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5 UNITED STATES BANKRUPTCY COURT  
6 EASTERN DISTRICT OF CALIFORNIA  
7 SACRAMENTO DIVISION  
8

9 In re ) Case No. 11-20672-E-13  
10 TRE HOLDINGS, LLC, )  
11 Debtor(s). )  
12 \_\_\_\_\_ )

13 This memorandum decision is not approved for publication and may  
14 not be cited except when relevant under the doctrine of law of the  
15 case or the rules of claim preclusion or issue preclusion.

16 MEMORANDUM OPINION AND DECISION  
17 Order to Show Cause - Tremaine Fowlkes, Dkt. #51

18 The hearing on the Order to Show Cause issued by the court on  
19 April 29, 2011 (the hearing having been continued at the request of  
20 the parties in interest), concerning the conduct of Tremaine  
21 Fowlkes in the commencement of this Chapter 13 case was conducted  
22 on August 2, 2011. Mr. Fowlkes appeared at the hearing. Walter J.  
23 Sawicki, the attorney of record for the Debtor for the appeal  
24 pending before the District Court and the order to show cause filed  
25 against Tremaine Fowlkes, has filed notices with this court that  
26 he has withdrawn for such representation. No response to the Order  
27 to Show Cause was filed by Tremaine Fowlkes or any attorney  
28 purporting to represent him.

The Order to Show Cause was issued to allow Mr. Fowlkes to

1 address how TRE Holdings, LLC commenced a bankruptcy case in the  
2 Eastern District of California when it is registered with the  
3 California Secretary of State as having its location at  
4 1880 Century Park East Ste 420, Los Angeles, California. The  
5 Petition lists TRE Holdings, LLC as having an address on McKay  
6 Street in Fair Oaks, California. Mr. Fowlkes executed the petition  
7 stating that this information is true and correct under penalty of  
8 perjury.

9 Mr. Fowlkes appeared at the hearing and orally represented  
10 that the address is his residence and that is now where TRE  
11 Holdings, LLC maintains its business. No evidence of TRE Holdings,  
12 LLC doing business at that address was provided, such as  
13 letterhead, utility bills, correspondence, licenses, or other  
14 indices of where this business was located. No information was  
15 provided as to how long Mr. Fowlkes had an interest in TRE  
16 Holdings, LLC.

17 After consideration of the evidence, the court concludes that  
18 this bankruptcy case was not only improperly filed in the Eastern  
19 District of California, but was done so deliberately. The attorney  
20 hired to represent TRE Holdings, LLC, Craig Cawlfeld, is located  
21 in Los Angeles, California. No credible explanation was provided  
22 as to why a Sacramento area limited liability company would be  
23 hiring counsel in Los Angeles, California, to file a Chapter 13  
24 case in the Eastern District of California. The other attorney who  
25 has been involved in the representation of TRE Holdings, LLC,  
26 Walter J. Sawicki, is also located in Los Angeles, California.

27 After commencing the bankruptcy case on January 10, 2011, by  
28 the filing of the bankruptcy petition, Mr. Fowlkes and TRE

1 Holdings, LLC's counsel did not file any other documents. The  
2 unfiled documents include: Attorney's Disclosure Statement,  
3 Chapter 13 Plan, Schedule A, Schedule B, Schedule C, Schedule D,  
4 Schedule E, Schedule F, Schedule G, Schedule H, Schedule I,  
5 Schedule J, Statement of Financial Affairs, Statistical Summary,  
6 and Summary of Schedules. The failure of Mr. Fowlkes and counsel  
7 to file these basic pleadings have left the court without evidence  
8 to determine that the statements of Mr. Fowlkes and counsel are  
9 credible and that any basis exists for this case being filed in the  
10 Eastern District of California.

11 There has been no evidence presented to the court to provide  
12 any ties of TRE Holdings, LLC to the Eastern District of  
13 California. The statements, which were not under penalty of  
14 perjury, by Mr. Fowlkes that the LLC is now based out of his house  
15 in Fair Oaks, California, are found to the court not to be  
16 credible.

17 The court finds that Tremaine Fowlkes, with the assistance of  
18 counsel, intentionally filed the bankruptcy case for TRE Holdings  
19 in the Eastern District of California. The court will not  
20 speculate as to what tactical or strategic advantage that  
21 Mr. Fowlkes, TRE Holdings, LLC, and counsel sought to obtain by  
22 intentionally filing in the improper district.

23 This is not the first time that TRE Holdings, LLC and  
24 Mr. Fowlkes have appeared in the Eastern District of California.  
25 In *TRE Holdings, LLC and Tremaine Fowlkes v. Oberg et al*, 05-2335,  
26 TRE Holdings asserted in the complaint that its principal place of  
27 business was Los Angeles, California. In the same complaint,  
28 Tremaine Fowlkes asserted that he was an individual who resided in

1 Los Angeles, California. Case No. 05-2335, Dckt. 1. TRE Holdings,  
2 LLC and Mr. Fowlkes counsel in that adversary proceeding was also  
3 located in Los Angeles, California.

4 Other than this one prior adversary proceeding, the court does  
5 not identify any repeated attempts to access the court or pattern  
6 of abusive conduct. Therefore, the court determines that no  
7 monetary sanctions pursuant to Fed. R. Bankr. P. 9011 are necessary  
8 to induce corrective conduct by Mr. Fowlkes. However, given his  
9 conduct in this case, it is appropriate for the court to order  
10 Mr. Fowlkes to provide a copy of this order to the clerk of the  
11 bankruptcy court, bankruptcy and district court judge, U.S.  
12 Trustee, and bankruptcy trustee for any bankruptcy cases commenced  
13 by Mr. Fowlkes for himself or any bankruptcy cases in which  
14 Mr. Fowlkes is a shareholder, member, general partner, or limited  
15 partner of the entity filing bankruptcy on or before January 1,  
16 2013.

17 Dated: September 6, 2011

18  
19 /s/ Ronald H. Sargis  
RONALD H. SARGIS, Judge  
20 United States Bankruptcy Court  
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