

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW MEXICO

In re: CHUCK McCUNE and
CHUTHAMARD McCUNE,

No. 20-12326-j7

Debtors.

**MEMORANDUM OPINION AND ORDER REGARDING CREDITOR'S MOTION TO
COMPEL DISCOVERY AND REQUIREMENTS FOR IMPOSING AN EQUITABLE LIEN
AGAINST THE HOMESTEAD THAT TRUMPS THE HOMESTEAD EXEMPTION**

Before the Court is *Creditor's Motion to Compel Discovery Responses to Requests for Production Regarding Equitable Lien Discovery, Pursuant to Rule 37, F. R. Civ. P.* (“Motion to Compel Discovery” – [Doc. 418](#)) filed by Robert Pidcock, as personal representative of the Estate of Thomas W. Kuehn (“Personal Representative”). Personal Representative requests the Court to compel Debtors to provide discovery responses relating to Personal Representative’s request to impose an equitable lien against Debtors’ homestead.¹ Debtor Chuck McCune² objected to the Motion to Compel Discovery.³ The Court held a status conference on the Motion to Compel Discovery on July 18, 2025, denied Debtor’s request to proceed directly to a final hearing on the Motion to Impose Equitable Lien, and took the matter under advisement.

For the reasons explained below, which include a discussion of what proof is required for the Court to impose an equitable lien against the Debtors’ property that trumps the homestead exemption, the Court will grant the Motion to Compel Discovery, in part, and will require

¹ See document titled, *Chuck McCune and Chuthamard McCune Fraudulently Took Approximately \$500,000.00 in Cash from the Shareholders of MWI to Pay for their Homestead, More Real Estate, and Personal Expenses, So Creditor Moves the Court to Grant an Equitable Lien on the Homestead of Debtors* (“Motion to Impose Equitable Lien” – Doc 400).

² Chuck McCune and Chuthamard McCune are both named as Debtors in this bankruptcy case and are both named Defendants in Adversary Proceeding No. 21-1013-j (“AP No. 21-1013-j”); however, only Mr. McCune has been filing documents in this bankruptcy case seeking relief and responding to Personal Representative’s filings. References to “Debtors” in this Order are to both Chuck McCune and Chuthamard McCune; references to “Debtor” are to Mr. McCune only.

³ See Defendant’s Objection to Pidcock’s Motion to Compel Filed as [Doc. 418](#) ([Doc. 421](#)).

Debtors to produce documentation to Personal Representative relating to the accounts of McCune Works, Inc. (“MWI”) and their own personal bank accounts, limited, for the most part, to the time period after Thomas W. Kuehn or the Thomas W. Kuehn Trust (the “Kuehn Trust”) first invested in or loaned money to MWI.⁴ The Court will also require Debtors to produce bank account records from MWI and their personal bank accounts after January 1, 2005, that would evidence a loan from Debtors and/or Debtors’ relatives to MWI. The Court will deny the Motion to Compel Discovery in all other respects.

BACKGROUND AND PROCEDURAL HISTORY⁵

Debtors formed MWI in 2005.⁶ Personal Representative’s claim in this bankruptcy case is based on a default judgment that Personal Representative obtained against Debtors and MWI in state court (the “State Court Judgment”).⁷ The State Court Judgment is based on what the State

⁴ Debtor contends that there was no loan from Thomas W. Kuehn to MWI, but rather an investment in MWI. See AP No. 21-1013-j – [Doc. 152, p.4, ¶ 2](#).

⁵ The Court takes judicial notice of the docket and documents filed of record in this bankruptcy case and the claims register and claims filed in this bankruptcy case, and the docket and documents filed of record in AP No. 21-1013-j. See *St. Louis Baptist Temple, Inc. v. Fed. Deposit Ins. Corp.*, [605 F.2d 1169, 1172](#) (10th Cir. 1979) (recognizing that the court may, sua sponte, take judicial notice of its own records); *In re Sherman*, [18 Fed. App’x 718, 721](#) (10th Cir. 2001) (taking judicial notice of the schedules filed by the debtor in her bankruptcy case to assess the debtor’s insolvency); *In re Quade*, [496 B.R. 520, 524](#) (Bankr. N.D. Ill.) (“[A] bankruptcy court [is authorized] . . . to take judicial notice of its own docket.” (citation omitted)). The facts recited in the Background and Procedural History portion of this Order are based on documents filed of record in this bankruptcy case, including Personal Representative’s Proof of Claim No. 2-1; Personal Representative’s representations of facts regarding Thomas W. Kuehn contained in former pleadings filed in a state court action that Personal Representative initiated against the Debtors; and Debtor’s admissions in former deposition testimony that Personal Representative offered in support of summary judgment filed in AP No. 21-1013-j.

⁶ See Plaintiff’s Motion for Partial Summary Judgment for State and Federal Securities Law Violations Regarding Stock Sales and Loans and a Finding of Non-dischargeability of those Debts, as well as Issue and Claim Preclusion of the State Court Judgment (“Plaintiff’s Motion for Partial Summary Judgment” – AP No. 21-1013-j, [Doc. 151](#)), Exhibit 5 – Deposition of Chuck McCune, p. 7, lines 13-14 ([Doc. 151-6](#)).

⁷ See Claim No. 2-1. The State Court Judgment was later modified to remove the word “fraud” from the state court’s findings. See AP No. 21-1013-j – [Doc. 357](#).

Court found were Thomas W. Kuehn's stock purchases in MWI⁸ and a loan or loans from Thomas W. Kuehn to MWI,⁹ the first of which occurred in September of 2015.¹⁰

Debtor filed a *Motion to Avoid Judicial Lien held by Robert Pidcock, as personal representative of the Estate of Thomas W. Kuehn* ("Motion to Avoid Lien" – [Doc. 234](#)), seeking to avoid the recorded transcript of judgment resulting from the State Court Judgment. Personal Representative filed *Personal Representative's Objection to Exemptions Claimed by Debtors Pursuant to Third Amended Schedule Filed as Docs 250 and 251* ("Objection to Claim of Exemptions" – [Doc. 254](#)). The Court held a final evidentiary hearing on the Motion to Avoid Lien and the Objection to Claim of Exemptions and took both matters under advisement. Personal Representative then filed the Motion to Impose Equitable Lien.

At the parties' request, the Court agreed to delay entering an order on the Motion to Avoid Lien until after it has ruled on the Motion to Impose Equitable Lien. After Personal Representative filed the Motion to Compel Discovery, Debtor filed a document titled *Defendant's Motion to Compel Plaintiff Securities Discovery Responses that Have Never Been Truthfully or Completely Provided to Defendant* ("Debtor's Motion to Compel" – [Doc. 424](#)). The Court will rule on the Debtor's Motion to Compel by separate order.

⁸ The State Court Judgment awarded Personal Representative \$193,240.00 "as repayment for the stock purchases in McCune Works, Inc. by Thomas W. Kuehn." See AP No. 23-1013-j – [Doc. 357](#). Debtor contends that the Kuehn Trust, not Thomas Kuehn, is the shareholder. See Defendant's Notice of Kuehn Shareholder Update – [Doc. 426](#); AP No. 23-1013-j – [Doc. 327](#).

⁹ Debtor contends that there was no loan from Thomas W. Kuehn to MWI, but rather an investment in MWI. See AP No. 21-1013-j – [Doc. 152, p.4](#), ¶ 2. See also Order Regarding filings by Debtors ([Doc. 427](#)), outlining Debtor's positions taken in this bankruptcy case and AP No. 21-1013-j.

¹⁰ Personal Representative admits that the "loan" occurred in September of 2015. See Plaintiff's Motion for Partial Summary Judgment, Exhibit 2 – Complaint for Money Due for Breach of Contract, Securities Law Violations, Failure to Provide Examination of Corporate Records, Fraud, and Bursting the Corporate Veil, p. 2, ¶ 6, alleging that Thomas Kuehn loaned MWI \$60,000 "on or about September 9, 2015." (AP No. 21-1013-j – [Doc. 151-2](#)).

DISCUSSION

Personal Representative served the request for production of documents to obtain discovery relating to his Motion to Impose Equitable Lien. To determine whether Debtors must produce the requested documents, the Court will first examine what Personal Representative must prove to prevail on the Motion to Impose Equitable Lien.

Imposition of an equitable lien against Debtors' homestead that trumps the homestead exemption based on fraudulent or other egregious conduct

Debtors claimed a homestead exemption under New Mexico law. In limited circumstances, a court may impose an equitable lien against a debtor's homestead property that will trump the debtor's New Mexico homestead exemption.

In *Coppler & Mannick, P.C. v. Wakeland*, 2005-NMSC-022, [138 N.M. 108](#), [117 P.3d 914](#), creditors obtained a judgment against Wakeland based on intentional tortious acts and bad faith unrelated to Wakeland's homestead and obtained a judgment lien against Wakeland's homestead property. 2005-NMSC-022, at ¶ 2, [138 N.M. at 109](#), [117 P.3d at 915](#). In an action to foreclose the judgment lien, the district court ordered the foreclosure of Wakeland's homestead property and found that Wakeland was not entitled to a homestead exemption based on the intentional tortious acts and bad faith upon which the original judgment was based. *Id.* In a separate action filed after the entry of the foreclosure judgment in the foreclosure action, the creditors asserted claims against Wakeland for voluntary waste in relation to the foreclosed property based on Wakeland's removal of permanent fixtures from the foreclosed property and other significant damage to the property. *Id.* at ¶ 3, [138 N.M. at 109](#), [117 P.3d at 915](#).

The New Mexico Supreme Court determined that the district court's ruling that Wakeland was not entitled to a homestead exemption in the initial action based on Wakeland's intentional tortious acts and bad faith upon which the judgment was based was in error. *Id.* at ¶ 8, [138 N.M.](#)

at 111, 117 P.3d at 917. Imposition of an equitable lien based on bad faith conduct unrelated to the homestead would defeat the purpose of the homestead exemption “to provide protection in order to prevent families from becoming destitute.” *Id.* at ¶ 12, 138 N.M. at 112, 117 P.3d at 918; *see also Laughlin v. Lumbert*, 1061-NMSC-064, ¶10, 68 N.M. 351, 354, 361 P.2d 507, 509-10 (1961) (the goal of the homestead exemption is to “prevent families from becoming destitute as the result of misfortune through common debts which generally are unforeseen.” (quoting *Hewatt v. Clark*, 1940-NMSC-044, ¶13, 44 N.M. 453, 103 P.2d 646, 649)).

But “[w]hen malicious, fraudulent, or intentional tortious conduct involves the homestead itself . . . under these limited circumstances . . . courts have the power to impose an equitable lien against the homestead exemption.” *Wakeland*, 2005-NMSC-022, at ¶12, 138 N.M. at 112, 117 P.3d at 918. Even so, the remedy of an equitable lien is “narrowly designed,” “will be required only in rare circumstances,” and must involve “egregious or fraudulent” conduct by the judgment debtor “involv[ing] the homestead itself.” *Id.* at ¶ 13, 138 N.M. at 113, 117 P.3d at 919. The rationale for imposing an equitable lien against a judgment debtor’s homestead is that “[t]he homestead exemption is intended to be a shield, not a sword.” *Id.* (quoting *Burrows v. Borrows*, 886 P.2d 984, 991 (Okla. 1994)).

Wakeland cites with approval caselaw in other states, applying these principles, in which courts have held that “a homestead exemption is subject to an equitable lien ‘where funds obtained through fraud or egregious conduct were used to invest in, purchase, or improve the homestead.’” *Id.* at ¶11, 138 N.M. at 112, 117 P.3d at 918 (quoting *Havoco of Am. Ltd. v. Hill*, 790 So.2d 1018, 1028 (Fla. 2001), *opinion after certified question answered*, 255 F.3d 1321 (11th Cir. 2001))).

The New Mexico Supreme Court upheld the imposition of an equitable lien in favor of the judgment creditor based on the debtor's willful and malicious damage to her homestead after the foreclosure of a judgment lien against her homestead property with the intent of violating the creditor's rights to enforce the foreclosure of the lien. *Wakeland*, 2005-NMSC-022, at ¶ 12, [138 N.M. at 112](#), [117 P.3d at 918](#). The New Mexico Supreme Court found it particularly egregious that the judgment debtor's "tortious and malicious conduct involved the very property for which she seeks her exemption," and that with knowledge of the judgment creditor's impending foreclosure of her property, the judgment debtor "caused significant damage to the property for the sole purpose of sabotaging the [judgment creditors'] lawful interests." *Id.* The New Mexico Supreme Court explained:

To allow her to benefit from these actions would, in our view, transform the homestead exemption from a necessary source of protection, as the Legislature intended, to an instrument for destruction and harm. This complete distortion of the Legislature's purpose demands a judicial response.

Id. at ¶ 10, [138 N.M. at 111](#), [117 P.3d at 917](#).

Notably, the amount of the equitable lien was limited to the amount of damage the debtor caused the judgment creditor by her egregious conduct in laying waste to the homestead.

Id. at ¶ 14, [138 N.M. at 113](#), [117 P.3d at 919](#) (concluding that "[t]he effect of the [equitable] lien is that the homestead exemption is subject to enforcement of the judgment in the waste action.").

Requirements for imposition of an equitable lien against a debtor's homestead property based on funds wrongfully obtained from a creditor

Wakeland does not stand for the proposition that any improper use of funds obtained from a creditor or other bad acts by a debtor will deprive the debtor of a homestead exemption. Rather, *Wakeland* recognizes the court's authority to grant a defrauded creditor an equitable lien against a debtor's homestead property that will trump the defrauding debtor's homestead exemption only

in limited circumstances. Having reviewed the relevant caselaw, including *Wakeland*,¹¹ the Court concludes that, in general, imposition of an equitable lien in favor of a creditor against a debtor's homestead property requires¹² (i) fraudulent or egregious conduct by the debtor claiming a homestead exemption; (ii) the fraudulent or egregious conduct must relate directly to the creditor requesting an equitable lien and to the property in which the debtor claims a homestead exemption, (iii) the amount of the equitable lien is limited to the amount of damage the debtor caused the creditor by the fraudulent or egregious conduct; or, if the equitable lien is based on funds transferred by the creditor, the amount of damage the debtor caused the creditor by the fraudulent or egregious conduct is measured by the amount of such creditor's funds sufficiently traceable to the debtor's purchase, improvement, investment in, or reduction of the mortgage on the homestead property.¹³ This prevents the debtor from wrongfully using the homestead

¹¹ See, e.g., *In re Johnson*, 336 B.R. 568, 572 (Bankr. S.D. Fla. 2006) ("It is now clearly established that the imposition of an equitable lien against homestead property is limited to those circumstances wherein the owner of the property has acquired proceeds by fraud or reprehensible conduct to either invest in, purchase, or improve the homestead." (citing *Havoco*, 790 So.2d at 1028)); *Aguirre v. Elko Cnty. Sheriff's Off.*, 138 Nev. 289, 293, 508 P.3d 886, 890 (2022) (recognizing that "[u]nder equitable lien principles, the homestead exemption is inapplicable when the proceeds used to purchase real property can be traced directly to funds obtained through fraud or similar tortious conduct." (quoting *Maki v. Chong*, 119 Nev. 390, 394, 75 P.3d 376, 397 (2003) (per curiam))); *Coyle v. Kujaczynski*, 759 N.W.2d 637, 640 (Iowa Ct. App. 2008) (recognizing Iowa precedent holding "that an equitable lien could be impressed against the defendants' homestead property to the extent that funds originating from a fraudulently acquired business were used to pay a mortgage and other charges against the homestead." (quoting *Cox v. Waudby*, 433 N.W. 2d 716, 718 (Iowa 1988))); *Maki v. Chong*, 119 Nev. at 393, 75 P.3d at 379 (citing numerous cases); *Havoco*, 790 So. 2d at 1028; *Christensen v. Christgard, Inc.*, 35 Wash. App. 626, 629, 668 P.2d 1301, 1303 (1983) ("[A]n equitable lien may be imposed when the homestead claimant acquired the funds to purchase his homestead by fraud.").

¹² There may be exceptions to this general rule, not applicable here. In *Wakeland*, the New Mexico Supreme Court observed that some courts, for example, have permitted an equitable lien on a homestead exemption for child support because obligations to spouse or child are beyond the intended reach of the exemption. *Wakeland*, 2005-NMSC-022 at ¶ 11, 138 N.M. at 112, 117 P.3d at 918 (citing cases).

¹³ *Wakeland*, 2005-NMSC-022 at ¶ 12, 137 N.M. at 112, 117 P.2d at 918. Thus, when a debtor fraudulently obtains funds used to purchase, improve, or invest in a homestead, "the right of the creditor *so defrauded* becomes paramount to the owner of the homestead . . . and the property so homesteaded is not exempt from execution or sale." *Duhart v. O'Rourke*, 99 Cal App. 2d 277, 280, 221 P.2d 767 (1950) (emphasis added) (citations omitted); see also *Maki v. Chong*, 119 Nev. at 394, 75 P.3d at 379 (imposing an equitable lien in favor of a creditor where the debtor fraudulently obtained the funds from the creditor and such funds were sufficiently traced to the debtor's purchase of the homestead property).

exemption as a sword to thwart the creditor's collection efforts instead of as a shield to lawfully protect the debtor.¹⁴

The basis for Personal Representative's Request that this Court impose an equitable lien against the Debtors' Homestead Property

Personal Representative requests this Court to impose an equitable lien against the Debtors' homestead property based on Debtors' alleged misuse of MWI's funds. Personal Representative's Motion to Compel recites that the request for equitable lien

is based on McCunes Misappropriating the McCune Works (MWI) Funds and Using the Money to Pay for their Homestead, Transfer Money to Chuthamard McCune's Family Members, Pay the Separate Note on Other property they were Purchasing, Pay the Bills of their Personal Company, Pay Personal Legal Expenses, etc.¹⁵

Personal Representative contends, based on *Wakeland*, that misuse of funds to purchase other real property, personal bills, and/or personal legal expenses supports the imposition of an equitable lien in favor of Personal Representative against Debtors' homestead property. Personal Representative's construction of *Wakeland* is too broad. As explained above, imposition of an equitable lien requires that the egregious or fraudulent conduct must involve the homestead itself. Thus, Personal Representative is not entitled to discovery regarding the alleged use of MWI funds to pay Chuthamard McCune's family members, to pay a note on property other than the homestead property, or to pay Debtors' personal legal expenses, because those payments do not involve the homestead property itself.

¹⁴ *Wakeland*, 2005-NMSC-022, at ¶13, 138 N.M. at 113, 117 P.3d at 919 ("The homestead exemption is intended to be a shield, not a sword." (quoting *Burrows v. Burrows*, 886 P.2d 984, 991 (Okla. 1994))); *Webster v. Rodrick*, 64 Wash.2d 814, 394 P.2d 689 (1964) ("The homestead exemption must be used as a shield to protect the homesteader and his dependents . . . [and cannot be] use[d] as a sword to protect a theft.").

¹⁵ Motion to Compel, p. 6.

Further, a creditor requesting an equitable lien must be the victim of the debtor's alleged wrongdoing, and the creditor's funds must be traceable to the homestead property. Yet Personal Representative seeks discovery dating back to the inception of MWI which could show whether funds from *any* investor in MWI were improperly used to improve or acquire Debtors' homestead property. Again, this construction of equitable lien principles is too broad.

The only potentially relevant transfers that might support the imposition of an equitable lien in favor of Personal Representative against the homestead property are transfers of funds from Mr. Kuehn or the Kuehn Trust to MWI that Personal Representative proves were fraudulently obtained or used by Debtors that are sufficiently traceable to payments by the Debtors from the MWI account to acquire, improve, invest in, or reduce the mortgage on the homestead property.

Personal Representative's document requests and the Debtor's response

Personal Representative served the following requests for production on the Debtors in connection with the Motion for Equitable Lien:

1. Produce all monthly bank statements from your personal bank accounts showing the withdrawal, transfer, check or debit of all loans that you made to MWI, from January 1, 2015 until March of 2019 when the MWI bank account was closed.
2. Produce all checkbook ledgers and records you made at the time of the occurrence from your personal bank accounts reflecting in any manner all loans that you made to MWI, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
3. Produce all cancelled checks, check carbons and copies of checks from your personal bank accounts showing all loans that you made to MWI, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
4. Produce all monthly bank statements from your personal bank accounts showing all cash transfers from the MWI bank account to your personal

accounts, from January 1, 2005 until March of 2019, when the MWI bank account was closed.

5. Produce all monthly bank statements from your personal bank accounts showing all amounts deposited into those accounts that any blood-relative family member of Chuthamard McCune provided, from January 1, 2005 until March of 2019.
6. Produce all monthly bank statements from the MWI bank account showing all loans that any blood-relative family member of Chuthamard McCune made to MWI, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
7. Produce all receipts from Costco for all business expenses of MWI purchased from the MWI bank account from January 1, 2005 to March of 2019 when the MWI bank account was closed.
8. Produce all banking records showing all deposits of the “significant amounts of money” MSWLLC put into the MWI account from which MWI and MSWLLC were operated, as you alleged in [Doc. 407](#), paragraph 37, page 13 of 59.
9. Produce all monthly bank statements from your personal bank accounts showing the deposit of all checks that Chuck McCune wrote to himself from the MWI bank account that were deposited into those personal accounts, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
10. Produce all cancelled checks and carbons or duplicates of checks showing all checks that Chuck McCune wrote to himself from the MWI bank account that were deposited into your personal bank accounts, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
11. Produce all monthly bank statements from the MWI bank account from the time the account was opened until the time when the account was closed.
12. Produce all checkbook ledgers and written records you made at the time of the occurrence of all checks written, all deposits made and all transfers made for the MWI bank accounts, from the time the accounts were opened until the time the accounts were closed.

(together, “Requests for Production”).

Debtor did not produce any documentation in response to the Requests for Production but instead provided typed responses stating each time that the request is not relevant, and asserting, among other things, that Personal Representative is not a

shareholder of MWI (because Debtor asserts that the Kuehn Trust is the shareholder). Debtor's objection to the Motion to Compel includes an assertion that Debtor has already provided Personal Representative with copies of five years of monthly bank statements for MWI.¹⁶

The documents the Debtors must produce

Given the requirements for imposition of an equitable lien in favor of Personal Representative with respect to the Debtors' homestead and claim of the homestead exemption, the Court has determined that, for the most part, records of MWI that pre-date the time Mr. Kuehn first invested or loaned money to MWI are not relevant and are not reasonably calculated to lead to the discovery of admissible evidence. A limited exception is for any loan or loans that Debtor asserts he or family members made to MWI before Mr. Kuehn first invested or loaned money to MWI. If Debtors used funds from MWI after Mr. Kuehn first invested or loaned money to MWI to repay loans Debtors made to MWI before Mr. Kuehn first invested or loaned money to MWI, those repayments would not demonstrate that Debtors improperly used MWI funds obtained from Mr. Kuehn or the Kuen Trust to purchase, improve, invest in, or reduce the mortgage on the homestead property. The Court will, therefore, grant the Motion to Compel, in part, but limit production documents in some instances to the period beginning September 2015 through March of 2019.

The Motion to Compel includes a request for attorney's fees. The Court declines to award attorney's fees to Personal Representative incurred in connection with the Motion to Compel.

¹⁶ See Defendant's Objection to Pidcock's Motion to Compel Filed as Doc 418 ([Doc. 421](#)).

WHEREFORE, IT IS HEREBY ORDERED that the Motion to Compel is GRANTED, in part, as follows:

Debtors must produce the following documents to Personal Representative within Debtors possession, custody or control, no later than **October 29, 2025**:

1. Copies of all monthly bank statements from Debtors' personal bank accounts that show a withdrawal, transfer, check, or debit reflecting any loan that Debtors made to MWI, from January 1, 2005 until March of 2019 when the MWI bank account was closed.
2. Copies of all checkbook ledgers and records Debtors made at the time of the occurrence from Debtors' personal bank accounts reflecting in any manner all loans that Debtors made to MWI, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
3. Copies of all cancelled checks, check carbons and copies of checks from Debtors' personal bank accounts showing all loans that Debtors you made to MWI, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
4. Copies of all monthly bank statements from Debtors' personal bank accounts that reflect cash transfers from the MWI bank account into Debtors' personal accounts, from September 2015 through March 2019.
5. Copies of all monthly bank statements from the MWI bank account showing all loans that any blood-relative family member of Chuthamard McCune made to MWI, from January 1, 2005 until March of 2019, when the MWI bank account was closed.
6. Copies of all monthly bank statements from Debtors' personal bank accounts showing the deposit of all checks that Debtor wrote to himself from the MWI bank account that were deposited into those personal accounts, from September 2015 until March of 2019, when the MWI bank account was closed.
7. Copies of all cancelled checks and carbons or duplicates of checks showing all checks that Debtor wrote to himself from the MWI bank account that were deposited into Debtors' personal bank accounts, from September 2015 until March of 2019, when the MWI bank account was closed.
8. Copies of all monthly bank statements from the MWI bank account from September 2015 through March 2019.

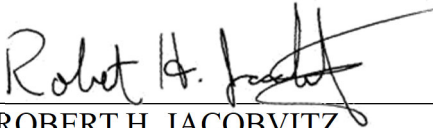
9. Copies of all checkbook ledgers and written records made at the time of the occurrence of all checks written, all deposits made and all transfers made for the MWI bank accounts, from September 2015 through March 2019.

(together, the “Documents,” and each responsive document individually, “Document”).

Debtors must identify the corresponding production number for each Document produced. If there are no responsive documents, Debtors shall so specify.

If Debtors contend that they have already provided some or all of the Documents to Personal Representative, then, by **October 29, 2025**, Debtors shall provide Personal Representative with a statement, signed under oath, identifying each Document previously produced, identifying the corresponding bates-stamped number(s) for each Document previously produced, and identifying the production number to which the previously produced Documents are responsive.¹⁷

ORDERED FURTHER, that all further relief requested in the Motion to Compel, including the request for attorney’s fees, is DENIED. Other than as directed in this Order, Debtors are not required to provide any further response to the Requests for Production.



ROBERT H. JACOBVITZ
United States Bankruptcy Judge

Date entered on docket: October 8, 2025

COPY TO:

Chuck McCune
2139 Don Andres Pl SW
Albuquerque, NM 87105

Chuthamard McCune
2139 Don Andres Pl SW
Albuquerque, NM 87105

Robert L. Pidcock
Attorney for the Estate of Thomas W. Kuehn
501 Wyoming Blvd. SE
Albuquerque, NM 87123

¹⁷ It appears to the Court that several Documents have, in fact, previously been produced to Personal Representative. The exhibits attached to the Motion to Impose Equitable Lien ([Doc. 400](#)) include copies of checks from MWI as well as MWI bank statements.