

**THE AUTHORITY EXERCISED BY DEFENDANT WALTERS OVER THE ANANDA MEMBERS AND THE ANANDA CHURCH CORPORATE ENTITY IS TOTAL**

Defendant Walters commonly known as Swami Kriyananda testified that he put the entire Ananda "system" in place. (RT 12/2/97@ 1 32:23-133:7) He acknowledges that while he may not necessarily take , direct action, there is a line of authority at Ananda. (RT 12.3/97 @ 184:12-18) He describes the authority he possesses and can exercise to be "like the Pope" and those at next level of authority are "like cardinals." (RT 12/2/197@174:3-13) He also says that he is the "retired guy at the top" comparable to the CEO of a for-profit corporation. (RT 12/2/97 @157:23-158:2) "I built Ananda ... I led Ananda. I did everything. I was, you could say, the CEO ... I am retired CEO, but retirement with us is fairly informal. I don't run things, but I have influence." (RT 12/3/97@154:4-11)

He describes himself as the "leader of an enterprise" to whom his members should "attune" themselves in a "sense" that is not "spiritual." (RT 12/2/97@126:3-127:20) He defines the "enterprise" as the "work of Ananda" which includes "the publishing of the books, [and] the teaching of the lessons." (RT 12/3/97@ 158:10-160:16) He is the "main writer" for Crystal Clarity which publishes his books. (RT 12/2/97 @ 156:14-21) Walters owns all of the copyrights to his books. (RT 12/2/97@ 131:10-11; RT 12/3/97'160:24-161:9; P. McGilloway Deposition @)<sup>1</sup> 155:10-156:21)<sup>2</sup> Walters testified that "I was (...continued)

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**1** Plaintiff offers the deposition testimony of James Donald Walters, Jyotish Novak, Devi Novak, Vidura Smallen, Asha Prayer, Tom Oesterle, Alexandra "Padma" McGilloway, and Lila Hoogendyk pursuant to Code of Civil Procedure section 2025(u)(2) which states.

"[Use.] At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under subdivision (g), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:.. (2) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under subdivision (d) of a party. It is not ground for objection to the use of a deposition of a party under this paragraph by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing."

**2** There appears to be a typo at 12/3/97 161:5 where the transcripts states "17." Pursuant to Exhibit 128, Walters' Summary Judgment Declaration at 3:6, he states that he is the author of "over sixty books." While the court did not admit (or plaintiff then «lthdrew) this exhibit for the jury's consideration. plaintiff hereby moves its admission into evidence to facilitate the Court's proper determination of alter ego liability. (See also Walters Deposition "d 329:13-22)

Otherwise. the state of the record is that the correct number of books published by Walters is closer to 28. In addition. he is the copyright holder on numerous audio tapes, videotapes and *pumphlets*. (See RT 12 3 97@167: 70 and Defense Exhibit TTT and UUU)

running a community, a village, which had several companies and a church." (RT 12.3/97 1i82:16-19)<sup>3</sup>

Walters acknowledges that a certain percentage of the copyright income stream generated by sales goes to the copyright holder. (RT 12/3197@16115-23) He testified that he receives approximately 10-15% of the income generated by sale of his works (RT 12/3/97@163:24-164:19: 171:25-172:5) which he describes as "royalties." (RT 12/3/97@165:13-14)

## **The Relationship Between Crystal Hermitage, Crystal Clarity And Ananda Church**

### ***1. Walters Controls The Crystal Hermitage Discretionary Fund***

Walters' "royalties" are deposited into a "discretionary fund" so that he can do what "I would like to do in the work rather than what some board of directors or managing outfit says let's do with it." (RT 12/3/97@165:15-20)<sup>4</sup> On the other hand, Walters says that any royalty "doesn't come to me" and instead goes "into [the] discretionary fund" that he "thinks" is a Crystal Hermitage account. (RT 12/3/97@170:15-171:8)<sup>5</sup> The royalties go into "an account that I control . . . in the name of the church." ( ... continued)

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**3** Walters dominated corporate organization. "Swami has also put all the functions of The Yoga Fellowship [Ananda's original name] (Retreat, Publications, Circle of Joy and Recording under one umbrella. We tried to compete in the worldly market with publications and found that it was not a viable solution for us." (Defense Exhibit QQQQ @ 161)

**4** Walters testified that the money goes "into a fund which can be used for anything but for me... Because I have some say over it, and that way I was able to buy the equipment for our recording studio which was quite a bit. I have been able to publish books. I have been able to employ certain people, Crystal Clarity, with the normal publishing house income. That is to say, it a percentage of this which is much larger percentage than mine. That it can't afford to pay those people, but I have done that so discretionarily in the sense that I use it for - in one way or another building the work. That would not be something that I could ask the publishing house direction." 12/2/97@162:8-23)

As to her version of the purchase of the recording studio's equipment, Katherine Steenstra testified Walters had nothing to do with it. She said that "Someone donated a large amount of money to purchase some equipment, some audio equipment that we needed." (RT 2/18/96 @52:10)

With respect to audio equipment, the corporate minutes memorialize discussions led by Walters. "He then talked informally about the new direction he is taking with making videos. With the equipment he has recently purchased, we can now create professional quality videos. This way allow us to include videos in our products and outreach." (Ex. QQQQ @ 69)

Jyotish Novak does not know who owns the recording equipment. (RT 2/24/98@35:11-37)

**5** As to the advances generated by the Warner contract. Walters testified that "the advance royalties that I got also went into the discretionary fund." (RT 12/3;97a 169:2-9) This was confirmed by (continued...)

Walters Deposition, Vol.4@577:16-578:12) Padma McGilloway confirmed that Walters will direct the expenditure of money, such as the money generated by the Time Warner contracts, (P. McGilloway Deposition @153:153:3-17), from the Crystal Hermitage account to "be spent on this or that project" such as the building of a "museum ...at the hermitage" or "production of a new tape or product" including books. (P. McGilloway Deposition @153:3-154:12) In addition, the Crystal Hermitage account is used to fund the "operations and function of the Crystal Hermitage." (P. McGilloway Deposition @85:11-16) Walters had check signing authority over the Crystal Hermitage bank account. (P. McGilloway Deposition@147:10-13

## ***2. The Crystal Hermitage Is Walters' Home***

According to Ananda's corporate minutes, corporate meetings "were held ... at Sri Kriyananda's home, The Crystal Hermitage, at Ananda Village in Nevada City, California." (QQQQ at 83, 92, 103, 115, 120, 129, 141;<sup>6</sup> Walters Deposition Vol. 5 @ 798:6-13) The Crystal Hermitage building is "is a beautiful house" that is two stories high. Walters lives in a "separate apartment downstairs" (Hoogendyk Deposition @46:6-15; 57:25-58:4)<sup>7</sup> next to which is a recording studio, Walters' office and the office of his secretary. (Hoogendyk Deposition @65:11-66:11; 21:20) The recording studio contains a big, "very fancy" looking sound board which is operated by Agni and David for the purpose of making CDs of (...continued)

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**5** ( ... continued)

Peters who did not investigate what happened to the \$150,000, or the \$20,000 advanced by the Workman publishers, after each had been transferred to the Crystal Hermitage account. (RT 21/25/9!@ 120:25121:25; 123:5-123:22)

**6** The Court admitted the Corporate Minutes of Ananda in advance based upon a stipulation of the parties. It is Exhibit QQQQ. Mr. Rockhill was to provide a copy to the Court. (RT 3/11/98@76:26-77:25) Plaintiffs counsel, having received no notice whether such has been done, submits herewith the copy of such documents that defendants produced pursuant to this Court's order. For ease of reference, while the order in which said documents were produced has not been altered, each page following Mr. Rockhill's secretary's February 27, 1998 letter is consecutively Bates-Stamped.

**7** Lila Hoogendyk is responsible for running the household at Crystal Hermitage and at Walters' request - communicated through Vidura - manages the finances for it. (Hoogendyk Deposition !c,19:14-18, 28:13-30:30) in the Spring of 1993, she took it over from Padma McGilloway. (P. McGilloway Deposition(it 1 5 1:23-152: 14) Pursuant to specific training. she provides multiple detailed monthly reports to Ananda\*s Financial Service Department. (Hoogendvk Deposition @31:1-32:22; 34:235:15)

Walters' music. No one else uses the recording studio. (Hoogendyk Deposition @51:22-2:10; 49:1-18)

The separate entrance to Walters' Crystal Hermitage apartment opens onto large, "very beautiful," and "well-maintained" gardens and swimming pool. (Hoogendyk Deposition @55:21-57:24) The Crystal Hermitage is "staffed" by maintenance people, gardeners, Walters' secretary, and Hoogendyk. (Hoogendyk Deposition @20:25-22:5; 56:4-6; 71:7-12)

Hoogendyk cooks for Walters and does his laundry. (Hoogendyk Deposition @52:13-16) Crystal Hermitage is not a public place and people cannot come to it without first having made an appointment to do so. (Hoogendyk Deposition @71:13-72:3)

Finally, Walters received a yearly "housing allowance" in the amount of \$29,000 which was almost five times as much as the next highest person receiving such allowance. (Defense Exhibit QQQQ @ 292)

### ***3. Ananda Church, A Tax Exempt Organization Owns The Crystal Clarity Publishing House Which Primarily Publishes Walters' Creative Works***

Ananda, a tax exempt organization, owns the Crystal Clarity publishing house which is "part of the Church." (RT 2/18/96 @ 50:2-23) Crystal Clarity is a non-profit division of the nonprofit corporation Ananda Church of Self Realization. (P. McGilloway Deposition@ 167:8-13) Crystal Clarity employees work at minimum wage. (RT 2/18/96 @36:21-24) Crystal Clarity publishes Swami's books and music. (RT 2/18/96 @55:12-16; Defense Exhibit QQQQ @ 331) The "focal point" of Crystal Clarity's market for Swami's books are the East-West Bookstores in Menlo Park, Sacramento and Seattle that are owned by Ananda, as well as other Ananda owned businesses. All service the 2,500 Ananda members. (RT 2/18/96 @, 43:10-45:17)

Walters appointed Alexandra E. "Padma" McGilloway as the Director of Crystal Clarity (P. McGilloway Deposition(a'78:20-21; 49:2-4) before appointing her to her current position as a Director of Ananda Seattle. (P. McGilloway Deposition@7:22-23)<sup>8</sup> Padma, wife of Ananda's first CPA Terry (...continued)

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<sup>8</sup> Apparently, Walters swapped positions of Padma McGilloway and current Crystal Clarity Director Katherine Steenstra. Padma moved to Seattle and Steenstra. who had managed East West (...continued)

McGilloway, (P. McGilloway Deposition@93:24-25), was "guided," if not "trained," in her direction of Crystal Clarity by Walters, Terry her CPA husband who was Ananda's corporate Treasurer in charge of the accounting department, Jyotish Novak and Vidura Smallen. (P. McGilloway Deposition @170:3-25, 184:7-25, 192:9-15, 209:11-24)<sup>9</sup>

### **Commingling And Diversion Of Tax Exempt Funds To Walters' Control And Benefit**

#### ***1. Crystal Clarity, Which Exists For The Purpose Of Promoting, Publishing, And Distributing Walters Creative Works For His Benefit, Operates At A Yearly Loss Which Is Balanced By Donations To The Ananda Church.***

Padma's successor, Katherine Steenstra, testified that "The Church" funds Crystal Clarity's operation." (RT 2/18/98@34:10-11) Crystal Clarity does not make enough money to pay its expenses and each year operates at a \$50,000-\$60,000 loss. (RT 2/18/96 @ 53:14-18) It is able to conduct its business in this manner because "The Church has been funding Crystal Clarity for its operation." (RT 2/18/96 @ 34:10-11) Thus, Crystal Clarity "owes the Church" for a \$1750,000 loan." (RT 2,18/96 @ 34:1-11)

Crystal Clarity is therefore unable to "meet out current obligations without fund raising and donations." (RT 2/18/96 @31:17-18) When Crystal Clarity goes out "to fund raise to pay that off," (RT 2/18/96 @54:13-17), the Ananda membership is told that "Crystal Clarity needs money because it is in debt [and doesn't] have enough money to pay expenses." (RT 2/18/96 @ 55:20-25) "The donations allow us to continue to publish and promote at the rate we are doing, yes." (RT 2/18/96 @7-16-22) Most of the donations "are paid payable to the Ananda Church." (RT 2/18/96 @51:13-18) It is in this context and manner that persons on behalf of Crystal Clarity "go out and do fund raising to get more money to balance the books." (RT 2/18/96 @ 56:18-23)<sup>10</sup>

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**8** ( ... continued)

Bookstore in Seattle and acted as member of the board of directors of the Seattle Church, headed up Crystal Clarity. (RT 2/18/98@ 34:25-35:2, 35:17-19, 47:14-18)

**9** Padma McGilloway managed bank accounts at both Crystal Clarity and Crystal Hermitage during the time she was "directing Crystal Clarity." (P. McGilloway Deposition a 82:2-8:12, 85:11-86:2 152:15-19) In addition, she had check signing authority both over Walters' personal account and the Ananda General Fund as to which she would be responsible for the making of entries on the general ledger. (P. McGilloway Deposition@97:16-98:18, 129:21-130:12, 204:9-15) Next after Padma, Lila Hoogendyk managed the Crystal Hermitage account. (P. McGilloway Deposition j 135:4-14)

**10** The "donors issuing tithe checks" made them payable to the "Thank: You God Account" and were deposited into the "church General Fund" over which Vidura had control. (P. McGilloway (...continued)

When conducting his co-mingling analysis, CPA Peters did not look at the manner in which donations made up the difference in Crystal Clarity's operating deficit. (RT 2,25/98@ 127:2-13) In fact, Peters testified that "there isn't any such thing." (RT 2/25/98@ 129:2-13) He also did not look at the general ledgers to ascertain the donations transferred from the General Fund to Crystal Clarity as part of his commingling analysis. (RT 2/25/98@125:11-25)

## ***2. Diversion Of Corporate Funds For Walters' Benefit***

### **a. Crystal Clarity "Tithes" Ten Percent Of Its Gross Revenues To The Crystal Hermitage "Discretionary Account" Controlled By Walters For His Benefit.**

Notwithstanding its practice of operating at a loss each year, Crystal Clarity transfers funds to an account within Walters' control. While Crystal Clarity does not pay sums directly to Walters, (P. McGilloway Deposition@156:17-20), ten percent of the income from money generated by the sales of his books was, and continues to be, deposited into the Crystal Hermitage account. (P. McGilloway Deposition@155:10-156:16) Padma testified that on a monthly basis she personally transferred 10% of Crystal Clarity's gross monthly income, which includes "more ... than just product sales," which she had been taught to characterize as "tithes"<sup>11</sup> from a Crystal Clarity bank account to the one and only Crystal Hermitage bank account.<sup>12</sup> (P. McGilloway Deposition@ 81:8-82:20, 148:17-150:13, 191:7-12) Katherine Steenstra testified that she does the same thing. (RT 2/18/98@35:13-16)

To date, each month, 10% of "Crystal Clarity's gross income" is tithed out to Crystal Hermitage. (P. McGilloway Deposition@82:12; Hoogendyk Deposition@38:13-39:11: RT [Steenstra] (...continued)

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**10** (...continued)

Deposition@ 125:21-126:10. 127:6-13; 129:9-130:2; Exhibit 127)

**11** Within Ananda Church a "transfer" and a "tithe" are looked at "as the same thing" because "it is just a different way of describing an inter funds transfer" notwithstanding the fact that in its books Ananda maintains a "separate column for inter funds tithe and inter funds transfer." (RT 2;25/98 @ 140:21- 141:11) On the Crystal Clarity side of the ledger, it is referred to as a "tithe" and on the Crystal Hermitage side it is referred to as a "royalty."

**12** The Crystal Hermitage had only one bank account. (P. McGilloway Deposition@146:1423, 151:5-7)

2/18/98@35:13-16)<sup>13</sup> Because Crystal Clarity is unable to "bring in enough revenue," and continues "to operate at a loss," while "10 percent of the gross revenues still go over to Crystal Hermitage," it relies on donations and fund raising "to counteract the discrepancy." (RT 2/18/96 @ 38:21-39:3)

On February 17 and 18, 1998, plaintiff's expert C.P.A. listened to the testimony of Padma McGilloway and Katherine Steenstra. On the basis of Steenstra's testimony "describing the flow of money, recording of tithing" (RT 2/18/98@98:17-101:6), he testified

I listened to the definition and the brief description of how the funding goes, and I can't see how one can make a statement about insolvency when you have got money going to and from the same entity and part of it is being treated as debt. It just boggles the mind. I can't - you can't have that. It is one in the same, this money going in both directions... The financial statements, looking at it in the context of a publishing company, they - lack cohesion and consistency. So I think my answer has to be no, I have never seen a publishing company statement that look like this .... I have never seen commingling like this.

(RT 2/18/98(c-73:7-74:13; see also RT 2/18/98@75:25-76:5; 78:9-19: 79:8-11)

The lack of separate and apart, yes, that is what I am calling when money starts to run in both directions and is not recorded on the publishing entity's books as an expense, or in any way, shape or form we can't even find where that money is going. And then we hear testimony that there are donations from this church and that is being recorded as a liability, there is a - there is a part that I am calling commingling because the money from both entities is being mixed in the same pot.

(RT 2/18/98 @80:7-18)<sup>14</sup>

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**13** Controller Peters never read the trial testimony of Katherine Steenstra or Padma's deposition testimony and in performing his co-mingling analysis never examined whether ten percent of Crystal Clarity's monthly income went to Crystal Hermitage. (RT 2/25/98@123:21-25, 125:11-126:21, 127:2-16; 131y:1-21, 135:15-136:1) He did not look at any of Walters' bank accounts. (RT 2/25/98:14-16) He also did not know what percentage of Ananda's General Fund was being paid into Crystal Hermitage. (RT 2/25/98@ 134:9-18) He said in order to ascertain the presence of co-mingling, a "detailed analysis of financial records, source documents and tracing transactions through the ledger" is necessary. (RT 2/25/98@116:10-23) He said co-mingling cannot be identified from simply looking at financial statements and that he looked at nothing else. (RT 2/25/98@124:17-22)

**14** Defendants will attempt to rebut this testimony by making the claim that further documentation has been provided to Mr. Rosenzweig that conclusively establishes there has been no comingling thus rendering his opinions impotent. This approach, however, will prove to be fallacious.

On March 11, 1998, in the presence of Ananda Controller Sean Peters, Mr. Rosenzweig testified that he looked at some evidence regarding Crystal Hermitage accounts 4015, 4017, and 4025. Referring to both the Warner and Workman advances, he testified that "4017 was designated on the transaction that we saw as royalties, and the 4000 series is an income series" and the "4025 account, which was an intra church tithe of royalties, also an income account." (RT 3 11, 98@c ,7:6-19)

The 4025 account reflected "the income paid by Crystal Clarity to Crystal Hermitage in the way of ten percent royalties" and was labeled as "royalties" and "tithes." (RT 3/11/98@8:22-9:5: 14:1-8) Instead (...continued)

Ananda CPA Peters made no effort to ascertain whether or not it was true as testified to by Padma McGilloway and Katherine Steenstra, that 10 percent of the gross monthly income of Crystal Clarity was transferred to Crystal Hermitage. (RT 2/25/98 @ 131:2-21)

b. The General Fund Tithes To Crystal Hermitage

Money raised as donations was deposited into the Ananda General Fund account. (P. McGilloway Deposition@202:14-16) According to Padma, who from 1986 to 1993 maintained the accounts regarding, and signed the checks from, the General Fund account and deposited them into the Crystal Hermitage account, the General Fund tithed a percentage of its gross monthly income, which included "donations received," to the Crystal Hermitage each month. (P. McGilloway Deposition@131:11-133:20, 134:1135:11, 137:10-139:23) She claims that she received no instructions but "just did it" on her own "partly" because "it was done by someone before [her]" and she was told by her husband and Sonia Wiberg to do it. (P. McGilloway Deposition@141:b-16, 142:2-7, 143:3-9) She would routinely inform Walters "about

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<sup>14</sup>( ... continued)

of showing upon the year-end trial balance 4025 simply disappeared. (RT 3/11/98@14:9-16:11) In addition, there was no "supporting documentation to support where those ten percent royalties slash tithes went." (RT 3/11/98@16:25-19:22) When Mr. Rockhill called Controller Peters, he asked no questions about account 4015 or 4025. (RT 3/11/98@ 38:21-42:24)

On cross-examination Peters said that 4015 and 4016 were inter fund transfer accounts (RT3/11/98@52:5-11) and that the tithe from Crystal Clarity to Crystal Hermitage would show up as an inter fund transfer in consolidated account 9414. (RT 3/11/98@53:14-54:6)

At the hearing's conclusion, Mr. Rosenzweig explained to the Court that he needed transaction registers which pertained to accounts 4015, 4017 and 4025 and a Chart of Accounts for Crystal Hermitage. (RT 3/11/98@80:5-24) When the Court inquired of Mr. Peters "whether or not there exist some documentation which is being called for by Mr. Rosenzweig?" Peters directed the Court to the consolidated account 4500, and did not mention the accounts to which 4015 and 4025 consolidate. (RT 03/11/98@83:6-1, 84:7-22) Thus, the Court's order was limited to consolidated account 4500 and, since 4015 and 4025 consolidate to another account, no documentation of the underlying transactions was produced. Thus, on March 13, 1998 Mr. Peters produced underlying documentation for account 4017 only. (Exhibit A to Greene Declaration)

Based on the Chart of Accounts for Crystal Hermitage that he also produced, it can be readily seen that plaintiff was precluded from analyzing 4015 (" I/F Donations Thank You God") which consolidates into 9410 and from analyzing 4016 ("I/F Royalties From CC") which consolidate into 9130. (Exhibit A to Greene Declaration)

By either a mistake or an adroit direction of the attention of Court, Mr. Peters did not have to produce the underlying documentation regarding the ten percent tithes testified to by Padma McGilloway and Katherine Steenstra. Instead, plaintiff received underlying documentation for product sales from the Crystal Hermitage Museum. Based on the Chart of Accounts, and the testimony of McGilloway, Steenstra and Hoogendyk, however it is apparent that there are multiple interfund transfers from multiple Intra-Ananda departments to Crystal Hermitage for which no transaction lists were provided. (The Chart of Accounts is attached as Exhibit A to Greene Declaration)



the financial status of the Crystal Hermitage account." (P. McGilloway Deposition@ 143:18-144:12) Ananda CPA Peters did not check to see how much of the General Fund was paid into the Crystal Hermitage. (RT 2/25:98@134:9-18)

### ***3.Repayment Of Walters' "Loans"***

Padma testified that while no payments as a salary were made to Walters from Crystal Hermitage, "loan repayments or expense reimbursements" were paid for which she wrote checks personally payable to him. (P. McGilloway Deposition@86:14-87:21) The "loan repayments" ranged in value from "hundreds of dollars" to 22,000."(P. McGilloway Deposition@ 94:3-2 1) Although the balance of Swami's loans "got into the many tens of thousands," or in the aggregate possibly as much as a million dollars, Padma never saw a note signed by the church to the swami that documented any of the loans. (P. McGilloway Deposition@95:15-17, 172:172:22-23, 175:4-14) She never saw a check payable to the church from Walters although she did see checks from him to Crystal Hermitage. (P. McGilloway Deposition@96:1497:18) Sometimes she would call the bank and instruct them to transfer money from one account maintained by the church to another account personally maintained by Walters. She would do so "When he was out of the country, occasionally, to pay a loan." (P. McGilloway Deposition@99:7-25) Nobody told her to write checks to Walters. No church leader told her to transfer money from a church account to a Walters account. (P. McGilloway Deposition@100:1-22)

Walters turned over a \$.250,000 inheritance to Ananda as a "donation" (P. McGilloway Deposition@ 175:24-176:21, 178:11-180:10) "Every time he turned over money" Swami would tell Padma to book money that he transferred to Ananda as either a "loan" or a -donation- and she would do as he said. (P. McGilloway Deposition@ 182:14-183:11)

Ananda CPA Peters has never conducted any analysis to determine whether or not loans were actually ever made by Walters to the Church or Crystal Clarity. (RT 2.25 97@136:12-17, 139:9-13)

Sometimes Crystal Clarity would "send over ...imaginary numbers ... like 550,000 and then later Crystal Hermitage would send back five thousand or ten thousand." (RT 2:25 98@ 112:4-13)

#### ***4. Payment Of Judgment Against Walters***

Ananda CPA Peters testified that Ananda would pay the compensatory damage award that the jury rendered against Walters. (RT 2/10/98(&60:16-62:5))

##### **c. Failure To Follow Corporate Formalities With Respect To Insider Transactions And Transfers Of Money**

The Ananda Church does not "usually have formal board meetings." (RT 2/24/98@ 17:14-15) Padma McGilloway did not have any written contract with Crystal Clarity or the church to be Director of Crystal Clarity or any documentation that defined her authority as Director of Crystal Clarity. (P. McGilloway Deposition@ 169:16-24) Walters, Terry McGilloway, Jyotish and Vidura guided her as to how she should fulfill her position at Crystal Clarity. (P. McGilloway Deposition@ 170:3-25) She never attended any Board of Directors meeting for the Ananda Church. (P. McGilloway Deposition@ 171:2172:1)

##### ***1. Transfers From The General Fund To Crystal Hermitage***

There are no corporate resolutions, memoranda, letters, or any sort of documentation from Ananda's board of directors authorizing the tithing of 10 percent of the income to the Crystal Hermitage account. (P. McGilloway Deposition@ 83:20-84:20) No person, including members of the Board of Directors, told her to transfer a percentage of the funds from the General Fund to the Crystal Hermitage account. She did not make such transfers based on any corporate resolution, minutes, or contract. She made the transfers because persons before her had made them even though she did not know why. (P. McGilloway Deposition@ 141:6-145:11)

There is no corporate authorization for the transfer of donations from the Ananda Church to Crystal Clarity's bank account. (RT 2/25/98 cv 126:6-10)

##### ***2. Transfers From Crystal Clarity To Crystal Hermitage***

There is no written documentation of any sort between Walters and Ananda with respect to the manner in which the royalties produced by the sales of Walters works are handled. She never saw a contract between Walters and Crystal Clarity and Walters to publish any of his books. (P. McGilloway Deposition@d, 156:'3-157:19) Jyotish was never at a board meeting where the issue of Crystal Clarity (...continued)

income was discussed. (Jyotish John Novak Deposition at 42; RT 2/24/98@19:26-22:10) Jyotish was never at a board meeting where the issue of income from Walter's copyrighted materials was discussed. (Jyotish John Novak Deposition at 43-45) Although Jyotish has discussed the issue with Walters, he can recall no board meeting or corporate action where the issue of the 10% tithes from Crystal Clarity to Crystal Hermitage was discussed. (RT 2/24/98@17:16-18:25) Jyotish never talked to Vidura about how much money Walters should receive as royalty payments. (RT 2/24/98@24:16-26:12)

Vidura says there was no discussion at any board meeting as to payment of corporate funds to Swami. (Vidura John Smallen Deposition at 21-24.) Vidura has never seen royalty contract "between the church and Swami" as a board member, a corporate resolution, or at a meeting authorized payment to Swami of royalty income. Vidura doesn't know how much money has been paid to Swami. (Vidura John Smallen Deposition at 26-27.) Vidura has never seen any document - memo, contract, resolution, or minutes of meetings - relating to the donation of royalties by the Swami to the "church." (Vidura John Smallen Deposition at 31.)

Even though she saw, or on behalf of Crystal Clarity wrote, distribution agreements for another author named Kamala Silva, there was never any distribution agreement or any other agreement with Walters. (P. McGilloway Deposition@ 160:14-164:13) There was no agreement between Crystal Clarity and Jyotish John Novak regarding the book, How To Meditate even though he received a 10 percent royalty. (P. McGilloway Deposition@ 164:22-167:7) She never gave any money to Haridas from Crystal Clarity's publication of his tape entitled "River Of Joy." (P. McGilloway Deposition@ 169:3-9) She would make decisions to transfer money without any sort of corporate authorization. (P. McGilloway Deposition@ 168:17-169:2) Jyotish does not know how any percentage of royalties was determined (Jyotish John Novak Deposition at 37) and does not even know what the arrangement is with respect to Crystal Clarity's payment of royalties to Swami. (Jyotish John Novak at 37)

### *3 Transfers From Crystal Hermitage To Swami*

When Padma would transfer funds from the Crystal Hermitage bank account to repay Walters for his "loans" she obtained her instructions to do so from herself She never saw a check payable to Ananda Church of Self Realization from Walters. She never saw a note signed by Ananda in favor of Walters.

The only basis for her repayment of loans were entries in the general ledger of Crystal Hermitage. (P. McGilloway Deposition@90.20-91:21, 95:5-96:23)

There has been no authorization by the Ananda Board of Directors for the repayment of any loans to Walters. (RT 2,24,98@ 15:6-11, 32:23-33:25)

Vidura has never thought that he has a corporate responsibility to check on how much of the corporate money has gone to Swami during his tenure. (Vidura John Smallen Deposition at 46.)

#### *4. Decisions To Employ Counsel For Walters In Litigation*

On February 24, 1998, Ananda vice-president and director Jyotish Novak testified that the board of directors never authorized payment of Walters' defense in the instant litigation. (RT 2/24/98@37:9-15)

On February 24, 1998 Jyotish testified that there had never been any board meeting wherein the issue of using the same lawyer to represent Walters and Ananda was discussed, (RT 2/24/98@ 38:2-7), never had been any board meeting were the issue of paying for Walters' defense from church money was discussed, (RT 224/98@39:10-17), and that he did not know of any "documentation, minutes, corporate minutes, corporate resolutions, any documentation which ratifies, confirms, or authorizes church funds to be paid to one lawyer to represent both the church and Swami Kriyananda." (RT 2/24/98@39:18-24)

On February 25, 1998 the Ananda Board of Directors held a special meeting at Mr. Rockhill's office in which pursuant to Corporations Code section 9246 it voted to indemnify Walters for all attorneys' fees and expenses in both the instant litigation and the litigation with Self Realization Fellowship. (Defense Exhibit QQQQ @ 175) Prior to this, no corporate action had been taken authorizing the employment of any lawyers in the instant litigation for Walters, Ananda or anyone else. (Defense Exhibit QQQQ in its entirety)

As to the SRF litigation, there was never any corporate decision made regarding the employment of legal counsel for Walters. (Defense Exhibit QQQQ @ 375)

There was never any corporate authorization to bring an action on Walters' behalf, personally. In the instant litigation, from December 28, 1994 through October 1, 1997 a Cross Complaint was litigated against Ms. Bertolucci which personally named Walters as a Cross-Complainant. Likewise as to the SRF litigation, there was never any corporate authorization to bring any action of Walters' behalf personally (...continued)

notwithstanding the fact that a Cross Claim was brought personally in his name.

Walters was, along with the other leaders, a member of the "Litigation Committee" that addressed both cases.

d. Use Of The Same Business Location, Same Employees, And Same Attorneys

It is clear from the testimony that the sexual misconduct engaged in by Walters generally took place at the Crystal Hermitage. It is also clear that Ananda and Walters have used the same attorneys in the instant litigation as well as in the litigation with SRF. (Request for Judicial Notice) Indeed, the litigation is managed by Ananda's "Litigation Committee" the members of which are Walters, Jyotish and Devi Novak, Vidura and Durga Smallen, Asha and David Praver, Cathy Parojinog, Kesheva Michael Taylor, Jon Parsons and Sheila Rush. It approved the filing of the Cross-Complaint for defamation against Ms. Bertolucci in the instant litigation without ever asking Walters how he had been damaged. (Walters Deposition@1119:17-1122:9; Devi Novak Deposition@103:8-13, 111:8-18, 127:5-16; Asha Prayer Deposition @.107:17-24) Payment for legal expenses on Walters' behalf is made through donations made to Ananda Church's "Master for the World" account. (Defense Exhibit QQQQ @ 331) Although there is an advisory committee for Crystal Clarity on which sits Jyotish and not Walters, (RT 2/24/98@30:16-20), it was Walters who moved Ms. Bertolucci out of Crystal Clarity and into the Computer Department. (RT 2/24/98@31:5-23)

e. Use Of Corporate Employees For Sex

Sex with devotees not within Ananda's corporate purpose. (Thomas W. Oesterle Deposition at 8788) It is beyond dispute that Walters used corporate employees for sexual service. He would use the corporate entity to recruit them, then assign them jobs for which there were remunerated very little, and ultimately use them for sex. <sup>15</sup>

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**15** Kamala Willey was recruited in San Jose through an advertisement (RT 11 21/97 @ 10:11 1:18) after which she read Walters' books while at Ananda. (RT 11/21; 97'a 14:3-15:10) Subsequently, she went to work for the community in a variety of jobs including publications. (RT 11/21, 97@22:2423:22) She worked 80 hours and was paid \$30 per week. (RT 11/21/97,@ 24:19-24) Ultimately, Kamala became Walters' housekeeper doing his laundry, cooking, cleaning, dishes, and floors. (...continued)

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