GREENMAN, LACY, KLEIN, O'HARRA & HEFFRON

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August 22, 2014

Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

APPEAL OF DENIAL OF APPLICATION TO TRANSFER THOMAS L. PTAK'S TRANSFERABLE SOUTH COAST REGION NEARSHORE FISHERY PERMIT

Dear Fish and Game Commission:

This appeal is in response to the July 3, 2014 Notice of Denial of Application to Transfer Thomas L. Ptak's Transferable South Coast Region Nearshore Fishery Permit addressed to Christine Allen as Executor of the Estate of Thomas L. Ptak. A copy of this Notice of Denial is attached to and incorporated herein as Exhibit A.

I.

Reason Given for Denial

The application to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit was denied because the application was submitted more than one year after Mr. Ptak's date of Death.

II.

Basis for Appeal

Thomas Leonard Ptak died on March 13, 2012. A copy of his death certificate is attached to and incorporated herein as Exhibit B.

Christine Allen, Mr. Ptak's partner of 16 years, immediately retained the law firm Greenman, Lacy, Klein, O'Harra & Heffron (hereinafter "Attorneys") to assist her in administering Mr. Ptak's affairs. This included communicating with the California Department of Fish and Wildlife regarding Mr. Ptak's commercial fishing permits and handling the Probate of Mr. Ptak's Estate.

Attorneys enlisted the assistance of commercial fisherman Ken Bates due to his understanding of the unique nature of the commercial fishing permits owned by Mr. Ptak. On behalf of Attorneys, Ken Bates first contacted Debbie Noriega at the Department of Fish and Wildlife on March 19, 2012 only six (6) days following Mr. Ptak's death. Ken Bates notified Ms. Noriega that Mr. Ptak died, confirmed that Mr. Ptak owned five commercial fishing permits, obtained information on how Mr. Ptak's permits could be transferred, and obtained instruction on how Mr. Ptak's personal representative Christine Allen could apply for the transfer of Mr. Ptak's commercial fishing permits. Ms. Noriega provided invaluable assistance and shared extensive knowledge regarding the permits owned by Mr. Ptak. However, at no time did Ms. Noriega explain to Mr. Bates that there was a time frame in which Mr. Ptak's permits must be transferred.

Attorney Kurt Weiser of the law firm Greenman, Lacy, Klein, O'Harra & Heffron spoke directly to Ms. Noriega two times within one year of Mr. Ptak's death. Attorney Weiser's first conversation with Ms. Noriega took place on or about May 16, 2012. His second conversation with Debbie Noriega took place on or about August 22, 2012. The purpose of these conversations was to discuss the procedure for transferring Mr. Ptak's commercial fishing permits.

Attorney Weiser explained that Mr. Ptak's estate was subject to Probate with the Superior Court of California, County of San Diego and therefore Mr. Ptak's commercial fishing permits would become probate assets. Under the California Probate Code assets, including the permits, can not transfer prior to the time the Probate Court's order to distribute estate assets is issued.

Attorney Weiser informed Ms. Noriega that the Probate of Mr. Ptak's estate would be a lengthy process because no probate can be completed until creditors of the estate are paid. Ms. Noriega informed Attorney Weiser that Mr. Ptak's commercial fishing permits could be retained in Mr. Ptak's probate estate and could be transferred once the probate was complete. Attorneys were appreciative of Ms. Noriega's analysis. However, Ms. Noriega analysis of the transfer of Mr. Ptak's permits never included reference to time frames in which applications to transfer Mr. Ptak's permits must be submitted to the Department of Fish and Wildlife. All of Mr. Ptak's commercial fishing permits are still assets of Mr. Ptak's Probate Estate as of the date of this appeal.

Attorney Weiser and Christine Allen relied on Ms. Noriega's instruction and expertise as a Department of Fish and Wildlife analyst. Attorney Weiser relied on Ms. Noriega's thorough analysis and advice (and lack of any mention of a time limitation). On that basis Attorney Weiser understood that the time frames in which Mr. Ptak's permits could be transferred would be tolled during the probate. A declaration by Attorney Weiser is attached to and incorporated herein as Exhibit C.

III.

Summary of the Probate of The Estate of Thomas Ptak

Attorneys, on behalf of Petitioner Christine Allen, promptly filed a Petition for Probate of Mr. Ptak's Last Will and Testament and for Letters Testamentary with the Superior Court of California, County of San Diego, on June 1, 2012.

The Superior Court issued an order appointing Christine Allen as the Executor of Mr. Ptak's Will and issued Letters Testamentary to Christine Allen as the Executor of the Will of Mr. Ptak with full authority to administer Mr. Ptak's Probate Estate on September 18, 2012.

Multiple creditors filed creditor's claims against Mr. Ptak's Probate Estate. Claims by creditors of the decedent are very common in probates and occur when the decedent dies with legitimate debt. Attorneys and Christine Allen have worked diligently with these creditors to plan for the payoff of Mr. Ptak's debt so that Mr. Ptak's Probate Estate can generate enough income to pay off these creditors. Attorneys also maintained frequent communication with Ms. Noriega from Mr. Ptak's date of death until present day. These communications include Attorneys providing Ms. Noriega with frequent status updates on the probate of Mr. Ptak's estate. Ms. Noriega continued to provide Attorneys with advice and guidance.

Ms. Noriega advice to hold Mr. Ptak's permits in Mr. Ptak's Probate Estate until the close of probate never wavered. As recently as April 28, 2014, Ms. Noriega advised attorney Weiser that Mr. Ptak's commercial permits could be transferred once the probate of Mr. Ptak's estate is completed. Specifically, Ms. Noriega confirmed with attorney Weiser and attorney Christopher Shourds of Greenman, Lacy, Klein, O'Harra & Heffron that the best way to transfer Mr. Ptak's commercial permits was to continue to hold the permits in Mr. Ptak's probate estate until the probate is complete. Ms. Noriega stated that Attorneys should wait until they receive a court order for distribution of Mr. Ptak's probate assets issued by a Judge of the Superior Court and then submit the court order along with an application to transfer Mr. Ptak's permits to Eric Allen to the Department of Fish and Wildlife.

Further, Ms. Noriega stated that she had communicated with her supervisor and advised Attorneys that this process would result in the successful transfer of Mr. Ptak's permits to Eric Allen. A declaration by attorney Shourds is attached to and incorporated herein as Exhibit D.

IV.

Attorneys Sought Additional Ways to Transfer Permits to Eric Allen Prior to the Close of Mr. Ptak's Probate Estate

Attorney Weiser informed Ms. Noriega that Christine Allen desired to transfer Mr. Ptak's

Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement to Eric Allen, Mr. Ptak's long time deckhand and crew member, without the requirement that Eric Allen need to purchase any ancillary permits or endorsements. Ms. Noriega informed Attorney Weiser that this could not be accomplished because Eric Allen was not a blood relative of Mr. Ptak and because the owner of the permits was not a commercial entity in which Eric Allen possessed an ownership interest. Again, Ms. Noriega was cooperative and knowledgeable. Attorneys appreciate the assistance and insight she provided.

On October 7, 2013 attorney Weiser submitted a letter to Ms. Noriega asking the Department of Fish and Wildlife to consider allowing the transfer of Mr. Ptak's permits to Eric Allen, without the need for Eric Allen to acquire any ancillary permits, under the theory that Mr. Ptak and Eric Allen operated the fishing business as a general partnership entity. A general partnership can be legally recognized as a commercial entity in the state of California.

Attorney Weiser's letter informed Ms. Noriega that Eric Allen was paid a "crew share" for the past twelve years. It also explained that Mr. Ptak and Eric Allen split profits, each contributed to expenses, shared equally in the responsibility of maintaining the boat and the rest of the fishing operation, and had the ability to bind each other to contracts and other liabilities. Under these circumstances, attorney Weiser urged the Department of Fish and Wildlife that Mr. Ptak's Probate Estate should be able to transfer the permits to Eric Allen prior to the close of probate without the requirement that Eric Allen purchase any ancillary permits.

Attorneys never received a definitive response to attorney Weiser's October 7th letter despite placing numerous follow up calls to Ms. Noriega between December 16, 2013 and December 30, 2013. Ms. Noriega was supportive in trying to obtain a written response from her supervisors to attorney Weiser's letter. On December 30, 2013, attorney Shourds reached Ms. Noriega via telephone. Ms. Noriega still did not have a response to attorney Weiser's letter. However, Ms. Noriega stated that one or more of Mr. Ptak's permits could be sold prior to the close of probate if the Department of Fish and Wildlife did not approve the transfer of Mr. Ptak's permits to Eric Allen based on the theory that Mr. Ptak and Eric Allen were operating as a general partnership.

Attorneys relayed Ms. Noriega's comments to Christine Allen. Upon hearing Ms. Noriega's statement that one or more of Mr. Ptak's permits could be sold out of Mr. Ptak's Probate Estate, Christine Allen decided that the quickest way to generate income necessary to pay off creditors and close Mr. Ptak's Probate Estate would be to sell one or more of Mr. Ptak's permits.

Four months passed and Attorneys still did not receive a definitive response to their request to transfer Mr. Ptak's permits to Eric Allen based on the theory that Mr. Ptak and Eric Allen were operating as a general partnership. Attorney Weiser left a voicemail for Ms. Noriega on April 7, 2014 expressing Christine Allen's desire to sell Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement. Attorneys never received a response to this voicemail.

V.

Department of Fish and Wildlife's Approval of Transfer

On or about April 16, 2014 Christine Allen began working with a broker to sell Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement. Christine Allen was introduced to buyer Brian Kiyohara on or about April 21, 2014. On or about April 28, 2014, Attorneys Weiser and Shourds spoke to Ms. Noriega to inform her that Christine Allen was selling Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement.

Attorney Weiser informed Ms. Noriega that the sale of these permits would generate enough income to pay off the creditors of Mr. Ptak's Probate Estate so that the probate could be closed. Again, Ms. Noriega stated that any unsold permits could be held in Mr. Ptak's Probate Estate and transferred to Eric Allen at the close of probate by submitting a court order for distribution issued by a Judge of the Superior Court along with applications to transfer Mr. Ptak's remaining permits to Eric Allen to the Department of Fish and Wildlife.

Christine Allen relied on the information provided by Debbie Noriega and sold Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement to Brian Kiyohara.

The Department of Fish and Wildlife approved the transfer of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement to Brian Kiyohara on June 5, 2014 and re-issued the permits in the name of Brian Kiyohara. Copies of the Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement issued to Brian Kiyohara are attached to and incorporated herein as Exhibit E.

The sale of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement generated enough proceeds that Christine Allen was less than one week away from issuing payment in full to all creditors of Mr. Ptak's Probate Estate. Issuing these payments to creditors would have allowed Christine Allen to close Mr. Ptak's Probate Estate.

VI.

Department of Fish and Wildlife's Recission of Transfer

On June 12, 2014, Christine Allen, Brian Kiyohara, and Attorneys were notified that the successful transfer of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement was rescinded by the Department of Fish and Wildlife even though transferee Brian Kiyohara

was already in possession of newly issued permits.

Attorney Weiser immediately contacted Ms. Noriega who informed him that the transfer of the permits was rescinded because more than one year had passed since Mr. Ptak's death. Ms. Norriega stated that she "felt terrible and was surprised as we were."

Christine Allen had already deposited the proceeds from the sale of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement into the bank account for Mr. Ptak's Probate Estate and wrote checks to pay off the creditors of Mr. Ptak's Probate Estate. Fortunately, the checks to the creditors were not yet mailed and were able to be voided.

Christine Allen refunded transferee Brian Kiyohara the full amount that Mr. Kiyohara paid for Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement.

VII.

Additional Pertinent Information

The Probate of the Estate of Mr. Ptak is still ongoing as of the date of this Appeal of Denial of Application to Transfer Thomas L. Ptak's Transferable South Coast Region Nearshore Fishery Permit.

Attorneys began communicating and working with Ms. Noriega within six (6) days of Mr. Ptak's death. Attorneys and Christine Allen have not delayed or neglected to attempt to transfer Mr. Ptak's commercial fishing permits. Attorneys have been in regular communication with Ms. Noriega since March 19, 2012 and have followed the advice and instruction Ms. Noriega provided regarding the transferability of Mr. Ptak's permits.

The Estate of Mr. Ptak owns one Transferrable South Coast Region Nearshore Fishery Permit, one Transferrable South Coast Region Nearshore Fishery Trap Endorsement, one General Gill/Trammel Net Permit, one Lobster Operator Permit, and one Southern Rock Crab Trap Permit. All of these permits have exceeded the time frame for approval of transfer due to the probate of Mr. Ptak's estate and the same facts contained in this appeal.

Attorneys are hopeful the Fish and Game Commission will approve the request for extension of time (below) and apply it to all permits owned by the Estate of Mr. Ptak. Attorneys are prepared to apply for transfer of each permit owned by the Estate of Mr. Ptak and to appeal any denial to the maximum extent possible.

Attorneys are hopeful this situation can be resolved and the extension of time requested below can be granted without the need to appear at a hearing in front of the Fish and Game Commission.

Attorneys sincerely appreciate the time and resources the Fish and Game Commission put

into reading and investigating this Appeal of Denial of Application to Transfer Thomas L. Ptak's Transferable South Coast Region Nearshore Fishery Permit.

VIII.

Request for Relief

Attorneys and Christine Allen, Executor of the Estate of Thomas L. Ptak, hereby request an extension of time to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit. Specifically, Attorneys and Christine Allen, Executor of the Estate of Thomas L. Ptak, formally request from the Fish and Game Commission a nine (9) month extension to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit with the extension beginning on the date that Attorneys and Christine Allen are notified by the Fish and Game Commission that the extension of time has been granted.

Christine Allen plans to use this extension of time to sell Mr. Ptak's Transferable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement. This sale will generate enough proceeds that creditors of Mr. Ptak's Probate Estate can be paid off and Attorneys' can file a petition with the Superior Court to close the probate and distribute Mr. Ptak's remaining assets.

Christine Allen, at the time probate can be closed, plans to transfer all of Mr. Ptak's remaining permits to Eric Allen so the fishing business can be maintained. The inability to transfer Mr. Ptak's permits by selling one or more permit and transferring the remaining permits at the close of probate will irreparably harm Christine Allen and Eric Allen. Christine and Eric's main source of income comes from the operation of the fishing business Mr. Ptak spent his life developing with the help of Eric Allen as his crew member and deckhand. If the Fish and Game Commission does not grant an extension of time to allow Christine Allen to transfer Mr. Ptak's permits then the Allen family will likely lose everything, including but not limited to the house they live in and the income source they live off of. The extension of time requested above is the best foreseeable way to save the Allen family from financial hardship that would occur if Mr. Ptak's permits become non-transferrable due to the passage of time following Mr. Ptak's Death.

Respectfully Submitted,

GREENMAN, LACY, KLEIN,
O'HARRA & HEFFRON

CHRIS SHOURDS, ESQ. — Date 8/25/14

KURT WEISER, ESQ. — Date 8/25/14

ESTATE OF THOMAS L. PTAK

CHRISTINE ALLEN, Executor of the
Estate of Thomas L. Ptak

8/25/14
Date

Enclosures:

Exhibit A - Notice of Denial of Application to Transfer Thomas L. Ptak's Transferrable South Coast Region Nearshore Fishery Permit.
Exhibit B - Death Certificate for Thomas L. Ptak
Exhibit C - Declaration by Attorney Kurt Weiser
Exhibit D - Declaration by Attorney Christopher Shourds
Exhibit E - Copy of Transferrable South Coast Region Nearshore Fishery Report and Transferrable South Coast Region Nearshore Fishery Trap Endorsement Issued to Transferee Brian Kiyohara

Exhibit A

State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
License and Revenue Branch
1740 N. Market Blvd
Sacramento, CA 95834
http://www.wildlife.ca.gov

EDMUND G. BROWN JR, Governor
CHARLTON H. BONHAM, Director

Certified Mail

July 3, 2014

Ms. Christine Allen
[redacted]

SUBJECT: NOTICE OF DENIAL OF AN APPLICATION TO TRANSFER TRANSFERABLE SOUTH COAST REGION NEARSHORE FISHERY PERMIT

Dear Ms. Allen:

This letter is in response to your application to transfer a 2014-2015 Transferable South Coast Region Nearshore Fishery Permit (TSCRNFP), Permit Number NST033, from Mr. Thomas L. Ptak (L30798) to Mr. Brian Kiyohyara (L74934). You are the executor of Mr. Ptak's estate.

Authority-Nearshore Fishery Permit
Pursuant to Section 150(g)(1)(A), Title 14, of the California Code of Regulations (CCR), a transferable Nearshore Fishery Permit (NFP) may be transferred from one person to another. If the number of NFPs in a regional management area is greater than the capacity goal for the regional management area, one additional transferable NFP for the same regional management area must be surrendered to the Department of Fish and Wildlife (Department) for cancellation at the same time the application for transfer is submitted. The capacity goal for the South Coast Region is 18 permits. As of June 5, 2014, 43 SCRNFPs have been issued, therefore two TSCRNFPs must be surrendered.

Pursuant to Section 150(g)(3), Title 14, of the CCR, a transferable NFP may be transferred to the estate of a permittee who has died only for the purpose of transferring the NFP to another person.

Nearshore Fishery Permit Transfer Requirements
- The NFP(s) must be valid at the time of application for transfer.
- The transferee must have a valid California Commercial Fishing License.
- The transferee must have never been convicted of a violation of any provision of these regulations or the Fish and Game Code (FGC) pertaining to the commercial take of nearshore fish stocks.

Required Documentation

- The request for the transfer must be submitted within one year of the date of death of the permit holder as listed on the death certificate.
- Transfer application in the form of a notarized letter which identifies the deceased permit holder, transferee, and transferable NFP for the regional management area.
- Copy of the permittee's death certificate.
- Copy of the permittee's California Commercial Fishing License and original NFP(s).
- Copy of the transferee's California Commercial Fishing License.
- Nonrefundable NFP transfer fee of $500.

Documentation Submitted

- A notarized letter dated May 9, 2014, received May 23, 2014, from Ms. Christine Allen, Executor of the Estate of Thomas L. Ptak requesting to transfer Mr. Ptak's TSCRNFP and Transferable South Coast Region Nearshore Fishery Trap Endorsement (TSCRNFTE) to Mr. Kiyohara.
- A notarized letter dated May 9, 2014, received May 23, 2014, from Eric A. Kramer, requesting to transfer his TSCRNFP to Mr. Kiyohara.
- A notarized letter dated May 9, 2014, received May 23, 2014, from Brian Klyohara, stating that one the TSCRNFPs will be retired to complete the transfer process.
- Copy of the Certificate of Death from County of San Diego, stating Mr. Ptak's date of death was on March 13, 2012.
- Copy of Letter of Testamentary filed January 31, 2014, for the estate of Thomas L. Ptak, appointing Christine Allen as executor.
- Mr. Ptak's original 2014-2015 TSCRNFP.
- Mr. Kramer's original 2014-2015 TSCRNFP.
- A copy of Mr. Kiyohara's 2014-2015 California Commercial Fishing License and Commercial General Trap Permit.
- Nonrefundable transfer fee $500.

Department of Fish and Wildlife's Recommendation

The Department is denying your application to transfer Mr. Ptak's TSCRNFP, because the application must be submitted within one year of the date of death of the permit holder as listed on the death certificate. The application was received more than 26 months after the date of death listed on the death certificate.

Deadline to File an Appeal

You may appeal to the Department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the Department. The decision of the Department may be appealed in writing to the Commission at 1416 Ninth Street,

Sacramento, California 95814. Pursuant to Section 150(m)(3), Title 14, of the CCR, your appeal of the Department's decision must be received within 60 days of this letter.

Your application to transfer a Transferable South Coast Region Nearshore Fishery Trap endorsement was addressed under separate cover.

If you have any questions or require further assistance, please contact Ms. Debbie Noriega of my staff, at the letterhead address, by telephone at (916) 928-5817, or e-mail Debbie.Noriega@wildlife.ca.gov.

Sincerely,

James Fong, Chief
License and Revenue Branch

cc: Mr. Sonke Mastrup
Fish and Game Commission
Sacramento, California

Ms. Debbie Noriega
Department of Fish and Wildlife
Sacramento, California

Exhibit B

STATE OF CALIFORNIA
CERTIFICATION OF VITAL RECORD

COUNTY OF SAN DIEGO

3052012050234
STATE FILE NUMBER

CERTIFICATE OF DEATH
STATE OF CALIFORNIA
USE BLACK INK ONLY / NO ERASURES, WHITEOUTS OR ALTERATIONS
(PRINTED 3/30)

3201237004299
LOCAL REGISTRATION NUMBER

DECEDENT'S PERSONAL DATA

1. NAME OF DECEDENT- FIRST (Given): THOMAS
2. MIDDLE: LEONARD
3. LAST (Family): PTAK
AKA, ALSO KNOWN AS – Include full AKA (FIRST, MIDDLE, LAST):
5. DATE OF BIRTH mm/dd/yyyy: [redacted]
6. AGE: [redacted]
If UNDER ONE YEAR: Months / Days
If UNDER 24 HOURS: Hours / Minutes
8. SEX: M
9. BIRTH STATE/FOREIGN COUNTRY: CALIFORNIA
10. SOCIAL SECURITY NUMBER: [redacted]
11. EVER IN U.S. ARMED FORCES? ☐ YES ☒ NO ☐ UNK
12. MARITAL STATUS/REP (at time of death): [redacted]
13. DATE OF DEATH mm/dd/yyyy: [redacted]
14. HOUR (24 hours): 0625
15. EDUCATION – Highest Level/Degree (see worksheet on back): HS GRADUATE
16. WAS DECEDENT HISPANIC/LATINO/A/SPANISH? ☐ YES ☒ NO
17. DECEDENT'S RACE – Up to 3 races may be listed (see worksheet on back): WHITE
18. USUAL OCCUPATION – Type of work for most of life. DO NOT USE RETIRED: COMMERCIAL FISHERMAN
19. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.): COMMERCIAL FISHING
19. YEARS IN OCCUPATION: 30

USUAL RESIDENCE

20. DECEDENT'S RESIDENCE (Street and number, or location): [redacted]
21. CITY: [redacted]
22. COUNTY/PROVINCE: [redacted]
23. ZIP CODE: [redacted]
24. YEARS IN COUNTY: 30
25. STATE/FOREIGN COUNTRY: CALIFORNIA

INFORMANT

26. INFORMANT'S NAME, RELATIONSHIP: CHRISTINE ALLEN, COMPANION
27. INFORMANT'S MAILING ADDRESS (Street or rural route number, city or town, state, and zip): [redacted]

SPOUSE/RDP AND PARENT INFORMATION

28. NAME OF SURVIVING SPOUSE/RDP–FIRST: -
29. MIDDLE: -
30. LAST (BIRTH NAME): -
31. NAME OF FATHER/PARENT–FIRST: [redacted]
32. MIDDLE: [redacted]
33. LAST: [redacted]
34. BIRTH STATE: PA
35. NAME OF MOTHER/PARENT–FIRST: [redacted]
36. MIDDLE: [redacted]
37. LAST (BIRTH NAME): [redacted]
38. BIRTH STATE: CA

FUNERAL DIRECTOR/LOCAL REGISTRAR

39. DISPOSITION DATE mm/dd/yyyy: [redacted]
40. PLACE OF FINAL DISPOSITION: AT SEA OFF THE COAST OF SAN DIEGO COUNTY
41. TYPE OF DISPOSITION(S): CR/SEA
42. SIGNATURE OF EMBALMER: ▸ NOT EMBALMED
43. LICENSE NUMBER: -
44. NAME OF FUNERAL ESTABLISHMENT: ACCU-CARE CREMATION CENTER
45. LICENSE NUMBER: FD1528
46. SIGNATURE OF LOCAL REGISTRAR: ▸ WILMA WOOTEN, MD
47. DATE mm/dd/yyyy: [redacted]

PLACE OF DEATH

101. PLACE OF DEATH: HOME
102. IF HOSPITAL, SPECIFY ONE: ☐ IP ☐ ER/DOP ☐ DOA
103. IF OTHER THAN HOSPITAL, SPECIFY ONE: ☐ Hospice ☐ Nursing Home/LTC ☒ Decedent's Home ☐ Other
104. COUNTY: [redacted]
105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location): [redacted]
106. CITY: [redacted]

CAUSE OF DEATH

107. CAUSE OF DEATH – Enter the chain of events — diseases, injuries, or complications — that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT abbreviate.
Interval (Unknown)
108. DEATH REPORTED TO CORONER
IMMEDIATE CAUSE (Final disease or condition resulting in death) →
Sequentially, list conditions, if any, leading to cause on Line A. Enter UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST
[redacted]
113. OTHER SIGNIFICANT [redacted]
NONE
112. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 112? (If yes, for type of operation and date.)
NO
113A. IF FEMALE, PREGNANT IN LAST YEAR? ☐ YES ☐ NO ☐ UNK

PHYSICIAN'S CERTIFICATION

114. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED.
Decedent Attended Since (A) mm/dd/yyyy
Decedent Last Seen Alive (B) mm/dd/yyyy
115. SIGNATURE AND TITLE OF CERTIFIER: ▸
116. LICENSE NUMBER
117. DATE mm/dd/yyyy
118. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE

CORONER'S USE ONLY

119. I CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED.
MANNER OF DEATH: ☒ Natural ☐ Accident ☐ Homicide ☐ Suicide ☐ Pending Investigation ☐ Could not be determined
120. INJURED AT WORK? ☐ YES ☐ NO ☐ UNK
121. INJURY DATE mm/dd/yyyy
122. HOUR (24 hours)
123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.)
124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury)
125. LOCATION OF INJURY (Street and number, or location, and city, and zip)
126. SIGNATURE OF CORONER / DEPUTY CORONER: ▸ OTHON J MENA MD
127. DATE mm/dd/yyyy: 03/16/2012
128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER: OTHON J MENA MD, DEP MED EXAMINER

A	B	C	D	E		FAX AUTH.#	CENSUS TRACT
					D100310020176O5		

A002401545

County of San Diego – Department of Health Services – 3851 Rosecrans Street. This is to certify that, if bearing the OFFICIAL SEAL OF THE STATE OF CALIFORNIA, the OFFICIAL SEAL OF SAN DIEGO COUNTY AND THEIR DEPARTMENT OF HEALTH SERVICES EMBOSSED SEAL, this is a true copy of the ORIGINAL DOCUMENT FILED. Required fee paid.

DATE ISSUED: [redacted]

Wilma J. Wooten, M.D.
WILMA J. WOOTEN, MD
REGISTRAR OF VITAL RECORDS
County of San Diego

This copy not valid unless prepared on engraved border displaying seal and signature of Registrar

THE GREAT SEAL OF THE STATE OF CALIFORNIA EUREKA

THE NOBLEST MOTIVE IS THE PUBLIC GOOD COUNTY OF SAN DIEGO MDCCCL

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

Exhibit C

KURT WEISER, ESQ.
GREENMAN, LACY, KLEIN,
O'HARRA & HEFFRON
900 Pier View Way, P.O. Box 299
Oceanside, California 92049-0299
(760)722-1234

Attorneys for Christine Allen,
Executor of the Estate of Thomas L. Ptak,

CALIFORNIA FISH AND GAME COMMISSION

IN THE MATTER OF: APPEAL OF DENIAL OF APPLICATION TO TRANSFER THOMAS L. PTAK'S TRANSFERRABLE SOUTH COAST REGION NEARSHORE FISHERY PERMIT	**"EXHIBIT C"** DECLARATION OF KURT WEISER IN SUPPORT OF APPEAL OF DENIAL OF APPLICATION TO TRANSFER THOMAS L. PTAK'S TRANSFERRABLE SOUTH COAST REGION NEARSHORE FISHERY PERMIT

I, KURT WEISER, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California. I am a partner in the law firm of Greenman, Lacy, Klein, O'Harra & Heffron (hereinafter "Attorneys"), the attorneys-of-record for Christine Allen, Executor of the Estate of Thomas L. Ptak. I have personal knowledge to the following facts, except to those matters which I so indicate that are based on information and belief.

2. Thomas Leonard Ptak died on March 13, 2012. I was retained by Christine Allen immediately following Mr. Ptak's death. Christine Allen informed me that Mr. Ptak owned five (5) commercial fishing permits issued by the California Department of Fish and Wildlife.

3. I enlisted the assistance of commercial fisherman Ken Bates to contact the California Department of Fish and Wildlife on my behalf to notify the Department that Mr. Ptak died, confirm that Mr. Ptak owned five commercial fishing permits, obtain information on how Mr. Ptak's permits could be transferred, and obtain instructions on how Mr. Ptak's personal representative Christine Allen could apply for the transfer of Mr. Ptak's permits.

4. Ken Bates contacted Debbie Noriega at the California Department of Fish and Wildlife on March 19, 2012, only six (6) days following Mr. Ptak's death. Mr. Bates notified Ms. Noriega of Mr. Ptak's death and obtained information regarding the transferability of Mr. Ptak's permits. I spoke with Mr. Bates following his conversation with Ms. Norriega and Mr. Bates provided me with the notes he took during his conversation with Ms. Noriega. Based on my information and belief, Ms. Noriega never informed Mr. Bates that there was a time frame in which an application to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit must be submitted to the California Department of Fish and Wildlife.

5. I personally spoke to Ms. Noriega two times within one year of Mr. Ptak's death to discuss the procedure for transferring Mr. Ptak's permits. I informed Ms. Noriega that Mr. Ptak's estate was subject to probate with the Superior Court of California, County of San Diego and that Mr. Ptak's commercial fishing permits were subject to the estate and like any estate assets could not be transferred to Eric Allen without closing the probate.

6. I explained to Ms. Noriega that Mr. Ptak's Probate Estate can not be closed until the creditors of the probate estate are paid. Ms. Noriega informed me that Mr. Ptak's commercial fishing permits could be retained in Mr. Ptak's Probate Estate and could be transferred once the probate was complete. I relied on this information provided by Ms.

Noriega. Ms. Noriega never informed me that there was a time frame in which an application to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit must be submitted to the California Department of Fish and Wildlife.

7. As recently as April 28, 2014, Ms. Noriega informed me that an acceptable way to transfer Mr. Ptak's permits was to continue to hold the permits in Mr. Ptak's Probate Estate until the probate estate is complete. Ms. Noriega stated that I should wait to receive a court order for distribution of Mr. Ptak's probate assets issued by a Judge of the Superior Court and then submit the court order along with an application to transfer Mr. Ptak's permits to the California Department of Fish and Wildlife.

8. On or about April 28, 2014, Ms. Noriega informed me that one or more of Mr. Ptak's permits could be sold out of Mr. Ptak's Probate Estate in order to generate enough proceeds to pay off the estate's creditors so that the probate could be closed. In reliance on this information, I assisted Christine Allen, Executor of the Estate of Thomas Ptak in selling Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit to Brian Kiyohara. The California Department of Fish and Wildlife approved the transfer of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit to Brian Kiyohara and issued the permit in the name of Brian Kiyohara. The California Department of Fish and Wildlife then rescinded the transfer because the application to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit was submitted more than one year after Mr. Ptak's death.

9. I spoke to Ms. Noriega on June 6, 2014 when I learned that the transfer of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit to Brian Kiyohara had been rescinded. Ms. Noriega stated that she felt terrible and was taken by surprise.

10. The probate of the Estate of Thomas L. Ptak is still ongoing as of the date of this declaration.

11. I have been in regular communication with Ms. Noriega, with initial assistance from Mr. Bates, since the date of Mr. Ptak's death. I followed the advice and instruction Ms. Noriega provided regarding the transferability of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit . It was my belief based on my conversations with Ms. Noriega that the time frame in which an application to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit must be submitted to the California Department of Fish and Wildlife was tolled while Mr. Ptak's Estate was being probated.

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

Dated: August 25, 2014

GREENMAN, LACY, KLEIN
O'HARRA, & HEFFRON

BY: _____
KURT WEISER

Exhibit D

CHRISTOPHER SHOURDS, ESQ.
GREENMAN, LACY, KLEIN,
O'HARRA & HEFFRON
900 Pier View Way, P.O. Box 299
Oceanside, California 92049-0299
(760)722-1234

Attorneys for Christine Allen,
Executor of the Estate of Thomas L. Ptak,

CALIFORNIA FISH AND GAME COMMISSION

IN THE MATTER OF: APPEAL OF DENIAL OF APPLICATION TO TRANSFER THOMAS L. PTAK'S TRANSFERRABLE SOUTH COAST REGION NEARSHORE FISHERY PERMIT	))))))))))	**"EXHIBIT D"** DECLARATION OF CHRISTOPHER SHOURDS IN SUPPORT OF APPEAL OF DENIAL OF APPLICATION TO TRANSFER THOMAS L. PTAK'S TRANSFERRABLE SOUTH COAST REGION NEARSHORE FISHERY PERMIT

I, CHRISTOPHER SHOURDS, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California. I am a associate attorney in the law firm of Greenman, Lacy, Klein, O'Harra & Heffron (hereinafter "Attorneys"), the attorneys-of-record for Christine Allen, Executor of the Estate of Thomas L. Ptak. I have personal knowledge to the following facts, except to those matters which I so indicate that are based on information and belief.

2. My first communication with Debbie Noriega at the California Department of Fish and Wildlife was on December 16, 2013. I contacted Ms. Norriega to follow up to a letter attorney Weiser sent Ms. Noriega on October 7, 2013. Mr. Weiser's letter inquired as to whether Mr. Ptak's commercial fishing permits could be transferred to Eric Allen under

the theory that Mr. Ptak operated his commercial fishing operation as a general partnership entity. Under California law a general partnership is formed whenever two or more people join in a business for profit and share responsibility for management, profits, and liabilities for the debts of the general partners. Mr. Ptak shared profits with Mr. Allen by paying Mr. Allen a "crew share" that was a percentage of their net income. In addition to Mr. Ptak and Mr. Allen splitting profits, they each contributed to expenses, shared equally in the responsibility of maintaining the boat and the rest of the fishing operating, and had the ability to bind each other to contracts and other liabilities.

3. Ms. Noriega was cooperative in telling me she would attempt to have her supervisor prepare a written response to attorney Weiser's letter. No written response or definitive oral response to attorney Weiser's letter was ever received.

4. On December 30, 2014, Ms. Noriega informed me via telephone that one or more of Mr. Ptak's permits could be sold prior to the close of probate if the Department of Fish and Wildlife did not approve the transfer of Mr. Ptak's permits to Mr. Allen based on the theory that Mr. Ptak and Mr. Allen were operating as a general partnership.

5. In April of 2014 I began working to assist Christine Allen in the sale of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement.

6. On or about April 28, 2014, I participated in a telephone call with Ms. Noriega and attorney Weiser. Attorney Weiser informed Ms. Noriega that Christine Allen was selling Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement. Attorney Weiser also informed Ms. Noriega that the sale of these permits would generate enough income to pay off the

creditors of Mr. Ptak's Probate Estate so that the probate could be closed. Ms. Noriega stated that any unsold permits could remain in Mr. Ptak's Probate Estate and be transferred to Eric Allen at the close of probate by submitting a court order for distribution issued by a Judge of the Superior Court along with applications to transfer Mr. Ptak's remaining permits to Eric Allen to the Department of Fish and Wildlife.

7. The California Department of Fish and Wildlife approved the transfer of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement to Brian Kiyohara on June 5, 2014, and re-issued the permits in the name of transferee Brian Kiyohara.

8. I was notified on June 12, 2014 that the California Department of Fish and Wildlife was rescinding the successful transfer of Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit and Transferrable South Coast Region Nearshore Fishery Trap Endorsement to Brian Kiyohara because more than one year had passed since Mr. Ptak's death.

9. My numerous conversation with Ms. Noriega between December 16, 2013 and June 12, 2014 and the information and analysis Ms. Noriega provided me regarding the transferability of Mr. Ptak's permits lead me to believe any time frame in which an application to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Permit must be submitted to the California Department of Fish and Wildlife was tolled while Mr. Ptak's estate was being probated.

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

Dated: August 25, 2014

GREENMAN, LACY, KLEIN
O'HARRA, & HEFFRON

BY: _____
CHRISTOPHER SHOURDS

Exhibit E

14 CLE

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NEARSHORE TRAP ENDORSEMENT - SOUTH COAST
Valid only when in possesion of a Commercial Fishing License for the same license year.

D-0011064277-8

Nearshore Trap Endorsement - South Coast (Transferable)
Permit Number: TST022

Commercial Fishing License ID: L74934

[redacted]

STATE ID: C491**** CA
BRIAN KIYOHARA

[redacted]

Resident: I have resided in California continuously for the past 6 months

Doc No: D-0011064277-8
Trans: 000000008246185
155591444
Outlet No: 310001-002
6/5/2014 10:49:53 AM

Item	Fee*
Nearshore Trap - S Coast (T)	$106.35

Total: $106.35

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or possess a license obtained by fraud or deceit (Fish and Game Code §§1052(b) and 1054).

X

Signature NOT VALID UNLESS SIGNED
LICENSE AND PHOTO IDENTIFICATION MUST BE IN IMMEDIATE POSSESSION WHILE FISHING

----- End of Document D-0011064277-8 -----

14 CLE

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
NEARSHORE FISHERY PERMIT - SOUTH COAST
Valid only when in possesion of a Commercial Fishing License for the same license year.

D-0011064275-6

Nearshore - South Coast (Transferable)
Permit Number: NST066

Commercial Fishing License ID: L74934

[redacted]

STATE ID: C491**** CA
BRIAN KIYOHARA

[redacted]

Resident: I have resided in California continuously for the past 6 months

Doc No: D-0011064275-6
Trans: 000000008246185
155591444
Outlet No: 310001-002
6/5/2014 10:49:52 AM

Item	Fee*
Nearshore Fish - S Coast (T)	$696.25

Total: $696.25

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or possess a license obtained by fraud or deceit (Fish and Game Code §§1052(b) and 1054).

X

Signature NOT VALID UNLESS SIGNED
LICENSE AND PHOTO IDENTIFICATION MUST BE IN IMMEDIATE POSSESSION WHILE FISHING

----- End of Document D-0011064275-6 -----

14 RCT

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
RECEIPT ONLY
This is not a license.

D-0011064276-7

STATE ID: C491**** CA
BRIAN KIYOHARA

[redacted]

Doc No: D-0011064276-7
Trans: 000000008246185
155591444
Outlet No: 310001-002
6/5/2014 10:49:53 AM

Item	Fee
2for1 Nearshore Transfer Offset Fee	$696.2
Nearshore Fish Print Transfer Fee	$500.0
Nearshore Trp Endrsmnt Transfer Fee	$75.0

Total: $1,271.2

*Includes any applicable application fees, agent handling fees and license buyer surcharge.

----- End of Document D-0011064276-7 -----

CALIFORNIA
FISH & WILDLIFE

14 CLE

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NEARSHORE TRAP ENDORSEMENT - SOUTH COAST

Valid only when in possession of a Commercial Fishing License for the same license year.

D-001106427 7-8

Nearshore Trap Endorsement - South Coast (Transferable)
Permit Number: TST022

Commercial Fishing License ID: L74934

[redacted]

STATE ID: C491[redacted] CA

BRIAN KIYOHARA

[redacted]

Doc No: D-001106427 7-8
Trans: 0000000006[redacted]
19:58:14444

Output No: 3100010012
05/20/14 10:40:53 AM

Item	Fee*
Nearshore Trap - S Coast (T)	$106.35

Total: $106.35

*Includes any applicable approval fees, agent handling fees and license buyer surcharge.

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or permit to be used any license obtained by fraud or deceit (Fish and Game Code §§ [illegible] and 7094).

X

Signature

NOT VALID UNLESS SIGNED
LICENSE AND PHOTO IDENTIFICATION MUST BE IN IMMEDIATE POSSESSION WHILE FISHING

End of Document D-001106427 7-8

WILDLIFE

CALIFORNIA
FISH & WILDLIFE

14 CLE

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

NEARSHORE FISHERY PERMIT - SOUTH COAST

Valid only when in possession of a Commercial Fishing License for the same license year.

D-001106427 5-6

Nearshore - South Coast (Transferable)
Permit Number: NST066

Commercial Fishing License ID: L74934

[redacted]

STATE ID: C491[redacted] CA

BRIAN KIYOHARA

[redacted]

Doc No: D-001106427 5-6
Trans: 0000000006[redacted]
19:58:14444

Output No: 3100010012
05/20/14 10:40:52 AM

Item	Fee*
Nearshore Fish - S Coast (T)	$896.25

Total: $896.25

*Includes any applicable approval fees, agent handling fees and license buyer surcharge.

I certify under penalty of perjury under the laws of the State of California that all information on this document is true and correct and that I meet the requirements for these licenses. I understand it is unlawful to make any false statement in this application or to use or permit to be used any license obtained by fraud or deceit (Fish and Game Code §§ [illegible] and 7094).

X

Signature

NOT VALID UNLESS SIGNED
LICENSE AND PHOTO IDENTIFICATION MUST BE IN IMMEDIATE POSSESSION WHILE FISHING

End of Document D-001106427 5-6

14 RCT

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

RECEIPT ONLY

This is not a license.

[redacted]

STATE ID: C491[redacted] CA

BRIAN KIYOHARA

[redacted]

Doc No: D-001106427[illegible]
Trans: 0000000006[illegible]
19:58:14444

Item	Fee*
Non-Transferable Nearshore Trap Office Fee	$[illegible]
Nearshore Fish Permit Transfer Fee	$[illegible]
Nearshore Trap Endorsement Transfer Fee	$[illegible]

Total: $1,271.25

*Includes any applicable approval fees, agent handling fees and license buyer surcharge.

End of Document D-001106427[illegible]