

**FILED**  
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 POHNPEI  
 TRIAL DIVISION

Nora E Sigrah  
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 ATTORNEY FOR PLAINTIFF

**SUPREME COURT  
 FEDERATED STATES OF MICRONESIA  
 TRIAL DIVISION - STATE OF POHNPEI**

FSM Development Bank,	)	CIVIL ACTION NO. 2004-031
	)	
Plaintiff,	)	PLAINTIFF'S MOTION FOR AN
v.	)	ORDER TO SHOW CAUSE;
	)	AFFIDAVIT OF NORA E SIGRAH
Shiro Akinaga and Jackie	)	
Akinaga,	)	
Defendants.	)	
	)	

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Plaintiff, FSM Development Bank ("FSMDB") files this motion for an order to show cause why Defendants Shiro Akinaga and Jackie Akinaga ("Defendants") should not be held in contempt of court for violation of the order in aid of judgment entered on September 25, 2012. FSMDB also moves for an award of costs and attorney's fees. This Motion is made pursuant to FSM Civ Rule 7, 6 FSMC Section 1412, the Orders in Aid of Judgment, and is supported by the memorandum below, the attached affidavit and exhibits, and the record.

**MEMORANDUM OF POINTS AND AUTHORITIES**

1. FSMDB's Motion for an Order to Show Cause.

The Order in Aid of Judgment entered by this Court on

September 21, 2012 requires installment payments of at least \$ 1,000.00 per month. (Order in Aid, para. 1)

The last payment made by Defendants was on September 2, 2014. No payments were made in October, November or December 2014. Affidavit of Sigrah. Arrears for 2014 now total \$ 3,000.00.

On November 20, 2014 and December 2, 2014, undersigned counsel notified Defendants' counsel of the non-payments and requested payment of the arrears and required monthly amounts. Affidavit of Sigrah and Exhibit "A". Despite such requests, no payments were made.

FSMDB believes that Defendants had and continue to have the ability to make the monthly payments they agreed to. Information provided to FSMDB by Defendants show Shiro Akinaga's salaried employment with APSCO, his monthly receipt of an owner's draw from PCR business and from APSCO Construction Company, all providing Defendants substantial income from which they can pay this judgment. Information provided by Defendants to FSMDB shows that they had been making payments on judgments and other debts of lower priority than this judgment.

As of January 9, 2014, the amount of \$ 125,946.34 remains outstanding on this judgment, including principal and accrued statutory interest. Affidavit of Sigrah. FSMDB's Motion for an Order to Show Cause is proper based upon Defendants' continuing

failure to comply with the Order in Aid of Judgment. 6 FSMC § 1412.

2. FSMDB's Request for Award of Costs and Attorneys' Fees.

FSMDB requests an award of costs and reasonable attorney's fees be awarded based upon the September 25, 2012 order in aid of judgment, and paragraph 7 of the Order in Aid of Judgment entered on July 4, 2005. Pursuant to paragraph 7, Defendants are responsible for Plaintiff's legal fees and other costs necessary to compel compliance with the Order in Aid of Judgment. The September 25, 2012 Order in Aid of Judgment incorporates paragraph 7 of the July 4, 2005 order.

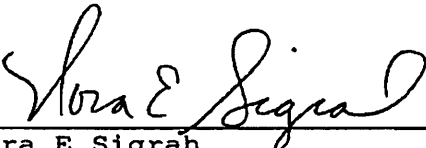
Based upon Defendants' continuing failure to comply with the Orders in Aid of Judgment, Plaintiff now takes further action to collect on the judgment and therefore an award of costs and reasonable attorney's fees is warranted.

4. FSMDB's Request for Hearing.

FSMDB respectfully requests that a hearing be set on the Court's next available calendar and that the Defendants be required to appear in Court and answer to this Motion.

Respectfully submitted:

Date: January 9, 2015

  
\_\_\_\_\_  
Nora E Sigrah  
Attorney for Plaintiff  
FSM Development Bank

**AFFIDAVIT OF NORA E SIGRAH**

I, Nora E Sigrah, being first duly sworn, depose and state as follows:

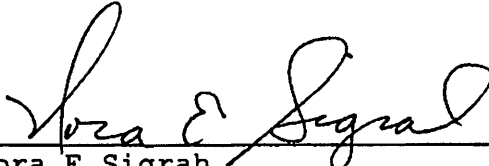
1. I am above the age of majority and am competent to testify. I have personal knowledge of the facts contained in this affidavit.

2. I am the Legal Counsel for the FSM Development Bank (the "Bank") and am counsel of record for this case.

3. I have reviewed the computer files kept in the usual course of the Bank's business, which keeps track of the payments made on the judgment entered against the Defendants herein. The computer files show that the last payment was made on September 2, 2014 and that no payments were made during the months of October, November or December 2014. The computer files show that as of January 9, 2015, the amount of \$ 125,946.34 remains outstanding on this judgment, including the principal and accrued post judgment interest.

4. Attached as Exhibit "A" is a true and correct printout of emails I sent emails to Ms Jack, counsel for Defendants, informing her of the Defendants' failure to make payments in accordance with the order in aid of judgment, requesting payments to be resumed and payment of arrears. No communications have been received from Ms Jack after December 5, 2014.

Nothing Further.

  
\_\_\_\_\_  
Nora E Sigrah

Subscribed and sworn to before me this 12 th day of January 2015.

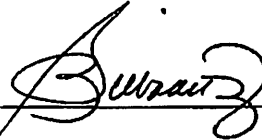
  
\_\_\_\_\_  
Notary Public

My commission expires: Oct. 16, 2016

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Plaintiff's Motion for an Order to Show Cause was served this 12<sup>th</sup> day of January 2015 by hand delivery upon:

Marstella Jack, Esq  
Kolonias, Pohnpei, FM 96941

  
\_\_\_\_\_

FSM Development Bank

**FSMDB**  
www.fsmbd.fm

Nora Sigrāh &lt;noras@fsmbd.fm&gt;

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**FSMDB v Akinaga**

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**Marstella E. Jack** <ejacklaw@gmail.com>  
To: Nora Sigrāh <noras@fsmbd.fm>

Fri, Dec 5, 2014 at 3:29 PM

Hi Nora,

Sorry I have been in and out of the office sporadically due to family funerals. Please give me until next week Tuesday to consult with client and get back to you. Thank you for your patience and understanding.

Cheers

*s/Marstella E. Jack  
Law Office of Marstella E. Jack  
P.O. Box 2210  
2nd FL. John Sonden Building  
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On Dec 2, 2014, at 4:23 PM, Nora Sigrāh <noras@fsmbd.fm> wrote:

Marstella,

I have not heard back from you on my Nov 20 email, and since then, the bank's records show that the Akinagas failed to make their November 2014 payment as well. If your clients will not resume the monthly payments required by the OIA, I will need to file a motion for OSC.

thanks  
Nora

On Thu, Nov 20, 2014 at 2:50 PM, Nora Sigrāh <noras@fsmbd.fm> wrote:  
Marstella,

The bank's records show last payment made on the Akinaga judgment was on September 2, 2014. The arrears for October 2014 are \$ 1,000.00. Please advise your clients to pay the October arrears by December 5, 2014 and resume their monthly payments as required by the OIA.

thanks  
Nora

**EXHIBIT "A"**