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August 22, 2014

Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

RECEIVED  
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## APPEAL OF DENIAL OF APPLICATION TO TRANSFER THOMAS L. PTAK'S TRANSFERABLE SOUTH COAST REGION NEARSHORE FISHERY TRAP ENDORSEMENT

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 Trap Endorsement 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 Trap Endorsement 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 Rescission 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 Trap Endorsement.

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

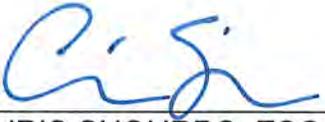
Attorneys and Christine Allen, Executor of the Estate of Thomas L. Ptak, hereby request an extension of time to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Trap Endorsement. Specifically, Attorneys and Christine Allen, Executor of the Estate of Thomas L. Ptak, formally request from the Fish and Game Commission a nine (9) month extension to transfer Mr. Ptak's Transferrable South Coast Region Nearshore Fishery Trap Endorsement 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

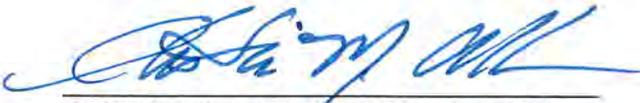
  
\_\_\_\_\_  
CHRIS SHOURDS, ESQ.

8/25/14  
Date

  
\_\_\_\_\_  
KURT WEISER, ESQ.

8/25/14  
Date

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



**SUBJECT: NOTICE OF DENIAL TO TRANSFER TRANSFERABLE SOUTH COAST REGION NEARSHORE FISHERY TRAP ENDORSEMENT**

Dear Ms. Allen:

This letter is in response to your application to transfer a 2014-2015 Transferable South Coast Region Nearshore Fishery Trap Endorsement (TSCRNFTE), Permit Number TST022, from Mr. Thomas L. Ptak (L30798). You are the executor of executor of the estate.

**Authority- Nearshore Fishery Trap Endorsement**

Pursuant to Section 150.03(d), Title 14, of the California Code of Regulations (CCR), a Nearshore Fishery Trap Endorsement (NFTE) may be transferred to another commercial fisherman if the transferee possesses a valid transferable Nearshore Fishery Permit (NFP) for the same regional management area.

Section 150.03(d), Title 14, of the CCR, states a nonrefundable transfer fee of \$75 is required.

**Nearshore Fishery Trap Endorsement Requirements**

- The NFTE must be valid at the time of application for transfer.
- The transferee must have a valid NFP and Commercial General Trap Permit.
- The transferee must have never been convicted of a violation of any provision of these regulations or the 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 current permit holder, transferee, and transferable NFTE for the regional management area.
- Copy of the permittee's death certificate.
- Copy of the permittee's valid NFP.
- The permittees' NFTE.
- Copy of the transferee's California Commercial Fishing License and Commercial General Trap Permit.
- Nonrefundable NFTE transfer fee of \$75.

**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 TSCRNFTE and Transferable South Coast Region Nearshore Fishery Trap Endorsement (TSCRNFTE) to Mr. Kiyohara.

*Conserving California's Wildlife Since 1870*

Ms. Christine Allen

July 3, 2014

Page Two

- 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 TSCRNFTE.
- A copy of Mr. Kiyohara's 2014-2015 California Commercial Fishing License and Commercial General Trap Permit.
- Nonrefundable transfer fee of \$75.

**Department of Fish and Wildlife's Recommendation**

The Department is denying your application to transfer Mr. Ptak's TSCRNFTE, 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.

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](mailto:Debbie.Noriega@wildlife.ca.gov).

Sincerely,



James Fong, Chief  
License and Revenue Branch

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

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

## **Exhibit B**

# STATE OF CALIFORNIA

## CERTIFICATION OF VITAL RECORD

### COUNTY OF SAN DIEGO

3052012050234

CERTIFICATE OF DEATH

3201237004299

STATE FILE NUMBER 3052012050234		STATE OF CALIFORNIA USE BLACK INK ONLY IN THE SPACES WITH THESE DESIGNATIONS (IF 11 ONLY 500)		LOCAL REGISTRATION NUMBER 3201237004299		
DECEDENT'S PERSONAL DATA	1. NAME OF DECEDENT - FIRST (Given) <b>THOMAS</b>		2. MIDDLE <b>LEONARD</b>		3. LAST (Family) <b>PTAK</b>	
	AKA, ALSO KNOWN AS - include full AKA (FIRST MIDDLE, LAST)					4. DATE OF BIRTH (month/day/yr) [REDACTED]
	5. BIRTH STATE/FOREIGN COUNTRY <b>CALIFORNIA</b>		10. SOCIAL SECURITY NUMBER [REDACTED]		6. SEX <b>M</b>	
	12. EDUCATION - highest level completed (see worksheet on back) <b>HS GRADUATE</b>		11. EVER IN U.S. ARMED FORCES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		7. DATE OF DEATH (month/day/yr) [REDACTED]	
13. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED <b>COMMERCIAL FISHERMAN</b>		14. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) <b>WHITE</b>		8. HOUR (24-hour) <b>0625</b>		
17. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED <b>COMMERCIAL FISHERMAN</b>		18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.) <b>COMMERCIAL FISHING</b>		19. YEARS IN OCCUPATION <b>30</b>		
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 <b>30</b>		25. STATE/FOREIGN COUNTRY <b>CALIFORNIA</b>			
INFORMANT	26. INFORMANT'S NAME, RELATIONSHIP <b>CHRISTINE ALLEN, COMPANION</b>					
	27. NAME OF SURVIVING HOUSEHOLD FIRST [REDACTED]					
SPOUSE/SPOB AND PARENT INFORMATION	28. NAME OF FATHER/PARENT - FIRST [REDACTED]		29. MIDDLE [REDACTED]		30. LAST (BIRTH NAME) [REDACTED]	
	31. NAME OF MOTHER/PARENT - FIRST [REDACTED]		32. MIDDLE [REDACTED]		33. LAST (BIRTH NAME) [REDACTED]	
	34. BIRTH STATE <b>PA</b>		35. BIRTH STATE <b>CA</b>		36. BIRTH STATE <b>CA</b>	
FUNERAL DIRECTOR/LOCAL REGISTRAR	37. DISPOSITION DATE (month/day/yr) [REDACTED]		38. PLACE OF FINAL DISPOSITION <b>AT SEA OFF THE COAST OF SAN DIEGO COUNTY</b>			
	39. TYPE OF DISPOSITION(S) <b>CR/SEA</b>		40. SIGNATURE OF EMBALMER <b>NOT EMBALMED</b>		41. LICENSE NUMBER [REDACTED]	
PLACE OF DEATH	42. NAME OF FUNERAL ESTABLISHMENT <b>ACCU-CARE CREMATION CENTER</b>		43. LICENSE NUMBER <b>FD1528</b>		44. SIGNATURE OF LOCAL REGISTRAR <b>WILMA WOOTEN, MD</b>	
	45. PLACE OF DEATH <b>HOME</b>		46. IF HOSPITAL, SPECIFY ONE <input type="checkbox"/> IP <input type="checkbox"/> ER/ED <input type="checkbox"/> ICA <input type="checkbox"/> IOL <input type="checkbox"/> IOLN <input type="checkbox"/> IOLP <input type="checkbox"/> IOLR <input type="checkbox"/> IOLS <input type="checkbox"/> IOLT <input type="checkbox"/> IOLU <input type="checkbox"/> IOLV <input type="checkbox"/> IOLW <input type="checkbox"/> IOLX <input type="checkbox"/> IOLY <input type="checkbox"/> IOLZ		47. DATE (month/day/yr) [REDACTED]	
	48. COUNTY [REDACTED]		49. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) [REDACTED]		50. 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 event to suit. (See worksheet on back.) IMMEDIATE CAUSE (final disease or condition resulting in death) [REDACTED]					
	108. DEATH REPORTED TO CORONER? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes					
	109. OTHER SIGNIFICANT <b>NONE</b>					
	110. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 107? (If yes, list type of operation and date.) <b>NO</b>					
PHYSICIAN'S CERTIFICATION	114. CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE AND PLACE STATED FROM THE CAUSES STATED. Exempted: Autopsy Since _____ Decedent Lived from _____		115. SIGNATURE AND TITLE OF CERTIFIER <b>[REDACTED]</b>		116. LICENSE NUMBER [REDACTED]	
	117. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE [REDACTED]		118. DATE (month/day/yr) [REDACTED]			
CORONER'S USE ONLY	119. CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE AND PLACE STATED FROM THE CAUSES STATED.		120. INJURED AT WORK? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		121. INJURY DATE (month/day/yr) [REDACTED]	
	122. PLACE OF INJURY (e.g., home, construction site, wooded areas, etc.) [REDACTED]		123. HOW INJURY OCCURRED (Events which resulted in injury) [REDACTED]			
	124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury) [REDACTED]					
	125. LOCATION OF INJURY (Street and number, or location, and city, and state) [REDACTED]					
	126. SIGNATURE OF CORONER / DEPUTY CORONER <b>OTHON J MENA MD</b>		127. DATE (month/day/yr) <b>03/16/2012</b>		128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER <b>OTHON J MENA MD, DEP MED EXAMINER</b>	

\*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.

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

DATE ISSUED: [REDACTED]

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

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:	)	<b>"EXHIBIT C"</b>
	)	
APPEAL OF DENIAL OF	)	DECLARATION OF KURT WEISER IN
APPLICATION TO TRANSFER	)	SUPPORT OF APPEAL OF DENIAL OF
THOMAS L. PTAK'S	)	APPLICATION TO TRANSFER THOMAS
TRANSFERRABLE SOUTH	)	L. PTAK'S TRANSFERRABLE SOUTH
COAST REGION NEARSHORE	)	COAST REGION NEARSHORE FISHERY
FISHERY PERMIT	)	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. Noriega 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.

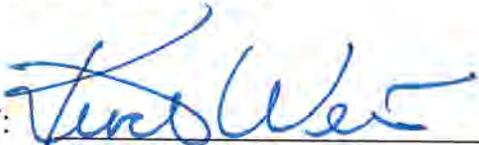
10. The probate of the Estate of Thomas L. Ptak is still ongoing as of the date of this declaration.

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

//

//

//

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 possession 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

STATE ID: C491\*\*\*\* CA  
BRIAN KIYOHARA

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

Doc No: D-0011064277-8  
Trans: 000000008246186  
165691444

Outlet No: 310001-002  
8/5/2014 10:40:53 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 §§1062(b) and 1064).

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 possession 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

STATE ID: C491\*\*\*\* CA  
BRIAN KIYOHARA

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

Doc No: D-0011064275-6  
Trans: 000000008246186  
165691444

Outlet No: 310001-002  
8/5/2014 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 §§1062(b) and 1064).

X

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

End of Document D-0011064275-6

\*Includes any applicable application fees, agent handling fees and license buyer surcharge.  
End of Document D-0011064276-7

Doc No: D-0011064276-7  
Trans: 000000008246186  
155691444

Outlet No: 310001-002  
8/5/2014 10:49:53 AM

Item	Fee
Zion's Nearshore Transfer Offset Fee	\$696.2
Nearshore Fish Permit Transfer Fee	\$500.0
Nearshore Trip Endorsement Transfer Fee	\$75.0
Total: \$1,271.2	

STATE ID: C491\*\*\*\* CA  
BRIAN KIYOHARA



D-0011064276-7

14  
STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE  
RECEIPT ONLY  
This is not a license.  
RCT

**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:0011064277-8

Nonwater Trap Endorsement - South Coast (1) Transfer Fee  
Permit Number: TST022

Commercial Fishing License ID: L74934

STATE ID: C491 CA  
BRIAN KIYOHARA

Item Fee\*  
Nearshore Trap - S Coast (1) \$106.35  
Total: \$106.35

Includes per applicable application fees, agent handling fees, and license issue 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 understand the consequences of this document. I understand it is unlawful to make any false statement in this application or to use an unlicensed person to prepare or obtain or deliver this and other documents.

X

Signature: NOT VALID FOR ANY OTHER LICENSE AND PHOTO IDENTIFICATION MUST BE PLACED IN POSSESSION WHILE FISHING

End of Document D:0011064277-8

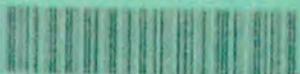


**CALIFORNIA**  
FISH & WILDLIFE

**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:0011064275-6

Nonwater - South Coast (Transferable)  
Permit Number: NST066

Commercial Fishing License ID: L74934

STATE ID: C491 CA  
BRIAN KIYOHARA

Item Fee\*  
Nearshore Fish - S Coast (1) \$896.25  
Total: \$896.25

Includes per applicable application fees, agent handling fees, and license issue 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 understand the consequences of this document. I understand it is unlawful to make any false statement in this application or to use an unlicensed person to prepare or obtain or deliver this and other documents.

X

Signature: NOT VALID FOR ANY OTHER LICENSE AND PHOTO IDENTIFICATION MUST BE PLACED IN POSSESSION WHILE FISHING

End of Document D:0011064275-6

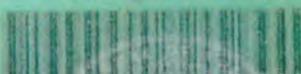


**CALIFORNIA**  
FISH & WILDLIFE

**14 RCT**

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE  
RECEIPT ONLY

This is not a license.



D:0011064275-6

STATE ID: C491 CA  
BRIAN KIYOHARA

Item Fee\*  
Nonwater South Coast Transfer Fee \$600.00  
Nearshore Fish Permit Transfer Fee \$200.00  
Nearshore Trap Endorsement Transfer Fee \$13.25  
Total: \$813.25

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

End of Document D:0011064275-6

