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November 27, 2012

Hon. Gary L. Sharpe
Chief Judge
United States District Court
James T. Foley U.S. Courthouse
445 Broadway, Room 112
Albany, New York 12207

Re: *O'Hara v. Raniere*
Civ. No. 12-252 GLS/RFT

Dear Judge Sharpe:

We attach herewith a Stipulation of Dismissal with Prejudice (Exhibit 1) (hereafter "Stipulation") which has been executed by all the attorneys representing each of the respective named defendants as well as by Cory E. Friedman, Esq., Special Litigation Counsel for Douglas J. Wolinsky, Chapter 7 Trustee of the bankruptcy estate of Joseph J. O'Hara, Case No. 08-12108 (REL) in the bankruptcy case pending before Hon. Robert E. Littlefield, Jr. in the United States Bankruptcy Court for the Northern District of New York.

The Bankruptcy Trustee determined that all the causes of action alleged by Plaintiff Joseph J. O'Hara in the within captioned action in the United States District Court are property of the bankruptcy estate of Joseph J. O'Hara and that, hence, only the Trustee may assert such causes of action. The Trustee determined that the alleged causes of action were without merit and would be of no benefit to the bankruptcy estate, and, in the exercise of his business judgment, that the causes of action should be dismissed with prejudice.

The Trustee filed a motion with the Bankruptcy Court on September 28, 2012 for authorization to enter into the Stipulation with the respective defendants. A copy of the Notice of Motion requiring objections to be submitted by October 17, 2012 is annexed as Exhibit 2. A copy of the Trustee's "Motion pursuant to F.R.B.P. 9019 for an Order Approving Stipulation" is annexed as Exhibit 3. The Trustee served a copy of the Motion on all creditors as well as Mr. O'Hara's Bankruptcy attorney, Richard Croak Esq. (Exhibit 4), and in addition, the Trustee served a copy of the Motion on Mr. O'Hara at the address listed in the District Court action, 99 Vly Road, Colonie, New York 12205. (Exhibit 5).

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Mr. O'Hara submitted no opposition to the Bankruptcy Court, and, on October 29, 2012, Bankruptcy Judge Littlefield entered the "Order Approving Stipulation of Dismissal with Prejudice." A copy of the Order is annexed as Exhibit A to the Stipulation of Dismissal with Prejudice.

The time to appeal pursuant to Bankruptcy Rule 8002 has expired. Mr. O'Hara is bound by principles of *res judicata* and collateral estoppel to the Bankruptcy Court's Order.

Accordingly, the Trustee's Special Litigation Counsel, Cory E. Friedman, Esq., affixed his signature on behalf of the Trustee and circulated the Stipulation to all counsel for execution and submission to Your Honor. Signatures have been executed in the Stipulation in counterparts and the signature pages have been attached to the annexed Stipulation (Exhibit 1).

We are aware that on November 21, 2012, Your Honor further extended the time for Mr. O'Hara to respond to the Rule 12 motions to dismiss and the two sanctions motions to December 5, 2012. (By Text Order of July 26, 2012 the time had been extended to August 10, 2012 and by Text Order on August 24, 2012, the time had been extended to November 20, 2012).

We are herewith serving a copy of this Letter and its attachments upon Mr. O'Hara and we request that any response to the Stipulation of Dismissal with Prejudice be due on or before December 5, 2012.

We thus request entry "so ordering" the Stipulation

Respectfully yours,

/s/ William F. Savino

William F. Savino
for DAMON MOREY LLP

wfs/bt
Enclosure

cc: All counsel via ECF

Cory E. Friedman, Esq. via e-mail

Joseph J. O'Hara (Via Regular First Class Mail)
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Colonie, New York 12205