# MY SIMPLE SUMMARY OF MY LOSS OF $97,200 DUE TO CRAIG HIGGS' DECISION

I PAID JUDICATE WEST $20,000 TO PROVIDE THE PARTIES WITH A REAL ESTATE EXPERT TO OFFICIATE AT THIS SIMPLE BREACH OF REAL ESTATE CONTRACT ARBITRATION HEARING. THIS IS JUDICATE WEST'S PRIMARY BUSINESS. JUDICATE WEST NAMED THEIR EXPERT AS CRAIG D. HIGGS.

ASK YOURSELF, AFTER READING THIS DECISION AND MY COMMENTS, IF WHAT WE GOT, IS WHAT JUDICATE WEST PROMISED TO DELIVER FOR $20,000.

READ THE EVIDENCE AND MAKE UP YOUR OWN MIND.

JUDICATE WEST RECOMMENDED CRAIG D HIGGS AS A KNOWLEDGEABLE REAL ESTATE ARBITRATOR. PURPORTED TO HAVE BEEN FULLY VETTED BY JUDICATE WEST FOR HIS PARTICULAR KNOWLEDGE IN CALIFORNIA REAL ESTATE CONTRACT LAW.

THE HIGGS DECISION YOU WILL READ AGAINST ME CONTAINS A LOT OF WINDOW DRESSING, BUT IT ALL COMES DOWN TO A SINGLE JUSTIFICATION BY HIGGS IN FINDING AGAINST ME AND THAT IS THAT I DID NOT INFORM PEYKOFF THAT PEYKOFF HAD AN OUTSTANDING LISTING AGREEMENT WITH ME.

THIS IS FACTUALLY UNTRUE, BECAUSE IT WAS PROVEN TO HIGGS, REPEATEDLY, DURING THE ARBITRATION HEARING, RIGHT IN FRONT OF CRAIG D HIGGS, THAT I DID IN FACT NOTIFY PEYKOFF BY A WRITTEN NOTIFICATION, THROUGH US MAIL AND EMAIL. PEYKOFF THEN ACKNOWLEDGED UNDER OATH THAT PEYKOFF DID IN FACT RECEIVE BOTH MY WRITTEN NOTIFICATIONS AND PEYKOFF ADMITTED THAT PEYKOFF DID IN FACT IGNORE MY WRITTEN NOTIFICATION AND THEN WENT AHEAD AND SOLD THE PROPERTY DURING MY LISTING TERM REGARDLESS OF MY OUTSTANDING LISTING CONTRACT WHICH SHE ADMITTED KNOWING WAS STILL WAS IN FORCE. THESE FACTS ARE PROVEN.

THIS IS A SIMPLE DECISION TO MAKE IN MY FAVOR BECAUSE THIS IS THE VERY DEFINITION OF A "BREACH OF CONTRACT" BUT ACCORDING TO HIGGS I LOST A $97,200 COMMISSION BECAUSE I DIDN'T DO SOMETHING THAT HIGGS SAYS I WAS OBLIGATED TO DO. (NOTIFY PEYKOFF)

WHEN IN FACT, THE DEFENDANT SWORE UNDER OATH THAT I DID IN FACT DO WHAT HIGGS SAYS I DID NOT DO. (NOTIFY PEYKOFF)

YOU CAN COMPLICATE THIS AS MUCH AS YOU WANT, BUT THAT'S WHAT THIS ALL COMES DOWN TO. HOW JUDICATE WEST COULD RECOMMEND CRAIG D HIGGS AT A FEE OF $20,000 AND THEN HAVE A DECISION COME DOWN BASED ON A SINGLE FAILURE ON MY PART THAT IS NOT BASED ON THE PROVEN EVIDENCE AND SWORN TESTIMONY BY THE DEFENDANT HERSELF, AS PROVIDED TO THE ARBITRATOR CRAIG HICKS, IS WHAT I WRESTLE WITH EVERY DAY. I'M SHARING THIS WITH YOU SO IT NEVER HAPPENS TO YOU. NEVER NEVER NEVER AGREE TO BINDING ARBITRATION

## MY LINE BY LINE COMMENTS OF THE HIGGS DECISION WILL BE MOSTLY SPOKEN IN THE THIRD PERSON FOR CLARITY PURPOSES AND PLEASE DO EXCUSE ANY REDUNDANCIES.

CRAIG D. HIGGS, ESQ. (Bar No. 48001)
chiggs@higgslaw.com
HIGGS FLETCHER & MACK LLP
401 West "A" Street, Suite 2600
San Diego, CA 92101-7913
TEL: 619.236.1551
FAX: 619.696.1410

Arbitrator

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

**CENTRAL JUSTICE DISTRICT**

DONALD ENRIGHT, an individual,

Plaintiff,

v.

VIRGINIA DIANE PEYKOFF, an individual; and DOES 1 through 100, inclusive,,

Defendant.

CASE NO. 30-2014-00760666-CU-BC-CJC

**ARBITRATOR'S DECISION**

Plaintiff Donald Enright claims a right to payment of a real estate commission pursuant to a Residential Listing Agreement (Exclusive Authorization and Right to Sell) entered into on February 1, 2014 between himself and the defendant Virginia Peykoff regarding the residence at 1731 Port Hemley in Newport Beach California. Mr. Enright is entitled to the real estate commission unless, by his conduct, he forfeited his right to it.

It is undisputed that Mr. Enright owned a fiduciary duty to Mrs. Peykoff. That duty required Mr. Enright to act in the "highest good faith" and to "disclose all facts necessary for his principal to make an informed and intelligent decision," see Wyatt, George Gall Pacific, Salahutdin and other cases. He breached that duty if he knew, or should have known, that Mrs. Peykoff did not understand that he had not agreed to cancel the Residential Listing Agreement [Exhibit 2] and then failed to correct that misunderstanding.

Mr. Enright asserts that there's no evidence that he was aware Mrs. Peykoff did not understand that the Cancellation of Listing form [Exhibit 74] he provided on July 14 concerned only the Lease Listing Agreement [Exhibit 104] and not the Residential Listing Agreement.

Mrs. Peykoff requested the "cancellation" in an e-mail dated 7/14/2014, 9:00 A.M., from diane@niagarawater.com:

> "I'm not buying anything else at this time I'll inform Kenny As for rents Time is being lost as this is move in month for school Hemley is not for lease or sell as we discussed previously Do I need to send you a letter of cancellation? don't know the protocol on this Margate and port westbourne was the rents you suggested I never knew until now that you didn't have westbourne leased at $7450 as discussed I lost no rents and had $3500 'free money' Remember? So forget Hemley and try to rent the other two if you can. You've never had trouble doing so in the past so I don't know what's happening here with the rentals Thanks Diane" (Exhibit 73, Enright 000018 bottom to Enright 000019 top)

The Cancellation of Listing form Mr. Enright then provided to Mrs. Peykoff and signed by her pertains only to the lease listing and Mrs. Peykoff never directly communicated she did not understand it did not include the Residential Listing Agreement.

Mr. Enright argues that Mrs. Peykoff's emails and calls to him both before and after July 14 suggested that the house was only off the market for sale temporarily and not that the Residential Listing Agreement was to be canceled. Indeed, those emails are susceptible to that interpretation as referenced on pages two and three of Mr. Enright's Post Arbitration Brief. For example, an email of July 17 from Mrs. Peykoff's assistant to Mr. Enright says in part,

> "if you have a buyer for it, then bring the written offer. Have I ever NOT paid you anything I owed?" [Exhibit 79]

The stronger evidence is that Mrs. Peykoff wanted the Residential Listing Agreement cancelled. As early as May 25, 2014 Mrs. Peykoff had emailed Mr. Enright stating:

> "The house has been on the market for almost 7 months…Please take it off the market, release any contract we may have to sell it and remove the sign."
>
> "…Sorry you worked so long on this one and ended up with nothing, but I guess that's the way it goes sometimes, some are easy some are difficult." [Exhibit 47]

This language should have alerted Mr. Enright that Mrs. Peykoff might believe the Residential Listing Agreement was to be cancelled.

The eventual July 14 email requesting Mr. Enright take action clearly states that Hemley was not for lease or "sell" and asked about a "letter of cancellation," and states she did not know the "protocol."

The cancellation form of July 14 which Mrs. Peykoff admits she did not read, is titled "Cancellation of Listing". [Exhibit 105] Mrs. Peykoff testified that she thought this document was a cancellation of the Residential Sale Listing Agreement. This form is not a model of clarity and required an explanation of its meaning, especially in view of the communications between the parties. Given her evident confusion, Mr. Enright had a duty to make it clear what this document was meant to accomplish. He did not do so. This was a breach of his fiduciary duty to her. Other communications between the two make it that Mrs. Peykoff believed the Residential Sale Listing Agreement had been canceled was at least was confused. For example, on July 17, 2014, Enright sent an email to Mrs. Peykoff, stating:

> "As to Hemley, since June, I have been approached at least 15 times to see if we would still sell the house...And after asking you at least five times and being told that under no circumstances is that house for sale I have backed off those brokers and buyers..."
>
> "...Once you had me remove it for sale in the MLS, it will only be a matter of time before brokers, that are not loyal to me and my long term relationship with you, that they will approach you directly because Don Enright is not allowed (as directly instructed by his client) to offer them the opportunity to buy Hemley..." [Exhibit 76]

On July 26, 2014, Mrs. Peykoff sent an email to Mr. Enright stating:

> "I cannot do business in this way, so yes, I am no long[er] going to do business with you. . . . To make myself perfectly clear, I am no longer your client and you are no longer my realtor..." [Exhibit 86]

Additionally, Mr. Enright testified at his deposition:

> Q: If you go to the next page, you see an e-mail from Mrs. Peykoff earlier that same day [7/14/14]. She says, "Hemley is not for lease or sale as we discussed previously. Do I need to send you a letter of cancellation? I don't know the protocol on this." Did you receive that?

A: Yes.

Q: And you understood she was seeking your advice as to the protocol for cancellation of a listing; right?

A: I don't know what she was asking.

Q: Did you send her an e-mail saying, I don't understand what you're asking?

A: No.

Q: But my question to you is, when a customer gives you some type of expression of their desires and you don't understand it or it's not clear, is it your practice to inquire to clarify it?

A: Yes.

Mr. Enright's continued failure to clarify to Mrs. Peykoff's misunderstanding is fatal to his claim.

Having decided that Mr. Enright breached his fiduciary duty his claim for quantum meruit must also be denied. Once Mrs. Peykoff believed her agreement with Mr. Enright was terminated it cannot be said that she was "requesting plaintiff perform services..." CACI #371 Additionally, quantum meruit is an equitable claim which cannot survive a breach of fiduciary duty.

I find in favor of the defendant and against the plaintiff.

DATED: September 17, 2015

HIGGS FLETCHER & MACK LLP

By: _____
CRAIG D. HIGGS, ESQ.
Arbitrator

## PROOF OF SERVICE

I am employed in the county of Orange, State of California. I am over the age of eighteen and not a party to the within action, and my business address is: 1851 E. First Street, Suite 1600, Santa Ana, CA 92705

On September 21, 2015, I served the following document: **ARBITRATOR'S DECISION** on the interested parties in the matter of **Donald Enright vs. Virginia D. Peykoff** by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

Andrew Couch, Esq.
Law Offices of Andrew Couch
14 Corporate Plaza
Suite 120
Newport Beach, CA 92660
**EMail: andrew@andrewcouch.com**

Gregory G. Brown, Esq.
Mark M. Higuchi, Esq.
Brown & Charbonneau
420 Exchange
Suite 270
Irvine, CA 92602
**EMail: octriallaw@gmail.com**
**EMail: mhiguchi@bc-llp.com; preno@bc-llp.com**

X I am readily familiar with the business' practice for collection and processing of correspondence and mailing with the United States Postal Service; such correspondence would be deposited with the United States Postal Service the same day of deposit with postage thereon fully prepaid at Santa Ana, California, in the ordinary course of business.

X By electronic Mail

X (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

___ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **September 21, 2015**, at Santa Ana, California.

Rachelle Snow
Judicate West

PAGE 1 LINE 25-26

THIS WYATT CASE AND THE OTHERS WHICH HIGGS RELIES UPON SO HEAVILY TO BOLSTER HIS DECISION AGAINST ENRIGHT BASED ON FIDUCIARY DUTY DO NOT EVEN APPLY TO THE MULTIPLE BREACHES OF CONTRACT THAT IS THE SUBJECT OF THIS LITIGATION AND ARBITRATION HEARING. WHY? NOT ONLY IS IT NOT THE "BEST EVIDENCE" TO PROVE THE CASE AT HAND BUT WHEN HIGGS STRETCHES HIS DECISION INTO THE ELEMENTS OF BREACH OF FIDUCIARY DUTY HE CHOSES CASES OF BROKERS WHO GAINED FINANCIAL ADVANTAGE OVER A CLIENT BY WITHHOLDING FINANCIAL INFORMATION FOR THE BROKERS PERSONAL MONETARY PROFIT AND THAT IS NOT THE CASE AT TRIAL HERE. NO MATTER HOW FAR HIGGS WOULD LIKE TO REACH TO JUSTIFY THIS DECISION. ENRIGHT DID NOT COMMIT ANY ACTIONS THAT COME ANYWHERE CLOSE TO THE ACTIONS OF THE CRIMINAL REAL ESTATE BROKERS RELIED UPON BY HIGGS TO FIND AGAINST ENRIGHT. ENRIGHT PROVIDED 15 OTHER SETTLED COURT CASES PLUS WRITTEN FINAL DECISIONS THAT SHOW WHAT CASE LAW APPLIES AND WHICH CASES SHOULD HAVE APPLIED AND AS CRYSTAL CLEAR AS THESE CASES ARE HIGGS IGNORES ALL OF THEM THAT DO APPLY AND THAT ARE CLEARLY IN FAVOR OF ENRIGHT.

PAGE 1 LINE 28

ALL OF THE APPELLATE COURT DECISIONS THAT PEYKOFF AND HIGGS HAD CITED, (ESPECIALLY HIGGS' REFERENCED WYATT CASE) PERTAINED TO SECRET PROFITS AND THIS WAS NOT A SECRET PROFITS CASE. YET HIGGS GAVE THEM 100% WEIGHT EVEN WHEN THEY WERE COMPLETELY OFF POINT.

SO FOR HIGGS, EVEN,THOUGH 100% OF PEYKOFF'S COURT CASES WERE COMPLETELY OFF POINT, FOR HIGGS THEY CARRIED 100% OF ALL THE WEIGHT AND THE 30 CASES, DIRECTLY ON LEGAL POINT, THAT ENRIGHT PUT FORWARD CARRIED ZERO WEIGHT WITH HIGGS. JUST ANY SINGLE ONE OF ENRIGHT'S CASES WOULD HAVE CARRIED A VICTORY FOR ENRIGHT. IN HIS DECISION HIGGS DOES NOT REFERENCE ONE SINGLE APPLICABLE CASE THAT WOULD SUPPORT HIGGS' DECISION BASED ON FIDUCIARY DUTY. UPON READING ANY ONE OF THE CASES HIGGS REFERENCES, YOU WILL FIND THAT NONE IN ANY WAY APPLIES TO THE PURPORTED FIDUCIARY ISSUES RAISED BY HIGGS IN THIS CASE.

PAGE 2 LINE 2-4

ENRIGHT'S "ASSERTION" WAS PROVED BEYOND ANY DOUBT, WHEN PEYKOFF TESTIFIED UNDER OATH DIRECTLY IN FRONT OF HIGGS, MORE THAN ONCE, THAT PEYKOFF NEVER INFORMED ENRIGHT THAT PEYKOFF HAD ANY CONFUSION ABOUT WHICH LISTING WAS CANCELLED AND PEYKOFF DID NOT RAISE THAT "CONFUSION" DEFENSE UNTIL THE DAY OF THE ARBITRATION HEARING 18 MONTHS AFTER THE CANCELLATION EVENT UPON WHICH HIGGS RESTS 100% OF HIS DECISION UPON AGAINST ENRIGHT UNLESS ENRIGHT IS CLAIRVOYANT ENRIGHT HAD NO WAY TO KNOW THAT HE WAS NOT PROCEEDING UNDER HIS FIDUCIARY DUTY EXACTLY AS HIS CLIENT HAD INSTRUCTED HIM TO ACT.

PAGE 2 LINES LINE 12

HIGGS CONVENIENTLY IGNORES THE "REAL" EMAIL OF JULY 14, 2014 SENT AT 4:05 PM BY PEYKOFF THAT TRIGGERED ENRIGHT'S CANCELLATION OF THE EXCLUSIVE RIGHT TO LEASE AGREEMENT IN RESPONSE TO A SPECIFIC PEYKOFF REQUEST TO CANCEL THE "LEASE" LISTING SO PEYKOFF COULD LEASE THE HOME HERSELF OVER THE WEEKEND THROUGH A "LEASE BY OWNER" OPEN HOUSE AND NOT OWE A LEASING COMMISSION. IT IS AT THIS SPECIFIC JUNCTURE AND HIGGS' FAILURE TO GIVE

THIS EMAIL PROPER LEGAL WEIGHT THAT 100% OF ALL OTHER LEGAL ISSUES IN THIS CASE EXTEND OUT FROM HIGGS TO FIND AGAINST ENRIGHT. WHY DID HE LEAVE THIS CRITICAL EMAIL OUT OF HIS DECISION?

BUT THEN CRAIG HIGGS IGNORES HIS OWN ADMISSION OF THE FACTS OF THE MATTER THAT HE DETAILS ON PAGE 2, LINES 12-14. ?? HOW CAN HE JUSTIFY THIS DICHOTOMY? HE NEVER TELLS US IN THE FINAL DECISION.

PAGE 2 LINE 13-14

CRAIG HIGGS' DETERMINATION THAT PEYKOFF'S EMAILS INDICATE THAT PEYKOFF WAS CONFUSED IS VERY SUBJECTIVE AND CRAIG HIGGS' DETERMINATION THAT ENRIGHT SHOULD HAVE DETECTED THAT PEYKOFF WAS CONFUSED IS BEYOND SUBJECTIVE, ESPECIALLY SINCE THE ARBITRATOR FOUND OUT THAT "MRS. PEYKOFF NEVER DIRECTLY COMMUNICATED SHE DID NOT UNDERSTAND IT (THE CANCELATION OF LEASE LISTING FORM) DID NOT INCLUDE THE RESIDENTIAL LISTING AGREEMENT." (ARBITRATOR'S DECISION, PAGE 2, LINES 13-14)

WE ARE AMAZED AND CONFUSED BECAUSE HIGGS IS CORRECT THIS TIME BASED ON HIS OWN WORDS ALONE, RIGHT HERE, AND THIS STATEMENT SHOULD HAVE HANDED ENRIGHT THE RIGHTFUL VICTORY.

PAGE 2 LINE `17

THIS GOES TO THE AMOUNT OF PROPER LEGAL DETAIL HIGGS PUT INTO HIS OWN DECISION – THIS EMAIL WAS SENT AT 12 NOON – NOT 9 AM – AND HIGGS KNOWS AS TESTIFIED TO BY BOTH PEYKOFF AND ENRIGHT, AFTER 12 NOON, NUMEROUS INTERVENING EMAILS, TEXTS, VOICEMAILS AND CONVERSATIONS BETWEEN ENRIGHT AND PEYKOFF TAKE PLACE DURING THE NEXT 4 HOURS AND THEN AT THE REQUEST OF ENRIGHT, TO AVOID ANY MISUNDERSTANDINGS, HE ASKS PEYKOFF TO CLARIFY, IN WRITING, HER SPECIFIC REQUEST TO CANCEL THE LEASE LISTING AND PEYKOFF DOES SO THROUGH THE CANCELLATION REQUEST THAT WAS CLARIFIED INSIDE HER 4PM EMAIL OF JULY 14, 2014 – SEE BELOW – HIGGS CONVENIENTLY IGNORES THIS SINGLE MOST SIGNIFICANT EMAIL THAT IS PIVOTAL TO THIS ENTIRE ARBITRATION HEARING AND THAT IS THE "REAL" EMAIL SENT BY PEYKOFF THAT TRIGGERED ENRIGHT'S CANCELLATION OF THE EXCLUSIVE RIGHT TO LEASE AGREEMENT – IN RESPONSE TO A SPECIFIC PEYKOFF REQUEST TO CANCEL THE "LEASE" LISTING SO PEYKOFF COULD LEASE THE HOME HERSELF OVER THE WEEKEND THROUGH A LEASE BY OWNER OPEN HOUSE AND THEN NOT OWE ENRIGHT A LEASING COMMISSION. IT IS AT THIS SPECIFIC JUNCTURE, AND HIGGS FAILURE TO GIVE THIS EMAIL PROPER LEGAL WEIGHT, THAT IN HIGGS MIND, 100% OF ALL OTHER LEGAL ISSUES IN THIS CASE EXTEND OUT FROM THIS POINT TO FIND AGAINST ENRIGHT. WHY DID HIGGS LEAVE THE FOLLOWING CRITICAL EMAIL COMPLETELY OUT OF HIS DECISION?

JULY 14, 2014 4:05 PM PEYKOFF TO ENRIGHT EMAIL REFERRING TO THE SUBJECT OF NUMEROUS, ALL DAY, COMMUNICATIONS. HOW TO CANCEL THE "LEASE" LISTING SO PEYKOFF COULD HOLD AN OPEN HOUSE AND LEASE IT HERSELF WITHOUT OWING ANY LEASE COMMISSION.

JULY 14, 2014 4:05 PM

Well.....we've been in that price range for years now

I assume you were always through on your investigation but was also quick to lease a property especially in the port streets.

I am thinking if there are no applicants to consider by this weekend, I will have open house on a Saturday and lease it out by owner.

I use to do this all the time, years ago. I just have to get the FICO scores and check the past and of course the job etc.

You didn't answer my question about how I cancel the listing on port Hemley.

Thanks Diane

PAGE 2 LINE 14

HIGGS STATES IN HIS OWN WORDS, IN HIS OWN DECISION, THAT PEYKOFF DID NOT COMMUNICATE ANY "CONFUSION" TO ENRIGHT. SO HOW CAN ENRIGHT BE HELD RESPONSIBLE BY HIGGS FOR SOMETHING ENRIGHT WAS NEVER TOLD BY PEYKOFF. HIGGS KNEW THAT THERE WAS NO COMMUNICATION BY PEYKOFF TO ENRIGHT ABOUT "CONFUSION" BECAUSE HIGGS WRITES IT HIMSELF AS THE ARBITRATOR. BUT THE SURPRISING RESULT THEN IS ENRIGHT LOSES A $97,200 COMMISSION AND $150,000 IN LEGAL FEES? DOES THIS MAKE SENSE TO ANYBODY?

WHEN I FIRST BEGAN TO READ THIS SECTION I THOUGHT, SO HIGGS AGREES WITH ENRIGHT? BUT THEN HIGGS DOESN'T HAND ENRIGHT THE VICTORY.

PAGE 2 LINE 21

LET'S BREAK THIS DOWN. FIRST OF ALL, THE ABOVE REFERENCED EMAIL AT LINE 19 WAS NOT A THIRD PARTY EMAIL. IT CAME DIRECTLY FROM PEYKOFF NOT AN ASSISTANT. JUST ONE MORE DISCREPANCY AND INACCURACY IN THE HIGGS WRITTEN DECISION THAT I FEEL SHOULD HAVE DESERVED A MORE CAREFUL LEGAL REVIEW AFTER TAKING A FULL MONTH TO REVIEW ALL THE EVIDENCE AND TO WRITE HIS DECISION. BUT THAT ASIDE, PEYKOFF HERSELF WROTE THAT EMAIL AND SO THERE CAN BE VERY LITTLE DOUBT OF ANY COMMUNICATION MISUNDERSTANDING OF THE WORDS SPOKEN AND THE PEYKOFF EMAIL OF JULY 17, 2014 AT 11:18 REFERENCED ABOVE WHICH COMES TWO DAYS AFTER ANY PURPORTED "CONFUSION" ON THE PART OF PEYKOFF AND, ALTHOUGH OPEN TO INTERPRETATION, IT INTIMATES THAT PEYKOFF KNEW THERE WAS STILL AN OUTSTANDING EXCLUSIVE RIGHT TO SELL AGREEMENT AND THAT THE PROPERTY WAS ONLY "ON HOLD" TO LET IT COOL FOR A AWHILE AND THAT THERE WAS STILL AN OUTSTANDING EXCLUSIVE RIGHT TO SELL AGREEMENT IN FORCE. IF THIS WERE NOT TRUE, THEN ASK YOURSELF, HIGGS, UNDER WHAT POSSIBLE OUTSTANDING LISTING AGREEMENT WOULD PEYKOFF BE PROMISING TO PAY ENRIGHT FOR, IF ENRIGHT BROUGHT A BUYER, IF THERE WERE NOT STILL AN OUTSTANDING ACTIVE EXCLUSIVE RIGHT TO SELL AGREEMENT WHICH WAS THE SUBJECT OF THIS CASE? SO HIGGS ADMITS THE PRESENCE OF THIS EMAIL BUT AGAIN GIVES IT ZERO WEIGHT IN HIS DECISION AGAINST ENRIGHT WHEN HE QUOTES AN EMAIL THAT CLEARLY SHOWS NO "CONFUSION" ON THE PART OF PEYKOFF.

PAGE 2 LINES 23-28

SWORN TESTIMONY BY BOTH PEYKOFF AND ENRIGHT, REGARDING THIS EMAIL, PUT THIS EMAIL IN PROPER CONTEXT, AND DOES NOT REQUIRE HIGGS TO ADD SOME SUBJECTIVE INTERPRETATION OF HIS OWN. PEYKOFF TESTIFIED THAT SHE WAS TRYING TO FIGURE OUT WHAT TO DO WITH THE PROPERTY, AND PEYKOFF DECIDED TO TAKE IT OFF THE OFFICIAL MLS "FOR SALE" MARKET TO LET IT COOL OFF, AND THAT PEYKOFF HAD FINALLY DECIDED IN JUNE TO HAVE ENRIGHT FIND A TENANT, AND THAT PEYKOFF WAS AWARE OF ENRIGHT'S CONTINUED EFFORTS TO SELL THE PROPERTY BY EVEN INCLUDING THE "FOR SALE PRICE" IN THE MLS "LEASE LISTING" BROKERAGE NOTES PERTAINING TO THE LEASING OF THE PROPERTY WITH AN OFFER TO PURCHASE THE HOME AS AN ALTERNATIVE OPTION TO LEASING THE HOME. THEN, CONTRARY TO HIGGS SUBJECTIVE INTERPRETATION, PEYKOFF REQUIRED ENRIGHT TO HOLD WEEKEND "FOR SALE" OPEN HOUSES THROUGH JUNE 2014. ALL THIS EVIDENCE WAS IN HIGGS POSSESSION WHEN HIGGS TRIED TO INTERPRET THIS EMAIL DIFFERENTLY THAN THE PARTICIPANTS DESCRIBED IT THEMSELVES UNDER OATH AT THE HEARING. "DUAL TRACKING" BY PEYKOFF AND ENRIGHT HAD BEEN STANDARD OPERATING PROCEDURE, FOR THEM BOTH, OVER THEIR 17 YEARS TOGETHER. PUT IT UP FOR LEASE AND FOR SALE AT THE SAME TIME AND WHICH EVER HAPPENED FIRST THAT WOULD BE THE DIRECTION TAKEN. HIGGS WAS GIVEN WRITTEN EVIDENCE OF THIS STRATEGY THROUGH A COPY OF THE SUBJECT LISTING AND AN EARLIER PEYKOFF LISTING AT 234 EMERALD BAY EARLIER IN THE YEAR. THERE COULD BE NO MISUNDERSTANDING IF HIGGS JUST LOOKED AT THE FACTS IN EVIDENCE.

PAGE 2 LINES 20-21

FIRST OF ALL I AM NOT AWARE OF ANY FORM OF CONTRACT LAW THAT SAYS THAT JUST BECAUSE SOMEONE WANTS TO UNILATERALLY CANCEL A CONTRACT MEANS THAT ONE HAS TO AGREE TO JUST GIVE UP THEIR $97,200 CONTRACT BECAUSE THEY ARE ASKED. ARE YOU? HIGGS DOESN'T MENTION A SINGLE ONE OF THESE LAWS OR EXCEPTIONS IN HIS DECISION. ?? TO FIND THIS NEW FORM OF CONTRACT LAW MAYBE WE SHOULD ALL RE-READ THE 1225 PAGES OF SMITH AND ROBERSON BUSINESS LAW ON THE UNIFORM COMMERCIAL CODES. WHETHER ENRIGHT WAS "ALERTED" OR NOT DOES NOT MEAN ENRIGHT HAS TO ACT. BUT THE EVIDENCE SHOWED THAT ENRIGHT <u>DID IN FACT ACT</u>. ENRIGHT MAY HAVE A FIDUCIARY OBLIGATION OF OBEDIENCE BUT THAT DOES NOT MEAN HE MUST OBEY THE CLIENT AND CANCEL ANY CONTRACTS JUST BECAUSE HE IS ASKED. THE ENTIRE LEGAL SYSTEM AND THE GLOBAL BUSINESS WORLD WOULD COLLAPSE IF WRITTEN CONTRACTS MEANT THEY COULD BE JUST UNILATERALLY CANCELLED. ISN'T THIS LAW SCHOOL 101? AS A MATTER OF FACT THE EXCLUSIVE RIGHT TO SELL AGREEMENT, WHICH WAS THE SUBJECT OF THIS SIMPLE BREACH OF CONTRACT ARBITRATION, SPECIFICALLY COVERS THIS POINT IN PARAGRAPH 4 WHICH SHOULD HAVE – ON ITS OWN – HAVE HANDED A PEYKOFF BREACH OF CONTRACT DECISION IN THE FAVOR ENRIGHT RIGHT AT THAT THE POINT OF THOSE FIRST BREACHES OF CONTRACT IN MAY 2014 WHERE PEYKOFF, UNDER HIS FIDUCIARY DUTY OF OBEDIENCE, DEMANDS ENRIGHT TAKE DOWN HIS WEBSITES, ALL OF HIS ADVERTISING, PROPERTY REMOVAL FROM THE MULTIPLE LISTING SERVICE, AND TAKE DOWN HIS SIGN. THESE ACTIONS ON THE PART OF PEYKOFF DELIVER A CLEAR BREACH OF CONTRACT PER PARAGRAPH 4 OF THE EXCLUSIVE RIGHT TO SELL AGREEMENT AND SINCE THESE MULTIPLE BREACHES OF CONTRACT – ALL ADMITTED TO BY PEYKOFF UNDER OATH IN FRONT OF HIGGS – THEY DO NOT REQUIRE HIGGS – TIMELINE WISE - TO ADVANCE ANY WHERE INTO THE "FUTURE" FORWARD ANYWHERE NEAR THE JULY 14TH TIMEFRAME WHEREIN THIS CLAIM OF "CONFUSION" ARISES, SINCE THERE ARE MORE THAN 8 BREACHES OF CONTRACT ADMITTED BY PEYKOFF IN MAY 2014 – MONTHS

PRIOR TO – THE LEASE LISTING CANCELLATION OF SUPPOSED "CONFUSION" DEFENSE UPON WHICH HIGGS SEEMS TO BASE HIS ENTIRE DECISION IN FINDING AGAINST ENRIGHT.

PAGE 2 LINE 21

BESIDES, UNDER ACCEPTED UNITED STATES OF AMERICA CONTRACT LAW, JUST BECAUSE PEYKOFF WANTED TO CANCEL AN EXISTING CONTRACT, ENRIGHT HAD ZERO OBLIGATION UNDER ANY FIDUCIARY DUTY, REAL ESTATE LAW, CODE OF ETHICS, OR SIMPLE CONTRACT LAW TO CANCEL A VALID CONTRACT UPON SOME UNILATERAL REQUEST TO DO SO. THERE ARE THOUSANDS OF SETTLED COURT CASES DIRECTLY ON THIS POINT AND MANY OF WHICH ENRIGHT SUBMITTED TO HIGGS.

PAGE 2 LINE 21

JUST TO USE HIGGS OWN PHRASING; IN MY OPINION THIS JULY 17, 2014, 11 AM PST EMAIL IS "FATAL" TO PEYKOFF'S DEFENSE CASE AS ABSOLUTE EVIDENCE THAT PEYKOFF KNEW THAT ONLY THE "LEASE" LISTING HAD BEEN CANCELLED AT THAT POINT AND NOT THE "FOR SALE" LISTING. HIGGS IGNORES THIS 11 AM EMAIL EVEN THOUGH IT PROVES PEYKOFF WAS NOT CONFUSED AT ALL AT THE TIME.

PAGE 2 LINE 23

MARKETING INTERFERENCE AND UNILATERAL REMOVAL FROM THE MARKETPLACE IS A CLEAR BREACH OF CONTRACT WHICH OCCURRED PRIOR TO ANY "CONFUSION". READ PARAGRAPH 4 OF THE RLA. USING HIGGS OWN WORDS; "STRONGER EVIDENCE" WOULD BE PEYKOFF'S SWORN ADMISSIONS OF THESE MULTIPLE BREACHES OF CONTRACT BY PEYKOFF IN FACT OCCURRED AS A FACT OF THE MATTER. THESE BREACHES ARE COMPLETELY IGNORED BY HIGGS IN HIS DECISION.

PAGE 3 LINES 1-2

HIGGS AGAIN SEEMS TO THINK THAT CONTRACTS CAN BE CANCELLED UPON REQUEST. IS THIS WHAT CONTRACT LAW HAS BEEN REDUCED TO IN AMERICA? BUT LETS GO A LITTLE FURTHER. PER THE SWORN TESTIMONY OF PEYKOFF. MOST FOLKS WILL DO MAYBE 5 REAL ESTATE TRANSACTIONS IN A LIFETIME. GRANTED THESE FOLKS CANNOT BE EXPECTED TO FULLY UNDERSTAND ALL OF THE CALIFORNIA ASSOCIATION OF REAL ESTATE FORMS. 5 TRANSACTIONS IN 25 YEARS. BUT HIGGS ALREADY KNEW, THROUGH PEYKOFF'S SWORN TESTIMONY, WHEN HE MAKES THIS "LETTER OF CANCELLATION" OBSERVATION IN HIS DECISION THAT HIGGS KNEW THAT PEYKOFF HAD TESTIFIED TO HAVING DONE MORE THAN 40 REAL ESTATE TRANSACTIONS IN JUST THE LAST 15 YEARS SWORN BY PEYKOFF TO ALL HAVING BEEN DONE USING THE STANDARD C.A.R. FORMS. THIS IS A HIGHLY SOPHISTICATED AND KNOWLEDGEABLE REAL ESTATE INVESTOR AND MY 17 YEAR EXPERIENCE WITH PEYKOFF SHOWED THAT PEYKOFF KNEW THE C.A.R. FORMS BETTER THAN MOST REAL ESTATE BROKERS. PEYKOFF IS A PROFESSIONAL REAL ESTATE INVESTORS AND KNOWS THE FORMS WELL.

WHAT I AM GOING TO SAY NOW IS REALLY BIG – IT IS HUGE - WHEN IT COMES TO LOSING $97,200 BECAUSE THE CLIENT IS "CONFUSED" ABOUT THE "PROCEDURE" IN CANCELLING A LISTING AGREEMENT. HOW DID ENRIGHT PROVE TO HIGGS, WITH THE SUPPORT OF SWORN TESTIMONY FROM PEYKOFF HERSELF DURING THE ARBITRATION, THAT IT WAS INCOMPREHENSIBLE THAT PEYKOFF WAS CONFUSED? ENRIGHT ENTERED INTO EVIDENCE A JUNE 1998 EXCLUSIVE RIGHT TO

SELL AGREEMENT SIGNED BY PEYKOFF WHEREIN PEYKOFF PROVES, BEYOND ANY REASONABLE DOUBT, AS EARLY AS 17 YEARS EARLIER, THAT PEYKOFF WAS EXTREMELY KNOWLEDGEABLE. SPECIFICALLY ABOUT HOW EXACTLY WHAT THE "PROCEDURE" WAS TO "CANCEL" A REAL ESTATE LISTING CONTRACT. AS EARLY AS 1998, PEYKOFF PERSONALLY DICTATES TO ENRIGHT, FOR ENRIGHT TO ENTER IN WRITING, DIRECTLY INTO THE BODY OF THE 1998 LISTING AGREEMENT, VERY VERY SPECIFIC LANGUAGE ON HOW, EXACTLY, PRECISELY, PEYKOFF CAN CANCEL THAT 1998 LISTING WITHOUT FIRST OBTAINING THE WRITTEN CONSENT OF ENRIGHT. OVER 17 YEARS PEYKOFF HAS BECOME MUCH MORE KNOWLEDGEABLE AND FOR HIGGS TO COMPLETELY IGNORE THIS PIECE OF CRITICAL WRITTEN EVIDENCE OF FALSE CONFUSION AND JUST ACCEPT PEYKOFF'S ARGUMENT THAT PEYKOFF DOESN'T UNDERSTAND WHAT IS NEEDED TO CANCEL A LISTING IS JUST BEYOND ANY FORM OF LEGAL REASONING. AND HIGGS MAKES A POINT OF NOT EVEN MENTIONING THIS 1998 LISTING DOCUMENT OR ITS NEGATIVE SIGNIFICANCE TO HIS DECISION. IT IS ALSO SUSPICIOUS TO ME AS TO WHY, WITHIN THE FIRST 5 MINUTES OF THE START OF THE ARBITRATION HEARING, THAT HIGGS – ON HIS OWN – WITHOUT ANY REQUEST FROM PEYKOFF – ATTEMPTS TO EXCLUDE THIS IMPORTANT PIECE OF EVIDENCE THAT WILL PROVE PEYKOFF'S KNOWLEDGE OF HOW TO PROPERLY CANCEL A RESIDENTIAL LISTING CONTRACT. WHY??

PAGE 3 LINE 2

HIGGS PROVIDES HIS OWN "TESTIMONY" REGARDING ANY PEYKOFF REQUESTS. BECAUSE THERE WAS NO TESTIMONY BY PEYKOFF THAT "ON MAY 25, 2014, PEYKOFF REQUESTED ENRIGHT CANCEL THE EXCLUSIVE RIGHT TO SELL AGREEMENT". SO THERE WAS NOTHING FOR ENRIGHT TO BE "ALERTED" ABOUT AT THAT MOMENT IN TIME. AFTER MAY 25TH THERE WERE 25 ADDITIONAL EMAILS IN EVIDENCE, PLUS TESTIMONY OF TEXTS, EMAILS, VOICEMAILS, AND CONVERSATIONS THAT SHOW THAT MAY 2014 WAS JUST THE FIRST STEP IN PEYKOFF ASKING ENRIGHT TO PUT THE PROPERTY ON "HOLD" WHILE PEYKOFF DECIDED TO EITHER SELL OR LEASE THE HOME WITH HER PRIMARY AGENDA TO BE "LET IT COOL IN THE MARKETPLACE AND THEN IF IT DOESN'T LEASE LET'S PUT IN BACK OUT FOR SALE" HIGGS REFERENCES A MAY 25TH EMAIL THAT IN FACT ONLY PROVES THAT BEYOND ANY POSSIBLE LEGAL INTERPRETATION MADE BY HIGGS OR ANY OTHER LEGAL MIND, WOULD PROVE TO HIGGS THAT, PEYKOFF, BY STOPPING ENRIGHT'S MARKETING OF HEMLEY ONLY PROVES THAT PEYKOFF BREACHED PARAGRAPH 4 OF THAT LISTING CONTRACT AND ON THOSE MERITS ALONE WOULD HAND ENRIGHT A VICTORY FOR BREACH OF CONTRACT.

HIGGS IGNORES THE SUBSTANCE OF HIS OWN ARBITRATION HEARING AND BENDS THE ACTUAL TRUTH INTO SOME, FACTUALLY UNTRUE AND UNPROVEN SCENARIO. INSTEAD OF ACKNOWLEDGING THE BREACH OF CONTRACT BY PEYKOFF, AT THIS VERY EARLY STAGE IN MAY, HIGGS TRIES TO FIT HIGGS' LEGAL REASONING REGARDING "CONFUSION" INTO A TIMEFRAME THAT "PRECEDES", BY A SIX WEEKS, ANY PEYKOFF DEFENSE THAT PEYKOFF WAS "CONFUSED" ABOUT ANY ASPECT OF ANY CANCELLATION IN JULY. TIME TRAVEL?

HIGGS THEN IGNORES THE PROOF THAT LATER ON, FOLLOWING THE MAY 2014 EMAILS, PEYKOFF CONTINUED TO ASK ENRIGHT TO HOLD WEEKEND "FOR SALE" OPEN HOUSES AND PEYKOFF EVEN AGREES AS LATE AS JULY 17TH THAT PEYKOFF WILL PAY ENRIGHT A COMMISSION ON THE SALE OF THE HOME. JULY 17TH IS TWO DAYS AFTER THE "CONFUSED" CANCELLATION.

PEYKOFF'S TESTIMONY IN NO WAY SUPPORTS HIGGS' SUBJECTIVE INTERPRETATION OF THE 50+ EMAILS IN EVIDENCE. THIS IS HIGGS PERSONAL INTERPRETATION AND NOT THE SUBSTANCE OF ANY

PEYKOFF SWORN TESTIMONY OR EVIDENCE. ANY LEGAL MATTERS, NEVER TESTIFIED TO BY PEYKOFF, ARE NOW TESTIMONY PROVIDED, FOR PEYKOFF, BY HIGGS. NOW CREATED EVIDENCE, DEPENDED UPON BY HIGGS AS "PROOF". HOW DOES THIS WORK? ACTUAL EVIDENCE DOESN'T MATTER?

PAGE 3 LINE 6

PEYKOFF TESTIFIED UNDER OATH THAT PEYKOFF NEVER READ THE CANCELLATION FORM. BUT CRAIG HIGGS AGAIN IGNORES HIS OWN STATED FACTS ABOVE IN DETERMINING AGAINST ENRIGHT

CRAIG HIGGS ACKNOWLEDGES PEYKOFF'S TESTIMONY THAT "THE CANCELLATION FORM OF JULY 15, WHERE-IN MRS. PEYKOFF ADMITS PEYKOFF DID NOT READ". (DECISION, PAGE 3, LINE 6)

WHY DIDN'T CRAIG HIGGS HOLD THAT PEYKOFF WAS ACCOUNTABLE FOR THE FORM THAT PEYKOFF SIGNED BUT ADMITTED UNDER OATH THAT PEYKOFF DID NOT READ? READING HIGGS DECISION IS EXACTLY LIKE READING A BOOK THAT YOU DISCOVER IS MISSING A PAGE OR TWO. HIGGS GIVES ZERO EXPLANATION FOR SKIPPING OVER THIS VERY IMPORTANT STEP AND SEVERAL OTHER VITALLY IMPORTANT STEPS, WHEN CREATING HIS DECISION

PAGE 3 LINE 6

THERE WAS AMPLE EVIDENCE THAT – AS EARLY AS JUNE 1998 - THROUGH WRITTEN EVIDENCE, PRESENTED AND, EVENTUALLY, ACCEPTED BY HIGGS INTO EVIDENCE, - PEYKOFF KNEW THE EXACT PROCEDURE FOR THE CANCELLATION OF A LISTING AS EARLY AS 1998 AND KNEW THAT THE BROKER HAD TO AGREE IN WRITING TO THE CANCELLATION OF ANY LISTING. PEYKOFF STATES UNDER OATH, IN FRONT OF CRAIG HIGGS, THAT PEYKOFF KNEW THE PROCEDURE INCLUDING THE BROKER AGREEING, IN WRITING, TO ANY CANCELLATION.

THERE IS AN ABUNDANCE OF APPELLATE AUTHORITY HOLDING THAT THE FAILURE TO READ A DOCUMENT IS NOT A DEFENSE TO ITS ENFORCEMENT, ESPECIALLY WHERE THE PARTY IS INTELLIGENT, EDUCATED, AND SOPHISTICATED AND SIGS THE DOCUMENT. WHERE DID CRAIG HIGGS COVER THIS IN HIS DECISION? ANSWER? = NO WHERE.

PAGE 3 LINE 7

SO HIGGS AGREES WITH ENRIGHT? BUT HIGGS DOESN'T HAND ENRIGHT THE VICTORY.

PAGE 3 LINES 10-11

CRAIG HIGGS MADE THIS SUBJECTIVE DETERMINATION THAT MRS. PEYKOFF WAS "CONFUSED" ABOUT THE MEANING OF THE CANCELLATION OF LISTING FORM BASED UPON HER EMAILS TO ENRIGHT. HOWEVER HIGGS IGNORES AND NEVER ADDRESSES THE JULY 17, 2014 EMAIL (TWO DAYS AFTER PEYKOFF SIGNED THE "CLAIMED" "CONFUSING" CANCELLATION OF LISTING FORM) WHERE PEYKOFF REFERS TO "PAYING ENRIGHT "WHAT I OWE YOU" IF ENRIGHT BRINGS A BUYER" (sic) BUT AGAIN THIS BEGS THE QUESTION; UNDER WHAT AGREEMENT WOULD PEYKOFF BE PAYING ENRIGHT TWO DAYS AFTER THE "CONFUSING" CANCELLATION? EVIDENCE CLEARLY SHOWS IT COULD ONLY BE, THE STILL OUTSTANDING, EXCLUSIVE RIGHT TO SELL AGREEMENT OF FEBRUARY 1, 2014, THAT CONTINUED TO EXIST AFTER THE CANCELLATION OF THE EXCLUSIVE RIGHT TO LEASE AGREEMENT OF JUNE 1, 2014. WHERE WAS HER "CONFUSION" ON JULY 17th MR. HIGGS?

PAGE 3 LINES 13-14

AGAIN, LET'S STOP RIGHT HERE. LETS FOCUS ON WHAT HIGGS ACTUALLY STATES IN HIS OWN WORDS AND THEN PROCEEDS TO IGNORE ANY HUMAN REASONING THAT ACKNOWLEDGES WHAT HE SAYS IN HIS OWN WORDS. HIGGS ADMITS HE KNOWS THAT PEYKOFF DID NOT READ THE LISTING CANCELLATION DOCUMENT. SO LETS REVIEW. WHEN REQUESTED BY HIS CLIENT, ENRIGHT PROVIDED A STANDARD C.A.R. FORM (COL) CANCELLATION OF LISTING (COVERING ONLY THE LEASE LISTING AND NOT THE FOR SALE LISTING) PEYKOFF IS A HIGHLY EXPERIENCED REAL ESTATE INVESTOR OWNING OVER $60,000,000 IN REAL ESTATE WITH MOST PURCHASED USING THE STANDARD C.A.R. FORMS. PEYKOFF HELD THE UNSIGNED CANCELLATION DOCUMENT FOR HER REVIEW FOR 24 HOURS. THEN APPROVED AND SIGNED AND SENT IT BACK TO ENRIGHT. WHERE IS THE "CONFUSION" THEN?

PAGE 3 LINE 14-20

ENRIGHT'S EMAIL, AS SWORN UNDER OATH BY PEYKOFF, THAT WHAT ENRIGHT PREDICTS AND ADVISES PEYKOFF OF, REGARDING "RIPE BUYERS", ACTIVE TODAY IN THE MARKETPLACE THAT THAT IS EXACTLY WHAT HAPPENED. BUT THEN, 20 DAYS FOLLOWING THE "CONFUSED" CANCELLATION EVENT, PEYKOFF LISTS THE HOME FOR SALE WITH ANOTHER BROKER AND SURREPTITIOUSLY HIDES THE CONTRACT FROM ENRIGHT AND THE MARKETPLACE FOR A MONTH AND THEN SELLS TO ONE OF THE "RIPE BUYERS" AND CLOSES ESCROW WITHIN THE TIMEFRAME OF THE ENRIGHT'S OUTSTANDING LISTING AGREEMENT. HIGGS? THIS IS A CLASSIC, UNDENIABLE, BREACH OF CONTRACT ACCORDING TO THE DOCUMENTS THAT ARE THE SUBJECT OF THIS ARBITRATION. BUT THIS ENTIRE SITUATION IS NOT EVEN MENTIONED IN THE HIGGS DECISION EVEN THOUGH HIGGS WAS SITTING RIGHT THERE HEARING PEYKOFF TESTIFY ABOUT IT. WHAT HAS HAPPENED TO THE LAW OF CONTRACTS? ALSO ENRIGHT WAS PROMISED BY PEYKOFF ON JULY 17TH TO BE COMPENSATED BY PEYKOFF AND ENRIGHT WAS TOLD IN AT LEAST 8 EMAILS ENTERED INTO EVIDENCE FOR HIGGS TO REVIEW THAT PEYKOFF WAS ONLY "TEMPORARILY" TAKING HEMLEY OUT OF THE MARKET PLACE SO IT COULD "COOL" AND THAT WHEN ENRIGHT AND PEYKOFF DETERMINED THAT IT WAS COOLED ENOUGH THAT ENRIGHT WOULD BE PUTTING IT BACK FOR SALE. PAGE 3 LINES 14-20 HIGGS MENTIONS HERE EMAILS WHERE ENRIGHT IS EXACTLY FOLLOWING HIS FIDUCIARY DUTY TO KEEP HIS CLIENT INFORMED BY TELLING PEYKOFF THAT THE COOLING PERIOD IS PROBABLY OVER BECAUSE OF THE MANY PURCHASE INQUIRIES HE IS RECEIVING DAILY AND THAT WE SHOULD GET THE HOME BACK OUT IN THE MARKETPLACE IMMEDIATELY TO ACCOMPLISH THE PEYKOFF GOAL OF SELLING THE HOME. THIS IS ENRIGHT EXACTLY FOLLOWING HIS FIDUCIARY DUTY TO KEEP HIS CLIENT INFORMED OF THE TEMPERATURE OF THE MARKETPLACE. HIGGS ATTEMPTS A COMPLETE MISCHARACTERIZATION OF THE INTENT AND CONTENT OF THESE EMAILS JUST TO SUPPORT HIS DECISION AND NOT THE FACTS OF THE MATTER AS TESTIFIED TO BY PEYKOFF AND ENRIGHT.

PAGE 4 LINE 9

HIGGS READ THE WHOLE DEPOSITION, SO HIGGS HAD TO KNOW THAT THIS DEPOSITION QUOTE IS COMPLETELY TAKEN OUT OF CONTEXT SINCE IT FAILS TO MENTION ADDITIONAL TESTIMONY THAT FOLLOWED THAT EXCHANGE DURING THAT SAME DEPOSITION. HIGGS DOES NOT MENTION ENRIGHT'S TESTIMONY OF DOING EXACTLY WHAT HE SAID HE DID, WHICH WAS MAKE REPEATED ATTEMPTS TO CONTACT PEYKOFF AND THE NUMEROUS OTHER CONVERSATIONS AND TEXTS AND VOICE MESSAGES AND EMAILS IMMEDIATELY FOLLOWING ON THAT SAME REFERENCED DAY ALSO

CONTAINED IN THE FULL DEPOSITION AND EVENTUALLY TESTIFIED TO AT THE ARBITRATION HEARING BY BOTH PEYKOFF AND ENRIGHT.

PAGE 4 LINES 10-11

THIS PROVES THAT ANY ARBITRATOR LIKE CRAIG HIGGS, AS THIS DECISION SHOWS, CAN STILL FIND AGAINST YOU, REGARDLESS OF ANY EXISTING CONTRACT LAW, OR ANY SETTLED AND FINALIZED COURT CASES IN THE PUBLIC RECORD, OR EVEN WHEN THE SELLER ADMITS UNDER OATH, RIGHT IN FRONT OF CRAIG HIGGS, THAT PEYKOFF BREACHED THE CONTRACT MULTIPLE TIMES, AND ADMITTED UNDER OATH IGNORING ENRIGHT'S WRITTEN NOTIFICATION THAT PEYKOFF STILL HAD AN OUTSTANDING LISTING OBLIGATION TO ENRIGHT. A NOTICE ENRIGHT CLEARLY GAVE TO HER, UPON WHICH CRAIG HIGGS BASED HIS ENTIRE DECISION UPON, IN FINDING AGAINST ENRIGHT FOR NOT GIVING THIS PROVED NOTICE, DECIDED BY HIGGS SAYING THAT ENRIGHT DID NOT GIVE PEYKOFF ANY NOTICE AND THEREFORE BREACHED HIS FIDUCIARY DUTY, BY NOT GIVING PEYKOFF A NOTICE THAT PEYKOFF ADMITS RECEIVING MULTIPLE TIMES, READING, AND THEN JUST IGNORING. ???

I SO I LOSE $97,200??? HOW IS THIS POSSIBLE?

HOW IS THIS LEGAL REASONING POSSIBLE? IT MAKES NO LEGAL OR RATIONAL SENSE.

I LOSE, BECAUSE HIGGS SAYS, I DID NOT DO SOMETHING, THAT THE SELLER ADMITS ENRIGHT DID.

PAGE 4 LINE 10-11

WHY DID CRAIG HIGGS IGNORE THE FACT THAT THERE WAS EXTENSIVE AND CLEAR TESTIMONY, BY PEYKOFF HERSELF, THAT PEYKOFF IGNORED AND DID NOTHING IN RESPONSE TO ENRIGHT'S LETTER OF SEPTEMBER 25, 2014? A WRITTEN NOTICE, WHICH UNDER ANY POSSIBLE DEFINITION OF FIDUCIARY DUTY, THAT HIGGS MIGHT TRY TO SAY ENRIGHT HAD, MAKES IT ABSOLUTELY CLEAR TO PEYKOFF, IN WRITING, THROUGH US POSTAL MAILED LETTER AND EMAIL DIRECTLY TO HER, THAT THERE COULD BE NO CONFUSION ABOUT THE FACT THAT ENRIGHT STILL HAD AN OUTSTANDING EXCLUSIVE RIGHT TO SELL AGREEMENT AND BY SENDING THE LETTER ENRIGHT WAS FULLY PERFORMING UNDER HIS RESPONSIBILITY OF A FIDUCIARY DUTY THROUGH THIS WRITTEN NOTIFICATION, WHICH PEYKOFF ADMITTED THAT PEYKOFF RECEIVED, PRIOR TO, THE ULTIMATE BREACH OF CONTRACT BY CLOSING ESCROW ON THE HOME DURING THE TERM OF ENRIGHT'S EXCLUSIVE RIGHT TO SELL AGREEMENT? HIGGS, THIS IS A BREACH OF CONTRACT.

IF HIGGS IS HOLDING ENRIGHT RESPONSIBLE TO INFORM THE CLIENT, UNDER SOME PERCEIVED FIDUCIARY DUTY, WHY DOES HE ALLOW PEYKOFF TO IGNORE ENRIGHT'S WRITTEN LETTER OF SEPTEMBER 25, 2014 "INFORMING HER" OF THE STILL OUTSTANDING EXCLUSIVE RIGHT TO SELL AGREEMENT? HIGGS CLAIMS ENRIGHT HAD A FIDUCIARY DUTY TO INFORM PEYKOFF, AND YET HIGGS STILL ALLOWS PEYKOFF TO CLAIM CONFUSION, PRIOR TO THE SALE OF THE HOME? AND WHAT ABOUT PEYKOFF'S FAILURE TO RESPOND TO THE NOTIFICATION LETTER? READ THE LETTER YOURSELF. I AM NOT SURE CRAIG HIGGS EVER DID. THIS LETTER IS THE NOTICE HIGGS SAYS IS MISSING FROM ENRIGHT'S FIDUCIARY RESPONSIBILITY.

DIDN'T ENRIGHT JUST FULFILL HIS FIDUCIARY DUTY THAT CRAIG HIGGS CLAIMS HE DID NOT?

THE LETTER, THE CONCURRENT EMAIL AND OTHER TESTIMONY, PROVES BEYOND ANY REASONABLE DOUBT THAT PEYKOFF HAD BEEN PUT ON NOTICE THAT THERE WAS STILL AN OUTSTANDING

EXCLUSIVE RIGHT TO SELL AGREEMENT. SO THE ANSWER IS OBVIOUS AND BEGS THE QUESTION; HOW DID CRAIG HIGGS FIND AGAINST ENRIGHT?

BUT CRAIG HIGGS IGNORES HIS OWN ADMISSION OF THE FACTS OF THE MATTER THAT HE DETAILS IN NUMEROUS AREAS THROUGHOUT HIS OWN DECISION. HOW CAN HE JUSTIFY IGNORING HIS OWN WORDS?

ALL THIS SEEMS TO PROVE ENRIGHT'S CASE IN CHIEF AND YET CARRIES INSUFFICIENT WEIGHT WITH HIGGS TO DELIVER A JUST DECISION IN ENRIGHT'S FAVOR.

PAGE 4 LINE 10-11

PEYKOFF NEVER SAYS PEYKOFF IS CONFUSED UNTIL THE ARBITRATION HEARING. BUT ON AUGUST 8TH PEYKOFF SECRETLY RELISTS THE HOME FOR SALE WITH ANOTHER BROKER AND DECEPTIVELY HIDES THIS SECRET LISTING FROM ENRIGHT AND THE MARKETPLACE THUS, DEPRIVING ENRIGHT OF ANY ADDITIONAL POSSIBILITY TO DISCOVER FOR HIMSELF SOMETHING THAT HIGGS WILL EVENTUALLY HOLD AGAINST ENRIGHT FOR NOT REALIZING. ENRIGHT COULD HAVE POSSIBLY, THROUGH SOME INDIRECT KNOWLEDGE OF A NEW LISTING, BECOME AWARE OF POSSIBLE "CONFUSION" PEYKOFF MIGHT HAVE HAD, BUT THAT OPTION IS NOT MADE AVAILABLE TO ENRIGHT BECAUSE PEYKOFF HIDES THAT LISTING FROM ENRIGHT FOR A MONTH, AGAIN, DEPRIVING ENRIGHT OF POSSIBLE DAYS TO CORRECT ANY "CONFUSION" BY EXERCISING ANY FIDUCIARY DUTY HIGGS MIGHT HAVE THOUGHT ENRIGHT HAD. BUT AGAIN HIGGS IGNORES THIS SWORN TESTIMONY BY PEYKOFF, WHO ADMITS AND VERIFIES THIS SCENARIO, SO HIGGS MAKES ENRIGHT RESPONSIBLE FOR NOT COMING FORWARD SOONER IN REACTION TO SOMETHING ENRIGHT HAD NO WAY OF KNOWING BECAUSE THE DEFENDANT PEYKOFF INTENTIONALLY HID IT FROM ENRIGHT. DAMNED IF I DO AND DAMNED IF I DON'T. BECAUSE THE BREACHING PARTY DECEPTIVELY HIDES THIS INFORMATION FROM ENRIGHT – HIDDEN EVIDENCE THAT HIGGS WILL EVENTUALLY USE AGAINST ENRIGHT, WE ASK; HOW IS THIS INTENTIONAL DECEPTION NOT OBVIOUS TO A FINDER OF FACT? HIGGS?

ALL OF THIS BECOMES MORE COMPLICATED BECAUSE OF ENRIGHT'S FIDUCIARY DUTY OF "OBEDIENCE" TO FOLLOW A CITIZENS REQUEST TO PREMATURELY END MARKETING ON THEIR HOME IF THEY ASK. THE CLIENT CAN REQUEST CANCELLATION BUT THERE IS NOTHING IN THE LAW THAT SAYS THAT A BROKER MUST COMPLY AS TO THE ACTUAL CANCELLATION OF A LISTING CONTRACT, BUT UNDER HIS FIDUCIARY DUTY TO A CLIENT, HE ALSO CANNOT IGNORE OTHER LAWFUL REQUESTS LIKE TAKING IT OFF THE MARKET OR ALL WEBSITES. UNDER THEIR FIDUCIARY DUTY, BROKERS HAVE NO CHOICE BUT TO COMPLY WITH THE OWNERS, EVEN IF IT IS A BREACH OF CONTRACT REQUEST. BUT CONTRACTUALLY THE BROKER'S COMPLIANCE ACTIONS CHANGES EXACTLY NOTHING BECAUSE PEYKOFF STILL WOULD OWE THE $97,200 COMMISSION. ENRIGHT THEN BEING FORCED INTO ARBITRATION WOULD BE WHERE ENRIGHT HAD TO GO TO COLLECT ON THIS PEYKOFF OBLIGATION. ENRIGHT SUBMITTED TO HIGGS MORE THAN 10 CASES INCLUDING A CALIFORNIA SUPREME COURT CASE WITH VIRTUALLY IDENTICAL FACTS AND YET HIGGS DID NOT HONOR ENRIGHT'S RIGHT TO COLLECT ON THIS VERY CLEAR BREACH OF CONTRACT EVEN SUPPORTED BY THE CALIFORNIA SUPREME COURT. HIGGS DOES THIS WITH NO CHANCE FOR APPEAL BY ENRIGHT OR ANY RECOURSE AGAINST HIGGS. WAKE UP FOLKS. THIS MAKES AN ARBITRATOR, LIKE CRAIG D HIGGS, MORE POWERFUL THAN THE CALIFORNIA SUPREME COURT. THIS IS WHY I AM WRITING THIS. UNDER NO CIRCUMSTANCES SHOULD YOU EVER AGREE TO BINDING ARBITRATION. NEVER

SO THE SAME FIDUCIARY DUTY OF "OBEDIENCE" THAT ENRIGHT WAS FOLLOWING CAME BACK TO BITE ENRIGHT, USING THE HIDDEN LISTING SITUATION THAT ENRIGHT DID NOT EVEN KNOW EXISTED, EXCEPT IN CRAIG HIGGS MIND, AFTER IT WAS RAISED AT ARBITRATION, AS A DEFENSE OF "CONFUSION".

PAGE 4 LINE 11

HIGGS AGAIN INSERTS HIS OWN TESTIMONY BECAUSE PEYKOFF NEVER TESTIFIED TO THIS ENTIRE SCENARIO THAT HIGGS HAS CREATED HERE OUT OF THIN AIR. IN FACT UNDER OATH PEYKOFF ADMITS THAT AT THE TIME IN JULY 2014 PEYKOFF NEVER TOLD ENRIGHT PEYKOFF WAS "CONFUSED". PEYKOFF TESTIFIED UNDER OATH THAT PEYKOFF NEVER ACTUALLY "READ" THE CANCELLATION FORM ENRIGHT PROVIDED AT PEYKOFF'S SPECIFIC REQUEST TO LEASE THE HOME BY OWNER. LOGICALLY THIS HAS TO MEAN, PEYKOFF WAS NEVER CONFUSED ABOUT ANYTHING UNTIL PEYKOFF TOOK HER OATH AT THE ARBITRATION HEARING. HIGGS WANTS THIS DECISION TO GO TO PEYKOFF FOR SOME REASON AND IS WILLING TO OVERLOOK HIS OWN WRITTEN EVIDENCE REFERENCED IN HIS OWN DECISION, AS WELL ALL THE EVIDENCE AND SWORN TESTIMONY BY PEYKOFF, APPARENTLY IN ORDER TO HAND PEYKOFF THE VICTORY. IF SWORN TESTIMONY BY PEYKOFF CARRIES ANY WEIGHT AT ALL WITH HIGGS, IN THE SEARCH FOR THE TRUTH OF THE MATTER AND JUSTICE, THEN HIGGS IS AGAIN USING HIGGS TESTIMONY AND IS NOT USING ANY ACTUAL PEYKOFF "TESTIMONY" OR EVIDENCE EXHIBITS THAT WERE GIVEN UNDER OATH AT THIS ARBITRATION.

ACCORDING TO CRAIG HIGGS, ENRIGHT LOST $97,200 BECAUSE THE CLIENT CLAIMED UNDER OATH THAT PEYKOFF WAS "CONFUSED" AND THOUGHT THE CANCELLATION ALSO COVERED THE EXCLUSIVE RIGHT TO SELL AGREEMENT AS WELL AS THE LEASE AGREEMENT.

HOWEVER, DURING THAT SAME SWORN TESTIMONY, IN FRONT OF CRAIG HIGGS, PEYKOFF TESTIFIED THAT PEYKOFF HAD "NOT READ THE FORM". WHAT? MAYBE IF PEYKOFF HAD READ THE FORM THAT PEYKOFF SIGNED (AS QUALIFIED UNDER STANDARD CONTRACT LAW AS A SIGNATURE STATES AGREEMENT AND UNDERSTANDING), THEN MAYBE PEYKOFF WOULD NOT HAVE BEEN CONFUSED.

HOWEVER CRAIG HIGGS SAID ENRIGHT SHOULD HAVE KNOWN PEYKOFF WAS CONFUSED – EVEN THOUGH WHEN UNDER THAT SAME OATH PEYKOFF ADMITS TO HAVING NEVER COMMUNICATING TO ENRIGHT ANY "CONFUSION". CRAIG HIGGS FOUND ENRIGHT NOT KNOWING THIS AS "FATAL TO ENRIGHT'S $97,200 CLAIM"

HIGGS SAYS THAT ENRIGHT SHOULD HAVE SOMEHOW "KNOWN" PEYKOFF WAS CONFUSED.

I THINK THAT THE CRAIG HIGGS RULING, THAT I WAS RESPONSIBLE TO SOMEHOW DISCERN THAT MRS. PEYKOFF WAS "CONFUSED" AND WAS THEN OBLIGATED TO CORRECT HER CONFUSION, IS NOT SUPPORTED BY ANY EVIDENCE PRESENTED DURING THE ARBITRATION HEARING OR ANY EVIDENCE EVEN REFERENCED BY CRAIG HIGGS IN HIS OWN FINAL DECISION AGAINST ME. HIGGS OPINES AT (PAGE 3 LINE 8) THAT THE C.A.R. FORM IS FLAWED. BUT LET'S REMEMBER THAT AS A LICENSED REAL ESTATE BROKER IT IS THE PROPER FORM PROVIDED TO ENRIGHT BY HIS REAL ESTATE COMMISSIONER AS THE FORM TO BE USED UNDER THESE EXACT CIRCUMSTANCES AND TO SUPPORT ENRIGHT'S FIDUCIARY DUTY, TO NOT INTRODUCE TO HIS CLIENT SOME RANDOM AND POSSIBLY CONFUSING FORM. THE C.A.R. FORM (COL) WAS PROPERTY FILLED OUT. STATED BY CHECK MARK THAT THE FORM ONLY COVERED THE "LEASE" AGREEMENT, WHICH WAS ALSO IDENTIFIED BY DATE. (A DATE

TOTALLY DIFFERENT THAN THE EXCLUSIVE RIGHT TO SELL AGREEMENT) THE FORM WAS ABSOLUTELY CORRECTLY FILLED OUT. WITH PEYKOFF EMPLOYING, BY SALARY, MORE THAN 5 PERSONAL ATTORNEYS AND HAVING 24 HOURS TO HAVE IT REVIEWED BY ALL LEGAL AUTHORITIES SURROUNDING HER, THIS ONLY FURTHER PROVES THAT, UNTIL THIS HIGGS ARBITRATION, PEYKOFF DID NOT INTEND FOR ENRIGHT TO CANCEL THE SALE AGREEMENT BUT ONLY THE LEASE AGREEMENT SO PEYKOFF COULD HOLD A "FOR LEASE" OPEN HOUSE THAT WEEKEND. ENRIGHT COMPLIED EXACTLY WITH HER REQUEST. HIGGS SAYS AT PAGE 2 LINE 21 "STRONGER EVIDENCE" - EVIDENT HOW? PEYKOFF TESTIFIES THAT PEYKOFF DID NOT COMMUNICATE ANY "CONFUSION" TO ENRIGHT. SO WHAT IS THE STRONGER EVIDENCE THAT HIGGS IS HIDING FROM HIS DECISION? HIGGS JUST SAYS IT. HIGGS NEVER SUBSTANTIATES IT.

PLEASE REFER TO HIGGS' MENTION IN HIS OWN DECISION OF THE EMAIL WHERE PEYKOFF SAYS THAT PEYKOFF WILL PAY ENRIGHT IF ENRIGHT BRINGS A BUYER. (PAGE 2 LINE 20) AGAIN, UNDER WHAT AGREEMENT, OTHER THAT THE NON-CANCELLED FOR SALE LISTING AGREEMENT – WOULD PEYKOFF FEEL OBLIGATED TO PAY ENRIGHT. PEYKOFF KNEW PEYKOFF HAD AN OUTSTANDING AGREEMENT. THESE ARE PERSONAL EMAILS BETWEEN FRIENDS AND LONGTIME COLLEAGUES AND ALL THIS HIGGS COMMENTARY SHOULD CARRY ZERO WEIGHT ON THE QUESTION OF BREACH OF CONTRACT WHICH STARTED OCCURRING AS EARLY AS MAY 2014 AND CONTINUED RIGHT UP UNTIL THE SALE OF THE PROPERTY IN OCTOBER DURING THE LEGAL TIME LIMIT OF ENRIGHT'S STILL OUTSTANDING EXCLUSIVE RIGHT TO SELL AGREEMENT. HIGGS MENTIONS EMAILS, BUT THEY DO NOT GO TO ANY LEGAL POINTS REGARDING A BREACH OF FIDUCIARY DUTY. MANY, MANY EMAILS AND TEXTS AND SWORN TESTIMONY OF CONVERSATIONS AND VOICE MAILS SHOW THAT PEYKOFF WAS CLEARLY STATING THAT PEYKOFF WANTED TO TEMPORARILY TAKE HEMLEY OFF THE MARKET TO COOL THE PROPERTY AND THAT WE WOULD BE PUTTING IT OUT TO SALE AFTER A SHORT PERIOD OF TIME.

DURING THE ARBITRATION SWORN TESTIMONY, IN FRONT OF CRAIG HIGGS, PEYKOFF TESTIFIED THAT PEYKOFF HAD "NOT READ THE FORM". HIGGS APPEARS TO NOT CONSIDER THE FACT THAT MAYBE IF PEYKOFF HAD READ THE FORM THAT PEYKOFF SIGNED (AS DICTATED UNDER STANDARD CONTRACT LAW AS A SIGNATURE STATES AGREEMENT AND UNDERSTANDING), THEN MAYBE PEYKOFF WOULD NOT HAVE BEEN CONFUSED.

HOWEVER CRAIG HIGGS SAID ENRIGHT SHOULD HAVE KNOWN PEYKOFF WAS CONFUSED – EVEN THOUGH WHEN UNDER THAT SAME OATH PEYKOFF ADMITS DIRECTLY TO HIGGS TO HAVING NEVER COMMUNICATING TO ENRIGHT ANY "CONFUSION" AT THE TIME OF COUNTER SIGNING THE CANCELLATION OF THE LEASE LISTING. CRAIG HIGGS FOUND ENRIGHT NOT KNOWING THIS CONFUSION EXISTED IN PEYKOFF'S MIND, AS "FATAL TO ENRIGHT'S $97,200 CLAIM"

THE FACT THAT THE CRAIG HIGGS RULING, SAID ENRIGHT WAS RESPONSIBLE TO SOMEHOW DISCERN THAT MRS. PEYKOFF WAS "CONFUSED" AND THEN OBLIGATED ENRIGHT TO CORRECT HER CONFUSION, IS NOT SUPPORTED BY ANY EVIDENCE PRESENTED DURING THE ARBITRATION HEARING OR ANY EVIDENCE EVEN REFERENCED BY CRAIG HIGGS IN HIS FINAL DECISION AGAINST ENRIGHT.

UNDER THE LAW OF SIMPLE HUMAN REASONING, PEYKOFF, AS AN INTELLIGENT, EDUCATED, AND SOPHISTICATED REAL ESTATE INVESTOR CRAIG HIGGS SHOULD HAVE FOUND THAT PEYKOFF WAS RESPONSIBLE FOR ANY CONFUSION AND NOT ENRIGHT.

MRS. PEYKOFF SHOULD HAVE BEEN HELD ACCOUNTABLE FOR A FORM THAT PEYKOFF SIGNED, AND HER FAILURE TO READ THE FORM DOES NOT RELIEVE HER OF THE CONSEQUENCES OF HER SIGNATURE.

PHRASED ANOTHER WAY, MRS. PEYKOFF WOULD NOT HAVE BEEN CONFUSED ABOUT THE MEANING OF THE FORM IF PEYKOFF HAD READ IT AND SINCE PEYKOFF ADMITS UNDER OATH THAT PEYKOFF DIDN'T BOTHER TO READ IT, PEYKOFF SHOULD NOT THEN BE GIVEN BY HIGGS ANY RIGHTS TO A DEFENSE OF "CONFUSION". A DEFENSE, WHICH ACCORDING TO CRAIG HIGGS, THAT PRACTICALLY, ON ITS OWN, WAS "FATAL" TO ENRIGHT'S LOSS OF MANY STRAIGHT FORWARD MULTIPLE BREACHES OF CONTRACT CLAIMS AND HIGGS DEPRIVED ENRIGHT OF HIS $97,200 EARNED COMMISSION AND FORCED ENRIGHT TO PAY $150,000 IN ATTORNEY FEES.

# JUST SOME RANDOM NOTES NOT IN ANY ORDER AND PROBABLY ALREADY COVERED IN THE ABOVE CRITIQUE.

HIGGS DOES NOT SUBSTANTIATE HIS FINAL FIDUCIARY DUTY DECISION BY ONE SINGLE LEGAL REFERENCE OF ANY KIND, OR IN ANY WAY, TO HELP DETERMINE WHERE HE GOT THESE FIDUCIARY DUTY IDEAS. DID THE DEFENDANT JUST "SAY THEM" AND THAT MADE THEM TRUE IN CRAIG HIGGS MIND? AGAIN, IS THIS HOW COURT CASES ARE DECIDED NOW? WHAT ABOUT THE OVERWHELMING EVIDENCE TO THE CONTRARY? IT DOES NOT SEEM TO CARRY ANY WEIGHT AT ALL IN CRAIG HIGGS RULING OR AT LEAST HE DOES NOT MENTION IT.

PEYKOFF'S SILENCE ABOUT ANY "CONFUSION" AT THAT POINT IN TIME JULY 17$^{TH}$ CLEARLY INDICATES THAT PEYKOFF KNEW, AT THAT TIME, THAT THE CANCELLATION OF THE LEASE LISTING WAS GIVEN TO HER AS A RESULT OF HER SPECIFIC EMAIL REQUEST, BY HER, THROUGH A SPECIFIC JULY 15TH EMAIL SO PEYKOFF COULD HOLD A "FOR LEASE BY OWNER" OPEN HOUSE THAT NEXT WEEKEND AND THAT THAT IS WHAT THE CANCELLATION COVERED. IT WAS NOT UNTIL THIS ARBITRATION THAT PEYKOFF CLAIMED TO BE "CONFUSED"?

HOW COULD THIS CLAIM OF CONFUSION, UNDER THESE FACTUAL CIRCUMSTANCES, NOT BE SEEN BY A FINDER OF FACT, AS CRAIG HIGGS PURPORTS HIMSELF TO BE, CLEARLY SEE THESE DEFENSE CLAIMS AS COMPLETELY TRANSPARENT AND JUST A MERITLESS DEFENSE WHOLLY BREWED FROM AN AFTERTHOUGHT?

CRAIG HIGGS DECIDED THAT HE WOULD NOT HOLD PEYKOFF RESPONSIBLE FOR THE PLAIN MEANING OF THE CANCELLATION OF LISTING FORM "WHICH MRS. PEYKOFF ADMITS THAT PEYKOFF DID NOT READ." (DECISION PAGE 3, LINE 6)

CRAIG HIGGS NEVER IDENTIFIES THE EVIDENCE THAT SUPPORTS HIS CONCLUSION THAT IT SHOULD HAVE BEEN "OBVIOUS" TO ENRIGHT THAT PEYKOFF MISUNDERSTOOD THE CANCELLATION OF LISTING FORM. THE REASON? THERE WAS NO EVIDENCE OR PEYKOFF TESTIMONY EVEN PROPOSING THAT CONCLUSION. EXCEPT SUBJECTIVELY BY CRAIG HIGGS IN THIS DECISION.

CRAIG HIGGS STILL CONSTRUED THE EVIDENCE IN A WAY THAT RESULTED IN HIS DETERMINATION THAT I HAD BREACHED MY FIDUCIARY DUTIES TO PEYKOFF BY NOT "PERCEIVING" THAT PEYKOFF WAS CONFUSED ABOUT THE CANCELLATION OF LISTING FORM, WHICH PEYKOFF DID NOT READ, AND THAT BY ENRIGHT NOT CORRECTING HER CONFUSION THAT HIGGS HOLDS ENRIGHT RESPONSIBLE FOR NOT CORRECTING SOMETHING THAT ENRIGHT HAD NO WAY OF KNOWING ABOUT THAT WAS GOING ON IN PEYKOFF'S MIND. ESPECIALLY WHEN PEYKOFF TESTIFIED, UNDER OATH RIGHT IN FRONT OF CRAIG HIGGS, THAT PEYKOFF NEVER TOLD ENRIGHT OF HER "CONFUSION".

ACCORDING TO THE HIGGS DECISION THE NEW LAW OF FIDUCIARY DUTY, CREATED OUT OF THIN AIR BY CRAIG HIGGS, IS THAT EVEN WHEN A REAL ESTATE BROKER IS DEALING WITH A CLIENT WHO IS A HIGHLY EXPERIENCED REAL ESTATE INVESTOR, WHO HAS PURCHASED AT LEAST 40 PROPERTIES OVER, LESS THAN A 15 YEAR RECENT PERIOD OF TIME, USING ONLY C.A.R. FORMS AND WHO OWNS 35 PROPERTIES AT THE TIME OF THE DISPUTE, APPARENTLY, ACCORDING TO HIGGS, A CLIENT OF THIS LEVEL OF REAL ESTATE SOPHISTICATION IS NOT GOING TO BE HELD RESPONSIBLE FOR READING THE C.A.R. DOCUMENTS THAT PEYKOFF SIGNS AFTER REQUESTING THAT SPECIFIC FORM. IS THIS THE WAY CONTRACT LAW WORKS NOW? OR IS THAT THE WAY CLAIRVOYANCE WORKS?

CLIENT SAYS NOTHING BUT WE HAVE TO READ MINDS?

CRAIG HIGGS IS SAYING (AT ENRIGHT'S EXPENSE OF $97,200) THAT EVEN WHEN A REAL ESTATE BROKER IS DEALING WITH SUCH A REAL ESTATE KNOWLEDGEABLE CLIENT, THE REAL ESTATE BROKER WILL HAVE A FIDUCIARY DUTY TO SOMEHOW "PERCEIVE" WHEN HIS CLIENT IS CONFUSED AND TO CORRECT THE CLIENT'S MISUNDERSTANDINGS THAT THE REAL ESTATE BROKER IS SUPPOSED TO BE ABLE TO "PERCEIVE" EVEN WHEN PEYKOFF DOESN'T SAY ANYTHING. USING PSYCHIC POWERS?

THERE IS NO APPELLATE AUTHORITY ON THIS FIDUCIARY DUTY POINT.

PHRASED ANOTHER WAY, I DON'T THINK THAT WE WILL EVER FIND ANY APPELLATE DECISION WHICH HOLDS THAT A BROKER KNEW OR SHOULD HAVE KNOWN THAT HIS INTELLIGENT, EDUCATED AND SOPHISTICATED CLIENT FAILED TO READ THE FORM THE CLIENT SPECIFICALLY ASKED FOR THAT HE PRESENTED TO HER THAT PEYKOFF SIGNED AND RETURNED TO HIM.

THE LAW?

PEYKOFF SIGNED IT – SO PEYKOFF READ IT.

WE WILL NEVER FIND AN APPELLATE COURT DECISION REGARDING FIDUCIARY DUTY THAT SUPPORTS CRAIG HIGGS RULING AND CRAIG HIGGS DOES NOT PROVIDE ANY INSIGHT OR LEGAL SUPPORT FOR HIS FIDUCIARY DUTY RULING. IS IT POSSIBLE THAT IT WAS JUST PULLED OUT OF THIN AIR? 100% OF THE 30 CASES ENRIGHT SUBMITTED TO HIGGS FALL IN ENRIGHT'S FAVOR. LITERALLY, NOT A SINGLE CASE OR ANY TESTIMONY PUT FORWARD BY PEYKOFF PROVES ANY VIOLATION OF FIDUCIARY DUTY BY ENRIGHT.

WE MAY FIND SOME APPELLATE COURT DECISIONS THAT HOLD THAT, UNDER CERTAIN CIRCUMSTANCES WHERE, IT IS OBVIOUS THAT, THE CLIENT MISUNDERSTANDS A DOCUMENT THAT THE BROKER HAS A FIDUCIARY DUTY TO CORRECT A CLIENTS MISUNDERSTANDING. BUT NONE OF THOSE CASES APPLY HERE SINCE PEYKOFF TESTIFIED UNDER OATH THAT SHE FAILED TO TELL ENRIGHT SHE WAS CONFUSED AND HER INQUIRIES ON THE RECORD SIMPLY SHOW A CONTINUED PATTERN OF

BREACH OF CONTRACT BY TRYING TO PREMATURELY CANCEL A CONTRACT FOR WHICH ENRIGHT HAD A ZERO OBLIGATION TO CANCEL WITHOUT BEING COMPENSATED. AND I WOULD CHALLENGE CRAIG D HIGGS TO COME UP WITH A SINGLE EXAMPLE SINCE HE CHOSE NOT TO PROVIDE ONE IN HIS FINAL DECISION. BUT NONE OF THOSE OTHER COURT DECISIONS WILL HOLD THAT THE BROKER HAS A DUTY TO INTERROGATE HIS CLIENT, TO VERIFY THAT PEYKOFF READ A DOCUMENT THAT PEYKOFF HAS SIGNED, AND THAT PEYKOFF UNDERSTANDS A DOCUMENT THAT PEYKOFF HAS SIGNED, ESPECIALLY WHERE THE CLIENT IS INTELLIGENT, EDUCATED, AND SOPHISTICATED. PEYKOFF SIGNED IT – PEYKOFF READ IT – AND NEVER TELLS ENRIGHT THAT PEYKOFF IS CONFUSED.

WHY DID HIGGS COMPLETELY FAIL TO ADDRESS THE MAY 2014 AND JUNE 2014 CLEAR MULTIPLE BREACHES OF CONTRACT COMMITTED AND ADMITTED TO UNDER OATH BY PEYKOFF UNDER THE EXCLUSIVE RIGHT TO SELL AGREEMENT, WHICH WAS THE ONLY SUBJECT OF THIS ARBITRATION, COMMITTED AROUND MAY 25TH BY INTERFERING AND STOPPING ENRIGHT'S MARKETING WITH PEYKOFF ADMITTING TO "PERSONALLY" TAKING DOWN ENRIGHT'S SIGN, WHICH IN ITSELF IS A PROVED AND ADMITTED TO BY PEYKOFF, UNDER OATH, AS A BREACH OF CONTRACT, THAT STANDS ON ITS OWN LEGS IN CREATING A FINDING IN ENRIGHT'S FAVOR AND SUPPORTED BY MULTIPLE COURT CASES SUBMITTED BY ENRIGHT AND ACCEPTED INTO EVIDENCE BY HIGGS. THESE MAY 2014 BREACHES OF CONTRACT HAND ENRIGHT A VICTORY.

HIGGS NEVER ADDRESSES THESE PRIOR MULTIPLE CONTRACT BREACHES. DO THEY JUST NOT COUNT IN HIGGS MIND? WE WILL NEVER KNOW BECAUSE HIGGS IS SILENT TO THESE ADMITTED BREACHES AND MANY, MANY OTHER PROVEN ISSUES THAT CONVENIENTLY MIGHT FALL IN ENRIGHT'S FAVOR.

CRAIG HIGGS APPARENTLY REJECTED ENRIGHT'S CONTENTION THAT PEYKOFF WAS BEING DISINGENUOUS IN FEIGNING A LACK OF KNOWLEDGE ABOUT THE PROCEDURE FOR CANCELLING A LISTING, EVEN THOUGH PEYKOFF ADMITTED UNDER OATH THAT PEYKOFF KNEW THAT PEYKOFF NEEDED ENRIGHT'S "WRITTEN AND SIGNED" AGREEMENT TO CANCEL ANY LISTING AGREEMENT AS FAR BACK AS 1998. THE SAME C.A.R. FORM IS SUBSTANTIALLY THE SAME AS THEN REGARDING WHAT CONSTITUTES A BREACH OF CONTRACT UNDER THE SIGNED AGREEMENT.

THIS IS NOT A FIDUCIARY DUTY CASE WHERE ENRIGHT RIPPED OFF A WIDOW. THIS IS A CASE IN WHICH A HIGHLY SOPHISTICATED REAL ESTATE INVESTOR ADMITTED THAT PEYKOFF DID NOT READ THE CANCELLATION OF LISTING FORM, AND DID NOT TELL ENRIGHT THAT PEYKOFF WAS CONFUSED ABOUT THE FORM.

NONETHELESS, CRAIG HIGGS CONCLUDED THAT ENRIGHT WAS GUILTY OF A BREACH OF HIS FIDUCIARY DUTY TO A MEMBER OF THE PUBLIC BECAUSE ENRIGHT SHOULD HAVE REALIZED THAT PEYKOFF WAS CONFUSED, AND SHOULD HAVE EXPLAINED THE FORM.

BUT AGAIN, CRAIG HIGGS NEVER EXPLAINED HOW ENRIGHT SHOULD HAVE KNOWN THAT PEYKOFF WAS CONFUSED ABOUT THE FORM. NOW HIGGS, BY HIS DECISION, SEEMS TO "KNOW" HOW ENRIGHT SHOULD HAVE KNOWN, BUT HE JUST NEVER TELLS US HOW HE KNOWS THIS.

CRAIG HIGGS DECISION DID NOT FIND THAT ENRIGHT MADE ANY MISREPRESENTATIONS TO MRS. PEYKOFF. INSTEAD, CRAIG HIGGS RULED THAT MRS. PEYKOFF, A HIGHLY EXPERIENCED AND SOPHISTICATED REAL ESTATE INVESTOR, WAS "CONFUSED" ABOUT THE SCOPE OF THE CANCELLATION OF LISTING FORM, THAT ENRIGHT SHOULD HAVE REALIZED THAT PEYKOFF WAS CONFUSED

NOTWITHSTANDING MRS. PEYKOFF'S FAILURE TO COMMUNICATE HER CONFUSION, AND THAT ENRIGHT SHOULD HAVE CLARIFIED MRS. PEYKOFF'S CONFUSION THAT HE KNEW NOTHING ABOUT.

CRAIG HIGGS NEVER SHOULD HAVE USED THE TERM FIDUCIARY DUTY AS A DEROGATORY TERM DIRECTED TOWARDS ENRIGHT. THIS IS A FACTUAL MISUSE OF THE TERM FIDUCIARY DUTY BEING USED AS A DEROGATORY TERM UNDER THE FACTS OF THIS CASE.

HIGGS SHOULD HAVE KNOWN, AS A JUDICATE WEST REAL ESTATE "EXPERT" THAT THE FIDUCIARY DUTY CONNOTATION HE HAS LABELED ENRIGHT WITH UNJUSTLY ALIGNS ENRIGHT WITH CRIMINAL REAL ESTATE BROKERS, BECAUSE BREACH OF FIDUCIARY DUTY MEANS THAT IN MOST BREACH OF FIDUCIARY DUTY CASES, THE BROKER LIES TO HIS CLIENT, STEALS MONEY FROM HIS CLIENT, COLLECTS A SECRET PROFIT TO THE DETRIMENT OF HIS CLIENT, OR ENGAGES IN OTHER ACTIVE WRONGDOING.

HIS LABEL DIRECTLY REFLECTS ON ENRIGHT'S 47 YEAR PERSONAL AND PROFESSIONAL CHARACTER.

CLEARLY ENRIGHT COMMITTED NONE OF THOSE ACTIONS THAT WOULD CAUSE THIS CASE TO BE JUDGED BASED ON A "BREACH OF FIDUCIARY DUTY" AND FOR HIGGS TO FIND THE ENTIRE BASIS OF HIS NEGATIVE DECISION TOWARDS ENRIGHT, AS A VIOLATION OF ENRIGHT'S FIDUCIARY DUTY, STIGMATIZES ENRIGHT AND WE FIND IT RECKLESS AND REPREHENSIBLE.

IF CRAIG HIGGS' DECISION WERE APPEALABLE, ONE OF THE GROUNDS FOR THAT APPEAL WOULD BE THAT CRAIG HIGGS' DECISION IS NOT SUPPORTED BY ANY SUBSTANTIAL EVIDENCE. THE ENTIRE ARBITRATION HEARING SHOWED EXACTLY THE OPPOSITE. CRAIG HIGGS WAS HIGHLY SUBJECTIVE IN DETERMINING THAT PEYKOFF'S EMAILS INDICATE THAT PEYKOFF WAS CONFUSED ABOUT THE SCOPE OF THE CANCELLATION OF LISTING FORM. CRAIG HIGGS WAS HIGHLY SUBJECTIVE IN DETERMINING THAT PEYKOFF SHOULD NOT BE HELD ACCOUNTABLE FOR A FORM THAT PEYKOFF SIGNED, EVEN IF PEYKOFF FAILED TO READ IT. CRAIG HIGGS WAS HIGHLY SUBJECTIVE IN DETERMINING THAT ENRIGHT SHOULD HAVE DETECTED, BASED UPON PEYKOFF'S EMAILS, THAT PEYKOFF DID NOT UNDERSTAND THE SCOPE OF THE CANCELLATION OF LISTING FORM BUT THIS POSITION BY HIGGS IS NOT SUPPORTED BY ANY EVIDENCE OR TESTIMONY BY PEYKOFF. IF CRAIG HIGGS DECISION WERE APPEALABLE, WE COULD ASK THE COURT OF APPEALS TO REVERSE THE ARBITRATOR'S DECISION BASED UPON THE FACT THAT IT IS NOT SUPPORTED BY ANY SUBSTANTIAL EVIDENCE BUT INSTEAD BY ARBITRATOR'S SUBJECTIVE SPECULATIONS. WE BELIEVE WE WOULD BE 1000% SUCCESSFUL. BUT OF COURSE THERE IS ZERO ABILITY TO APPEAL UNDER BINDING ARBITRATION.

CRAIG HIGGS APPARENTLY THOUGHT SOME DIFFERENT WAY. BUT AGAIN HE FAILS TO SUBSTANTIATE HIS POSITION BY REFERENCING ANY FIDUCIARY DUTY EVIDENCE ACTUALLY APPEARING IN THE ARBITRATION HEARING. LEAVING US ONLY TO "GUESS" WHAT HIGGS WAS THINKING.

BUT PERHAPS THE REAL FOCUS SHOULD BE ON THE AFFIRMATIVE DEFENSES ALLEGED BY PEYKOFF.

DID PEYKOFF MEET HER BURDEN OF PROOF, OF CLEAR AND CONVINCING EVIDENCE, THAT ENRIGHT EVER BREACHED A FIDUCIARY DUTY TO HER THAT WARRANTS THE FORFEITURE OF HIS $97,200 COMMISSION?

THE ANSWER IS CLEARLY NO!!

CRAIG HIGGS DOES NOT EVEN BOTHER TO COMMENT ON THIS VERY IMPORTANT OBVIOUS LEGAL QUESTION UPON WHICH HIS ENTIRE DECISION AGAINST ENRIGHT IS BASED BECAUSE HIGGS CANNOT PRODUCE ANY ARBITRATION EVIDENCE – BECAUSE IT SIMPLY DOES NOT EXIST EXCEPT IN HIS MIND.

IT APPEARS THAT ALL THE RESPONSIBILITY RESTS WITH ENRIGHT (EVEN THOUGH ENRIGHT PROVED HIS CASE IN CHIEF FOR MULTIPLE BREACHES OF CONTRACT SIMPLY BY USING JUST PEYKOFF'S OWN SWORN ADMISSIONS OF GUILT DURING HER TESTIMONY) AND ACCORDING TO HIGGS, HIGGS STILL PUTS ABSOLUTELY ZERO RESPONSIBILITY ON PEYKOFF FOR HER ACTIONS AND SUBTERFUGE BY HIDING THE NEW LISTING FROM ENRIGHT AND THE MARKETPLACE THUS BLUNTING ANY POSSIBLE ACTION ON ENRIGHT'S PART TO CLARIFY ANY POSSIBLE "CONFUSION". (WHICH HIGGS HOLDS AGAINST ENRIGHT) AND AS A RESULT OF THIS SECRET HIDING OF THE NEW LISTING THIS DEPRIVED ENRIGHT OF ANY POSSIBILITY TO PROTEST AND EVEN MORE FULLY INFORM AND REMIND PEYKOFF OF HER OUTSTANDING OBLIGATIONS UNDER THE EXCLUSIVE RIGHT TO SELL AGREEMENT. PERHAPS BY MORE AND MORE NOTICES ENRIGHT COULD HAVE REACHED A LEVEL OF FIDUCIARY ACTION TO SATISFY HIGGS. BUT WE THINK NOT.

BUT THEN COMES THE SEPT 25$^{TH}$ LETTER OF WRITTEN NOTIFICATION TO PEYKOFF. HIGGS COMPLETELY IGNORES THIS "ANCHOR" TO HIS DECISION AND MY GUESS IS HE NEVER MENTIONS IT BECAUSE IT COMPLETELY DESTROYS HIS ONLY ARGUMENT UPON WHICH HIS DECISION RESTS. AN "ANCHOR" OF THIS MAGNITUDE, IN LIGHT OF HIGGS' DECISION, WOULD SURELY "SINK HIS BOAT".