

1 2. I am over 21 years old and make the following statements based on my personal
2 knowledge, and can testify to these matters if called to testify before the court. With respect to
3 matters based upon information and belief, I believe the statements made to be true and correct.

4 3. I make this declaration in support of Plaintiff's Motion to Alter or Amend Order
5 Granting Defendants' Motion for Summary Judgment Pursuant to NRCP 52(b) and 59(e);
6 Alternatively, Motion for Reconsideration of Order Granting Defendants' Motion for Summary
7 Judgment in case number A-09-595321-C.

8 4. As part of my duties at Midland, I monitor the performance of loans, including the
9 loan at issue in this case. In that capacity, I have personal knowledge of the following.

10 5. I personally caused to be sent, via overnight delivery, the letter dated December 18,
11 2008, and titled "NOTICE OF DEFAULT AND INTENT TO FORECLOSE", a true and correct
12 copy of which is attached hereto as **Exhibit 1**, to Palmilla Development Co., Inc; Hagai Rapaport;
13 Ronald Gillette, Esquire Re: Palmilla Development Co., Inc. - Notice of Default and Intent To
14 Foreclose, bates stamped Midland001203—1210.


15 Under penalties of perjury of the State of Nevada, I declare that the Declarations herein
16 above are true of my own knowledge.

17 Dated September 13, 2012.

18 *Andrea S. Helm*
19 Andrea Helm

1 Respectfully submitted by:

2 HOWARD KIM & ASSOCIATES

3 
Michael F. Lynch

4 Nevada Bar No. 8555
400 N. Stephanie St, Suite 160
5 Henderson, NV 89014
702.413.8282 (direct)
6 702.543.3279 (fax)
mlynch@hkimlaw.com

7 LEWIS AND ROCA LLP
8 Robert M. Charles, Jr.
Nevada Bar No. 6593
9 3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
10 702.949.8320
702.949.8321 (fax)
11 rcharles@lrlaw.com

12 Attorneys for Plaintiff

13

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Michelle H
An employee of Howard Kim & Associates

Exhibit 1

001818

001818

Exhibit 1



December 18, 2008

VIA OVERNIGHT DELIVERY

Palmilla Development Co., Inc.
235 West Brooks Avenue, 2nd Floor
North Las Vegas, NV 89030
Attn: Hagai Rapaport

Hagai Rapaport
2857 Paradise Road, Suite 2001
Las Vegas, NV 89109-9020

Ronald E. Gillette, Esq.
235 West Brooks Avenue, 2nd Floor
North Las Vegas, NV 89030

RE: Palmilla Development Co., Inc. ("Borrower")
Palmilla Apartments, North Las Vegas, Nevada ("Property")
Hagai Rapaport ("Guarantor")
Midland No. 03-0263475 ("Loan")

NOTICE OF DEFAULT AND INTENT TO FORECLOSE

Dear Borrower:

On or about March 28, 2007, you executed that certain Fixed Rate Note in the original principal amount of \$20,150,000 ("Note"), payable to Artesia Mortgage Capital Corporation ("Original Lender") and secured by that certain Commercial Deed of Trust, Security Agreement, Fixture Filing Financial Statement and Assignment of Leases, Rents, Income and Profits ("Deed of Trust"), an Assignment of Leases, Rents, Income and Profits ("Assignment of Rents"), a Reserve Agreement ("Reserve Agreement"), and Environmental Indemnification Agreement ("Indemnity"), Agreement Regarding Property Stabilization ("Stabilization Agreement") and a Limited Recourse Obligation Guaranty ("Guaranty") of equal date referencing the above described Property. The Note, Deed of Trust, Assignment of Rents, Reserve Agreement, Indemnity, Stabilization Agreement and Guaranty are collectively referred to as the Loan Documents. The Original Lender's interest in the Loan Documents was assigned to LaSalle Bank, N.A., as trustee for the registered holders of ML-CFC Commercial Mortgage Trust 2007-7 Commercial Mortgage Pass-Through Certificates Series 2007-7, its successors and/or assigns ("Lender"). Midland Loan Services, Inc. ("Midland") is the master and special servicer for the Lender and in such capacity makes this demand.

You are in default under the Loan Documents for failure to pay the October 11, 2008 and subsequent monthly principal and interest payments as well as the escrow installments, late charges, property protection advances and default interest. As of December 18, 2008 the total amount due to reinstate the loan is \$632,741.77. In order to cure your default, you must remit \$632,741.77, or what is due at the time of receipt within ten (10) days of this notice. Please remit certified funds, payable to *Midland Loan Services, Inc.*, to:

Member of The PNC Financial Services Group

Special Servicing PO Box 25970 Shawnee Mission Kansas 66225-5970

Midland001203

Trust ("Borrower")
 Midland No. 03-0263475 ("Loan")
 December 18, 2008
 Page 2 of 2

Payment Addresses & Instructions		
Payment Mailing Address	Payment Overnight Address	Payment Wiring Instructions
Midland Loan Services, Inc. PNC Bank Lockbox Lockbox Number 771223 1223 Solutions Center Chicago, IL 60677-1002	Midland Loan Services, Inc. PNC Bank Lockbox c/o JP Morgan Chase Lockbox 974754 14800 Frye Road, TX1-0006 Fort Worth, TX 76155	PNC Bank NA ABA#: 043000096 Midland Loan Services Inc Credit #: 1006967647 Ref Loan#: 030263475

Failure to cure the default as noticed by December 28, 2008 will result in Midland, on behalf of the Lender, pursuing all remedies available under the Loan Documents, including acceleration of the balance of Note, foreclosure of the Property and/or the appointment of a receiver. Further, you are hereby notified that any collateral, including fixtures, rent receivables, rent proceeds or any other collateral in your possession is to be held in trust for the Lender in accordance with the Loan Documents.

Neither this letter nor any contact between you and Midland nor any failure or delay by the Lender or Midland in exercising any of the rights granted pursuant to the Loan Documents shall operate as a waiver, modification or alteration thereof. This notice and the description of the defaults contained herein are not intended to be and shall not be interpreted as a waiver by the Lender of any other defaults which may now exist under the terms of the Loan Documents. The Lender hereby reserves all rights and remedies available under the Loan Documents and/or applicable law.

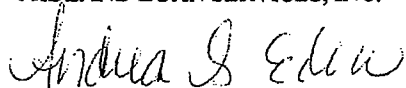
In addition, I will also require the following operating documents prior to loan reinstatement:

1. 2008 YTD Property Financials
2. Current Rent Roll
3. Personal financial statements of the "Borrowers"
4. Personal Financial Statement of the Guarantor.

Please be advised that I plan to inspect the Property in the next 45 days. At that time, I would require access to all vacant units, common areas, maintenance areas and storage areas. I will also require access to the occupied units. I will provide you notice once travel plans are finalized so that you can notify the tenants of the inspection in accordance with lease terms and applicable law.

If you have any questions regarding this notice or matter, you are urged to contact me immediately at (913) 253-9555.

Sincerely,
 MIDLAND LOAN SERVICES, INC.



Andrea Eden
 Asset Manager
 913-253-9555
 Andrea.Eden@midlandls.com



December 18, 2008

Palmilla Development Co., Inc.
235 West Brooks Avenue, 2nd Floor
North Las Vegas, NV 89030
Attn: Hagai Rapaport

Hagai Rapaport
2857 Paradise Road, Suite 2001
Las Vegas, NV 89109-9020

Ronald E. Gillette, Esq.
235 West Brooks Avenue, 2nd Floor
North Las Vegas, NV 89030

Re: Midland Loan No.: 03-0263475
Borrower: Palmilla Development Co., Inc.
Guarantor: Hagai Rapaport
Property: Palmilla Apartments, North Las Vegas, Nevada

Dear Borrower & Guarantor:

As you know, Midland Loan Services, Inc. ("Midland") is the Special Servicer for the current holders ("Lender") of the above-referenced loan. You have requested that Midland, on behalf of Lender, engage in discussions with you regarding the above-referenced loan and other related matters.

To ensure that discussions are as open and productive as possible and undertaken with a view toward compromise and settlement, please review this letter, which sets forth the terms and conditions under which any discussions (the "Discussions") will take place. If you are in agreement with these terms and conditions, please sign this letter in the space provided below and return the letter to Midland.

(1) Borrower, Guarantor and Lender agree that neither party shall be permitted to assert claims, causes of action, suits and defenses which each may have against the other or Midland based on the conduct or process of the Discussions themselves. The Discussions may not be admitted into evidence or otherwise used in any adversarial proceeding.

(2) Either Lender or Borrower, in its absolute and unqualified discretion, may terminate the Discussions at any time and for any reason, without any advance notice of, or liability for, such termination.

(3) The Discussions may be lengthy and complex and involve periodic expressions of preliminary, tentative, or conditional agreement as to one or more issues addressed in the Discussions. No agreement, consent, offer, approval, representation, concession, statement or warranty made in the course of the Discussions, however, shall constitute a commitment or binding obligation, and no rights or liabilities, either expressed or implied, shall arise by reason of the Discussions, **unless and until** Lender,

Member of The PNC Financial Services Group

Special Servicing PO Box 25970 Shawnee Mission Kansas 66225-5970

Midland001205



Borrower and Guarantor have executed a definitive written agreement which clearly specifies its intent to bind the parties.

(4) Borrower and Guarantor have been informed and understand that the undersigned asset manager has no authority to bind Lender or Midland to any agreement to modify any Loan Document or to grant any forbearance and that the undersigned asset manager must obtain authorization from Lender's Credit Review Committee before entering into any agreements with Borrower. Until such approval is obtained, the asset manager can only make recommendations to the Credit Review Committee which recommendations may or may not be adopted.

(5) Borrower, Guarantor and Lender agree that the Loan Documents shall in no event be deemed modified or otherwise affected by the Discussions unless and until Lender, Borrower and Guarantor agree to effect a modification of the Loan Documents in the definitive written agreement described in paragraph 3. Neither the content of, nor Lender's, Borrower's or Guarantor's willingness to participate in, the Discussions shall constitute a waiver of any right or remedy which Lender, Borrower or Guarantor may have under the Loan Documents.

(6) Neither the participation by Borrower, Guarantor, Lender and Midland in the Discussions nor any forbearance in the exercise of any rights or remedies under the Loan Documents prior to, during, or following the Discussions shall: (a) relieve Borrower, Guarantor, Lender or any other person or entity of obligations to comply with all of the obligations (monetary and non-monetary) set forth in the Loan Documents in full and timely fashion; or (b) limit Borrower, Guarantor or Lender in initiating, continuing or otherwise proceeding to exercise any right or remedy it may have before, during or after the Discussions, including (without limitation) initiating and pursuing foreclosure proceedings, or seeking the appointment of a receiver or other interim protective relief.

(7) Each party signing below understands that this is a legally binding contract that affects such party's rights. Each party signing below represents to each of the other parties that such party has consulted with its own counsel with respect to the meaning of this letter agreement, and that such party is familiar with and understands the terms and provisions of this letter agreement. In the interpretation of this letter agreement, no party shall be deemed the drafter of the letter agreement.

(8) This agreement: (a) constitutes the entire agreement concerning this subject matter and supersedes any prior agreements between the parties other than the Loan Documents; (b) shall inure to the benefit of and be binding upon the parties and their respective successors and assigns; (c) may be amended only by a written agreement signed by Lender and Borrower; and (d) shall be governed by the laws of the State of (New York), without giving effect to the principles of conflicts of law. This letter agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one agreement. Each party executing this letter agreement represents that he or she has the full authority to do so. Borrower, Guarantor and Lender each understand the terms contained herein and have voluntarily and without coercion or duress of any kind entered into this agreement.

Please sign and return a copy of this letter at your earliest convenience.

Palmilla Development Co., Inc.
030263475
Prenegotiation Letter
Page 3



Very truly yours,

MIDLAND LOAN SERVICES, INC.

By: Andrea S. Eden
Andrea S. Eden
Asset Manager
Special Servicing Group
(913) 253-9555 (Direct)

Acknowledged and Agreed to:

BORROWER:

Palmilla Development Co., Inc.

By: _____

Its: _____

Date: _____

GUARANTOR:

Hagai Rapaport

By: _____

Its: _____

Date: _____

Shipment Request #75793

Page 1 of 1

Shipment Request Form

75793

75793

From:

Name: Andrea Eden
Department: Special Servicing
Mail Stop: XX-PMLS-06-A
Building: 60029
Phone: 913-253-9555
Email: Andrea.Eden@midlandls.com
Fax: 913-253-9001
Account: 6260

To:

Ship To 1: Ronald E. Gillette, Esq.
Ship To 2:
Address: 235 West Brooks Avenue,
2nd Floor
North Las Vegas, NV 89030
Country: United States - US

Today's Date: 12/18/2008 1:06:10 PM

Expense To:
4 digit Dept#
OR 9 digit
Loan#)

Desktop Express Shipment Request Form

To print this form:

1. Click on print from your toolbar or click on Print from the file menu in your browser.
(Print two copies, one to attach to your package and one to keep for your records.)
2. Place the form in a waybill pouch or attach it to your shipment so that the barcode
portion of the page can be read and scanned.

RETURN

(Ship Request 1 of 1)

Shipment Request #75792

Page 1 of 1

Shipment Request Form

75792

75792

From:

Name: Andrea Eden
Department: Special Servicing
Mail Stop: XX-PMLS-06-A
Building: 60029
Phone: 913-253-9555
Email: Andrea.Eden@midlandls.com
Fax: 913-253-9001
Account: 6260

To:

Ship To 1: Hagai Rapaport
Ship To 2:
Address: 2857 Paradise Road, Suite
2001
Las Vegas, NV 89109-9020
Country: United States - US

Today's Date: 12/18/2008 1:04:37 PM

Expense To:
4 digit Dept#
OR 9 digit
Loan#)

Desktop Express Shipment Request Form

To print this form:

1. Click on print from your toolbar or click on Print from the file menu in your browser.
(Print two copies, one to attach to your package and one to keep for your records.)
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RETURN

(Ship Request 1 of 1)

Shipment Request #75791

Page 1 of 1

Shipment Request Form

75791

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From:

Name: Andrea Eden
Department: Special Servicing
Mail Stop: XX-PMLS-06-A
Building: 60029
Phone: 913-253-9555
Email: Andrea.Eden@midlandls.com
Fax: 913-253-9001
Account: 6260

To:

Ship To 1: Palmilla Development Co.,
Inc.
Ship To 2: Attn: Hagai Rapaport
Address: 235 West Brooks Avenue,
2nd Floor
North Las Vegas, NV 89030
Country: United States - US

Today's Date: 12/18/2008 1:03:33 PM

Expense To:
4 digit Dept#
OR 9 digit
Loan#)

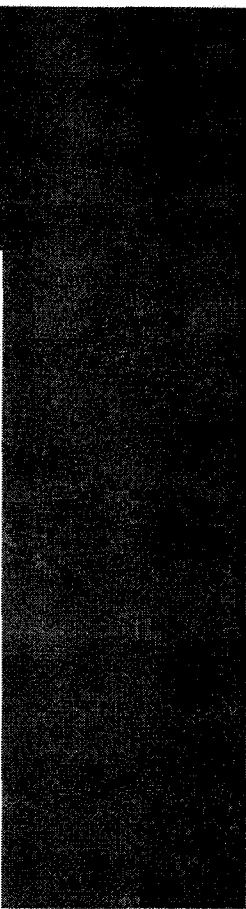
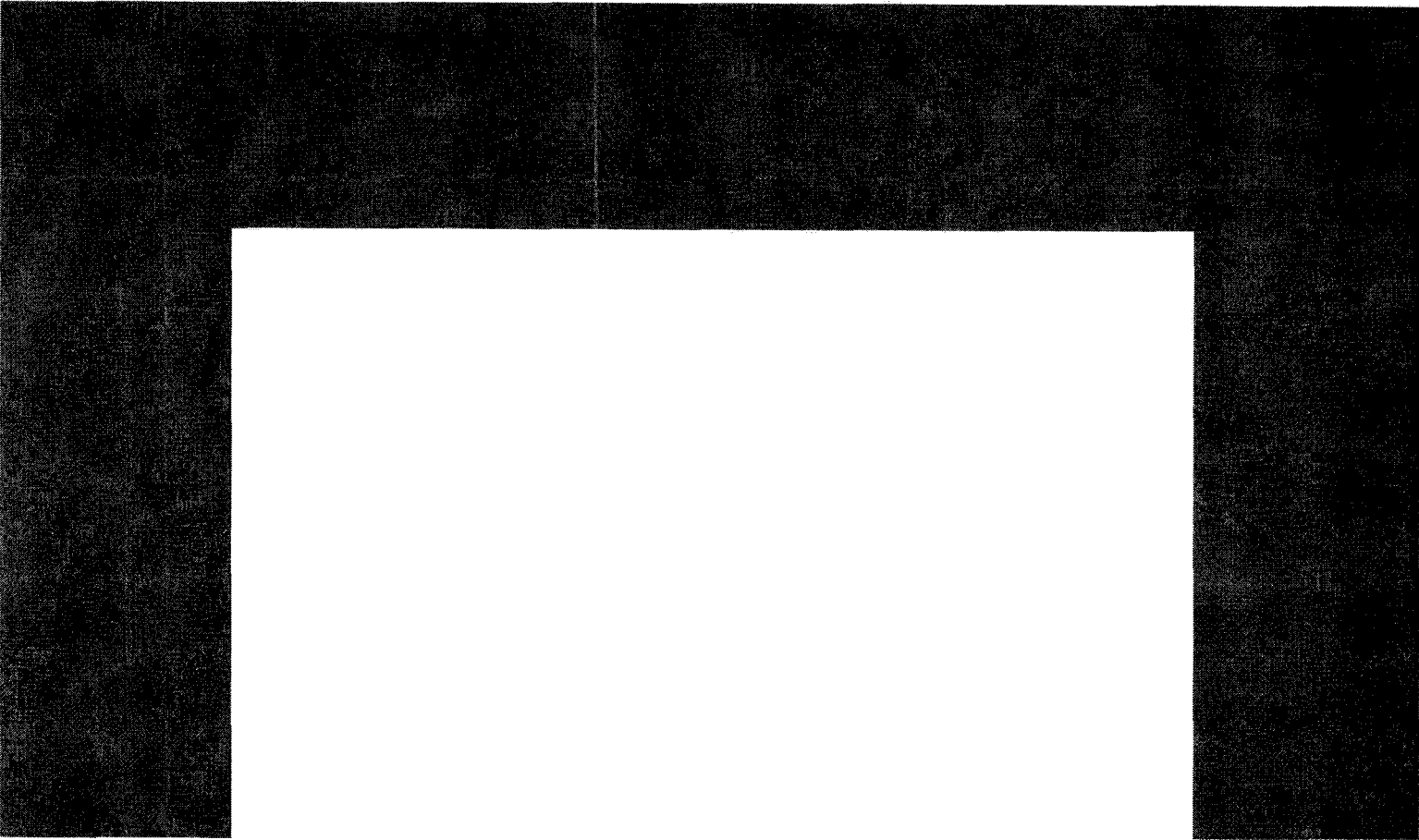
Desktop Express Shipment Request Form

To print this form:

1. Click on print from your toolbar or click on Print from the file menu in your browser.
(Print two copies, one to attach to your package and one to keep for your records.)
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portion of the page can be read and scanned.

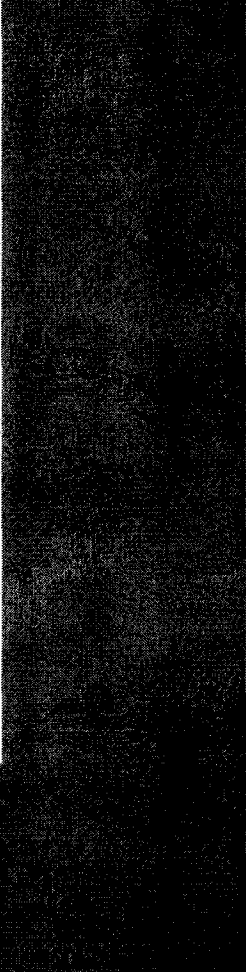
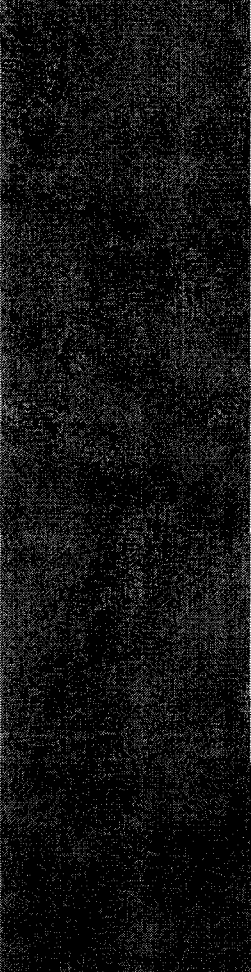
RETURN

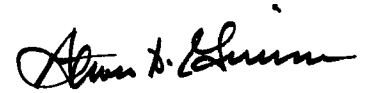
(Ship Request 1 of 1)



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CLERK OF THE COURT

1 NJUD
 2 BRENT LARSEN, ESQ.
 3 Nevada Bar No. 001184
 4 DEANER, MALAN, LARSEN & CIULLA
 5 720 S. Fourth Street, #300
 6 Las Vegas, Nevada 89101
 7 blarsen@deanerlaw.com
 8 (702) 382-6911
 9 Attorney for Defendant

6 DISTRICT COURT
 7
 8 CLARK COUNTY, NEVADA

9 U.S. Bank National Association as Trustee
 10 for The Registered Holders of ML-CFC
 11 Commercial Mortgage Trust 2007-7
 12 Commercial Mortgage Pass-Through
 13 Certificates Series 2007-7, by and through
 14 Midland Loan Services, Inc., as its Special
 15 Servicer,

Case No.: 09-A-595321-C

Dept. No.: XX

Plaintiff,

v.

15 Palmilla Development Co., Inc., a Nevada
 16 corporation; Hagai Rapaport, an
 17 individual; Does I to X; and Roe
 18 Corporations X to XX,

Defendants.

NOTICE OF ENTRY OF JUDGMENT

20 The Defendants HEREBY GIVE NOTICE of the Court's entry of the following
 21 Orders, which are attached hereto as Exhibits A and B, respectively:

22 1. Order Granting Defendants' Motion for Summary Judgment entered on August
 23 16, 2012; and

24 2. Order Denying Plaintiff's Motion to Alter or Amend Order Granting
 25 Defendant's Motion for Summary Judgment Pursuant to NRCP 52(b) and 59(e), alternative,

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///

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DEANER, MALAN, LARSEN & CIULLA
 720 South Fourth Street, Suite 300
 Las Vegas, Nevada 89101
 Telephone (702) 382-6911 • Facsimile (702) 366-0854

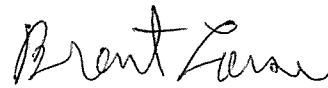
001828

1 Motion for Reconsideration of Order Granting Defendant's Motion for Summary Judgment
2 entered on October 9, 2012. The Court further noted in its Order entered on October 9, 2012
3 at Paragraph 10 that:

4 This Order is expressly incorporated into, and made a part
5 of, the Court's August 16 Order, and the contents of the Court's
6 August 16 Order are expressly incorporated herein.

7 DATED this 12 day of October, 2012.

8 DEANER, MALAN, LARSEN & CIULLA

9 

10 BRENT LARSEN, ESQ.
11 Nevada Bar No. 001184
12 720 South Fourth St., #300
13 Las Vegas, Nevada 89101
14 Attorney for Defendants
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DEANER, MALAN, LARSEN & CIULLA

720 South Fourth Street, Suite 300

Las Vegas, Nevada 89101

Telephone (702) 382-6911 • Facsimile (702) 366-0854


CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of DEANER, MALAN, LARSEN & CIULLA; that on the 12th day of October, 2012, I served a copy of the above and foregoing NOTICE OF ENTRY OF JUDGMENT in a sealed envelope, postage prepaid, by depositing same in the United States mail, addressed to the following:

Michael F. Lynch, Esq.
Howard Kim & Associates
400 N. Stephanie Street, Ste. 160
Henderson, Nevada 89014
mlynch@hkimlaw.com

Robert M. Charles, Jr.
Lewis and Roca LLP
3993 Howard Hughes Pkwy., Ste. 600
Las Vegas, Nevada 89169
rcharles@lrlaw.com

Attorneys for Plaintiff


An Employee of Deaner, Malan, Larsen
& Ciulla

DEANER, MALAN, LARSEN & CIULLA
720 South Fourth Street, Suite 300
Las Vegas, Nevada 89101
Telephone (702) 382-6911 • Facsimile (702) 366-0854

Exhibit A

001831

001831

Exhibit A

Electronically Filed
08/16/2012 04:04:20 PM

CLERK OF THE COURT

ORDER

DISTRICT COURT

CLARK COUNTY, NEVADA

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE,

Plaintiff,

v.

PALMILLA DEVELOPMENT CO.,
INC., et al.,

Defendants.

CASE NO. A595321
DEPARTMENT NO. XX

ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

This matter having come before the Court on the 8th day of August, 2012, Michael F. Lynch, Esq. and Matthew J. Forstadt, Esq., appearing for and on behalf of the Plaintiff; Brent A. Larsen, Esq., and Shana S. Gullickson, Esq., appearing for and on behalf of the Defendants, and the Court being fully advised in the premises, finds:

(1) This matter comes before the Court on a Motion for Summary Judgment filed by the Defendants, Palmilla Development Co. (a Nevada corporation) and Hagai Rapaport (an individual). The Plaintiff, U.S. Bank National Association (as Trustee for the Registered Holder of certain securities by and through its special servicer) also filed a Motion for Partial Summary Judgment that was originally calendared for the same hearing date as the Defendants' Motion, but at the August 8 hearing the Plaintiff withdrew its Motion. Therefore, only the Defendants' Motion is presently before this Court.

<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Stip Dis	<input checked="" type="checkbox"/> Sum Jdgmt	FINAL DISPOSITIONS <input type="checkbox"/> Time Limit Expired <input type="checkbox"/> Dismissed (with or without prejudice) <input type="checkbox"/> Judgment Satisfied/Paid in full
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Stip Jdgmt	<input type="checkbox"/> Non-Jury Trial	
<input type="checkbox"/> Jdgmt on Arb Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial	
<input type="checkbox"/> Min Jo Dis (by def)	<input type="checkbox"/> Transferred		

1 (2) Briefly, the undisputed facts of this action are as follows. This action
2 arises from a 2007 Loan in the amount of \$20,150,000.00, evidenced by a Note and
3 Deed of Trust, and secured against certain real property. Defendant Rapaport personally
4 guaranteed the Loan pursuant to a written Guaranty attached as Exhibit C to the
5 Plaintiff's "Objection." The original Loan underwent a series of assignments which need
6 not be described in detail here as the parties agree that the Plaintiff is now currently the
7 legal holder of all beneficial interest under the Deed of Trust. On September 3, 2009,
8 this Court appointed a Receiver to take possession, custody and control of the real
9 property secured by the Deed of Trust. (See, "Order Appointing Receiver," dated May
10 19, 2010, attached as Ex. 7 to the Plaintiff's Motion for Partial Summary Judgment,
11 withdrawn by oral motion on August 8, 2012). Subsequently, the Receiver filed a
12 Motion to approve a sale of the property, which was unopposed and granted by the Court
13 on March 26, 2010. (Copy attached as Ex. 8 to the Plaintiff's Motion for Partial
14 Summary Judgment). The property was sold for the amount of \$9,500,000.00, which the
15 parties agree is substantially less than the amount of the Loan that remained unpaid as of
16 the date of the sale.

17
18 (3) Initially, the Plaintiff filed a complaint seeking only the appointment of a
19 Receiver, which was granted by this Court (per Judge Togliatti). Subsequently, the
20 Plaintiff filed a First and Second Amended Complaint which added causes of action
21 styled "breach of contract" but which the parties agree seek damages arising from the
22 deficiency between the remaining balance of the Loan owed as of the date of the sale by
23 the Receiver, and the proceeds actually obtained from the sale. On April 25, 2012, the
24 Plaintiff filed a "Motion for Partial Summary Judgment and Request for Deficiency
25 Hearing Pursuant to NRS 40.457." The Motion originally came before this Court for a
26 hearing on May 30, 2012, but argument was continued because the parties indicated that
27 certain exhibits had been incorrectly attached to that Motion and the Plaintiff wished to
28

1 file a corrected copy of the exhibits for the Court's review. In the interim, the
2 Defendants filed their Motion for Summary Judgment on July 5, 2012.

3 (4) By its Motion, the Defendants assert that they are entitled to judgment as a
4 matter of law on "all issues of liability in this case" because the Plaintiff is not entitled to
5 the relief that it seeks, namely, the recovery of the deficiency between the amount of the
6 Loan remaining unpaid and the amount received from the sale of the property. The
7 Defendants contend that the relief sought by the Plaintiff is barred for three separate and
8 independent reasons under the so-called Anti-Deficiency statutes, NRS 40.451 et seq.
9 First, the Defendants aver that because the property was sold through a private sale
10 rather than a public auction to the highest bidder, the Plaintiffs are statutorily precluded
11 from seeking a deficiency. Second, the Defendants assert that the claims asserted
12 against Defendant Rapaport as guarantor of the Loan are barred by NRS 107.095
13 because the Plaintiff failed to comply with statutorily required notice requirements prior
14 to the sale of the property. Third, the Defendants contend that any action seeking
15 recovery of a deficiency is time-barred by NRS 40.455 because the Plaintiff failed to file
16 its deficiency action within six months following the date of the sale.

17
18 (5) In response to the Defendants' Motion, the Plaintiff filed an "Objection" to
19 the Motion which essentially asserts that because the property was privately sold by the
20 Receiver and not through a "foreclosure," none of the statutes cited by the Defendants
21 apply. (See Plaintiff's Objection, page 2, lines 6-7: "This case can not be adjudicated as
22 a 'garden variety' deficiency case since there never was a foreclosure"; page 3, lines 5-6:
23 "Not being a foreclosure sale, there was no [deadline under NRS 40.455] for a
24 deficiency judgment"; lines 24-25: "there was never any foreclosure and thus there is no
25 foreclosure date"). The Plaintiff also suggests that the Motion is premature and should
26 be "taken off calendar" until further discovery has been conducted.

27 (6) A party seeking summary judgment under Rule 56 of the Nevada Rules of
28

1 Civil Procedure bears the burden of demonstrating that there are no genuine issues of
2 material fact and that it is entitled to judgment as a matter of law. In considering such a
3 motion, the Court must view all of the evidence in the light most favorable to the non-
4 moving party unless it is clear that there are no genuine issues of fact.

5 (7) Once the moving party demonstrates the absence of a genuine issue of fact,
6 the burden shifts to the non-moving party to show the existence of such genuine issues
7 of material fact through admissible evidence. To defeat summary judgment, the non-
8 moving party cannot rely upon speculation, conjecture, or upon the unsupported
9 arguments of counsel.

10 (8) A dispute of fact is "genuine" if a jury could return a verdict for the non-
11 moving party on that issue. Whether a fact is "material" is determined by the governing
12 substantive law applicable to the underlying cause of action.

13 (9) In both supporting and opposing summary judgment, the parties must rely
14 upon evidence that would be admissible at trial under the applicable Nevada rules of
15 evidence. A party cannot rely upon inadmissible evidence to either justify or defeat
16 summary judgment. *See* NRCP 56(e) (affidavits in support of or in opposition to
17 summary judgment "shall set forth such facts as would be admissible in evidence"). *See*
18 *also, Collins v. Union Federal Savings & Loan Ass'n*, 99 Nev. 284, 301 (1983) (evidence
19 in support of or in opposition to summary judgment must be evidence that would be
20 admissible at trial).

21 (10) As an initial observation, while the Plaintiff suggests that the Motion is
22 premature and should be "taken off calendar" until further discovery has been completed,
23 the Plaintiff has not actually satisfied the requirements for seeking a continuance under
24 NRCP 56(f). The Plaintiff fails to supply an affidavit in support of its assertions which
25 demonstrates "how further discovery will lead to the creation of a genuine issue of
26 material fact." *Aviation Ventures v. Joan Morris, Inc.*, 121 Nev. 113, 118 (2005). The
27
28

1 Court could deny relief for this omission alone. *Choy v. Ameristar Casinos*, 127 Nev.
2 Adv. Op. 78 (November 23, 2011) (failure to include affidavit is not "substantial
3 compliance" with an express requirement of 56(f) and therefore additional discovery not
4 warranted). In any event, affidavit aside, the Plaintiff has failed to identify any genuine
5 issues of fact that it cannot now discover that might be uncovered through additional
6 discovery as required for a continuance under NRCP 56(f).

7 (11) The Court also notes that, while the Plaintiff opposes the instant Motion, it
8 does not identify any triable issue of material fact that would preclude the granting of the
9 Motion. Rather, the Plaintiff's Objection disputes only the legal consequences of the
10 undisputed facts, namely, whether, as a matter of law, the provisions of NRS 40.451 et
11 seq. bar this action. However, issues of law are for the Court, not a jury, to resolve, and
12 therefore the existence of a disputed question of law is insufficient to preclude summary
13 judgment when the moving party has otherwise met its burden under NRCP 56.

14 (12) Broadly, the fundamental question before the Court is whether the sale of
15 the property in this case was of such a nature that the requirements of NRS Chapter 40
16 (and some of the provisions of NRS Chapter 107) apply to it, including provisions
17 limiting the right to pursue a deficiency against the debtor, the procedures for seeking
18 recovery of such a deficiency, and any notice and timeliness requirements governing
19 actions seeking such a deficiency. The Defendants assert that the provisions of NRS
20 Chapter 40 (and 107) apply to the sale of any property that constituted security for a
21 Loan whether the sale was conducted by a trustee or by the Receiver in this case, and
22 because those provisions have not been complied with, the Plaintiff cannot seek recovery
23 of any deficiency in this case. In contrast, the Plaintiff asserts that because the sale of
24 the property in this case was accomplished through a private sale by the Receiver acting
25 under the Court's supervision and authority, this action is not fundamentally an action
26 seeking a "deficiency" under NRS Chapter 40, but rather "a simple case for damages"
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1 arising from the breach of a contract. (Plaintiff's Objection, page 3, lines 13-14).

2 (13) At various times in this litigation, the Plaintiff appears to have admitted
3 that NRS Chapter 40 applies to its causes of action. As noted, the Plaintiff filed its
4 Motion for Partial Summary Judgment on April 25, 2012, specifically requesting this
5 Court to conduct a deficiency hearing pursuant to NRS 40.457. Throughout the
6 Defendants' Motion, the Plaintiff repeatedly referred to its own claims as seeking a
7 deficiency judgment under NRS Chapter 40, even including an entire section titled
8 "Deficiency Judgments." (Plaintiff's Motion for Partial Summary Judgment, page 6).

9 The opening sentence of that section reads:

10
11 "The law applicable to this dispute, which is the law prior to the enactment
12 of AB 273, provides that a deficiency award for this loan secured by real
13 property under NRS 40.459 is determined as follows...." (Plaintiff's
14 Motion for Summary Judgment, page 6, lines 14-16).

15 (14) The same Motion contains a separate section titled "Under Chapter 40,
16 Plaintiff is Entitled to Summary Judgment on Liability for the Deficiency Against
17 Borrower and Guarantor." (Plaintiff's Motion, page 12). The opening sentences of that
18 section read:

19 "NRS 40.455 provides that the court, after hearing, 'shall award a
20 deficiency judgment'...The hearing is governed by NRS 40.457..."
(Plaintiff's Motion, page 12, lines 23-26).

21 (15) Citing to these arguments, the Defendants' Motion avers that the Plaintiff
22 should now be bound to the judicial admissions that it expressly made to the Court that
23 NRS Chapter 40 provides the law governing its causes of action. However, in response
24 to the Defendants' Motion, the Plaintiff now avers that it was mistaken in relying upon
25 any provision of NRS Chapter 40. Therefore, at the August 8 hearing, the Plaintiff
26 withdrew its Motion. Furthermore, in its Objection to the Defendants' Motion, the
27 Plaintiff writes:

1 "The Plaintiff is not without fault in this confusion. Unfortunately, it
2 incorrectly captioned the pending motion as one for deficiency judgment as
3 opposed to a Motion for Contract Damages. This is not a deficiency
4 proceeding, it is a prove up of damages having nothing to do with a
5 foreclosure." (Objection, page 2, footnote 3).

6 "...the Plaintiff, without conceding the efficacy of the reason given, would
7 be willing to have its Motion for Summary Judgment 'marked off' in order
8 that outstanding discovery can be completed. In terms of delay and in
9 order not to be thought to be 'sandbagging' the Court, it is the intention of
10 the Plaintiff to amend the present Motion for Summary Judgment to
11 eliminate the Deficiency references and make it a 'straight' case of contract
12 damages...." (Objection, page 4, lines 12-17).

13 (16) However, while the Plaintiff's position might otherwise appear reasonable
14 and its Motion for Summary Judgment might otherwise perhaps be considered to have
15 been a mistake that was subsequently rectified by its withdrawal of its Motion, the Court
16 notes that the Motion for Summary Judgment is not the only pleading filed in this case in
17 which the Plaintiff referred to its own causes of action as seeking a "deficiency
18 judgment." For example, on June 30, 2011, the Plaintiff filed an "Opposition to
19 Defendants' Motion to Dismiss, or in the Alternative, Motion to Require a Substantial
20 Bond." In it, the Plaintiff sought to differentiate the Second Amended Complaint from
21 two previously filed Complaints by asserting as follows:

22 "...the Complaint was amended to add the deficiency causes of action subsequent
23 to the sale of the Property that established the amount of the deficiency.
24 Therefore, Defendants' request for an additional bond...should be denied."
25 (Plaintiff's Opposition, page 8, lines 7-10).

26 (17) Similarly, in the Joint Case Conference Report filed by the parties on
27 November 9, 2011, the Plaintiff asserted as follows:

28 "Plaintiff is suing the Defendants to recover a deficiency judgment on a
real estate loan that was made to Palmilla Development as the borrower
and which was personally guaranteed by Hagai Rapaport...The property
was later sold by the receiver on March 18, 2010...which Plaintiff claims
results in a deficiency against the Defendants, jointly and severally...."
(Joint Case Conference Report, page 2, lines 5-11).

1 (18) Thus, a strong argument can be made that the Plaintiff, having expressly
2 characterized its own position in multiple motions filed throughout the litigation as an
3 action seeking a deficiency judgment under NRS Chapter 40, should be estopped from
4 now asserting the exact opposite in order to defeat a pending Motion for Summary
5 Judgment filed by the opposing party. The Court could simply grant the Defendant's
6 Motion by applying the doctrines of "judicial estoppel" or "judicial admission" without
7 even considering the underlying arguments asserted by the parties. However, while
8 noting the existence of this possible resolution, in the interests of justice and fairness the
9 Court will consider the merits of the arguments presented in the Defendants' Motion and
10 the Plaintiff's "Objection."

11 (19) Notwithstanding the arguments that it made previously in this case, the
12 Plaintiff now maintains that this action constitutes a "simple breach of contract" case.
13 Fundamentally, the Plaintiff avers that the various provisions of NRS Chapter 40 cited
14 by the Defendants do not govern this action because a sale of the property by the
15 receiver necessarily does not constitute a "foreclosure sale" or "trustee's sale." (See
16 Plaintiff's Objection, page 2, lines 6-7: "This case can not be adjudicated as a 'garden
17 variety' deficiency case since there never was a foreclosure"; page 3, lines 5-6: "Not
18 being a foreclosure sale, there was no [deadline under NRS 40.455] for a deficiency
19 judgment"; lines 24-25: "there was never any foreclosure and thus there is no foreclosure
20 date").

21 (20) Essentially, the Plaintiff suggests that a sale by a Receiver is, ipso facto,
22 not a foreclosure sale and therefore by definition NRS Chapter 40 does not apply to any
23 sale of property by a Receiver. However, the Plaintiff is incorrect in at least the broadest
24 sense. In certain circumstances, a sale of property by a receiver can theoretically
25 constitute a "foreclosure." NRS 32.010(2) expressly permits the appointment of a
26 receiver in an action by a mortgagee "for the foreclosure of the mortgage and sale of the
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1 mortgaged property." *See generally*, Fletcher Cyclopedia of the Law of Corporations,
2 Chapter 64, section 7667 ("The appointment of a receiver in an action to foreclose a
3 mortgage executed by a corporation is not an unusual procedure"). Thus, it does not
4 follow that the mere fact that the property in this case was sold by the Receiver, by itself,
5 necessarily means as a matter of law that there could have been no foreclosure within the
6 meaning of NRS Chapter 40.

7 (21) Interestingly, NRS 32.010 requires that, when a receiver is appointed in
8 connection with a foreclosure and sale of a property, it must appear that "the property is
9 probably insufficient to discharge the mortgage debt." NRS 32.010(2). Thus, NRS
10 32.010(2) actually requires that a deficiency "probably" exist before a receiver can even
11 be appointed, thus suggesting that the Legislature expressly contemplated that a
12 mortgagee could still seek a deficiency judgment following a sale of the secured
13 property by a receiver. The question before the Court is whether NRS Chapter 40 would
14 apply to any subsequent action to recover such a deficiency.
15

16 (22) In determining whether the provisions of NRS Chapter 40 apply to the sale
17 of the property by the Receiver in this case, the Court starts with the plain language of
18 the relevant statutes. The words of a statute are assigned their ordinary meaning unless it
19 is clear from the face of the statute that the Legislature intended otherwise. When "the
20 language of a statute is plain and unmistakable, there is no room for construction, and
21 the courts are not permitted to search for its meaning beyond the statute itself." *Estate of*
22 *Smith v. Mahoney's Silver Nugget*, 127 Nev. Adv. Op. 76 (November 23, 2011). Thus, if
23 the Legislature has independently defined any word or phrase contained within a statute,
24 the Court must apply the definition created by the Legislature. If, and only if, the Court
25 determines that the words of the statute are ambiguous when given their ordinary and
26 plain meaning, then reference may be made to other sources such as the legislative
27 history of the statute in order to clarify the ambiguity.
28

1 (23) The Anti-Deficiency provisions of NRS Chapter 40 apply to
2 "indebtedness" arising in connection with a "foreclosure sale." NRS 40.451. The term
3 "indebtedness" is defined as "the principal balance of the obligation secured by a
4 mortgage or other lien on real property, together with all interest accrued and unpaid
5 prior to the time of the foreclosure sale..."

6 (24) The phrase "foreclosure sale" is used frequently throughout the NRS. See,
7 e.g., NRS 14.010 (requiring the filing of lis pendens "in an action for the foreclosure of a
8 mortgage upon real property"); NRS 113.135 (certain notices required when property is
9 sold do not apply to a sale "by foreclosure pursuant to chapter 107 of NRS"); NRS
10 107.080(3)(b) (describing trustee's power of sale "if the property is a residential
11 foreclosure"); NRS 107.087 (notice requirements for residential foreclosure); NRS
12 107A.260 (permitting appointment of receiver "to foreclose the security instrument");
13 NRS 645F.390 (licensing of "foreclosure consultants").

14 (25) The phrase "foreclosure sale" is defined in two places within the NRS.
15 NRS 40.462(4) states as follows:
16

17 As used in this section, "foreclosure sale" means the sale of real property
18 to enforce an obligation secured by a mortgage or lien on the property,
19 including the exercise of a trustee's power of sale pursuant to NRS
20 107.080.

21 (26) NRS 107.025 provides as follows:

22 **NRS 107.025 Estate for years: Encumbrance by deed of trust;**
23 **foreclosure by exercise of power of sale.** A deed of trust may encumber
24 an estate for years however created, including a lease of a dwelling unit of
25 a cooperative housing corporation, unless prohibited by the instrument
26 creating the estate, and foreclosure may be had by the exercise of a power
27 of sale in accordance with the provisions of this chapter.

28 (27) The Court also notes that Black's Law Dictionary (2006) defines
"foreclosure" as follows:

1 "A legal proceeding to terminate a mortgagor's interest in property,
2 instituted by the lender (the mortgagee) either to gain title or to force a sale
in order to satisfy the unpaid debt secured by the property."

3 (28) Thus, a "foreclosure" is defined within the NRS as either the sale of real
4 property to enforce an obligation secured by a mortgage including (but not limited to) a
5 trustee's sale (NRS 40.462), or alternatively, "the exercise of a power of sale" of property
6 encumbered by a deed of trust in accordance with the provisions of NRS Chapter 107
7 (NRS 107.025). NRS Chapter 107 generally relates to the sale of encumbered properties
8 via a trustee's sale, and the parties do not dispute that the sale in this case was not a
9 trustee's sale. However, the Court also notes that NRS 107.100 also permits the
10 appointment of a receiver after a debtor has defaulted on the indebtedness; indeed, the
11 Plaintiff cited this provision as the legal basis for its second cause of action. (See,
12 Complaint filed July 16, 2009, page 10, "Second Cause of Action -- Appointment of
13 Receiver NRS 107.100 or NRS 32.010"). Therefore, it appears to the Court that, under
14 NRS 107.025, as a matter of law, if a receiver appointed pursuant to NRS 107.100
15 exercises the power to sell real property encumbered by a deed of trust in order to satisfy
16 the indebtedness, such a sale expressly constitutes a "foreclosure sale."

17
18 (29) Thus, all three of these definitions (NRS 40.462, NRS 107.025, and the
19 dictionary definition), when interpreted literally and in accordance with their commonly
20 accepted and plain meaning, would encompass the sale of a property by a receiver in
21 order to satisfy an outstanding mortgage. Notably, none of the three definitions contain
22 any restriction relating to whether the sale was "private" or "public," or whether the sale
23 was conducted at the request of, or by, a court-appointed receiver or any other party. All
24 that is required is that the sale was initiated by someone other than the borrower and that
25 it was conducted for the purpose of enforcing or satisfying an obligation secured by a
26 mortgage. The parties do not dispute that this was the purpose of the Receiver sale in
27 this case; indeed, the Plaintiff's "Motion To Approve Sale of Receivership Property"
28

1 filed on February 11, 2010, makes clear that the purpose of the sale was to satisfy the
2 indebtedness and not, for example, another business purpose unrelated to the mortgage.
3 Therefore, the sale by the Receiver in this case falls within the statutory definition of a
4 "foreclosure sale." Consequently the Court concludes, as a matter of law, that the sale of
5 the property in this case by the Receiver constituted a "foreclosure sale," and that the
6 provisions and protections of NRS Chapter 40 apply to any action seeking a deficiency
7 judgment after the sale.

8 (30) NRS 107.095 states as follows:
9

10 **NRS 107.095 Notice of default: Mailing to guarantor or surety of**
11 **debt; effect of failure to give.**

12 1. The notice of default required by NRS 107.080 must also be sent by
13 registered or certified mail, return receipt requested and with postage
14 prepaid, to each guarantor or surety of the debt. If the address of the
15 guarantor or surety is unknown, the notice must be sent to the address of
16 the trust property. Failure to give the notice, except as otherwise provided
17 in subsection 3, releases the guarantor or surety from his or her obligation
18 to the beneficiary, but does not affect the validity of a sale conducted
19 pursuant to NRS 107.080 or the obligation of any guarantor or surety to
20 whom the notice was properly given.

21 2. Failure to give the notice of default required by NRS 107.090,
22 except as otherwise provided in subsection 3, releases the obligation to the
23 beneficiary of any person who has complied with NRS 107.090 and who is
24 or may otherwise be held liable for the debt or other obligation secured by
25 the deed of trust, but such a failure does not affect the validity of a sale
26 conducted pursuant to NRS 107.080 or the obligation of any person to
27 whom the notice was properly given pursuant to this section or to NRS
28 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

1 (31) By way of brief summary, NRS 107.095 requires that in connection with
2 any foreclosure sale when the indebtedness has been guaranteed by a third party, certain
3 notices "must" be sent to the guarantor, and if those notices are not sent, the guarantor is
4 released from its obligations to the creditor. Defendant Rapaport asserts that those
5 notices were not sent to him as expressly required. In response, the Plaintiff does not
6 even assert that it complied with NRS 107.095; instead, it first argues that NRS 107.095
7 does not apply because there was no "foreclosure," and, second, avers that despite any
8 noncompliance with NRS 107.095, Rapaport had "actual notice" of the proceedings
9 involving the action seeking the appointment of a receiver. However, neither assertion
10 excuses the failure to comply with the express requirements of NRS 107.095. As noted
11 above, the Court finds as a matter of law that the sale in this case was a "foreclosure
12 sale" within the meaning of the NRS, and thus that NRS 107.095 applies to this action.
13 The Court also notes that NRS 107.095 is a mandatory statute which expressly states in
14 unconditional terms that the notices "must" be sent to the guarantor. In other words, the
15 requirements of NRS 107.095 "must" be complied with even where the guarantor might
16 otherwise have acquired actual notice of the pendency of the action through other
17 avenues outside of the NRS. The Plaintiff has failed to identify any genuine issue of fact
18 which would preclude summary judgment, but rather only offers disputed interpretations
19 of law. When the material facts are undisputed, summary judgment is appropriate when
20 the law favors the moving party because questions of law are for the Court, not a jury, to
21 resolve.
22

23 (32) NRS 40.455 requires that any action seeking a deficiency judgment must
24 be brought within six months of the foreclosure sale. Here, the Plaintiff does not dispute
25 that it failed to assert the deficiency for more than six months following the Receiver
26 sale. Instead, it offers two legal arguments excusing the delay. First, it contends that
27 NRS 40.455 does not apply to its action for breach of contract as a matter of law, an
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1 assertion that is rendered moot by the conclusions contained hereinabove. Second, the
2 Plaintiff contends that the six-month deadline was waived by the Defendants "to the
3 extent provided by law." (Plaintiff's Objection, page 3, lines 7-12, citing Paragraph 7 of
4 the Guaranty signed by Defendant Rapaport, attached as Exhibit C to the Objection).
5 Paragraph 7 states as follows:

6 7. Waivers.

7 (a) Guarantor hereby waives, to the extent permitted by law...(iii) any
8 statute of limitations affecting Guarantor's liability hereunder or the
9 enforcement thereof....

10 (33) However, NRS 40.453 states as follows:

11 **NRS 40.453 Waiver of rights in documents relating to sale of real**
12 **property against public policy and unenforceable; exception.** Except
as otherwise provided in NRS 40.495:

13 1. It is hereby declared by the Legislature to be against public policy
14 for any document relating to the sale of real property to contain any
15 provision whereby a mortgagor or the grantor of a deed of trust or a
guarantor or surety of the indebtedness secured thereby, waives any right
secured to the person by the laws of this state.

16 2. A court shall not enforce any such provision.

17 (34) NRS 40.495 provides as follows:

18 **NRS 40.495 Waiver of rights; separate action to enforce obligation;**
19 **limitation on amount of judgment; available defenses.**

20 1. The provisions of NRS 40.475 and 40.485 may be waived by the
guarantor, surety or other obligor only after default.

21 2. Except as otherwise provided in subsection 5, a guarantor, surety or
22 other obligor, other than the mortgagor or grantor of a deed of trust, may
23 waive the provisions of NRS 40.430. If a guarantor, surety or other obligor
24 waives the provisions of NRS 40.430, an action for the enforcement of that
person's obligation to pay, satisfy or purchase all or part of an
indebtedness or obligation secured by a mortgage or lien upon real
property may be maintained separately and independently from:

25 (a) An action on the debt;

26 (b) The exercise of any power of sale;

27 (c) Any action to foreclose or otherwise enforce a mortgage or lien and
the indebtedness or obligations secured thereby; and

28 (d) Any other proceeding against a mortgagor or grantor of a deed of

1 trust.

2 3. If the obligee maintains an action to foreclose or otherwise enforce a
3 mortgage or lien and the indebtedness or obligations secured thereby, the
4 guarantor, surety or other obligor may assert any legal or equitable
5 defenses provided pursuant to the provisions of NRS 40.451 to 40.4639,
6 inclusive.

7 4. If, before a foreclosure sale of real property, the obligee commences
8 an action against a guarantor, surety or other obligor, other than the
9 mortgagor or grantor of a deed of trust, to enforce an obligation to pay,
10 satisfy or purchase all or part of an indebtedness or obligation secured by a
11 mortgage or lien upon the real property:

12 (a) The court must hold a hearing and take evidence presented by either
13 party concerning the fair market value of the property as of the date of the
14 commencement of the action. Notice of such hearing must be served upon
15 all defendants who have appeared in the action and against whom a
16 judgment is sought, or upon their attorneys of record, at least 15 days
17 before the date set for the hearing.

18 (b) After the hearing, if the court awards a money judgment against the
19 guarantor, surety or other obligor who is personally liable for the debt, the
20 court must not render judgment for more than:

21 (1) The amount by which the amount of the indebtedness exceeds
22 the fair market value of the property as of the date of the commencement
23 of the action; or

24 (2) If a foreclosure sale is concluded before a judgment is entered,
25 the amount that is the difference between the amount for which the
26 property was actually sold and the amount of the indebtedness which was
27 secured, whichever is the lesser amount.

28 5. The provisions of NRS 40.430 may not be waived by a guarantor,
surety or other obligor if the mortgage or lien:

(a) Secures an indebtedness for which the principal balance of the
obligation was never greater than \$500,000;

(b) Secures an indebtedness to a seller of real property for which the
obligation was originally extended to the seller for any portion of the
purchase price;

(c) Is secured by real property which is used primarily for the
production of farm products as of the date the mortgage or lien upon the
real property is created; or

(d) Is secured by real property upon which:

(1) The owner maintains the owner's principal residence;

(2) There is not more than one residential structure; and

(3) Not more than four families reside.

6. As used in this section, "foreclosure sale" has the meaning ascribed
to it in NRS 40.462.

1 (35) Thus, as a matter of law, the statute of limitations period set forth in NRS
2 40.455 cannot be waived. Therefore, the Plaintiff's causes of action are time-barred
3 under NRS 40.455.

4 (36) NRS 40.430 -- the so-called "one action rule" -- provides that:

5 "[T]here may be but one action for the recovery of any debt, or for the
6 enforcement of any right secured by a mortgage or other lien upon real estate.
7 That action must be in accordance with the provisions of NRS 40.430 to 40.459,
8 inclusive. In that action, the judgment must be rendered for the amount found due
9 the plaintiff, and the court, by its decree or judgment, may direct a sale of the
encumbered property, or such part thereof as is necessary, and apply the proceeds
of the sale as provided in NRS 40.462."

10 (37) The "one action rule" prevents a creditor from seeking to recover a
11 deficiency judgment when "the loss of the security for the obligation was due to its own
12 action." *Keever v. Nicholas Beers Co.*, 96 Nev. 509, 513 (1980). The Nevada Supreme
13 Court has expressly held that the "one action" rule may, under certain circumstances,
14 apply to private sales as well as trustee's sales. The Defendants aver that the rule of
15 *Keever* should be extended to apply to the sale by the Receiver in this case, thus barring
16 the Plaintiff from seeking a deficiency judgment when the existence of the deficiency
17 was its own fault. After *Keever* was decided, the Legislature amended the "one action
18 rule" through AB573, and a question exists whether that statute should be retroactively
19 applied to the mortgage in this case. However, the Court need not engage in that
20 analysis because, as noted above, the sale by the Receiver in this case was a "foreclosure
21 sale" which failed to comply with other provisions of NRS Chapter 40.

22 (38) When the language of a statute is clear, the Court need not engage in an
23 analysis of the public policy behind the statute. However, the Court notes that the result
24 reached in this case appears fully consistent with the intention of the Legislature.
25 Fundamentally, the so-called Anti-Deficiency provisions of NRS Chapter 40 (as well as
26 NRS 107.095) were enacted in order to protect borrowers (and guarantors) whose
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1 property has already been taken and forcibly sold from also being subjected to
2 subsequent lawsuits seeking deficiency judgments that may be repetitive, untimely, and
3 premised upon a waiver of rights that cannot be waived under Nevada law. In order to
4 accomplish this objective, the Legislature expressly required that actions seeking such
5 deficiency judgments must comply with certain specific requirements relating to such
6 things as repetition (the "one action rule"), notice, timeliness, waiver, and the like.
7 However, the Plaintiff's position, if adopted, would enable mortgagees to easily (and
8 unilaterally) circumvent these protections by simply choosing to seek the appointment of
9 a receiver in every case of default rather than attempting to foreclose by way of trustee's
10 sale or sheriff's sale. (The Court notes that the receivership statutes (NRS 32.010 and
11 107.100) are broadly drafted and could theoretically be construed to permit a receiver to
12 be appointed in virtually every case in which a borrower is in default). Under the
13 Plaintiff's theory, after the receiver is appointed and sells the property, the mortgagee
14 could then pursue deficiency actions wholly outside of the protections of NRS Chapter
15 40, including suits that otherwise would be deemed untimely, harassing, repetitive, or
16 illegal. Such a result would be absurd on multiple levels, including that it would
17 substantially increase the caseload of the Court by encouraging judicial intervention and
18 supervision in every case of default. Judicial burden aside, the Court finds it unlikely
19 that the Legislature would have created a statutory scheme that could be so easily
20 undermined at the will of the mortgagee. Furthermore, in principle, the appointment of a
21 receiver, while necessary in many cases to protect the property, ought to be in the
22 majority of cases the least desirable and least necessary method for recouping an unpaid
23 mortgage when compared to a trustee's sale or another non-judicial foreclosure
24 mechanism. But if the Plaintiff's argument were accepted, receivership would actually
25 become the most rewarding and most profitable avenue for the mortgagee since it would
26 provide the sole method of seeking a deficiency outside of the protections of NRS
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1 Chapter 40. That could not have been what the Legislature intended.

2 (39) For the reasons set forth above, the Court finds that no genuine issues of
3 material fact exist and the Defendants are entitled to judgment as a matter of law that the
4 Plaintiff cannot maintain this action seeking a deficiency judgment against the
5 Defendants. Accordingly, the Defendants' Motion for Summary Judgment is
6 GRANTED and judgment is hereby entered for the Defendants on the causes of action
7 asserting breach of contract contained in the Plaintiff's Second Amended Complaint. All
8 future hearing dates in this matter are hereby vacated.

9 DATED: August 16, 2012

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11 JEROME T. TAO
12 DISTRICT COURT JUDGE
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Paula Walsh
Paula Walsh, Executive Assistant

BROADCAST REPORT

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FAX : 7026714439
TEL : 7026714440
SER.# : 000C9N858027

PAGE(S)

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DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
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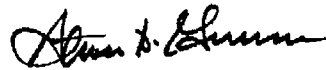
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Exhibit B

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Exhibit B

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CLERK OF THE COURT

1 ORDER

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5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

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9 U.S. BANK NATIONAL
10 ASSOCIATION AS TRUSTEE,

11 Plaintiff,

CASE NO. A595321
DEPARTMENT NO. XX

12 v.

13 PALMILLA DEVELOPMENT CO.,
14 INC., et al.,

15 Defendants.

16 **ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER**
17 **GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**
18 **PURSUANT TO NRCP 52(b) AND 59(e), ALTERNATIVE, MOTION FOR**
19 **RECONSIDERATION OF ORDER GRANTING DEFENDANT'S MOTION FOR**
20 **SUMMARY JUDGMENT**

21 This matter having come before the Court without a hearing, and the Court being
22 fully advised in the premises, finds:

23 (1) This matter comes before the Court on a Motion filed by the Plaintiff
24 entitled "Plaintiff's Motion to Alter or Amend Order Granting Defendant's Motion for
25 Summary Judgment Pursuant to NRCP 52(b) and 59(e); Alternatively, Motion for
26 Reconsideration of Order Granting Defendant's Motion for Summary Judgment." By
27 this motion, the Plaintiff seeks reconsideration of this Court's Order dated August 16,
28 2012 granting a Motion for Summary Judgment filed by the Defendant. The Defendant
has filed an Opposition to the Plaintiff's Motion for Reconsideration.

1 (2) As an initial observation, a motion brought under either NRCP 52 or 59
2 must be filed no later than 10 days after entry of the Order at issue. NRCP 52(b) and
3 59(b). The Court's Order was filed on August 16, 2012, but the Plaintiff's Motion was
4 not filed until August 31, 2012, or fifteen calendar days after the entry of the Order.

5 (3) As a second observation, in its Motion, the Plaintiff now makes new
6 arguments and presents new evidence (in the form of affidavits and exhibits) that it did
7 not present to the Court when the Court originally considered and heard the Defendants'
8 Motion for Summary Judgment. It now presents a number of affidavits from witnesses
9 that were not presented in connection with its original Opposition to the Defendant's
10 Motion for Summary Judgment. A serious question exists whether such a tactic is
11 proper or fair. If a party fails to present its evidence at the time a Motion for Summary
12 Judgment is heard, it is hardly in a position to subsequently criticize the Court for failing
13 to consider evidence that the party never presented when given the opportunity to do so.
14 Among other defects, such an approach not only severely wastes judicial resources, it
15 deprives the moving party of the opportunity to fully respond. Indeed, the Court notes
16 that, during the oral argument conducted on August 8, 2012, Plaintiff's counsel presented
17 new arguments that were not included within its written briefing, including the new
18 assertion that the foreclosure date was contested. Defendant's counsel immediately
19 complained that the Plaintiff was presenting arguments that were not included within the
20 briefing and which therefore could not have been addressed in the Reply brief. (See,
21 August 8, 2012 Transcript, page 16, lines 4-16). The Plaintiff is now exacerbating that
22 prejudice by presenting wholly new evidence never included in its prior briefing or
23 referenced during oral argument.
24

25 (4) Putting aside these serious procedural deficiencies, the Plaintiff
26 fundamentally requests reconsideration for three reasons. First, the Plaintiff correctly
27 avers that this Court found, as a matter of law, that the Plaintiff's causes of action were
28

1 time-barred because they were not asserted within six months following the date of the
2 Receiver's sale of the property. However, the Plaintiff asserts that the Court's decision
3 was without sufficient legal or factual basis under NRCP 56 because the Defendant had
4 not proven the actual date of the sale, and in any event, the Plaintiff argued during oral
5 argument that the date was disputed. Therefore, because the Defendant had not proven
6 the date of the sale, and the date was disputed, the Court should not have granted
7 summary judgment. The Plaintiff avers that the actual date of the sale should be
8 considered to have been as late as July 7, 2010, which was less than six months before
9 the relevant causes of action were asserted.

10 (5) In the Joint Case Conference Report filed November 9, 2011 (which,
11 notably, was drafted by Plaintiff's counsel), the Plaintiff expressly represented to the
12 Court on page 2 that "[t]he property was later sold by the receiver on March 18, 2010,
13 for \$9.5 million." This admission was expressly cited in paragraph 17 of the Court's
14 August 16 Order Granting Summary Judgment. The Plaintiff is therefore incorrect that
15 the Court's August 16 Order failed to identify a basis for concluding that the foreclosure
16 sale indisputably occurred on March 18, 2010.

17 (6) In view of the Plaintiff's prior representations, the Court deems that the
18 Plaintiff is estopped as a matter of law from asserting, at this late stage of the case, that
19 the date of the sale was anything other than March 18, 2010. (*See also*, paragraphs 40
20 and 41 of Plaintiff's Second Amended Complaint filed April 11, 2011; page 5 of
21 Opposition to Defendant's Motion to Dismiss, filed June 30, 2011). Even absent such
22 estoppel, NRCP 56 expressly contemplates that summary judgment may be granted
23 based upon the parties' pleadings and discovery responses. NRCP 56(c). Here, the
24 conclusion reached by the Court is confirmed by the Plaintiff's own representations. The
25 Plaintiff cannot defeat summary judgment through a manufactured "factual dispute" that
26 effectively disowns the position it previously took throughout the case. In short, by this
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1 Motion, the Plaintiff asserts that this Court committed error in finding the date of sale to
2 be outside of the six-month statutory period even though the Plaintiff failed to dispute
3 the date anywhere in its written brief opposing summary judgment (only disputing it for
4 the first time verbally during oral argument), and furthermore, even though the Plaintiff's
5 pleadings and discovery responses have conceded that the sale date was March 18, 2010,
6 outside of the six-month period. Under these circumstances, neither reconsideration nor
7 new findings are warranted.

8 (7) The Plaintiff's second argument is that the Court erred in applying the
9 "notice of default" requirement of NRS 107.095 to the sale in this case. The Plaintiff
10 argues that the provisions of NRS 107.080 - 095 do not apply to judicial foreclosure
11 sales, but rather that foreclosure sales conducted by Receivers are governed only by NRS
12 Chapter 40, which does not have the same notice requirement as contained in NRS
13 107.095. Alternatively, the Plaintiff contends that even if the requirements of NRS
14 107.095 apply to foreclosure sales conducted by Receivers, the notice requirement was
15 factually met in this case.

16 (8) The Plaintiff argues that "[t]he Court's ruling misapprehends the nature of
17 foreclosure" and that the Court apparently confused Chapters 40 and 107 of the NRS.
18 (Motion, page 9, line 6). However, if that is true, that misapprehension appears to have
19 been shared by the Plaintiff. In its original Complaint filed on July 16, 2011, the
20 Plaintiff expressly sought appointment of a Receiver based upon NRS 107.100.
21 (Complaint, Second Cause of Action; paragraph 58). NRS 107.100 is the very next
22 provision following NRS 107.095. Yet now the Plaintiff suggests that the requirements
23 of NRS Chapter 107 have no applicability to this action and the Court should instead
24 have relied only upon the notice requirements of NRS Chapter 40.

25 (9) In any event, because this case is a "deficiency" action (as the Plaintiff has
26 expressly represented to the Court throughout the case, *see*, Court's August 16 Order,
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1 paragraphs 13-18) arising from a foreclosure sale that occurred on March 18, 2010 (as
2 the Plaintiff has admitted in its pleadings) which was not brought within six months of
3 the foreclosure sale, the action is time-barred. Therefore, the Court need not consider
4 the remaining grounds asserted in the Plaintiff's Motion.

5 (10) This Order is expressly incorporated into, and made a part of, the Court's
6 August 16 Order, and the contents of the Court's August 16 Order are expressly
7 incorporated herein.

8 (11) The hearing currently scheduled in this matter for October 10, 2012, is
9 hereby vacated.

10 (12) For the foregoing reasons, the "Plaintiff's Motion to Alter or Amend Order
11 Granting Defendant's Motion for Summary Judgment Pursuant to NRCP 52(b) and
12 59(e); Alternatively, Motion for Reconsideration of Order Granting Defendant's Motion
13 for Summary Judgment" is DENIED.

14 DATED: October 8, 2012

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17 JEROME T. TAO
18 DISTRICT COURT JUDGE
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Paula Walsh
Paula Walsh, Executive Assistant

BROADCAST REPORT

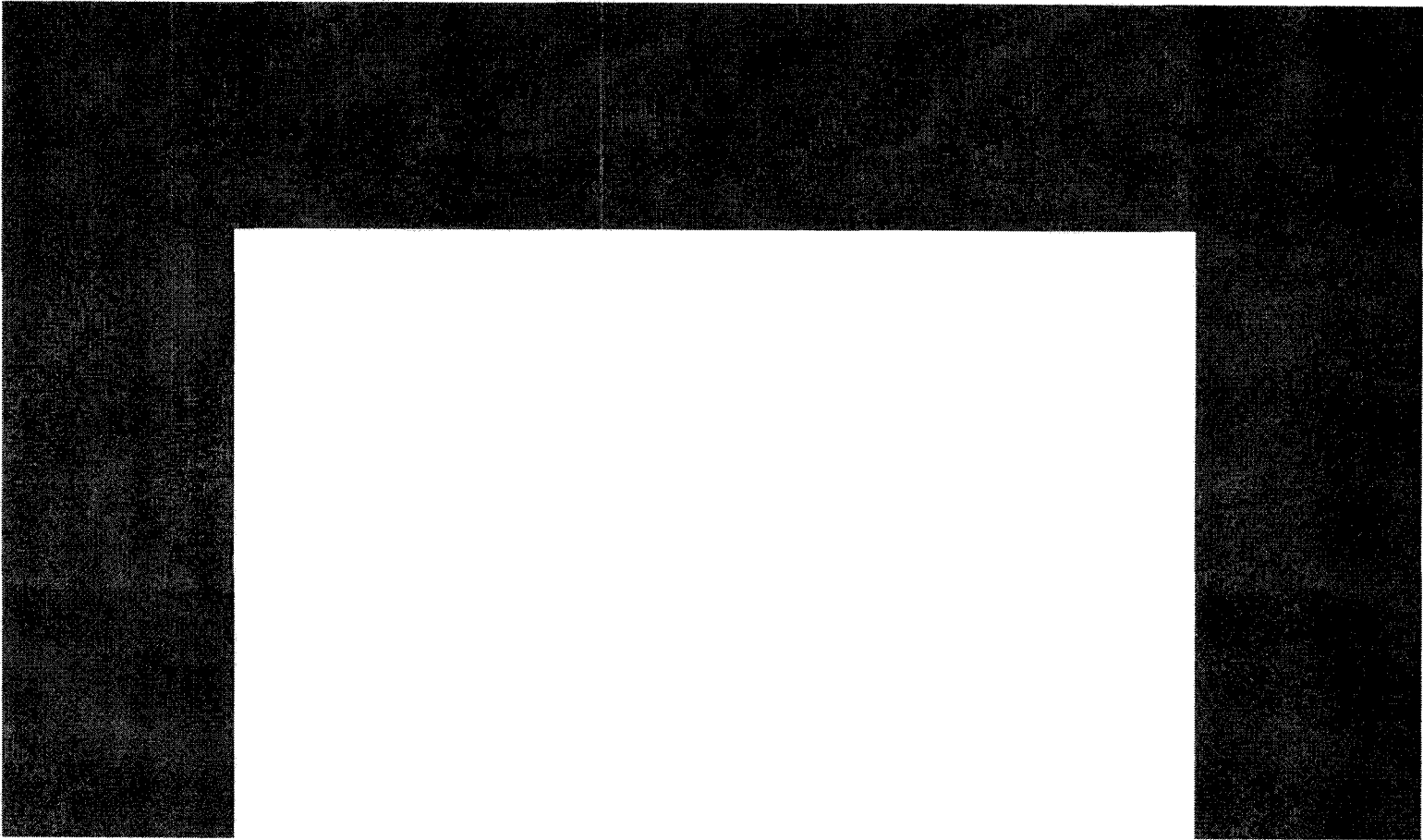
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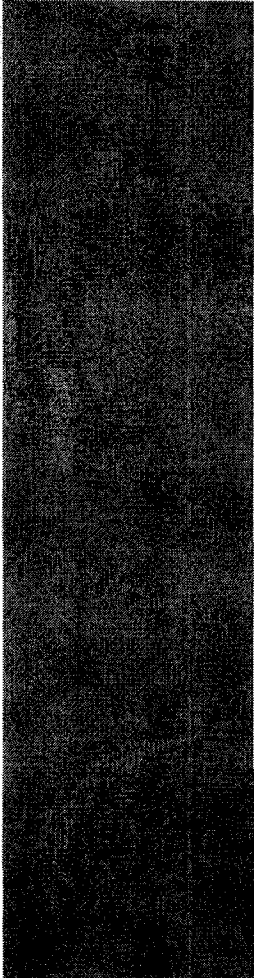
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10/08	12:25	3660854	53	06	OK	ECM

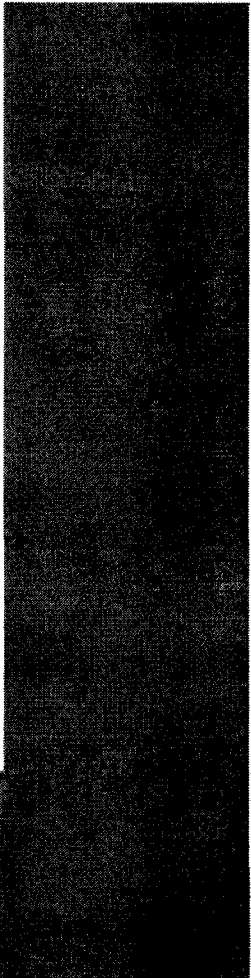
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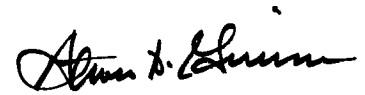


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CLERK OF THE COURT

1 NOTC
 2 DANIEL F. POLSENBERG (SBN 2376)
 3 ROBERT M. CHARLES, JR. (SBN 6593)
 4 JOEL D. HENRIOD (SBN 8492)
 5 LEWIS AND ROCA LLP
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 (702) 413-8282 (direct)
 mlynch@hkimlaw.com

10 *Attorneys for Plaintiff*

11
 12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

14 U.S. BANK NATIONAL ASSOCIATION as
 15 Trustee For The Registered Holders of
 16 ML-CFC Commercial Mortgage Trust
 2007-7 Commercial Mortgage Pass-
 17 Through Certificates Series 2007-7, by and
 through MIDLAND LOAN SERVICES, as its
 Special Servicer,

18 Plaintiff,

19 vs.

20 PALMILLA DEVELOPMENT CO., INC., a
 Nevada corporation; HAGAI RAPAPORT, an
 21 individual; and Does I to X; and Roe
 Corporations X to XX,

22 Defendants.

Case No. A595321

Dept. No. XX

23
 24 NOTICE OF APPEAL

25 Please take notice that Plaintiff U.S. BANK NATIONAL ASSOCIATION as Trustee
 26 for the Registered Holders of ML-CFC Commercial Mortgage Trust 2007-7
 27 Commercial Mortgage Pass-Through Certificates Series 2007-7, by and through
 28

1 MIDLAND LOAN SERVICES, as its Special Servicer ("Lender" or "Plaintiff") hereby
2 appeals to the Supreme Court of Nevada from:

- 3 1. All judgments and orders in this case;
- 4 2. "Order Granting Defendant's Motion for Summary Judgment," entered
5 August 16, 2012, notice of entry of which was served on October 12, 2012;
- 6 3. "Order Denying Plaintiff's Motion to Alter or Amend Order Granting
7 Defendant's Motion for Summary Judgment Pursuant to NRCP 52(b) and 59(e),
8 alternative, Motion for Reconsideration of Order Granting Defendant's Motion
9 for Summary Judgment, entered October 9, 2012, notice of entry of which was
10 served on October 12, 2012; and
- 11 4. All rulings and interlocutory orders made appealable by any of the
12 foregoing.

13 DATED this 9th day of November, 2012.

14 LEWIS AND ROCA LLP

16 By: *s/ Joel D. Henriod*

17 DANIEL F. POLSENBERG (SBN 2376)
18 ROBERT M. CHARLES, JR. (SBN 6593)
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23 *Attorneys for Plaintiff*
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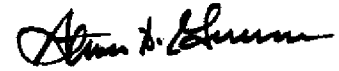
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EXHIBIT A

EXHIBIT A

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CLERK OF THE COURT

1 NJUD
2 BRENT LARSEN, ESQ.
3 Nevada Bar No. 001184
4 DEANER, MALAN, LARSEN & CIULLA
5 720 S. Fourth Street, #300
6 Las Vegas, Nevada 89101
7 blarsen@deanerlaw.com
8 (702) 382-6911
9 Attorney for Defendant

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA
12

13 U.S. Bank National Association as Trustee)
14 for The Registered Holders of ML-CFC)
15 Commercial Mortgage Trust 2007-7)
16 Commercial Mortgage Pass-Through)
17 Certificates Series 2007-7, by and through)
18 Midland Loan Services, Inc., as its Special)
19 Servicer,

Case No.: 09-A-595321-C

Dept. No.: XX

20 Plaintiff,

21 v.

22 Palmilla Development Co., Inc., a Nevada)
23 corporation; Hagai Rapaport, an)
24 individual; Does I to X; and Roe)
25 Corporations X to XX,
26

27 Defendants.
28

29 NOTICE OF ENTRY OF JUDGMENT

30 The Defendants HEREBY GIVE NOTICE of the Court's entry of the following
31 Orders, which are attached hereto as Exhibits A and B, respectively:

32 1. Order Granting Defendants' Motion for Summary Judgment entered on August
33 16, 2012; and

34 2. Order Denying Plaintiff's Motion to Alter or Amend Order Granting
35 Defendant's Motion for Summary Judgment Pursuant to NRCp 52(b) and 59(e), alternative,

36 ///

37 ///

38 ///

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720 South Fourth Street, Suite 300
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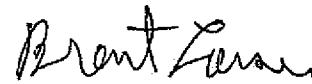
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1 Motion for Reconsideration of Order Granting Defendant's Motion for Summary Judgment
 2 entered on October 9, 2012. The Court further noted in its Order entered on October 9, 2012
 3 at Paragraph 10 that:

4 This Order is expressly incorporated into, and made a part
 5 of, the Court's August 16 Order, and the contents of the Court's
 6 August 16 Order are expressly incorporated herein.

7 DATED this 12 day of October, 2012.

8 DEANER, MALAN, LARSEN & CIULLA

9 

10 BRENT LARSEN, ESQ.
 11 Nevada Bar No. 001184
 12 720 South Fourth St., #300
 13 Las Vegas, Nevada 89101
 14 Attorney for Defendants

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 Las Vegas, Nevada 89101
 Telephone (702) 382-6911 • Facsimile (702) 366-0854

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of DEANER, MALAN, LARSEN & CIULLA; that on the 12th day of October, 2012, I served a copy of the above and foregoing NOTICE OF ENTRY OF JUDGMENT in a sealed envelope, postage prepaid, by depositing same in the United States mail, addressed to the following:

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Henderson, Nevada 89014
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Robert M. Charles, Jr.
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Attorneys for Plaintiff


An Employee of Deaner, Malan, Larsen
& Ciulla

DEANER, MALAN, LARSEN & CIULLA

720 South Fourth Street, Suite 300

Las Vegas, Nevada 89101

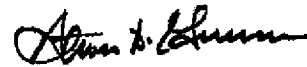
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Exhibit A

Exhibit A

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CLERK OF THE COURT

ORDER

DISTRICT COURT

CLARK COUNTY, NEVADA

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE,

Plaintiff,

v.

PALMILLA DEVELOPMENT CO.,
INC., et al.,

Defendants.

CASE NO. A595321
DEPARTMENT NO. XX

**ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

This matter having come before the Court on the 8th day of August, 2012, Michael F. Lynch, Esq. and Matthew J. Forstadt, Esq., appearing for and on behalf of the Plaintiff; Brent A. Larsen, Esq., and Shana S. Gullickson, Esq., appearing for and on behalf of the Defendants, and the Court being fully advised in the premises, finds:

(1) This matter comes before the Court on a Motion for Summary Judgment filed by the Defendants, Palmilla Development Co. (a Nevada corporation) and Hagai Rapaport (an individual). The Plaintiff, U.S. Bank National Association (as Trustee for the Registered Holder of certain securities by and through its special servicer) also filed a Motion for Partial Summary Judgment that was originally calendared for the same hearing date as the Defendants' Motion, but at the August 8 hearing the Plaintiff withdrew its Motion. Therefore, only the Defendants' Motion is presently before this Court.

<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Slip Dis	<input checked="" type="checkbox"/> Sum Jdgmt	FINAL DISPOSITIONS <input type="checkbox"/> Time Limit Expired <input type="checkbox"/> Dismissed (with or without prejudice) <input type="checkbox"/> Judgment Satisfied/Paid in full
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Slip Jdgmt	<input type="checkbox"/> Non-Jury Trial	
<input type="checkbox"/> Jdgmt on Arb Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial	
<input type="checkbox"/> Min Jo Dis (by def)	<input type="checkbox"/> Transferred		

JEROME TAO
DISTRICT JUDGE
DEPARTMENT XX

1 (2) Briefly, the undisputed facts of this action are as follows. This action
2 arises from a 2007 Loan in the amount of \$20,150,000.00, evidenced by a Note and
3 Deed of Trust, and secured against certain real property. Defendant Rapaport personally
4 guaranteed the Loan pursuant to a written Guaranty attached as Exhibit C to the
5 Plaintiff's "Objection." The original Loan underwent a series of assignments which need
6 not be described in detail here as the parties agree that the Plaintiff is now currently the
7 legal holder of all beneficial interest under the Deed of Trust. On September 3, 2009,
8 this Court appointed a Receiver to take possession, custody and control of the real
9 property secured by the Deed of Trust. (See, "Order Appointing Receiver," dated May
10 19, 2010, attached as Ex. 7 to the Plaintiff's Motion for Partial Summary Judgment,
11 withdrawn by oral motion on August 8, 2012). Subsequently, the Receiver filed a
12 Motion to approve a sale of the property, which was unopposed and granted by the Court
13 on March 26, 2010. (Copy attached as Ex. 8 to the Plaintiff's Motion for Partial
14 Summary Judgment). The property was sold for the amount of \$9,500,000.00, which the
15 parties agree is substantially less than the amount of the Loan that remained unpaid as of
16 the date of the sale.

17
18 (3) Initially, the Plaintiff filed a complaint seeking only the appointment of a
19 Receiver, which was granted by this Court (per Judge Togliatti). Subsequently, the
20 Plaintiff filed a First and Second Amended Complaint which added causes of action
21 styled "breach of contract" but which the parties agree seek damages arising from the
22 deficiency between the remaining balance of the Loan owed as of the date of the sale by
23 the Receiver, and the proceeds actually obtained from the sale. On April 25, 2012, the
24 Plaintiff filed a "Motion for Partial Summary Judgment and Request for Deficiency
25 Hearing Pursuant to NRS 40.457." The Motion originally came before this Court for a
26 hearing on May 30, 2012, but argument was continued because the parties indicated that
27 certain exhibits had been incorrectly attached to that Motion and the Plaintiff wished to
28

1 file a corrected copy of the exhibits for the Court's review. In the interim, the
2 Defendants filed their Motion for Summary Judgment on July 5, 2012.

3 (4) By its Motion, the Defendants assert that they are entitled to judgment as a
4 matter of law on "all issues of liability in this case" because the Plaintiff is not entitled to
5 the relief that it seeks, namely, the recovery of the deficiency between the amount of the
6 Loan remaining unpaid and the amount received from the sale of the property. The
7 Defendants contend that the relief sought by the Plaintiff is barred for three separate and
8 independent reasons under the so-called Anti-Deficiency statutes, NRS 40.451 et seq.
9 First, the Defendants aver that because the property was sold through a private sale
10 rather than a public auction to the highest bidder, the Plaintiffs are statutorily precluded
11 from seeking a deficiency. Second, the Defendants assert that the claims asserted
12 against Defendant Rapaport as guarantor of the Loan are barred by NRS 107.095
13 because the Plaintiff failed to comply with statutorily required notice requirements prior
14 to the sale of the property. Third, the Defendants contend that any action seeking
15 recovery of a deficiency is time-barred by NRS 40.455 because the Plaintiff failed to file
16 its deficiency action within six months following the date of the sale.

18 (5) In response to the Defendants' Motion, the Plaintiff filed an "Objection" to
19 the Motion which essentially asserts that because the property was privately sold by the
20 Receiver and not through a "foreclosure," none of the statutes cited by the Defendants
21 apply. (*See* Plaintiff's Objection, page 2, lines 6-7: "This case can not be adjudicated as
22 a 'garden variety' deficiency case since there never was a foreclosure"; page 3, lines 5-6:
23 "Not being a foreclosure sale, there was no [deadline under NRS 40.455] for a
24 deficiency judgment"; lines 24-25: "there was never any foreclosure and thus there is no
25 foreclosure date"). The Plaintiff also suggests that the Motion is premature and should
26 be "taken off calendar" until further discovery has been conducted.

27 (6) A party seeking summary judgment under Rule 56 of the Nevada Rules of
28

1 Civil Procedure bears the burden of demonstrating that there are no genuine issues of
2 material fact and that it is entitled to judgment as a matter of law. In considering such a
3 motion, the Court must view all of the evidence in the light most favorable to the non-
4 moving party unless it is clear that there are no genuine issues of fact.

5 (7) Once the moving party demonstrates the absence of a genuine issue of fact,
6 the burden shifts to the non-moving party to show the existence of such genuine issues
7 of material fact through admissible evidence. To defeat summary judgment, the non-
8 moving party cannot rely upon speculation, conjecture, or upon the unsupported
9 arguments of counsel.

10 (8) A dispute of fact is "genuine" if a jury could return a verdict for the non-
11 moving party on that issue. Whether a fact is "material" is determined by the governing
12 substantive law applicable to the underlying cause of action.

13 (9) In both supporting and opposing summary judgment, the parties must rely
14 upon evidence that would be admissible at trial under the applicable Nevada rules of
15 evidence. A party cannot rely upon inadmissible evidence to either justify or defeat
16 summary judgment. *See* NRCP 56(e) (affidavits in support of or in opposition to
17 summary judgment "shall set forth such facts as would be admissible in evidence"). *See*
18 *also, Collins v. Union Federal Savings & Loan Ass'n*, 99 Nev. 284, 301 (1983) (evidence
19 in support of or in opposition to summary judgment must be evidence that would be
20 admissible at trial).

21 (10) As an initial observation, while the Plaintiff suggests that the Motion is
22 premature and should be "taken off calendar" until further discovery has been completed,
23 the Plaintiff has not actually satisfied the requirements for seeking a continuance under
24 NRCP 56(f). The Plaintiff fails to supply an affidavit in support of its assertions which
25 demonstrates "how further discovery will lead to the creation of a genuine issue of
26 material fact." *Aviation Ventures v. Joan Morris, Inc.*, 121 Nev. 113, 118 (2005). The
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1 Court could deny relief for this omission alone. *Choy v. Ameristar Casinos*, 127 Nev.
2 Adv. Op. 78 (November 23, 2011) (failure to include affidavit is not "substantial
3 compliance" with an express requirement of 56(f) and therefore additional discovery not
4 warranted). In any event, affidavit aside, the Plaintiff has failed to identify any genuine
5 issues of fact that it cannot now discover that might be uncovered through additional
6 discovery as required for a continuance under NRCP 56(f).

7 (11) The Court also notes that, while the Plaintiff opposes the instant Motion, it
8 does not identify any triable issue of material fact that would preclude the granting of the
9 Motion. Rather, the Plaintiff's Objection disputes only the legal consequences of the
10 undisputed facts, namely, whether, as a matter of law, the provisions of NRS 40.451 et
11 seq. bar this action. However, issues of law are for the Court, not a jury, to resolve, and
12 therefore the existence of a disputed question of law is insufficient to preclude summary
13 judgment when the moving party has otherwise met its burden under NRCP 56.

14 (12) Broadly, the fundamental question before the Court is whether the sale of
15 the property in this case was of such a nature that the requirements of NRS Chapter 40
16 (and some of the provisions of NRS Chapter 107) apply to it, including provisions
17 limiting the right to pursue a deficiency against the debtor, the procedures for seeking
18 recovery of such a deficiency, and any notice and timeliness requirements governing
19 actions seeking such a deficiency. The Defendants assert that the provisions of NRS
20 Chapter 40 (and 107) apply to the sale of any property that constituted security for a
21 Loan whether the sale was conducted by a trustee or by the Receiver in this case, and
22 because those provisions have not been complied with, the Plaintiff cannot seek recovery
23 of any deficiency in this case. In contrast, the Plaintiff asserts that because the sale of
24 the property in this case was accomplished through a private sale by the Receiver acting
25 under the Court's supervision and authority, this action is not fundamentally an action
26 seeking a "deficiency" under NRS Chapter 40, but rather "a simple case for damages"
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1 arising from the breach of a contract. (Plaintiff's Objection, page 3, lines 13-14).

2 (13) At various times in this litigation, the Plaintiff appears to have admitted
3 that NRS Chapter 40 applies to its causes of action. As noted, the Plaintiff filed its
4 Motion for Partial Summary Judgment on April 25, 2012, specifically requesting this
5 Court to conduct a deficiency hearing pursuant to NRS 40.457. Throughout the
6 Defendants' Motion, the Plaintiff repeatedly referred to its own claims as seeking a
7 deficiency judgment under NRS Chapter 40, even including an entire section titled
8 "Deficiency Judgments." (Plaintiffs' Motion for Partial Summary Judgment, page 6).

9 The opening sentence of that section reads:

10
11 "The law applicable to this dispute, which is the law prior to the enactment
12 of AB 273, provides that a deficiency award for this loan secured by real
13 property under NRS 40.459 is determined as follows...." (Plaintiff's
14 Motion for Summary Judgment, page 6, lines 14-16).

15 (14) The same Motion contains a separate section titled "Under Chapter 40,
16 Plaintiff is Entitled to Summary Judgment on Liability for the Deficiency Against
17 Borrower and Guarantor." (Plaintiff's Motion, page 12). The opening sentences of that
18 section read:

19 "NRS 40.455 provides that the court, after hearing, 'shall award a
20 deficiency judgment'...The hearing is governed by NRS 40.457..."
(Plaintiff's Motion, page 12, lines 23-26).

21 (15) Citing to these arguments, the Defendants' Motion avers that the Plaintiff
22 should now be bound to the judicial admissions that it expressly made to the Court that
23 NRS Chapter 40 provides the law governing its causes of action. However, in response
24 to the Defendants' Motion, the Plaintiff now avers that it was mistaken in relying upon
25 any provision of NRS Chapter 40. Therefore, at the August 8 hearing, the Plaintiff
26 withdrew its Motion. Furthermore, in its Objection to the Defendants' Motion, the
27 Plaintiff writes:

28

1 "The Plaintiff is not without fault in this confusion. Unfortunately, it
2 incorrectly captioned the pending motion as one for deficiency judgment as
3 opposed to a Motion for Contract Damages. This is not a deficiency
4 proceeding, it is a prove up of damages having nothing to do with a
5 foreclosure." (Objection, page 2, footnote 3).

6 "...the Plaintiff, without conceding the efficacy of the reason given, would
7 be willing to have its Motion for Summary Judgment 'marked off' in order
8 that outstanding discovery can be completed. In terms of delay and in
9 order not to be thought to be 'sandbagging' the Court, it is the intention of
10 the Plaintiff to amend the present Motion for Summary Judgment to
11 eliminate the Deficiency references and make it a 'straight' case of contract
12 damages...." (Objection, page 4, lines 12-17).

13 (16) However, while the Plaintiff's position might otherwise appear reasonable
14 and its Motion for Summary Judgment might otherwise perhaps be considered to have
15 been a mistake that was subsequently rectified by its withdrawal of its Motion, the Court
16 notes that the Motion for Summary Judgment is not the only pleading filed in this case in
17 which the Plaintiff referred to its own causes of action as seeking a "deficiency
18 judgment." For example, on June 30, 2011, the Plaintiff filed an "Opposition to
19 Defendants' Motion to Dismiss, or in the Alternative, Motion to Require a Substantial
20 Bond." In it, the Plaintiff sought to differentiate the Second Amended Complaint from
21 two previously filed Complaints by asserting as follows:

22 "...the Complaint was amended to add the deficiency causes of action subsequent
23 to the sale of the Property that established the amount of the deficiency.
24 Therefore, Defendants' request for an additional bond...should be denied."
25 (Plaintiff's Opposition, page 8, lines 7-10).

26 (17) Similarly, in the Joint Case Conference Report filed by the parties on
27 November 9, 2011, the Plaintiff asserted as follows:

28 "Plaintiff is suing the Defendants to recover a deficiency judgment on a
real estate loan that was made to Palmilla Development as the borrower
and which was personally guaranteed by Hagai Rapaport...The property
was later sold by the receiver on March 18, 2010...which Plaintiff claims
results in a deficiency against the Defendants, jointly and severally...."
(Joint Case Conference Report, page 2, lines 5-11).

1 (18) Thus, a strong argument can be made that the Plaintiff, having expressly
2 characterized its own position in multiple motions filed throughout the litigation as an
3 action seeking a deficiency judgment under NRS Chapter 40, should be estopped from
4 now asserting the exact opposite in order to defeat a pending Motion for Summary
5 Judgment filed by the opposing party. The Court could simply grant the Defendant's
6 Motion by applying the doctrines of "judicial estoppel" or "judicial admission" without
7 even considering the underlying arguments asserted by the parties. However, while
8 noting the existence of this possible resolution, in the interests of justice and fairness the
9 Court will consider the merits of the arguments presented in the Defendants' Motion and
10 the Plaintiff's "Objection."

11 (19) Notwithstanding the arguments that it made previously in this case, the
12 Plaintiff now maintains that this action constitutes a "simple breach of contract" case.
13 Fundamentally, the Plaintiff avers that the various provisions of NRS Chapter 40 cited
14 by the Defendants do not govern this action because a sale of the property by the
15 receiver necessarily does not constitute a "foreclosure sale" or "trustee's sale." (See
16 Plaintiff's Objection, page 2, lines 6-7: "This case can not be adjudicated as a 'garden
17 variety' deficiency case since there never was a foreclosure"; page 3, lines 5-6: "Not
18 being a foreclosure sale, there was no [deadline under NRS 40.455] for a deficiency
19 judgment"; lines 24-25: "there was never any foreclosure and thus there is no foreclosure
20 date").

21
22 (20) Essentially, the Plaintiff suggests that a sale by a Receiver is, ipso facto,
23 not a foreclosure sale and therefore by definition NRS Chapter 40 does not apply to any
24 sale of property by a Receiver. However, the Plaintiff is incorrect in at least the broadest
25 sense. In certain circumstances, a sale of property by a receiver can theoretically
26 constitute a "foreclosure." NRS 32.010(2) expressly permits the appointment of a
27 receiver in an action by a mortgagee "for the foreclosure of the mortgage and sale of the
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1 mortgaged property." *See generally*, Fletcher Cyclopedia of the Law of Corporations,
2 Chapter 64, section 7667 ("The appointment of a receiver in an action to foreclose a
3 mortgage executed by a corporation is not an unusual procedure"). Thus, it does not
4 follow that the mere fact that the property in this case was sold by the Receiver, by itself,
5 necessarily means as a matter of law that there could have been no foreclosure within the
6 meaning of NRS Chapter 40.

7 (21) Interestingly, NRS 32.010 requires that, when a receiver is appointed in
8 connection with a foreclosure and sale of a property, it must appear that "the property is
9 probably insufficient to discharge the mortgage debt." NRS 32.010(2). Thus, NRS
10 32.010(2) actually requires that a deficiency "probably" exist before a receiver can even
11 be appointed, thus suggesting that the Legislature expressly contemplated that a
12 mortgagee could still seek a deficiency judgment following a sale of the secured
13 property by a receiver. The question before the Court is whether NRS Chapter 40 would
14 apply to any subsequent action to recover such a deficiency.

15 (22) In determining whether the provisions of NRS Chapter 40 apply to the sale
16 of the property by the Receiver in this case, the Court starts with the plain language of
17 the relevant statutes. The words of a statute are assigned their ordinary meaning unless it
18 is clear from the face of the statute that the Legislature intended otherwise. When "the
19 language of a statute is plain and unmistakable, there is no room for construction, and
20 the courts are not permitted to search for its meaning beyond the statute itself." *Estate of*
21 *Smith v. Mahoney's Silver Nugget*, 127 Nev. Adv. Op. 76 (November 23, 2011). Thus, if
22 the Legislature has independently defined any word or phrase contained within a statute,
23 the Court must apply the definition created by the Legislature. If, and only if, the Court
24 determines that the words of the statute are ambiguous when given their ordinary and
25 plain meaning, then reference may be made to other sources such as the legislative
26 history of the statute in order to clarify the ambiguity.
27
28

1 (23) The Anti-Deficiency provisions of NRS Chapter 40 apply to
2 "indebtedness" arising in connection with a "foreclosure sale." NRS 40.451. The term
3 "indebtedness" is defined as "the principal balance of the obligation secured by a
4 mortgage or other lien on real property, together with all interest accrued and unpaid
5 prior to the time of the foreclosure sale..."

6 (24) The phrase "foreclosure sale" is used frequently throughout the NRS. See,
7 e.g., NRS 14.010 (requiring the filing of lis pendens "in an action for the foreclosure of a
8 mortgage upon real property"); NRS 113.135 (certain notices required when property is
9 sold do not apply to a sale "by foreclosure pursuant to chapter 107 of NRS"); NRS
10 107.080(3)(b) (describing trustee's power of sale "if the property is a residential
11 foreclosure"); NRS 107.087 (notice requirements for residential foreclosure); NRS
12 107A.260 (permitting appointment of receiver "to foreclose the security instrument");
13 NRS 645F.390 (licensing of "foreclosure consultants").

14 (25) The phrase "foreclosure sale" is defined in two places within the NRS.
15 NRS 40.462(4) states as follows:

16
17 As used in this section, "foreclosure sale" means the sale of real property
18 to enforce an obligation secured by a mortgage or lien on the property,
19 including the exercise of a trustee's power of sale pursuant to NRS
20 107.080.

21 (26) NRS 107.025 provides as follows:

22 **NRS 107.025 Estate for years: Encumbrance by deed of trust;**
23 **foreclosure by exercise of power of sale.** A deed of trust may encumber
24 an estate for years however created, including a lease of a dwelling unit of
25 a cooperative housing corporation, unless prohibited by the instrument
26 creating the estate, and foreclosure may be had by the exercise of a power
27 of sale in accordance with the provisions of this chapter.

28 (27) The Court also notes that Black's Law Dictionary (2006) defines
"foreclosure" as follows:

1 "A legal proceeding to terminate a mortgagor's interest in property,
2 instituted by the lender (the mortgagee) either to gain title or to force a sale
in order to satisfy the unpaid debt secured by the property."

3 (28) Thus, a "foreclosure" is defined within the NRS as either the sale of real
4 property to enforce an obligation secured by a mortgage including (but not limited to) a
5 trustee's sale (NRS 40.462), or alternatively, "the exercise of a power of sale" of property
6 encumbered by a deed of trust in accordance with the provisions of NRS Chapter 107
7 (NRS 107.025). NRS Chapter 107 generally relates to the sale of encumbered properties
8 via a trustee's sale, and the parties do not dispute that the sale in this case was not a
9 trustee's sale. However, the Court also notes that NRS 107.100 also permits the
10 appointment of a receiver after a debtor has defaulted on the indebtedness; indeed, the
11 Plaintiff cited this provision as the legal basis for its second cause of action. (See,
12 Complaint filed July 16, 2009, page 10, "Second Cause of Action -- Appointment of
13 Receiver NRS 107.100 or NRS 32.010"). Therefore, it appears to the Court that, under
14 NRS 107.025, as a matter of law, if a receiver appointed pursuant to NRS 107.100
15 exercises the power to sell real property encumbered by a deed of trust in order to satisfy
16 the indebtedness, such a sale expressly constitutes a "foreclosure sale."

17
18 (29) Thus, all three of these definitions (NRS 40.462, NRS 107.025, and the
19 dictionary definition), when interpreted literally and in accordance with their commonly
20 accepted and plain meaning, would encompass the sale of a property by a receiver in
21 order to satisfy an outstanding mortgage. Notably, none of the three definitions contain
22 any restriction relating to whether the sale was "private" or "public," or whether the sale
23 was conducted at the request of, or by, a court-appointed receiver or any other party. All
24 that is required is that the sale was initiated by someone other than the borrower and that
25 it was conducted for the purpose of enforcing or satisfying an obligation secured by a
26 mortgage. The parties do not dispute that this was the purpose of the Receiver sale in
27 this case; indeed, the Plaintiff's "Motion To Approve Sale of Receivership Property"

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1 filed on February 11, 2010, makes clear that the purpose of the sale was to satisfy the
2 indebtedness and not, for example, another business purpose unrelated to the mortgage.
3 Therefore, the sale by the Receiver in this case falls within the statutory definition of a
4 "foreclosure sale." Consequently the Court concludes, as a matter of law, that the sale of
5 the property in this case by the Receiver constituted a "foreclosure sale," and that the
6 provisions and protections of NRS Chapter 40 apply to any action seeking a deficiency
7 judgment after the sale.

8 (30) NRS 107.095 states as follows:
9

10 **NRS 107.095 Notice of default: Mailing to guarantor or surety of**
11 **debt; effect of failure to give.**

12 1. The notice of default required by NRS 107.080 must also be sent by
13 registered or certified mail, return receipt requested and with postage
14 prepaid, to each guarantor or surety of the debt. If the address of the
15 guarantor or surety is unknown, the notice must be sent to the address of
16 the trust property. Failure to give the notice, except as otherwise provided
17 in subsection 3, releases the guarantor or surety from his or her obligation
18 to the beneficiary, but does not affect the validity of a sale conducted
19 pursuant to NRS 107.080 or the obligation of any guarantor or surety to
20 whom the notice was properly given.

21 2. Failure to give the notice of default required by NRS 107.090,
22 except as otherwise provided in subsection 3, releases the obligation to the
23 beneficiary of any person who has complied with NRS 107.090 and who is
24 or may otherwise be held liable for the debt or other obligation secured by
25 the deed of trust, but such a failure does not affect the validity of a sale
26 conducted pursuant to NRS 107.080 or the obligation of any person to
27 whom the notice was properly given pursuant to this section or to NRS
28 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this
section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in
paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-
occupied housing as defined in NRS 107.086, the expiration of the period
described in paragraph (b) of subsection 2 of NRS 107.080; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

1 (31) By way of brief summary, NRS 107.095 requires that in connection with
2 any foreclosure sale when the indebtedness has been guaranteed by a third party, certain
3 notices "must" be sent to the guarantor, and if those notices are not sent, the guarantor is
4 released from its obligations to the creditor. Defendant Rapaport asserts that those
5 notices were not sent to him as expressly required. In response, the Plaintiff does not
6 even assert that it complied with NRS 107.095; instead, it first argues that NRS 107.095
7 does not apply because there was no "foreclosure," and, second, avers that despite any
8 noncompliance with NRS 107.095, Rapaport had "actual notice" of the proceedings
9 involving the action seeking the appointment of a receiver. However, neither assertion
10 excuses the failure to comply with the express requirements of NRS 107.095. As noted
11 above, the Court finds as a matter of law that the sale in this case was a "foreclosure
12 sale" within the meaning of the NRS, and thus that NRS 107.095 applies to this action.
13 The Court also notes that NRS 107.095 is a mandatory statute which expressly states in
14 unconditional terms that the notices "must" be sent to the guarantor. In other words, the
15 requirements of NRS 107.095 "must" be complied with even where the guarantor might
16 otherwise have acquired actual notice of the pendency of the action through other
17 avenues outside of the NRS. The Plaintiff has failed to identify any genuine issue of fact
18 which would preclude summary judgment, but rather only offers disputed interpretations
19 of law. When the material facts are undisputed, summary judgment is appropriate when
20 the law favors the moving party because questions of law are for the Court, not a jury, to
21 resolve.
22

23 (32) NRS 40.455 requires that any action seeking a deficiency judgment must
24 be brought within six months of the foreclosure sale. Here, the Plaintiff does not dispute
25 that it failed to assert the deficiency for more than six months following the Receiver
26 sale. Instead, it offers two legal arguments excusing the delay. First, it contends that
27 NRS 40.455 does not apply to its action for breach of contract as a matter of law, an
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1 assertion that is rendered moot by the conclusions contained hereinabove. Second, the
2 Plaintiff contends that the six-month deadline was waived by the Defendants "to the
3 extent provided by law." (Plaintiff's Objection, page 3, lines 7-12, citing Paragraph 7 of
4 the Guaranty signed by Defendant Rapaport, attached as Exhibit C to the Objection).
5 Paragraph 7 states as follows:

6 7. Waivers.

7 (a) Guarantor hereby waives, to the extent permitted by law...(iii) any
8 statute of limitations affecting Guarantor's liability hereunder or the
9 enforcement thereof....

10 (33) However, NRS 40.453 states as follows:

11 **NRS 40.453 Waiver of rights in documents relating to sale of real**
12 **property against public policy and unenforceable; exception.** Except
as otherwise provided in NRS 40.495:

13 1. It is hereby declared by the Legislature to be against public policy
14 for any document relating to the sale of real property to contain any
15 provision whereby a mortgagor or the grantor of a deed of trust or a
guarantor or surety of the indebtedness secured thereby, waives any right
secured to the person by the laws of this state.

16 2. A court shall not enforce any such provision.

17 (34) NRS 40.495 provides as follows:

18 **NRS 40.495 Waiver of rights; separate action to enforce obligation;**
19 **limitation on amount of judgment; available defenses.**

20 1. The provisions of NRS 40.475 and 40.485 may be waived by the
guarantor, surety or other obligor only after default.

21 2. Except as otherwise provided in subsection 5, a guarantor, surety or
22 other obligor, other than the mortgagor or grantor of a deed of trust, may
23 waive the provisions of NRS 40.430. If a guarantor, surety or other obligor
24 waives the provisions of NRS 40.430, an action for the enforcement of that
person's obligation to pay, satisfy or purchase all or part of an
indebtedness or obligation secured by a mortgage or lien upon real
property may be maintained separately and independently from:

25 (a) An action on the debt;

26 (b) The exercise of any power of sale;

27 (c) Any action to foreclose or otherwise enforce a mortgage or lien and
the indebtedness or obligations secured thereby; and

28 (d) Any other proceeding against a mortgagor or grantor of a deed of

trust.

3. If the obligee maintains an action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby, the guarantor, surety or other obligor may assert any legal or equitable defenses provided pursuant to the provisions of NRS 40.451 to 40.4639, inclusive.

4. If, before a foreclosure sale of real property, the obligee commences an action against a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, to enforce an obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon the real property:

(a) The court must hold a hearing and take evidence presented by either party concerning the fair market value of the property as of the date of the commencement of the action. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing.

(b) After the hearing, if the court awards a money judgment against the guarantor, surety or other obligor who is personally liable for the debt, the court must not render judgment for more than:

(1) The amount by which the amount of the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action; or

(2) If a foreclosure sale is concluded before a judgment is entered, the amount that is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, whichever is the lesser amount.

5. The provisions of NRS 40.430 may not be waived by a guarantor, surety or other obligor if the mortgage or lien:

(a) Secures an indebtedness for which the principal balance of the obligation was never greater than \$500,000;

(b) Secures an indebtedness to a seller of real property for which the obligation was originally extended to the seller for any portion of the purchase price;

(c) Is secured by real property which is used primarily for the production of farm products as of the date the mortgage or lien upon the real property is created; or

(d) Is secured by real property upon which:

(1) The owner maintains the owner's principal residence;

(2) There is not more than one residential structure; and

(3) Not more than four families reside.

6. As used in this section, "foreclosure sale" has the meaning ascribed to it in NRS 40.462.

1 (35) Thus, as a matter of law, the statute of limitations period set forth in NRS
2 40.455 cannot be waived. Therefore, the Plaintiff's causes of action are time-barred
3 under NRS 40.455.

4 (36) NRS 40.430 -- the so-called "one action rule" -- provides that:

5 "[T]here may be but one action for the recovery of any debt, or for the
6 enforcement of any right secured by a mortgage or other lien upon real estate.
7 That action must be in accordance with the provisions of NRS 40.430 to 40.459,
8 inclusive. In that action, the judgment must be rendered for the amount found due
9 the plaintiff, and the court, by its decree or judgment, may direct a sale of the
encumbered property, or such part thereof as is necessary, and apply the proceeds
of the sale as provided in NRS 40.462."

10 (37) The "one action rule" prevents a creditor from seeking to recover a
11 deficiency judgment when "the loss of the security for the obligation was due to its own
12 action." *Keever v. Nicholas Beers Co.*, 96 Nev. 509, 513 (1980). The Nevada Supreme
13 Court has expressly held that the "one action" rule may, under certain circumstances,
14 apply to private sales as well as trustee's sales. The Defendants aver that the rule of
15 *Keever* should be extended to apply to the sale by the Receiver in this case, thus barring
16 the Plaintiff from seeking a deficiency judgment when the existence of the deficiency
17 was its own fault. After *Keever* was decided, the Legislature amended the "one action
18 rule" through AB573, and a question exists whether that statute should be retroactively
19 applied to the mortgage in this case. However, the Court need not engage in that
20 analysis because, as noted above, the sale by the Receiver in this case was a "foreclosure
21 sale" which failed to comply with other provisions of NRS Chapter 40.

22 (38) When the language of a statute is clear, the Court need not engage in an
23 analysis of the public policy behind the statute. However, the Court notes that the result
24 reached in this case appears fully consistent with the intention of the Legislature.
25 Fundamentally, the so-called Anti-Deficiency provisions of NRS Chapter 40 (as well as
26 NRS 107.095) were enacted in order to protect borrowers (and guarantors) whose
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1 property has already been taken and forcibly sold from also being subjected to
2 subsequent lawsuits seeking deficiency judgments that may be repetitive, untimely, and
3 premised upon a waiver of rights that cannot be waived under Nevada law. In order to
4 accomplish this objective, the Legislature expressly required that actions seeking such
5 deficiency judgments must comply with certain specific requirements relating to such
6 things as repetition (the "one action rule"), notice, timeliness, waiver, and the like.
7 However, the Plaintiff's position, if adopted, would enable mortgagees to easily (and
8 unilaterally) circumvent these protections by simply choosing to seek the appointment of
9 a receiver in every case of default rather than attempting to foreclose by way of trustee's
10 sale or sheriff's sale. (The Court notes that the receivership statutes (NRS 32.010 and
11 107.100) are broadly drafted and could theoretically be construed to permit a receiver to
12 be appointed in virtually every case in which a borrower is in default). Under the
13 Plaintiff's theory, after the receiver is appointed and sells the property, the mortgagee
14 could then pursue deficiency actions wholly outside of the protections of NRS Chapter
15 40, including suits that otherwise would be deemed untimely, harassing, repetitive, or
16 illegal. Such a result would be absurd on multiple levels, including that it would
17 substantially increase the caseload of the Court by encouraging judicial intervention and
18 supervision in every case of default. Judicial burden aside, the Court finds it unlikely
19 that the Legislature would have created a statutory scheme that could be so easily
20 undermined at the will of the mortgagee. Furthermore, in principle, the appointment of a
21 receiver, while necessary in many cases to protect the property, ought to be in the
22 majority of cases the least desirable and least necessary method for recouping an unpaid
23 mortgage when compared to a trustee's sale or another non-judicial foreclosure
24 mechanism. But if the Plaintiff's argument were accepted, receivership would actually
25 become the most rewarding and most profitable avenue for the mortgagee since it would
26 provide the sole method of seeking a deficiency outside of the protections of NRS
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1 Chapter 40. That could not have been what the Legislature intended.

2 (39) For the reasons set forth above, the Court finds that no genuine issues of
3 material fact exist and the Defendants are entitled to judgment as a matter of law that the
4 Plaintiff cannot maintain this action seeking a deficiency judgment against the
5 Defendants. Accordingly, the Defendants' Motion for Summary Judgment is
6 GRANTED and judgment is hereby entered for the Defendants on the causes of action
7 asserting breach of contract contained in the Plaintiff's Second Amended Complaint. All
8 future hearing dates in this matter are hereby vacated.

9 DATED: August 16, 2012

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12 JEROME T. TAO
13 DISTRICT COURT JUDGE
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Paula Walsh
Paula Walsh, Executive Assistant

BROADCAST REPORT

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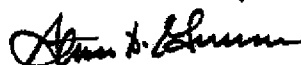
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NG : POOR LINE CONDITION
CV : COVERPAGE
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Exhibit B

Exhibit B

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CLERK OF THE COURT

ORDER

DISTRICT COURT

CLARK COUNTY, NEVADA

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE,

Plaintiff,

CASE NO. A595321
DEPARTMENT NO. XX

v.

PALMILLA DEVELOPMENT CO.,
INC., et al.,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
PURSUANT TO NRCP 52(b) AND 59(e), ALTERNATIVE MOTION FOR
RECONSIDERATION OF ORDER GRANTING DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

This matter having come before the Court without a hearing, and the Court being fully advised in the premises, finds:

(1) This matter comes before the Court on a Motion filed by the Plaintiff entitled "Plaintiff's Motion to Alter or Amend Order Granting Defendant's Motion for Summary Judgment Pursuant to NRCP 52(b) and 59(e); Alternatively, Motion for Reconsideration of Order Granting Defendant's Motion for Summary Judgment." By this motion, the Plaintiff seeks reconsideration of this Court's Order dated August 16, 2012 granting a Motion for Summary Judgment filed by the Defendant. The Defendant has filed an Opposition to the Plaintiff's Motion for Reconsideration.

1 (2) As an initial observation, a motion brought under either NRCP 52 or 59
2 must be filed no later than 10 days after entry of the Order at issue. NRCP 52(b) and
3 59(b). The Court's Order was filed on August 16, 2012, but the Plaintiff's Motion was
4 not filed until August 31, 2012, or fifteen calendar days after the entry of the Order.

5 (3) As a second observation, in its Motion, the Plaintiff now makes new
6 arguments and presents new evidence (in the form of affidavits and exhibits) that it did
7 not present to the Court when the Court originally considered and heard the Defendants'
8 Motion for Summary Judgment. It now presents a number of affidavits from witnesses
9 that were not presented in connection with its original Opposition to the Defendant's
10 Motion for Summary Judgment. A serious question exists whether such a tactic is
11 proper or fair. If a party fails to present its evidence at the time a Motion for Summary
12 Judgment is heard, it is hardly in a position to subsequently criticize the Court for failing
13 to consider evidence that the party never presented when given the opportunity to do so.
14 Among other defects, such an approach not only severely wastes judicial resources, it
15 deprives the moving party of the opportunity to fully respond. Indeed, the Court notes
16 that, during the oral argument conducted on August 8, 2012, Plaintiff's counsel presented
17 new arguments that were not included within its written briefing, including the new
18 assertion that the foreclosure date was contested. Defendant's counsel immediately
19 complained that the Plaintiff was presenting arguments that were not included within the
20 briefing and which therefore could not have been addressed in the Reply brief. (See,
21 August 8, 2012 Transcript, page 16, lines 4-16). The Plaintiff is now exacerbating that
22 prejudice by presenting wholly new evidence never included in its prior briefing or
23 referenced during oral argument.

24 (4) Putting aside these serious procedural deficiencies, the Plaintiff
25 fundamentally requests reconsideration for three reasons. First, the Plaintiff correctly
26 avers that this Court found, as a matter of law, that the Plaintiff's causes of action were
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1 time-barred because they were not asserted within six months following the date of the
2 Receiver's sale of the property. However, the Plaintiff asserts that the Court's decision
3 was without sufficient legal or factual basis under NRCP 56 because the Defendant had
4 not proven the actual date of the sale, and in any event, the Plaintiff argued during oral
5 argument that the date was disputed. Therefore, because the Defendant had not proven
6 the date of the sale, and the date was disputed, the Court should not have granted
7 summary judgment. The Plaintiff avers that the actual date of the sale should be
8 considered to have been as late as July 7, 2010, which was less than six months before
9 the relevant causes of action were asserted.

10 (5) In the Joint Case Conference Report filed November 9, 2011 (which,
11 notably, was drafted by Plaintiff's counsel), the Plaintiff expressly represented to the
12 Court on page 2 that "[t]he property was later sold by the receiver on March 18, 2010,
13 for \$9.5 million." This admission was expressly cited in paragraph 17 of the Court's
14 August 16 Order Granting Summary Judgment. The Plaintiff is therefore incorrect that
15 the Court's August 16 Order failed to identify a basis for concluding that the foreclosure
16 sale indisputably occurred on March 18, 2010.

17 (6) In view of the Plaintiff's prior representations, the Court deems that the
18 Plaintiff is estopped as a matter of law from asserting, at this late stage of the case, that
19 the date of the sale was anything other than March 18, 2010. (*See also*, paragraphs 40
20 and 41 of Plaintiff's Second Amended Complaint filed April 11, 2011; page 5 of
21 Opposition to Defendant's Motion to Dismiss, filed June 30, 2011). Even absent such
22 estoppel, NRCP 56 expressly contemplates that summary judgment may be granted
23 based upon the parties' pleadings and discovery responses. NRCP 56(c). Here, the
24 conclusion reached by the Court is confirmed by the Plaintiff's own representations. The
25 Plaintiff cannot defeat summary judgment through a manufactured "factual dispute" that
26 effectively disowns the position it previously took throughout the case. In short, by this
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1 Motion, the Plaintiff asserts that this Court committed error in finding the date of sale to
2 be outside of the six-month statutory period even though the Plaintiff failed to dispute
3 the date anywhere in its written brief opposing summary judgment (only disputing it for
4 the first time verbally during oral argument), and furthermore, even though the Plaintiff's
5 pleadings and discovery responses have conceded that the sale date was March 18, 2010,
6 outside of the six-month period. Under these circumstances, neither reconsideration nor
7 new findings are warranted.

8 (7) The Plaintiff's second argument is that the Court erred in applying the
9 "notice of default" requirement of NRS 107.095 to the sale in this case. The Plaintiff
10 argues that the provisions of NRS 107.080 - 095 do not apply to judicial foreclosure
11 sales, but rather that foreclosure sales conducted by Receivers are governed only by NRS
12 Chapter 40, which does not have the same notice requirement as contained in NRS
13 107.095. Alternatively, the Plaintiff contends that even if the requirements of NRS
14 107.095 apply to foreclosure sales conducted by Receivers, the notice requirement was
15 factually met in this case.

16 (8) The Plaintiff argues that "[t]he Court's ruling misapprehends the nature of
17 foreclosure" and that the Court apparently confused Chapters 40 and 107 of the NRS.
18 (Motion, page 9, line 6). However, if that is true, that misapprehension appears to have
19 been shared by the Plaintiff. In its original Complaint filed on July 16, 2011, the
20 Plaintiff expressly sought appointment of a Receiver based upon NRS 107.100.
21 (Complaint, Second Cause of Action; paragraph 58). NRS 107.100 is the very next
22 provision following NRS 107.095. Yet now the Plaintiff suggests that the requirements
23 of NRS Chapter 107 have no applicability to this action and the Court should instead
24 have relied only upon the notice requirements of NRS Chapter 40.

25 (9) In any event, because this case is a "deficiency" action (as the Plaintiff has
26 expressly represented to the Court throughout the case, *see*, Court's August 16 Order,
27
28

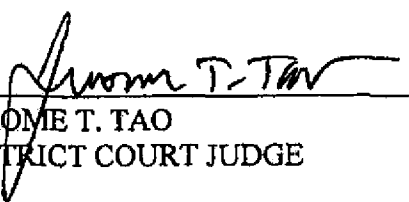
1 paragraphs 13-18) arising from a foreclosure sale that occurred on March 18, 2010 (as
2 the Plaintiff has admitted in its pleadings) which was not brought within six months of
3 the foreclosure sale, the action is time-barred. Therefore, the Court need not consider
4 the remaining grounds asserted in the Plaintiff's Motion.

5 (10) This Order is expressly incorporated into, and made a part of, the Court's
6 August 16 Order, and the contents of the Court's August 16 Order are expressly
7 incorporated herein.

8 (11) The hearing currently scheduled in this matter for October 10, 2012, is
9 hereby vacated.

10 (12) For the foregoing reasons, the "Plaintiff's Motion to Alter or Amend Order
11 Granting Defendant's Motion for Summary Judgment Pursuant to NRCP 52(b) and
12 59(e); Alternatively, Motion for Reconsideration of Order Granting Defendant's Motion
13 for Summary Judgment" is DENIED.

14 DATED: October 8, 2012

15
16 
17 JEROME T. TAO
18 DISTRICT COURT JUDGE
19
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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing, by mailing, by placing
copies in the attorney folder's in the Clerk's Office or faxing as follows:

Michael F. Lynch, Esq. - Via Facsimile: 543-3279

Robert M. Charles, Jr., Esq. - Via Facsimile: 949-8321

Brent A. Larsen, Esq. - Via Facsimile: 366-0854

Paula Walsh

Paula Walsh, Executive Assistant

BROADCAST REPORT

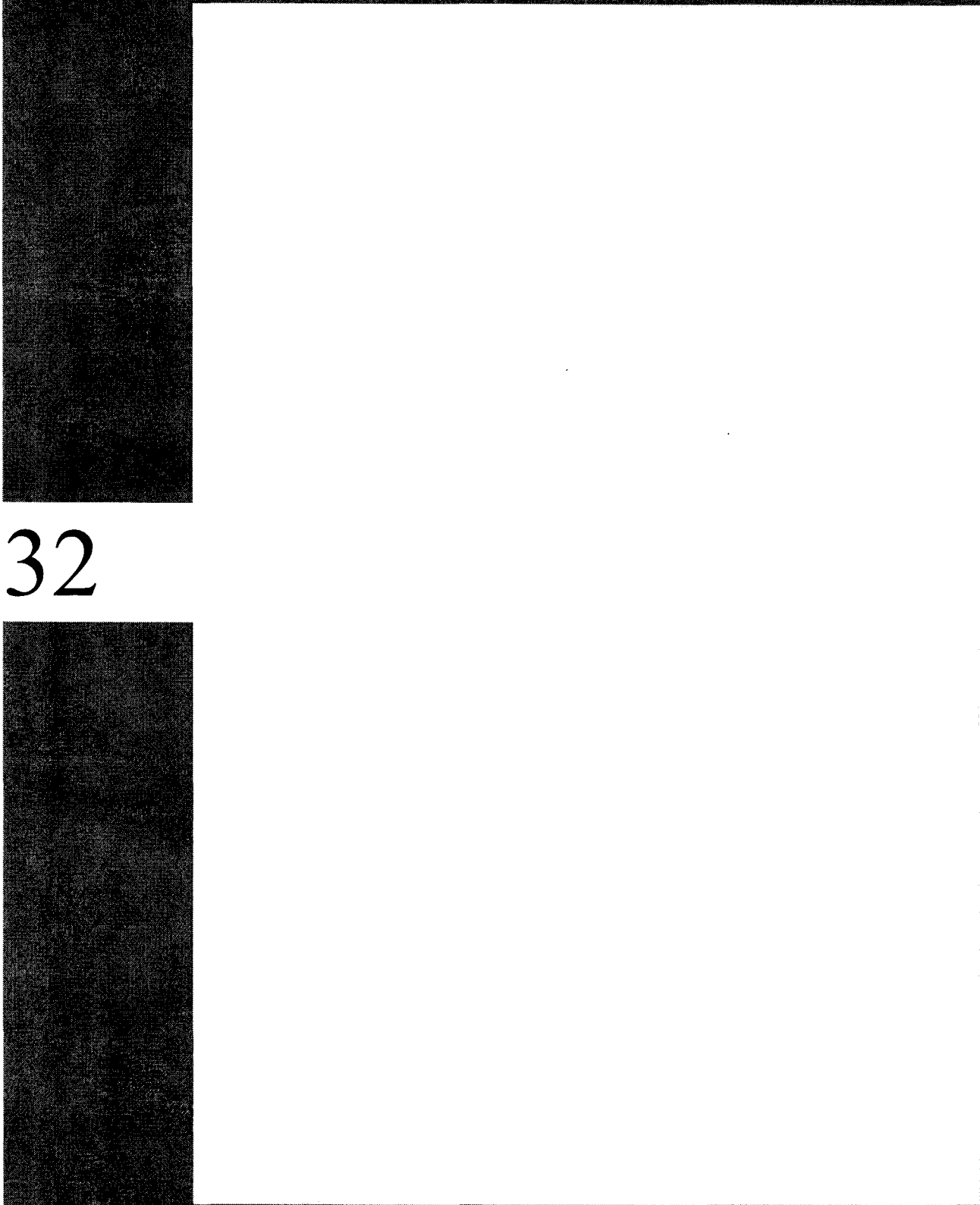
TIME : 10/08/2012 12:26
 NAME : DEPT 20
 FAX : 7026714439
 TEL : 7026714440
 SER.# : 000C9N858027

PAGE(S)

05

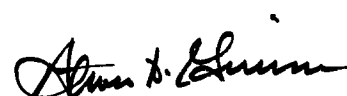
DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
10/08	12:22	5433279	01:45	06	OK	ECM
10/08	12:24	9498321	01:09	06	OK	ECM
10/08	12:25	3550854	53	06	OK	ECM

BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE
 PC : PC-FAX



32

32



CLERK OF THE COURT

ASTA
DANIEL F. POLSENBERG (SBN 2376)
ROBERT M. CHARLES, JR. (SBN 6593)
JOEL D. HENRIOD (SBN 8492)
LEWIS AND ROCA LLP
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RCharles@LRLaw.com
JHenriod@LRLaw.com

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HOWARD KIM & ASSOCIATES
400 N. Stephanie Street, Suite 160
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(702) 413-8282 (direct)
mlynch@hkimlaw.com

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

U.S. BANK NATIONAL ASSOCIATION as
Trustee For The Registered Holders of
ML-CFC Commercial Mortgage Trust
2007-7 Commercial Mortgage Pass-
Through Certificates Series 2007-7, by and
through MIDLAND LOAN SERVICES, as its
Special Servicer,

Plaintiff,

vs.

PALMILLA DEVELOPMENT CO., INC., a
Nevada corporation; HAGAI RAPAPORT, an
individual; and Does I to X; and Roe
Corporations X to XX,

Defendants.

Case No. A595321

Dept. No. XX

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Plaintiff U.S. BANK NATIONAL ASSOCIATION as Trustee for the Registered Holders of ML-CFC Commercial Mortgage Trust 2007-7 Commercial Mortgage Pass-Through Certificates Series 2007-7, by and through MIDLAND LOAN SERVICES, as its Special Servicer ("Lender" or "Plaintiff")

- 1 2. Identify the judge issuing the decision, judgment, or order appealed from:
2 THE HONORABLE JEROME T. TAO
- 3 3. Identify each appellant and the name and address of counsel for each appellant:
4 DANIEL F. POLSENBERG
5 ROBERT M. CHARLES, JR.
6 JOEL D. HENRIOD
7 LEWIS AND ROCA LLP
8 3993 Howard Hughes Parkway, Suite 600
9 Las Vegas, Nevada 89169
10 (702) 474-2616
- 11 MICHAEL F. LYNCH
12 HOWARD KIM & ASSOCIATES
13 400 N. Stephanie Street, Suite 160
14 Henderson, NV 89014
15 (702) 413-8282 (direct)
- 16 4. Identify each respondent and the name and address of appellate counsel, if
17 known, for each respondent (if the name of a respondent's appellate counsel is
18 unknown, indicate as much and provide the name and address of that
19 respondent's trial counsel):
- 20 BRENT LARSEN
21 DEANER, MALAN, LARSEN & CIULLA
22 720 South Fourth Street, Suite 300
23 Las Vegas, NV 89101
24 (702) 382-6911
- 25 *Attorney for Respondents*
26 *Palmilla Development Co., Inc., a Nevada corporation*
27 *and Hagai Rapoport*
- 28 5. Indicate whether any attorney identified above in response to question 3 or 4 is
not licensed practice law in Nevada and, if so, whether the district court granted
that attorney permission to appear under SCR 42 (attach a copy of any district
court order granting such permission):
- N/A
6. Indicate whether appellant was represented by appointed or retained counsel in
the district court:
- Retained counsel
7. Indicate whether appellant is represented by appointed or retained counsel on
appeal:
- Retained counsel

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:

Complaint filed July 17, 2009.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

This is an action for appointment of a receiver. This appeal is taken from the summary judgment entered in favor of the defendant.

11. Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding.

N/A

12. Indicate whether this appeal involves child custody or visitation:

N/A

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

No.

DATED this 9th day of November, 2012.

LEWIS AND ROCA LLP

By: s/ Joel D. Henriod

DANIEL F. POLSENBERG (SBN 2376)
ROBERT M. CHARLES, JR. (SBN 6593)
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Attorneys for Plaintiff

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s/ Mary Kay Carlton
An Employee of Lewis and Roca LLP

IN THE SUPREME COURT OF NEVADA

U.S. BANK NATIONAL ASSOCIATION as
trustee for the Registered Holders of ML-
CFC Commercial Mortgage Trust 2007-7
Commercial Mortgage Pass-Through
Certificates Series 2007-7, by and through
MIDLAND LOAN SERVICES, as its Special
Servicer,

Appellant,

vs.

PALMILLA DEVELOPMENT CO., INC., a
Nevada corporation, and HAGAI RAPAPORT,
an individual,

Respondents.

Electronically Filed
Aug 27 2013 09:02 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable JEROME T. TAO, District Judge
District Court Case No. A595321

**APPELLANT'S APPENDIX
VOLUME 8
PAGES 1751-1901**

DANIEL F. POLSENBERG
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Nevada Bar 6593
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Attorneys for Appellant

CHRONOLOGICAL TABLE OF CONTENTS TO APPENDIX

Tab	Document	Date	Vol.	Pages
01	Complaint	07/16/09	1	01-122
02	Defendant's Opposition to Application for Order to Show Cause	08/12/09	1	123-145
03	Notice of Entry of Order Appointing Receiver	09/09/09	1	146-164
04	Notice of Filing Exhibit in Support of Plaintiff's Motion to Approve Sale of Receivership Property	02/24/10	1	165-211
05	Notice of Non-Opposition to Motion to Approve Sale of Receivership Property	03/10/10	1	212-215
06	Order Granting Motion to Approve Sale of Receivership Property	03/26/10	1	216-222
07	Motion to Approve Receiver's Final Accounting and Report and to Discharge Receiver	09/02/10	1 2	223-250 251-293
08	Notice of Entry of Order Granting Motion Seeking Approval of Receiver's Final Accounting and Report and to Discharge Receiver	11/02/10	2	294-299
09	First Amended Complaint	11/24/10	2	300-423
10	Second Amended Complaint	04/11/11	2 3	424-500 501-557
11	Motion to Dismiss, or in the Alternative, Motion to Require a Substantial Bond from Plaintiff and to Stay the Proceedings Until the Bond is Posted	06/13/11	3	558-599
12	Opposition to Defendant's Motion to Dismiss, or in the Alternative, Motion to Require a Substantial Bond from Plaintiff and to Stay the Proceedings Until the Bond is Posted	06/30/11	3	600-667
13	Defendants' Answer to Second Amended Complaint	08/19/11	3	668-678
14	Notice of Entry of Order Denying Defendants' Motion to Dismiss	09/13/11	3	679-683
15	Plaintiff's Motion for Partial Summary Judgment and Request for Deficiency Hearing Pursuant to NRS 40.457	04/25/12	3 4	684-750 751-908

16	Defendants' Opposition to Plaintiff's Motion for Partial Summary Judgment	05/16/12	4	909-958
17	Reply in Support of Motion for Partial Summary Judgment and Request for Deficiency Hearing Pursuant to NRS 40.457	05/25/12	4	959-968
18	Defendants' Supplemental Opposition to Plaintiff's Motion for Partial Summary Judgment	05/29/12	4	969-974
19	Recorder's Transcript of Plaintiff's Motion for Partial Summary Judgment and Request for Deficiency Hearing	05/30/12	4	975-990
20	Declaration of Andrea Helm in Support of Plaintiff's Motion for Partial Summary Judgment and Request for Deficiency Hearing Pursuant to NRS 40.457	06/28/12	4 5	991-1000 1001-1178
21	Defendants' Motion for Summary Judgment	07/05/12	5 6	1179-1250 1251-1312
22	Plaintiff's Objection to Motion for Summary Judgment	07/23/12	6	1313-1352
23	Reply Brief in Support of Defendants' Motion for Summary Judgment	08/03/12	6	1353-1401
24	Recorder's Transcript of Defendant's Motion for Summary Judgment and Plaintiff's Motion for Partial Summary Judgment and Request for Deficiency Hearing	08/08/12	6	1402-1423
25	Order Granting Defendants' Motion for Summary Judgment	08/16/12	6	1424-1444
26	Plaintiff's Motion to Alter or Amend Order Granting Defendants' Motion for Summary Judgment Pursuant to NRCP 52(B) and 59(E); Alternatively, Motion for Reconsideration of order Granting Defendants' Motion for Summary Judgment	08/31/12	6 7	1445-1500 1501-1596
27	Declaration of Andrea Helm in Support of Plaintiff's Motion to Alter or Amend Order Granting Defendants' Motion for Summary Judgment Pursuant to NRCP 52(B) and 59(E); Alternatively, Motion for Reconsideration or order granting Defendants' Motion for Summary Judgment	09/13/12	7	1597-1610
28	Opposition to Plaintiff's Motion to Amend Order or, Alternatively, Motion for Reconsideration	09/20/12	7	1611-1654

29	Reply in Support of Plaintiff's Motion to Alter or Amend Order Granting Defendants' Motion for Summary Judgment Pursuant to NRCP 52(B) and 59(E); Alternatively, Motion for Reconsideration of order Granting Defendants' Motion for Summary Judgment	10/04/12	7 8	1655-1750 1751-1826
30	Notice of Entry of Judgment	10/12/12	8	1827-1859
31	Notice of Appeal	11/09/12	8	1860-1896
32	Case Appeal Statement	11/09/12	8	1897-1901

ALPHABETICAL TABLE OF CONTENTS TO APPENDIX

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09	First Amended Complaint	11/24/10	2	300-423
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05	Notice of Non-Opposition to Motion to Approve Sale of Receivership Property	03/10/10	1	212-215
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28	Opposition to Plaintiff's Motion to Amend Order or, Alternatively, Motion for Reconsideration	09/20/12	7	1611-1654
25	Order Granting Defendants' Motion for Summary Judgment	08/16/12	6	1424-1444
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10	Second Amended Complaint	04/11/11	2 3	424-500 501-557

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

- a) APN 124-30-311-031, 124-30-312-014+015
 b) 124-30-312-017+018; 124-30-312-025-169, inclusive
 c) 124-30-312-171 and 172; 124-30-312-177
 d) 124-30-312-180-182 and 124-30-312-022

2. Type of Property

- a) ☐ Vacant Land b) ☐ Single Fam. Res.
 c) ☒ Condo/Twnhse d) ☐ 2-4 Plex
 e) ☐ Apt. Bldg. f) ☐ Comm'l/Ind'l
 g) ☐ Agricultural h) ☐ Mobile Home
 i) ☐ Other

FOR RECORDERS OPTIONAL USE

Book _____ Page: _____
 Date of Recording: _____
 Notes: _____

3. a) Total Value/Sales Price of Property: \$9,500,000.00
 b) Deed in Lieu of Foreclosure Only (value of (\$))
 c) Transfer Tax Value: \$9,500,000.00
 d) Real Property Transfer Tax Due: \$48,450.00

4. **If Exemption Claimed:**

- a. Transfer Tax Exemption, per 375.090, Section: _____
 b. Explain reason for exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: Deepak Israni

Signature: Deepak Israni

Capacity: Gen. Mgr.

Capacity: CHARTER

SELLER (GRANTOR) INFORMATION

(REQUIRED)

Print Name: Palmilla Development Co., Inc.

Address: 3200 E. Camelback Road, Suite

City: Phoenix

State: AZ Zip: 85018

BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: Pacifica North Vegas, LLC

Address: 1785 Hancock Street, #100

City: San Diego

State: CA Zip: 92110

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

First American Title Insurance

Company National Commercial

Print Name: Services

Address: 2490 Paseo Verde Parkway, #100

City: Henderson

File Number: NCS-425712-HHLV sgs/kh

State: NV Zip: 89074

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

EXHIBIT 2

001752

001752

EXHIBIT 2

1 **NEOJ**
 2 MICHAEL F. LYNCH, ESQ.
 3 Nevada Bar No. 8555
 4 MLynch@rlaw.com
 5 LEWIS AND ROCA LLP
 6 3993 Howard Hughes Parkway, Suite 600
 7 Las Vegas, Nevada 89169-5996
 8 Telephone: (702) 949-8200
 9 Facsimile: (702) 949-8398

10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 U.S. Bank National Association as Trustee For
 14 The Registered Holders of ML-CFC
 15 Commercial Mortgage Trust 2007-7
 16 Commercial Mortgage Pass-Through
 17 Certificates Series 2007-7, by and through
 18 Midland Loan Services, Inc., as its Special
 19 Servicer,

20 Plaintiff,

21 vs.

22 Palmilla Development Co., Inc., a Nevada
 23 corporation; and Roe Corporations X to XX,

24 Defendants.

Case No.: 09-A595321

Dept. No.: IX

**NOTICE OF ENTRY OF ORDER
 GRANTING MOTION TO APPROVE
 SALE OF RECEIVERSHIP
 PROPERTY**

25 Please take notice that an Order Granting Motion to Approve Sale of Receivership
 26 Property was entered in the above entitled matter, a copy of which is attached hereto as Exhibit
 27 1.

DATED March 26, 2010.

LEWIS AND ROCA LLP

/s/ Michael F. Lynch

MICHAEL F. LYNCH, ESQ.
 Nevada Bar No. 8555
 3993 Howard Hughes Pkwy., Suite 600
 Las Vegas, Nevada 89169

Attorneys for Plaintiff

RECEIPT OF COPY

We hereby accept receipt of the foregoing NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO APPROVE SALE OF RECEIVERSHIP PROPERTY.

Dated this 26th day of March, 2010.

DEANER, DEANER, SCANN,
MALAN & LARSEN



Brent Larsen, Esq.
720 S. Fourth Street, #300
Las Vegas, NV 89101
Attorneys for Defendant

Exhibit “1”

001755

001755

Exhibit “1”

ORIGINAL

ORDER
MICHAEL F. LYNCH, ESQ.
 Nevada Bar No. 8555
MLynch@LRLaw.com
LEWIS AND ROCAL LLP
 3993 Howard Hughes Parkway, Suite 600
 Las Vegas, Nevada 89169
 Telephone: (702) 949-8200
 Facsimile: (702) 949-8398
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

U.S. Bank National Association as Trustee For The
 Registered Holders of ML-CFC Commercial
 Mortgage Trust 2007-7 Commercial Mortgage
 Pass-Through Certificates Series 2007-7, by and
 through Midland Loan Services, Inc., as its Special
 Servicer,

Case No. A-09-595321-C

Dept. No. IX

Plaintiff,

vs.

Palmilla Development Co., Inc., a Nevada
 corporation; and Roe Corporations X to XX,

Defendants.

**ORDER GRANTING MOTION TO
 APPROVE SALE OF RECEIVERSHIP
 PROPERTY**

Date of Hearing: 3/18/2010
 Time of Hearing: 9:00 a.m.

This matter came before this Court on March 18, 2010, on the unopposed Motion to
 Approve Sale of Receivership Property (the "Motion") filed and served on February 11, 2010, by
 U.S. Bank National Association as Trustee For The Registered Holders of ML-CFC Commercial
 Mortgage Trust 2007-7 Commercial Mortgage Pass-Through Certificates Series 2007-7, by and
 through Midland Loan Services, Inc., as its Special Servicer ("Lender"). Lender filed and served a
 Notice of Filing [the proposed Purchase and Sale Agreement] Exhibit in Support of the Motion on
 February 24, 2010. Lender filed and served a Notice of Non-Opposition to the Motion on March
 10, 2010.

...

...

1 The Court finds that Greystar Real Estate Partners, with John Rials as its agent
 2 ("Receiver"), was appointed as receiver in this action on September 3, 2009, to take possession,
 3 custody, and control of the real property identified by the Clark County Tax Assessor Parcel Nos:

- 4 a. 124-30-311-031;
- 5 b. 124-30-312-014 and 015;
- 6 c. 124-30-312-017 and 018;
- 7 d. 124-30-312-025 – 169, inclusive;
- 8 e. 124-30-312-171 and 172;
- 9 f. 124-30-312-177; and
- 10 g. 124-30-312-180 – 182, inclusive,

11 (the "Property") colloquially referred to as the Palmilla Townhomes, generally located northeast
 12 of the intersection of West Ann Road and North Decatur Boulevard in North Las Vegas.

13 Having read and considered the Motion and the Notice of Filing Proposed Purchase and
 14 Sale Agreement of the Property by and between Receiver and Pacifica Companies, LLC ("Buyer")
 15 with an execution date of February 5, 2010, (the "PSA") and the oral argument of counsel together
 16 with the pleadings and papers on file herein, and finding good cause therefor:

17 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

- 18 1. The Lender has provided sufficient notice of the proposed sale and PSA to all
 19 necessary parties to this action;
- 20 2. The PSA is hereby approved as a full and final disposition of the Property;
- 21 3. The purchase price contained within the PSA is in the range of fair market value for
 22 the Property, is commercially reasonable, and is an arms' length transaction; and

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001758

EXHIBIT 3

001759

001759

EXHIBIT 3

Palmilla
Balance Sheet Reconciliation
Jul-10

CASH & CASH EQUIVALENTS **BALANCE SHEET**

Account	Account Description		Balance Per Bank	Reconciliation:	Account Liability	Quarterly Transfer
11020-000	Cash - Operating	0.00		0.00		
11032-000	Cash - Escrow	0.00		0.00		
11040-000	Cash - Security Deposit	0.00		0.00		0.00
11085-000	Petty Cash	0.00		0.00	01/10 Danielle Chev-Brown	
Total Cash		0.00				

ACCOUNTS RECEIVABLE

Account	Account Description		Balance per Sub	Sub ledger Tied to:
12010-000	Accounts Receivable	35,887.61	15,514.89	A/R Aging
Total Accounts Receivable		35,887.61		

PREPAIDS & OTHER CURRENT ASSETS

Account	Account Description		Policy Period Start	Policy Period End	Premium Total	Premium per Month	Balance Remaining:
13050-000	Prepaid Insurance	13,702.00	2/15/2010	2/15/2011	19,344.00	1,612.00	13,702.00
13070-000	Prepaid Property Tax	12,072.23	4/1/2010	6/30/2010	36,216.71	12,072.24	12,072.24
Total Prepays & Other Assets		25,774.23					
TOTAL ASSETS		61,661.84					

ACCOUNTS PAYABLE

Account	Account Description		Balance per Sub	Sub ledger Tied to:
21010-000	Trade Accounts Payable	0.00		A/P - Aging Detail Report
21058-000	Due to Affiliate	19,344.00	19,344.00	Rec Ins Prem 2/15/10-2/15/11
Total Accounts Payable		19,344.00		

ACCURED LIABILITIES

Account	Account Description		Date:	Amount:	Description:	
22010-000	Accrued Expense	0.00				
<hr/>						
22020-000	Accrued Real Property Tax	110,224.00	09/09-12/09	17,008.00	monthly accrual	68,032.00
			01/10-03/10	14,064.00	monthly accrual	42,192.00
			04/10-06/10	36,216.71	monthly accrual	36,216.71
			3/1/2010 - Payment		Clark County Assessor	(36,216.71)
						110,224.00
22025-000	Accrued Property Insurance	11,679.30	09/01/09-03/15/10	1,557.24	monthly accrual	10,122.06
			03/16/10-04/15/10	1,557.24	March prorated Insurance	1,557.24
			No Accrual - PPD through 02/15/2011			
Total Accrued Liabilities		121,903.30				11,679.30

OTHER CURRENT LIABILITIES

Account	Account Description		Balance per Sub	Sub ledger Tied to:
23010-000	Prepaid Rent	3,751.15	3,751.15	A/R Aging Report
23030-000	Security Deposits	37,911.35	37,911.35	01/10 Security Deposit
23090-000	Unclaimed Property Payable	805.78	407.27	06/10 Curtis Green check #202
			263	06/10 Gerald Evans ck #265
			135.51	06/10 Ccarter/Rrugs ck #266
Total Other Current Liabilities		42,468.28		

OWNER'S EQUITY

Account	Account Description		Current Period	Change:	Explanation for Change:
31024-000	Capital	131,069.82			
33000-000	Distributions	(772,301.77)			
34000-000	Retained Earnings	149,347.63			

			YTD Net Income
34010-000	Current Year Earnings	368,730.58	per Budget Comp
Total Owner's Equity		(122,053.74)	284,596.64

TOTAL LIABILITIES AND OWNER'S EQUITY 61,661.84

OUT OF BALANCE (0.00)

EXHIBIT 4

001761

001761

EXHIBIT 4



Management Fee Calculation

Palmilla

For the Month Ending, July 31, 2010

Total Income Per Income Statement (Net of any rebills)	\$	-
ADD: Water/Sewer Rebill	\$	-
Trash Rebill	\$	-
Electric Rebill	\$	-
Gas Rebill	\$	-
Other	\$	-
LESS: Vendor Refunds	\$	-
Change in Prepaid/Delinquency	\$	-
June Mangement Fee Calculation	\$	3,925.00
Close out Management Fee Percent		50.00%
Management Fee Based Upon Percentage of Collections	\$	1,962.50
Minimum Fee - \$25.00 per door/157 Units	\$	3,925.00
CLOSE OUT MANAGEMENT FEE	\$	1,962.50

Prepared By:

Deb Grieger

EXHIBIT 5

001763

001763

EXHIBIT 5

GREYSTAR

Statement of Cash Flows Palmilla Month Ending July 31, 2010

Cash, Beginning of Period		\$55,458.49
Changes in cash flow from Operating Activities:		
Net Income from Operations		(\$14,230.03)
Assets		
Utility Deposits	\$0.00	
Escrows Deposits	\$0.00	
Investment Securities	\$0.00	
Accounts Receivable	\$0.00	
Prepays & Other Current Assets	\$149.00	
Land	\$0.00	
Construction in Progress	\$0.00	
Building & Improvements	\$0.00	
Tenant Improvements	\$0.00	
Leasehold Improvements	\$0.00	
Leasing Commissions	\$0.00	
Capitalized Lease Costs	\$0.00	
Computer Software	\$0.00	
Computer Hardware	\$0.00	
Furniture, Fixtures & Equipment	\$0.00	
Unrealized Appreciation	\$0.00	
Capital Renovations	\$0.00	
Notes Receivable	\$0.00	
Intangible Assets	\$0.00	
Other Assets	\$0.00	
Total Change in Assets		\$149.00
Liabilities		
Accounts Payable	(\$4,036.76)	
Accrued Liabilities	\$0.00	
Other Current Liabilities	\$0.00	
Long Term Liabilities	\$0.00	
Total Change in Liabilities		(\$4,036.76)
Owner's Equity		
Capital	\$0.00	
Contributions	\$0.00	
Distributions	(\$37,340.70)	
Retained Earnings	\$0.00	
Current Year Earnings	\$0.00	
Prior Year Tax Adjustments	\$0.00	
Prior Year Adjustments	\$0.00	
Unrealized Gain	\$0.00	
Non-Deductible Items	\$0.00	
Total Change in Owner's Equity		(\$37,340.70)
Cash, End of Period		<u>\$0.00</u>

001764

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EXHIBIT 6

001765

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EXHIBIT 6

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Balance Sheet (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

ASSETS**Current Assets****Accounts Receivable**

Accounts Receivable	35,887.61
Total Accounts Receivable	35,887.61

Prepays & Other Current Assets

Prepaid Insurance	13,702.00
Prepaid Real Property Taxes	12,072.23
Total Prepays & Other Current Assets	25,774.23
Total Current Assets	61,661.84

Fixed Assets

TOTAL ASSETS	61,661.84
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LIABILITIES AND OWNER'S EQUITY**LIABILITIES****Current Liabilities****Accounts Payable**

Due To Affiliate	19,344.00
Total Accounts Payable	19,344.00

Accrued Liabilities

Accrued Real Property Taxes	110,224.00
Accrued Insurance	11,679.30
Total Accrued Liabilities	121,903.30

Other Current Liabilities

Prepaid Rent	3,751.15
Security Deposits	37,911.35
Unclaimed Property Payable	805.78
Total Other Current Liabilities	42,468.28
Total Current Liabilities	183,715.58

TOTAL LIABILITIES	183,715.58
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Owner's Equity

Capital	131,069.82
Distributions	(771,201.77)
Retained Earnings	149,347.63
Current Year Earnings	368,730.58

TOTAL OWNER'S EQUITY	(122,053.74)
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TOTAL LIABILITIES AND OWNER'S EQUITY	61,661.84
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EXHIBIT 7

001767

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EXHIBIT 7

Budget Comparison (Accrual)									
Palm Hills - (awpalmil)									
Months: Jul 2010									
	HYD Actual	HYD Budget	Variance	W-W Var	YTD Actual	YTD Budget	Variance	W-W Var	Annual
INCOME									
Rental Income - Residential									
Market Rent	0.00	201,625.00	(201,625.00)	(103.00)	1,209,750.00	1,411,375.00	(201,625.00)	(14.29)	2,419,500.00
Loss to Lease	0.00	0.00	0.00	0.00	(676.25)	0.00	(676.25)	0.00	0.00
Potential Rent	0.00	201,625.00	(201,625.00)	(103.00)	1,209,073.75	1,411,375.00	(202,301.25)	(14.33)	2,419,500.00
Other Rental Income - Residential									
One-Time Concessions	0.00	(6,421.18)	6,421.18	(100.00)	(31,707.27)	(59,716.97)	28,009.70	(46.90)	(93,107.10)
Recurring Concessions	0.00	(23,758.36)	23,758.36	(100.00)	(159,852.67)	(100,170.39)	(59,682.28)	59.58	(262,626.20)
Preferred Employer Discount	0.00	0.00	0.00	0.00	(7,301.15)	0.00	(7,301.15)	0.00	0.00
Vacancy Loss	0.00	(14,126.59)	14,126.59	(100.00)	(251,033.47)	(160,528.45)	(90,505.02)	56.38	(231,162.40)
Employee Units	0.00	0.00	0.00	0.00	(6,003.57)	0.00	(6,003.57)	0.00	0.00
Model & Storage Units	0.00	0.00	0.00	0.00	(1,400.00)	0.00	(1,400.00)	0.00	0.00
Office Units	0.00	(1,400.00)	1,400.00	(100.00)	(7,000.00)	(9,800.00)	2,800.00	(28.57)	(16,800.00)
Bad Debt - Rent	(6,047.00)	(3,534.00)	(2,513.00)	71.11	(21,012.71)	(24,738.00)	3,725.29	(15.06)	(42,408.00)
Bad Debt Recovery - Rent	0.00	0.00	0.00	0.00	4,526.70	0.00	4,526.70	0.00	0.00
Total Rental Inc. - Residential	(6,047.00)	152,394.87	(158,431.87)	(103.97)	728,291.61	1,056,420.19	(328,128.58)	(31.06)	1,773,396.30
Other Income - Residential									
Access Gate Remote Income	0.00	0.00	0.00	0.00	2,848.55	0.00	2,848.55	0.00	0.00
Administrative Fees	0.00	603.00	(603.00)	(100.00)	8,100.00	5,580.00	2,520.00	45.16	8,700.00
Application Fees	0.00	540.00	(540.00)	(100.00)	5,200.00	5,535.00	(335.00)	(5.99)	8,730.00
Damages	0.00	0.00	0.00	0.00	3,079.44	0.00	3,079.44	0.00	0.00
Deposit Forfeitures	0.00	1,000.00	(1,000.00)	(100.00)	7,785.00	7,000.00	(785.00)	(45.79)	12,000.00
Insufficient Notice Fees	0.00	0.00	0.00	0.00	1,303.80	0.00	1,303.80	0.00	0.00
Late Charge Fees	0.00	1,400.00	(1,400.00)	(100.00)	9,597.66	9,800.00	(202.34)	(2.06)	16,800.00
Lease Cancellation Fee	0.00	0.00	0.00	0.00	1,642.50	0.00	1,642.50	0.00	0.00
Month-to-Month Premiums	0.00	0.00	0.00	0.00	1,156.28	0.00	1,156.28	0.00	0.00
NSF Fees	0.00	50.00	(50.00)	(100.00)	550.00	350.00	200.00	57.14	500.00
Pet Fees - Non-Refundable	0.00	0.00	0.00	0.00	2,000.00	0.00	2,000.00	0.00	0.00
Pet Rent	0.00	0.00	0.00	0.00	1,647.25	0.00	1,647.25	0.00	0.00
Transfer Fee	0.00	0.00	0.00	0.00	250.00	0.00	250.00	0.00	0.00
Vendor Rebates	327.24	0.00	327.24	0.00	327.24	0.00	327.24	0.00	0.00
Miscellaneous Income	0.00	0.00	0.00	0.00	49.00	0.00	49.00	0.00	0.00
Total Other Inc. - Residential	327.24	3,590.00	(3,262.76)	(90.88)	41,566.82	28,265.00	13,301.82	47.05	46,830.00
INCOME									
Total Income	(5,719.76)	155,974.87	(161,694.63)	(103.67)	769,858.43	1,084,685.19	(314,826.76)	(29.02)	1,820,226.30
EXPENSES									
Payroll & Benefits									
Management - Salaries	0.00	6,273.00	6,273.00	100.00	19,243.33	31,355.00	12,121.67	38.65	54,366.00
Leasing - Salaries	0.00	3,549.50	3,549.50	100.00	13,388.78	17,748.00	4,359.22	24.56	30,763.20
Bonuses	0.00	1,130.00	1,130.00	100.00	6,960.00	10,470.00	3,510.00	33.52	16,905.00
Quarterly Bonuses	0.00	1,332.00	1,332.00	100.00	0.00	2,654.00	2,654.00	100.00	3,996.00
Maintenance - Salaries	0.00	4,896.00	4,896.00	100.00	10,151.54	24,460.00	14,308.46	58.53	42,432.00
Assistant Maintenance - Salaries	0.00	1,591.20	1,591.20	100.00	6,141.70	12,158.10	6,016.40	48.92	18,033.60
401k Contributions	0.00	119.83	119.83	100.00	154.92	630.83	475.91	75.44	1,070.56
Employee Burden	0.00	3,632.37	3,632.37	100.00	13,971.71	19,971.84	6,000.13	32.45	33,572.99
Group Insurance	0.00	1,440.00	1,440.00	100.00	4,480.00	12,000.00	7,520.00	67.67	19,200.00
Contract Staffing - Admin	0.00	0.00	0.00	0.00	3,330.00	0.00	3,330.00	0.00	0.00
Contract Staffing - Maintenance	0.00	0.00	0.00	0.00	4,587.80	0.00	4,587.80	0.00	0.00
Total Payroll & Benefits	0.00	23,964.10	23,964.10	100.00	82,168.18	131,528.87	49,360.69	37.53	220,339.35
EXPENSES									
General Maintenance Expense									
Repairs & Maintenance									
Access Gate Expense	0.00	0.00	0.00	0.00	160.00	0.00	(160.00)	0.00	0.00
Appliance Repairs	0.00	75.00	75.00	100.00	172.45	575.00	382.55	67.15	900.00
Building - Interior	0.00	155.00	155.00	100.00	341.70	1,085.00	743.30	68.51	1,860.00
Cabinet & Closet Repairs / Supplies	0.00	0.00	0.00	0.00	18.73	0.00	(18.73)	0.00	0.00
Carpet Cleaning Repairs - Occupied	0.00	170.00	170.00	100.00	915.00	1,530.00	615.00	46.73	3,145.00
Common Area Repairs	0.00	0.00	0.00	0.00	6.90	0.00	(6.90)	0.00	0.00
Door Repair / Replacement	0.00	0.00	0.00	0.00	956.26	0.00	(956.26)	0.00	0.00
Electrical Supplies / Repairs	0.00	25.00	25.00	100.00	1,895.55	175.00	(1,720.55)	(983.17)	300.00
Equipment Supplies & Repairs	0.00	0.00	0.00	0.00	(209.67)	0.00	209.67	0.00	0.00
Garage Repairs & Maintenance	66.50	200.00	133.50	66.75	1,617.04	600.00	(1,017.04)	(169.51)	800.00
Garage Disposals	0.00	35.00	35.00	100.00	236.04	245.00	(9.96)	(3.32)	420.00
Golf Cart Repairs	0.00	0.00	0.00	0.00	0.00	800.00	800.00	100.00	800.00
HVAC Supplies / Repairs	0.00	500.00	500.00	100.00	1,126.94	1,450.00	323.06	54.00	3,350.00
Lighting Supplies / Repairs	0.00	75.00	75.00	100.00	318.18	525.00	206.82	39.39	900.00
Locks & Keys	0.00	75.00	75.00	100.00	545.18	575.00	29.82	5.19	1,000.00
Maintenance Supplies	184.63	200.00	15.37	7.69	399.12	1,450.00	1,050.88	74.33	2,400.00
Plumbing Supplies / Repairs	279.28	300.00	20.72	6.91	3,686.95	2,100.00	(1,586.95)	(75.57)	3,600.00
Safety & Fire Supplies / Maint	0.00	45.00	45.00	100.00	650.73	315.00	(335.73)	(106.58)	1,375.00
Small Tools & Equipment	0.00	0.00	0.00	0.00	115.04	0.00	(115.04)	0.00	0.00
Water Penetration Repairs	0.00	0.00	0.00	0.00	2,818.42	0.00	(2,818.42)	0.00	0.00
Window / Glass Repair	0.00	195.00	195.00	100.00	1,172.77	585.00	(587.77)	(100.47)	760.00
Miscellaneous Supplies / Repairs	0.00	0.00	0.00	0.00	186.92	0.00	(186.92)	0.00	0.00
Total Repairs & Maintenance	535.41	2,050.00	1,514.59	73.88	16,621.25	12,910.00	(3,711.25)	(28.75)	21,780.00
Make - Ready / Redecorating									
Appliance Repair	0.00	50.00	50.00	100.00	37.02	350.00	312.98	89.42	600.00
Blinds / Drapes Repair	0.00	125.00	125.00	100.00	1,344.26	1,025.00	(319.26)	(31.15)	1,650.00
Carpet Cleaning / Repair - Vacant	0.00	1,545.00	1,545.00	100.00	5,205.00	10,665.00	5,460.00	51.20	18,690.00
Cleaning Supplies	0.00	75.00	75.00	100.00	194.34	525.00	330.66	63.98	900.00
Electrical Supplies - Vacant	0.00	50.00	50.00	100.00	214.83	350.00	135.17	38.62	600.00
Drywall Repairs	0.00	0.00	0.00	0.00	422.10	0.00	(422.10)	0.00	0.00
Keys / Locks - Vacant	0.00	0.00	0.00	0.00	113.07	0.00	(113.07)	0.00	0.00
Maid / Cleaning Service	0.00	1,350.00	1,350.00	100.00	8,360.30	9,315.00	954.70	10.25	16,335.00
Paint Contractor	0.00	0.00	0.00	0.00	13,300.00	0.00	(13,300.00)	0.00	0.00
Painting Supplies	109.45	300.00	190.55	63.52	6,081.67	2,075.00	(4,006.67)	(193.09)	3,625.00
Plumbing - Vacant	0.00	50.00	50.00	100.00	416.14	350.00	(66.14)	(16.50)	600.00
Resurfacing - Pictures / Counters	0.00	200.00	200.00	100.00	180.00	1,000.00	820.00	82.00	1,400.00
Total Make - Ready / Redecorating	109.45	3,745.00	3,635.55	97.08	35,868.43	25,655.00	(10,213.43)	(39.81)	44,400.00
Contract Services									
HOA Management	0.00	19,782.00	19,782.00	100.00	80,562.75	138,474.00	57,911.25	41.82	237,384.00
Intrusion Alarm Contract	0.00	95.00	95.00	100.00	228.00	665.00	437.00	65.71	1,140.00
Janitorial Contract	0.00	200.00	200.00	100.00	0.00	1,400.00	1,400.00	100.00	2,400.00
Pest Control Contract	0.00	200.00	200.00	100.00	1,563.00	1,135.00	(428.00)	(3.44)	2,800.00
Total Contract Services	0.00	20,377.00	20,377.00	100.00	82,345.75	142,219.00	59,873.25	42.10	243,804.00
Food Service Expense									
Total General Maintenance Expenses	644.86	26,112.00	25,467.14	97.53	134,835.43	180,794.00	45,958.57	25.42	309,984.00
Advertising / Marketing / Promotions									
Advertising - Internal	447.00	238.00	(149.00)	(50.00)	1,952.00	2,085.00	133.00	6.42	3,576.00
Advertising - Trade Publications	930.00	900.00	0.00	0.00	5,414.00	6,300.00	886.00	14.06	10,800.00
Locator Fees	289.00	0.00	0.00	0.00	1,250.00	0.00	(1,250.00)	(25.00)	1,724.00
Marketing / Promotions	0.00	150.00	150.00	100.00	5.99	1,050.00	1,044.01	99.43	1,800.00
Prospect Referrals	0.00	125.00	125.00	100.00	304.03	875.00	570.97	65.25	1,500.00
Resident Activities	0.00	150.00	150.00	100.00	0.00	450.00	450.00	100.00	1,000.00
Resident Referral Fees	250.00	250.00	0.00	0.00	1,250.00	1,750.00	500.00	28.57	3,000.00

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Budget Comparison (Accrual)									
Palmills - (swpalml)									
Months: Jul 2010									
	YTD Actual	YTD Budget	\$ Var	% Var	YTD Actual	YTD Budget	\$ Var	% Var	YTD Actual
Shopping Reports	140.00	112.00	(28.00)	(25.00)	175.00	336.00	161.00	47.92	448.00
Signage	0.00	0.00	0.00	0.00	108.10	500.00	391.90	78.38	750.00
Total Advertising / Marketing / Promotions	2,026.00	2,274.00	248.00	10.91	10,654.12	14,503.00	3,848.88	26.54	24,609.00
General & Administrative									
Office Expenses									
Copy Machine Contract	0.00	80.00	80.00	100.00	280.00	560.00	280.00	50.00	960.00
Office Supplies	0.00	150.00	150.00	100.00	556.66	1,050.00	493.34	46.98	1,800.00
Pagers / Cellular Phones	0.00	15.00	15.00	100.00	67.91	105.00	47.09	44.85	180.00
Postage & Delivery	97.49	200.00	102.51	51.26	676.00	1,400.00	724.00	51.71	2,400.00
Printing Expense	62.80	0.00	(62.80)	0.00	251.20	0.00	(251.20)	0.00	0.00
Resident Screening	114.61	372.70	258.09	33.64	688.46	1,208.50	520.04	43.05	2,073.40
Telephone Expense	13.66	285.00	271.34	95.21	1,630.72	1,995.00	364.28	18.26	3,420.00
Software Licenses / Maintenance Fees	500.00	250.00	(250.00)	(100.00)	2,000.00	1,750.00	(250.00)	(14.29)	3,000.00
Total Office Expenses	788.56	1,152.70	364.14	31.59	6,140.95	8,068.90	1,927.95	23.89	13,832.40
Other General & Administrative									
Bank Charges	303.79	50.00	(253.79)	(507.58)	1,432.83	350.00	(1,082.83)	(309.38)	600.00
Computer Expense	0.00	35.00	35.00	100.00	210.00	245.00	35.00	14.29	420.00
Consulting / Professional Fees	0.00	0.00	0.00	0.00	2,000.00	0.00	(2,000.00)	0.00	0.00
Employee Meetings	0.00	0.00	0.00	0.00	(360.71)	100.00	460.71	460.71	500.00
Employee Recruitment	0.00	0.00	0.00	0.00	254.00	0.00	(254.00)	0.00	0.00
Ejection Fees	0.00	384.00	384.00	100.00	485.44	2,372.00	1,785.56	75.59	3,693.00
Internet Access	0.00	50.00	50.00	100.00	257.95	350.00	92.05	26.30	650.00
Legal Fees	0.00	0.00	0.00	0.00	1,265.35	0.00	(1,265.35)	0.00	0.00
Licenses / Fees / Permits	0.00	0.00	0.00	0.00	100.00	470.00	370.00	78.72	940.00
Training / Seminars	0.00	250.00	250.00	100.00	1,540.61	1,750.00	209.39	11.97	3,000.00
Uniform Rental / Purchase	0.00	0.00	0.00	0.00	208.52	400.00	191.48	47.87	400.00
Total Other General & Administrative	303.79	669.00	365.21	54.59	7,405.09	5,937.00	(1,468.09)	(24.73)	10,152.00
Total General & Administrative	1,092.35	1,821.70	729.35	40.04	13,546.04	14,005.90	459.86	3.28	23,984.40
Utilities									
Electric - Clubhouse	115.25	250.00	134.75	53.90	1,29.81	1,750.00	1,620.09	92.58	3,000.00
Electric - Vacant Units	141.53	715.00	573.47	80.21	4,946.37	9,685.00	4,738.63	48.93	13,260.00
Electric - Retail	0.00	0.00	0.00	0.00	(126.98)	0.00	(126.98)	0.00	0.00
Gas - Common Areas	9.35	100.00	90.65	90.65	218.45	1,200.00	981.55	81.80	1,900.00
Total Utilities	266.13	1,065.00	798.87	75.01	5,068.65	12,635.00	7,566.35	59.88	18,160.00
Management Fees									
Management Fees	1,962.50	4,679.25	2,716.75	58.05	23,872.88	32,540.56	8,667.68	26.64	54,606.80
Total Management Fees	1,962.50	4,679.25	2,716.75	58.05	23,872.88	32,540.56	8,667.68	26.64	54,606.80
Taxes									
Ad Valorem Property Taxes	(423.33)	14,064.00	14,487.33	103.01	65,913.15	98,448.00	32,534.85	33.05	168,768.00
Franchise Taxes	0.00	0.00	0.00	0.00	942.00	0.00	(942.00)	0.00	0.00
Personal Property Taxes	0.00	0.00	0.00	0.00	5,803.16	0.00	(5,803.16)	0.00	0.00
Total Taxes	(423.33)	14,064.00	14,487.33	103.01	72,658.31	98,448.00	25,789.69	26.20	168,768.00
Insurance									
Property Insurance	0.00	1,542.00	1,542.00	100.00	11,092.34	10,794.00	(298.34)	(2.76)	18,504.00
Total Insurance	0.00	1,542.00	1,542.00	100.00	11,092.34	10,794.00	(298.34)	(2.76)	18,504.00
Total Operating Expenses	5,568.51	75,522.05	69,953.54	92.63	353,895.95	495,239.33	141,343.38	28.54	838,954.55
Net Operating Income	(11,288.27)	80,452.82	(91,741.09)	(114.03)	415,962.48	589,445.66	(173,483.38)	(29.43)	981,271.75
Routine Replacement Expense									
Appliances - Dishwashers	0.00	0.00	0.00	0.00	281.53	470.00	188.47	40.10	940.00
Appliances - Refrigerators	0.00	499.00	499.00	100.00	3,102.46	1,457.00	(1,605.46)	(107.25)	1,996.00
Appliances - Stove / Microwaves / Range Hoods	0.00	0.00	0.00	0.00	1,100.83	0.00	(1,100.83)	0.00	0.00
Appliances - Washers / Dryers	0.00	0.00	0.00	0.00	381.02	0.00	(381.02)	0.00	0.00
Appliances - Water Heaters	0.00	0.00	0.00	0.00	0.00	1,050.00	1,050.00	100.00	1,750.00
Carpet	2,941.76	1,500.00	(1,441.76)	(96.12)	40,994.56	7,500.00	(33,494.56)	(446.59)	12,000.00
HVAC	0.00	0.00	0.00	0.00	1,150.00	0.00	(1,150.00)	0.00	0.00
Vinyl / Tile	0.00	0.00	0.00	0.00	221.50	0.00	(221.50)	0.00	0.00
Total Routine Replacement Expense	2,941.76	1,999.00	(942.76)	(47.16)	47,231.90	10,517.00	(36,714.90)	(349.10)	16,686.00
NOT After Replacements	(14,230.03)	78,453.82	(92,683.85)	(118.14)	368,730.58	578,928.66	(210,198.28)	(36.31)	964,585.75
Non-Operating Expenses									
Non-Operating Expenses									
Net Income	(14,230.03)	78,453.82	(92,683.85)	(118.14)	368,730.58	578,928.66	(210,198.28)	(36.31)	964,585.75

EXHIBIT 8

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EXHIBIT 8

8/2/2010 12:47 PM

Income Statement (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

	Month to Date	%	Year to Date	%
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INCOME

<i>Rental Income - Residential</i>				
Market Rent	0.00	0.00	1,209,750.00	157.14
Loss to Lease	0.00	0.00	(676.25)	(0.09)
Potential Rent	0.00	0.00	1,209,073.75	157.05
<i>Other Rental Income - Residential</i>				
One-Time Concessions	0.00	0.00	(31,707.27)	(4.12)
Recurring Concessions	0.00	0.00	(159,852.67)	(20.76)
Preferred Employer Discount	0.00	0.00	(7,301.15)	(0.95)
Vacancy Loss	0.00	0.00	(251,033.47)	(32.61)
Employee Units	0.00	0.00	(6,003.57)	(0.78)
Model & Storage Units	0.00	0.00	(1,400.00)	(0.18)
Office Units	0.00	0.00	(7,000.00)	(0.91)
Bad Debt - Rent	(6,047.00)	105.72	(21,012.71)	(2.73)
Bad Debt Recovery - Rent	0.00	0.00	4,528.70	0.59
Total Rental Inc. - Residential	(6,047.00)	105.72	728,291.61	94.60
<i>Other Income - Residential</i>				
Access Gate Remote Income	0.00	0.00	2,848.65	0.37
Administrative Fees	0.00	0.00	8,100.00	1.05
Application Fees	0.00	0.00	5,220.00	0.68
Damages	0.00	0.00	3,079.44	0.40
Deposit Forfeitures	0.00	0.00	3,795.00	0.49
Insufficient Notice Fees	0.00	0.00	1,303.80	0.17
Late Charge Fees	0.00	0.00	9,597.66	1.25
Lease Cancellation Fee	0.00	0.00	1,642.50	0.21
Month-to-Month Premiums	0.00	0.00	1,156.28	0.15
NSF Fees	0.00	0.00	550.00	0.07
Pet Fees - Non-Refundable	0.00	0.00	2,000.00	0.26
Pet Rent	0.00	0.00	1,647.25	0.21
Transfer Fee	0.00	0.00	250.00	0.03
Vendor Rebates	327.24	(5.72)	327.24	0.04
Miscellaneous Income	0.00	0.00	49.00	0.01
Total Other Inc. - Residential	327.24	(5.72)	41,566.82	5.40

INCOME

Total Income	(5,719.76)	100.00	769,858.43	100.00
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EXPENSES

<i>Payroll & Benefits</i>				
Management - Salaries	0.00	0.00	19,243.33	2.50
Leasing - Salaries	0.00	0.00	13,388.78	1.74
Bonuses	0.00	0.00	6,960.00	0.90
Maintenance - Salaries	0.00	0.00	10,151.54	1.32
Assistant Maintenance - Salaries	0.00	0.00	6,190.10	0.80
401k Contributions	0.00	0.00	154.92	0.02
Employee Burden	0.00	0.00	13,491.71	1.75
Group Insurance	0.00	0.00	4,480.00	0.58
Contract Staffing - Admin	0.00	0.00	3,520.00	0.46
Contract Staffing - Maintenance	0.00	0.00	4,587.80	0.60
Total Payroll & Benefits	0.00	0.00	82,168.18	10.67

EXPENSES**General Maintenance Expense****Repairs & Maintenance**

8/2/2010 12:47 PM

Income Statement (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

	Month to Date	%	Year to Date	%
Access Gate Expense	0.00	0.00	160.00	0.02
Appliance Repairs	0.00	0.00	172.45	0.02
Building - Interior	0.00	0.00	341.70	0.04
Cabinet & Closet Repairs / Supplies	0.00	0.00	18.73	0.00
Carpet Cleaning Repairs - Occupied	0.00	0.00	815.00	0.11
Common Area Repairs	0.00	0.00	6.90	0.00
Door Repair / Replacement	0.00	0.00	565.26	0.07
Electrical Supplies / Repairs	0.00	0.00	1,895.55	0.25
Equipment Supplies & Repairs	0.00	0.00	(209.67)	(0.03)
Garage Repairs & Maintenance	66.50	(1.16)	1,617.04	0.21
Garbage Disposals	0.00	0.00	258.04	0.03
HVAC Supplies / Repairs	0.00	0.00	1,126.94	0.15
Lighting Supplies / Repairs	0.00	0.00	318.18	0.04
Locks & Keys	0.00	0.00	545.18	0.07
Maintenance Supplies	189.63	(3.32)	359.12	0.05
Plumbing Supplies / Repairs	279.28	(4.88)	3,686.95	0.48
Safety & Fire Supplies / Maint	0.00	0.00	650.73	0.08
Small Tools & Equipment	0.00	0.00	115.04	0.01
Water Penetration Repairs	0.00	0.00	2,818.42	0.37
Window / Glass Repair	0.00	0.00	1,172.77	0.15
Miscellaneous Supplies / Repairs	0.00	0.00	186.92	0.02
Total Repairs & Maintenance	535.41	(9.36)	16,621.25	2.16
<u>Make - Ready / Redecorating</u>				
Appliance Repair	0.00	0.00	37.02	0.00
Blinds / Drapes Repair	0.00	0.00	1,344.26	0.17
Carpet Cleaning / Repair - Vacant	0.00	0.00	5,205.00	0.68
Cleaning Supplies	0.00	0.00	194.34	0.03
Electrical Supplies - Vacant	0.00	0.00	214.83	0.03
Drywall Repairs	0.00	0.00	422.10	0.05
Keys / Locks - Vacant	0.00	0.00	113.07	0.01
Maid / Cleaning Service	0.00	0.00	8,360.00	1.09
Paint Contractor	0.00	0.00	13,300.00	1.73
Painting Supplies	109.45	(1.91)	6,081.67	0.79
Plumbing - Vacant	0.00	0.00	416.14	0.05
Resurfacing - Fixtures / Counters	0.00	0.00	180.00	0.02
Total Make - Ready / Redecorating	109.45	(1.91)	35,868.43	4.66
<u>Contract Services</u>				
HOA Management	0.00	0.00	80,562.75	10.46
Intrusion Alarm Contract	0.00	0.00	228.00	0.03
Pest Control Contract	0.00	0.00	1,555.00	0.20
Total Contract Services	0.00	0.00	82,345.75	10.70
<u>Food Service Expense</u>				
Total General Maintenance Expenses	644.86	(11.27)	134,835.43	17.51
<u>Advertising / Marketing / Promotions</u>				
Advertising - Internet	447.00	(7.82)	1,952.00	0.25
Advertising - Trade Publications	900.00	(15.73)	5,414.00	0.70
Locator Fees	289.00	(5.05)	1,445.00	0.19
Marketing / Promotions	0.00	0.00	5.99	0.00
Prospect Refreshments	0.00	0.00	304.03	0.04
Resident Referral Fees	250.00	(4.37)	1,250.00	0.16
Shopping Reports	140.00	(2.45)	175.00	0.02
Signage	0.00	0.00	108.10	0.01
Total Advertising / Marketing / Promotions	2,026.00	(35.42)	10,654.12	1.38
<u>General & Administrative</u>				
<u>Office Expenses</u>				
Copy Machine Contract	0.00	0.00	280.00	0.04

8/2/2010 12:47 PM

Income Statement (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

	Month to Date	%	Year to Date	%
Office Supplies	0.00	0.00	556.66	0.07
Pagers / Cellular Phones	0.00	0.00	57.91	0.01
Postage & Delivery	97.49	(1.70)	676.00	0.09
Printing Expense	62.80	(1.10)	251.20	0.03
Resident Screening	114.61	(2.00)	688.46	0.09
Telephone Expense	13.66	(0.24)	1,630.72	0.21
Software Licenses / Maintenance Fees	500.00	(8.74)	2,000.00	0.26
Total Office Expenses	788.56	(13.79)	6,140.95	0.80
Other General & Administrative				
Bank Charges	303.79	(5.31)	1,432.83	0.19
Computer Expense	0.00	0.00	210.00	0.03
Consulting / Professional Fees	0.00	0.00	2,000.00	0.26
Employee Meetings	0.00	0.00	(360.71)	(0.05)
Employee Recruitment	0.00	0.00	264.00	0.03
Eviction Fees	0.00	0.00	486.44	0.06
Internet Access	0.00	0.00	257.95	0.03
Legal Fees	0.00	0.00	1,265.35	0.16
Licenses / Fees / Permits	0.00	0.00	100.00	0.01
Training / Seminars	0.00	0.00	1,540.61	0.20
Uniform Rental / Purchase	0.00	0.00	208.62	0.03
Total Other General & Administrative	303.79	(5.31)	7,405.09	0.96
Total General & Administrative	1,092.35	(19.10)	13,546.04	1.76
Utilities				
Electric - Clubhouse	115.25	(2.01)	129.91	0.02
Electric - Vacant Units	141.53	(2.47)	4,946.37	0.64
Electric Rebill	0.00	0.00	(226.08)	(0.03)
Gas - Common Areas	9.35	(0.16)	218.45	0.03
Total Utilities	266.13	(4.65)	5,068.65	0.66
Management Fees				
Management Fees	1,962.50	(34.31)	23,872.88	3.10
Total Management Fees	1,962.50	(34.31)	23,872.88	3.10
Taxes				
Ad Valorem Property Taxes	(423.33)	7.40	65,913.15	8.56
Franchise Taxes	0.00	0.00	942.00	0.12
Personal Property Taxes	0.00	0.00	5,803.16	0.75
Total Taxes	(423.33)	7.40	72,658.31	9.44
Insurance				
Property Insurance	0.00	0.00	11,092.34	1.44
Total Insurance	0.00	0.00	11,092.34	1.44
Total Operating Expenses	5,568.51	(97.36)	353,895.95	45.97
Net Operating Income	(11,288.27)	197.36	415,962.48	54.03
Routine Replacement Expense				
Appliances - Dishwashers	0.00	0.00	281.53	0.04
Appliances - Refrigerators	0.00	0.00	3,102.46	0.40
Appliances - Stove / Microwaves / Range Hoods	0.00	0.00	1,100.83	0.14
Appliances - Washers / Dryers	0.00	0.00	381.02	0.05
Carpet	2,941.76	(51.43)	40,994.56	5.32
HVAC	0.00	0.00	1,150.00	0.15
Vinyl / Tile	0.00	0.00	221.50	0.03
Total Routine Replacement Expense	2,941.76	(51.43)	47,231.90	6.14
NOI After Replacements	(14,230.03)	248.79	368,730.58	47.90

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Income Statement (Accrual)				
Palmilla - (swpalmil)				
Months: Jul 2010				
	Month to Date	%	Year to Date	%
Non-Operating Expenses				
Non-Operating Expenses				
Net Income	(14,230.03)	248.79	368,730.58	47.90

EXHIBIT 9

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EXHIBIT 9

Income Statement (Account)

Palomilla - (uopelnu)

August 2009 - July 2010

INCOME

Rental Income - Residential[illegible]

Other Rental Income - Residents

[illegible]

Other Income = Residential

[illegible]

"INCOME"

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Total income	108,476.00	100,082.00	112,087.00	116,232.00	107,658.00	117,872.00	124,491.00	136,311.00	146,516.00	142,729.00	(3,729.00)	1,207,736.00				

EXPENSES

Payroll & Benefits

Payroll & Benefits										
Nonunion - Salaries	1,765,300	1,511,000	3,696,400	5,491,200	4,970,400	5,766,800	5,662,000	4,623,000	7,215,000	34,975,000
Union - Salaries	1,090,000	2,494,000	1,027,000	2,553,000	2,723,000	2,526,000	2,526,000	2,322,000	1,417,000	19,581,000
Bonuses			1,020,000	1,020,000	655,000	1,765,000	1,730,000	2,000,000	340,000	10,000,000
Nonunion - Salaries		4,655,000	3,573,000	7,269,000	3,411,000	7,206,000	1,466,000	2,430,000	915,000	35,282,000
Union - Salaries			1,000,000	2,419,000	2,419,000	2,419,000	2,419,000	2,419,000	2,419,000	10,222,000
401k Contributions						15,000	26,000	43,000	120,000	135,000
Employee Health	(602,000)	2,203,000	3,314,000	4,493,000	3,414,000	1,314,000	2,730,000	2,730,000	75,000,000	75,000,000
Group Insurance			600,000	1,450,000	800,000	600,000	1,233,000	600,000	417,000	4,000,000
Contract Support - Arch									7,230,000	3,200,000
Contract Support - Arch									1,000,000	1,000,000
Total Payroll & Benefits	3,236,000	15,063,000	19,580,000	24,685,000	18,408,000	17,761,000	12,941,000	12,941,000	11,812,000	144,432,000

EXPENSE

General Maintenance Expenses

출판사: 서울대학교출판부

Security & Maintenance									
Alarm Cable Expense									
Amphibious Support			7.00					160.00	160.00
Armored Vehicle								170.00	170.00
Building - Interior	81.00							140.00	140.00
Cable & Chest Machine / Enclosed								342.00	342.00
Carpet Chair Machine - Enclosed	225.00							16.00	16.00
Common Area Repair		7.00						1,000.00	1,000.00
Door Repair / Replacement			7.00					1,000.00	1,000.00
Electrical Supply / Repair	1.00	1,211.00		141.00				1,015.00	1,211.00
Equipment for Police in Training	4,334.00	28.00		(210.00)				3,792.00	4,334.00
Interior Paint / Wallpaper				2,062.00				2,062.00	2,062.00
Garage Repairs & Maintenance	33.00			150.00				183.00	183.00
Garage Storage	148.00			84.00				232.00	232.00
Police Injuries / Repair				85.00				130.00	130.00
Intrusion Alarm Supply / Repair		75.00						75.00	75.00
Mailbox Supply / Repair	44.00			108.00				152.00	152.00
Locks & Keys		20.00		225.00				245.00	245.00
Mailbox Supply / Repair		16.00						16.00	16.00
Painting Supplies / Repair		118.00		255.00				373.00	373.00
Salary & Pay Support / Fund	21.00	4,086.00		85.00				4,192.00	4,086.00
Small Tools & Equipment	42.00	90.00		45.00				177.00	177.00
Water Treatment Repair				2,818.00				2,818.00	2,818.00
Utility / Client Support		121.00		40.00				161.00	161.00
Nonemergency Supplies / Materials		101.00						101.00	101.00
Total Security & Maintenance	5,572.00	946.00	9,512.00	3,232.00	(710.00)	4,281.00	3,315.00	2,581.00	31,671.00

Make a Ranch / Redevelopment

Male - Reg'd / Redemptors												
Anytime Room												
Media / Dryclean Room	195.00	11.00	17.00	393.00	81.00	39.00	76.00					1,100.00
Lower Classroom / Food / Vaport	49.00	30.00	2.00	80.00	2.00	56.00	90.00					2,100.00
Church Supplies		85.00	36.00	46.00	5.00	64.00	43.00					1,000.00
Electron / Laundry - Vaport						145.00						32.00
Dynal Soap	581.00					600.00						607.00
Key / Food - Vaport						150.00						15.00
Head / Cleaning Service						9.00						
Food / Confection	1,941.00	1,224.00	1,545.00	875.00	1,890.00	2,156.00	1,378.00					1,340.00
Painting Supplies	826.00	2,073.00	389.00	389.00	1,415.00	2,005.00	1,798.00					12,280.00
Random - Vaport						115.00						16,224.00
Supplies - Refuse / Clean						100.00						64.00
Other Misc-Roomy Expense												100.00
		185.00										
Total Male - Reg'd / Redemptors	3,416.00	2,606.00	5,791.00	1,535.00	2,875.00	10,162.00	9,165.00	4,272.00	3,068.00	100.00	47,881.00	

Contact Empire

Contract Services									
ITC Services - net	32,490.00	15,494.00	15,831.00	15,996.00	11,990.00	16,978.00	15,996.00	11,976.00	165,177.00
Inventory Alerts Contract		317.00							545.00
Services Contract		470.00	410.00			310.00		144.00	880.00
Real Control Contract							1,175.00	120.00	1,155.00
								210.00	
Total Contract Services	32,490.00	16,320.00	15,491.00	15,896.00	15,896.00	17,092.00	16,120.00	210.00	146,036.00

Food Service Expense

Total General Maintenance Expenses	32,499.00	9,128.00	19,881.00	30,436.00	20,663.00	23,421.00	32,036.00	27,583.00	23,618.00	6,669.00	645.00	227,790.00
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Advertising / Marketing / Promotions

Advertising / Promotional Expenses										
Advertising - Internet	785.00	136.00	799.00	447.00	144.00	447.00	244.00	349.00	447.00	3,251.00
Advertising - Trade Publications		900.00	900.00	1,760.00	74.00	1,364.00	926.00	949.00	900.00	9,415.00
Lecture Fees	1,324.00	90.00				129.00	231.00	274.00		2,058.00
Marketing / Promotions		8.00	8.00			8.00				24.00
Product Demonstrations		8.00	93.00		46.00	27.00		31.00	75.00	181.00
Student Referral Fee								25.00	35.00	1,574.00
Student Referral Fee		54.00						25.00	35.00	254.00
Shipping Reports										14.00
Signage		339.00			100.00			35.00		474.00
Total Advertising / Marketing / Promotions	1,619.00	1,593.00	1,760.00	1,860.00	206.00	2,221.00	1,522.00	1,508.00	2,036.00	15,052.00

General & Administrative

Office: 5000

Office Expenses										
Office Machine Contract										
Office Supplies	433.00	615.00	65.00	80.00	43.00	40.00	40.00		440.00	
Postage / Cable / Faxes	46.00	52.00	101.00	155.00	194.00		49.00		231.00	
Printing & Delivery	54.00	52.00			5.00				74.00	
Printing Expense	34.00	56.00	47.00	31.00	31.00	31.00	31.00	31.00	97.00	
Student Insurance	361.00	294.00	112.47	112.47	112.47	112.47	112.47	31.00	63.00	
Telephone Expense	266.00	299.00	202.00	437.00	297.00	293.00	281.00		1,543.00	
Software Licenses / Maintenance Fees	78.00	185.00	250.00	1,102.00	824.00	791.00	595.00		2,753.00	
Total Office Expenses	1,416.00	1,015.00	1,526.00	1,150.00	1,574.00	1,240.00	1,035.00		749.00	10,238.00

Other General & Administrative

Bank Charges	73.00	546.03	155.06	177.00	122.20	136.63	215.00	222.00	334.00	1,499.00
Comptroller's Office	1,265.00	78.00	25.00	75.00	25.00	25.00	35.00	35.00	35.00	2,525.00
Counseling / Professional Fees										
Executive Services			21.00	400.01	(400.00)	1.50				21.00
Employee Reimbursement										20.00
Entertainment Expense					(144.50)		1.00			20.00
Eviction Fees		835.03								1,670.00
General Offices	50.00	5,935.00	50.00		122.00	36,400.00	95.00	95.00		48,000.00
Legal Fees				197.50	1,238.00		28.00			1,763.50
Licensing / Fees / Permits		35.00		60.00		10,900.00				1,205.00
Medical / Dental / Purchase	257.00	107.00	254.00	236.00	250.00	716.00	300.00	350.00	250.00	2,500.00
Office Supplies	789.00	26.00				4.00				200.00
Other General & Administrative	2,125.00	1,193.00	559.00	2,125.00	200.00	1,854.00	2,376.00	987.00	757.00	11,710.00
Total General & Administrative	2,485.00	2,749.00	1,574.00	2,655.00	1,363.00	3,333.00	3,777.00	1,548.00	1,022.00	24,400.00

Utilities

[illegible]

Management fees

MANAGEMENT FEES													
Management Fees	4,025.00	4,025.00	7,525.00	3,925.00	3,925.00	3,925.00	3,925.00	3,925.00	4,118.00	4,054.00	1,963.00	1,963.00	39,179.00
Total Management Fees	4,025.00	4,025.00	7,525.00	3,925.00	3,925.00	3,925.00	3,925.00	3,925.00	4,118.00	4,054.00	1,963.00	1,963.00	39,573.00

5/2/2010 12:48 PM

Income Statement (Accrual)											
Pulilla - (unaudited)											
August 2009 - July 2010											
Taxes											
On Valued Property/Tax	17,008.00	17,008.00	17,008.00	17,008.00	14,364.00	14,064.00	14,064.00	11,372.00	12,372.00	(423.00)	122,949.00
Franchise Taxes				418.00	157.00		157.00	157.00	157.00	157.00	1,415.00
Original Property Taxes											5,805.00
Total Taxes	17,008.00	17,008.00	17,008.00	17,426.00	14,521.00	20,024.00	14,221.00	12,229.00	12,229.00	157.00	141,169.00
EXPENSES											
Property Insurance	1,517.00	1,243.00	1,517.00	1,557.00	1,557.00	1,557.00	1,557.00	4,714.00	1,613.00	1,613.00	17,647.00
Total Insurance	1,517.00	1,243.00	1,517.00	1,557.00	1,557.00	1,557.00	1,557.00	4,714.00	1,613.00	1,613.00	17,647.00
Total Operating Expenses	62,450.00	53,174.00	65,172.00	41,184.00	41,749.00	65,882.00	76,412.00	67,895.00	37,274.00	16,413.00	517,916.00
Net Operating Income	46,985.00	46,908.00	46,915.00	32,048.00	45,809.00	51,869.00	48,078.00	64,316.00	86,741.00	124,312.00	589,620.00
Non-Operating Expenses											
Repairs - Subscribers									282.00		282.00
Repairs - Subscribers									1,718.00		3,105.00
Repairs - Subscribers									1,611.00		1,611.00
Repairs - Subscribers									381.00		381.00
Repairs - Subscribers									10,332.00		63,357.00
Repairs - Subscribers									2,883.00		560.00
Repairs - Subscribers									1,150.00		605.00
Repairs - Subscribers											1,355.00
Repairs - Subscribers											975.00
Total Non-Operating Expenses	500.00	600.00	1,404.00	20,420.00	1,212.00	7,654.00	8,151.00	12,458.00	5,852.00	5,852.00	70,245.00
Capital / Depreciation Expense											
Depreciation Expense											1,497.00
Total Capital / Depreciation Expense											1,497.00
Net After Replacements	46,485.00	46,308.00	45,511.00	12,618.00	42,697.00	44,215.00	39,927.00	51,858.00	81,879.00	118,460.00	518,078.00
Non-Operating Expenses											
Net Income	46,485.00	46,308.00	45,511.00	12,618.00	42,697.00	44,215.00	39,927.00	51,858.00	81,879.00	118,460.00	518,078.00

EXHIBIT 10

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EXHIBIT 10

8/2/2010 12:48 PM

Trial Balance (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

	Balance Forward	Debit	Credit	Ending Balance
11020-000 Cash - Operating	55,268.86		55,268.86	0.00
11085-000 Petty Cash	189.63		189.63	0.00
12010-000 Accounts Receivable	35,887.61			35,887.61
13050-000 Prepaid Insurance	13,702.00			13,702.00
13070-000 Prepaid Real Property Taxes	12,072.23			12,072.23
13085-000 Prepaid - Other	149.00		149.00	0.00
21010-000 Trade Accounts Payable	(4,036.76)	4,036.76		0.00
21058-000 Due To Affiliate	(19,344.00)			(19,344.00)
22020-000 Accrued Real Property Taxes	(110,224.00)			(110,224.00)
22025-000 Accrued Insurance	(11,679.30)			(11,679.30)
23010-000 Prepaid Rent	(3,751.15)			(3,751.15)
23030-000 Security Deposits	(37,911.35)			(37,911.35)
23090-000 Unclaimed Property Payable	(805.78)			(805.78)
31024-000 Capital	(131,069.82)			(131,069.82)
33000-000 Distributions	733,861.07	37,340.70		771,201.77
34000-000 Retained Earnings	(149,347.63)			(149,347.63)
41000-000 Market Rent	(1,209,750.00)			(1,209,750.00)
41020-000 Loss to Lease	676.25			676.25
41091-000 One-Time Concessions	31,707.27			31,707.27
41093-000 Recurring Concessions	159,852.67			159,852.67
41094-000 Preferred Employer Discount	7,301.15			7,301.15
41100-000 Vacancy Loss	251,033.47			251,033.47
41110-000 Employee Units	6,003.57			6,003.57
41120-000 Model & Storage Units	1,400.00			1,400.00
41121-000 Office Units	7,000.00			7,000.00
41150-000 Bad Debt - Rent	14,965.71	6,047.00		21,012.71
41155-000 Bad Debt Recovery - Rent	(4,528.70)			(4,528.70)
43005-000 Access Gate Remote Income	(2,848.65)			(2,848.65)
43010-000 Administrative Fees	(8,100.00)			(8,100.00)
43020-000 Application Fees	(5,220.00)			(5,220.00)
43080-000 Damages	(3,079.44)			(3,079.44)
43090-000 Deposit Forfeitures	(3,795.00)			(3,795.00)
43120-000 Insufficient Notice Fees	(1,303.80)			(1,303.80)
43135-000 Late Charge Fees	(9,597.66)			(9,597.66)
43145-000 Lease Cancellation Fee	(1,642.50)			(1,642.50)
43170-000 Month-to-Month Premiums	(1,156.28)			(1,156.28)
43180-000 NSF Fees	(550.00)			(550.00)
43200-000 Pet Fees - Non-Refundable	(2,000.00)			(2,000.00)
43201-000 Pet Rent	(1,647.25)			(1,647.25)
43250-000 Transfer Fee	(250.00)			(250.00)
43267-000 Vendor Rebates	0.00		327.24	(327.24)
43290-000 Miscellaneous Income	(49.00)			(49.00)
51010-000 Management - Salaries	19,243.33			19,243.33
51020-000 Leasing - Salaries	13,388.78			13,388.78
51030-000 Bonuses	6,960.00			6,960.00
51040-000 Maintenance - Salaries	10,151.54			10,151.54
51045-000 Assistant Maintenance - Salaries	6,190.10			6,190.10
51090-000 401k Contributions	154.92			154.92
51110-000 Employee Burden	13,491.71			13,491.71
51120-000 Group Insurance	4,480.00			4,480.00
51150-000 Contract Staffing - Admin	3,520.00			3,520.00
51160-000 Contract Staffing - Maintenance	4,587.80			4,587.80
52010-000 Access Gate Expense	160.00			160.00
52020-000 Appliance Repairs	172.45			172.45
52050-000 Building - Interior	341.70			341.70
52051-000 Cabinet & Closet Repairs / Supplies	18.73			18.73
52055-000 Carpet Cleaning Repairs - Occupied	815.00			815.00
52060-000 Common Area Repairs	6.90			6.90

8/2/2010 12:48 PM

Trial Balance (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

	Balance Forward	Debit	Credit	Ending Balance
52065-000 Door Repair / Replacement	565.26			565.26
52070-000 Electrical Supplies / Repairs	1,895.55			1,895.55
52081-000 Equipment Supplies & Repairs	(209.67)			(209.67)
52090-000 Garage Repairs & Maintenance	1,550.54	66.50		1,617.04
52095-000 Garbage Disposals	258.04			258.04
52110-000 HVAC Supplies / Repairs	1,126.94			1,126.94
52130-000 Lighting Supplies / Repairs	318.18			318.18
52140-000 Locks & Keys	545.18			545.18
52150-000 Maintenance Supplies	169.49	189.63		359.12
52190-000 Plumbing Supplies / Repairs	3,407.67	279.28		3,686.95
52210-000 Safety & Fire Supplies / Maint	650.73			650.73
52230-000 Small Tools & Equipment	115.04			115.04
52247-000 Water Penetration Repairs	2,818.42			2,818.42
52250-000 Window / Glass Repair	1,172.77			1,172.77
52260-000 Miscellaneous Supplies / Repairs	186.92			186.92
52605-000 Appliance Repair	37.02			37.02
52610-000 Blinds / Drapes Repair	1,344.26			1,344.26
52620-000 Carpet Cleaning / Repair - Vacant	5,205.00			5,205.00
52640-000 Cleaning Supplies	194.34			194.34
52643-000 Electrical Supplies - Vacant	214.83			214.83
52645-000 Drywall Repairs	422.10			422.10
52647-000 Keys / Locks - Vacant	113.07			113.07
52650-000 Maid / Cleaning Service	8,360.00			8,360.00
52660-000 Paint Contractor	13,300.00			13,300.00
52670-000 Painting Supplies	5,972.22	109.45		6,081.67
52675-000 Plumbing - Vacant	416.14			416.14
52680-000 Resurfacing - Fixtures / Counters	180.00			180.00
53080-000 HOA Management	80,562.75			80,562.75
53085-000 Intrusion Alarm Contract	228.00			228.00
53140-000 Pest Control Contract	1,555.00			1,555.00
54010-000 Advertising - Internet	1,505.00	447.00		1,952.00
54030-000 Advertising - Trade Publications	4,514.00	900.00		5,414.00
54080-000 Locator Fees	1,156.00	289.00		1,445.00
54090-000 Marketing / Promotions	5.99			5.99
54105-000 Prospect Refreshments	304.03			304.03
54120-000 Resident Referral Fees	1,000.00	250.00		1,250.00
54125-000 Shopping Reports	35.00	140.00		175.00
54130-000 Signage	108.10			108.10
58030-000 Copy Machine Contract	280.00			280.00
58080-000 Office Supplies	556.66			556.66
58090-000 Pagers / Cellular Phones	57.91			57.91
58100-000 Postage & Delivery	578.51	97.49		676.00
58105-000 Printing Expense	188.40	62.80		251.20
58107-000 Resident Screening	573.85	114.61		688.46
58110-000 Telephone Expense	1,617.06	13.66		1,630.72
58115-000 Software Licenses / Maintenance Fees	1,500.00	500.00		2,000.00
58225-000 Bank Charges	1,129.04	303.79		1,432.83
58240-000 Computer Expense	210.00			210.00
58242-000 Consulting / Professional Fees	2,000.00			2,000.00
58247-000 Employee Meetings	(360.71)			(360.71)
58250-000 Employee Recruitment	264.00			264.00
58260-000 Eviction Fees	486.44			486.44
58270-000 Internet Access	257.95			257.95
58275-000 Legal Fees	1,265.35			1,265.35
58280-000 Licenses / Fees / Permits	100.00			100.00
58290-000 Training / Seminars	1,540.61			1,540.61
58305-000 Uniform Rental / Purchase	208.62			208.62
59010-000 Electric - Clubhouse	14.66	115.25		129.91

8/2/2010 12:48 PM

Trial Balance (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

	Balance Forward	Debit	Credit	Ending Balance
59040-000 Electric - Vacant Units	4,804.84	141.53		4,946.37
59050-000 Electric Rebill	(226.08)			(226.08)
59070-000 Gas - Common Areas	209.10	9.35		218.45
61030-000 Management Fees	21,910.38	1,962.50		23,872.88
62010-000 Ad Valorem Property Taxes	66,336.48		423.33	65,913.15
62020-000 Franchise Taxes	942.00			942.00
62030-000 Personal Property Taxes	5,803.16			5,803.16
63010-000 Property Insurance	11,092.34			11,092.34
71011-000 Appliances - Dishwashers	281.53			281.53
71013-000 Appliances - Refrigerators	3,102.46			3,102.46
71014-000 Appliances - Stove / Microwaves / Range Hoods	1,100.83			1,100.83
71015-000 Appliances - Washers / Dryers	381.02			381.02
71020-000 Carpet	38,052.80	2,941.76		40,994.56
71090-000 HVAC	1,150.00			1,150.00
71175-000 Vinyl / Tile	221.50			221.50
	0.00	56,358.06	56,358.06	0.00

EXHIBIT 11

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EXHIBIT 11

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalml)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
11020-000			Cash - Operating					55,268.86	Beginning Balance
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510		19.18		55,249.68	Office Supplies
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510		18.50		55,231.18	Grout & Texture
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510		120.50		55,110.68	Background Screeni
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510		16.94		55,093.74	Postage to mail out
swpalml	7/2/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1890695	7022010		250.00		54,843.74	07/10 Yardi
swpalml	7/2/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1890695	7022010		31.40		54,812.34	07/10 Copies/Fax
swpalml	7/2/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1890695	7022010		15.70		54,796.64	07/10 Postage
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872477	386		475.20		54,321.44	24 S Wetherby
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872489	386		760.00		53,561.44	S. Wetherby
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872489	386		300.80		53,260.64	K Shafter
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872489	386		504.00		52,756.64	D. Williams
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872495	386		672.00		52,084.64	D. Williams
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872495	386		608.00		51,476.64	S. Wetherby
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872501	386		95.00		51,381.64	S. Wetherby
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES TK-1872501	386		105.00		51,276.64	D. Williams
swpalml	7/7/2010	07/10	(rmya583) Ryan White	K-1885089	387		250.00	51,026.64	05/10 Referral - Rye
swpalml	7/12/2010	07/10	07/10 NV Energy Refund	J-638220	07/10 NV Ene	28.33		51,054.97	07/10 NV Energy Re
swpalml	7/13/2010	07/10	(gscri221) Criterion Brock-203	K-1898063	388		426.23	50,628.74	8-7 Replaced Carpet
swpalml	7/13/2010	07/10	(gscri221) Criterion Brock-203	K-1898067	388		1,240.03	49,388.71	8-11 Replace Carpet
swpalml	7/13/2010	07/10	(gsell328) ELLIS PROPERTY MANA K-1898076	389		35.00		49,353.71	05/25 No Name
swpalml	7/13/2010	07/10	(gsell328) ELLIS PROPERTY MANA K-1898083	389		35.00		49,318.71	04/16 No Name
swpalml	7/13/2010	07/10	(gsell328) ELLIS PROPERTY MANA K-1898087	389		35.00		49,283.71	01/26/10 Lishaundr
swpalml	7/13/2010	07/10	(gsell328) ELLIS PROPERTY MANA K-1898091	389		35.00		49,248.71	02/22/10 No Name
swpalml	7/13/2010	07/10	(gsfor75) FOR RENT MAGAZINE	K-1898108	390		149.00	49,099.71	05/31 Premier
swpalml	7/13/2010	07/10	(gsfor75) FOR RENT MAGAZINE	K-1898108	390		450.00	48,649.71	05/31 Full Page
swpalml	7/13/2010	07/10	(gsfor75) FOR RENT MAGAZINE	K-1898116	390		450.00	48,199.71	06/14 Full Page
swpalml	7/13/2010	07/10	(gsfor75) FOR RENT MAGAZINE	K-1898116	390		149.00	48,050.71	06/14 Premier Extra
swpalml	7/13/2010	07/10	(gsnve300) NV Energy	K-1898438	391	222.37		48,273.08	Paid by Stout
swpalml	7/13/2010	07/10	(gsnve300) NV Energy	K-1898438	391		392.23	47,880.85	05/26-06/07 NV Ene
swpalml	7/13/2010	07/10	(gsnve300) NV Energy	K-1898452	391	150.72		48,031.57	paid by Stout
swpalml	7/13/2010	07/10	(gsnve300) NV Energy	K-1898452	391		265.97	47,765.60	05/26-06/24 Office
swpalml	7/13/2010	07/10	(gsren198) RENT.COM	K-1898161	392		289.00	47,476.60	#17-02 Move in
swpalml	7/13/2010	07/10	(gsres730) LexisNexis Screening S	K-1898137	393		114.61	47,361.99	4 Apps Processed
swpalml	7/13/2010	07/10	(gsche277) Sherwin Williams	K-1898614	394	22.17		47,384.16	cm 5194-10565cb
swpalml	7/13/2010	07/10	(gsche277) Sherwin Williams	K-1898614	394	91.61		47,475.77	cm 43987
swpalml	7/13/2010	07/10	(gsche277) Sherwin Williams	K-1898614	394		223.23	47,252.54	5-5Gals White
swpalml	7/13/2010	07/10	(gsups894) UPS	K-1898264	395		5.13	47,247.41	06/12 Invoices
swpalml	7/13/2010	07/10	(gswe770) Western Door and Gat K-1898278	396		66.50		47,180.91	Master Link #10 58
swpalml	7/13/2010	07/10	(swemb660) Century Link	K-1898518	397		286.13	46,894.78	06/10 Century Link
swpalml	7/13/2010	07/10	(swemb660) Century Link	K-1898518	397	272.47		47,167.25	06/10 Century Link
swpalml	7/13/2010	07/10	(swint720) Interstate Services	K-1898128	398		279.28	46,887.97	5855 Nuevo #7 Wal
swpalml	7/13/2010	07/10	(swsou988) SOUTHWEST GAS COF K-1898463	399		16.50		46,871.47	05/20-06/21
swpalml	7/13/2010	07/10	(swsou988) SOUTHWEST GAS COF K-1898463	399	7.15			46,878.62	05/20-06/21 Stout
swpalml	7/14/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949395	71410			20.83	46,857.79	5/10 & 5/26 Deliver
swpalml	7/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949409	71510			15.13	46,842.66	7/3/10 Delivery
swpalml	7/25/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1869876	7252010			1,962.50	44,880.16	07/10 MF Palmilla
swpalml	7/28/2010	07/10	(gsou365) Southwestern Floors	K-1937187	400		1,275.50	43,604.66	Carpet Install #150
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510v		120.50		43,725.16	Background Screeni
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510v		19.18		43,744.34	Office Supplies
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510v		18.50		43,762.84	Grout & Texture
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510v		16.94		43,779.78	Postage to mail out
swpalml	7/29/2010	07/10	Palmilla Misc Income	J-655881	Palmilla Mis		195.12	43,974.90	Tax Refund 124-30
swpalml	7/29/2010	07/10	Palmilla Misc Income	J-655881	Palmilla Mis		228.21	44,203.11	Tax Refund 124-30
swpalml	7/29/2010	07/10	Palmilla Misc Income	J-655881	Palmilla Mis	327.24		44,530.35	2009 Vendor Rebat
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil		297.10	44,233.25	Misc Charges-Yardi/
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil		125.00	44,108.25	July Bank Fees
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil		250.00	43,858.25	J. Robinson Referral
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil		16.76	43,841.49	American Messaging
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil		178.79	43,662.70	June Bank Fees
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil		25.00	43,637.70	July Postage
swpalml	7/30/2010	07/10		J-658813	Bad Debt Wri		6,047.00	37,590.70	Palmilla Close Out E
swpalml	7/30/2010	07/10	Cash Balance Distribution	J-658841	Cash Distrib		37,340.70	250.00	Cash Balance Distrib
swpalml	7/30/2010	07/10	A. Ward Referral Fee	J-658826	Res Referral		250.00	0.00	A. Ward Referral Fe
			NetChange=	-55,268.86				0.00	Ending Balance
11085-000			Petty Cash					189.63	Beginning Balance
swpalml	7/30/2010	07/10	Palmilla Close Out Entries	J-658813	Bad Debt Wri		189.63	0.00	Close Out Petty Cas
			NetChange=	-189.63				0.00	Ending Balance
12010-000			Accounts Receivable					35,887.61	Beginning Balance
			NetChange=	0.00				35,887.61	Ending Balance
13050-000			Prepaid Insurance					13,702.00	Beginning Balance
			NetChange=	0.00				13,702.00	Ending Balance

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalml)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
13070-000			Repaid Real Property Taxes					12,072.23	= Beginning Balance
			NetChange= 0.00					12,072.23	= Ending Balance
13085-000			Repaid Other					149.00	= Beginning Balance
swpalml	7/30/2010	07/10	For Rent Ad	J-658858	For Rent		149.00	0.00	For Rent Ad
			NetChange= -149.00					0.00	= Ending Balance
21010-000			Trade Accounts Payable					4,036.76	= Beginning Balance
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194		16.94		(4,053.70)	Postage to mail out
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	19.18			(4,034.52)	Office Supplies
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	16.94			(4,017.58)	Postage to mail out
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	16.94			(4,000.64)	Postage to mail out
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	18.50			(3,982.14)	Grout & Texture
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194		19.18		(4,001.32)	Office Supplies
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	120.50			(3,880.82)	Background Screeni
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194		18.50		(3,899.32)	Grout & Texture
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	120.50			(3,778.82)	Background Screeni
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	19.18			(3,759.64)	Office Supplies
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194		120.50		(3,880.14)	Background Screeni
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194	18.50			(3,861.64)	Grout & Texture
swpalml	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmml	16.76		(3,844.88)	American Messaging
swpalml	7/30/2010	07/10	A. Ward Referral Fee	J-658826	Res Referral	250.00		(3,594.88)	A. Ward Referral Fe
swpalml	7/25/2010	07/10	Payable Batch -208030	P-1869876	07/10 MF Pal		1,962.50	(5,557.38)	07/10 MF Palmilla
swpalml	7/7/2010	07/10	Payable Batch -210111	P-1890695	07/10 Recurr		297.10	(5,854.48)	
swpalml	/ -	07/10	Payable Batch -210661	---	---		3,758.78	(9,613.26)	
swpalml	7/8/2010	07/10	Payable Batch -210687	---	---		308.12	(9,921.38)	
swpalml	4/27/2010	07/10	Payable Batch -210696	P-1898614	5194-1 2cms		109.45	(10,030.83)	
swpalml	4/20/2010	07/10	Payable Batch -214107	P-1937187	20018970		1,275.50	(11,306.33)	Carpet Install #150
swpalml	/ -	07/10	Payable Batch -215306	---	---		35.96	(11,342.29)	
swpalml	6/15/2010	07/10	Payable Batch -215329	P-1949600	20054240		175.12	(11,517.41)	
swpalml	7/25/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1869876	7252010	1,962.50			(9,554.91)	07/10 MF Palmilla
swpalml	7/2/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1890695	7022010	297.10			(9,257.81)	
swpalml	7/7/2010	07/10	(gscar343) CAREER STRATEGIES 1	---	386	3,520.00		(5,737.81)	
swpalml	7/7/2010	07/10	(rrya583) Ryan White	K-1885089	387	250.00		(5,487.81)	05/10 Referral - Rye
swpalml	7/13/2010	07/10	(gscri221) Criterion Brock-203	---	388	1,666.26		(3,821.55)	
swpalml	7/13/2010	07/10	(gsel328) ELLIS PROPERTY MANA	---	389	140.00		(3,681.55)	
swpalml	7/13/2010	07/10	(gsfor75) FOR RENT MAGAZINE	---	390	1,198.00		(2,483.55)	
swpalml	7/13/2010	07/10	(gsrve300) NV Energy	---	391	285.11		(2,198.44)	
swpalml	7/13/2010	07/10	(gsren198) RENT.COM	K-1898161	392	289.00		(1,909.44)	#17-02 Move In
swpalml	7/13/2010	07/10	(gsres730) LexisNexis Screening Si	K-1898137	393	114.61		(1,794.83)	4 Apps Processed
swpalml	7/13/2010	07/10	(gsshe277) Sherwin Williams	K-1898614	394	109.45		(1,685.38)	
swpalml	7/13/2010	07/10	(gsups894) UPS	K-1898264	395	5.13		(1,680.25)	06/12 Invoices
swpalml	7/13/2010	07/10	(gswe5770) Western Door and Gat K-1898278	396	66.50			(1,613.75)	Master Link #10 58
swpalml	7/13/2010	07/10	(swemb660) Century Link	K-1898518	397	13.66		(1,600.09)	
swpalml	7/13/2010	07/10	(swint720) Interstate Services	K-1898128	398	279.28		(1,320.81)	5855 Nuevo #7 Wal
swpalml	7/13/2010	07/10	(swsou988) SOUTHWEST GAS COF K-1898463	399	9.35			(1,311.46)	
swpalml	7/28/2010	07/10	(gssou365) Southwestern Floors	K-1937187	400	1,275.50		(35.96)	Carpet Install #150
swpalml	7/14/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949395	71410	20.83			(15.13)	5/10 & 5/26 Deliver
swpalml	7/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949409	71510	15.13			0.00	7/3/10 Delivery
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510	175.12			175.12	
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA K-1949600	61510v		175.12		0.00	
			NetChange= 4,036.76					0.00	= Ending Balance
21058-000			Due To Affiliate					(19,344.00)	= Beginning Balance
			NetChange= 0.00					(19,344.00)	= Ending Balance
22020-000			Accrued Real Property Taxes					(110,224.00)	= Beginning Balance
			NetChange= 0.00					(110,224.00)	= Ending Balance
22025-000			Accrued Insurance					(11,679.30)	= Beginning Balance
			NetChange= 0.00					(11,679.30)	= Ending Balance
23010-000			Prepaid Rent					(3,751.15)	= Beginning Balance
			NetChange= 0.00					(3,751.15)	= Ending Balance
23030-000			Security Deposits					(37,911.35)	= Beginning Balance
			NetChange= 0.00					(37,911.35)	= Ending Balance
23090-000			Undelivered Property Payable					(805.78)	= Beginning Balance
			NetChange= 0.00					(805.78)	= Ending Balance
31024-000			Capital					(131,069.82)	= Beginning Balance
			NetChange= 0.00					(131,069.82)	= Ending Balance
33000-000			Distributions					718,861.07	= Beginning Balance

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

Property	Date	Period	Description	Control	Ref	Debit	Credit	Balance	Remarks
swpalmil	7/30/2010	07/10	Cash Balance Distribution	J-658841	Cash Distrib	37,340.70		771,201.77	Cash Balance Distrib
			NetChange= 37,340.70					771,201.77	= Ending Balance
34000-000			Retained Earnings					(149,347.63)	= Beginning Balance
			NetChange= 0.00					(149,347.63)	= Ending Balance
41000-000			Market Rent					(1,209,750.00)	= Beginning Balance
			NetChange= 0.00					(1,209,750.00)	= Ending Balance
41020-000			Loss on Lease					676.25	= Beginning Balance
			NetChange= 0.00					676.25	= Ending Balance
41091-000			One-Time Concessions					31,707.27	= Beginning Balance
			NetChange= 0.00					31,707.27	= Ending Balance
41093-000			Recurring Concessions					159,852.67	= Beginning Balance
			NetChange= 0.00					159,852.67	= Ending Balance
41094-000			Preferred Employer Discount					7,303.15	= Beginning Balance
			NetChange= 0.00					7,303.15	= Ending Balance
41100-000			Vacancy Loss					251,033.47	= Beginning Balance
			NetChange= 0.00					251,033.47	= Ending Balance
41110-000			Employee Units					6,003.57	= Beginning Balance
			NetChange= 0.00					6,003.57	= Ending Balance
41120-000			Model & Storage Units					1,400.00	= Beginning Balance
			NetChange= 0.00					1,400.00	= Ending Balance
41121-000			Office Units					7,000.00	= Beginning Balance
			NetChange= 0.00					7,000.00	= Ending Balance
41150-000			Bad Debt - Rent					14,965.71	= Beginning Balance
swpalmil	7/30/2010	07/10	Palmilla Close Out Entries	J-658813	Bad Debt Wri	6,047.00		21,012.71	NSF Checks - Bad D
			NetChange= 6,047.00					21,012.71	= Ending Balance
41155-000			Bad Debt Recovery - Rent					(4,528.70)	= Beginning Balance
			NetChange= 0.00					(4,528.70)	= Ending Balance
43005-000			Access Gate Remote Income					(2,848.65)	= Beginning Balance
			NetChange= 0.00					(2,848.65)	= Ending Balance
43010-000			Administrative Fees					(8,100.00)	= Beginning Balance
			NetChange= 0.00					(8,100.00)	= Ending Balance
43020-000			Application Fees					(5,220.00)	= Beginning Balance
			NetChange= 0.00					(5,220.00)	= Ending Balance
43080-000			Damages					(3,079.44)	= Beginning Balance
			NetChange= 0.00					(3,079.44)	= Ending Balance
43090-000			Deposit Forfeiture					(3,795.00)	= Beginning Balance
			NetChange= 0.00					(3,795.00)	= Ending Balance
43120-000			Insufficient Notice Fees					(1,303.80)	= Beginning Balance
			NetChange= 0.00					(1,303.80)	= Ending Balance
43135-000			Late Charge Fees					(9,597.66)	= Beginning Balance
			NetChange= 0.00					(9,597.66)	= Ending Balance
43145-000			Lease Cancellation Fee					(3,642.50)	= Beginning Balance
			NetChange= 0.00					(3,642.50)	= Ending Balance
43170-000			Month-to-Month Premiums					(3,156.28)	= Beginning Balance
			NetChange= 0.00					(3,156.28)	= Ending Balance
43180-000			NSF Fees					(550.00)	= Beginning Balance
			NetChange= 0.00					(550.00)	= Ending Balance
43200-000			Pat Fees - Non-Refundable					(2,000.00)	= Beginning Balance
			NetChange= 0.00					(2,000.00)	= Ending Balance
43201-000			Pat Rent					(1,647.25)	= Beginning Balance
			NetChange= 0.00					(1,647.25)	= Ending Balance

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
43250-000			Transfer Fee					(250.00) = Beginning Balance	
			NetChange= 0.00					(250.00) = Ending Balance	
43267-000			Vendor Rebates					0.00 = Beginning Balance	
swpalmil	7/29/2010	07/10	Palmilla Misc Income	J-655881	Palmilla Mis	327.24		(327.24) 2009 Vendor Rebate	
			NetChange= -327.24					(327.24) = Ending Balance	
43290-000			Miscellaneous Income					(49.00) = Beginning Balance	
			NetChange= 0.00					(49.00) = Ending Balance	
51010-000			Management - Salaries					13,743.33 = Beginning Balance	
			NetChange= 0.00					13,743.33 = Ending Balance	
51020-000			Leasing - Salaries					13,388.78 = Beginning Balance	
			NetChange= 0.00					13,388.78 = Ending Balance	
51030-000			Bonuses					6,960.00 = Beginning Balance	
			NetChange= 0.00					6,960.00 = Ending Balance	
51040-000			Maintenance - Salaries					10,151.54 = Beginning Balance	
			NetChange= 0.00					10,151.54 = Ending Balance	
51045-000			Assistant Maintenance - Salaries					6,190.10 = Beginning Balance	
			NetChange= 0.00					6,190.10 = Ending Balance	
51090-000			401K Contributions					154.32 = Beginning Balance	
			NetChange= 0.00					154.32 = Ending Balance	
51110-000			Employee Loans					13,491.71 = Beginning Balance	
			NetChange= 0.00					13,491.71 = Ending Balance	
51120-000			Group Insurance					4,480.00 = Beginning Balance	
			NetChange= 0.00					4,480.00 = Ending Balance	
51150-000			Contract Staffing - Admin					3,520.00 = Beginning Balance	
			NetChange= 0.00					3,520.00 = Ending Balance	
51160-000			Contract Staffing - Maintenance					4,587.80 = Beginning Balance	
			NetChange= 0.00					4,587.80 = Ending Balance	
52010-000			Access Gate Expense					160.00 = Beginning Balance	
			NetChange= 0.00					160.00 = Ending Balance	
52020-000			Appliance Repairs					172.45 = Beginning Balance	
			NetChange= 0.00					172.45 = Ending Balance	
52050-000			Building - Interior					341.70 = Beginning Balance	
			NetChange= 0.00					341.70 = Ending Balance	
52051-000			Cabinet & Other Repairs / Supplies					18.73 = Beginning Balance	
			NetChange= 0.00					18.73 = Ending Balance	
52055-000			Cabinet Cleaning Repairs - Occupied					815.00 = Beginning Balance	
			NetChange= 0.00					815.00 = Ending Balance	
52060-000			Common Area Repairs					6.90 = Beginning Balance	
			NetChange= 0.00					6.90 = Ending Balance	
52065-000			Door Repair / Replacement					565.26 = Beginning Balance	
			NetChange= 0.00					565.26 = Ending Balance	
52070-000			Electrical Supplies / Repairs					1,895.55 = Beginning Balance	
			NetChange= 0.00					1,895.55 = Ending Balance	
52081-000			Equipment Supplies & Repairs					(209.67) = Beginning Balance	
			NetChange= 0.00					(209.67) = Ending Balance	
52090-000			Garage Repairs & Maintenance					1,550.54 = Beginning Balance	
swpalmil	6/4/2010	07/10	(gswe770) Western Door and Gat P-1898278	14887		66.50		1,617.04 Master Link #10 58	
			NetChange= 66.50					1,617.04 = Ending Balance	
52095-000			Garbage Disposals					258.04 = Beginning Balance	
			NetChange= 0.00					258.04 = Ending Balance	
52110-000			HVAC Supplies / Repairs					1,126.94 = Beginning Balance	
			NetChange= 0.00					1,126.94 = Ending Balance	

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalml)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
52130-000			Lighting Supplies / Repairs					218.38	= Beginning Balance
			NetChange= 0.00					218.38	= Ending Balance
52140-000			Locks & Keys					545.18	= Beginning Balance
			NetChange= 0.00					545.18	= Ending Balance
52150-000			Maintenance Supplies					169.49	= Beginning Balance
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600	20054240		18.50		187.99	Grout & Texture
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600	20054240		18.50		206.49	Grout & Texture
swpalml	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600	20054240			18.50	187.99	Grout & Texture
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194			18.50	169.49	Grout & Texture
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194		18.50		187.99	Grout & Texture
swpalml	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973	20054240-194			18.50	169.49	Grout & Texture
swpalml	7/30/2010	07/10	Palmilla Close Out Entries	J-658813	Bad Debt Wri	189.63		359.12	Close Out PC - Main
			NetChange= 189.63					359.12	= Ending Balance
52190-000			Plumbing Supplies / Repairs					3,407.97	= Beginning Balance
swpalml	5/29/2010	07/10	(swint720) Interstate Services	P-1898128	p125413	279.28		3,686.95	5855 Nuevo #7 Wa
			NetChange= 279.28					3,686.95	= Ending Balance
52210-000			Safety & Fire Supplies / Maint					650.73	= Beginning Balance
			NetChange= 0.00					650.73	= Ending Balance
52230-000			Small Tools & Equipment					115.04	= Beginning Balance
			NetChange= 0.00					115.04	= Ending Balance
52242-000			Water Penetration Repairs					2,818.42	= Beginning Balance
			NetChange= 0.00					2,818.42	= Ending Balance
52250-000			Window / Glass Repair					1,172.77	= Beginning Balance
			NetChange= 0.00					1,172.77	= Ending Balance
52260-000			Miscellaneous Supplies / Repairs					186.92	= Beginning Balance
			NetChange= 0.00					186.92	= Ending Balance
52605-000			Appliance Repair					37.02	= Beginning Balance
			NetChange= 0.00					37.02	= Ending Balance
52610-000			Blinds / Drapes Repair					1,344.26	= Beginning Balance
			NetChange= 0.00					1,344.26	= Ending Balance
52620-000			Carpet Cleaning / Repair/Vacant					5,205.00	= Beginning Balance
			NetChange= 0.00					5,205.00	= Ending Balance
52640-000			Cleaning Supplies					194.34	= Beginning Balance
			NetChange= 0.00					194.34	= Ending Balance
52643-000			Electrical Supplies-Vacant					214.93	= Beginning Balance
			NetChange= 0.00					214.93	= Ending Balance
52645-000			Drywall Repairs					422.10	= Beginning Balance
			NetChange= 0.00					422.10	= Ending Balance
52647-000			Keys / Locks - Vacant					113.07	= Beginning Balance
			NetChange= 0.00					113.07	= Ending Balance
52650-000			Maid / Cleaning Service					8,360.00	= Beginning Balance
			NetChange= 0.00					8,360.00	= Ending Balance
52660-000			Paint Contractor					13,300.00	= Beginning Balance
			NetChange= 0.00					13,300.00	= Ending Balance
52670-000			Painting Supplies					6,977.22	= Beginning Balance
swpalml	4/27/2010	07/10	(gsshe277) Sherwin Williams	P-1898614	5194-1 2cms	223.23		6,195.45	5-5Gals White
swpalml	4/27/2010	07/10	(gsshe277) Sherwin Williams	P-1898614	5194-1 2cms		22.17	6,173.28	cm 5194-10565cb
swpalml	4/27/2010	07/10	(gsshe277) Sherwin Williams	P-1898614	5194-1 2cms		91.61	6,081.67	cm 43987
			NetChange= 109.25					6,081.67	= Ending Balance
52675-000			Plumbing-Vacant					416.14	= Beginning Balance
			NetChange= 0.00					416.14	= Ending Balance
52680-000			Resurfacing / Fixtures / Counters					180.00	= Beginning Balance
			NetChange= 0.00					180.00	= Ending Balance
53080-000			HGA Management					80,562.75	= Beginning Balance

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
NetChange= 0.00								80,562.75	= Ending Balance
53085-000									
Intrusion Alarm Contract								228.00	= Beginning Balance
NetChange= 0.00								228.00	= Ending Balance
53140-000									
Pest Control Contract								1,555.00	= Beginning Balance
NetChange= 0.00								1,555.00	= Ending Balance
54010-000									
Advertising - Internet								1,505.00	= Beginning Balance
swpalmil	5/31/2010	07/10	(gsfor75) FOR RENT MAGAZINE	P-1898108	50056205311	149.00		1,654.00	05/31 Premier
swpalmil	6/14/2010	07/10	(gsfor75) FOR RENT MAGAZINE	P-1898116	50056206141	149.00		1,803.00	06/14 Premier Extra
swpalmil	7/30/2010	07/10	For Rent Ad	J-658858	For Rent	149.00		1,952.00	For Rent Ad
NetChange= 447.00								1,952.00	= Ending Balance
54030-000									
Advertising - Trade Publications								4,514.00	= Beginning Balance
swpalmil	5/31/2010	07/10	(gsfor75) FOR RENT MAGAZINE	P-1898108	50056205311	450.00		4,964.00	05/31 Full Page
swpalmil	6/14/2010	07/10	(gsfor75) FOR RENT MAGAZINE	P-1898116	50056206141	450.00		5,414.00	06/14 Full Page
NetChange= 900.00								5,414.00	= Ending Balance
54080-000									
Location Fees								1,156.00	= Beginning Balance
swpalmil	6/1/2010	07/10	(gsren198) RENT.COM	P-1898161	91390898	289.00		1,445.00	#17-02 Move In
NetChange= 289.00								1,445.00	= Ending Balance
54090-000									
Marketing / Promotions								5.99	= Beginning Balance
NetChange= 0.00								5.99	= Ending Balance
54105-000									
Prospect Referrals								304.03	= Beginning Balance
NetChange= 0.00								304.03	= Ending Balance
54120-000									
Resident Referral Fees								1,000.00	= Beginning Balance
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	250.00		1,250.00	J. Robinson Referral
NetChange= 250.00								1,250.00	= Ending Balance
54125-000									
Shopping Reports								55.00	= Beginning Balance
swpalmil	1/29/2010	07/10	(gsell328) ELLIS PROPERTY MANA	P-1898087	286344	35.00		70.00	01/26/10 Ushaundr
swpalmil	2/28/2010	07/10	(gsell328) ELLIS PROPERTY MANA	P-1898091	290038	35.00		105.00	02/22/10 No Name
swpalmil	4/20/2010	07/10	(gsell328) ELLIS PROPERTY MANA	P-1898083	297212	35.00		140.00	04/16 No Name
swpalmil	5/31/2010	07/10	(gsell328) ELLIS PROPERTY MANA	P-1898076	302497	35.00		175.00	05/25 No Name
NetChange= 140.00								175.00	= Ending Balance
54130-000									
Signage								108.10	= Beginning Balance
NetChange= 0.00								108.10	= Ending Balance
58030-000									
Copy Machine Contract								280.00	= Beginning Balance
NetChange= 0.00								280.00	= Ending Balance
58080-000									
Office Supplies								556.66	= Beginning Balance
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949600	20054240	19.18		575.84	Office Supplies
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949600	20054240		19.18	556.66	Office Supplies
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949600	20054240	19.18		575.84	Office Supplies
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949973	20054240-194	19.18		595.02	Office Supplies
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949973	20054240-194		19.18	575.84	Office Supplies
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949973	20054240-194		19.18	556.66	Office Supplies
NetChange= 0.00								556.66	= Ending Balance
58090-000									
Pagets / Cellular Phones								57.91	= Beginning Balance
NetChange= 0.00								57.91	= Ending Balance
58100-000									
Postage & Delivery								578.51	= Beginning Balance
swpalmil	6/12/2010	07/10	(gsups894) UPS	P-1898264	000a11e78240	5.13		583.64	06/12 Invoices
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949600	20054240		16.94	566.70	Postage to mail out
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949600	20054240	16.94		583.64	Postage to mail out
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949600	20054240	16.94		600.58	Postage to mail out
swpalmil	7/7/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1890695	07/10 Recurr	15.70		616.28	07/10 Postage
swpalmil	7/14/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949395	20655588	20.83		637.11	5/10 & 5/26 Deliver
swpalmil	7/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949409	20844470	15.13		652.24	7/3/10 Delivery
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949973	20054240-194		16.94	635.30	Postage to mail out
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949973	20054240-194		16.94	618.36	Postage to mail out
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1949973	20054240-194	16.94		635.30	Postage to mail out
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	15.70		651.00	Postage
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	25.00		676.00	July Postage
NetChange= 97.49								676.00	= Ending Balance
58105-000									
Printing Expense								188.40	= Beginning Balance
swpalmil	7/7/2010	07/10	(swgre29a) GREYSTAR REAL ESTA	P-1890695	07/10 Recurr	31.40		219.80	07/10 Copies/Fax
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	31.40		251.20	Copies/Fax

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
NetChange= 62.80								251.20	= Ending Balance
58107-000									
swpalmil	5/31/2010	07/10	(gsres730) LexisNexis Screening St P-1898137		504870	114.61		571.95	= Beginning Balance
NetChange= 114.61								688.46	4 Apps Processed
NetChange= 114.61								688.46	= Ending Balance
58110-000									
swpalmil	7/8/2010	07/10	(swemb660) Century Link	P-1898518	06/10 Centur	286.13		1,617.06	= Beginning Balance
swpalmil	7/8/2010	07/10	(swemb660) Century Link	P-1898518	06/10 Centur		272.47	1,903.19	06/10 Century Link
NetChange= 131.66								1,630.72	06/10 Century Link
NetChange= 131.66								1,630.72	= Ending Balance
58115-000									
swpalmil	7/7/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1890695		07/10 Recurr	250.00		1,501.00	= Beginning Balance
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	250.00		1,750.00	07/10 Yardi
NetChange= 500.00								2,000.00	Yardi Fees
NetChange= 500.00								2,000.00	= Ending Balance
58225-000									
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	178.79		1,729.04	= Beginning Balance
swpalmil	7/30/2010	07/10	07/10 Palmilla Close	J-658777	07/10 Palmil	125.00		1,307.83	June Bank Fees
NetChange= 303.79								1,432.83	July Bank Fees
NetChange= 303.79								1,432.83	= Ending Balance
58240-000									
Computer Expense								210.00	= Beginning Balance
NetChange= 0.00								210.00	= Ending Balance
58242-000									
Consulting / Professional Fees								2,000.00	= Beginning Balance
NetChange= 0.00								2,000.00	= Ending Balance
58247-000									
Employee Meetings								360.71	= Beginning Balance
NetChange= 0.00								360.71	= Ending Balance
58250-000									
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600		20054240	120.50		264.00	= Beginning Balance
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600		20054240	120.50		384.50	Background Screeni
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600		20054240		120.50	505.00	Background Screeni
swpalmil	6/15/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949600		20054240		120.50	384.50	Background Screeni
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973		20054240-194		120.50	264.00	Background Screeni
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973		20054240-194	120.50		384.50	Background Screeni
swpalmil	7/29/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1949973		20054240-194		120.50	264.00	Background Screeni
NetChange= 0.00								264.00	Background Screeni
NetChange= 0.00								264.00	= Ending Balance
58260-000									
Eviction Fees								486.44	= Beginning Balance
NetChange= 0.00								486.44	= Ending Balance
58270-000									
Internet Access								257.95	= Beginning Balance
NetChange= 0.00								257.95	= Ending Balance
58275-000									
Legal Fees								1,263.35	= Beginning Balance
NetChange= 0.00								1,263.35	= Ending Balance
58280-000									
Licenses / Fees / Permits								100.00	= Beginning Balance
NetChange= 0.00								100.00	= Ending Balance
58290-000									
Training / Seminars								1,540.61	= Beginning Balance
NetChange= 0.00								1,540.61	= Ending Balance
58305-000									
Uniform Rental / Purchase								208.62	= Beginning Balance
NetChange= 0.00								208.62	= Ending Balance
59010-000									
swpalmil	7/8/2010	07/10	(gsnve300) NV Energy	P-1898452	06/10 Office	265.97		14.68	= Beginning Balance
swpalmil	7/8/2010	07/10	(gsnve300) NV Energy	P-1898452	06/10 Office		150.72	280.63	05/26-06/24 Office
NetChange= 115.25								129.91	paid by Stout
NetChange= 115.25								129.91	= Ending Balance
59040-000									
swpalmil	7/8/2010	07/10	(gsnve300) NV Energy	P-1898438	07/10 NV Ener		222.37	4,804.84	= Beginning Balance
swpalmil	7/8/2010	07/10	(gsnve300) NV Energy	P-1898438	07/10 NV Ener	392.23		4,582.47	Paid by Stout
swpalmil	7/12/2010	07/10	07/10 NV Energy Refund	J-638220	07/10 NV Ene		28.33	4,974.70	05/26-06/07 NV Ener
NetChange= 140.53								4,946.37	07/10 NV Energy Re
NetChange= 140.53								4,946.37	= Ending Balance
59050-000									
Electric - Rebill								226.08	= Beginning Balance
NetChange= 0.00								226.08	= Ending Balance
59070-000									
swpalmil	7/8/2010	07/10	(swsou988) SOUTHWEST GAS COFP-1898463		06/23/10 Off		7.15	209.10	= Beginning Balance
swpalmil	7/8/2010	07/10	(swsou988) SOUTHWEST GAS COFP-1898463		06/23/10 Off	16.50		201.95	05/20-06/21 Stout
NetChange= 9.35								218.45	05/20-06/21
NetChange= 9.35								218.45	= Ending Balance

8/2/2010 12:51 PM

General Ledger (Accrual)
Palmilla - (swpalmil)
Months: Jul 2010

Property	Date	Period	Description	Control	Refer	Debit	Credit	Balance	Remarks
61030-000			Management Fees					21,910.38	= Beginning Balance
swpalmil	7/25/2010	07/10	(swgre29a) GREYSTAR REAL ESTA P-1869876		07/10 MF Pal	1,962.50		23,872.88	07/10 MF Palmilla
			NetChange= 1,962.50					23,872.88	= Ending Balance
62010-000			Ad Valorem Property Taxes					66,336.48	= Beginning Balance
swpalmil	7/29/2010	07/10	Palmilla Misc Income	J-655881	Palmilla Mis		228.21	66,108.27	Tax Refund 124-30-
swpalmil	7/29/2010	07/10	Palmilla Misc Income	J-655881	Palmilla Mis		195.12	65,913.15	Tax Refund 124-30-
			NetChange= 423.33					65,913.15	= Ending Balance
62020-000			Franchise Taxes					942.00	= Beginning Balance
			NetChange= 0.00					942.00	= Ending Balance
62030-000			Personal Property Taxes					5,803.16	= Beginning Balance
			NetChange= 0.00					5,803.16	= Ending Balance
63010-000			Property Insurance					11,092.34	= Beginning Balance
			NetChange= 0.00					11,092.34	= Ending Balance
71011-000			Appliances - Dishwashers					281.53	= Beginning Balance
			NetChange= 0.00					281.53	= Ending Balance
71013-000			Appliances - Refrigerators					3,102.46	= Beginning Balance
			NetChange= 0.00					3,102.46	= Ending Balance
71014-000			Appliances - Stove / Microwaves / Range Hoods					1,100.83	= Beginning Balance
			NetChange= 0.00					1,100.83	= Ending Balance
71015-000			Appliances - Washers / Dryers					381.02	= Beginning Balance
			NetChange= 0.00					381.02	= Ending Balance
71020-000			Carpet					38,052.80	= Beginning Balance
swpalmil	4/20/2010	07/10	(gssou365) Southwestern Floors	P-1937187	20018970	1,275.50		39,328.30	Carpet Install #1501
swpalmil	4/28/2010	07/10	(gscri221) Criterion Brock-203	P-1898067	cg026299	1,240.03		40,568.33	8-11 Replace Carpet
swpalmil	6/4/2010	07/10	(gscri221) Criterion Brock-203	P-1898063	cg035842	426.23		40,994.56	8-7 Replaced Carpet
			NetChange= 2,941.76					40,994.56	= Ending Balance
71090-000			BVAC					1,150.00	= Beginning Balance
			NetChange= 0.00					1,150.00	= Ending Balance
71175-000			Vinyl / Tile					221.50	= Beginning Balance
			NetChange= 0.00					221.50	= Ending Balance
						67,671.52	67,671.52		

EXHIBIT 12

001791

001791

EXHIBIT 12

8/2/2010 1:04 PM

Expense Distribution Property=swpalml mm/yy=07/2010 - 07/2010											
Account Code - Name	Compliance	Control	Property	Invoice #	Invoice Date	Period	Amount	Unpaid Amount	Check #	Check Date	Remarks
52090-000 - Garage Repairs & Maintenance											
gswe770 - Western Door and Gate, LLC	Approved	P-1898278	swpalml	14887	6/4/2010	07/2010	66.50	0.00	396	7/13/2010	Master Link #10 5833Palm
Total 52090-000 - Garage Repairs & Maintenance							66.50	0.00			
52150-000 - Maintenance Supplies											
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	18.50	0.00	61510	6/15/2010	GROUT & Texture
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	(18.50)	0.00	61510	7/29/2010	GROUT & Texture
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	18.50	18.50			GROUT & Texture
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(18.50)	(18.50)			GROUT & Texture
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(18.50)	(18.50)			GROUT & Texture
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	18.50	18.50			GROUT & Texture
Total 52150-000 - Maintenance Supplies							0.00	0.00			
52190-000 - Plumbing Supplies / Repairs											
swln720 - Interstate Services	Approved	P-1898128	swpalml	pl25413	5/29/2010	07/2010	279.28	0.00	398	7/13/2010	5855 Nuevo #7 Water Heater
Total 52190-000 - Plumbing Supplies / Repairs							279.28	0.00			
52670-000 - Painting Supplies											
gsche277 - Sherwin Williams	Exempt	P-1898614	swpalml	5194-1 2cms	4/27/2010	07/2010	213.33	0.00	394	7/13/2010	5-Scots White
gsche277 - Sherwin Williams	Exempt	P-1898614	swpalml	5194-1 2cms	4/27/2010	07/2010	(22.17)	0.00	394	7/13/2010	cm 5194-10565cb
gsche277 - Sherwin Williams	Exempt	P-1898614	swpalml	5194-1 2cms	4/27/2010	07/2010	(91.61)	0.00	394	7/13/2010	cm 43987
Total 52670-000 - Painting Supplies							109.45	0.00			
54070-000 - Advertising - Internet											
gsfor75 - FOR RENT MAGAZINE	Approved	P-1898108	swpalml	5.00562E+11	5/31/2010	07/2010	149.00	0.00	390	7/13/2010	05/31 Premier
gsfor75 - FOR RENT MAGAZINE	Approved	P-1898116	swpalml	5.00562E+11	6/14/2010	07/2010	149.00	0.00	390	7/13/2010	06/14 Premier Extra
Total 54070-000 - Advertising - Internet							298.00	0.00			
54030-000 - Advertising - Trade Publications											
gsfor75 - FOR RENT MAGAZINE	Approved	P-1898108	swpalml	5.00562E+11	5/31/2010	07/2010	450.00	0.00	390	7/13/2010	05/31 Full Page
gsfor75 - FOR RENT MAGAZINE	Approved	P-1898116	swpalml	5.00562E+11	6/14/2010	07/2010	450.00	0.00	390	7/13/2010	06/14 Full Page
Total 54030-000 - Advertising - Trade Publications							900.00	0.00			
54080-000 - Locator Fees											
gsren198 - RENT.COM	Approved	P-1898161	swpalml	91390898	6/1/2010	07/2010	289.00	0.00	392	7/13/2010	#17-02 Move In
Total 54080-000 - Locator Fees							289.00	0.00			
54125-000 - Shipping Reports											
gsell328 - ELLIS PROPERTY MANAGEMENT	Exempt	P-1898087	swpalml	286344	1/29/2010	07/2010	35.00	0.00	389	7/13/2010	01/26/10 Lishaundra
gsell328 - ELLIS PROPERTY MANAGEMENT	Exempt	P-1898091	swpalml	290038	2/28/2010	07/2010	35.00	0.00	389	7/13/2010	02/22/10 No Name
gsell328 - ELLIS PROPERTY MANAGEMENT	Exempt	P-1898083	swpalml	297212	4/20/2010	07/2010	35.00	0.00	389	7/13/2010	04/16 No Name
gsell328 - ELLIS PROPERTY MANAGEMENT	Exempt	P-1898076	swpalml	302497	5/31/2010	07/2010	35.00	0.00	389	7/13/2010	05/25 No Name
Total 54125-000 - Shipping Reports							140.00	0.00			
58080-000 - Office Supplies											
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	(19.18)	0.00	61510	7/29/2010	Office Supplies
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	19.18	0.00	61510	6/15/2010	Office Supplies
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	19.18	19.18			Office Supplies
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(19.18)	(19.18)			Office Supplies
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	19.18	19.18			Office Supplies
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(19.18)	(19.18)			Office Supplies
Total 58080-000 - Office Supplies							0.00	0.00			
58100-000 - Postage & Delivery											
gsups894 - UPS	Exempt	P-1898264	swpalml	000a1e78240	6/12/2010	07/2010	5.13	0.00	395	7/13/2010	06/12 Invoices
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	16.94	16.94			Postage to mail out 5 day notice
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	16.94	0.00	61510	6/15/2010	Postage to mail out 5 day notice
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	(16.94)	0.00	61510	7/29/2010	Postage to mail out 5 day notice
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1898095	swpalml	07/10 Recurring	7/7/2010	07/2010	15.70	0.00	7E+06	7/2/2010	06/10 Postage
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949395	swpalml	20855588	7/14/2010	07/2010	20.83	0.00	71410	7/14/2010	5/10 & 5/26 Deliveries to Corp
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949409	swpalml	20844470	7/15/2010	07/2010	15.13	0.00	71510	7/15/2010	7/3/10 Delivery
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(16.94)	(16.94)			Postage to mail out 5 day notice
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	16.94	16.94			Postage to mail out 5 day notice
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(16.94)	(16.94)			Postage to mail out 5 day notice
Total 58100-000 - Postage & Delivery							85.73	0.00			
58105-000 - Printing Expense											
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1898065	swpalml	07/10 Recurring	7/7/2010	07/2010	31.40	0.00	7E+06	7/2/2010	07/10 Copies/Fax
Total 58105-000 - Printing Expense							31.40	0.00			
58107-000 - Resident Screening											
gsres730 - LexisNexis Screening Solutions Inc.	Exempt	P-1898137	swpalml	504870	5/31/2010	07/2010	114.61	0.00	393	7/13/2010	4 Apps Processed
Total 58107-000 - Resident Screening							114.61	0.00			
58110-000 - Telephone Expense											
swemb660 - Century Link	Exempt	P-1898518	swpalml	06/10 Century LI	7/8/2010	07/2010	286.13	0.00	397	7/13/2010	06/10 Century Link
swemb660 - Century Link	Exempt	P-1898518	swpalml	06/10 Century LI	7/8/2010	07/2010	(272.47)	0.00	397	7/13/2010	06/10 Century Link Stout
Total 58110-000 - Telephone Expense							13.66	0.00			
58115-000 - Software Licenses / Maintenance Fees											
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1898095	swpalml	07/10 Recurring	7/7/2010	07/2010	250.00	0.00	7E+06	7/2/2010	07/10 Yard
Total 58115-000 - Software Licenses / Maintenance Fees							250.00	0.00			
58250-000 - Employee Recruitment											
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	120.50	0.00	61510	6/15/2010	Background Screening
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	(120.50)	0.00	61510	7/29/2010	Background Screening
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949600	swpalml	20054240	6/15/2010	07/2010	120.50	120.50			Background Screening
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	120.50	120.50			Background Screening
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(120.50)	(120.50)			Background Screening
swgr29a - GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1949973	swpalml	20054240-19499	7/29/2010	07/2010	(120.50)	(120.50)			Background Screening
Total 58250-000 - Employee Recruitment							0.00	0.00			
59010-000 - Electric - Clubhouse											
gsve300 - NV Energy	Exempt	P-1898452	swpalml	06/10 Office Bct	7/8/2010	07/2010	(150.72)	0.00	391	7/13/2010	paid by Stout
gsve300 - NV Energy	Exempt	P-1898452	swpalml	06/10 Office Bct	7/8/2010	07/2010	265.97	0.00	391	7/13/2010	05/26-06/24 Office
Total 59010-000 - Electric - Clubhouse							115.25	0.00			
59040-000 - Electric - Vacant Units											
gsve300 - NV Energy	Exempt	P-1898438	swpalml	07/10 NV Energy	7/8/2010	07/2010	(222.37)	0.00	391	7/13/2010	Paid by Stout
gsve300 - NV Energy	Exempt	P-1898438	swpalml	07/10 NV Energy	7/8/2010	07/2010	391.23	0.00	391	7/13/2010	05/26-06/07 NV Energy
Total 59040-000 - Electric - Vacant Units							168.86	0.00			

8/2/2010 1:04 PM

Expense Distribution										
Property=swpalml										
mm/yy=07/2010 - 07/2010										
Account Code	Name	Compliance	Control	Property	Invoice #	Date	Period	Amount	Unpaid	Check #
Vendor Code	Name	Depot Status						Amount	Check #	Reference
59070-000 - Gas - Common Areas										
swsou988	- SOUTHWEST GAS CORPORATION	Exempt	P-1898463	swpalml	06/23/10 Office	7/8/2010	07/2010	16.50	0.00	399
swsou988	- SOUTHWEST GAS CORPORATION	Exempt	P-1898463	swpalml	06/23/10 Office	7/8/2010	07/2010	(7.15)	0.00	399
Total 59070-000 - Gas - Common Areas								9.35	0.00	
61030-000 - Management Fees										
swgre29a	- GREYSTAR REAL ESTATE PARTNERS	Exempt	P-1869876	swpalml	07/10 MF Palml	7/25/2010	07/2010	1,962.50	0.00	7E+06
Total 61030-000 - Management Fees								1,962.50	0.00	
71020-000 - Carpet										
gsou365	- Southwestern Floors	Approved	P-1937187	swpalml	20018970	4/20/2010	07/2010	1,275.50	0.00	400
gsou221	- Criterion Brock-203	Approved	P-1898067	swpalml	cg026299	4/28/2010	07/2010	1,240.03	0.00	388
gsou221	- Criterion Brock-203	Approved	P-1898063	swpalml	cg035842	6/4/2010	07/2010	426.23	0.00	388
Total 71020-000 - Carpet								2,941.76	0.00	
Grand Total								7,742.81	0.00	

EXHIBIT 13

001794

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EXHIBIT 13

8/2/2010 1:03 PM

Payment Detail
Property=swpalmil
Bank=swpalm-o
mm/yy=07/2010 - 07/2010
All Checks=Yes
Include Voids=All Checks

Check #	Bank	Vendor	Date	Payable #	Property	Amount	Account
386 (swpalm-o) - CAREER STRATEGIES TEMPORARY, INC. (ascr343) - 07/07/10 (07/10)							
24 S Wetherby				P-1872477	swpalmil	475.20	51150000 - Contract Staffing - Admin
K Shafter				P-1872489	swpalmil	300.80	51150000 - Contract Staffing - Admin
S. Wetherby				P-1872489	swpalmil	760.00	51150000 - Contract Staffing - Admin
D. Williams				P-1872489	swpalmil	504.00	51150000 - Contract Staffing - Admin
D. Williams				P-1872495	swpalmil	672.00	51150000 - Contract Staffing - Admin
S. Wetherby				P-1872495	swpalmil	608.00	51150000 - Contract Staffing - Admin
S. Wetherby				P-1872501	swpalmil	95.00	51150000 - Contract Staffing - Admin
D. Williams				P-1872501	swpalmil	105.00	51150000 - Contract Staffing - Admin
Total 386 (swpalm-o) - CAREER STRATEGIES TEMPORARY, INC. (ascr343) - 07/07/10 (07/10)						3,520.00	
387 (swpalm-o) - Ryan White (mrya583) - 07/07/10 (07/10)							
05/10 Referral - Ryan White				P-1885089	swpalmil	250.00	54120000 - Resident Referral Fees
Total 387 (swpalm-o) - Ryan White (mrya583) - 07/07/10 (07/10)						250.00	
388 (swpalm-o) - Criterion Brock-203 (ascr221) - 07/13/10 (07/10)							
8-7 Replaced Carpet				P-1898063	swpalmil	426.23	71020000 - Carpet
8-11 Replace Carpet/Pad				P-1898067	swpalmil	1,240.03	71020000 - Carpet
Total 388 (swpalm-o) - Criterion Brock-203 (ascr221) - 07/13/10 (07/10)						1,666.26	
389 (swpalm-o) - ELLIS PROPERTY MANAGEMENT (gsel328) - 07/13/10 (07/10)							
05/25 No name				P-1898076	swpalmil	35.00	54125000 - Shopping Reports
04/16 No Name				P-1898083	swpalmil	35.00	54125000 - Shopping Reports
01/26/10 Lishaundrea				P-1898087	swpalmil	35.00	54125000 - Shopping Reports
02/22/10 No Name				P-1898091	swpalmil	35.00	54125000 - Shopping Reports
Total 389 (swpalm-o) - ELLIS PROPERTY MANAGEMENT (gsel328) - 07/13/10 (07/10)						140.00	
390 (swpalm-o) - FOR RENT MAGAZINE (gsfo75) - 07/13/10 (07/10)							
05/31 Premier				P-1898108	swpalmil	149.00	54010000 - Advertising - Internet
05/31 Full Page				P-1898108	swpalmil	450.00	54030000 - Advertising - Trade Publications
06/14 Full Page				P-1898116	swpalmil	450.00	54030000 - Advertising - Trade Publications
06/14 Premier Extra				P-1898116	swpalmil	149.00	54010000 - Advertising - Internet
Total 390 (swpalm-o) - FOR RENT MAGAZINE (gsfo75) - 07/13/10 (07/10)						1,198.00	
391 (swpalm-o) - NV Energy (gsnve300) - 07/13/10 (07/10)							
05/26-06/07 NV Energy				P-1898438	swpalmil	392.23	59040000 - Electric - Vacant Units
Paid by Stout				P-1898438	swpalmil	(222.37)	59040000 - Electric - Vacant Units
paid by Stout				P-1898452	swpalmil	(150.72)	59010000 - Electric - Clubhouse
05/26-06/24 Office				P-1898452	swpalmil	265.97	59010000 - Electric - Clubhouse
Total 391 (swpalm-o) - NV Energy (gsnve300) - 07/13/10 (07/10)						285.11	
392 (swpalm-o) - RENT.COM (gsren198) - 07/13/10 (07/10)							
#17-02 Move In				P-1898161	swpalmil	289.00	54080000 - Locator Fees
Total 392 (swpalm-o) - RENT.COM (gsren198) - 07/13/10 (07/10)						289.00	
393 (swpalm-o) - LexisNexis Screening Solutions Inc. (gsres730) - 07/13/10 (07/10)							
4 Apps Processed				P-1898137	swpalmil	114.61	58107000 - Resident Screening
Total 393 (swpalm-o) - LexisNexis Screening Solutions Inc. (gsres730) - 07/13/10 (07/10)						114.61	
394 (swpalm-o) - Sherwin Williams (gssthe277) - 07/13/10 (07/10)							
5-5Gals White				P-1898614	swpalmil	223.23	52670000 - Painting Supplies
cm 5194-10565cb				P-1898614	swpalmil	(22.17)	52670000 - Painting Supplies
cm 43987				P-1898614	swpalmil	(91.61)	52670000 - Painting Supplies
Total 394 (swpalm-o) - Sherwin Williams (gssthe277) - 07/13/10 (07/10)						109.45	
395 (swpalm-o) - UPS (gsups894) - 07/13/10 (07/10)							
06/12 Invoices				P-1898264	swpalmil	5.13	58100000 - Postage & Delivery
Total 395 (swpalm-o) - UPS (gsups894) - 07/13/10 (07/10)						5.13	
396 (swpalm-o) - Western Door and Gate LLC (gswe770) - 07/13/10 (07/10)							
Master Link #10 5833Palm				P-1898278	swpalmil	66.50	52090000 - Garage Repairs & Maintenance
Total 396 (swpalm-o) - Western Door and Gate LLC (gswe770) - 07/13/10 (07/10)						66.50	
397 (swpalm-o) - Century Link (swemb660) - 07/13/10 (07/10)							
06/10 Century Link				P-1898518	swpalmil	286.13	58110000 - Telephone Expense
06/10 Century Link Stout				P-1898518	swpalmil	(272.47)	58110000 - Telephone Expense
Total 397 (swpalm-o) - Century Link (swemb660) - 07/13/10 (07/10)						13.66	
398 (swpalm-o) - Interstate Services (swint720) - 07/13/10 (07/10)							
5855 Nuevo #7 Water Heater				P-1898128	swpalmil	279.28	52190000 - Plumbing Supplies / Repairs
Total 398 (swpalm-o) - Interstate Services (swint720) - 07/13/10 (07/10)						279.28	
399 (swpalm-o) - SOUTHWEST GAS CORPORATION (swsou988) - 07/13/10 (07/10)							
05/20-06/21 Stout				P-1898463	swpalmil	(7.15)	59070000 - Gas - Common Areas
05/20-06/21				P-1898463	swpalmil	16.50	59070000 - Gas - Common Areas
Total 399 (swpalm-o) - SOUTHWEST GAS CORPORATION (swsou988) - 07/13/10 (07/10)						9.35	
400 (swpalm-o) - Southwestern Floors (gsou365) - 07/28/10 (07/10)							
Carpet Install #1508				P-1937187	swpalmil	1,275.50	71020000 - Carpet
Total 400 (swpalm-o) - Southwestern Floors (gsou365) - 07/28/10 (07/10)						1,275.50	

8/2/2010 1:03 PM

Payment Detail
 Property=swpalmil
 Bank=swpalm-o
 mm/yy=07/2010 - 07/2010
 All Checks=Yes
 Include Voids=All Checks

Check #	Bank	Vendor	Date	Payable #	Property	Amount	Account
61510 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 06/15/10 (07/10) (Voided)							
		Background Screening	P-1949600	swpalmil	120.50	58250000 - Employee Recruitment	
		Postage to mail out 5 day notice	P-1949600	swpalmil	16.94	58100000 - Postage & Delivery	
		Office Supplies	P-1949600	swpalmil	19.18	58080000 - Office Supplies	
		Grout & Texture	P-1949600	swpalmil	18.50	52150000 - Maintenance Supplies	
Total 61510 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 06/15/10 (07/10) (Voided)						175.12	
61510 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/29/10 (07/10) (Voided)							
		Background Screening	P-1949600	swpalmil	(120.50)	58250000 - Employee Recruitment	
		Postage to mail out 5 day notice	P-1949600	swpalmil	(16.94)	58100000 - Postage & Delivery	
		Office Supplies	P-1949600	swpalmil	(19.18)	58080000 - Office Supplies	
		Grout & Texture	P-1949600	swpalmil	(18.50)	52150000 - Maintenance Supplies	
Total 61510 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/29/10 (07/10) (Voided)						(175.12)	
71410 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/14/10 (07/10)							
		5/10 & 5/26 Deliveries to Corp	P-1949395	swpalmil	20.83	58100000 - Postage & Delivery	
Total 71410 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/14/10 (07/10)						20.83	
71510 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/15/10 (07/10)							
		7/3/10 Delivery	P-1949409	swpalmil	15.13	58100000 - Postage & Delivery	
Total 71510 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/15/10 (07/10)						15.13	
7022010 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/02/10 (07/10)							
		07/10 Copies/Fax	P-1890695	swpalmil	31.40	58105000 - Printing Expense	
		07/10 Postage	P-1890695	swpalmil	15.70	58100000 - Postage & Delivery	
		07/10 Yard	P-1890695	swpalmil	250.00	58115000 - Software Licenses / Maintenance Fees	
Total 7022010 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/02/10 (07/10)						297.10	
7252010 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/25/10 (07/10)							
		07/10 MF Palmilla	P-1869876	swpalmil	1,962.50	61030000 - Management Fees	
Total 7252010 (swpalm-o) GREYSTAR REAL ESTATE PARTNERS SW (swgre29a) - 07/25/10 (07/10)						1,962.50	
Grand Total						17,517.41	

EXHIBIT 14

001797

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EXHIBIT 14

Aged Receivables Report

Detail by Charge Code
 Property: Palmilla (swpalmil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 1

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
swpalmil - Palmilla									
03-07	pam90001 Current	Courtney Kaplan** rent	50.00	50.00	0.00	0.00	0.00	0.00	
Total			50.00	50.00	0.00	0.00	0.00	0.00	50.00
06-03	t0313015 Current	Edwin Trujillo** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.97	
Total			0.00	0.00	0.00	0.00	0.00	-0.97	-0.97
06-08	t0284129 Current	Pablo Rodriguez** (prepay)	0.00	0.00	0.00	0.00	0.00	-1.33	
Total			0.00	0.00	0.00	0.00	0.00	-1.33	-1.33
07-02	t0310758 Current	Tanya Martinez** (prepay)	0.00	0.00	0.00	0.00	0.00	-1.00	
Total			0.00	0.00	0.00	0.00	0.00	-1.00	-1.00
07-03	t0297831 Current	Ledalia Spurlock** (prepay)	0.00	0.00	0.00	0.00	0.00	-74.85	
Total			0.00	0.00	0.00	0.00	0.00	-74.85	-74.85
07-09	pam90157 Current	John Iles** rent	40.32	40.32	0.00	0.00	0.00	0.00	
Total			40.32	40.32	0.00	0.00	0.00	0.00	40.32
07-11	t0311167 Current	Steven Flores** rent	849.13	849.13	0.00	0.00	0.00	0.00	
Total			849.13	849.13	0.00	0.00	0.00	0.00	849.13
07-12	pam90018 Current	Justina Boyd rent	1,044.65	1,044.65	0.00	0.00	0.00	0.00	
Total			1,044.65	1,044.65	0.00	0.00	0.00	0.00	1,044.65
08-06	t0315156 Current	Jacqueline Harris-Smith** rent	0.50	0.50	0.00	0.00	0.00	0.00	
Total			0.50	0.50	0.00	0.00	0.00	0.00	0.50
08-09	t0315308 Current	Carleen Wohlever** (prepay)	0.00	0.00	0.00	0.00	0.00	-455.00	
Total			0.00	0.00	0.00	0.00	0.00	-455.00	-455.00
08-11	t0321440 Current	Carmen Dilworth (prepay)	0.00	0.00	0.00	0.00	0.00	-281.05	
Total			0.00	0.00	0.00	0.00	0.00	-281.05	-281.05
08-12	pam90030 Current	Don Turner rent	450.00	450.00	0.00	0.00	0.00	0.00	
Total			450.00	450.00	0.00	0.00	0.00	0.00	450.00
09-04	t0273639 Current	Patricia Crank** rent	110.00	110.00	0.00	0.00	0.00	0.00	
Total			110.00	110.00	0.00	0.00	0.00	0.00	110.00
09-09	t0274532 Current	Barbara Moran** (prepay)	0.00	0.00	0.00	0.00	0.00	-1,075.00	
Total			0.00	0.00	0.00	0.00	0.00	-1,075.00	-1,075.00
09-10	t0293749 Current	Delfina Echeverria** rent	1,082.65	1,082.65	0.00	0.00	0.00	0.00	
Total			1,082.65	1,082.65	0.00	0.00	0.00	0.00	1,082.65
09-11	t0317761 Current	Jennifer Cox** rent	1,102.50	1,050.00	52.50	0.00	0.00	0.00	
Total			1,102.50	1,050.00	52.50	0.00	0.00	0.00	1,102.50

Tuesday, June 8, 2010

Detail by Charge Code
 Property: Palmilla (swpalmil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 2

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
swpalmil - Palmilla									
09-12	pam90042 Current	Jamie Caroon rent	1,074.52	1,074.52	0.00	0.00	0.00	0.00	
Total			1,074.52	1,074.52	0.00	0.00	0.00	0.00	1,074.52
10-02	t0862252 Current	Harold Cruz** (prepay)	0.00	0.00	0.00	0.00	0.00	-50.00	
Total			0.00	0.00	0.00	0.00	0.00	-50.00	-50.00
10-05	t0322587 Current	Sharon Beasley*** rent	0.05	0.05	0.00	0.00	0.00	0.00	
Total			0.05	0.05	0.00	0.00	0.00	0.00	0.05
10-07	pam90049 Current	Grace Bizzell rent	1,275.00	1,275.00	0.00	0.00	0.00	0.00	
Total			1,275.00	1,275.00	0.00	0.00	0.00	0.00	1,275.00
10-10	t0288773 Current	Aaron Mitchell** rent	5.09	5.09	0.00	0.00	0.00	0.00	
Total			5.09	5.09	0.00	0.00	0.00	0.00	5.09
10-11	pam90053 Current	Lilia Enriquez** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.05	
Total			0.00	0.00	0.00	0.00	0.00	-0.05	-0.05
10-12	t0316993 Current	Tsana Andrews*** (prepay)	0.00	0.00	0.00	0.00	0.00	-405.00	
Total			0.00	0.00	0.00	0.00	0.00	-405.00	-405.00
11-01	pam90055 Current	Robert Bernard** rent	1,087.50	1,087.50	0.00	0.00	0.00	0.00	
Total			1,087.50	1,087.50	0.00	0.00	0.00	0.00	1,087.50
11-03	t0302702 Current	Janice Robinson** rent	251.32	251.32	0.00	0.00	0.00	0.00	
Total			251.32	251.32	0.00	0.00	0.00	0.00	251.32
11-04	t0288832 Canceled	Jamillah Ali adminfee appfee forfeits	150.00 45.00 195.00	0.00 0.00 0.00	0.00 0.00 0.00	0.00 0.00 0.00	150.00 45.00 195.00	0.00 0.00 0.00	
Total			390.00	0.00	0.00	0.00	390.00	0.00	390.00
	t0292890 Current	Joseph Sausa** (prepay)	0.00	0.00	0.00	0.00	0.00	-20.45	
Total			0.00	0.00	0.00	0.00	0.00	-20.45	-20.45
11-05	t0307059 Current	Sarah Dettling** (prepay)	0.00	0.00	0.00	0.00	0.00	-3.48	
Total			0.00	0.00	0.00	0.00	0.00	-3.48	-3.48
11-06	t0286477 Current	Crystal Torres** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.17	
Total			0.00	0.00	0.00	0.00	0.00	-0.17	-0.17
11-07	pam90061 Current	Tyrone Scott (prepay)	0.00	0.00	0.00	0.00	0.00	-53.00	
Total			0.00	0.00	0.00	0.00	0.00	-53.00	-53.00
11-09	t0287588 Current	Latrice James** rent	149.00	149.00	0.00	0.00	0.00	0.00	
Total			149.00	149.00	0.00	0.00	0.00	0.00	149.00
11-12	t0310869 Current	Gloria Leshner** rent	2,088.11	1,250.00	838.11	0.00	0.00	0.00	
Total			2,088.11	1,250.00	838.11	0.00	0.00	0.00	2,088.11

Aged Receivables Report

Tuesday, June 8, 2010

Detail by Charge Code
 Property: Palmlila (swpalmil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 3

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
swpalmil - Palmlila									
12-01	pam90067 Current	Rana Mona** (prepay)	0.00	0.00	0.00	0.00	0.00	-1.00	
Total			0.00	0.00	0.00	0.00	0.00	-1.00	-1.00
12-02	t0315739 Current	Ryan White** rent	0.15	0.15	0.00	0.00	0.00	0.00	
Total			0.15	0.15	0.00	0.00	0.00	0.00	0.15
12-03	t0297598 Current	Keith Fields** rent	978.00	978.00	0.00	0.00	0.00	0.00	
Total			978.00	978.00	0.00	0.00	0.00	0.00	978.00
12-04	t0317403 Current	Kelli Monts** (prepay)	0.00	0.00	0.00	0.00	0.00	-48.00	
Total			0.00	0.00	0.00	0.00	0.00	-48.00	-48.00
12-07	pam90073 Current	Shawnette Alberson** (prepay)	0.00	0.00	0.00	0.00	0.00	-50.00	
Total			0.00	0.00	0.00	0.00	0.00	-50.00	-50.00
12-10	pam90076 Current	Robert Eason II rent	1,125.00	1,125.00	0.00	0.00	0.00	0.00	
Total			1,125.00	1,125.00	0.00	0.00	0.00	0.00	1,125.00
13-01	t0307985 Current	Felicia Wesley** rent	858.00	858.00	0.00	0.00	0.00	0.00	
Total			858.00	858.00	0.00	0.00	0.00	0.00	858.00
13-05	pam90083 Current	Jose Peterson II** (prepay)	0.00	0.00	0.00	0.00	0.00	-20.00	
Total			0.00	0.00	0.00	0.00	0.00	-20.00	-20.00
13-07	t0273144 Current	Charles Holmes** rent	1,080.00	1,080.00	0.00	0.00	0.00	0.00	
Total			1,080.00	1,080.00	0.00	0.00	0.00	0.00	1,080.00
13-08	pam90086 Current	Marisa Dias rent	40.00	40.00	0.00	0.00	0.00	0.00	
Total			40.00	40.00	0.00	0.00	0.00	0.00	40.00
13-09	t0293276 Current	Lezlie Bermudez** (prepay)	0.00	0.00	0.00	0.00	0.00	-2.85	
Total			0.00	0.00	0.00	0.00	0.00	-2.85	-2.85
13-11	t0318589 Current	Tamisha Jones** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.50	
Total			0.00	0.00	0.00	0.00	0.00	-0.50	-0.50
14-02	t0298719 Current	Rick Wilson** (prepay)	0.00	0.00	0.00	0.00	0.00	-46.45	
Total			0.00	0.00	0.00	0.00	0.00	-46.45	-46.45
14-03	t0295675 Current	Michael Larson** rent	999.00	999.00	0.00	0.00	0.00	0.00	
Total			999.00	999.00	0.00	0.00	0.00	0.00	999.00
14-04	t0307922 Current	Tiffany Murdock** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.45	
Total			0.00	0.00	0.00	0.00	0.00	-0.45	-0.45
14-07	t0303169 Current	Roshon Williams** rent	1,194.00	1,194.00	0.00	0.00	0.00	0.00	
Total			1,194.00	1,194.00	0.00	0.00	0.00	0.00	1,194.00

Detail by Charge Code
 Property: Palmilla (swpalmlil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 4

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
swpalmlil - Palmilla									
14-08	t0273630 Current	Aida Harrington** rent	1,060.00	1,060.00	0.00	0.00	0.00	0.00	
Total			1,060.00	1,060.00	0.00	0.00	0.00	0.00	1,060.00
14-09	pam90099 Current	Thomas Ruscetta** rent	1,285.00	1,285.00	0.00	0.00	0.00	0.00	
Total			1,285.00	1,285.00	0.00	0.00	0.00	0.00	1,285.00
14-11	t0274358 Current	Margie Butler** (prepay)	0.00	0.00	0.00	0.00	0.00	-589.25	
Total			0.00	0.00	0.00	0.00	0.00	-589.25	-589.25
	t0305645 Canceled	Margie Butler petdep petfee	250.00 500.00	0.00 0.00	0.00 0.00	0.00 0.00	250.00 500.00	0.00 0.00	
Total			750.00	0.00	0.00	0.00	750.00	0.00	750.00
14-12	pam90102 Current	Derrick Grays** rent	260.00	260.00	0.00	0.00	0.00	0.00	
Total			260.00	260.00	0.00	0.00	0.00	0.00	260.00
15-03	pam90105 Notice	Alejandro Villar rent	1,220.00	1,220.00	0.00	0.00	0.00	0.00	
Total			1,220.00	1,220.00	0.00	0.00	0.00	0.00	1,220.00
15-04	t0276645 Current	Katherine Hays** rent	40.32	40.32	0.00	0.00	0.00	0.00	
Total			40.32	40.32	0.00	0.00	0.00	0.00	40.32
15-08	t0322427 Current	Susan Horne** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.17	
Total			0.00	0.00	0.00	0.00	0.00	-0.17	-0.17
15-10	pam90112 Current	Cedric Wright** rent	1,990.00	1,325.00	665.00	0.00	0.00	0.00	
Total			1,990.00	1,325.00	665.00	0.00	0.00	0.00	1,990.00
15-11	t0284070 Canceled	Leshann Wilder appfee	45.00	0.00	0.00	0.00	45.00	0.00	
Total			45.00	0.00	0.00	0.00	45.00	0.00	45.00
	t0298673 Current	Trevor Beckles** rent	850.00	850.00	0.00	0.00	0.00	0.00	
Total			850.00	850.00	0.00	0.00	0.00	0.00	850.00
16-01	t0306831 Current	Nathaniel Bonifacio** (prepay)	0.00	0.00	0.00	0.00	0.00	-1.90	
Total			0.00	0.00	0.00	0.00	0.00	-1.90	-1.90
16-02	t0284340 Canceled	Laseandra Marshall appfee	45.00	0.00	0.00	0.00	45.00	0.00	
Total			45.00	0.00	0.00	0.00	45.00	0.00	45.00
	t0313118 Current	Dorkka Romo** rent	935.00	935.00	0.00	0.00	0.00	0.00	
Total			935.00	935.00	0.00	0.00	0.00	0.00	935.00
16-03	t0287190 Current	Sheena Alderman** (prepay)	0.00	0.00	0.00	0.00	0.00	-1.90	
Total			0.00	0.00	0.00	0.00	0.00	-1.90	-1.90
16-05	t0306735 Current	Shemette Mitchell** (prepay)	0.00	0.00	0.00	0.00	0.00	-0.43	
Total			0.00	0.00	0.00	0.00	0.00	-0.43	-0.43

Detail by Charge Code
 Property: Palmilla (swpalmil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 5

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
swpalmil - Palmilla									
16-06	t0273107 Current	Kaleigh Stock** rent	50.00	50.00	0.00	0.00	0.00	0.00	
Total			50.00	50.00	0.00	0.00	0.00	0.00	50.00
16-07	pam90121 Current	David Mason rent	500.00	500.00	0.00	0.00	0.00	0.00	
Total			500.00	500.00	0.00	0.00	0.00	0.00	500.00
16-09	t0289052 Current	Belinda Worpell** (prepay)	0.00	0.00	0.00	0.00	0.00	-11.93	
Total			0.00	0.00	0.00	0.00	0.00	-11.93	-11.93
16-10	t0306375 Current	Steven Thomas** rent	287.15	287.15	0.00	0.00	0.00	0.00	
Total			287.15	287.15	0.00	0.00	0.00	0.00	287.15
16-11	t0319823 Future	Martell Dennis (prepay)	0.00	0.00	0.00	0.00	0.00	-240.00	
Total			0.00	0.00	0.00	0.00	0.00	-240.00	-240.00
16-12	t0273097 Current	Emily Winn rent	50.00	50.00	0.00	0.00	0.00	0.00	
Total			50.00	50.00	0.00	0.00	0.00	0.00	50.00
17-01	t0318172 Denied	Petra Ramos appfee	45.00	0.00	0.00	0.00	45.00	0.00	
Total			45.00	0.00	0.00	0.00	45.00	0.00	45.00
17-03	pam90129 Current	Carlos Villalobos rent	2,450.00	1,325.00	1,125.00	0.00	0.00	0.00	
Total			2,450.00	1,325.00	1,125.00	0.00	0.00	0.00	2,450.00
17-06	pam90132 Current	Rebecca Mitchell rent	750.00	750.00	0.00	0.00	0.00	0.00	
Total			750.00	750.00	0.00	0.00	0.00	0.00	750.00
17-07	t0317914 Current	Carla Arrey** rent	1,198.00	1,198.00	0.00	0.00	0.00	0.00	
Total			1,198.00	1,198.00	0.00	0.00	0.00	0.00	1,198.00
17-09	pam90135 Current	Dwight Stewart** (prepay)	0.00	0.00	0.00	0.00	0.00	-3.23	
Total			0.00	0.00	0.00	0.00	0.00	-3.23	-3.23
17-10	t0316382 Current	Angela Ward** (prepay)	0.00	0.00	0.00	0.00	0.00	-1.90	
Total			0.00	0.00	0.00	0.00	0.00	-1.90	-1.90
17-11	t0299528 Canceled	Tiawna Finch** appfee nsffee	45.00 5.00	0.00 0.00	0.00 0.00	0.00 0.00	45.00 5.00	0.00 0.00	
Total			50.00	0.00	0.00	0.00	50.00	0.00	50.00
	t0316184 Current	Kenneth Clark** (prepay)	0.00	0.00	0.00	0.00	0.00	-5.09	
Total			0.00	0.00	0.00	0.00	0.00	-5.09	-5.09
17-12	pam90138 Current	Cora Szafarski** rent	1,075.00	1,075.00	0.00	0.00	0.00	0.00	
Total			1,075.00	1,075.00	0.00	0.00	0.00	0.00	1,075.00
18-01	pam90139 Current	Elsie Spell rent	50.00	50.00	0.00	0.00	0.00	0.00	
Total			50.00	50.00	0.00	0.00	0.00	0.00	50.00

Detail by Charge Code
 Property: Palmlila (swpalmlil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 6

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
swpalmlil - Palmlila									
18-03	t0286779 Current	Diseree Mitchell** rent	162.14	162.14	0.00	0.00	0.00	0.00	
Total			162.14	162.14	0.00	0.00	0.00	0.00	162.14
18-05	t0315903 Current	Ramon Lamorta** rent	473.00	473.00	0.00	0.00	0.00	0.00	
Total			473.00	473.00	0.00	0.00	0.00	0.00	473.00
18-06	pam90144 Current	Pablo Pommells** rent	200.00	200.00	0.00	0.00	0.00	0.00	
Total			200.00	200.00	0.00	0.00	0.00	0.00	200.00
18-09	t0292888 Current	Beverly Chierchio** rent	287.50	287.50	0.00	0.00	0.00	0.00	
Total			287.50	287.50	0.00	0.00	0.00	0.00	287.50
18-12	t0288763 Denied	Sharhonda Hinton adminfee appfee	150.00 45.00	0.00 0.00	0.00 0.00	0.00 0.00	150.00 45.00	0.00 0.00	
Total			195.00	0.00	0.00	0.00	195.00	0.00	195.00
19-01	pam90151 Notice	Colleen Lancot rent	29.01	29.01	0.00	0.00	0.00	0.00	
Total			29.01	29.01	0.00	0.00	0.00	0.00	29.01
19-04	t0284456 Current	Karen McIntyre** rent	950.00	950.00	0.00	0.00	0.00	0.00	
Total			950.00	950.00	0.00	0.00	0.00	0.00	950.00
19-09	t0305590 Current	Alexandra Tibbs** rent	1,281.00	1,281.00	0.00	0.00	0.00	0.00	
Total			1,281.00	1,281.00	0.00	0.00	0.00	0.00	1,281.00
19-10	t0291497 Current	Chastity Primmer** (prepay)	0.00	0.00	0.00	0.00	0.00	-4.00	
Total			0.00	0.00	0.00	0.00	0.00	-4.00	-4.00
WAIT2X2	t0280673 Canceled	Arnold Hall (prepay)	0.00	0.00	0.00	0.00	0.00	-150.75	
Total			0.00	0.00	0.00	0.00	0.00	-150.75	-150.75
WAIT3X2	t0305010 Applicant	Kay King (prepay)	0.00	0.00	0.00	0.00	0.00	-150.00	
Total			0.00	0.00	0.00	0.00	0.00	-150.00	-150.00
Total swpalmlil			35,887.61	31,687.00	2,680.61	0.00	1,520.00	-3,751.15	32,136.46

	StatusTotal
Applicant	0.00
Canceled	1,280.00
Current	33,118.60
Denied	240.00
Future	0.00
Notice	1,249.01
Total	35,887.61

Detail by Charge Code
 Property: Palmilla (swpalml)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 7

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
A - Summary by Chargecode									
		adminfee	300.00	0.00	0.00	0.00	300.00	0.00	
		appfee	270.00	0.00	0.00	0.00	270.00	0.00	
		forfeits	195.00	0.00	0.00	0.00	195.00	0.00	
		nsffee	5.00	0.00	0.00	0.00	5.00	0.00	
		petdep	250.00	0.00	0.00	0.00	250.00	0.00	
		petfee	500.00	0.00	0.00	0.00	500.00	0.00	
		rent	34,367.61	31,687.00	2,680.61	0.00	0.00	0.00	
Total			35,887.61	31,687.00	2,680.61	0.00	1,520.00	0.00	35,887.61

Detail by Charge Code
 Property: Palmilla (swpalmil)
 Trans through: 6/2010
 Age As of: 6/30/2010

Page 8

Unit	Resident	Charge Code	Total Unpaid Charges	0 - 30 days	31 - 60 days	61 - 90 days	Over 90 days	Prepayments	Balance
B - Summary by Prepay G/L Account									
		23010000	0.00	0.00	0.00	0.00	0.00	-3,751.15	
Total			0.00	0.00	0.00	0.00	0.00	-3,751.15	-3,751.15
		Receivable Total		35,887.61					
		Prepay Total		-3,751.15					
		Grand Total		32,136.46					

EXHIBIT 15

001806

001806

EXHIBIT 15

Security Deposit Activity

Palmilla (swpalmil)

For the Month of June 2010

Page 1

Unit	Resident Code	Resident	Prior Deposits Billed	Prior Receipts	Current Dep. Billed	Current Receipts	Deposits On Hand	(Prpd)/Delq Deposits	Deposits Forfeited
03-07	pam90001	Courtney Kaplan** (Current)	650.00	650.00	0.00	0.00	650.00	0.00	0.00
06-10	pam90005	Devin Taber (Current)	475.00	475.00	0.00	0.00	475.00	0.00	0.00
07-02	t0310758	Tanya Martinez** (Current)	807.50	807.50	0.00	0.00	807.50	0.00	0.00
07-06	t0275339	Nichole Mullis** (Past)	250.00	250.00	(250.00)	(250.00)	0.00	0.00	0.00
07-07	pam90013	Ryan Crohn (Current)	315.00	315.00	0.00	0.00	315.00	0.00	0.00
07-10	pam90016	Trina De La Huerta** (Current)	725.00	725.00	0.00	0.00	725.00	0.00	0.00
07-12	pam90018	Justina Boyd (Current)	850.00	850.00	0.00	0.00	850.00	0.00	0.00
08-01	pam90019	Sandro Gomez (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
08-02	pam90020	Jeffrey Filozof (Current)	450.00	450.00	0.00	0.00	450.00	0.00	0.00
08-03	t0288957	Patsy Price** (Current)	50.00	50.00	0.00	0.00	50.00	0.00	0.00
08-04	t0273133	Jodi Menz** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
08-10	pam90028	Anthony Piccirilli** (Current)	315.00	315.00	0.00	0.00	315.00	0.00	0.00
08-11	t0321440	Carmen Dilworth (Current)	0.00	0.00	50.00	50.00	50.00	0.00	0.00
08-12	pam90030	Don Turner (Current)	1,065.00	1,065.00	0.00	0.00	1,065.00	0.00	0.00
09-01	pam90031	Michael Castro** (Current)	1,225.00	1,225.00	0.00	0.00	1,225.00	0.00	0.00
09-03	pam90038	Angela Slinger (Current)	250.00	250.00	0.00	0.00	250.00	0.00	0.00
09-04	t0273639	Patricia Crank** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
09-08	t0303350	Tina Rehbein** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
09-09	t0274532	Barbara Moran** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
09-10	t0293749	Delfina Echeverria** (Current)	250.00	250.00	0.00	0.00	250.00	0.00	0.00
09-12	pam90042	Jamie Caroon (Current)	650.00	650.00	0.00	0.00	650.00	0.00	0.00
10-01	t0320742	Joseph Curran** (Current)	0.00	0.00	350.00	350.00	350.00	0.00	0.00
10-07	pam90049	Grace Bizzell (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
10-08	pam90050	Mary Lindsay** (Current)	375.00	375.00	0.00	0.00	375.00	0.00	0.00
10-11	pam90053	Lilia Enriquez** (Current)	725.00	725.00	0.00	0.00	725.00	0.00	0.00
11-01	pam90055	Robert Bernard** (Current)	450.00	450.00	0.00	0.00	450.00	0.00	0.00
11-02	t0294385	Girard Mignault** (Current)	250.00	250.00	0.00	0.00	250.00	0.00	0.00
11-03	t0302702	Janice Robinson** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
11-05	t0307059	Sarah Dettling** (Current)	400.00	400.00	0.00	0.00	400.00	0.00	0.00

Tuesday, June 8, 2010

Unit	Resident Code	Resident	Prior Deposits Billed	Prior Receipts	Current Dep. Billed	Current Receipts	Deposits On Hand	(Prpd)/Delinq Deposits	Deposits Forfeited
11-07	pam90061	Tyrone Scott (Current)	500.00	500.00	0.00	0.00	500.00	0.00	0.00
11-10	t0290067	Shawnese Hollimon** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
12-01	pam90067	Rana Mona** (Current)	450.00	450.00	0.00	0.00	450.00	0.00	0.00
12-02	t0315739	Ryan White** (Current)	783.85	783.85	0.00	0.00	783.85	0.00	0.00
12-07	pam90073	Shawnette Alberson** (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
12-09	t0286749	Sulma Rodriguez** (Current)	50.00	50.00	0.00	0.00	50.00	0.00	0.00
12-10	pam90076	Robert Eason II (Current)	625.00	625.00	0.00	0.00	625.00	0.00	0.00
13-02	t0321811	Lydia Morera (Current)	300.00	300.00	0.00	0.00	300.00	0.00	0.00
13-03	pam90081	Norma Zuniga (Current)	725.00	725.00	0.00	0.00	725.00	0.00	0.00
13-04	pam90082	Crystal Scott (Current)	225.00	225.00	0.00	0.00	225.00	0.00	0.00
13-05	pam90083	Jose Peterson II** (Current)	625.00	625.00	0.00	0.00	625.00	0.00	0.00
13-07	t0273144	Charles Holmes** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
13-08	pam90086	Marisa Dias (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
13-10	t0305083	Earnistine Mohammed** (Current)	400.00	400.00	0.00	0.00	400.00	0.00	0.00
14-01	t0866640	Christina Townsend*** (Current)	50.00	50.00	0.00	0.00	50.00	0.00	0.00
14-03	t0295675	Michael Larson** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
14-05	pam90095	Christen Roark (Current)	900.00	900.00	0.00	0.00	900.00	0.00	0.00
14-07	t0303169	Roshon Williams** (Current)	250.00	250.00	0.00	0.00	250.00	0.00	0.00
14-09	pam90099	Thomas Ruscetta** (Current)	925.00	925.00	0.00	0.00	925.00	0.00	0.00
14-10	pam90100	Thomas McPhall** (Current)	650.00	650.00	0.00	0.00	650.00	0.00	0.00
14-11	t0305645	Margie Butler (Canceled)	250.00	0.00	0.00	0.00	0.00	250.00	0.00
14-12	pam90102	Derrick Grays** (Current)	600.00	600.00	0.00	0.00	600.00	0.00	0.00
15-01	t0306282	Anthony Stringham** (Current)	400.00	400.00	0.00	0.00	400.00	0.00	0.00
15-02	pam90104	Richard Rosenstrach (Current)	500.00	500.00	0.00	0.00	500.00	0.00	0.00
15-03	pam90105	Alejandro Villar (Notice)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
15-04	t0276645	Katherine Hays** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
15-07	pam90109	Toby Whitton (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
15-10	pam90112	Cedric Wright** (Current)	725.00	725.00	0.00	0.00	725.00	0.00	0.00
15-12	pam90114	Stanley Yelonek (Current)	525.00	525.00	0.00	0.00	525.00	0.00	0.00
16-01	t0306831	Nathaniel Bonifacio** (Current)	100.00	100.00	0.00	0.00	100.00	0.00	0.00
16-02	t0313118	Dorkka Romo** (Current)	250.00	250.00	0.00	0.00	250.00	0.00	0.00

Unit	Resident Code	Resident	Prior Deposits Billed	Prior Receipts	Current Dep. Billed	Current Receipts	Deposits On Hand	(Prpd)/ Delinq Deposits	Deposits Forfeited
16-03	t0287190	Sheena Alderman** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
16-05	t0306735	Shemette Mitchell** (Current)	400.00	400.00	0.00	0.00	400.00	0.00	0.00
16-06	t0273107	Kaleigh Stock** (Current)	900.00	900.00	0.00	0.00	900.00	0.00	0.00
16-07	pam90121	David Mason (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
16-08	t0282599	Dorthy Cooper** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
16-10	t0306375	Steven Thomas** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
17-03	pam90129	Carlos Villalobos (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
17-04	pam90130	Rosie Tucker** (Current)	600.00	600.00	0.00	0.00	600.00	0.00	0.00
17-06	pam90132	Rebecca Mitchell (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
17-09	pam90135	Dwight Stewart** (Current)	1,225.00	1,225.00	0.00	0.00	1,225.00	0.00	0.00
17-12	pam90138	Cora Szafarski** (Current)	850.00	850.00	0.00	0.00	850.00	0.00	0.00
18-01	pam90139	Elsie Spell (Current)	725.00	725.00	0.00	0.00	725.00	0.00	0.00
18-02	pam90140	Dane Arina (Current)	525.00	525.00	0.00	0.00	525.00	0.00	0.00
18-03	t0286779	Diseree Mitchell** (Current)	200.00	200.00	0.00	0.00	200.00	0.00	0.00
18-04	t0273115	Pamela Sternett** (Current)	450.00	450.00	0.00	0.00	450.00	0.00	0.00
18-06	pam90144	Pablo Pommells** (Current)	550.00	550.00	0.00	0.00	550.00	0.00	0.00
18-08	pam90146	Peter Lowther** (Current)	725.00	725.00	0.00	0.00	725.00	0.00	0.00
18-10	pam90148	Jerome Canlas (Current)	525.00	525.00	0.00	0.00	525.00	0.00	0.00
18-11	pam90149	Maria Rentana (Current)	525.00	525.00	0.00	0.00	525.00	0.00	0.00
19-01	pam90151	Colleen Lancot (Notice)	525.00	525.00	0.00	0.00	525.00	0.00	0.00
19-09	t0305590	Alexandra Tibbs** (Current)	250.00	250.00	0.00	0.00	250.00	0.00	0.00
20-11	t0862233	Karen Miller** (Current)	100.00	100.00	0.00	0.00	100.00	0.00	0.00
Totals - Palmilla			37,761.35	37,511.35	150.00	150.00	37,661.35	250.00	0.00

Exhibit 4

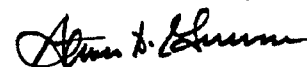
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Exhibit 4

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CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

U.S. Bank National Association as Trustee For
The Registered Holders of ML-CFC
Commercial Mortgage Trust 2007-7
Commercial Mortgage Pass-Through
Certificates Series 2007-7, by and through
Midland Loan Services, Inc., as its Special
Servicer,

Case No.: 09-A595321
Dept No.: IX

**ORDER GRANTING MOTION SEEKING
APPROVAL OF RECEIVER'S FINAL
ACCOUNTING AND REPORT AND TO
DISCHARGE RECEIVER**

Plaintiff,

Date of Hearing: October 14, 2010

vs.

Time of Hearing: *in chambers*

Palmilla Development Co., Inc., a Nevada
corporation; and Roe Corporations X to XX,

Defendants.

This matter came before the Court on U.S. Bank National Association as Trustee for the Registered Holders of ML-CFC Commercial Mortgage Trust 2007-7 Commercial Mortgage Pass-Through Certificates Series 2007-7, by and through Midland Loan Services, Inc., as its Special Servicer's ("Plaintiff") unopposed Motion Seeking Approval of Receiver's Final Accounting and Report and to Discharge Receiver (the "Motion").

The Court having read and considered the pleadings and papers on file herein, finding the Motion was unopposed and construing the failure of any party to serve and file a written opposition is an admission that the Motion is meritorious and a consent to granting the same as provided by EDCR 2.20, and finding good cause, it is hereby ordered, adjudged, and decreed that:

1. Plaintiff's Motion is granted;
2. Receiver's Final Report and Accounting is approved;

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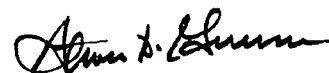
Exhibit 5

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Exhibit 5

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CLERK OF THE COURT

DECL

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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

U.S. Bank National Association as Trustee For
The Registered Holders of ML-CFC
Commercial Mortgage Trust 2007-7
Commercial Mortgage Pass-Through
Certificates Series 2007-7, by and through
Midland Loan Services, Inc., as its Special
Servicer,

Plaintiff,

vs.

Palmilla Development Co., Inc., a Nevada
corporation; Hagai Rapaport, an individual;
and Does I to X; and Roe Corporations X to
XX,

Defendants.

Case No. 09-A-595321

Dept. No. 20

**DECLARATION OF ANDREA HELM IN
SUPPORT OF PLAINTIFF'S MOTION TO
ALTER OR AMEND ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT PURSUANT TO
NRC 52(B) AND 59(E);
ALTERNATIVELY, MOTION FOR
RECONSIDERATION OF ORDER
GRANTING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

Date of Hearing: 10/10/2012

Time of Hearing: 9:00 a.m

I, Andrea Helm, make the following declarations:

1. I am an asset manager at Midland Loan Services, a division of PNC Bank, National Association ("Midland"), the special servicer for U.S. Bank National Association ("U.S. Bank") as Trustee For The Registered Holders of ML-CFC Commercial Mortgage Trust 2007-7 Commercial Mortgage Pass-Through Certificates Series 2007-7 ("ML-CFC").