



MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

February 7, 2018

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution No. 306 passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name: *Terranova, Francis ex rel People v
Francis Terranova*

Document Received: February 7, 2018
Name of Claimant: Francis Terranova
Claimant's attorney: The Whitebeck Law Office

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: *Michelle Parker*
Michelle M. Parker, Esq.
First Assistant County Attorney
Michelle.Parker@erie.gov

MMP:dld
Enc.

PRESENT: HON. RUSSELL P. BUSCAGLIA

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

PEOPLE OF THE STATE OF NEW YORK

v.

FRANCIS TERRANOVA,

Defendant/Petitioner.

ORDER TO SHOW CAUSE

Indictment No.: 2012-1439

CSI No.: 37168

TAKE NOTICE THAT upon the annexed Petition of FRANCIS TERRANOVA, sworn the 3rd day of January, 2018 and upon all prior pleadings and proceedings, and sufficient cause having been alleged, let the People show cause before this Court, at the Courthouse located at 25 Delaware Avenue, Part 14, Buffalo, New York 14202, at 11:30 a.m./p.m. on the 14th day of ~~January~~ February, 2018, why an Order should not be granted as follows:

That Defendant has satisfied the restitution obligation imposed by the sentencing Court, on or about March 28, 2013, that he repay \$53,361.66, to the New York State Department of Taxation and Finance, along with other various charges imposed by the Court; and that Defendant has no further obligation to make restitution payments as a condition of his sentencing;

TAKE FURTHER NOTICE that responding papers, if any, shall be duly served at least 7 days prior to the return date set by the Court, and otherwise pursuant to CPLR Rule 2214;

ORDERED, that service of a copy of this Order, and the Petition upon which it is granted, be served by personal delivery and U.S. mail to the Erie County District Attorney at 25 Delaware Avenue, Buffalo, NY 14202, ^{*} on or before the 17th day of January, 2018 ~~January 2017~~, shall be deemed and sufficient service.

Enter,

* THE ERIE COUNTY PROSECUTION
DEPARTMENT AND NEW YORK
STATE ATTORNEY GENERAL

RUSSELL P. BUSCAGLIA, J.S.C.
HON. RUSSELL P. BUSCAGLIA

rec'd & Probation
JAN 16 2018

Hand-delivered
Comm. 4D-6

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

PEOPLE OF THE STATE OF NEW YORK

v.

FRANCIS TERRANOVA,

Defendant/Petitioner.

PETITION

Indictment No.: 2012-1439

CSI No.: 37168

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
CITY OF BUFFALO)

FRANCIS TERRANOVA, being duly sworn deposes and says as follows:

1. I am the Defendant/Petitioner in the above-captioned matter. On the 28th day of March, 2013, I was sentenced to five (5) years probation, and ordered to pay restitution in the amount of \$56,361.66 to the New York State Department of Taxation and Finance. See Certificate of Conviction or Discharge attached hereto as **Exhibit "A"**.
2. I make this Petition in support of the instant Order to Show Cause in the above-captioned matter.
3. My business, "The Hood Guys, Inc.", is a Sub Chapter S Corp. and it is a "pass-through" entity and is my sole source of income.
4. I have been a resident of Western New York since 1969 and I am a 20 year Veteran of the United States Army having risen to the rank of Captain and I received an Honorable Discharge in 2004.

11. I have also been making separate payments of \$2,000.00 per month through a Chapter 11 Bankruptcy Plan since May of 2016, with my most recent payment in December 2017. The Payments made by me directly through my Bankruptcy Plan are not reflected in the figures provided by the Probation Department.

12. I was forced into Chapter 11 Bankruptcy, because despite my restitution payments, the New York State Department of Taxation and Finance never ceased its aggressive collection efforts and would regularly freeze my business bank accounts and seize the funds therein, making it extremely difficult to do business.

13. The New York State Department of Taxation and Finance agreed to accept the Chapter 11 Repayment Plan as proposed by my bankruptcy counsel. See **Exhibit "D"** attached hereto.

14. In May of 2016 my Chapter 11 Payment Plan began, and I provided interim relief to my creditors in the form of required "adequate protection" payments, beginning in May of 2016, in the amount of \$2,000.00 per month, paid by me directly to the New York State Department of Taxation and Finance.

15. The \$2,000.00 per month payments directly to the New York State Department of Taxation and Finance continue at present. **Exhibit "E"**, is the Adequate Protection Stipulation. I also received the Order Confirming my plan on or about September 25, 2017. See **Exhibit "F"**.

16. To date including the December 2017 Chapter 11 Payment, I have directly paid New York State Department of Taxation and Finance the sum of **\$34,000.00**, through the Payment Plan. The Court can see from the email from the Attorney General's Office indicating that I had paid \$32,000.00 by December 8, 2017 (the date of the email),

23. I respectfully ask this Court to rule that the Restitution is paid in full
at present.

Francis Terranova
FRANCIS TERRANOVA

Subscribed and sworn to before me
this 3rd day of January, 2018.

Scott J. Whitebeck
Notary Public

SCOTT J. WHITEBECK
Notary Public, State of New York
Qualified in Erie County
My Commission Expires July 19, 20 20

**CERTIFICATE OF CONVICTION OR DISCHARGE
SUPERIOR COURT
ERIE COUNTY
BUFFALO, NEW YORK**

THE PEOPLE OF THE STATE OF NEW YORK

**INDICTMENT NO. 2012-1439
SCI NO. 37168**

AGAINST

ADA: G. ERTEL

DC: M. O'ROURKE

CR: K. MEEGAN

**FRANCIS TERRANOVA
DOB: 01-21-1960
DATE OF ARREST: 12-18-2012**

**The above named defendant having been brought before the Honorable PENNY M. WOLFGANG, JSC
A JUSTICE of the SUPREME Court of Erie County, charged with: GRAND LARCENY IN THE SECOND (2ND)
DEGREE, PL. 155.40-1;**

And the above defendant having:

Entered a plea of guilty on 12-18-2012

Been convicted after trial on -----

Been acquitted after trial on -----

To a charge of GRAND LARCENY IN THE SECOND (2ND) DEGREE, PL. 155.40-1, "C" FELONY;

**And sentenced on 03-28-2013 to FIVE (5) YEARS PROBATION; 100 HOURS COMMUNITY SERVICE;
\$56,361.66 RESTITUTION; \$300.00/\$25.00 MANDATORY SURCHARGE/CVAF/DNA FEE IMPOSED.**

Charges dismissed and sealed per 160.50 cpl on -----

NO BILLED by the Grand Jury on -----

Dated at Buffalo, the day of

**CHRISTOPHER L. JACOBS
Erie County Clerk**

ERIE COUNTY PROBATION DEPARTMENT

- ☒ ORDER OF PROBATION
☒ ORDER TO COLLECT FINE/SURCHARGE
☐ ORDER TO COLLECT RESTITUTION

DOCKET OR INDICTMENT NO. 01439-2012

NAME FRANCIS TERRANOVA DATE OF BIRTH 1-21-60 COURT SUPREME

ADDRESS 148 NORTH ST. HAMBURG, NY 14075

HAVING BEEN CONVICTED OF 155.40-1

ADJUDICATED A YOUTHFUL OFFENDER ☐ YES ☒ NO

☒ PROBATION

Is this day sentenced to probation for a period of 5 year(s) under the supervision of the Erie County Probation Department.
The period of probation shall expire on 3/28/18 unless terminated by the Court prior to the aforementioned date.

While on probation, you shall lead a law-abiding life and observe the following conditions:

1. Report to a Probation Officer as directed and permit the Probation Officer to visit you at your residence or elsewhere.
2. Remain within the jurisdiction of the Court unless granted permission to leave by the Court or the Probation Officer.
3. Truthfully answer all reasonable questions by the Probation Officer and notify the Probation Officer prior to any change in address or employment.

4. In addition are also imposed as special conditions:

A. ☒ All recommended conditions as attached.

B. ☐ These specific numbered attached conditions: _____

C. _____

D. _____

E. _____

F. _____

G. _____

It is your responsibility to report to the Erie County Probation Department, Room 237, One Niagara Plaza, Buffalo, directly after your Court appearance, between 9:00 a.m. and 4:00 p.m. Monday through Friday. Bring this Order and any attachments with you.

Pursuant to NY Executive Law §257-c and Erie County Local Law #7 of the year 2005, the Erie County Probation Department is directed to collect an Administrative Fee of \$35.00 per month from all individuals sentenced to a term of probation. Payment of the Administrative Fee shall not constitute nor be imposed as a condition of a sentence of probation.

☒ FINE/SURCHARGE

A. The Probation Department is directed to collect a Fine of \$ _____ payable in installments of _____ per _____ and fully paid by _____.

B. The Probation Department is directed to collect ☒ a Surcharge of \$ 300 ☒ a CVAF fee of \$ 25
☒ a DNA fee of \$ 50 ☐ a Sex Offender Registration fee of \$ _____, all to be fully paid by _____.

☒ RESTITUTION

The Probation Department is directed to collect restitution or reparation of \$ 56,361.66 and a 10% surcharge of \$ _____; total amount payable:

A. In weekly / monthly installments of \$ _____ and to be fully paid by _____.

B. other _____

Beneficiary to whom restitution is payable _____

I have read and understand the above/ attached conditions of probation and will abide by them. I have received a copy of the Order and Conditions of Probation.

SIGNATURE OF PROBATIONER

DATE

JUDGE

YOU ARE DIRECTED TO MAKE RESTITUTION TO THIS VICTIM IN THE AMOUNT OF FIFTY-SIX THOUSAND, THREE HUNDRED AND SIXTY-ONE DOLLARS AND SIXTY-SIX CENTS (\$56,361.66) THROUGH THE ERIE COUNTY PROBATION DEPARTMENT THROUGHOUT THE TERM OF YOUR PROBATION.

YOU ARE DIRECTED TO PROVIDE A BLOOD SAMPLE FOR DNA TESTING TO BE INCLUDED IN THE STATE DNA IDENTIFICATION INDEX

Erie County Probation Department

ATTENTION CASHIER'S OFFICE

One Niagara Plaza

Buffalo, NY 14202

Phone: (716) 858-2197

Fax: (716) 858-2356

Statement

Date: 10/31/2017

Bill To: Terranova, Francis J.

PO BOX 407

Hamburg, NY 14075

Obligation Type	Case #	Balance	Due
Drug Testing Fee	CCF-01439-2012	\$50.00	\$50.00
Mandatory Surcharge	CCF-01439-2012	\$375.00	\$375.00
Restitution	CCF-01439-2012	\$31,047.83	\$31,047.83
Supervision Fee Probation	CCF-01439-2012	\$1,980.00	\$1,980.00
Total Balance:		\$33,432.83	Total Due: \$33,432.83

Terms: A payment is due at least every 30 days if you cannot pay in full at this time. FEE ARE AS FOLLOWS:
Supervision Fees = \$35.00 per/month (\$5.00 per/month, with approved waiver) Electronic Monitoring
Fees = \$3.00 per/day until the monitor is removed by the Probation Dept. Drug Test Fee = \$50.00
per/ case one-time fee (this fee covers any number of random tests performed throughout probation
term.) Acceptable methods of payment are: (**DO NOT MAIL CASH **) Cash & Credit Card - cash
and credit card payments can only be made in person at the Cashier's Window on the 2nd floor of the
Downtown Probation Office, located in the Erie County Family Court Building, One Niagara Plaza,
Buffalo, New York 14202 between the hours of 8:30am - 4:30pm Monday-Friday. Acceptable credit
cards are: VISA, MASTERCARD, AMERICAN EXPRESS AND DISCOVER. Money Order - Money
orders are to be made payable to Erie County Probation Department and are accepted in person and
via U.S. Mail. Mail payments to: Erie County Probation Dept. Cashier's Office, One Niagara Plaza,
Buffalo, NY 14202-3492 *NO PERSONAL CHECKS WILL BE ACCEPTED*. ANY PAYMENTS MADE
AFTER THE DATE OF THIS LETTER ARE NOT REFLECTED IN YOUR BALANCE DUE.

Cut Here

REMITTANCE

Client Name: Terranova, Francis J.

Client ID #: 330045

Date: 10/31/2017

Amount Due: \$33,432.83

Amount Enclosed:

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In Re:

The Hood Guys, Inc,

Debtor.

Proceedings Under Chapter 11

Case No. 15-12637-MJK

Tax I.D. No. 01-0562596

Assigned Judge: Hon. Michael J. Kaplan

**BALLOT FOR ACCEPTING OR REJECTING
DEBTOR'S PLAN OF REORGANIZATION**

The Debtor, The Hood Guys, Inc, filed a Plan of Reorganization dated March 30, 2017 (the "Plan") for the Debtor in this case. The Court has set a Hearing on Confirmation with respect to the Plan (the "Disclosure Statement") for September 13, 2017 at 2:00 p.m. The Plan of Reorganization and Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from Gleichenhaus, Marchese & Weishaar, P.C., Attn: Michael A. Weishaar, Esq., 930 Convention Tower, 43 Court Street, Buffalo, New York 14202. Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your claim has been bifurcated into a **Class I** (secured) claim and a **Class II** general unsecured claim under the Plan. If you hold claims or equity interests in more than one class, you should receive a ballot for each class in which you are entitled to vote. If you do not, you may photocopy this ballot.

If your ballot is not received by the Clerk of the United States Bankruptcy Court on or before the Confirmation Hearing, and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you, whether or not you vote.

(over)

- c. The debtor represents that all funds received since the petition date or which will be received during the pendency of this case will be deposited in the debtor-in- possession bank account or accounts and that all expenses of the debtor during the pendency of this case will be paid from such accounts. The debtor shall not prepay expenses except in the ordinary course of business.
- d. The debtor shall not use cash collateral during the pendency of this agreement for any purpose which is not authorized by the Bankruptcy Code or by an order of the court. The parties to this stipulation agree that the Bankruptcy Code will allow the debtor to pay normal post-petition expenses incurred in the ordinary course of business.
- e. Per the NYSDTF Proof of Claim 1, the total outstanding liability as of the Order of Relief is a secured claim in the amount of \$188,768.99, of which \$163,630.33 represents (11 U.S.C. 507) Priority unsecured tax and \$25,138.66 represents general unsecured penalties. As adequate protection, the Debtor shall pay the NYSDTF the outstanding liability at five (5%) interest in equal installment payments in the amount of \$2,000 per month between or about April 15, 2016 and March 15, 2017 and, thereafter, \$2,800 per month between or about April 15, 2017 and March 15, 2021 on the subject tax debt. The debtor represents that this amount is fair in light of the circumstances. Payments will be made on the 15th day of each month with the first payment due on April 15, 2016 and shall continue each month thereafter until confirmation. Checks shall be made payable to the "State of New York" and payments to the NYSDTF shall be sent to:

Office of the New York State Attorney General
Civil Recoveries Bureau
Bankruptcy Litigation Unit
The Capitol
Albany, NY 12224-0341

7. Should the NYSDTF deem that the adequate protection contemplated herein is inadequate to fully and properly protect the creditor's interests and at any time the NYSDTF may apply to the court for additional adequate protection.

8. The debtor shall file all prospective tax returns on the due date of the return with the appropriate NYS office.

9. The debtor shall pay each sales tax deposit as it accrues .

10. There shall not be entered in the debtor's Chapter 11 case any order under Section 363 authorizing the use, sale or lease of cash collateral, or the sale of any other collateral, without notice of the NYSDTF and the Office of the United States Trustee.

11. The debtor's authority to use cash collateral pursuant to this Stipulation shall immediately terminate without further order notice or hearing, except for notice to the Office of the United States Trustee, upon the occurrence of any of the following events:

- a. The conversion of this Chapter 11 case to one under Chapter 7 of the Code;
- b. The appointment of any Chapter 11 Trustee;
- c. The dismissal of the debtor's Bankruptcy case;
- d. The cessation of debtor's normal business operations or the sale of debtor's medical practice.

12. So long as the Debtor remains current on the terms of this agreement, in consideration of the

Loan Data	
Loan Amount	\$ 163,630.33
Annual Interest Rate	5.00%
Loan Period in Years	6
Number of Payments Per Year	12
Start Date	18-Mar-2016

Summary	
Payment (per period)	\$ 2,639.26
Number of Payments	72
Actual Number of Payments	72
Total Interest Paid	\$ 27,831.12
Total Interest	17.61%
Total Extra Payments	\$ -
Total Payment	\$ 242,737.48

Payment No.	Payment Date	Payment	Principal	Interest	Extra Payments	Balance
						\$ 163,630.33
1	15-Apr-2016	\$ 2,000.00	\$ 1,318.21	\$ 681.79		\$ 162,312.12
2	15-May-2016	\$ 2,000.00	\$ 1,323.70	\$ 676.30		\$ 160,988.42
3	15-Jun-2016	\$ 2,000.00	\$ 1,329.21	\$ 670.79		\$ 159,659.21
4	15-Jul-2016	\$ 2,000.00	\$ 1,334.75	\$ 665.25		\$ 158,324.46
5	15-Aug-2016	\$ 2,000.00	\$ 1,340.31	\$ 659.69		\$ 156,984.15
6	15-Sep-2016	\$ 2,000.00	\$ 1,345.90	\$ 654.10		\$ 155,638.25
7	15-Oct-2016	\$ 2,000.00	\$ 1,351.51	\$ 648.49		\$ 154,286.74
8	15-Nov-2016	\$ 2,000.00	\$ 1,357.14	\$ 642.86		\$ 152,929.60
9	15-Dec-2016	\$ 2,000.00	\$ 1,362.79	\$ 637.21		\$ 151,566.81
10	15-Jan-2017	\$ 2,000.00	\$ 1,368.47	\$ 631.53		\$ 150,198.34
11	15-Feb-2017	\$ 2,000.00	\$ 1,374.17	\$ 625.83		\$ 148,824.17
12	15-Mar-2017	\$ 2,000.00	\$ 1,379.90	\$ 620.10		\$ 147,444.27
13	15-Apr-2017	\$ 2,000.00	\$ 1,385.65	\$ 614.35		\$ 146,058.62
14	15-May-2017	\$ 2,000.00	\$ 1,391.42	\$ 608.58		\$ 144,667.20
15	15-Jun-2017	\$ 2,000.00	\$ 1,397.22	\$ 602.78		\$ 143,269.98
16	15-Jul-2017	\$ 2,800.00	\$ 2,203.04	\$ 596.96		\$ 141,066.94
17	15-Aug-2017	\$ 2,800.00	\$ 2,212.22	\$ 587.78		\$ 138,854.72
18	15-Sep-2017	\$ 2,800.00	\$ 2,221.44	\$ 578.56		\$ 136,633.28
19	15-Oct-2017	\$ 2,800.00	\$ 2,230.69	\$ 569.31		\$ 134,402.59
20	15-Nov-2017	\$ 2,800.00	\$ 2,239.99	\$ 560.01		\$ 132,162.60
21	15-Dec-2017	\$ 2,800.00	\$ 2,249.32	\$ 550.68		\$ 129,913.28
22	15-Jan-2018	\$ 2,800.00	\$ 2,258.69	\$ 541.31		\$ 127,654.59
23	15-Feb-2018	\$ 2,800.00	\$ 2,268.11	\$ 531.89		\$ 125,386.48
24	15-Mar-2018	\$ 2,800.00	\$ 2,277.56	\$ 522.44		\$ 123,108.92
25	15-Apr-2018	\$ 2,800.00	\$ 2,287.05	\$ 512.95		\$ 120,821.87
26	15-May-2018	\$ 2,800.00	\$ 2,296.58	\$ 503.42		\$ 118,525.29
27	15-Jun-2018	\$ 2,800.00	\$ 2,306.14	\$ 493.86		\$ 116,219.15
28	15-Jul-2018	\$ 2,800.00	\$ 2,315.75	\$ 484.25		\$ 113,903.40
29	15-Aug-2018	\$ 2,800.00	\$ 2,325.40	\$ 474.60		\$ 111,578.00
30	15-Sep-2018	\$ 2,800.00	\$ 2,335.09	\$ 464.91		\$ 109,242.91
31	15-Oct-2018	\$ 2,800.00	\$ 2,344.82	\$ 455.18		\$ 106,898.09
32	15-Nov-2018	\$ 2,800.00	\$ 2,354.59	\$ 445.41		\$ 104,543.50
33	15-Dec-2018	\$ 2,800.00	\$ 2,364.40	\$ 435.60		\$ 102,179.10
34	15-Jan-2019	\$ 2,800.00	\$ 2,374.25	\$ 425.75		\$ 99,804.85
35	15-Feb-2019	\$ 2,800.00	\$ 2,384.15	\$ 415.85		\$ 97,420.70
36	15-Mar-2019	\$ 2,800.00	\$ 2,394.08	\$ 405.92		\$ 95,026.62
37	15-Apr-2019	\$ 2,800.00	\$ 2,404.06	\$ 395.94		\$ 92,622.56
38	15-May-2019	\$ 2,800.00	\$ 2,414.07	\$ 385.93		\$ 90,208.49
39	15-Jun-2019	\$ 2,800.00	\$ 2,424.13	\$ 375.87		\$ 87,784.36
40	15-Jul-2019	\$ 2,800.00	\$ 2,434.23	\$ 365.77		\$ 85,350.13
41	15-Aug-2019	\$ 2,800.00	\$ 2,444.37	\$ 355.63		\$ 82,905.76
42	15-Sep-2019	\$ 2,800.00	\$ 2,454.56	\$ 345.44		\$ 80,451.20
43	15-Oct-2019	\$ 2,800.00	\$ 2,464.79	\$ 335.21		\$ 77,986.41
44	15-Nov-2019	\$ 2,800.00	\$ 2,475.06	\$ 324.94		\$ 75,511.35

EXHIBIT F

EXHIBIT G

122110071801 10-4/220 1269

THE HOOD GUYS

12-1-17

The State of New York \$2,000.00

Two thousand dollars

M&T Bank

15-12637-MJK

ENDORSED

10220000461 9868423097 0000200000

ENDORSE HERE

COMMISSIONER OF
TAXATION & FINANCE
FOR DEPOSIT ONLY

DEC 20 2017

WITHOUT PREJUDICE
CED - BANKRUPTCY

12282017

M5304234658

M5304234658 761827 07

M5304234658 0098 2481488 122917

0004129

Posting Date 2017 Dec 29

Research Seq # 8004444938

Account # 9868423097

Check/Store # 1269

DB/CR DB

Dollar Amount \$2,000.00

Bank # 096

Branch # 00050

Deposit Acct # 0

Record Type # 01