



relief from this Court. (Kaelin Decl. ¶8, Dkt. 73). As a result of Kaelin's mistake, this Court considered the notice of his bankruptcy and pending motion as a request for relief from this Court, in response to which the Court entered its Order (Dkt. 80).

Kaelin requests that this Court permit his pleading (Dkt. 73) to serve its intended purpose as notice of his bankruptcy filing, and set aside the Order entered in response to the pleading due to Kaelin's mistake.

This motion is based on the attached Declaration and exhibits attached thereto and upon such oral and documentary evidence as may be allowed at the hearing of this motion.

The Movant Charles Martin Kaelin conferred with counsel for the SEC, counsel for Receiver Thomas Taylor, and the individual named defendants. Both Plaintiff and the Receiver oppose this motion and are opposed to the relief requested herein.

WHEREFORE, premises considered, Charles Martin Kaelin respectfully request that this Court consider this motion and set aside its order (Dkt. 80) and deem Kaelin's pleading (Dkt. 73) to be filed as a notice of bankruptcy and pending motion by Kaelin, and enter Kaelin's proposed Order attached hereto as Exhibit A, and for all other relief, at law or in equity, to which Debtor shows himself entitled.

DATED: 3 June, 2014.

  
Charles Martin Kaelin  
11708 Rydalwater Lane  
Austin, Texas 78754  
(512) 554-2976  
Email: [cmkaelin47@gmail.com](mailto:cmkaelin47@gmail.com)





in Support of my Motion to Set Aside Order Due to Mistake filed herein. I am proceeding in this action pro se as a movant only, asking this Court to set aside the order entered in response to my filing.

2. My spouse is Janniece S. Kaelin, a defendant under receivership herein. The Receiver has asserted claims and control over my property, as well as all community property owned by me with my spouse.

3. I filed for bankruptcy protection on May 19, 2014 in Case No. 14-107-87- hcm in the U.S. Bankruptcy Court, Western District of Texas in Austin. (*See Exhibit A*). I provided notice of my bankruptcy filing to the Receiver on May 21, 2014. On the afternoon of May 22, I learned that the Receiver was proceeding on his Motion to Amend Order Appointing Receiver (Dkt. 60), and his Opposed Motion: (1) For Authority to Sell Oil and Gas Interests; (2) For Authority to Retain Sales and Marketing Firm; and (3) For Approval of Sales Procedures (Dkt. 69) and the hearing was scheduled for May 27, 2014.

4. The Receiver's motions, if granted, would adversely affect my property and my ability to successfully complete my Chapter 13 plan. Therefore, I filed my original Motion to Enforce Automatic Stay Against Receiver on Friday, May 23, 2014 in the bankruptcy proceeding, not in this Court, asking the *bankruptcy court* to enter an order prohibiting the Receiver from proceeding on his motions. (*See Exhibit B*). I was unable to get a hearing on Friday, May 23, 2014. The next business day to request a hearing was Tuesday May 27, the day of the Receiver's motions.

5. Due to the emergency nature of the May 23<sup>rd</sup> filing and the limited time to I had to prepare the motion, my original motion did not fully convey the facts supporting my argument to the bankruptcy court. Since I was unable to get a hearing on May 23, 2014, I revised my pleadings over the holiday weekend, and prepared and filed my 1<sup>st</sup> Amended Motion to Enforce Automatic Stay Against Receiver on May 27<sup>th</sup>, 2014 in the bankruptcy action, and once again attempted to get a hearing before the bankruptcy court. (*See Exhibit C*).

6. After filing my 1<sup>st</sup> amended motion in bankruptcy court, I was again unable to get a hearing with a judge in that court. At that time, *the bankruptcy clerk suggested that I file a "notice copy" of my bankruptcy motion in the District Court, and for me to attend the hearing on the Receiver's motions* in order to ensure notice of my bankruptcy and my pending bankruptcy motion. I obtained an extra file-stamped copy from the bankruptcy clerk for that purpose.

7. When I tried to file a copy of the bankruptcy motion with the district clerk, I was told that my pleading required a "cover sheet" and certificate of service in order for the filing to be accepted. I am not a party to this action, but since my spouse Janniece S. Kaelin is a defendant in this suit, I was told by the district clerk that my spouse should prepare the handwritten cover sheet and certificate of service. Dkt 73, pages 1 and 2). My spouse did as directed.

8. My pleading, however, was directed to the bankruptcy court alone, and did not request relief from any other court, including this Court. The caption on my motion named the bankruptcy court with jurisdiction over my bankruptcy, the footer on my motion described the case number for my bankruptcy proceeding, and my proposed order was designated for the

bankruptcy judge's signature. The relief I requested was directed to the bankruptcy court alone, and the only reference indicating that my pleading was directed to this Court was the handwritten pages completed by my spouse, as suggested and required by the clerk.

9. The pleading considered by this Court (Dkt. 73) on May 27, 2014 was only intended to notify the Court that I had filed for bankruptcy protection, and that I had filed the subject motion in the bankruptcy court.

10. Plaintiff notified my spouse that I had failed to confer before filing the pleading. Only then did I realize my mistake, and that the parties believed I was requesting relief from the Court. I directed my spouse, as a party to this action, to communicate my error to all other parties via email, and requested assistance regarding my mistake. (*See Exhibit D*).

11. Compounding my mistake, I inadvertently filed a duplicate original as my notice copy with this Court, instead of filing a file-stamped copy of my 1<sup>st</sup> amended motion with this Court. It was only after my spouse obtained a copy of my pleading (Dkt 73) from PACER that I realized that I had filed a duplicate original motion by mistake instead of a file-stamped copy. My mistakes likely caused the parties and the Court to mistake my notice filing for a motion requesting relief from this Court.

12. It was only after I realized that the Court had prepared and entered its own order (Dkt. 80) granting an emergency hearing and denying further relief that I realized the Court had in fact acted on my pleading.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 2, 2014.

*Charles Martin Kaelin*

Charles Martin Kaelin

11708 Rydalwater Lane

Austin, Texas 78754

(512) 554-2976

Email: [cmkaelin47@gmail.com](mailto:cmkaelin47@gmail.com)

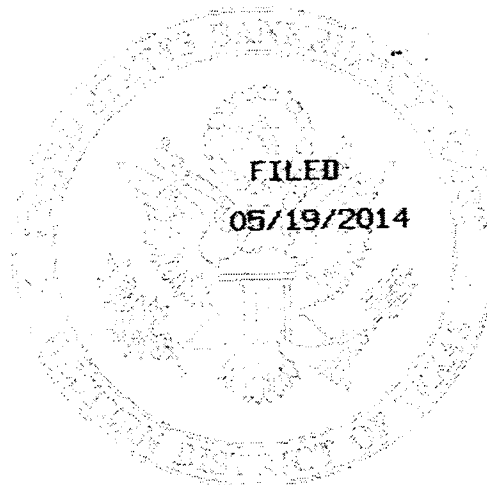


United States Bankruptcy Court  
Western District of Texas

**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 13 of the United States Bankruptcy Code, entered on 05/19/2014 at 2:12 PM and filed on 05/19/2014.

**Charles Martin Kaelin**  
11708 Rydalwater Lane  
Austin, TX 78754  
512-554-2976  
SSN / ITIN: xxx-xx-9221



The bankruptcy trustee is:

**Deborah B. Langehennig**  
Barton Creek Plaza II, Suite 320  
3801 Capital of Texas Highway South  
Austin, TX 78704-6640  
(512) 912-0305

The case was assigned case number 14-10787-hcm to Judge H. Christopher Mott.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.txwb.uscourts.gov> or at the Clerk's Office, 903 SAN JACINTO, SUITE 322, AUSTIN, TX 78701-0.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Yvette M. Taylor**  
Clerk, U.S. Bankruptcy  
Court

EXHIBIT A

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

MAY 23 2014

IN RE:

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Case No.: 14-10787-hcm

Kaelin, Charles Martin  
Debtor

Chapter 13

U.S. BANKRUPTCY COURT  
BY                      DEPUTY

**MOTION TO ENFORCE AUTOMATIC STAY AGAINST RECEIVER**

TO THE HONORABLE COURT:

NOW COMES Charles Martin Kaelin, Debtor ("Kaelin") and moves this Court for an Order directing the Thomas L. Taylor, III prohibiting him from proceeding to trial on two motions currently scheduled for May 27, 2014 in U.S. District Court for the Western District of Texas, Austin Division. That hearing, and the relief requested by Thomas L. Taylor in the hearing are in violation of the automatic stay and will directly affect and impair Debtor's property belonging to the bankruptcy estate. In support of this motion Debtor shows the Court the following:

Debtor's spouse is Janniece S. Kaelin ("JSK"). She is currently subject to a court ordered receivership now pending in the following action:

*Securities and Exchange Commission, Plaintiff v. Robert A. Helms, Janniece S. Kaelin, Deven Sellers, Roland Barrera, Vendetta Royalty Partners, Ltd., Vendetta Royalty Management, LLC, Vesta Royalty Partners, LP, Vesta Royalty Management, LLC, Iron Rock Royalty Partners, LP, Iron Rock Royalty Management, LLC, Arcady Resources, LLC, Barefoot Minerals, GP, G3 Minerals, LLC, Haley Oil Company, Inc., Lake Rock, LLC, Sebud Minerals, LLC and Technicolor Minerals, GP., Defendants, and William Barlow and Global Capital Ventures, LLC as Relief Defendants, solely for the purposes of equitable relief, Cause No. A13CV1036LY, In the United States District Court for the Western District of Texas Austin Division ("SEC v Helms et al").*

EXHIBIT B

In Re: Kaelin, Charles Martin, Debtor  
Case No.: 14-10787-hcm  
Page 1

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

**FILED**

MAY 27 2014

IN RE:

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Case No.: 14-10787-hcm

Kaelin, Charles Martin  
Debtor

Chapter 13

U.S. BANKRUPTCY COURT  
BY                      DEPUTY

**FIRST AMENDED MOTION TO ENFORCE AUTOMATIC STAY AGAINST  
RECEIVER AND FOR EMERGENCY HEARING**

TO THE HONORABLE COURT:

NOW COMES Charles Martin Kaelin, Debtor ("Kaelin") and moves this Court for an Emergency Hearing for an Order prohibiting Thomas L. Taylor, III from proceeding to trial on two motions currently scheduled for May 27, 2014 in U.S. District Court for the Western District of Texas, Austin Division. Those motions, and the relief requested therein by Thomas L. Taylor, III will directly affect and irreparably impair Debtor's property belonging to the bankruptcy estate and violate the automatic stay of Debtor's bankruptcy action. In support of this motion Debtor shows the Court the following:

Debtor's spouse is Janniece S. Kaelin ("JSK"). JSK, her personal and real property as well as her interests in several business entities are currently subject to a court-ordered receivership now pending in the following action in the United States District Court for the Western District of Texas, Austin Division:

*Securities and Exchange Commission, Plaintiff v. Robert A. Helms, Janniece S. Kaelin, Deven Sellers, Roland Barrera, Vendetta Royalty Partners, Ltd., Vendetta Royalty Management, LLC, Vesta Royalty Partners, LP, Vesta Royalty Management, LLC, Iron Rock Royalty Partners, LP, Iron Rock Royalty Management, LLC, Arcady Resources, LLC, Barefoot Minerals, GP, G3 Minerals, LLC, Haley Oil Company, Inc., Lake Rock, LLC, Sebud Minerals, LLC and Technicolor Minerals, GP., Defendants, and William*

EXHIBIT C



Janniece Kaelin &lt;janniecekaelin@gmail.com&gt;

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**SEC v. Helms, et al.**

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Janniece Kaelin &lt;janniecekaelin@gmail.com&gt;

Thu, May 29, 2014 at 2:18 AM

To: "McCole, Timothy S." &lt;McColeT@sec.gov&gt;

Cc: Roland Barrera &lt;barrera.roland@gmail.com&gt;, "DevenSellers@comcast.net" &lt;DevenSellers@comcast.net&gt;, "Davis, Christopher A." &lt;DavisCa@sec.gov&gt;, Robert Helms &lt;roberthelms1964@gmail.com&gt;, "Thomas L. Taylor III" &lt;taylor@tlrtaylorlaw.com&gt;

Mr. McCole -

I am sorry about the lateness of my response. The neighbor we borrow the computer from didn't get home till late this evening.

I am attaching my proposed Motion to Set Aside Clerk's Entry of Default for your review as well as for Mr. Taylor, Robert, Mr. Sellers and Mr. Barerra. As you stated in your email, the SEC will supposedly not oppose this motion, and it is in line with Robert's earlier email communication about my allegations regarding the IRS matter in paragraph 37 of the SEC complaint.

Please everyone review my motion at your earliest convenience and let me know whether I can file this unopposed, or whether I need to request a hearing.

I intend to file this pleading with the court Wednesday May 29, 2014.

Next, with respect to your comments about the "motion" that was filed May 27, 2014 and my failure to confer:

My husband Marty Kaelin filed that pleading in bankruptcy court that same morning, trying to get an emergency hearing before a bankruptcy judge. After filing with the bankruptcy clerk's office, we were told that there were no judges available for a hearing, but that we should file a copy with the District Court before the receiver's hearing that day, just to let the district court judge know what was going on. He got an extra file-stamped copy for the district clerk after filing in bankruptcy court.

However, when we went to court, and Marty tried to file it with the clerk in the district court, she told us that the pleading needed a "cover sheet" and a certificate of service with the bankruptcy pleadings, and with the heading of the SEC case, or else she would not let him file it.

Since I am a party in the suit (and Marty isn't) we were also told to use my name to get it filed, which I then did.

It was not until Marty came out of court afterwards and told me Judge Yeakel "granted the emergency motion" that we understood that the district court mistook his intended "notice copy" as a motion for Judge Yeakel's court. The motion from Marty doesn't ask the district court to do anything, it is all directed to the bankruptcy judge.

Neither Marty, nor I intended to file the copy of the bankruptcy pleading as a motion for the district court judge to rule on, it was only supposed to be a "notice" to the district court judge that Marty had filed that pleading in the bankruptcy court, and was trying to get an emergency hearing there. That is what he understood the bankruptcy clerk told him to do.

However, in the confusion about adding a cover page and proof of service, he failed to file the filemarked copy of the bankruptcy pleading with the district clerk, and without that apparently everyone, including the judge, thought he was asking the district court for relief.

**EXHIBIT D**

Obviously, if you read the actual pleading that was typed and signed by Marty (and not the handwritten "cover page" and proof of service we were told to add by the clerk) the top of the pleading names the bankruptcy court, and also the proposed order has a signature line for the bankruptcy judge.

I spoke with the same bankruptcy clerk today on another matter, and she told me we should have had Marty do a cover sheet with the SEC case on it, not me, and titled the pleading "notice of non-party bankruptcy filing" or something to that effect to avoid the confusion at the hearing.

That's why no one conferred with any party, since the motion was never intended to be a pleading for the judge to rule on. Considering the pleadings weren't intended for him, I don't know what effect, if any, the pleading has had in the SEC case. Should Marty explain this to the judge as well? Should Marty send him a letter?

Janniece Kaelin

512-554-2976

[Quoted text hidden]



**JSK Motion to Set Aside Entry of Default Kaelin.pdf**

1035K

**CERTIFICATE OF SERVICE**


I hereby certify that on June ~~2~~<sup>3</sup>, 2014 I filed the foregoing document with the Clerk of the Court for the Western District of Texas, Austin Division and that I notified all parties in the manner listed below:

By Email:

Timothy S. McCole  
Christopher Davis  
801 Cherry Street  
Fort Worth, Texas 76102  
*Counsel for the Securities and Exchange Commission*

Thomas L. Taylor III Court-Appointed Receiver  
4550 Post Oak Place Drive, Suite 241  
Houston, Texas 77027-3117  
[info@vendettaroyaltyreceivership.com](mailto:info@vendettaroyaltyreceivership.com)  
*Counsel for Defendants Vendetta Royalty Partners, Ltd., Vendetta Royalty Management, LLC, Vesta Royalty Partners, LP, Vesta Royalty Management, LLC, Iron Rock Royalty Partners, LP, Iron Rock Royalty Management, LLC, Arcady Resources, LLC, Barefoot Minerals, G.P., G3 Minerals, LLC, Haley Oil Company, Inc., Lake Rock, LLC, Sebud Minerals, LLC and Technicolor Minerals, G.P.*

Robert A. Helms, Janniece S. Kaelin, Deven Sellers, Roland Barrera and William Barlow  
*Pro Se Defendants*

  
Charles Martin Kaelin  
11708 Rydalwater Lane  
Austin, Texas 78754  
(512) 554-2976  
Email: [cmkaelin47@gmail.com](mailto:cmkaelin47@gmail.com)