIATE OFFICES AND STAY OF PROCEEDINGS UPON VACATING ORDERS

1. For all the reasons noted herein, and it is further noted that filings before Judge Glenn indicated that SDNY US District Court Judge Scheindlin had called my case a "Murder" case while I alleged formally attempted murder shown by the car bombing of my minivan at my website www.iviewit.tv Bankruptcy Judge Martin Glen shall:

1.
 - a. Immediately Disqualify himself from these proceedings and Vacate all Orders herein specifically including the Order of Sept. 15, 2009 and the order denying an injunction and Order approving Sale (quickest bankruptcy Ch. 11 sale) and all such Orders herein;
 - b. Self Report the conduct herein to all appropriate oversight bodies, Committees, the Judicial Council, the OIG of the DOJ, the US Attorney for the SDNY, the DOJ, the USPTO and OED of the USPTO, applicable NY State and related Bar Associations, the NY AG Public Integrity and related units, the US House and Senate Judiciary Committees, and other;
 - c. Immediately stay proceedings upon disqualification pending assignment and transfer to an independent and neutral Bankruptcy Judge;
 - d. And for such other and further relief as may be proper.

Dated: _____

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