

CAUSE NO. 19-DCV-266793

GEN FU ZHANG, LIMIN WANG, and
CHICHI CHICKEN, INC.,

Plaintiffs,

v.

PETERSON NEW TERRITORY
INVESTORS, LP and THOMAS

L. HUNT, Substitute Trustee,

Defendants.

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

268th JUDICIAL DISTRICT

ORDER GRANTING PETERSON'S MOTION FOR SANCTIONS

After considering Defendant, Peterson New Territory Investors, LP's ("Peterson"), Motion for Sanctions, Plaintiffs and their attorney's response, and the evidence and arguments presented at oral hearing, the Court **GRANTS** the Motion and **AWARDS** sanctions against Gen Fu Zhang and Paul B. Rosen in the amounts, and for the reasons, set forth below:

A. Findings in Support of Sanctions under Texas Rule of Civil Procedure 13 and Chapter 10 of the Texas Civil Practice and Remedies Code.

1. The Court awards sanctions to Peterson against Mr. Zhang and Mr. Rosen for violations of Rule 13 of the Texas Rules of Civil Procedure ("Rule 13") and Chapter 10 of the Texas Civil Practice and Remedies Code ("Chapter 10"), in the amount of \$140,000. Good cause exists to impose these sanctions, as explained below.

2. The Court finds that the following pleadings and motions filed with this Court violated Rule 13 and Chapter 10:

- a. Plaintiffs' Second Amended Petition and Request for Temporary Restraining Order with Request for Disclosure and Plaintiffs' subsequent Amended Petitions;
- b. Plaintiffs' Original Answer, Special Answer, Affirmative Defenses, and Counterclaim;
- c. Plaintiffs' Motion for Partial Summary Judgment and, in particular, the affidavits filed in support;
- d. Plaintiffs' First Amended Motion for Partial Summary Judgment and, in particular, the affidavits filed in support;

- e. Plaintiffs' Response to Defendant's Motion for Partial Summary Judgment and, in particular, the affidavits filed in support;

3. The Court finds that Gen Fu Zhang perjured himself in the declaration that he provided in support of Plaintiffs' Second Amended Petition and Request for Temporary Restraining Order with Request for Disclosure. Among other things, Gen Fu Zhang falsely claimed that he had no knowledge that the property located at 13914 Normandy Court would be used as collateral, that Peterson knew that he and his wife were residing at the property at the time the lease transaction was made, that he had not authorized Tina Chang to sign a guarantee on his behalf, and that he had "unwittingly" signed a power of attorney. These statements were later contradicted by Gen Fu Zhang's own testimony at the temporary injunction hearing and at his deposition. Not only did Gen Fu Zhang specifically admit that his son, Rujia Zhang, told him in 2017 that Peterson would only sign the lease if Gen Fu Zhang put up the Normandy property as collateral, but Gen Fu Zhang's statements are also contradicted by contemporaneous emails between Gen Fu Zhang's agents, Rujia Zhang and Tina Chang, during negotiations with Peterson regarding the lease transaction in 2017, which demonstrate that Gen Fu Zhang's agents proposed using the Normandy property as collateral for the lease transaction. The false statements in the Second Amended Petition were then repeated in Plaintiffs' Third and Fourth Petitions.

4. The Court finds that Gen Fu Zhang also perjured himself in the declaration that he provided in support of Plaintiffs' Original Answer, Special Answer, Affirmative Defenses, and Counterclaim. Among other things, Gen Fu Zhang falsely claimed that he had no knowledge that the Normandy property would be used as collateral, that he had never received any financial benefit from the ChiChi Chicken lease, and that Peterson had concealed that it would require him or his agent to execute a Note and Deed of Trust. These statements are contradicted both by Gen Fu Zhang's own deposition testimony and contemporaneous emails from the lease negotiations, which demonstrate not only that Gen Fu Zhang and his agents were aware that the Normandy property would be used as collateral but that Gen Fu Zhang's agents had proposed using the Normandy property as collateral to facilitate the lease transaction. The Court finds that Mr. Zhang signed the declarations described above knowing that they contained multiple untrue statements. Sanctions are appropriate for this misconduct pursuant to Chapter 10 and Rule 13.

5. The Court finds that Rujia Zhang perjured himself in the declaration that he provided in support of Plaintiffs' June 9, 2020 Motion for Partial Summary Judgment. Among other things, Rujia Zhang falsely claimed that he had never discussed the lease transaction with Peterson and that there had never been any discussion with Peterson regarding placing a lien on the property located at 13914 Normandy Court. These statements are contradicted by Rujia Zhang's own emails that he wrote to Peterson in 2017 as well as deposition testimony from his father, Gen Fu Zhang.

6. The Court finds that both Gen Fu Zhang and Rujia Zhang committed perjury during the April 8, 2020 hearing on Plaintiffs' request for a temporary injunction. Rujia Zhang falsely testified that he never would have allowed his father to sign a power of attorney authoring Tina Chang to use the Normandy property as collateral. This false claim is directly contradicted by Rujia Zhang's contemporaneous 2017 emails to Peterson. Likewise, in an effort to bolster his homestead defense, Gen Fu Zhang falsely testified that he had lived in the United States three to

four months a year since purchasing the Normandy property in 2005. This claim was later revealed to be false when Gen Fu Zhang provided sworn interrogatory answers that showed Gen Fu Zhang had spent less 49 days a year in the United States over the last 15 years. Gen Fu Zhang also falsely testified that the Normandy property was co-owned by himself and his wife—a claim that was later shown to be false by property records recorded with Fort Bend County.

7. Mr. Rosen failed to reasonably investigate the law and facts asserted on his clients' behalf in several material respects. For example, his clients' primary argument for securing a temporary injunction from this Court was that Gen Fu Zhang and his son, Rujia Zhang, had no knowledge that the Normandy property would be used as collateral in the lease transaction—a claim that was later shown to be false by emails from Rujia Zhang that were produced in this case. Plaintiffs also argued at the hearing that they had continuously occupied the Normandy property as their homestead since 2005—a claim that had no basis in fact and one which Mr. Rosen could easily have verified by examining his clients' travel records. Had Mr. Rosen simply reviewed the emails, passports, and travel documents in his clients' possession, he would have reached the same conclusions that the Court reached: (1) that Gen Fu Zhang and his agents knew that the Normandy property was being used as collateral in the lease transaction and (2) that the Normandy property was not (and never had been) a legal homestead. Mr. Rosen's failure to investigate the law and the facts concerning Gen Fu Zhang's claim that he had no knowledge that the Normandy property would be used as collateral justifies the imposition of sanctions against Mr. Rosen under Chapter 10 and Rule 13. Indeed, these kinds of inquiries are precisely the kind of "reasonable inquiry" required by Chapter 10 and Rule 13.

8. Even after the Court dissolved the temporary injunction when Rujia Zhang's perjury at the April 8, 2020 hearing came to light, Mr. Rosen continued to sign pleadings and motions repeating the same untrue claims that had first been raised in Plaintiffs' Second Amended Petition and Plaintiffs' Motion for Summary Judgment, including false claims that Gen Fu Zhang had "unwittingly" signed the power of attorney, that Gen Fu Zhang had no knowledge that the Normandy property would be used as collateral, and that Peterson knew in 2017 that Gen Fu Zhang and his wife were living at the Normandy property. Mr. Rosen also signed and filed amended pleadings and motions asserting that Peterson had "knowingly concealed" that it would require him or his agent to sign a promissory note and deed of trust—a claim that even a cursory review of Rujia Zhang's email correspondence would have shown had no basis in fact. Sanctions against Mr. Rosen are appropriate under Chapter 10 and Rule 13.

9. Additionally, Mr. Rosen signed pleadings containing a claim that he acknowledged multiple times had no merit. For example, at the April 8, 2020 hearing, Mr. Rosen told the Court multiple times that his client had signed a valid guarantee. Yet, even after the hearing, Mr. Rosen continued to sign amended pleadings claiming that the guarantee was invalid and requesting a declaration to that same effect, forcing Peterson to file a summary judgment motion to eliminate this groundless claim. The Courts finds, based on Mr. Rosen's own admissions, that he signed these amended pleadings knowing that this claim lacked a legal basis. Sanctions against Mr. Rosen are appropriate under Section 10.001(2) and Rule 13 for continuing to assert a claim that he acknowledged to the Court had no merit.

10. Mr. Rosen also failed to investigate the law and the facts concerning his clients' homestead defense. It is undisputed that Mr. Rosen's clients have continuously occupied their Shanghai home since 1998—a fact that Mr. Rosen easily could have confirmed prior to bringing the lawsuit. It is also black letter law in Texas that, if a homestead already exists, like the Zhangs' Shanghai home, a second homestead cannot be acquired simply by a family's intention to live there sometime in the future. Despite this clear rule of law, Mr. Rosen asserted, on his clients' behalf, the affirmative defense that any foreclosure on the Normandy property was barred by his clients' "homestead" rights and moved for summary judgment based on this defense. Sanctions against Mr. Rosen are appropriate under section 10.001(2) and Rule 13.

11. Mr. Rosen also signed multiple pleadings, including the Second, Third, and Fourth Amended Petitions, alleging that "all parties involved in the lease transaction," including Peterson knew that the Normandy property was "the residence and homestead of the Plaintiffs." The Court finds that this allegation was groundless. Not only is there no evidence in the record supporting this allegation, but substantial evidence presented to the Court demonstrates that Peterson was told by Gen Fu Zhang's agents (and justifiably believed based on its review of property records) that the Normandy property was a rental property, not a personal residence or homestead. By signing pleadings making allegations that lacked any factual support, Mr. Rosen violated both Rule 13 and Chapter 10 of the Civil Practice and Remedies Code, justifying sanctions.

12. Mr. Rosen's failure to make a reasonable inquiry into the facts underlying this lawsuit, coupled with the multiple false declarations his clients swore out in support of their pleadings, caused the Court to issue a temporary injunction. Rather than correct the false and misleading claims in the Second Amended Petition after the Court dissolved the injunction, Mr. Rosen, ignoring the opportunity to cure the harm caused by his clients, then filed an amended summary judgment motion repeating the same untrue claims—claims that the Court finds that Mr. Rosen and Mr. Zhang knew to be groundless and false when made. By signing the amended summary judgment motion, Mr. Rosen certified that, to the best of his knowledge, information, and belief, the factual contentions therein were true. As discussed, a "reasonable inquiry" into these factual assertions would have proven otherwise.

13. This sanctionable conduct inappropriately prolonged the litigation. As a result, Peterson incurred more than \$238,000 in attorney's fees to secure dissolution of the temporary injunction and defeat the summary judgment motions filed by Mr. Rosen's clients. The Court heard testimony that Peterson would have incurred no more than \$20,000 to \$30,000 in legal fees and costs in a typical foreclosure case. The Court finds that Mr. Rosen and his clients' violations of Rule 13 and Chapter 10 resulted in Peterson being forced to incur at least an additional \$208,471.46 in legal fees and costs. The Court finds that the difference between what Peterson would have incurred in legal fees and costs if Plaintiffs had been truthful and what Peterson was forced to spend in legal fees because of Plaintiffs' false allegations and groundless claims is the appropriate measure of sanctions on these facts.

14. Good cause exists to impose sanctions because this entire lawsuit was premised on a series of demonstrably false claims, and it was filed to harass Peterson and to unnecessarily delay the case and increase the costs of litigation. The Court finds that a reasonable inquiry, including a review of the relevant 2017 email correspondence, would have shown that there was no factual

basis for the claims and defenses that Plaintiffs made in this lawsuit. The Court further finds that Mr. Rosen failed to make reasonable inquiries into the factual basis for the claims and defenses that his clients asserted and on which they would bear the burden of proof. Indeed, none of the primary contentions asserted by the Plaintiffs had evidentiary support (apart from the perjured testimony offered by Gen Fu Zhang and his son) or could have been shown to have truthful evidentiary support. The Declaratory Judgment suit that Plaintiffs brought was thus completely without merit, spurious, and brought in bad faith. The Court therefore concludes that Plaintiffs' lawsuit was brought for improper purposes, including harassment of Peterson for exercising its legitimate rights and a concomitant attempt to needlessly increase the costs of litigation. Sanctions are therefore appropriate against Mr. Zhang and Mr. Rosen under Section 10.001(1) of the Civil Practice and Remedies Code for presenting pleadings for an improper purpose.

15. Neither Gen Fu Zhang nor Mr. Rosen exercised due diligence in filing or maintaining this lawsuit. As Mr. Zhang, because his entire lawsuit was premised on a series of demonstrably false statements, the Court concludes that his claims and defenses were without merit. Likewise, the utter lack of merit underlying Zhang's claims demonstrates rather conclusively that Mr. Rosen failed to investigate either the law or the facts before filing suit. Mr. Rosen also utterly ignored the meritless nature of his clients' claims even after their many falsehoods came to light, continuing to litigate the case as if no perjury had occurred at the April 8, 2020 hearing on Plaintiffs' request for a temporary injunction. Mr. Zhang and Mr. Rosen's failure to exercise due diligence is sanctionable under Section 10.002(c) of the Civil Practice and Remedies Code, which provides that a Court may award a party prevailing on a sanctions motion all costs for inconvenience, harassment, and out-of-pocket expenses incurred or caused by the subject litigation.

16. This Court finds that Gen Fu Zhang and Mr. Rosen acted together and intentionally, causing Peterson to incur needless attorney's fees and costs in defending against Mr. Zhang's claims and prosecuting its own claims against Mr. Zhang.

17. As a result of the conduct described above, Mr. Zhang and Mr. Rosen not only wasted Peterson's time and resources, but they also wasted this Court's time and resources.

18. The Court finds that these sanctions are just, appropriate, necessary, and limited to an amount sufficient to deter similar misconduct by Messrs. Zhang and Rosen and others who learn of this Order. There is a direct relationship between the sanction and Messrs. Zhang and Rosen's offensive conduct. Due to the frivolous claims in Plaintiffs' lawsuit, Peterson was forced to incur more than \$208,471.46 in legal fees and costs that it would have not have incurred but for the many false and misleading allegations made by Plaintiffs in their petitions and motions. Peterson was forced to hire additional litigation counsel to dissolve the fraudulently obtained temporary injunction, to respond to the frivolous pleadings, engage in discovery practice, and to respond to Plaintiffs' frivolous summary judgment motions.

19. There is good cause to support the imposition of sanctions because Plaintiffs' pleadings and testimony regarding the lease transaction and guarantee, including not just their homestead defense but Mr. Zhang's untrue allegation that he had no knowledge that the Normandy property would be used as collateral, were frivolous and brought in bad faith.

20. Among the factors considered by this Court in arriving at the appropriate amount of the sanctions were the demonstrated bad faith of Gen Fu Zhang and his attorney in knowingly presenting groundless claims, the reasonableness and necessity of the legal fees and expenses incurred by Peterson as a result of Messrs. Zhang and Rosen's violation of Rule 13 and Chapter 10, the burdens on the court system attributable to the misconduct, including consumption of the Court's resources with Plaintiffs' summary judgment motions and fraudulently obtained temporary injunction, the knowledge and experience of Mr. Rosen, and degree of willfulness in the repeated false statements that Plaintiffs offered to the Court.

21. The sanctions imposed by this Court are limited to what the Court has determined is sufficient to deter repetition of Plaintiffs' misconduct or comparable conduct by others similarly situated. Messrs. Zhang and Rosen's violations of Chapter 10 and Rule 13 described above forced Peterson to needlessly defend itself in a lawsuit in which there were no real controversies, either in law or in fact. Moreover, despite overwhelming evidence to the contrary, Mr. Rosen and his clients have demonstrated no remorse for suborning perjury from Rujia Zhang at the April 8, 2020 temporary injunction hearing, much less acknowledged that they repeatedly have presented this Court with untrue declarations in their pleadings and motions since that hearing. Likewise, Mr. Rosen has continued to insist that his clients' claims were not frivolous, but neither he nor his client have ever attempted to explain how the Normandy property could be their homestead when they have lived in their Shanghai home continuously for the last 22 years, much less explained the demonstrably false claim that Gen Fu Zhang and his agents had no knowledge that the Normandy property would be used as collateral in the lease transaction. Therefore, this sanction is not arbitrary but is more than appropriate, given the harm suffered by Peterson and the deterrent effect this sanction will hopefully have on Messrs. Zhang and Rosen going forward.

B. Findings in Support of Sanctions under Texas Rule of Civil Procedure 166a(h).

1. The Court awards sanctions to Peterson against Gen Fu Zhang and Mr. Rosen for violations of Rule 166a(h) of the Texas Rules of Civil Procedure in the amount of \$5,000. The Court makes the following findings in support of the sanctions imposed under Texas Rule of Civil Procedure 166a(h).

2. There is a direct relationship between the sanction and the offensive conduct in that Mr. Zhang knowingly signed and Mr. Rosen knowingly used false declarations, made in bad faith and solely for the purposes of delaying judgment in this suit, in support of Plaintiffs' summary judgment motions and Plaintiffs' summary judgment opposition. Specifically, as described above, Plaintiffs submitted declarations from Gen Fu Zhang which falsely stated that Gen Fu Zhang had no knowledge that the property located at 13914 Normandy Court would be used as collateral, that he received no financial benefits from the lease transaction, that he had not authorized Tina Chang to sign a guarantee on his behalf, that he had "unwittingly" signed a power of attorney, and that Peterson knew that he and his wife were residing at the property at the time the lease transaction was made. Mr. Zhang also falsely stated that he had never received any benefits from the lease—a claim that is directly contradicted by his own deposition testimony in which he admitted that he had used money earned from the Catfish Station restaurant lease to forestall his guarantee obligations. The Court finds Mr. Zhang signed these declarations knowing these statements were false and used by Mr. Rosen knowing they were false.

3. The Court makes these findings regarding Mr. Zhang because the statements in his declarations are not only contradicted by his own deposition testimony but also contradicted by the testimony of his son and contemporaneous emails from the lease negotiations in 2017—all of which demonstrate that Mr. Zhang and his agents were fully aware that the Normandy property was being offered as collateral in the lease transaction.

4. The Court finds that Mr. Rosen knew that Mr. Zhang's statements were false no later than the July 31, 2020 hearing on Peterson's Motion to Reconsider Temporary Injunction Due to Fraud on the Court because the evidence introduced at the hearing conclusively established that Mr. Zhang's claims were false. Yet, despite this, Mr. Rosen filed an Amended Summary Judgment Motion on October 30, 2020 and a Response to Peterson's Summary Judgment Motion on November 13, 2020 attaching declarations containing multiple statements that had already been demonstrated to be untrue.

5. The Court also finds that Mr. Zhang and Mr. Rosen attached a declaration from Rujia Zhang to Plaintiffs' June 9, 2020 Motion for Summary Judgment that contained multiple perjured statements, including false claims that Rujia Zhang had never discussed the lease transaction with Peterson and that there had never been any discussion with Peterson regarding placing a lien on the property located at 13914 Normandy Court. These statements are contradicted by emails that Rujia Zhang wrote to Peterson in 2017 as well as deposition testimony from his father, Gen Fu Zhang.

6. In short, the Court finds that the declarations that Plaintiffs offered in support of their two summary judgment motions were a sham, made in bad faith, for the purpose of harassing Peterson, running up Peterson's legal costs, and delaying the lawful foreclosure on the Normandy property. This misconduct is sanctionable under Texas Rule of Civil Procedure 166a(h).

7. The Court finds that, as a consequence of the false statements in Plaintiffs' summary judgment declarations, Peterson incurred more than \$65,000 in attorney's fees in responding to Plaintiffs' motions.

8. The sanctions imposed hereunder are intended both to compensate Peterson for having to incur unnecessary attorney's fees and costs and to deter similar misconduct by Mr. Zhang and Mr. Rosen in the future.

9. This sanction is no more severe than necessary to promote full compliance with Texas Rule of Civil Procedure 166a(h).

C. Findings in Support of Sanctions under Rule 215.

1. The Court awards sanctions to Peterson and against Gen Fu Zhan and Mr. Rosen for violations of Rule 215 of the Texas Rules of Civil Procedure in the amount of \$5,000 and makes the following findings in support of sanctions imposed under Rule 215.

2. There is a direct relationship between the sanction and the offensive conduct in that Mr. Zhang and Mr. Rosen unreasonably resisted discovery by disobeying this Court's discovery

orders, withholding legitimate discovery, engaging in serious deposition misconduct, and making numerous objections with no reasonable basis in law or fact.

3. The sanction is no more severe than necessary to promote full compliance with the Rules of Civil Procedure governing discovery.

4. Mr. Rosen and his clients' conduct throughout this lawsuit was calculated to abuse the Rules governing discovery. By way of illustration, on August 4, 2020, this Court ordered Plaintiffs to produce Rujia Zhang for deposition no later than September 3, 2020. Rather than comply with the Court's order, Mr. Rosen refused to produce Mr. Zhang on the grounds that he did not represent him. The Court finds that Mr. Rosen's claim that he did not represent Rujia Zhang to be frivolous and made for purposes of delay considering that Mr. Rosen represented Rujia Zhang at the time of the hearing and has continued to represent ChiChi Chicken, Inc.—a company solely owned by Rujia Zhang—throughout this litigation. Sanctions are appropriate against Mr. Rosen and his clients for their refusal to comply with the Court's August 4, 2020 order.

5. Further, the Court finds that Rujia Zhang did participate in his parents' October 21, 2020 deposition, albeit clandestinely, by attempting to coach their answers in Chinese out of view of the attorneys who were taking the depositions remotely by video conference. The Court finds that Rujia Zhang and his parents acted together in abusing the discovery process by engaging in this misconduct during their depositions. Sanctions are appropriate against Plaintiffs under Texas Rules of Civil Procedure 215 and 199.5(d) for their participation in this misconduct.

6. Additionally, the Court finds that both Limin Wang and Gen Fu Zhang perjured themselves during their October 21, 2020 depositions. For example, Limin Wang falsely claimed that she had no involvement with her husband's companies and had never served as an officer with any of his companies. Both these claims, however, are refuted by documents that the Zhangs filed with the Texas Secretary of State showing that she is a Director and Vice President. Likewise, Gen Fu Zhang falsely testified that he owned no businesses in Texas, that he had never done with business with Tina Chang prior to 2017, and that he had no knowledge that Tina Chang would sign the lease on his behalf as the guarantor. These false statements are contradicted by statements that Mr. Zhang and his son made under oath at the April 8, 2020 Temporary Injunction hearing, by allegations that Mr. Zhang made in a separate lawsuit that he filed against Tina Chang, and by documents that Mr. Zhang filed with the Texas Secretary of State. While Plaintiffs' perjury at their October 21, 2020 depositions may not provide an independent basis for sanctions under Rule 215, their conduct illustrates the complete disregard for the truth that Plaintiffs and their lawyer have evinced throughout this litigation.

7. The Court also finds that Mr. Rosen raised a series improper objections during Gen Fu Zhang's deposition in violation of Texas Rule of Civil Procedure 199.5(e). Mr. Rosen repeatedly instructed his client not to answer questions that were germane to Plaintiffs' "homestead" and "community property" defenses on the grounds the questions were not "relevant." For example, Mr. Rosen instructed Gen Fu Zhang not to answer questions regarding the source of the funds used to pay for the purchase of the Normandy property. This and other questions like it were obviously relevant to whether community property funds had been used to purchase the property as alleged in Plaintiffs' petition. The Court finds these objections were an

abuse of the discovery process, made in bad faith for the purpose of resisting legitimate discovery. Sanctions against Gen Fu Zhang and Mr. Rosen are appropriate under Texas Rule of Civil Procedure 215.

8. The Court heard testimony at the hearing that Peterson had incurred approximately \$15,000 in legal expenses for drafting and preparing to argue the Sanctions Motion. The Court also heard testimony that Peterson had incurred more than \$35,000 in legal fees and costs related to discovery. In light of this testimony, the Court awards Peterson \$5,000 in sanctions against Gen Fu Zhang and Paul Rosen for the violations of Rule 215 described above. This sanction is intended both to compensate Peterson for the harm it has suffered and to deter Plaintiffs and their attorney from violating the Court's orders in the future.

9. Plaintiffs' discovery abuse demonstrates that they knew their claims against Peterson were frivolous and justifies the conclusion that their claims and defenses in this lawsuit lacked merit in law or fact. The Court further finds that Mr. Rosen knew no later than the July 31, 2020 hearing on Peterson's Motion to Reconsider Temporary Injunction Due to Fraud that his clients' allegations had no basis in fact, and therefore justifies the conclusion that Messrs. Zhang and Rosen knew that the claims in the lawsuit were frivolous, without a reasonable basis in fact or law, and therefore without merit.

CONCLUSION

In sum, this Court finds that Mr. Zhang and Mr. Rosen abused the judicial process from start to finish. There was no basis in law or fact for Plaintiffs' claims and defenses, and both Mr. Zhang and Mr. Rosen knew as much throughout this lawsuit. Both repeatedly abused Chapter 10 of the Civil Practice and Remedies Code and Rule 13 of the Rules of Civil Procedure by filing documents that they knew had no basis in fact or law and which were filed solely to harass Peterson and to increase Peterson's costs to litigate this case. Both violated Rule 166a(h) by submitting declarations containing statements they knew were false. And both violated Texas Rule of Civil Procedure 215 by disobeying the Court's discovery orders, withholding evidence, making frivolous objections, and engaging in serious misconduct during the depositions of Limin Wang and Gen Fu Zhang.

Further, this Court finds that sanctions are justified based on the totality of the violations it finds were committed by Mr. Rosen and his clients. These abuses were not isolated or accidental, but willful, deliberate, and calculated in an effort to perpetuate a fraud on this Court and to extract an unwarranted benefit from Peterson: the release of its valid lien on the property located at 13914 Normandy Court.

The cumulative effect of these abuses was to delay justice and to cause Peterson to unnecessarily incur more than \$208,000 in attorney's fees for which it should be compensated. In determining the appropriate amount of sanctions, the Court find that the misconduct at issue is attributable both to Plaintiffs and their attorney, Mr. Rosen. The sanctions awarded are not excessive because they are directly related to the legal fees that Peterson incurred because of the misconduct described herein. Finally, the Court has considered the availability of less stringent sanctions and determined that they would be insufficient to fully promote compliance with the

standards that Plaintiffs and their attorney have violated. Any lesser sanction would effectively reward Plaintiffs for their misconduct, punish Peterson for Mr. Rosen and his clients' violation of the Rules of Civil Procedure, and encourage other parties to engage in similar tactics in the future.

The egregiousness and repetitiveness of Plaintiffs' perjury and other misconduct exhibits Plaintiffs' total disregard for and disrespect of the integrity of this Court and our judicial system. Plaintiffs' perjury and misconduct go to the heart of this case and exemplifies a disregard for the truth which cannot be tolerated. This is not an incident of failing to produce one document or telling one lie, but a mountain of evasiveness, lack of candor, concealment, numerous outright lies, and a total disregard for truth, which is the foundation of our judicial system. This misconduct caused significant interference with the legitimate exercise of the traditional core functions of the Court and further justifies sanctions pursuant to the Court's inherent power to impose sanctions to the extent necessary to deter, alleviate, and counteract bad faith abuse of the judicial process. Accordingly, the sanctions awarded are appropriate, just, and not excessive.

Based on the foregoing, this Court:

ORDERS that Peterson is entitled to recover one sanction in the total amount of \$150,000.00 against Gen Fu Zhang and Paul B. Rosen, jointly and severally.

The amounts set forth above shall be included in the Final Judgment, which will be signed contemporaneously with this Order Granting Peterson's Motion for Sanctions.

SIGNED this 1/21/2021



HONORABLE JUDGE PRESIDING
268th JUDICIAL DISTRICT