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August 7, 2001

**VIA TELEFAX & U.S. MAIL**

John Merrett  
11250 Old St. Augustine Road  
Apt. 15-393  
Jacksonville, FL 32257-1147

Re: *Liebreich v. Church of Scientology Flag Service Organization*

Dear Mr. Merrett:

I am in receipt of your letter of today in which you profess not to know the scope of the various orders to LMT, Inc. to produce records. These several orders over the past year, in which you as well as your clients were sanctioned and you often litigated, can hardly not be known to you. Thus, your delay of production after 3 more weeks of procrastination is transparent.

As I indicated earlier, absent production in the next two days, I will have no choice but to file a new motion for contempt and for coercive sanctions. Again, I urge you to simply comply with the Court's Orders and stop the obstruction so we need not continue to bother the Court with motion practice.

However, to eliminate your apparent argument of claimed ignorance over which so many orders have already issued, I here provide further copies of the orders at issue. I am not including the various transcripts of hearings when you and LMT's former counsel, Kennan Dandar, were ordered by Judge Moody and Judge Quesada to comply with the orders and make the productions.

To assist you, as a summary, LMT, Inc. is to produce:

- 1. All financial records regarding payments to any of the witnesses in this case.

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August 7, 2001

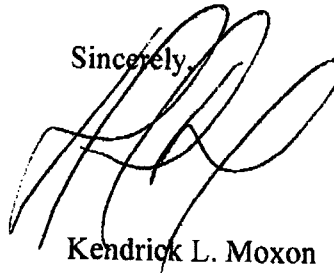
Page 2

This includes, *inter alia*, Prince, Summers, Brooks, Caberta, Jacobsen, Armstrong, Liebreich, Lorenzen, Vaughn Young, Alexander, Keller, Minton and Ward. Each of them have already testified as a witness in this case and are listed in the witness lists of the parties. "All financial records" means "all." "All" includes all canceled checks, bank statements reflecting payments, payroll sheets, payroll instructions to any payroll company, contracts regarding pay, reimbursements, payments on behalf of any of these persons, expenses paid for or on behalf of any of these persons, money invoiced or deposited for payments to any of these persons.

2. All audio and video tapes or CDs and other digital recordings out of LMT's computers depicting any of the witnesses in this case, including *inter alia*, Prince, Summers, Brooks, Jacobsen, Armstrong, Caberta, Keller, Liebreich, Lorenzen, Vaughn Young, Alexander, Minton and Ward.

3. All documents relating to statements by or regarding any of the witnesses in this case, including, *inter alia*, Prince, Summers, Lorenzen, Keller, Vaughn Young, Brooks, Jacobsen, Armstrong, Caberta, Liebreich, Alexander, Minton and Ward.

Sincerely,



Kendrick L. Moxon

KLM:jj

Enclosures

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA  
GENERAL CIVIL DIVISION

ESTATE OF LISA MCPHERSON, by  
and through the personal Representative,  
DELL LIEBREICH,

Plaintiff,

Case No. 00-5682-CI-11  
Division 11

vs.

CHURCH OF SCIENTOLOGY FLAG  
SERVICE ORGANIZATION, JANIS  
JOHNSON, ALAIN KARTUZINSKI and  
DAVID HOUGHTON, D.D.S.,

Defendants.

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**FINDINGS OF FACT AND ORDER CONCERNING DISCOVERY  
FROM LISA MCPHERSON TRUST, INC.**

This cause came on to be considered by the Court at hearings on December 14, 2000 and December 21, 2000, pursuant to the Motion of the Church of Scientology Flag Service Organization to compel compliance with prior Orders of the Court and the plaintiff's motion for protective order. The Court has also considered the plaintiff's Motion to Strike Witnesses, which included witnesses about whom discovery was requested from LMT, Inc. Having heard argument of counsel for the parties and for third party witnesses Lisa McPherson Trust, Inc., Stacy Brooks and Robert Minton and being otherwise fully advised in the premises, the Court finds as follows:

LMT, Inc. was incorporated as a for-profit company by plaintiff's counsel,

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Kennan Dandar, in 1999. (See Ex. A to Motion to Compel Deposition of the Lisa McPherson Trust, Inc.; for Sanctions and for a Finding of Contempt, filed October 27, 2000.) According to Mr. Minton's public Internet posting in February, 2000, LMT is to receive "the vast majority" of the hoped-for proceeds of this case (*id.*, Ex. B), in exchange for Minton paying the fees and expenses of this litigation. According to Mr. Minton's deposition testimony, this arrangement was worked out by Mr. Dandar and plaintiff Dell Liebreich. (*Id.*, Ex. C.)

Mr. Minton, the sole shareholder and Chairman of the Board of LMT, Inc., provides all funding for the company. (*Id.*, Ex. D.) LMT, Inc. also employs plaintiff's identified expert witness Jesse Prince, and consulting expert, Stacy Brooks, who has provided several affidavits filed by plaintiff herein. LMT, Inc. also possesses a video library of statements of Ms. Brooks, Mr. Minton, Mr. Prince and other persons. (*Id.*, Ex. K.)

On March 26, 2000, LMT, Inc. was subpoenaed to produce records relating to payments to witnesses, and records and video tapes depicting various witnesses. Mr. Dandar brought a motion for protective order to quash the deposition which was heard on April 7, 2000 by Judge Moody, who ordered that the deposition of LMT's corporate representative go forward, including production of documents and videos of witnesses. (*Id.*, Ex. E, Transcript of Proceedings, April 7, 2000, pp. 147-149.)

On April 10, 2000, plaintiff again moved to quash the deposition of LMT, Inc., which was again denied by Judge Moody, who ordered LMT, Inc. to, "produce a representative of the trust who can testify about any payments made to witnesses, any interviews of witnesses in this case, any documents that they may have about witnesses in this case." (*Id.*, Ex. F, Transcript of Proceedings, April 10, 2000 at 23-24.)

On April 24, 2000, LMT, Inc. produced an employee who apparently was not

competent to address such issues, and a further motion to compel was filed by the Church, and heard by Judge Moody on May 15, 2000. Judge Moody granted the Church's motion, and ruled, "They're entitled to find out what witnesses in this case have been paid by the Lisa McPherson Trust, if any, and if so, how much they've been paid, what witnesses are on video, a video statement about any of the issues in this case or about the issues of Scientology, and they're entitled to see those videos." (*Id.*, Ex. I, Transcript of Proceedings, May 15, 2000, p. 41.)

A written order issued on May 15<sup>th</sup>, required LMT, Inc. to produce "a person most knowledgeable to testify to the matters addressed in the Court's Ruling in open Court on April 10, 2000, and to produce all financial records regarding the payment to any person identified at any time as a witness in this case; and shall produce unedited videos in the possession, custody or control of Lisa McPherson Trust, Inc., of statements of any person identified presently as a witness in this case. The records shall be produced within 3 days of this Order." (*Id.*, Ex. J, May 15, 2000 Order.)

No further records were produced in compliance with this Court's Order and a further motion to compel was filed by the Church. At the hearing on July 18<sup>th</sup>, Judge Moody signed another Order (filed on July 19, 2000) requiring compliance with the May 15, 2000 production no later than August 1, 2000. (*Id.*, Ex. P, July 18, 2000 Order.)

Receiving no productions, the Church subsequently brought a further motion for compliance with Judge Moody's Orders, which this Court granted by order dated November 20, 2000, again requiring written confirmation of LMT, Inc.'s compliance with the Orders of May 15, 2000 and July 19, 2000. A statement was subsequently filed by Robert Minton as LMT, Inc.'s representative, purporting to comply with the Orders addressed above. The statement of compliance, however, equivocated with the clear language of the Orders of May 15<sup>th</sup>, July 19<sup>th</sup> and November 20<sup>th</sup>—indeed, no further

documents or tapes were produced at all -- because his clients believed that Ms. Brooks, Mr. Minton, Grady Ward and Jeff Jacobsen are not legitimate "witnesses" in this case, that it should not be required to provide financial information relating to Jesse Prince after the date of Judge Moody's original ruling, and that plaintiff had subsequently filed a new motion for protective order.

While plaintiff has argued that a work product privilege attaches to the ordered productions from LMT, Inc., the Court finds that no such privilege is applicable. LMT, Inc. is not an attorney nor is it employed by counsel. Thus, whether or not Stacy Brooks or Jesse Prince is a "trial consultant," their relationship with LMT, Inc., is not subject to any work product privilege and no work product assertion has been made as to payments to Ward or Jacobsen. LMT, Inc.'s payments to Ms. Brooks, Mr. Prince, Mr. Jacobsen and Mr. Ward and its collection of statements of these persons and Mr. Minton are therefore not privileged.

LMT, Inc. also argues that the information sought is irrelevant. The scope of relevance under Florida law is broad, as defined in Rule 1.280, Florida Rules of Civil Procedure:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

This standard is more than met in light of the admissions by Mr. Minton that LMT

Inc. is to receive proceeds from this case, LMT's employment of plaintiff's consultants, LMT's employment of plaintiff's disputed expert, and LMT's maintenance of a video library of statements of plaintiff's witnesses Prince and Brooks, among others.

Moreover, as to Ms. Brooks, plaintiff has filed and utilized several of her affidavits and declarations in support of positions it has taken in motion practice in this action. Plaintiff argues that since Ms. Brooks is a trial consultant and will not be testifying at trial as a fact witness, that payments to her by Mr. Minton or LMT, Inc. are no longer relevant. The Court finds this position to be inconsistent with the record and the scope of discovery under Florida law. A party may not rely upon evidence to prevail upon a position, and then not disclose payments to the witness or other information which might refute the witness' testimony.

Payments to witnesses by a third party also raise legal issues addressed in *Golden Door Jewelry Creations Inc. v. Lloyds Underwriters*, 865 F.Supp. 1516 (1994) and *Rentclub v. Transamerica Rental Finance Corp.*, 811 F.Supp. 651 (1992), both of which apply Florida law. Potential evidence going to the abuse of process defense also warrants a finding of relevance of the discovery sought. Finally, payments to witnesses, whether they be fact witnesses or expert witnesses, and statements of witnesses regarding the general subject matter of their testimony, are clearly relevant discovery.

The Court finds that there is no justification for LMT, Inc.'s continued refusal to comply with the Court's Orders. It is therefore

**ORDERED** that LMT, Inc. is required to fully comply with the Court's Orders of May 15, 2000, July 19, 2000 and November 20, 2000. LMT, Inc. is also sanctioned in the reasonable amount of the Church's attorneys' fees in the filing of its Renewed Motion to Compel Lisa McPherson Trust, Inc. and for Contempt Against Robert Minton and LMT, Inc., And for Further Sanctions and for the time spent at the

hearing on such motion. Defendant is ordered to submit a proposed order and affidavit of counsel as to its reasonable fees.

This Order is stayed for 15 days to permit plaintiff and/or LMT, Inc. to seek appellate review.

Dated: January 10, 2001



Hon. Frank Quesada

cc: All counsel of record



IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA  
GENERAL CIVIL DIVISION

ESTATE OF LISA MCPHERSON, by  
and through the personal Representative,  
DELL LIEBREICH

Plaintiff,

Case No. 97-01235  
Division "H"

vs.

CHURCH OF SCIENTOLOGY FLAG  
SERVICE ORGANIZATION, JANIS  
JOHNSON, ALAIN KARTUZINSKI and  
DAVID HOUGHTON, D.D.S.,

Defendants.

FILED  
2003 JUN 15 11:30:07  
CLERK

ORDER

THIS CAUSE came on to be considered before me on the Motion to Compel and for Sanctions Against Lisa McPherson Trust, Inc., filed by defendant Church of Scientology Flag Service Organization. Having heard argument of counsel for the parties and for the third party Lisa McPherson Trust, Inc., it is hereby **ORDERED**:

The Lisa McPherson Trust, Inc., shall <sup>within 10 days</sup> produce a person most knowledgeable to testify to the matters addressed in the Court's Ruling in open Court on April 10, 2000, and to produce all financial records regarding the payment to any person identified at any time as a witness in this case; and shall produce unedited videos in the possession, custody or control of Lisa McPherson Trust, Inc., <sup>of</sup> ~~containing the image or~~ statements of

*J.M.D.*

*J.M.D.*

any person identified <sup>presently</sup> at any time as a witness in this case. The records shall be produced *J.M.D.*  
within 3 days of this Order.

The Lisa McPherson Trust, Inc., shall pay the amount of \$ \_\_\_\_\_ to *J.M.D.*  
the Church as reasonable fees and costs arising out of the deposition on April 24, 2000,  
and arising out of the bringing of the motion addressed above.

Dated: May 15, 2000

*James S. Moody*  
\_\_\_\_\_  
CIRCUIT JUDGE

Copies to:  
Counsel of Record

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA  
GENERAL CIVIL DIVISION

ESTATE OF LISA MCPHERSON, by  
and through the personal Representative,  
DELL LIEBREICH

Plaintiff,

Case No. 97-01235  
Division "H"

vs.

CHURCH OF SCIENTOLOGY FLAG  
SERVICE ORGANIZATION, JANIS  
JOHNSON, ALAIN KARTUZINSKI  
and DAVID HOUGHTON, D.D.S.,

Defendants.

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**FILED**  
2000 JUN 19 AM 9:38  
CLERK CIRCUIT COURT  
HILLSBOROUGH CNTY., FLA.  
32

**ORDER REGARDING VIDEO TAPES  
OF LISA MCPHERSON TRUST, INC.**

This cause came on to be considered by the Court on June 7, 2000, pursuant to the Motion of the Church of Scientology Flag Service Organization to compel compliance with the Court's Order of May 15, 2000. Having heard argument of counsel and being otherwise fully advised in the premises, it is hereby

ORDERED, that the Lisa McPherson Trust, Inc., through its director and agent Robert Minton shall comply with the Court's Order of May 15, 2000 requiring that it "produce all financial records regarding the payment to any person identified at any time as a witness in this case; and shall produce unedited videos in the possession, custody or control of Lisa McPherson Trust, Inc., of statements of any person presently identified as a witness in this case." Mr. Minton, shall further file a sworn statement that LMT, Inc.

searched their video files as to the entire witness lists of the parties and produced all segments of statements dealing with Lisa McPherson, the Lisa McPherson case, the defendants and Scientology.

Compliance with this Order is due on or before August 1, 2000.

Dated: July 18, 2000

  
CIRCUIT JUDGE

Copies to counsel of record.

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IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA  
GENERAL CIVIL DIVISION

ESTATE OF LISA MCPHERSON, by  
and through the personal Representative,  
DELL LIEBREICH,

Plaintiff,

Case No. #00-5682-CI-11  
Division 11

vs.

CHURCH OF SCIENTOLOGY FLAG  
SERVICE ORGANIZATION, JANIS  
JOHNSON, ALAIN KARTUZINSKI and  
DAVID HOUGHTON, D.D.S.,

Defendants.

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**ORDER COMPELLING**  
**DOCUMENT PRODUCTION OF LISA MCPHERSON TRUST, INC.**

THIS CAUSE came on to be heard before me on November 8, 2000, on the motion of Defendant Church of Scientology Flag Service Organization Motion to Compel Deposition of the Lisa McPherson Trust, Inc., for Sanctions and for a Finding of Contempt. After considering the papers filed and hearing argument of counsel, it is thereupon ORDERED AND ADJUDGED that:

The Motion of the Church of Scientology Flag Service Organization to Compel is GRANTED as follows:

The Lisa McPherson Trust, Inc. ("LMT, Inc.") is Ordered to comply with Judge Moody's Order of July 19, 2000, within 10 days of the date of the November 8<sup>th</sup> hearing.

LMT, Inc.'s search for video tapes and documents relating to witnesses in this case must utilize the parties' witness lists previously filed, as well as any other person reasonably identifiable as a witness to the facts in this case.

If LMT, Inc. seeks to challenge the inclusion of any witness, it must do so within the same 10 day period, bearing in mind the Court's definition of "witness" discussed at the hearing.

The Court finds that LMT's failure to comply with Judge Moody's Order of July 19, 2000 was not justified. The Court will address the matter of sanctions in a separate order after receipt of a response from counsel to Mr. Minton.

Dated: November \_\_, 2000

ORIGINAL SIGNED

NOV 20 2000

FRANK QUESADA  
CIRCUIT COURT JUDGE

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Hon. Frank Quesada

cc: Counsel of record  
John Merrett, Counsel for LMT, Inc.