

### Case Summary

In the District Court of Douglas County  
 The Case ID is CI 13 0005972  
 E Robert Newman v. Yu Zhang Garden LLC  
 The Honorable James T Gleason, presiding.  
 Classification: Contract Disputes  
 Filed on 07/24/2013  
 This case is Open as of 07/24/2013

*re: breach of lease/rental  
 on 344/346 N Saddle  
 Creek  
 Qi Yu Dong owner  
 as guarantor*

### Parties/Attorneys to the Case

**Party**  
**Plaintiff ACTIVE**  
 E R Newman  
 c/o NDC Enterprises  
 411 S. 96th Street  
 Omaha NE 68114

**Plaintiff ACTIVE**  
 Murray H Newman

**Plaintiff ACTIVE**  
 Phyllis H Newman

**Plaintiff ACTIVE**  
 Phyllis H Newman

**Plaintiff ACTIVE**  
 Louis H Newman

**Defendant ACTIVE**  
 Yu Zhang Garden LLC  
 c/o James J. Bemis Jr, Reg. Agent  
 11240 Davenport Street  
 Omaha NE 68154

Yu Zhang Garden LLC owes \$1,532,872.08  
**Defendant ACTIVE**  
 Yu D Zhang  
 2032 S. 88th Street  
 Omaha NE 68124

**Defendant ACTIVE**  
 Qi Y Dong  
 816 Hickory Hill Circle  
 Papillion NE 68046  
 Qi Y Dong owes \$763,977.31  
 Alias is Qi Y Dong  
 Qiyu Dong

**Defendant ACTIVE**  
 Xue B Zhang  
 2032 S. 88th Street  
 Omaha NE 68124

**Defendant ACTIVE**  
 Rui X Zhang  
 2032 S. 88th Street  
 Omaha NE 68124

**Defendant ACTIVE**

**Attorney**  
 David Skalka  
 2120 S. 72nd St., #1200  
 Omaha NE 68124  
 402-391-6777

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James J Bemis  
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 402-330-6300

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 Omaha NE 68154  
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James J Bemis  
 P.O. Box 540125  
 11240 Davenport St.  
 Omaha NE 68154  
 402-330-6300

Qi H Dong  
 4945 S. 72nd Street  
 Omaha NE 68127  
 Garnishee ACTIVE  
 DZ LLC

## Judgment Information

On 01/17/2014 judgment of Judgment (General) was entered for \$761,700.00  
 Judgment was satisfied on 04/11/2014  
 Balance due is \$761,700.00  
 The judgment creditor is E R Newman  
 The judgment debtor is Yu Zhang Garden LLC

On 01/17/2014 judgment of District Court Costs were entered for \$82.00  
 Judgment was satisfied on 04/11/2014  
 Balance due is \$82.00  
 The judgment creditor is E R Newman  
 The judgment debtor is Yu Zhang Garden LLC

On 01/17/2014 judgment of Judgment (General) was entered for \$763,835.48  
 Balance due is \$763,835.48  
 The judgment creditors are E R Newman  
 Murray H Newman  
 Phyllis H Newman  
 Phyllis H Newman  
 Louis H Newman  
 The judgment debtor is Qi Y Dong

On 01/21/2014 judgment of Judgment (General) was entered for \$771,090.08  
 Balance due is \$771,090.08  
 The judgment creditors are E R Newman  
 Murray H Newman  
 Phyllis H Newman  
 Phyllis H Newman  
 Louis H Newman  
 The judgment debtor is Yu Zhang Garden LLC

On 02/14/2014 judgment of Judgment (General) was entered for \$771,090.08  
 Judgment was satisfied on 04/11/2014  
 The judgment creditors are E R Newman  
 Murray H Newman  
 Phyllis H Newman  
 Phyllis H Newman  
 Louis H Newman  
 The judgment debtor is Yu D Zhang

On 02/14/2014 judgment of District Court Costs were entered for \$82.00  
 Judgment was satisfied on 04/11/2014  
 The judgment creditors are E R Newman  
 Murray H Newman  
 Phyllis H Newman  
 Phyllis H Newman  
 Louis H Newman  
 The judgment debtor is Yu D Zhang

## Court Costs Information

Incurred By	Account	Date	Amount
Plaintiff	Petition	07/24/2013	\$35.00
Plaintiff	Filing Fee - State	07/24/2013	\$5.00
Plaintiff	Automation Fee	07/24/2013	\$8.00
Plaintiff	NSC Education Fee	07/24/2013	\$1.00
Plaintiff	Dispute Resolution Fee	07/24/2013	\$0.75
Plaintiff	Indigent Defense Fee	07/24/2013	\$3.00
Plaintiff	Uniform Data Analysis Fee	07/24/2013	\$1.00
Plaintiff	J.R.F.	07/24/2013	\$6.00

Plaintiff	Filing Fee-JRF	07/24/2013	\$2.00
Plaintiff	Legal Aid/Services Fund	07/24/2013	\$5.25
Joint Group	Issuance of writ	06/10/2014	\$5.00
Plaintiff	Issuance of writ	06/25/2014	\$5.00
Plaintiff	Complete Record	07/24/2013	\$15.00
Plaintiff	Service Fees	09/18/2013	\$7.57
Plaintiff	Service Fees	09/18/2013	\$7.37
Plaintiff	Service Fees	07/31/2013	\$15.01
Plaintiff	Service Fees	09/18/2013	\$7.37
Plaintiff	Service Fees	09/18/2013	\$7.37
Plaintiff	Service Fees	10/03/2013	\$7.57
Plaintiff	Service Fees	10/04/2013	\$7.57
Plaintiff	Service Fees	06/16/2014	\$6.48
Plaintiff	Service Fees	06/23/2014	\$6.48
Plaintiff	Service Fees	06/23/2014	\$6.69
Plaintiff	Service Fees	07/02/2014	\$6.69

## Financial Activity

No trust money is held by the court  
No fee money is held by the court

## Costs for Recovery

Incurred By	Account	Date	Amount
Defendant	Petition	07/24/2013	\$35.00
Defendant	Filing Fee - State	07/24/2013	\$5.00
Defendant	Automation Fee	07/24/2013	\$8.00
Defendant	NSC Education Fee	07/24/2013	\$1.00
Defendant	Dispute Resolution Fee	07/24/2013	\$0.75
Defendant	Indigent Defense Fee	07/24/2013	\$3.00
Defendant	Uniform Data Analysis Fee	07/24/2013	\$1.00
Defendant	J.R.F.	07/24/2013	\$6.00
Defendant	Filing Fee-JRF	07/24/2013	\$2.00
Defendant	Legal Aid/Services Fund	07/24/2013	\$5.25
Defendant	Complete Record	07/24/2013	\$15.00

Defendant	Service Fees	09/18/2013	\$7.57
Defendant	Service Fees	09/18/2013	\$7.37
Defendant	Service Fees	07/31/2013	\$15.01
Defendant	Service Fees	09/18/2013	\$7.37
Defendant	Service Fees	09/18/2013	\$7.37
Defendant	Service Fees	10/03/2013	\$7.57
Defendant	Service Fees	10/04/2013	\$7.57

### Payments Made to the Court

Receipt	Type	Date	For	Amount
144933	Electronic Trans	06/25/2014	Newman, E, Robert,	\$5.00
			Issuance of Writ	\$5.00
143578	Cash	06/10/2014	R. Newman, M. Newman, P. Ne	\$5.00
			Issuance of Writ	\$5.00
9006201	Satisfaction Fil	04/14/2014	Zhang, Yu, De,	\$771,172.08
			Court Costs	\$82.00
			Judgment (General)	\$771,090.08
105790	Electronic Trans	07/24/2013	Newman, E, Robert,	\$82.00
			Petition	\$35.00
			Filing Fee - State	\$5.00
			Automation Fee	\$8.00
			NSC Education Fee	\$1.00
			Dispute Resolution Fee	\$0.75
			Indigent Defense Fee	\$3.00
			Uniform Data Analysis	\$1.00
			J.R.F.	\$6.00
			Filing Fee-JRF	\$2.00
			Legal Aid/Services Fun	\$5.25
			Complete Record	\$15.00

### Register of Actions

07/08/2014 Summons Issued on Qi Y Dong  
The document number is 00270290

E-MAILED: dskalka@crokerlaw.com  
Image ID D00270290D01

07/08/2014 Praecipe  
This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
Image ID N14189BRED01

07/07/2014 Application  
This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
FOR ORDER IN AID OF EXECUTION  
7/22/2014 1:15 #505  
Image ID N14188AF6D01

07/07/2014 Application  
This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
FOR POST-JUDGMENT CREDITOR'S BILL AND RECEIVER AS TO PROPERTY OF

QI YU DONG7/22/2014 1:15 #505  
Image ID N14188AEUD01

*hearings scheduled  
for 7-22-14*

07/02/2014 Return-Garnishment  
The document number is 00268014  
Served 06/26/2014, Certified Mail  
Image ID N141831NKD01

06/30/2014 Interrogatories  
This action initiated by party DZ LLC  
no funds  
Image ID 001032033D01

06/27/2014 Interrogatories  
This action initiated by party E R Newman  
No money Al Kitchen & Bath Inc  
Image ID 001033034D01

06/25/2014 Garnishment Issued on Qi Y Dong  
The document number is 00268014  
E-MAILED TO: dskalka@crokerlaw.com  
Garnishee: DZ, LLC  
Image ID D00268014D01

06/25/2014 Affidavit/Praecipe-Garn Summ  
This action initiated by party E R Newman  
Image ID N14176HA0D01

06/23/2014 Return-Garnishment  
The document number is 00265304  
This action initiated by party E R Newman  
Served 06/16/2014, Certified Mail  
Image ID N14174AX6D01

06/23/2014 Return Filed  
This action initiated by party E R Newman  
judgment debtor served by cm 6/13  
Image ID N14174AX2D01

06/16/2014 Return Filed  
This action initiated by party E R Newman  
judgment debtor served by cm 6/11  
Image ID N14167RD8D01

06/10/2014 Garnishment Issued on Qi Y Dong  
The document number is 00265304

E-MAILED TO: dskalka@crokerlaw.com  
Garnishee: Al Kitchen & Bath Inc

Image ID D00265304D01

06/10/2014 Affidavit/Praecipe-Garn Summ  
This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
Image ID 001023915D01

✓ 04/14/2014 Order-Dismissal  
This action initiated by James T Gleason  
as to rui xin zhang only  
Image ID J00218460D01

✓ 04/11/2014 Stipulation  
This action initiated by party E R Newman  
FOR DISMISSAL AS TO RUI XIN ZHANG  
Image ID N141012Z0D01

c 04/11/2014 Satisfaction of Judgment  
This action initiated by party E R Newman  
Image ID N141012ZED01

*as to yu zhang + aju do zhang  
only*

c ✓ 02/26/2014 Order  
This action initiated by James T Gleason  
re; closure of summ judg in error  
Image ID J00165538D01

02/26/2014 Trial  
062614 at 900

02/26/2014 Signed Scheduling Order  
This action initiated by James T Gleason  
Image ID J00165535D01

c 02/21/2014 Order-Summary Judgment  
This action initiated by James T Gleason  
granted in part and denied in part - see order  
Image ID J00165530D01

*re: other parties in suit*

02/19/2014 Notice-Service  
This action initiated by party E R Newman  
COPY OF INTERROG. & REQUESTS MAILED  
Image ID N14050EXID01

02/19/2014 Proposed Scheduling Order  
This action initiated by party E R Newman  
Image ID 000987491D01

02/04/2014 Return Summons/Alias Summons  
The document number is 00219434

Served Dt Unknown  
Returned Due to Recall by the Court  
No return received and no proof of service on file  
Image ID 000959939D01

02/03/2014 Affidavit-Support of Motion  
This action initiated by party E R Newman  
Image ID N14034SY8D01

✓ 02/03/2014 Motion-Summary Judgment  
This action initiated by party E R Newman  
2/14/2014 11:30 #505  
Image ID N14034SY4D01

*re causes against  
some of the other parties*

01/21/2014 Notice Issued on David Skalka  
The document number is 00239335

Notice of Judgment  
E-MAILED dskalka@crockerlaw.com  
Image ID D00239335D01

01/21/2014 Notice Issued on James J Bemis  
The document number is 00239334  
Notice of Judgment  
E-MAILED jjbemis@womglaw.com  
Image ID D00239334D01

01/17/2014 Order-Dismissal  
This action initiated by James T Gleason  
as to Def. Xue Bin Zhang only w/o prej  
~~Image ID J00204058D01~~

✱ C 01/17/2014 Order-Summary Judgment

This action initiated by James T Gleason  
judg for pltfs (2d & 3d claims for relief) and transfer of property void  
-- see order for add'l info  
Image ID J00204061D01

✓ 01/17/2014 Affidavit  
This action initiated by party E R Newman  
of David J. Skalka  
Image ID 000970319D01

✓ 01/17/2014 Affidavit  
This action initiated by party E R Newman  
of D Cornell  
Image ID 000970316D01

*new figures for damages*

✓ 12/19/2013 Order-withdraw as Counsel

This action initiated by James T Gleason  
of James J. Bemis, Jr. & Valentine/O'Toole for defs Q Y Dong & Q H Dong  
only  
Image ID J00192096D01

✓ 12/19/2013 Notice Filed  
This action initiated by James J Bemis  
RE: For DEF003 and DEF006  
Image ID 000956092D01

✓ 12/17/2013 Notice Filed  
This action initiated by James J Bemis  
WITHDRAWN AS COUNSEL FOR DEF  
Image ID N133505GXD01

12/17/2013 Note from Court Staff

PROPOSED ORDER SENT TO COURT ADMIN

12/16/2013 Motion-Dismiss  
This action initiated by party E R Newman  
AS TO XUE BIN ZHANG ONLY  
12/16/2013 1:15 #505

Image ID N1335040SD01

✓12/16/2013 Suggestion in Bankruptcy  
 This action initiated by party Xue B Zhang  
 Image ID 000950512D01

✓12/02/2013 Motion-withdraw as Counsel  
 This action initiated by James J Bemis  
 Hearing 12 16 13 115pm CR 05  
 Image ID N13336NJZD01

*AV* 11/12/2013 Affidavit-Support of Motion  
 This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
 Image ID N133160BJD01

*C* 11/12/2013 Affidavit-Support of Motion *Skalkin - contains omissions re: def's intent to move back to China*  
 This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
 Image ID N133160BHD01

11/12/2013 Motion-Summary Judgment  
 This action initiated by group R.Newman,M.Newman,P.Newman,L.Newma  
 12/16/2013 1:15 #505  
 Image ID N133160BDD01

✓10/04/2013 Amended Answer  
 This action initiated by group Defendants

Image ID N13277PEMD01

10/04/2013 Return Summons/Alias Summons  
 The document number is 00219436  
 Served 09/30/2013, Certified Mail  
 Image ID N13277P00D01

10/03/2013 Return Summons/Alias Summons  
 The document number is 00219435  
 Served 09/27/2013, Certified Mail  
 Image ID N13276016D01

09/24/2013 Order  
 This action initiated by James T Gleason  
 pltf's motion for leave to file 2d amend compl granted, in form attached  
 to motion no later than 7 days from date of order

Image ID J00164838D01

09/24/2013 Summons Issued on Qi H Dong  
 The document number is 00219436  
 E-MAILED: dskalka@crokerlaw.com  
 Image ID D00219436D01

09/24/2013 Summons Issued on Qi H Dong  
 The document number is 00219435  
 E-MAILED: dskalka@crokerlaw.com  
 Image ID D00219435D01

09/24/2013 Summons Issued on Rui X Zhang  
 The document number is 00219434  
 E-MAILED: dskalka@crokerlaw.com  
 Image ID D00219434D01



09/24/2013 Praecipe-Summons/Alias  
This action initiated by party E R Newman  
Image ID N13267BDZD01

09/24/2013 Praecipe-Summons/Alias  
This action initiated by party E R Newman  
Image ID N13267BDVD01

09/24/2013 Praecipe-Summons/Alias  
This action initiated by party E R Newman  
Image ID N13267BDUD01

09/24/2013 Amended Complaint <sup>2nd</sup>  
This action initiated by party E R Newman  
Image ID N13267BDTD01

*Copied Complaint - not leave exhibit - Same + add claim + praecipe have heard of sub's prop voided*

09/18/2013 Return Summons/Alias Summons  
The document number is 00208540  
Served 08/01/2013, Certified Mail  
Image ID N1326159CD01

09/18/2013 Return Summons/Alias Summons  
The document number is 00208089  
Served 08/01/2013, Certified Mail  
Image ID N13261594D01

09/18/2013 Return Summons/Alias Summons  
The document number is 00208087  
Served 08/01/2013, Certified Mail  
Image ID N1326158ZD01

09/18/2013 Return Summons/Alias Summons  
The document number is 00208086  
Served 07/29/2013, Certified Mail  
Image ID N13261592D01

09/16/2013 Motion Filed  
This action initiated by party E R Newman  
to amend complaint  
hearing: 092613 at 1030  
Image ID N132590W2D01

08/30/2013 Answer  
This action initiated by party Yu Zhang Garden LLC  
Image ID N13242JK2D01

07/31/2013 Return Summons/Alias Summons

The document number is 00208088  
Served Dt Unknown  
No Service  
Served by #1022. NUMEROUS TRIES NO CONTACT, ALL CARDS LEFT WERE STILL  
POSTED ON DOOR, DID NOT CALL. ADDRESS IS VERIFIED  
Image ID N13212KWRD01

07/26/2013 Summons Issued on Xue B Zhang  
The document number is 00208540  
E-MAILED: dskalka@crokerlaw.com  
Image ID D00208540D01

07/26/2013 Praecipe  
This action initiated by party E R Newman  
Image ID N13207FKTD01

07/26/2013 Amended Complaint  
This action initiated by party E R Newman  
Image ID N13207FKRD01

07/25/2013 Summons Issued on Qi Y Dong  
The document number is 00208089  
E-MAILED: dskalka@crokerlaw.com  
Image ID D00208089D01

07/25/2013 Summons Issued on Qi Y Dong  
The document number is 00208088  
E-MAILED: dskalka@crokerlaw.com  
Image ID D00208088D01

07/25/2013 Summons Issued on Yu D Zhang  
The document number is 00208087

E-MAILED: dskalka@crokerlaw.com  
Image ID D00208087D01

07/25/2013 Summons Issued on Yu Zhang Garden LLC  
The document number is 00208086  
E-MAILED: dskalka@crokerlaw.com  
Image ID D00208086D01

07/24/2013 Praecipe  
This action initiated by party E R Newman  
Image ID N13205DGSD01

07/24/2013 Praecipe  
This action initiated by party E R Newman  
Image ID N13205DGQD01

07/24/2013 Praecipe  
This action initiated by party E R Newman  
Image ID N13205DGPD01

07/24/2013 Praecipe  
This action initiated by party E R Newman  
Image ID N13205DGND01

07/24/2013 Complaint-Praecipe  
This action initiated by party E R Newman  
\*\*Praecipis filed separate\*\*  
Image ID N13205DGLD01

*praecipis for 105k  
+ addl damages  
accruing under  
lease*



J00204061D01

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Louis H. Newman, )

CASE NO.: CI 13-5972

#18 FILED  
IN DISTRICT COURT  
DOUGLAS COUNTY NEBRASKA  
JAN 17 2014  
JOHN M. FRIEND  
CLERK DISTRICT COURT

Plaintiffs, )

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE )  
ZHANG, an individual; QI YU DONG, )  
a/k/a QI Y DONG a/k/a QIYU DONG, )  
an individual; RUI XIN ZHANG, )  
an individual; and QI HE DONG, an )  
individual, )

ORDER OF SUMMARY JUDGMENT

Defendants. )

THIS MATTER came before the Court for hearing on December 16, 2013, on Plaintiffs' Motion for Summary Judgment. David J. Skalka appeared for Plaintiffs. James J. Bemis, Jr. appeared for Defendants Yu Zhang Garden, LLC, Yu De Zhang, and Rui Xin Zhang. Defendants Qi Yu Dong and Qi He Dong did not appear. Evidence was received. Plaintiffs' counsel orally withdrew the Motion for Summary Judgment as to Yu Zhang Garden, LLC, Yu De Zhang, and Rui Xin Zhang without prejudice to reasserting it at a later time against those Defendants.

Being duly advised in the premises, the Court finds that (1) \$763,835.48 is owed Plaintiffs on the guaranties at issue in Plaintiffs' Second Claim for Relief, (2) Defendant Qi

Yu Dong transferred fee simple title to Lot 1, Blue One Addition Replat 1, a subdivision, as surveyed, platted, and recorded in Douglas County, Nebraska, and commonly known as 4945 S. 72<sup>nd</sup> Street, Omaha, Nebraska ("the Property") and the improvements thereon to his sibling Defendant Qi He Dong for no consideration four days after Qi Yu Dong was served summons in this matter, (3) said transfer was fraudulent under Neb. Rev. Stat. § 36-705(a), and (4) that the Property has a value of \$761,700.00 per the Real Estate Transfer Statement Defendant Qi He Dong filed with the Douglas County Nebraska Register of Deeds. The Courts finds judgment should be entered against Defendants Qi Yu Dong on Plaintiffs' Second and Third Claims for Relief and Qi He Dong on Plaintiffs' Third Claim for Relief.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

a. As to Plaintiffs' Second Claim for Relief, judgment is entered for Plaintiffs and against Defendant Qi Yu Dong in the sum of Seven Hundred Sixty-Three Thousand Eight Hundred Thirty-Five and 48/100 Dollars (\$763,835.48), plus Plaintiffs' costs in this matter.

b. As to Plaintiffs' Third Claim for Relief, Defendant Qi Yu Dong's August 5, 2013 transfer of the Property to Defendant Qi He Dong is avoided. The August 5, 2013 transfer of the Property is void and of no effect.

c. As to Plaintiffs' Third Claim for Relief, judgment is entered for Plaintiffs and against Defendant Qi He Dong in the sum of Seven Hundred Sixty-One Thousand Seven Hundred and No/100 Dollars (\$761,700.00), plus Plaintiffs' costs in this matter.

DATED this 7<sup>th</sup> day of ~~December~~ <sup>January</sup> 2014, 2013.

BY THE COURT:

*James J. Kellan*

---

The Honorable James T. Gleason,  
District Court Judge

PREPARED AND SUBMITTED BY:

David J. Skalka, #21537  
Croker, Huck, Kasher, DeWitt, Anderson &  
Gonderinger, LLC  
2120 South 72<sup>nd</sup> Street, Suite 1200  
Omaha, Nebraska 68124  
(402) 391-6777  
(402) 390-9221 (Fax)  
[dskalka@crokerlaw.com](mailto:dskalka@crokerlaw.com)

Attorneys for Plaintiffs

00539605.DOC

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Louis H. Newman, )  
Plaintiffs, )

CASE NO.: CI 13-5972

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE )  
ZHANG, an individual; QI YU DONG, )  
a/k/a QI Y DONG a/k/a QIYU DONG, an )  
individual; RUI XIN ZHANG, an )  
individual; and QI HE DONG, an )  
individual, )  
Defendants. )

**APPLICATION FOR POST-JUDGMENT**  
**CREDITOR'S BILL AND RECEIVER AS**  
**TO PROPERTY OF QI YU DONG**

COME NOW the Plaintiffs E. Robert Newman, Murray H. Newman, Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Maxwell C. Newman, and Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Louis H. Newman ("Plaintiffs"), and pursuant in part to Neb. Rev. Stat. §§ 25-1081, 25-1564, and 25-1573 applies to this Court for:

- (1) a Creditor's Bill in aid of execution to providing the judgment herein against Defendant and Judgment Debtor Qi Yu Dong attaches to all of his contract rights, accounts, and rights to payment relating to the Property (as hereinafter defined), whether directly or through DZ, LLC, an administratively dissolved Nebraska limited liability company, and permits execution upon and collection of rents and income from the Property owned by Judgment Debtor Qi Yu Dong; and

- (2) appoint a receiver to collect said rents and income and manage said real estate so that the landlord's obligations in said lease are complied with and the source of income on said property is maintained, until completion of the commercial lease upon the real estate or execution on the real estate by Plaintiffs.

In support of this Application, Plaintiffs state as follows:

1. Plaintiffs obtained a judgment in this matter against Qi Yu Dong on January 17, 2014, in the amount of \$763,835.48, with interest at 2.091% per annum continuing to accrue thereafter. No amount of the judgment has been paid.
2. Qi Yu Dong is not known by Plaintiffs to have any non-exempt assets in Douglas County, Nebraska except a commercial building located at 4945 S. 72<sup>nd</sup> Street, Omaha, Nebraska, legally described as Lot 1, Blue One Addition Replat 1, a subdivision, as surveyed, platted, and recorded in Douglas County, Nebraska, together with all improvements, structures, and fixtures thereon (the "Property").
3. Based upon the Property's assessed value and a deed of trust on the Property, there is not sufficient equity in the Property such that an execution sale by the Douglas County Sheriff would satisfy Plaintiffs' judgment.
4. A1 Kitchen & Bath Inc. ("A1 Kitchen"), a Nebraska corporation, presently operates its business in the Property. It claims the Property as its business headquarters in Secretary of State filings.
5. Believing that A1 Kitchen may owe rent to Qi Yu Dong, Plaintiffs caused garnishment interrogatories to be served upon A1 Kitchen on June 16, 2014.
6. A1 Kitchen responded that it owes no wages or amounts to Qi Yu Dong.
7. A1 Kitchen stated to Plaintiffs' counsel that A1 Kitchen does indeed pay rent for use of the Property, but it has been directed to pay the rent to DZ, LLC. DZ, LLC is a limited liability company that has been administratively dissolved since 2011 and the members were

Qi Yu Dong and Defendant Yu De Zhang. The owner states that A1 Kitchen entered a written five-year lease for the Property in 2013.

8. Qi Yu Dong is thus receiving this rental income in a manner to avoid the judgment herein and garnishments.

9. Per Neb. Rev. Stat. § 25-1564 and this Court's inherent equitable powers, this Court could simply enter a creditor's bill ordering payment of rent by A1 Kitchen to the Plaintiffs to be applied to the judgment. However, doing so without proper maintenance of the Property and payment of the secured indebtedness thereon will inevitably lead to a breach of the landlord's obligations in the A1 Kitchen lease or foreclosure by the secured lender, resulting in the loss of the lease income from A1 Kitchen, destroying the Property's value.

10. Because of that, a receiver is necessary to preserve said proceeds and manage the Property. This Court should immediately appoint a receiver to receive the rents from A1 Kitchen and any other rents and income from the Property for the term of A1 Kitchen's lease or until an execution sale of the Property by the Douglas County Sheriff, whichever comes first, and maintain the property to comply with any lease obligations, to prevent diminishment of the value of the Property, and in all respects to manage the Property as deemed appropriate and necessary by the receiver. Appointment of a receiver is authorized by Neb. Rev. Stat. § 25-1081(1), (6), (7) and (8), and § 25-1573.

11. Plaintiffs nominate Colliers International, c/o John Waldbaum, CPM, 6464 Center Street, Suite 200, Omaha, Nebraska 68106, as receiver. Plaintiffs suggest bond for the receiver should be set at no more than \$20,000.



12. Plaintiffs nominate Universal Surety Company, P.O. Box 80468, Lincoln, Nebraska 68501, a licensed insurance company approved in the State of Nebraska, to be the receiver's surety.

13. This Application will be supported by Affidavits. Plaintiffs propose a form of Order granting the Creditor's Bill and appointing a receiver that is attached to this Application as Exhibit A.

WHEREFORE, Plaintiffs pray that this Court immediately (1) grant a Creditor's Bill in aid of execution providing the judgment herein against Defendant and Judgment Debtor Qi Yu Dong attaches to all of his contract rights, accounts, and rights to payment relating to the Property, whether directly or through DZ, LLC, and permits execution upon and collection of rents and income from the Property, and (2) appoint Colliers International as receiver to collect said rents and income and manage said Property, regardless of whether such rents are payable to Qi Yu Dong or DZ, LLC, so that the landlord's obligations in said lease are complied with and the source of income on said property is maintained, in the form of an Order attached to this Application, and for all other relief this Court deems just and equitable.

DATED this 7<sup>th</sup> day of July, 2014.

E. ROBERT NEWMAN, an Individual;  
MURRAY H. NEWMAN, an Individual;  
PHYLLIS H. NEWMAN, Trustee under the Trust  
Agreement dated July 6, 1982 for the benefit of  
Maxwell C. Newman; and PHYLLIS H.  
NEWMAN, Trustee under the Trust Agreement  
dated July 6, 1982 for the benefit of Louis H.  
Newman, Plaintiffs

By /s/ David J. Skalka

David J. Skalka, #21537  
Croker, Huck, Kasher, DeWitt, Anderson &  
Gonderinger, LLC  
2120 South 72<sup>nd</sup> Street, Suite 1200  
Omaha, Nebraska 68124  
(402) 391-6777  
(402) 390-9221 (Fax)  
[dskalka@crokerlaw.com](mailto:dskalka@crokerlaw.com)

Attorneys for Plaintiffs

#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE that Plaintiffs' Application for Post-Judgment Creditor's Bill and Receiver as to Property of Qi Yu Dong will be called for hearing before the Honorable James T. Gleason on the 22<sup>nd</sup> day of July, 2014, at the hour of 1:15 p.m. in Courtroom No. 505, of the Douglas County District Court, Omaha, Nebraska, or as soon thereafter as counsel may be heard.

/s/ David J. Skalka

David J. Skalka, #21537

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Louis H. Newman, )  
Plaintiffs, )

CASE NO.: CI 13-5972

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE )  
ZHANG, an individual; QI YU DONG, )  
a/k/a QI Y DONG a/k/a QIYU DONG, an )  
individual; RUI XIN ZHANG, an )  
individual; and QI HE DONG, an )  
individual, )  
Defendants. )

**ORDER OF CREDITOR'S BILL**  
**AND APPOINTMENT OF RECEIVER**

THIS MATTER came before this Court on July 22, 2014, on Plaintiffs' Application for Post-Judgment Creditor's Bill and Receiver as to Property of Qi Yu Dong. David J. Skalka appeared on behalf of the Plaintiffs. \_\_\_\_\_ appeared on behalf of the Defendant Qi Yu Dong ("Defendant"). \_\_\_\_\_ appeared on behalf of Defendants \_\_\_\_\_. Affidavit evidence was received. The Court, being duly advised in the premises and having considered the evidence submitted, finds as follows:

1. This Court has jurisdiction over the parties and the subject matter;
2. Plaintiffs have an unsatisfied judgment in this case against the Defendant;

EXHIBIT A

3. Plaintiff has a judgment lien in the Property, with "Property" as defined as Lot 1, Blue One Addition Replat 1, a subdivision, as surveyed, platted, and recorded in Douglas County, Nebraska, together with all improvements, structures, and fixtures thereon, commonly known as the real estate and commercial building located at 4945 S. 72<sup>nd</sup> Street, Omaha, Nebraska.

4. DZ, LLC is dissolved, and Defendant was a member of DZ, LLC. DZ, LLC has no ownership interest in the Property. To the extent rental income is being paid to DZ, LLC, or it claims rights to payment from any lease of the Property, Defendant has an interest in those rights and payment and they are subject to Plaintiffs' judgment and this Order.

5. Based upon the evidence, a creditor's bill should be entered to permit execution upon and collection of rents and income from the Property, regardless of whether such rents are payable to Qi Yu Dong or DZ, LLC, to aid in satisfaction of Plaintiffs' judgment against Defendant.

6. Based upon the evidence, appointment of a receiver for the Property and collection of rents is statutorily authorized pursuant to at least Neb. Rev. Stat. § 25-1081(6)-(8), and is reasonable and necessary for the protection of the Property and the rights of the parties;

7. Colliers International is qualified and suitable to be appointed as receiver for the Property; and

8. Plaintiffs' Application should be granted.

IT IS, THEREFORE, ORDERED that Plaintiffs' Application for Post-Judgment Creditor's Bill is granted. The judgment herein against Defendant hereby attaches to all of Defendant's contract rights, accounts, and rights to payment relating to the Property, whether

directly or through DZ, LLC. Plaintiffs may execute upon and collect rents and income from the Property regardless of whether such rents are payable to Qi Yu Dong or DZ, LLC.

IT IS FURTHER ORDERED that Plaintiffs' Application for Receiver as to Property of Qi Yu Dong is granted. Colliers International is hereby appointed as receiver for the Property (the "Receiver"). The Receiver shall forthwith take physical possession of, manage, operate, and protect the Property for the benefit of the Plaintiffs and any other lawful claimants to the Property, subject to the supervision of this Court, and shall continue to do so until the earlier of (1) sale of the Property either by sheriff's execution or agreement with Defendant, or (2) subsequent Order of this Court discharging the Receiver, for reasons including but not limited to that the judgment has been satisfied. The Receiver shall have all the powers and authority usually held by receivers under Neb. Rev. Stat. § 25-1081 et seq. and reasonably necessary to accomplish the purposes herein stated including, but not limited to, the following powers, which may be exercised without further order of the Court except where noted otherwise:

a. To take from Defendant, his agents, and all parties acting on Defendant's behalf including those acting on behalf of DZ, LLC, immediate control of the Property, to the exclusion of the Defendant and its agents and all parties acting on Defendant's behalf including DZ, LLC;

b. To enter into the Property, and search for, take possession of, remove, keep and store any of Defendant's property until the execution upon, sale, or disposal of such property, and to store the same at Defendant's premises without cost to the receiver or Plaintiffs;

c. To take charge of the Property, assets and all personal property used or associated therewith, regardless of where such property is located, including but not limited to bank accounts, operating accounts, merchant accounts, security deposits, software, checks, drafts, notes, security deposits, certificates, books, records, contracts, claims, deposits, rents, revenues, royalties, income, issues, profits, rental payments, lease payments, insurance payments, condemnation awards, rent rolls, accounts receivable and payable, other accounting information, records, contracts, and claims;

d. To manage, operate, maintain and otherwise control the Property as necessary to prevent diminution of the Property's value and maintain income being generated by the Property;

e. To use the personnel of the Receiver or hire on a contract basis personnel necessary to maintain and preserve the Receivership Property, and to retain, hire and terminate property management personnel and other personnel, and contract for and obtain such services, utilities, supplies, equipment and goods as are reasonably necessary to operate, preserve and protect the Property, and to make such repairs to the grounds and improvement on the Property, all as the Receiver may reasonably deem necessary; provided, however, no such contract shall extend beyond the termination of the Receivership unless authorized by the parties;

f. To hire and retain and otherwise obtain the advice and assistance of such third-party legal counsel, accounting, and other professionals as may be necessary to the proper discharge of the Receiver's duties, with all reasonable expenses incurred in connection therewith deemed to be expenses of the Receivership;

g. To advertise any of the Property for lease;

h. To change any or all locks on any of the Property;

i. To open, transfer and change all bank accounts, trade accounts and merchant accounts wherever located containing funds associated with the Property and deposit all sums received by the Receiver in a financial institution insured by the federal government in the name of the Receiver and to write checks and make withdrawals on such accounts;

j. To collect receivables and claims arising from the Property;

k. To exercise all of Defendant's rights and remedies with respect to proceedings brought to collect any accounts;

l. To surrender, release or exchange all or any part of any accounts of Defendant, or compromise or extend or renew for any period (whether or not longer than the original period) any indebtedness thereunder;

m. To prepare, file, and sign Defendant's name on any proof of claim in bankruptcy or other similar document against any account debtor indebted on an account of Defendant;

n. To notify any parties obligated on any of the accounts of Defendant or DZ, LLC to make payment directly to the Receiver of any amounts due or to become due thereunder, to the extent such accounts relate to the Property;

o. To have continuing access to mail or other correspondence to and from Defendant concerning the Property.

p. To the extent necessary, to conduct a full inventory of all personal property comprised in the Property;

- q. To pay taxes, insurance, utility charges and other expenses and costs reasonably incurred in managing, preserving, and liquidating the Property;
- r. Upon Court approval, to reject any leases, agreements, or unexpired contracts of the Defendant connected to the Property that are burdensome on the Property;
- s. To invest funds of the receivership estate, without further permission of the Court, in savings accounts or in securities backed by the full faith and credit of the United States;
- t. To make, enforce, modify, negotiate, renegotiate and enter into such reservations, lease agreements, franchise agreements, rental agreements, contracts or other agreements of the Property as the Receiver may reasonably deem appropriate in connection with the discharge of the Receiver's duties, except that such agreements for a longer term than five years shall require Court approval;
- u. To obtain and renew all insurance policies that the Receiver deems necessary for the protection of the Property and for the protection of the interest of the Receiver and the parties to this action with respect to the Property;
- v. To apply for, obtain, renew and, as necessary, to prevent the loss of all trademarks, copyrights, patents, licenses, permits and entitlements required for the preservation or operation of the Property or issued in connection with therewith;
- w. To issue Receiver's Certificates for the purpose of preserving and maintaining the Property, without further approval of this Court, in exchange for funds advanced by the Plaintiffs, during the term of the Receivership, which Receiver's Certificates shall bear interest and which Receiver's Certificates shall be a lien and security interest of the Plaintiffs and a preference claim upon the Property.
- x. With respect to any operation or activity that is now conducted on the Property or is customarily conducted on similar properties, and that may lawfully be conducted only under governmental license or permit, to continue such operation or activity under the license or permits issued to the entity subject to compliance with the terms thereof;
- y. To enforce the terms of any leases, contracts and agreements relating to the Property and to commence such actions as may be necessary in its name as Receiver to deal with parties that are delinquent or in default under such leases or agreements and to pursue and collect delinquent rents and other amounts which may be owed by customers, tenants or other third parties at the Property, accrued as of this date or hereafter accruing, and, if the Receiver so elects, to be added or substituted as plaintiff in any such actions already commenced;
- z. To obtain, review and analyze the past records, including without limitation accounting records, disbursements, banking records, plans, specifications, engineering reports,

soil reports, permits, entitlements, and any other books and documents necessary to determine whether there are any potential claims or rights against the other persons and entities arising out of the ownership and operation of the Defendant, or to otherwise perform the duties of the Receiver;

aa. To pay prior obligations incurred by Defendant, its agents and servants, or any other person or entity charged with the responsibility of maintaining and operating the Property, if such obligations are deemed by the Receiver to be necessary or advisable for the continued operation of any of the Property, and any improvements thereto;

bb. To use receipts from the Property and such funds as may be advanced by third parties or by the Plaintiff for the payment of expenses of the receivership estate and of the Property;

cc. To enforce collection of any of Defendant's accounts, debts, contract rights or other rights arising from the Property;

dd. To institute or intervene in litigation to obtain a stay or prevent an action against the Property, to recover possession of the Property from persons who may now or in the future be wrongfully in possession of such property, to collect accounts and debts, enforce contracts, and other agreements relating to the Property, and to otherwise preserve the Property or otherwise to carry out the duties of the Receiver;

ee. To settle any mechanics' liens against the Property by making recommendations for settlement to this Court;

ff. To deal with, hire, or terminate present or future managers, brokers, agents or other professionals in connection with the Property;

gg. To notify any and all insurers under insurance policies affecting the Property of the pendency of these proceedings and that, subject to the prior rights of any party holding a lien encumbering the Property, any proceeds paid under any such insurance policies shall be paid to the Receiver until such time as the said insurance carriers are advised to the contrary by this Court or until they receive a certificate issued by the Clerk of this Court evidencing the dismissal of this action;

hh. To borrow from third parties on an unsecured basis, funds to meet the needs of the receivership estate in excess of the income or proceeds from the receivership estate;

ii. To preserve and protect the improvements located on the Property, and to secure same against loss and damage, and to preserve any and all construction claims and warranties as necessary; and



jj. Generally to do such other lawful acts as the Receiver reasonably deems necessary to the effective operation and management of the Property, or for the orderly liquidation of the Property if ordered by the Court, and to perform such other functions and duties as may from time to time be required and authorized by this Court, by the laws of the State of Nebraska or by the laws of the United States of America.

IT IS FURTHER ORDERED that the Receiver shall account to this Court for all sums received and expenditures made and file periodic reports to this Court from time to time, not less than every three months.

IT IS FURTHER ORDERED that the Receiver shall be compensated for its services at the greater of \$500 per month or 5% of gross receipts from the Property, whichever is greater, provided that if compensation shall be calculated upon gross receipts such payment to the Receiver shall be approved by the Court upon notice and hearing of an application for compensation made by the Receiver to this Court, which applications may be as often as monthly, otherwise may be paid by the Receiver without further Order of this Court.

IT IS FURTHER ORDERED the Receiver is hereby authorized to apply the rents, revenues, income, issues, and profits collected by the Receiver in connection with the management and operation of the Property: first, to the Receiver's compensation as identified above and as approved by this Court; second, to the other costs and expenses of the receivership, including attorney fees and other out-of pocket expenses incurred by the Receiver in connection with the receivership; third, to the expenses of the Property and costs of operating, maintaining, and repairing the Property, including but not limited to payment of real and personal property taxes, insurance, water and sanitation bills, utilities and other operating expenses; fourth, whenever sufficient funds are available for such purpose, the Receiver shall make principal and interest payments toward any loans which are secured by a lien on the Property, in the order of

their priority; and fifth, to a fund to be held by the Receiver in an interest-bearing account, pending further order of this Court. In the event there are insufficient funds to repay any receivership expenses as contemplated, above, such expenses shall be paid from the gross proceeds of any liquidation of any of the Property with a priority senior to that of any judgment against the Property. Nothing in this Order, however, modifies or invalidates any lawful lien in or claim to the Property.

IT IS FURTHER ORDERED that Defendant, his agents, and anyone acting on Defendant's behalf including DZ, LLC shall:

a. Deliver immediately over to the Receiver or his agents all Property and all other things of value relating to the Property (including without limitations all funds on deposit in all bank accounts or merchant accounts of the Defendant and such records and other papers in its possession or under its control as may be pertinent to the status of the Property and the Receiver's collection and liquidation thereof), properly endorsed to the Receiver when necessary; and

b. Continue to deliver to the Receiver all collections of proceeds of the Property, including accounts receivable, other collections, books and other records relating to the operation, maintenance, and management of the corporation or the Property, and to permit the Receiver to carry out his duties hereunder without interference.

IT IS FURTHER ORDERED that the Defendant, its agents, and anyone acting on Defendant's behalf including DZ, LLC, shall further cooperate with the Receiver in carrying out the Receiver's duties under this Order, and provide such documents or other information necessary for the Receiver to carry out its duties, and shall respond in a timely fashion to requests and inquires of the Receiver concerning records relating to the Property, record keeping protocols, filing systems, information sources, algorithms and processes used to manipulate data, and similar matters. With respect to any information or records stored in computer-readable form or located on computers of the borrower or the person in possession of the records, such person

shall provide the Receiver full access to all media on which such records are located and all computers and the necessary application, system, and other software necessary to review, understand, print, and otherwise deal with such computerized records.

IT IS FURTHER ORDERED that the Defendant, its agents, and anyone acting on Defendant's behalf including DZ, LLC, are enjoined from:

- a. Collecting any revenues from the entities or related to the Property, or withdrawing funds from any bank or other depository account relating to the entities or the Property;
- b. Terminating, or causing to be terminated, any license, permit, lease, franchise agreement, contract or agreement relating to the entities or the operation of any of the businesses on such property; and
- c. Otherwise interfering with the operation of the entities or the Receiver's discharge of its duties hereunder.

IT IS FURTHER ORDERED that the Receiver or any party to this action may at any time, on proper and sufficient notice to all parties who have appeared in this action, apply to this Court to enter additional orders to supplement, clarify, or amend this Order.

IT IS FURTHER ORDERED any debts, liabilities, or obligations incurred by the Receiver in the course of this receivership, including the operation or management of the Property, whether in the name of the Receiver, the Property, or the receivership estate, shall be the debt, liability, and obligation of the receivership estate only and not of the Receiver or any employee or agent personally.

IT IS FURTHER ORDERED that the Clerk of this Court is authorized to issue writs of assistance upon the Receiver's praecipe for a writ for Sheriff's assistance to enforce the terms of this Order in the form of peace-keeping duties.

IT IS FURTHER ORDERED that in the event that a bankruptcy case is filed by the Defendant during the pendency of this Receivership, Plaintiffs must give notice of same to this Court, to all parties, and to the Receiver, within 24 hours of Plaintiffs' receipt of notice of the bankruptcy filing. Upon receipt of notice that a bankruptcy has been filed which includes as part of the bankruptcy estate any Property which is the subject of this Order, the Receiver shall do the following:

a. The Receiver shall immediately contact the Plaintiffs, and determine whether Plaintiff intends to move in the Bankruptcy Court for an order for relief from the Receiver's obligation to turn over the property (11 U.S.C. § 543).

b. If the Plaintiffs indicate no intention to make such a motion, then the Receiver shall immediately turn over the property of the applicable Defendant to either the trustee in bankruptcy, if one has been appointed, or if not, then to the debtor in possession, and otherwise comply with 11 U.S.C. § 543.

c. If the Plaintiffs expresses an intention to immediately seek relief from the Receiver's obligation to turn over the Property, then the Receiver is authorized to remain in possession and preserve the property pending the outcome of such motion (11 U.S.C. § 543(a)). The Receiver's authority to preserve the Property is limited as follows: The Receiver may continue to collect the Property and the proceeds thereof. The Receiver may make disbursement, but only those, which are necessary to preserve and protect the Property. The Receiver shall not execute any new agreements or other long-term contracts. The Receiver shall do nothing that would affect a material change in circumstances of the Property.

d. Notwithstanding the above, if the Plaintiffs fails to file a motion within 10 court days after their receipt of notice of the bankruptcy filing, then the Receiver shall immediately turn over the property of the Defendant either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in the possession, and otherwise comply with 11 U.S.C. § 543. The Receiver is authorized to retain legal counsel to assist the Receiver with the bankruptcy proceedings.

IT IS FURTHER ORDERED that the Receiver shall serve any request for relief or approval of any action required by this Order on the Plaintiff, its counsel, and any other party filing an entry of appearance in this proceeding. The Court may grant any such relief requested

by the Receiver, without any further notice of hearing, unless a written resistance to the requested relief is filed with the Court and served on the Receiver, his counsel, if any, and counsel for the Plaintiff within ten days after filing and service of the Receiver's request. In the event of any objection to any Receiver's proposed action requiring the Court approval hereunder, then the Court shall promptly hold a hearing on such objection upon at least three days' prior written notice to all parties.

IT IS FURTHER ORDERED that the Receiver shall continue in possession of the Property and the receivership estate until discharged by the Court.

IT IS FURTHER ORDERED that the bond of the Receiver required by Neb. Rev. Stat. § 25-1084 is hereby fixed at the amount of \$10,000.00, said bond to meet all other required terms of § 25-1084.

DATED this \_\_\_\_\_ day of July, 2014.

BY THE COURT:

---

District Court Judge

Prepared and submitted by:

David J. Skalka, #21537  
Croker, Huck, Kasher, DeWitt,  
Anderson & Gonderinger, L.L.C.  
2120 South 72<sup>nd</sup> Street, Suite 1200  
Omaha, Nebraska 68124  
(402) 391-6777  
(402) 390-9221 (Fax)

Attorneys for Plaintiffs

## Certificate of Service

I hereby certify that on Tuesday, July 08, 2014 I provided a true and correct copy of the Application to the following:

Zhang, Yu, De, represented by Bemis, James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Yu Zhang Garden LLC represented by Bemis, James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Zhang, Xue, Bin, represented by Bemis, James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Zhang, Rui, Xin, represented by Bemis, James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Dong, Qi, Yu, service method: Residential Service

Dong, Qi, He, service method: First Class Mail

Signature: /s/ Skalka, David, (Bar Number: 21537)

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under )  
the Trust Agreement dated July 6, 1982 for )  
the benefit of Louis H. Newman, )

CASE NO.: CI 13-5972

Plaintiffs, )

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE )  
ZHANG, an individual; QI YU DONG, )  
a/k/a QI Y DONG a/k/a QIYU DONG, an )  
individual; RUI XIN ZHANG, an )  
individual; and QI HE DONG, an )  
individual, )

**APPLICATION FOR ORDER**  
**IN AID IN EXECUTION**

Defendants. )

COME NOW the Plaintiffs E. Robert Newman, Murray H. Newman, Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Maxwell C. Newman, and Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Louis H. Newman ("Plaintiffs"), and move this Court pursuant to Neb. Rev. Stat. §§ 25-1569 and 25-1570 for an order in aid of execution requiring (1) DZ, LLC, an administratively dissolved Nebraska limited liability company, to produce documentation concerning its property, financial transactions with Judgment Debtor Qi Yu Dong ("Defendant") indebtedness in its name on property owned by Defendant, and the LLC member interest of Defendant, and (2) through one of DZ, LLC's members or officers to appear and answer under oath questions regarding Defendant's property and

transactions with Defendant before a Judge of this Court, or a referee appointed by a Judge of this Court, at a time and place specified by the Court, and (3) if said representative of DZ, LLC is not Mei Duan Zhang, to order that Ms. Zhang appear and answer under oath questions regarding Defendant's whereabouts and property and DZ, LLC at the same time and place before this Court. In support of their Application, Plaintiffs show as follows:

1. Plaintiffs obtained a judgment in this matter against Defendant on January 17, 2014, in the amount of \$763,835.48, with interest at 2.091% per annum continuing to accrue thereafter. No amount of the judgment has been paid.

2. Defendant is a member of DZ, LLC, an administratively dissolved limited liability company.

3. Defendant is believed to be collecting rent on real estate he owns by having rents paid to DZ, LLC, which has no interest in the real estate, in an apparent attempt to avoid this judgment and garnishments. Mei Duan Zhang is believed to be acting to collect those rents on behalf of DZ, LLC and Defendant.

4. Ms. Zhang is living in a house in Sarpy County that is at least partly owned by Defendant. Counsel for other Defendants has represented that Ms. Zhang is an estranged spouse of Defendant.

WHEREFORE, Plaintiffs pray that this Court enter an order in aid of execution providing the relief requested in this Application.



DATED this 7<sup>th</sup> day of July, 2014.

E. ROBERT NEWMAN, an Individual;  
MURRAY H. NEWMAN, an Individual;  
PHYLLIS H. NEWMAN, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Maxwell C. Newman; and PHYLLIS H. NEWMAN, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Louis H. Newman, Plaintiffs

By /s/ David J. Skalka  
David J. Skalka, #21537  
Croker, Huck, Kasher, DeWitt, Anderson & Gonderinger, LLC  
2120 South 72<sup>nd</sup> Street, Suite 1200  
Omaha, Nebraska 68124  
(402) 391-6777  
(402) 390-9221 (Fax)  
[dskalka@crokerlaw.com](mailto:dskalka@crokerlaw.com)

Attorneys for Plaintiffs

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that Plaintiffs' Application for Order in Aid of Execution will be called for hearing before the Honorable James T. Gleason on the 22<sup>nd</sup> day of July, 2014, at the hour of 1:15 p.m. in Courtroom No. 505, of the Douglas County District Court, Omaha, Nebraska, or as soon thereafter as counsel may be heard.

/s/ David J. Skalka  
David J. Skalka, #21537

## Certificate of Service

I hereby certify that on Tuesday, July 08, 2014 I provided a true and correct copy of the Application to the following:

Dong,Qi,Yu, service method: Residential Service

Zhang,Rui,Xin, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Yu Zhang Garden LLC represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Zhang,Yu,De, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Dong,Qi,He, service method: First Class Mail

Zhang,Xue,Bin, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Signature: /s/ Skalka,David, (Bar Number: 21537)

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under the )  
Trust Agreement dated July 6, 1982 for the )  
benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under the )  
Trust Agreement dated July 6, 1982 for the )  
benefit of Louis H. Newman, )  
Plaintiffs, )

CASE NO.: CI 13-5972

SECOND  
AMENDED COMPLAINT

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE ZHANG, )  
an individual; QI YU DONG, a/k/a QI Y )  
DONG a/k/a QIYU DONG, an individual; )  
XUE BIN ZHANG, an individual; RUI XIN )  
ZHANG, an individual; and QI HE DONG, )  
an individual, )  
Defendants. )

COME NOW the Plaintiffs, E. Robert Newman, Murray H. Newman, Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Maxwell C. Newman, and Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Louis H. Newman, and for their claims for relief against the Defendants Yu Zhang Garden, LLC, Yu De Zhang, Qi Yu Dong, Xue Bin Zhang, Rui Xin Zhang, and Qi He Dong, state and allege as follows:

COMMON FACTS

1. Plaintiffs E. Robert Newman, Murray H. Newman, Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Maxwell C. Newman, and

Phyllis H. Newman, Trustee under the Trust Agreement dated July 6, 1982 for the benefit of Louis H. Newman (“Plaintiffs”) are individuals doing business in Douglas County, Nebraska.

2. Plaintiffs jointly own real estate legally defined in part as Lot 16, Briggs Place, a subdivision surveyed and platted in Omaha, Douglas County, Nebraska, located at 346 N. Saddle Creek Road, Omaha, Nebraska, which real estate is the subject of this action (the “Property”).

3. Defendant Yu Zhang Garden, LLC (“Lessee”) is a Nebraska limited liability company with its principal place of business in Douglas County, Nebraska. Lessee filed a statement of dissolution with the Nebraska Secretary of State on March 1, 2013, purporting to effectively dissolve itself effective November 30, 2012. However, Lessee gave no notice of said filing to Plaintiffs, Plaintiffs had no actual notice of the filing until July 24, 2013, and Lessee failed to comply with Neb. Rev. Stat. § 21-149, which statute additionally does not apply to claims based on events occurring after the effective date of dissolution which this Complaint asserts in part. Lessee’s claimed dissolution therefore has no application to Plaintiffs and no application to the claims asserted herein.

4. Defendant Yu De Zhang (“Zhang”) is an individual residing in and doing business in Douglas County, Nebraska.

5. Defendant Qi Yu Dong a/k/a Qi Y Dong a/k/a Qiyu Dong (“Dong”) is an individual doing business in Douglas County, Nebraska.

6. Defendant Xue Bin Zhang (“Xue Zhang”) is an individual residing in and doing business in Douglas County, Nebraska.

7. Defendant Qi He Dong is an individual residing in and doing business in Douglas County, Nebraska.

8. Defendant Rui Xin Zhang is an individual residing in and doing business in Douglas County, Nebraska.

9. On or about May 20, 2010, Plaintiffs and Lessee entered into a written lease under the terms of which Plaintiffs leased a portion of the Property to Lessee from October 1, 2010 to March 31, 2021, with monthly installments and other obligations owing as set forth in the written lease (the "Lease").

10. A true and correct copy of the Lease, together with personal guaranties hereinafter described, is attached to this Complaint as Exhibit A and incorporated herein by this reference.

11. Concurrently with execution of the Lease, and as part of the consideration given to Plaintiffs to enter into the Lease with Lessee, Zhang, Xue Zhang, and Dong executed an absolute, unconditional guaranty in which they personally guaranteed to Plaintiffs the performance of all of Lessees' obligations under the Lease, including the payment of rent (the "Guaranty"). A true and complete copy of the Guaranty is pages 16 through 18 of Exhibit A to this Complaint.

12. Lessee failed to timely make its payments for rent and operating expenses that are due pursuant to the Lease on or before the first day of July 2012. Lessee later paid the amount with a check that was returned for insufficient funds. Lessee failed to pay the late fees incurred by that failure, and failed to make its payments for rent and operating expenses that are due pursuant to the Lease on or before September 2012, or for any time thereafter.

13. Lessee failed in August 2012 to pay for repairs to the Property that are its responsibility, totaling \$3,970.84.

14. Written demand was made upon Lessee on November 19, 2012 to cure its breaches and pay all amounts it owed under the Lease. Lessee has not complied with said demand in any manner.

15. Lessee has abandoned the Property. Plaintiffs have not terminated the Lease.

16. Plaintiffs have and continue to make commercially reasonable efforts to relet the portion of the Property that Lessee leased, but to date have not been successful.

17. All conditions precedent to Plaintiffs' action herein have been performed or have occurred.

**FIRST CLAIM FOR RELIEF**  
**Breach of Contract**

18. Plaintiffs incorporate the allegations of paragraphs 1 through 17 as if fully set forth herein.

19. Lessee has breached the Lease via, *inter alia*, failing to pay rent and common operating expenses when due.

20. As a proximate result of Lessee's breach, Plaintiffs have been damaged as of the date of this Complaint in an amount no less than \$105,005.08, plus interest as provided by law from and after the date of this Complaint, plus additional damages accruing under the Lease including future rent and operating expenses, Plaintiffs' costs of reletting the Property, and late fees.

**SECOND CLAIM FOR RELIEF**  
**Breach of Guaranty**

21. Plaintiffs incorporate the allegations of paragraphs 1 through 20 as if fully set forth herein.

22. Plaintiffs have made written demand upon Zhang, Xue Zhang, and Dong to honor the Guaranty and to pay all amounts now owed by Lessee under the Lease, but none of them have complied with said demand.

23. Zhang, Xue Zhang, and Dong have breached the Guaranty by failing to comply with Plaintiffs' demand and failing to pay all amounts now owed by Lessee under the Lease.

24. As a proximate result of Zhang's, Xue Zhang's, and Dong's breach, Plaintiffs have been damaged as of the date of this Complaint in an amount no less than \$105,005.08, plus interest as provided by law from and after the date of this Complaint, plus additional damages accruing under the Lease including future rent and operating expenses, Plaintiffs' costs of reletting the Property, and late fees.

WHEREFORE, as to Plaintiffs' First and Second Claims for Relief, Plaintiffs pray for judgment for them and against all Defendants except Rui Xin Zhang and Yu He Don jointly and severally for Plaintiffs' general damages of no less than \$105,005.08, special damages to be proven at trial, interest as provided by law accruing from and after the date of this Complaint, and their costs of this action.

**THIRD CLAIM FOR RELIEF**  
**Fraudulent Transfer**

25. Plaintiffs incorporate the allegations of paragraphs 1 through 24 as if fully set forth herein.

26. At the time this lawsuit was filed, Defendant Qi Yu Dong owned fee simple title to real estate located at 4945 S. 72<sup>nd</sup> Street, Omaha, Nebraska, which includes a commercial structure.

27. Immediately after Defendant Qi Yu Dong was served summons in this matter, he transferred all his interest to said real estate and improvements thereon for no consideration to a sibling, Qi He Dong.

28. Said real estate was transferred with actual intent to hinder, delay, or defraud one or more of Defendant Qi Yu Dong's creditors, or was transferred without receiving a reasonably

equivalent value in exchange for the transfer and he was insolvent at the time of the transfers or became insolvent as a result of the transfers, or was transferred in another manner deemed fraudulent to present creditors set forth in Neb. Rev. Stat. §§ 36-705 and 36-706.

WHEREFORE, as to their Third Claim for Relief, Plaintiffs pray that this Court enter an order:

a. avoiding the transfer of the real estate to Defendant Qi He Dong to the extent necessary to satisfy Plaintiffs' claim against Defendant Qi Yu Dong;

b. entering judgment for Plaintiffs and against Defendant Qi He Dong for an amount equal to the value of the real estate, with said value to be determined as of the time of the transfer;

c. granting Plaintiffs a writ of execution on the real estate, provided Plaintiffs have first obtained a judgment against Defendant Qi Yu Dong for their claim on the Guaranty; and

d. awarding Plaintiffs their costs incurred in the matter jointly and severally against the Defendants Qi He Dong and Qi Yu Dong.

**FOURTH CLAIM FOR RELIEF**  
**Fraudulent Transfer**

29. Plaintiffs incorporate the allegations of paragraphs 1 through 24 as if fully set forth herein.

30. At the time Lessee made its last payment on the Lease, prior to its default, Defendant Yu De Zhang co-owned fee simple title to real estate located at 2032 S. 88<sup>th</sup> Street, Omaha, Nebraska, which includes a house.



31. Shortly after Lessee made its last payment on the Lease, and at or about the time Lessee abandoned the leased premises, Defendant Yu De Zhang transferred fee simple title via quit claim deed for no consideration to a child of his, Rui Xin Zhang.

32. Said real estate was transferred with actual intent to hinder, delay, or defraud one or more of Defendant Yu De Zhang's creditors, or was transferred without receiving a reasonably equivalent value in exchange for the transfer and he was insolvent at the time of the transfers or became insolvent as a result of the transfers, or was transferred in another manner deemed fraudulent to present creditors set forth in Neb. Rev. Stat. §§ 36-705 and 36-706.

WHEREFORE, as to their Fourth Claim for Relief, Plaintiffs pray that this Court enter an order:

- a. avoiding the transfer of the real estate to Defendant Rui Xin Zhang to the extent necessary to satisfy Plaintiffs' claim against Defendant Yu De Zhang;
- b. entering judgment for Plaintiffs and against Defendant Rui Xin Zhang for an amount equal to the value of the real estate, with said value to be determined as of the time of the transfer;
- c. granting Plaintiffs a writ of execution on the real estate, provided Plaintiffs have first obtained a judgment against Defendant Yu De Zhang for their claim on the Guaranty; and
- d. awarding Plaintiffs their costs incurred in the matter jointly and severally against the Defendants Rui Xin Zhang and Yu De Zhang.

DATED this 24<sup>th</sup> day of September, 2013.

E. ROBERT NEWMAN, an Individual;  
MURRAY H. NEWMAN, an Individual;  
PHYLLIS H. NEWMAN, Trustee under the Trust  
Agreement dated July 6, 1982 for the benefit of  
Maxwell C. Newman; and PHYLLIS H. NEWMAN,  
Trustee under the Trust Agreement dated July 6,  
1982 for the benefit of Louis H. Newman, Plaintiffs

By /s/ David J. Skalka

David J. Skalka, #21537  
Croker, Huck, Kasher, DeWitt, Anderson &  
Gonderinger, LLC  
2120 South 72<sup>nd</sup> Street, Suite 1200  
Omaha, Nebraska 68124  
(402) 391-6777  
(402) 390-9221 (Fax)  
[dsalka@crokerlaw.com](mailto:dsalka@crokerlaw.com)

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under the )  
Trust Agreement dated July 6, 1982 for the )  
benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under the )  
Trust Agreement dated July 6, 1982 for the )  
benefit of Louis H. Newman, )  
Plaintiffs, )

CASE NO.: CI 13-5972

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE ZHANG, )  
an individual; QI YU DONG, a/k/a QI Y )  
DONG a/k/a QIYU DONG, an individual; )  
XUE BIN ZHANG, an individual; RUI XIN )  
ZHANG, an individual; and QI HE DONG, )  
an individual, )  
Defendants. )

AFFIDAVIT OF  
DAVID J. SKALKA

*did not print exhibits*

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

I, David J. Skalka, being first duly sworn, upon his oath deposes and states as follows:

1. I make the statements contained in this Affidavit based upon my own personal knowledge. If called as a witness, I would be competent to testify to the matters contained herein.
2. I am an attorney licensed to practice law in the State of Nebraska and am the attorney for Plaintiffs in this matter.
3. Attached as Exhibit A is a true and complete copy of a Real Estate Transfer Statement filed with the Douglas County Register of Deeds demonstrating that on September 6,

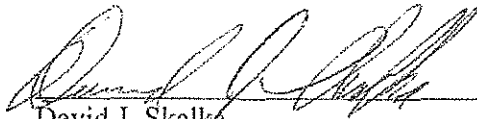
2012, Defendant Yu De Zhang transferred via quit claim deed for no consideration Lot 6, Block 2, West Loveland Addition, a subdivision, as surveyed, platted, and recorded in Douglas County, Nebraska, and commonly known as 2032 S. 88th Street, Omaha, Nebraska, to his child Defendant Rui Xin Zhang. Said Defendants represent in Exhibit A that the current market value of said property is \$200,000.

4. Defendant Qi Yu Dong was served summons in this matter on August 1, 2013.

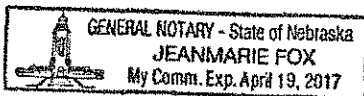
5. Attached as Exhibit B is a true and complete copy of a Real Estate Transfer Statement and Deed filed with the Douglas County Register of Deeds demonstrating that on August 5, 2013, Defendant Qi Yu Dong transferred via warranty deed for no consideration Lot 1, Blue One Addition Replat 1, a subdivision, as surveyed, platted, and recorded in Douglas County, Nebraska, and commonly known as 4945 S. 72nd Street, Omaha, Nebraska, to his sibling Defendant Qi He Dong. Said Defendants represent in Exhibit B that the current market value of said property is \$761,700.00.

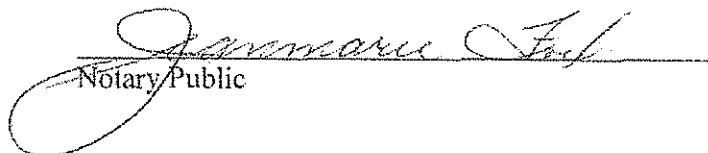
6. Attached as Exhibit C is a true and complete printout of email communications between Jay Bemis, Esq., attorney for Defendants, and myself, in which the Defendants that are guarantors under the Lease through Mr. Bemis represent that they are insolvent.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
David J. Skalka

SUBSCRIBED AND SWORN TO BEFORE me this 12th day of November, 2013.



  
\_\_\_\_\_  
Notary Public



# Real Estate Transfer Statement

FORM

521

• To be filed with the Register of Deeds  
 • Read instructions on reverse side.

1575-0000-25

THE DEED WILL NOT BE RECORDED UNLESS THIS STATEMENT IS SIGNED AND ITEMS 1-25 ARE ACCURATELY COMPLETED

1 County Name <b>Douglas</b>	2 County Number Select County & County Number	3 Date of Sale Mo. ___ Day ___ Yr. ___	4 Date of Deed Mo. <b>9</b> Day <b>6</b> Yr. <b>2012</b>
5 Grantor's Name, Address, and Telephone (Please Print) Grantor's Name (Seller) <b>Yu DE Zhang, Xiu Fang Zhang</b> Street or Other Mailing Address <b>2032 S. 88th St NE 68124</b> City <b>Omaha</b> State Zip Code Telephone Number <b>402-924-6619</b>		6 Grantee's Name, Address, and Telephone (Please Print) Grantee's Name (Buyer) <b>Ruixin Zhang</b> Street or Other Mailing Address <b>2032 S. 88th St Omaha NE 68124</b> City State Zip Code Telephone Number <b>718-915-5563</b>	

7 PROPERTY CLASSIFICATION NUMBER. Check one box in categories A and B. Check C if property is also a mobile home.

(A) Status	(B) Property Type	(C)
(1) <input checked="" type="checkbox"/> Improved	(1) <input checked="" type="checkbox"/> Single Family (4) <input type="checkbox"/> Industrial (7) <input type="checkbox"/> Mineral Interests-Nonproducing (9) <input type="checkbox"/> State Assessed (11) <input type="checkbox"/> Mobile Home	
(2) <input type="checkbox"/> Unimproved	(2) <input type="checkbox"/> Multi-Family (5) <input type="checkbox"/> Agricultural (8) <input type="checkbox"/> Mineral Interests-Producing (10) <input type="checkbox"/> Exempt	
(3) <input type="checkbox"/> IOLL	(3) <input type="checkbox"/> Commercial (6) <input type="checkbox"/> Recreational	

8 Type of Deed  Corrective  Land Contract  Personal Rep.  Bill of Sale  Warranty  Sheriff  Executor  Mineral  Cemetery  Quit Claim  Conservator  Partition  Trust  Other \_\_\_\_\_

9 IRC § 1031 Exchange? (Was the transfer on an IRS like-kind exchange?)  Yes  No

10 Type of Transfer  Sale  Gift  Foreclosure  Revocable Trust  Court Decree  Satisfaction of Contract  Auction  Exchange  Life Estate  Irrevocable Trust  Partition  Other (Explain.) \_\_\_\_\_

11 Was ownership transferred in full? (If No, explain the division.)  YES  NO \_\_\_\_\_

12 Was real estate purchased for same use? (If No, state the intended use.)  YES  NO \_\_\_\_\_

13 Was the transfer between relatives, or if to a trustee, are the trustee and beneficiary relatives? (If Yes, check the appropriate box.)  YES  NO  Spouse  Parents and Child  Family Corporation, Partnership or LLC  Grandparents and Grandchild  Brothers and Sisters  Aunt or Uncle to Niece or Nephew  Other \_\_\_\_\_

14 What is the current market value of the real property? **200,000**

15 Was the mortgage assumed? (If Yes, state the amount and interest rate.)  YES  NO \$ \_\_\_\_\_ %

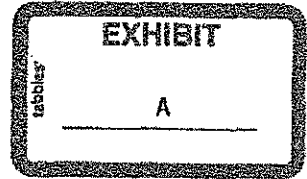
16 Does this conveyance divide a current parcel of land?  YES  NO

17 Was transfer through a real estate agent? (If Yes, include the name of the agent.)  YES  NO

18 Address of Property  
**2032 S. 88th St  
Omaha, NE 68124**

19 Name and Address of Person to Whom Tax Statement Should be Sent  
**2032 S. 88th St Ruixin Zhang  
Omaha, NE 68124**

20 Legal Description  
**Lot 6, Block 2 West Loveland**



21 If agricultural, list total number of acres \_\_\_\_\_

22 Total purchase price, including any liabilities assumed	\$	<b>0</b>
23 Was nonreal property included in the purchase? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If Yes, enter amount and attach itemized list.)	\$	
24 Adjusted purchase price paid for real estate (line 22 minus line 23)	\$	<b>0.00</b>

25 If this transfer is exempt from the documentary stamp tax, list the exemption number \_\_\_\_\_

Under penalties of law, I declare that I have examined this statement and that it is to the best of my knowledge and belief true, complete, and correct, and that I am duly authorized to sign this statement.

sign here **Ruixin Zhang**  
Print or Type Name of Grantee or Authorized Representative

**Ruixin Zhang**  
Signature of Grantee or Authorized Representative



DEED 2012083321



SEP 06 2012 14:50 P 1

REGISTER OF DEEDS' USE

26 Date Deed Recorded Mo. \_\_\_ Day \_\_\_ Yr. \_\_\_

27 Value of Stamp or Exempt Number \$ **EX5**

Nebraska Department of Revenue  
Form No. 90-269-2008 Rev. 8-2011 Supersedes 96-269-2008

GRANTEE—Please retain a copy

# Real Estate Transfer Statement

FORM

To be filed with the Register of Deeds. 4391-2650-06 **521**  
 Read instructions on reverse side.

The deed will not be recorded unless this statement is signed and items 1-25 are accurately completed.

1 County Name	2 County Number DOUGLAS - 28	3 Date of Sale Mo. 8 Day 5 Yr. 2013	4 Date of Deed Mo. 8 Day 5 Yr. 2013
5 Grantor's Name, Address, and Telephone (Please Print) Grantor's Name (Seller) QI YU DONG Street or Other Mailing Address 4945 South 72nd ST City Omaha State NE Zip Code 68127 Telephone Number 402 996-0678		6 Grantee's Name, Address, and Telephone (Please Print) Grantee's Name (Buyer) QI HE DONG Street or Other Mailing Address 2032 South 88th ST City Omaha State NE Zip Code 68124 Telephone Number 615-926-5503	

7 Property Classification Number. Check one box in categories A and B. Check C if property is also a mobile home.

(A) Status	(B) Property Type	(C)
<input checked="" type="checkbox"/> Improved <input type="checkbox"/> Unimproved <input type="checkbox"/> IOLL	<input type="checkbox"/> Single Family <input type="checkbox"/> Multi-Family <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Agricultural <input type="checkbox"/> Recreational	<input type="checkbox"/> Mineral Interests-Nonproducing <input type="checkbox"/> Mineral Interests-Producing <input type="checkbox"/> State Assessed <input type="checkbox"/> Exempt <input type="checkbox"/> Mobile Home

8 Type of Deed

<input checked="" type="checkbox"/> Warranty <input type="checkbox"/> Quit Claim	<input type="checkbox"/> Corrective <input type="checkbox"/> Sheriff <input type="checkbox"/> Conservator	<input type="checkbox"/> Land Contract <input type="checkbox"/> Executor <input type="checkbox"/> Partition	<input type="checkbox"/> Personal Rep. <input type="checkbox"/> Mineral <input type="checkbox"/> Trust	<input type="checkbox"/> Bill of Sale <input type="checkbox"/> Cemetery <input type="checkbox"/> Transfer on Death	<input type="checkbox"/> Joint Tenancy <input type="checkbox"/> Other
---	---	---	--	--	--

9 Was the property purchased as part of an IRS like-kind exchange? (IRC § 1031 Exchange)  
 Yes  No

10 Type of Transfer

<input type="checkbox"/> Sale <input type="checkbox"/> Auction	<input type="checkbox"/> Gift <input type="checkbox"/> Exchange	<input type="checkbox"/> Foreclosure <input type="checkbox"/> Life Estate	<input type="checkbox"/> Revocable Trust <input type="checkbox"/> Irrevocable Trust	<input type="checkbox"/> Court Decree <input type="checkbox"/> Partition	<input type="checkbox"/> Satisfaction of Contract <input type="checkbox"/> Transfer on Death	<input type="checkbox"/> Joint Tenancy <input checked="" type="checkbox"/> Other (Explain: to QI HE DONG)
---	--	--	--	---	---	--

11 Was ownership transferred in full? (If No, explain the division.)  
 YES  NO

12 Was real estate purchased for same use? (If No, state the intended use.)  
 YES  NO

13 Was the transfer between relatives, or if to a trustee, are the trustor and beneficiary relatives? (If Yes, check the appropriate box.)

<input checked="" type="checkbox"/> YES <input type="checkbox"/> Spouse <input type="checkbox"/> Grandparents and Grandchild	<input type="checkbox"/> NO <input type="checkbox"/> Parents and Child <input type="checkbox"/> Step-parent and Step-child <input type="checkbox"/> Aunt or Uncle to Niece or Nephew	<input checked="" type="checkbox"/> Brothers and Sisters <input type="checkbox"/> Family Corp., Partnership or LLC <input type="checkbox"/> Other
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14 What is the current market value of the real property?  
 761,700.00

15 Was the mortgage assumed? (If Yes, state the amount and interest rate.)  
 YES  NO \$ %

16 Does this conveyance divide a current parcel of land?  
 YES  NO

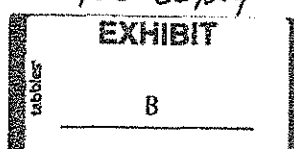
17 Was transfer through a real estate agent? (If Yes, include the name of the agent.)  
 YES  NO

18 Address of Property  
 4945 S. 72nd ST

19 Name and Address of Person to Whom the Tax Statement Should be Sent  
 QI HE DONG  
 2032 South 88th ST Omaha NE 68124

20 Legal Description  
 Lot 1, Blue one Replat 1

21 If agricultural, list total number of acres



22 Total purchase price, including any liabilities assumed \$ 0

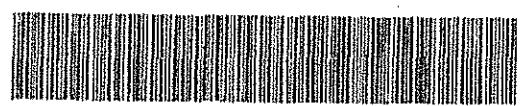
23 Was nonreal property included in the purchase?  YES  NO (If Yes, enter amount and attach itemized list.) \$ 0

24 Adjusted purchase price paid for real estate (line 22 minus line 23) \$ 0.00

25 If this transfer is exempt from the documentary stamp tax, list the exemption number

Under penalties of law, I declare that I have examined this statement and that it is, to the best of my knowledge and belief, true, complete, and correct, and that I am duly authorized to sign this statement.

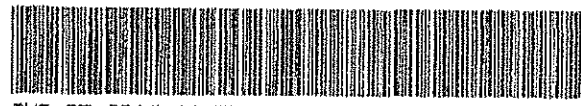
sign here  
 Print or Type Name of Grantee or Authorized Representative: QI HE DONG  
 Signature of Grantee or Authorized Representative: *QI HE DONG*



DEED 2013073149

Register of Deeds' Use On

26 Date Deed Recorded Mo. Day Yr. 27 Value of Stamp or Exempt Number \$ 171450



AUG 05 2013 11:56 P 1

DEED 2013073149

AUG 05 2013 11:56 P 1

Nebr Doc Stamp Tax  
8-5-13  
Date  
\$ 1714.50  
By SA

Deed  
FEE 1000 FB 47.03913  
BHP \_\_\_\_\_ C/O \_\_\_\_\_ COMP \_\_\_\_\_  
DEL \_\_\_\_\_ SCRIP \_\_\_\_\_ FY \_\_\_\_\_  
CASH

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
8/5/2013 11:56:26 AM  
2013079149

WARRANTY DEED

Return to: QI He DONG 2032 South 88th St Omaha NE 68124  
YU DONG  
QI HE DONG  
GRANTOR

whether one or more, in consideration of \$1.00

receipt of which is hereby acknowledged, conveys, to QI He DONG

GRANTEES,  
the following described real estate (as defined in Neb. Rev. Stat § 76-201)  
in Douglas County, Nebraska  
#945 South 72nd St Omaha NE 68129  
lot 1, Blue one, Replat 1.

Grantor covenants (jointly and severally, if more than one) with Grantees that Grantor:

- (1) Is lawfully seized of such real estate and that it is free from encumbrances, except: 0
- (2) Has legal power and authority to convey the same;
- (3) Warrants and will defend the title to the real estate against the lawful claims of all.

Executed this 5 day of August, 2013  
X QI He Dong  
QI YU DONG

State of Nebraska  
County of Douglas

The foregoing instrument was acknowledged before me this 5 day of August  
2013 by QI YU DONG

Denise R. Lickel  
NOTARY PUBLIC  
My Commission Expires:

NOTARY PUBLIC  
DENISE R. LICKEL  
GENERAL NOTARY - State of Nebraska  
My Comm. Exp. March 24, 2014

GENERAL NOTARY - State of Nebraska  
DENISE R. LICKEL  
My Comm. Exp. March 24, 2014

**David J. Skalka**

---

**From:** Bemis, Jay <jjbemis@womglaw.com>  
**Sent:** Monday, September 16, 2013 8:15 AM  
**To:** David J. Skalka  
**Subject:** RE: Findlaw FirmSite Message From Zhang/Newman

David:

My clients are unable to gather any funds sufficient to make a realistic settlement offer. I do not intend for you to sit idle for 4-6 weeks but they are each going forward with bankruptcy filings. It is my understanding from them that once this and a few other outstanding matters get resolved they intend to move back to China. Please proceed as you deem necessary and contact me with questions or to discuss further.

Jay

-----Original Message-----

**From:** David J. Skalka [mailto:DSkalka@crokerlaw.com]  
**Sent:** Thursday, September 12, 2013 4:28 PM  
**To:** Bemis, Jay  
**Subject:** RE: Findlaw FirmSite Message From Zhang/Newman

Jay, I appreciate the response. If they are asking for a six week stay, no. If they are asking to have the rest of this week to see if resources can be gathered to make a substantial settlement offer, absolutely. Unfortunately I've had too many defendants that say they are filing bankruptcy, only to hope that saying so will buy them time and they don't actually file bankruptcy.

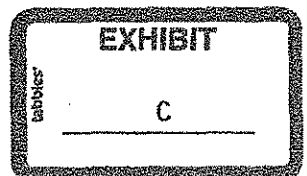
If I don't hear from you by noon Monday, I will proceed in the litigation as my client directs.

David J. Skalka  
Croker, Huck, Kasher, DeWitt,  
Anderson & Gonderinger, L.L.C.  
2120 South 72nd Street, Suite 1200  
Omaha, Nebraska 68124  
Phone: (402) 391-6777  
Fax: (402) 390-9221

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**Circular 230 Disclosure:** To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any matters addressed herein.

-----Original Message-----

**From:** Bemis, Jay [mailto:jjbemis@womglaw.com]





Sent: Tuesday, September 10, 2013 7:55 AM  
To: David J. Skalka  
Subject: RE: Findlaw FirmSite Message From Zhang/Newman

David:

I spoke with my clients and they have retained Frank Skrupa and are intent on filing bankruptcy within the next 6 weeks. In the meantime they are speaking with family back in China to see if they can get some assistance to make a settlement offer. I have been told they will know later this week if family will help. I would ask that you please hold off from issuing discovery until we know if a settlement offer is possible.

Please let me know if this is acceptable and call with any questions or to discuss further.

Jay

-----Original Message-----

From: [dskalka@crokerlaw.com](mailto:dskalka@crokerlaw.com) [<mailto:dskalka@crokerlaw.com>]  
Sent: Saturday, September 07, 2013 9:28 AM  
To: Bemis, Jay  
Subject: Findlaw FirmSite Message From Zhang/Newman

Name:

Dave Skalka

E-mail Address:

[dskalka@crokerlaw.com](mailto:dskalka@crokerlaw.com)

Subject:

Zhang/Newman

Brief description of your legal issue:

Jim, please let me know Monday if your clients intend to make a settlement offer or intend to file bankruptcy, and as to either an estimated date to do so.

Dave Skalka

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## Certificate of Service

I hereby certify that on Wednesday, November 13, 2013 I provided a true and correct copy of the Affidavit-Support of Motion to the following:

Zhang,Rui,Xin, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Dong,Qi,Yu, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Zhang,Xue,Bin, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Yu Zhang Garden LLC represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Zhang,Yu,De, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Dong,Qi,He, represented by Bemis,James Joseph, Jr. (Bar Number: 22626) service method: Electronic Service to [jjbemis@womglaw.com](mailto:jjbemis@womglaw.com)

Signature: /s/ Skalka,David, (Bar Number: 21537)

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

E. ROBERT NEWMAN, an individual; )  
MURRAY H. NEWMAN, an individual; )  
PHYLLIS H. NEWMAN, Trustee under the )  
Trust Agreement dated July 6, 1982 for the )  
benefit of Maxwell C. Newman; and )  
PHYLLIS H. NEWMAN, Trustee under the )  
Trust Agreement dated July 6, 1982 for the )  
benefit of Louis H. Newman, )  
Plaintiffs, )

CASE NO.: CI 13-5972

vs. )

YU ZHANG GARDEN, LLC, a Nebraska )  
limited liability company; YU DE ZHANG, )  
an individual; QI YU DONG, a/k/a QI Y )  
DONG a/k/a QIYU DONG, an individual; )  
XUE BIN ZHANG, an individual; RUI XIN )  
ZHANG, an individual; and QI HE DONG, )  
an individual, )  
Defendants. )

AFFIDAVIT OF DOUG CORNELL

*did not  
print  
exh's*

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

I, Doug Cornell, being first duly sworn, upon his oath deposes and states as follows:

1. I make the statements contained in this Affidavit based upon my own personal knowledge. If called as a witness, I would be competent to testify to the matters contained herein.

2. I am employed by Collier's, which is the Property Manager for the Plaintiffs in this matter for the commercial space they own located at Lot 16, Briggs Place, a subdivision surveyed and platted in Omaha, Douglas County, Nebraska, located at 346 N. Saddle Creek Road, Omaha, Nebraska, which real estate is the subject of this action (the "Property"). As agent for the

Plaintiffs, Collier's and I maintain the lease file on the Property, manage the Property, and communicate with lessees.

3. On or about May 20, 2010, Plaintiffs and Defendant Yu Zhang Garden, LLC ("Lessee") entered into a written lease under the terms of which Plaintiffs leased a portion of the Property to Lessee from October 1, 2010 to March 31, 2021, with monthly installments and other obligations owing as set forth in the written lease (the "Lease"). A true and correct copy of the Lease, together with personal guaranties hereinafter described, is attached to this Affidavit as Exhibit A.

4. Concurrently with execution of the Lease, and as part of the consideration given to Plaintiffs to enter into the Lease with Lessee, Defendants Yu De Zhang, Xue Zhang, and Qi Yu Dong executed an absolute, unconditional guaranty in which they personally guaranteed to Plaintiffs the performance of all of Lessees' obligations under the Lease, including the payment of rent (the "Guaranty"). A true and complete copy of the Guaranty is pages 16 through 18 of Exhibit A to this Affidavit.

5. Lessee failed to timely make its payments for rent and operating expenses that are due pursuant to the Lease on or before the first day of July 2012. Lessee later paid the amount with a check that was returned for insufficient funds. Lessee failed to pay the late fees incurred by that failure, and failed to make its payments for rent and operating expenses that are due pursuant to the Lease on or before September 2012, or for any time thereafter.

6. Lessee failed in August 2012 to pay for repairs to the Property that are its responsibility, totaling \$3,970.84. A true and complete copy of communications and invoices for those repairs are attached to this Affidavit as Exhibit B.

7. I made written demand upon Lessee on November 19, 2012 to cure its breaches and pay all amounts it owed under the Lease. A true and complete copy of said demand is attached to this Affidavit as Exhibit C. Lessee has not complied with said demand in any manner.

8. I made written demand upon Defendants Yu De Zhang, Xue Bin Zhang, and Qi Yu Dong to honor the Guaranty and to pay all amounts owed by Lessee under the Lease, but none of them complied with said demand in any way.

9. Lessee abandoned the Property in December 2012, without consent of the Plaintiffs.


10. Plaintiffs have not terminated the Lease.

11. On behalf of the Plaintiffs, we have and continue to make commercially reasonable efforts to relet the portion of the Property that Lessee leased, but to date have not been successful. The portion of the Property leased to Lessee has been and is being marketed publicly.

12. As a proximate result of Lessee's breach and Defendants' breach of the Guaranty, Plaintiffs have been damaged in the amount of **\$763,835.48**, consisting of \$142,535.48 of accrued rent, CAM, late fees, repairs, and other accrued obligations as of the date of this Affidavit, and \$621,300.00 of future rent and obligations that accelerated and became due upon Lessee's breach of the Lease. Attached to this Affidavit as Exhibit D is a true and complete copy of Lessee's running balance owed on the Lease from June 2012 to the present. Attached to this Affidavit as Exhibit E is my computation of future rent and obligations presently owed, based upon the terms of the Lease.

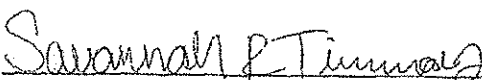
13. Lessee gave no notice to Plaintiffs of any statement of dissolution with the Nebraska Secretary of State. Plaintiffs had no actual notice of any such filing until July 24, 2013.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Doug Cornell

SUBSCRIBED AND SWORN TO before me this 12 day of November, 2013.



  
\_\_\_\_\_  
Notary Public

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