

CLERK OF THE COURT

1 **OMSJ**
2 **ALESSI & KOENIG, LLC**
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4 Ryan M. Kerbow, Esq. (SB #11403)
5 9500 W. Flamingo Road, Suite #205
6 Las Vegas, Nevada 89147
7 (702)-222-4033
8 Attorneys for Defendants

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11
12 **NEW YORK COMMUNITY BANCORP,**
13 **INC.,**

14
15
16 **Plaintiff,**

17 **v.**

18 **SHADOW WOOD HOMEOWNERS'**
19 **ASSOCIATION, INC.; GOGO WAY TRUST;**
20 **and DOES 1 through 20, inclusive,**

21 **Defendants.**

DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT; AFFIDAVIT
IN SUPPORT

Case No.: A-12-660328-C

Dept. No.: XV

ALESSI & KOENIG, LLC
9500 W. Flamingo Road #205 § Las Vegas, Nevada 89147
Phone: 702.222.4033 § Fax: 702.222.4023

OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION/SUMMARY OF ARGUMENT

In Plaintiff's motion for summary judgment, Plaintiff argues that the foreclosure sale should be set aside because Plaintiff attempted, in good faith, to obtain a payoff for the property, yet Alessi & Koenig, LLC (hereinafter, "A&K") failed to respond to the requests and gave "ever changing" amounts when A&K did respond. Plaintiff further points to deposition testimony from Gerald Marks, the professional community manager for the Association, where Mr. Marks was unable to answer questions about the delinquent assessment account – an account that was the responsibility of A&K, not Mr. Marks. Plaintiff further suggests that A&K has wrongfully kept a portion of the sales proceeds at the expense of the Association, causing the Association to write off a portion of what it was owed as bad debt.

Plaintiff supports its motion with a large amount of false information. First, the affidavit of Sarah Artino, which supports Plaintiff's motion, contains factual falsehoods. She states that Plaintiff sent emails to A&K requesting a payoff amount on November 2, 2011 and December 2, 2011, neither of which A&K responded to. In reality, Naomi Eden of A&K sent responding emails to *both* emails, on November 15, 2011 and December 5, 2011. The responding emails contained two documents: a ledger showing the history of past due assessments and a breakdown prepared by A&K showing the amount currently owed. **(Affidavit of Naomi Eden, which attaches copies of the responding emails.)** When Plaintiff eventually sent payment – at the 11th hour – Plaintiff chose to pay the amount shown on the assessment account history, not the breakdown prepared by A&K. The amount on the assessment account history did not reflect the current amount of the Association's

1 lien, as is it did not take into account the Association's lien for collection fees and costs or the
2 elimination of a portion of the past due assessments under the "super priority" statute. A&K
3 informed Plaintiff that the amount was incorrect in an email sent on February 8, 2012. This was the
4 final communication before the Property sold fourteen (14) days later.
5

6 Plaintiff absurdly suggests that A&K has *stolen* money from the Association, having he
7 Association write off the difference as bad debt. In reality, the Association was forced to write off
8 a portion of the delinquent assessments because the Association does not, under the law, have a lien
9 for the full history of past due assessments. Under Nevada law, the Association may only collect a
10 portion of the assessments that predate a mortgage foreclosure (i.e. nine (9) months worth). The rest
11 may be written off as bad debt, or the Association could in theory pursue the prior owner for the
12 unpaid amount.
13

14 Plaintiff is quick to suggest malfeasance on the part of A&K, perhaps because some element
15 of malfeasance is required before the Court is able to set aside a foreclosure sale due to a
16 "commercially unreasonable" price. (*Turner v. Dewco Services, Inc.*, 87 Nev. 14, 479 P.2d 462
17 (1971)). However, Plaintiff's allegations are demonstrably false, as A&K did in fact timely respond
18 to all communications from Plaintiff. Especially when accusing others of improper conduct, Plaintiff
19 should be careful to ensure that factual assertions provided under oath are accurate.
20
21

22 The Court has even less ability to set aside a foreclosure sale, such as the subject foreclosure
23 sale, where a bona fide purchaser is involved. Under NRS 645F.440, to rescind a foreclosure sale,
24 the previous home owner must show that the foreclosure purchaser "engage[d] in any conduct that
25 operates as a fraud or decit upon a homeowner [...]" Here, there is no evidence whatsoever that any
26 representative of Gogo Way Trust engaged in any fraud or deceit. Rather, Plaintiff has provided
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28

1 (erroneous) evidence whereby Plaintiff attempts to show that A&K failed to act in good faith. Since
2 Plaintiff has not provided any evidence sufficient to rescind the foreclosure in favor of Gogo Way
3 Trust, the foreclosure sale must be upheld.
4

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6 **IV. ARGUMENT**

7 **A. Pursuant To NRS 116, Common Interest Communities Have A Secured Interest Against**
8 **Units For Delinquent Assessment Payments And May Foreclose On Those Secured Interests**
9

10 NRS 116.021 defines "common interest community" as follows:

11 "Common-interest community" means real estate described in a declaration with
12 respect to which a person, by virtue of the person's ownership of a unit, is obligated
13 to pay for a share of real estate taxes, insurance premiums, maintenance or
14 improvement of, or services or other expenses related to, common elements, other
15 units or other real estate described in that declaration.
16

17
18 Further, NRS 116.1201(1) et seq provides that Chapter 116 applies to all common interest
19 communities within Nevada which are not "limited purpose," less than 12 units in size, or restricted
20 to exclusively non-residential use. Specifically: "Except as otherwise provided in this section and
21 NRS 116.1203, this chapter applies to all common-interest communities created within this State."
22

23 NRS 116.3116(1) provides that home owners associations have liens against units for
24 assessments that come due. Specifically:
25

26 The association has a lien on a unit for any construction penalty [...], any
27 assessment levied against that unit or any fines imposed against the unit's owner
28

1 from the time the construction penalty, assessment or fine becomes due. Unless the
2 declaration otherwise provides, any penalties, fees, charges, late charges, fines and
3 interest charged [...] are enforceable as assessments under this section.
4

5
6 NRS 116.31162 et seq defines the process through which home owners associations may
7 foreclose on assessment liens after the issuance of three documents: a notice of delinquent
8 assessment; a notice of default; and a notice of sale.
9

10 Recitals in a Trustee's Deed Upon Sale executed pursuant to NRS 116.31164 constitute
11 "conclusive proof" that the non-judicial foreclosure notices were properly issued. Specifically,
12 NRS 116.31166 provides:
13

14
15 1. The recitals in a deed made pursuant to NRS 116.31164 of:

16 (a) Default, the mailing of the notice of delinquent assessment, and the
17 recording of the notice of default and election to sell;

18 (b) The elapsing of the 90 days; and

19 (c) The giving of notice of sale,
20

21 Ê are conclusive proof of the matters recited.

22 2. Such a deed containing those recitals is conclusive against the unit's
23 former owner, his or her heirs and assigns, and all other persons. [...]
24

25 3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164
26 vests in the purchaser the title of the unit's owner without equity or right of
27 redemption.
28

1
2 In comparison to the general rule governing foreclosure sales in Nevada found in NRS
3 107.080, the “conclusive evidence” rule stated in NRS 116.31166 offers substantially greater
4 protection for home owners associations that conduct foreclosure sales. Namely, the general rule
5 stated in NRS 107.080(5) requires that a trustee must show “substantial compliance” with the
6 foreclosure requirements. To wit:
7

8 5. Every sale made under the provisions of this section and other sections of this
9 chapter vests in the purchaser the title of the grantor and any successors in interest
10 without equity or right of redemption. A sale made pursuant to this section must be
11 declared void by any court of competent jurisdiction in the county where the sale
12 took place if:
13

14 (a) The trustee or other person authorized to make the sale does not *substantially*
15 *comply* with the provisions of this section or any applicable provision of NRS
16 107.086 and 107.087;
17

18 [...]

19 (Emphasis added)
20
21

22 **B. Plaintiffs’ Theory Of Inadequate Foreclosure Sale Price Fails Because There Is No**
23 **Evidence Of Fraud, Unfairness Or Oppression**
24

25 Plaintiff alleges that it is entitled to have title quieted in its name because “Shadow Wood
26 failed to sell the Subject Property at a reasonable price and remit any excess proceeds to Plaintiff.”
27 (Complaint, paragraph 26.)
28

1 Plaintiff's claims fail as a matter of law. As the Nevada Supreme Court explained in Long
2 v. Towne, 98 Nev. 11, 13, 639 P.2d 528 (1982):

3 Mere inadequacy of price is not sufficient to justify setting aside a foreclosure sale,
4 absent a showing of fraud, unfairness or oppression." Turner v. Dewco Services,
5 Inc., 87 Nev. 14, 479 P.2d 462 (1971); Brunzell v. Woodbury, 85 Nev. 29, 449 P.2d
6 158 (1969); Golden v. Tomiyasu, 79 Nev. 503, 387 P.2d 989 (1963), cert. denied,
7 382 U.S. 844, 86 S.Ct. 89, 15 L.Ed.2d 85 (1965).
8

9 Here, it appears Plaintiff's allegations of inadequate price overstate the case. Plaintiff
10 alleges: "On May 9, 2011, Plaintiff purchased the Subject Property for \$45,900.00 at the Trustee's
11 Sale referenced in paragraph 14 [...]" (Amended Complaint, paragraph 15.) Since Plaintiff was the
12 beneficiary of the deed of trust for the foreclosure of May 9, 2011, Plaintiff effectively states that
13 Plaintiff set the opening bid at \$45,900.00, and nobody bid for the Property at that price. As a result
14 of no bids, title reverted to the Plaintiff. This suggests that the property's value at a foreclosure sale
15 was some amount *less than* \$45,900.00.
16

17 Further, the evidence shows that no fraud, unfairness or oppression was present in the
18 foreclosure of the Property. Namely, the Association issued all the required foreclosure notices to
19 Plaintiff, published the sale in Clark County Legal News, posted the Notice of Sale on the Property,
20 and otherwise satisfied all the notice requirements for a non-judicial foreclosure. (**Affidavit of**
21 **Naomi Eden, Exhibits "1" through "5."**) Furthermore, in response to a request from Plaintiff's
22 representative, Alessi & Koenig, LLC emailed the payoff information directly to Plaintiff's
23 representative on February 14, 2012, eight days prior to the sale. Plaintiff did not make payment
24 or take any form of legal action to stop the sale. (**Affidavit of Naomi Eden.**) A public auction was
25
26
27
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1 held where a bona fide purchaser, The Gogo Trust, acquired the Property. (Affidavit of Naomi
2 Eden, Exhibit "5.") In sum, the sale was held in compliance with the governing law and must
3 therefore be upheld.
4

5
6 **C. Plaintiffs' Claims For Quiet Title And Declaratory Relief Fail Because The Evidence,**
7 **Along With NRS 116.31166's Conclusive Presumption, Shows That The Foreclosure Of**
8 **Plaintiffs' Property Was Effective As A Matter Of Law**
9

10 Under NRS 116.31166, recitals in the Trustee's Deed Upon Sale are "conclusive proof as
11 to the matters recited." Here, the Trustee's Deed Upon Sale provides as follows:

12 Trustee states that: This conveyance is made pursuant to the powers conferred upon
13 Trustee by NRS 116 et seq., and that certain Notice of Delinquent Assessment Lien,
14 described herein, Default occurred as set forth in a Notice of Default and Election
15 to Sell which was recorded in the office of the recorder of said county. All
16 requirements of law regarding the mailing of copies of notices and the posting and
17 publication of the copies of the Notice of Sale have been complied with. Said
18 property was sold by said Trustee at public auction on February 22, 2012 at the place
19 indicated on the Notice of Trustee's Sale.
20
21

22
23 (Exhibit "5.")
24

25 Thus, the law provides a conclusive presumption that Defendants satisfied all the foreclosure
26 requirements. This includes the issuance of the Notice of Delinquent Assessment, the Notice of
27 Default, and the Notice of Sale to the requisite mailing addresses within the proper time frames.
28

1 Further, it is sufficient under the law that the foreclosure notices are mailed, regardless of
2 whether they are received. In Hankins v. Administrator of Veterans Affairs, 92 Nev. 578, 555 P.2d
3 483 (1976), the Nevada Supreme Court held:

4
5 Mailing of the notices is all that the statute requires. Their mailing presumes that
6 they were received. Actual notice is not necessary as long as the statutory
7 requirements are met.
8
9

10
11 In sum, Defendants have a conclusive presumption in their favor that all the foreclosure
12 notices were mailed. Further, even if the "substantial compliance" standard stated in NRS 107.080
13 is applied, the foreclosure must be upheld. Defendants provide clear evidence (including evidence
14 of certified mailing from the United States Postal Service) that Alessi & Koenig, LLC, as trustee
15 for the Association, issued the foreclosure notices to both the Property address and to Plaintiff's out
16 of state mailing address, published the Notice of Sale in Clark County Legal News, and posted the
17 Notice of Sale on the Property. (See Exhibits "1" through "5.") As a result, title has vested in the
18 Gogo Way trust.
19
20

21
22 **D. The Claimed "Varying Amounts" Are Easily Explained By One Harmless Error In**
23 **The Notice Of Delinquent Assessment, A Document Which Plaintiff Did Not In Any**
24 **Way Rely On In Sending The Erroneous Payment To A&K**
25

26 Plaintiff claims that A&K's foreclosure documents contain "varying amounts," such that
27 Plaintiff was justified in not sending payment prior to the foreclosure sale. First, if Plaintiff had a
28

1 legitimate dispute regarding the amount owed, Plaintiff could have sought court intervention to
2 enjoin the sale. Second, Plaintiff did not act in a reasonable manner with respect to the payoff
3 because Plaintiff (1) waited to the last minute before sending in payment and (2) chose to pay the
4 amount shown on the Association's history of the delinquent assessment balance rather than pay
5 the amount shown on the breakdown, produced by A&K, showing the total amount currently owed.
6 When A&K informed Plaintiff about the error, Plaintiff took no action and the foreclosure sale took
7 place fourteen (14) days later. **(Affidavit of Naomi Eden.)**

9
10 Further, there is only one amount that appears on the Notice of Delinquent Assessment,
11 issued in July of 2011, that is inconsistent with the amounts on the other notices. That variance
12 occurred because A&K erred by including the entire amount of delinquent assessments rather than
13 eliminate a portion of the past due assessments under Nevada's "super priority" statute. In all the
14 other recorded notices, A&K adjusted the amount to exclude more than nine months of pre-
15 foreclosure assessments. Certainly, in the breakdowns that A&K sent to Plaintiff during and after
16 November of 2011 – the breakdowns Plaintiff specifically requested – A&K excluded assessments
17 outside the nine-month pre-foreclosure period. **(Affidavit of Naomi Eden.)**

19
20 Undoubtedly, the single erroneous number in the Notice of Delinquent Assessment recorded
21 on July 7, 2011 amounts to a harmless error. Plaintiff did not in any way rely on that amount, and
22 did not make any attempt to pay the assessment lien until February of 2012, at a time when
23 subsequent foreclosure notices had been recorded and Plaintiff specially requested and received
24 breakdowns from A&K. Certainly, under the "substantial compliance" standard of NRS
25 107.080(5), A&K substantially complied with the foreclosure requirements. Moreover, under the
26 "conclusive presumption" standard of NRS 116.31166, the foreclosure sale must be upheld.
27
28

1 **E. Plaintiff Cannot Overcome Nevada Law Protecting Bona Fide Purchasers**

2 NRS 645F.300 *et seq* provides the law that governs where a foreclosure sale may be set
3 aside against a purchaser of the foreclosure property. NRS 645F.350 defines “foreclosure sale” as
4 “the sale of real property to enforce an obligation secured by a mortgage or lien on the property,
5 including the exercise of a trustee’s power of sale pursuant to NRS 107.080.” Here, the Association
6 foreclosed on the subject property pursuant to its lien under the CC&Rs and NRS 116. Thus, the
7 subject foreclosure sale falls within NRS 645F.350.

8
9 NRS 645F.330 defines “foreclosure purchaser” as “a person who, in the course of his or her
10 business, vocation or occupation, acquires or attempts to acquire title to a residence in foreclosure
11 from a homeowner.” Here, the Gogo Way Trust purchased the property at the foreclosure sale of
12 February 22, 2012, and fits the definition of a foreclosure purchaser.

13
14 NRS 645F.440 provides as follows:

- 15
16 1. “[...] [i]f a foreclosure purchaser engages in any *conduct that operates as a*
17 *fraud or deceit upon a homeowner* in connection with a transaction that is subject
18 to the provisions of NRS 645F.300 to 645F.450, inclusive, including, without
19 limitation, a foreclosure reconveyance, the transaction in which the foreclosure
20 purchaser acquired title to the residence in foreclosure may be rescinded by the
21 homeowner within 2 years after the date of the recording of the conveyance.
22

23
24 (Emphasis added.) Here, Plaintiff has not provided any evidence whatsoever that the Gogo Way
25 Trust, or any representative of the Gogo Way Trust, engaged in any fraud or deceit upon the
26 homeowner. Rather, Plaintiff’s allegations solely concern A&K acting in “bad faith” in selling the
27
28

1 Property. As discussed above, A&K did not act in bad faith. Plaintiff had months in which to pay
2 off the delinquent assessment lien but instead took no action until near the sale date. When Plaintiff
3 contacted A&K, Naomi Eden responded by sending documentation describing the unpaid
4 assessment lien, yet Plaintiff instead paid the amount shown on the delinquent assessment history,
5 not the amount on the breakdown showing the current assessment lien. (**Affidavit of Naomi**
6 **Eden.**)
7

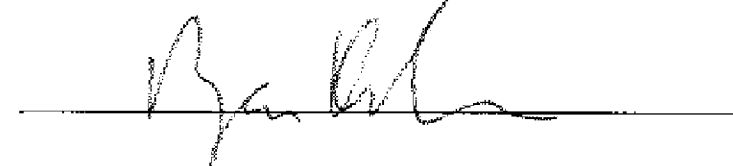
8 Since Plaintiff has not provided any evidence that the purchaser, Gogo Way Trust, engaged
9 in fraud or deceit, the foreclosure sale must be upheld and Plaintiff's motion must be denied.
10

11
12 **V. CONCLUSION**

13 For the foregoing reasons, Defendants respectfully request that Plaintiff's motion for
14 summary judgment be denied.
15

16 DATED this 1st day of March, 2013.

17 ALESSI & KOENIG, LLC

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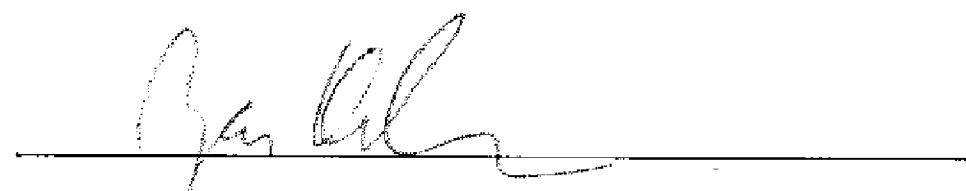
20 Ryan Kerbow, Esq.
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an associate attorney at ALESSI & KOENIG, LLC, and that on the 1st day of March, 2013, I mailed a true and correct copy of the *Opposition to Motion for Summary Judgment; Affidavit in Support* via US mail, postage prepaid, to the addresses shown below.

Pite Duncan, LLP
701 Bridger Avenue, Suite 700
Las Vegas, NV 89101



Ryan Kerbow, Esq.

ALESSI & KOENIG, LLC
9500 W. Flamingo Road #205 § Las Vegas, Nevada 89147
Phone: 702.222.4033 § Fax: 702.222.4023

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AFFD
ALESSI & KOENIG, LLC
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Attorneys for Defendants

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

NEW YORK COMMUNITY BANCORP,
INC.,

Plaintiff,

v.

SHADOW WOOD HOMEOWNERS'
ASSOCIATION, INC.; GOGO WAY TRUST;
and DOES 1 through 20, inclusive,

Defendants.

AFFIDAVIT OF NAOMI EDEN IN
SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

Case No.: A-12-660328-C

Dept. No.: XV

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AFFIDAVIT OF NAOMI EDEN

IN SUPPORT OF OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

I, NAOMI EDEN, declare as follows:

1. I am a legal assistant at the law office of Alessi & Koenig, LLC. Pursuant to my employment duties, I maintain records in connection to non-judicial foreclosure activity for properties located within Shadow Wood Homeowners' Association, Inc. (the "Association"). These records are within my custody and control.

2. The real property at issue herein (the "Property") is commonly known as 3923 Gogo Way #109, Las Vegas, Nevada 89103.

3. On or around June 30, 2011, Alessi & Koenig, LLC, on behalf of the Association, issued a Notice of Delinquent Assessment (Lien) as required pursuant to NRS 116.31162 et seq. Said notice was recorded at the Clark County Recorder's Office on or around July 07, 2011. True and correct copies of said notice and proof of certified mailing are attached hereto as **Exhibit "1."**

4. On or around October 22, 2011, Alessi & Koenig, LLC, on behalf of the Association, issued a Notice of Default and Election to Sell as required pursuant to NRS 116.31162 et seq. Said notice was recorded at the Clark County Recorder's Office on or around October 13, 2011. True and correct copies of said notice and proof of certified mailing of said notice are attached hereto as **Exhibit "2."**

1 5. On or around February 1, 2012, Alessi & Koenig, LLC, on behalf of the Association,
2 issued a Notice of Trustee's Sale as required pursuant to NRS 116.31162 et seq. Said notice was
3 recorded at the Clark County Recorder's Office on or around February 27, 2012. True and correct
4 copies of said notice and proof of certified mailing of said notice are attached hereto as **Exhibit "3."**
5

6
7 6. True and correct copies of affidavits proving said notice was posted on the premises
8 and published as required by NRS 116.311635 are attached hereto as **Exhibit "4."**
9

10
11 7. A true and correct copy of the Trustee's Deed Upon Sale executed in connection to
12 the sale of the Property that occurred on February 22, 2012 is attached hereto as **Exhibit "5."** This
13 document was recorded at the Clark County Recorder's Office on or around March 1, 2012.
14

15
16 8. As of January 23, 2012, the Association's assessment lien totaled \$9,017.39. A true
17 and correct statement of the charges that composed the assessment lien is attached hereto as **Exhibit**
18 **"6."**
19

20
21 9. The Notice of Lien was generated after Plaintiff foreclosed. The amount shown for
22 the Association's lien overstates the amount as a result of one simple mistake. Namely, when
23 Plaintiff foreclosed, the past due assessments included within the Association's assessment lien
24 became reduced to nine (9) months. However, the calculation I did for the assessment lien shown
25 on the Notice of Delinquent Assessment included the full amount of past due assessments. The
26 calculations I used for the Notice of Default and Notice of Sale were proper in that I took into
27
28

1 account the elimination of pre-foreclosure assessments that fell outside of the nine-month period
2 preceding Plaintiff's foreclosure.

3
4 10. The Affidavit of Sarah Artino contains false information. Namely, Ms. Artino states
5 that NYCP sent an email on November 2, 2011 requesting a detailed payoff statement, and that A&K
6 did not respond. However, in reality, I sent a fax to Diana Palmer-Hopkins on November 15, 2011
7 that contained a copy of a breakdown of the Association's lien and a statement of the delinquent
8 assessment history. Furthermore, Ms. Artino states that NYCP sent an email on December 2, 2011
9 asking for a detailed account statement and that A&K did not respond. In reality, I sent a responding
10 email on December 5, 2011 that attached the same breakdown of the Associations' lien and
11 statement of the delinquent assessment history that I sent in the previous email. True and correct
12 copies of the documents I sent and the subject email exchange is attached hereto as **Exhibit "7."**
13
14
15

16
17 11. On February 10, 2012, in response to a request from Ms. Artino, upon request, I
18 emailed a copy of a statement showing the amount of the Association's assessment lien to Plaintiff's
19 representative. A true and correct copy of the email chain is attached hereto as **Exhibit "8."**
20
21

22 12. Plaintiff never paid an amount sufficient to satisfy the Association's assessment lien
23 prior to the sale that occurred on February 22, 2012. Plaintiff tendered an amount of \$6,445.54,
24 which was the amount shown in the assessment ledger maintained by the Association's community
25 manager, MP Association Management, Inc. In reality, the amount of the Association's assessment
26 lien was \$9,017.39. (See **Exhibits "6" and "8."**)
27
28

1
2 13. Alessi & Koenig, LLC routinely conducts foreclosure sales for its home owners
3 association clients where investors routinely buy properties. There was no collusion or any other
4 impropriety involved between Alessi & Koenig, LLC, the Association, the buyer or any other parties.
5 Alessi & Koenig, LLC's records show that Gogo Way Trust purchased the Property. Gogo Way
6 Trust has no affiliation to the Association or to Alessi & Koenig, LLC.
7
8

9 14. The above-referenced copies of documents which our office generated were generated
10 at or near the time original document was generated and kept in the Law Office of Alessi & Koenig's
11 ordinary course of business. The documents we did not generate were kept in the Law Office of
12 Alessi & Koenig's ordinary course of business.
13
14
15

16 I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true
17 and correct, I have personal knowledge thereof, and that if called to testify thereto, I could and would
18 competently do so.
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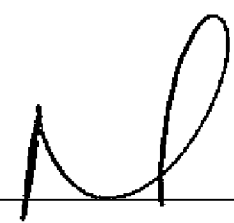
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Dated this 1st day of March, 2013.

State of Nevada
County of Clark



This instrument was acknowledged by
NAOMI EDEN on 3/1/13.

Naomi Eden

SUBSCRIBED and SWORN to before me

this 1st day of March, 2013.



NOTARY PUBLIC for said County and State

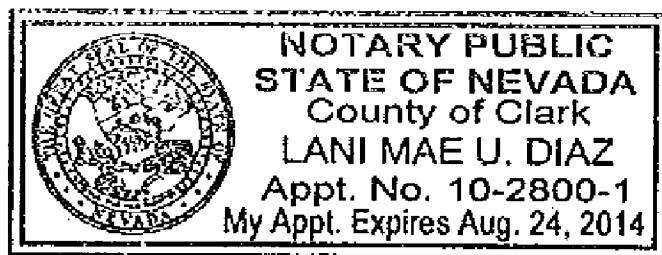


Exhibit “1”

DAVID ALESSI*
 THOMAS BAYARD*
 ROBERT KOENIG**
 RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
 and Colorado Bars

*** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm

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ADDITIONAL OFFICES

AGOURA HILLS CA
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RENO NV
 PHONE: 775-626-2323

DIAMOND BAR CA
 PHONE: 909-861-8300

June 29, 2011

LIEN LETTER

VIA REGULAR AND CERTIFIED MAIL

BANK NEW YORK COMMUNITY
 3923 Gogo Wy #109
 Las Vegas, NV 89103

Re: Shadow Wood Homeowners' Association, Inc/3923 Gogo Wy #109/HO #12668

Dear BANK NEW YORK COMMUNITY:

Our office has been retained by Shadow Wood Homeowners' Association, Inc to collect the past due assessment balance on your account. Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Shadow Wood Homeowners' Association, Inc on June 29, 2011. The total amount due by August 3, 2011 is \$8,238.87. Please note that the total amount due may differ from the amount shown on the enclosed lien. Please submit payment to our Nevada mailing address listed above by August 3, 2011. Payment must be in the form of a cashier's check or money order and made payable to Alessi & Koenig.

Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, our office will assume the debt is valid. If you notify our office in writing within the thirty-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt and a copy of such verification will be mailed to you. Upon receipt of your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor. Please note the law does not require me to wait until the end of the thirty-day period before proceeding to the next step in the collection process. If, however, you request proof of the debt or the name and address of the original creditor within the thirty-day period that begins with your receipt of this letter, the law requires me to suspend my efforts to collect the debt until I mail the request. You have the right to inspect the association records.

In the event Alessi & Koenig, LLC does not receive payment of \$8,238.87 by August 3, 2011, a Notice of Default will be recorded; resulting in additional fees and costs. Should you fail to pay, we will foreclose on your ownership of your property.

Sincerely,

ALESSI & KOENIG
 Naomi Eden, Legal Assistant

Please be advised that Alessi & Koenig, LLC is a debt collector the information obtained will be used for that purpose.

U.S. Postal Service	
CERTIFIED MAIL [®] RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com .	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
FLAMINGO ROAD 89147 JUN 30 2011 POST OFFICE LAS VEGAS, NV 89103	
TO: BANK NEW YORK COMMUNITY 3923 GOGO WY #109 LAS VEGAS, NV 89103	
PS Form 3822, August 2006 See Reverse for Instructions	

DAVID ALESSI*

THOMAS BAYARD*

ROBERT KOENIG**

RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar

*A Multi-Jurisdictional Law Firm*

9500 W. Flamingo Road, Suite 100
Las Vegas, Nevada 89147
Telephone: 702-222-4033
Facsimile: 702-222-4043
www.alessikoenig.com

ADDITIONAL OFFICES

AGOURA HILLS CA
PHONE: 818-733-9600

RENO NV
PHONE: 775-626-2323

DIAMOND BAR CA
PHONE: 909-861-8300

June 29, 2011

LBN LETTER

VIA REGULAR AND CERTIFIED MAIL

BANK NEW YORK COMMUNITY
1801 E NINTH ST #200
CLEVELAND, OH 44114

Re: Shadow Wood Homeowners' Association, Inc/3923 Gogo Wy #109/HO #12668

Dear BANK NEW YORK COMMUNITY:

Our office has been retained by Shadow Wood Homeowners' Association, Inc to collect the past due assessment balance on your account. Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Shadow Wood Homeowners' Association, Inc on June 29, 2011. The total amount due by August 3, 2011 is \$8,238.87. Please note that the total amount due may differ from the amount shown on the enclosed lien. Please submit payment to our Nevada mailing address listed above by August 3, 2011. Payment must be in the form of a cashier's check or money order and made payable to Alessi & Koenig.

Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, our office will assume the debt is valid. If you notify our office in writing within the thirty-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt and a copy of such verification will be mailed to you. Upon receipt of your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor. Please note the law does not require me to wait until the end of the thirty-day period before proceeding to the next step in the collection process. If, however, you request proof of the debt or the name and address of the original creditor within the thirty-day period that begins with your receipt of this letter, the law requires me to suspend my efforts to collect the debt until I mail the requested information to you. Please be advised that you have the right to inspect the association records.

In the event Alessi & Koenig, LLC does not receive costs of \$8,238.87 by August 3, 2011, a Notice of Default will be recorded, resulting in additional fees and costs. Should you own or share ownership of your property.

Sincerely,

ALESSI & KOENIG
Naomi Eden, Legal

Please be advised that Alessi & Koenig, LLC is a debt collector and any information obtained will be used for

U.S. Postal Service	
CERTIFIED MAIL [®] RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com .	
OFFICIAL USE	
Postage	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
To:	BANK NEW YORK COMMUNITY
Attn:	1801 E NINTH ST #200
City/State/Zip:	CLEVELAND, OH 44144
PS Form 3800, August 2006	
See Reverse for Instructions	

Inet #: 201107070002436
Fees: \$14.00
N/C Fee: \$0.00
07/07/2011 09:56:50 AM
Receipt #: 836995
Requestor:
ALESSI & KOENIG LLC (JUNE)
Recorded By: TAH Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

When recorded return to:

ALESSI & KOENIG, LLC
9500 W. Flamingo Rd., Suite 100
Las Vegas, Nevada 89147
Phone: (702) 222-4033

A.P.N. 162-18-613-029

Trustee Sale # 12668-3923-109

NOTICE OF DELINQUENT ASSESSMENT (LIEN)

In accordance with Nevada Revised Statutes and the Association's Declaration of Covenants, Conditions and Restrictions (CC&Rs) of the official records of Clark County, Nevada, **Shadow Wood Homeowners' Association, Inc** HOA has a lien on the following legally described property.


The property against which the lien is imposed is commonly referred to as **3923 Gogo Wy #109, Las Vegas, NV 89103** and more particularly legally described as: **Unit 109 Book 33 Page 44** in the County of Clark.

The owner(s) of record as reflected on the public record as of today's date is (are): **BANK NEW YORK COMMUNITY**

The mailing address(es) is: **3923 Gogo Wy #109, Las Vegas, NV 89103**

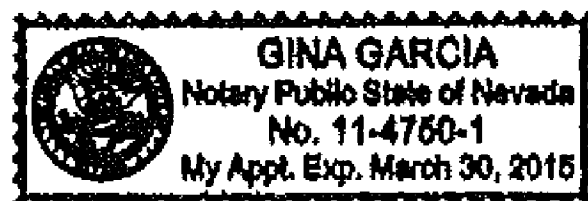
The total amount due through today's date is: **\$8,238.87**. Of this total amount **\$8,003.87** represent Collection and/or Attorney fees, assessments, interest, late fees and service charges. **\$235.00** represent collection costs. Note: Additional monies shall accrue under this claim at the rate of the claimant's regular monthly or special assessments, plus permissible late charges, costs of collection and interest, accruing subsequent to the date of this notice.

Date: **June 29, 2011**

By: 
Naomi Eden - Legal Assistant
Alessi & Koenig, LLC on behalf of **Shadow Wood Homeowners' Association, Inc**

State of Nevada
County of Clark
SUBSCRIBED and SWORN before me June 29, 2011

(Seal)



(Signature)


NOTARY PUBLIC

Exhibit “2”

A&K001

DAVID ALESSI*

THOMAS BAYARD*

ROBERT KOENIG**

RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bar

*** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm

9500 W. Flamingo Road, Suite 100
Las Vegas, Nevada 89147
Telephone: 702-222-4033
Facsimile: 702-222-4043
www.alessikoenig.com

ADDITIONAL OFFICES

AGOURA HILLS, CA
PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323

&
DIAMOND BAR CA
PHONE: 909-861-8300

August 13, 2011

Pre-Notice of Default

BANK NEW YORK COMMUNITY
1801 E NINTH ST #200
CLEVELAND, OH 44114

Regarding: **Shadow Wood Homeowners' Association, Inc/3923 Gogo Wy #109/HO #12668**

Dear BANK NEW YORK COMMUNITY :

Please be informed that as of today's date our office has not received payment pursuant to the Notice of Delinquent Assessment Lien recorded against your property on **July 7, 2011**. Please understand that failure to bring your account current or failure to contact this office by **August 28, 2011** will result in the initiation of foreclosure proceedings on your property and include a minimum \$750.00 in additional charges.

The total amount currently due is **\$8,527.68**. Please submit payment to our offices at the above listed **Nevada** address, made payable to the **Alessi & Koenig, LLC**.

Again, it is extremely important that we receive your payment by **August 28, 2011**. Should you fail to bring your delinquent account current, you could lose ownership of your home.

Should you have any questions, please contact this office at 702-222-4033.

Yours very truly,

ALESSI & KOENIG, LLC

Naomi Eden
Legal Assistant

Inet #: 201110130001665
Fees: \$14.00
N/C Fee: \$0.00
10/13/2011 09:48:20 AM
Receipt #: 845348
Requestor:
ALESSI & KOENIG LLC (JUNES
Recorded By: MAT Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

When recorded mail to:

THE ALESSI & KOENIG, LLC
9500 West Flamingo Rd., Ste 100
Las Vegas, Nevada 89147
Phone: 702-222-4033

A.P.N. 162-18-613-029


Trustee Sale No. 12668-3923-109

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE! You may have the right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default recorded, which appears on this notice. The amount due is \$6,608.34 as of August 29, 2011 and will increase until your account becomes current. To arrange for payment to stop the foreclosure, contact: Shadow Wood Homeowners' Association, Inc, c/o Alessi & Koenig, 9500 W. Flamingo Rd, Ste 100, Las Vegas, NV 89147.

THIS NOTICE pursuant to that certain Assessment Lien, recorded on July 7, 2011 as document number 2436, of Official Records in the County of Clark, State of Nevada. Owner(s): **BANK NEW YORK COMMUNITY**, of Unit 109, as per map recorded in Book 33, Pages 44, as shown on the Condominium Plan, Recorded on as document number Pending as shown on the Subdivision map recorded in Maps of the County of Clark, State of Nevada. **PROPERTY ADDRESS: 3923 Gogo Wy #109, Las Vegas, NV 89103.** If you have any questions, you should contact an attorney. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. **REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.** NOTICE IS HEREBY GIVEN THAT The Alessi & Koenig is appointed trustee agent under the above referenced lien, dated July 7, 2011, executed by Shadow Wood Homeowners' Association, Inc to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions (CC&Rs). A default in the obligation for which said CC&Rs has occurred in that the payment(s) have not been made of homeowners assessments due from and all subsequent assessments, late charges, interest, collection and/or attorney fees and costs.

Dated: August 29, 2011


Naomi Eden, Alessi & Koenig, LLC on behalf of Shadow Wood Homeowners' Association, Inc

A&K001

12008

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

MTG FINANCIAL, INC dba TRUSTEE CORP
T.S. NO. NV08000227-10-1
17100 GILLETTE AVE
IRVINE, CA 92614

FIRST AMERICAN NATIONAL DEFAULT TI
T.S. NO. NV08000227-10-1
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

U.S. Postal ServiceSM
CERTIFIED MAIL[®] RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com.

OFFICIAL USE

Postage \$	
Certified Fee \$	1.51
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	\$1.51

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

Postmark Here

PS Form 3800, August 2006 See Reverse for Instructions

U.S. Postal ServiceSM
CERTIFIED MAIL[®] RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com.

OFFICIAL USE

Postage \$	
Certified Fee \$	1.51
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	\$1.51

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

Postmark Here

PS Form 3800, August 2006 See Reverse for Instructions

A&K001



9500 W. Flamingo Rd. Suite 205
Las Vegas, NV 89147

FIRST AMERICAN NATIONAL DEFAULT TI
T.S. NO. NV08000227-10-1
3 FIRST AMERICAN WAY

SANTA ANA, CA 92707



9500 W. Flamingo Rd. Suite 205
Las Vegas, NV 89147

MTC FINANCIAL, INC dba TRUSTEE CORP
T.S. NO. NV08000227-10-1
17100 GILLETTE AVE

IRVINE, CA 92614

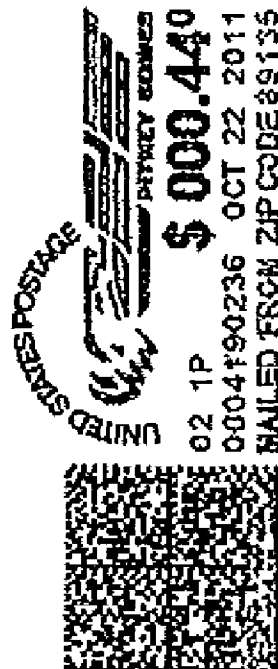


Exhibit “3”

A&K001

DAVID ALESSI*
THOMAS DAYARD*
ROBERT KOENIG**
RYAN KERBOW****

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada Bar

**** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm

9500 W. Flamingo Road, Suite 100
Las Vegas, Nevada 89147
Telephone: 702-222-4033
Facsimile: 702-222-4043
www.alessikoenig.com

ADDITIONAL OFFICES

AGOURA HILLS, CA
PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-843-6590

Nevada Licensed Qualified Collection Manager
AMANDA LOWER

Pre-Notice of Trustee Sale Notification

September 21, 2009

Virginia Fedel
7180 Pollack Dr
Las Vegas, NV 89119

Re: Shadow Wood/3923 Gogo Wy #109/HO #12668

Dear Virginia Fedel:

Please be informed that as of today's date our office has not received payment pursuant to the Notice of Delinquent Assessment Lien recorded against your property on **December 3, 2008** & the Notice of Default and Election to Sell recorded on **June 3, 2009**. Please understand that failure to bring your account current or failure to contact this office by **October 6, 2009** will result in the continuation of foreclosure proceedings against your property and will include a minimum of **\$1165.00** in additional charges.

The total amount currently due is **\$2,813.86**. Please submit payment to our offices at the below listed **Nevada** address, made payable to the **Alessi & Koenig**.

Again, it is extremely important that we receive your payment by **October 6, 2009**. Should you fail to bring your delinquent account current, you could lose ownership of your home.

Should you have any questions, please contact this office at 702-222-4033.

Yours very truly,

ALESSI & KOENIG, LLC

Stephanie Knickerbocker
Legal Assistant

When recorded mail to:
Alessi & Koenig, LLC
9500 West Flamingo Rd., Suite 205
Las Vegas, NV 89147
Phone: 702-222-4033

Inst #: 201201270002208
Fees: \$17.00
N/C Fee: \$0.00
01/27/2012 09:32:34 AM
Receipt #: 1049121
Requestor:
ALESSI & KOENIG LLC (JUNES
Recorded By: SOL Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

APN: 162-18-613-029

TSN 12668-3923-109

NOTICE OF TRUSTEE'S SALE

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.

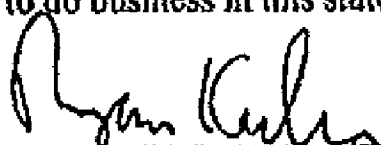
NOTICE IS HEREBY GIVEN THAT:

On February 22, 2012, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on July 7, 2011, as instrument number 2436, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIERS CHECK at: 2:00 PM, at 9500 W Flamingo Suite 205, Las Vegas, NV 89147 (Alessi & Koenig, LLC Office Building).

The street address and other common designation, if any, of the real property described above is purported to be: 3923 Gogo Wy #109, Las Vegas, NV 89103. The owner of the real property is purported to be: BANK NEW YORK COMMUNITY

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made, without covenant or warranty, expressed or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of a note, homeowner's assessment or other obligation secured by this lien, with interest and other sum as provided therein: plus advances, if any, under the terms thereof and interest on such advances, plus fees, charges, expenses, of the Trustee and trust created by said lien. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$8,539.77. Payment must be in cash, a cashier's check drawn on a state or national bank, a check drawn by a state bank or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state.

Date: January 18, 2012



By: Ryan Kerbow, Esq. of Alessi & Koenig LLC on behalf of Shadow Wood Homeowners' Association, Inc

AK001

#10 # 12668

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

MTC FINANCIAL, INC dba TRUSTEE COR
T.S. NO. NV08000227-10-1
17100 GILLETTE AVE
IRVINE, CA 92614

FIRST AMERICAN NATIONAL DEFAULT TI
T.S. NO. NV08000227-10-1
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

OMBUDSMANS OFFICE
GORDAN MILDEN
251 E. SAHARA AVE. #205
LAS VEGAS, NV 89104

NOTS MAILINGS

7196 9008 9111 4262 4750

TO: NEW YORK COMMUNITY BANK
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

SENDER:

TSN #: 12668-3923-109

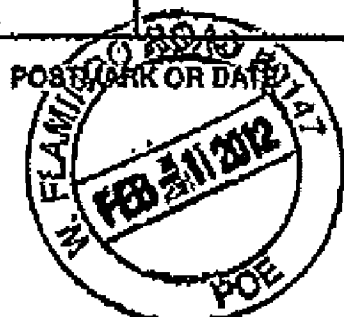
REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail



7196 9008 9111 4262 4767

TO: NEW YORK COMMUNITY BANK
3923 Gogo Wy #109
LAS VEGAS, NV 89103

SENDER:

TSN #: 12668-3923-109

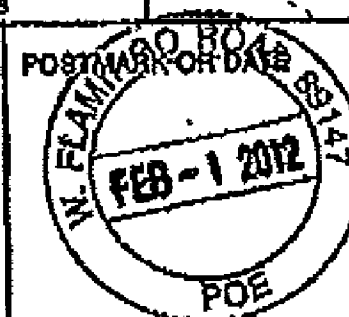
REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail



7196 9008 9111 4262 4798

TO: OMBUDSMANS OFFICE
251 E. SAHARA AVE. #205

LAS VEGAS, NV 89104

TSN #: 12668-3923-109

SENDER:**REFERENCE:**

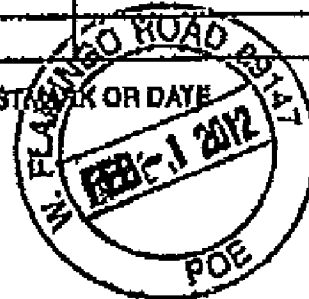
PS Form 3800, January 2003

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE



7196 9008 9111 4262 4781

TO: FIRST AMERICAN NATIONAL DEFAULT TITLE
3 FIRST AMERICAN WAY

SANTA ANA, CA 92707

TSN #: 12668-3923-109

SENDER:**REFERENCE:**

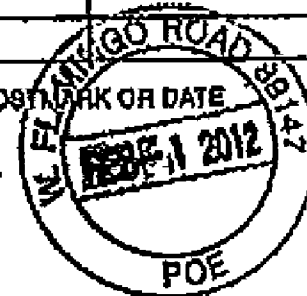
PS Form 3800, January 2003

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE



7196 9008 9111 4262 4774

TO: MYC FINANCIAL, INC dba TRUSTEE CORPS
17100 GILLETTE AVE

IRVINE, CA 92614

TSN #: 12668-3923-109

SENDER:**REFERENCE:**

PS Form 3800, January 2003

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

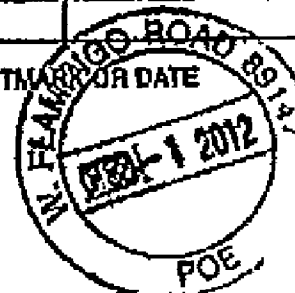


Exhibit “4”

A&K001

Alessi & Koenig, LLC
TSN#12668-3923-109

AFFIDAVIT OF SERVICE

State of Nevada)
County of Clark)

I, Gregory Brown, state:

That at all times herein I have been a citizen of the United States, over 18 years of age, and am not a party to, or interested in, the proceeding in which this affidavit is made.

I served Bank New York Community with a copy of the Notice of Trustee's Sale, on 1/26/2012 at approximately 10:25AM, by:

Personally posting a copy of the Notice of Trustee's Sale in the manner prescribed pursuant to NRS 107.087, in a conspicuous place on the property, upon information and belief, at least 15 days before the date of sale, which is located at:

Trust Property:
3923 Gogo Wy #109
Las Vegas, NV 89103

I posted a copy of the Notice of Trustee's Sale pursuant to NRS 107.080, for 20 days consecutively, in a public place in the county where the property is situated, to wit:

Nevada Legal News:
930 S. 4th St
Las Vegas, NV 89101

Regional Justice Center:
200 Lewis Ave
Las Vegas, NV 89101

Clark County Law Library:
309 S. 3rd St
Las Vegas, NV 89101

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Dated 2/10/2012

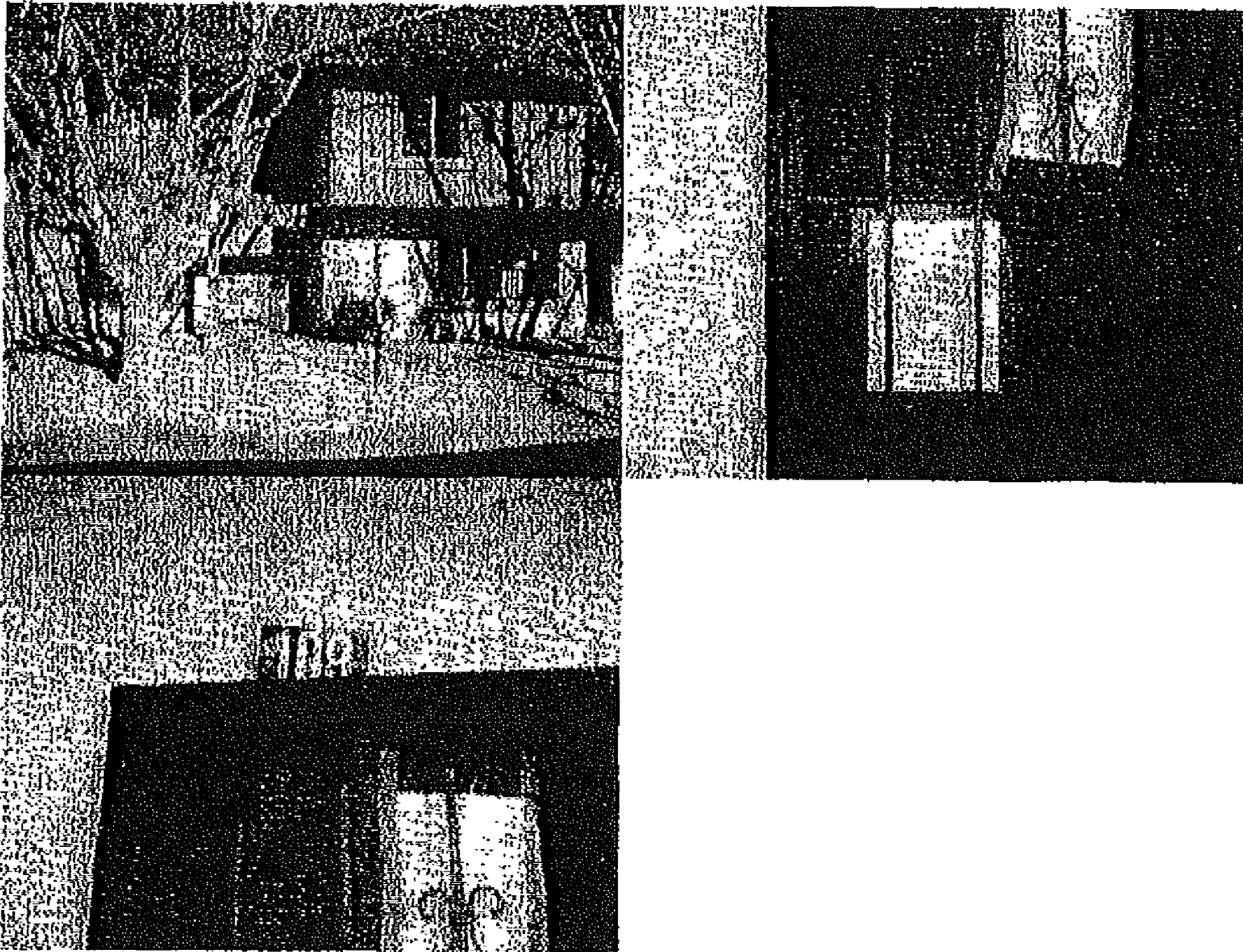
Junes Legal Service



Gregory Brown
630 S. 10th St, Ste B
Las Vegas, NV 89101
702-579-6300
Nevada Lic #1068

COUNTY OF SERVICE: CLARK
SERVER: Gregory Brown

A&K001



Photos taken by: Gregory Brown County: Clark
Photo date: 1/26/2012 Time: 10:25am
Primary borrower: Bank New York Community
Property address: 3923 Gogo Wy #109, Las Vegas, NV 89103

Junes Legal Service
630 S. 10th St, Ste B
Las Vegas, NV 89101
702-579-6300 Lic. #1068

Alessi & Koenig, LLC TS#12668-3923-109

APP000703

NOTICE OF TRUSTEE'S SALE

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.

NOTICE IS HEREBY GIVEN THAT:

On February 22, 2012, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on July 7, 2011, as Instrument number 2436, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIERS CHECK at: 2:00 PM, at 9500 W Flamingo Suite 205, Las Vegas, NV 89147 (Alessi&Koenig, LLC Office Building).

The street address and other common designation, if any, of the real property described above is purported to be: 3923 Gogo Wy #109, Las Vegas, NV 89103. The owner of the real property is purported to be: BANK NEW YORK COMMUNITY.

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made, without covenant or warranty, expressed or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of a note, homeowner's assessment or other obligation secured by this lien, with interest and other sum as provided therein; plus advances, if any, under the terms thereof and interest on such advances, plus fees, charges, expenses, of the Trustee and trust created by said lien. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$8,639.77. Payment must be in cash, a cashier's check drawn on a state or national bank, a check drawn by a state bank or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state.

Date: January 18, 2012

By: Ryan Kerbow, Esq. of Alessi & Koenig LLC
on behalf of Shadow Wood Homeowners'
Association, Inc

PUBLISHED
01/27/2012, 02/03/2012 & 02/10/2012

CLARK COUNTY LEGAL NEWS
NYE & CLARK COUNTY, NEVADA
CCLN FILE 12012704.xps

Certification of Publication

This is to confirm that, on the aforementioned dates, the attached Legal Notice was published in the Clark County Legal News newspaper, a newspaper of general and subscription circulation in Clark County, Nevada.

Per NRS 238.030, the Clark County Legal News newspaper is printed and published in whole or in part in both Clark County and Nye County, Nevada.

WITNESS my hand on this

02/10/2012
DATE

Jeremiah J. Donovan

JEREMIAH J. DONOVAN, publisher,
Clark County Legal News newspaper

Exhibit “5”

A&K001



Inst #: 201203010004775
 Fees: \$17.00 N/C Fee: \$0.00
 RPTT: \$58.65 Ex: #
 03/01/2012 04:20:12 PM
 Receipt #: 1083608
 Requestor:
 ALESSI & KOENIG LLC (JUNES
 Recorded By: MJM Pgs: 2
 DEBBIE CONWAY
 CLARK COUNTY RECORDER

When recorded mail to and
 Mail Tax Statements to:
 Gogo Way Trust
 PO Box 36208
 Las Vegas, NV 89133

A.P.N. No.162-18-613-029

TS 12668-3923-109

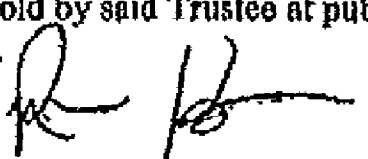
TRUSTEE'S DEED UPON SALE

The Grantee (Buyer) herein was: Gogo Way Trust
 The Foreclosing Beneficiary herein was: Shadow Wood Homeowners' Association, Inc
 The amount of unpaid debt together with costs (Real Property Transfer Tax Value): \$11,018.39
 The amount paid by the Grantee (Buyer) at the Trustee's Sale: \$11,018.39
 The Documentary Transfer Tax: \$58.65
 Property address: 3923 Gogo Wy #109, Las Vegas, NV 89103
 Said property is in [] unincorporated area: City of Las Vegas
 Trustor (Former Owner that was foreclosed on): BANK NEW YORK COMMUNITY

Alessi & Koenig, LLC (herein called Trustee), as the duly appointed Trustee under that certain Notice of Delinquent Assessment Lien, recorded July 7, 2011 as instrument number 2436, in Clark County, does hereby grant, without warranty expressed or implied to: Gogo Way Trust (Grantee), all its right, title and interest in the property legally described as: Unit 109, as per map recorded in Book 33, Pages 44 as shown in the Office of the County Recorder of Clark County Nevada.

TRUSTEE STATES THAT:

This conveyance is made pursuant to the powers conferred upon Trustee by NRS 116 et seq., and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the office of the recorder of said county. All requirements of law regarding the mailing of copies of notices and the posting and publication of the copies of the Notice of Sale have been complied with. Said property was sold by said Trustee at public auction on February 22, 2012 at the place indicated on the Notice of Trustee's Sale.

Robert Koenig, Esq. 
 Signature of AUTHORIZED AGENT for Shadow Wood Homeowners'
 Association, Inc

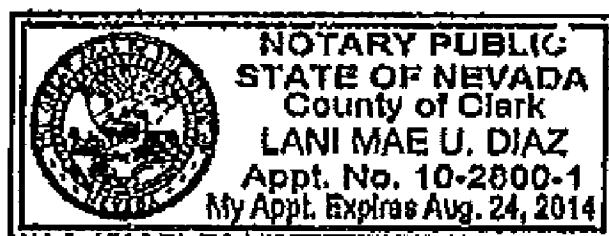
State of Nevada)
 County of Clark)

SUBSCRIBED and SWORN to before me

March 1, 2012

WITNESS my hand and official seal.
 (Seal)

(Signature)



A&K001

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 162-18-813-029

b.

c.

d.

2. Type of Property:

- | | |
|---|--|
| a. <input type="checkbox"/> Vacant Land | b. <input type="checkbox"/> Single Fam. Res. |
| c. <input checked="" type="checkbox"/> Condo/Twnhse | d. <input type="checkbox"/> 2-4 Plex |
| e. <input type="checkbox"/> Apt. Bldg | f. <input type="checkbox"/> Comm'l/Ind'l |
| g. <input type="checkbox"/> Agricultural | h. <input type="checkbox"/> Mobile Home |
| <input type="checkbox"/> Other | |

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 11,018.39

b. Deed in Lieu of Foreclosure Only (value of property)

c. Transfer Tax Value:

\$ 11,018.39

d. Real Property Transfer Tax Due

\$ 68.65

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100.00 %

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 _____

Capacity: Grantor

Signature _____

Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: Alessi&Koenig, LLC

Address: 9500 W Flamingo # 205

City: Las Vegas

State: NV

Zip: 89147

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Gogo Way Trust

Address: PO Box 38208

City: Las Vegas

State: NV

Zip: 89133

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

Print Name: Alessi&Koenig, LLC

Address: 9500 W Flamingo #205

City: Las Vegas

Esrow # N/A Foreclosure

State: NV

Zip: 89147

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit “6”

A&K001 DAVID ALESSI*
 THOMAS BAYARD*
 ROBERT KOENIG**
 RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
 and Colorado Bars

*** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm

9500 W. Flamingo Road, Suite 205
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
 www.alessikoenig.com

ADDITIONAL OFFICES IN

AGOURA HILLS, CA
 PHONE: 818-735-9600

RENO NV
 PHONE: 775-626-2323

&
 DIAMOND BAR CA
 PHONE: 909-861-8300

FACSIMILE COVER LETTER

To:	dianna.palmer-hopkins@mynycb.com	Re:	3923 Gogo Wy #109/HO #12668
From:	Ryan Kerbow	Date:	Monday, January 23, 2012
Fax No.:		Pages:	1, including cover
		HO #:	12668

Dear dianna.palmer-hopkins@mynycb.com:

This cover will serve as a nine month super priority demand on behalf of Shadow Wood Homeowners' Association, Inc for the above referenced escrow; property located at 3923 Gogo Wy #109, Las Vegas, NV. The date of foreclosure was May 9, 2011. The total amount due through February, 29, 2012 is \$9,017.39. The breakdown of fees, interest and costs is as follows:

6/29/2011	Notice of Delinquent Assessment Lien -- Nevada	(2)	\$650.00
8/29/2011	Notice of Default	(2)	\$800.00
4/14/2010	Notice of Trustee's Sale	(2)	\$550.00
8/13/2011	Pre NOD		\$90.00
9/21/2009	Pre-Notice of Trustee's Sale		\$90.00
8/25/2010	Postponement of Trustees Sale	(3)	\$225.00
6/2/2010	Monitoring Foreclosure		\$100.00
11/9/2010	Demand Fee		\$150.00
1/23/2012	Update Demand Fee	(2)	\$150.00
	Trustee Deed Preparation & Recordation		\$0.00
1/18/2012	Foreclosure Fee		\$150.00
Total			\$2,955.00

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&K001 DAVID ALESSI*
 THOMAS BAYARD *
 ROBERT KOENIG**
 RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar



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AGOURA HILLS, CA
PHONE: 818- 735-9600

RENO NV
PHONE: 775-626-2323

&
DIAMOND BAR CA
PHONE: 909-861-8300

FACSIMILE COVER LETTER

1. Attorney and/or Trustees fees:	\$2,955.00
2. Notary, Recording, Copies, Mailings, and PACER	\$625.00
3. Assessments August 9, 2010 Through February 29, 2012	\$3,252.39
4. Late Fees Through February 29, 2012	\$190.00
5. Fines Through January 23, 2012	\$0.00
6. Interest Through February 29, 2012	\$0.00
7. RPIR-GI Report	\$170.00
8. Title Research (10-Day Mailings per NRS 116.31163)	\$550.00
9. Management Company Advanced Audit Fee	\$150.00
10. Management Account Setup Fee	\$300.00
11. Publishing and Posting of Trustee Sale	\$700.00
13. Conduct Foreclosure Sale	\$125.00
14. Capital Contribution	\$0.00
15. Progress Payments:	\$0.00
Sub-Total:	\$9,017.39
Less Payments Received:	\$0.00
Total Amount Due:	\$9,017.39

Please have a check in the amount of \$9,017.39 made payable to the Alessi & Koenig, LLC and mailed to the above listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000710

Exhibit “7”

DAVID ALESSI*
 THOMAS BAYARD *
 ROBERT KOENIG**
 RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
 and Colorado Bars

*** Admitted to the Nevada and California Bar



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RENO NV
 PHONE: 775-626-2323
 &
 DIAMOND BAR CA
 PHONE: 909-861-8300

FACSIMILE COVER LETTER

To:	dianna.palmer-hopkins@mynycb.com	Re:	3923 Gogo Wy #109/HO #12668
From:	Ryan Kerbow	Date:	Tuesday, November 15, 2011
Fax No.:		Pages:	1, including cover
		HO #:	12668

Dear dianna.palmer-hopkins@mynycb.com:

This cover will serve as a nine month super priority demand on behalf of Shadow Wood Homeowners' Association, Inc for the above referenced escrow; property located at 3923 Gogo Wy #109, Las Vegas, NV. The date of foreclosure was May 9, 2011. The total amount due through December, 15, 2011 is \$7,314.77. The breakdown of fees, interest and costs is as follows:

6/29/2011	Notice of Delinquent Assessment Lien -- Nevada	(2)	\$650.00
8/29/2011	Notice of Default	(2)	\$800.00
4/14/2010	Notice of Trustee's Sale		\$275.00
8/13/2011	Pre NOD		\$90.00
9/21/2009	Pre-Notice of Trustee's Sale		\$90.00
8/25/2010	Postponement of Trustees Sale		\$75.00
6/2/2010	Monitoring Foreclosure		\$100.00
11/9/2010	Demand Fee		\$150.00
11/15/2011	Update Demand Fee		\$75.00
	Trustee Deed Preparation & Recordation		\$0.00
Total			\$2,305.00

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000712

DAVID ALESSI*

THOMAS BAYARD *

ROBERT KOENIG**

RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar



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RENO NV
PHONE: 775-626-2323

&
DIAMOND BAR CA
PHONE: 909-861-8300

FACSIMILE COVER LETTER

1. Attorney and/or Trustees fees:	\$2,305.00
2. Notary, Recording, Copies, Mailings, and PACER	\$450.00
3. Assessments August 9, 2010 Through December 15, 2011	\$2,869.77
4. Late Fees Through December 15, 2011	\$170.00
5. Fines Through November 15, 2011	\$0.00
6. Interest Through December 15, 2011	\$0.00
7. RPIR-GI Report	\$170.00
8. Title Research (10-Day Mailings per NRS 116.31163)	\$550.00
9. Management Company Advanced Audit Fee	\$150.00
10. Management Account Setup Fee	\$300.00
11. Publishing and Posting of Trustee Sale	\$350.00
13. Conduct Foreclosure Sale	\$0.00
14. Capital Contribution	\$0.00
15. Progress Payments:	\$0.00
Sub-Total:	\$7,314.77
Less Payments Received:	\$0.00
Total Amount Due:	\$7,314.77

Please have a check in the amount of \$7,314.77 made payable to the Alessi & Koenig, LLC and mailed to the above listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000713

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2011 TO 12/31/2011
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

3923 GOGO WAY #109

STOP PAYMENT

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
12/31/2010	BEGINNING BALANCE			3,962.20
01/01/2011	MONTHLY ASSESSMENTS	168.81		4,131.01
01/31/2011	LATE CHARGE	10.00		4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87
07/01/2011	LATE CHARGE	10.00		5,203.87
07/31/2011	LATE CHARGE	10.00		5,213.87
08/01/2011	MONTHLY ASSESSMENTS	168.81		5,382.68
08/31/2011	LATE CHARGE	10.00		5,392.68
09/01/2011	MONTHLY ASSESSMENTS	168.81		5,561.49
10/01/2011	MONTHLY ASSESSMENTS	168.81		5,730.30
10/01/2011	LATE CHARGE	10.00		5,740.30
11/01/2011	MONTHLY ASSESSMENTS	168.81		5,909.11

1 OWNERS -

REPORT BALANCE AS OF: 12/31/2011

5,909.11

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2011 TO 12/31/2011
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

3923 GOGO WAY #109

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
12/31/2010	BEGINNING BALANCE			3,962.20
01/01/2011	MONTHLY ASSESSMENTS	168.81		4,131.01
01/31/2011	LATE CHARGE	10.00		4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87
07/01/2011	LATE CHARGE	10.00		5,203.87
07/31/2011	LATE CHARGE	10.00		5,213.87
08/01/2011	MONTHLY ASSESSMENTS	168.81		5,382.68
08/31/2011	LATE CHARGE	10.00		5,392.68
09/01/2011	MONTHLY ASSESSMENTS	168.81		5,561.49
10/01/2011	MONTHLY ASSESSMENTS	168.81		5,730.30
10/01/2011	LATE CHARGE	10.00		5,740.30
11/01/2011	MONTHLY ASSESSMENTS	168.81		5,909.11

1 OWNERS -

REPORT BALANCE AS OF: 12/31/2011

5,909.11

Naomi Eden

From: Naomi Eden
Sent: Monday, December 05, 2011 12:32 PM
To: Ana Calabrese
Subject: RE: 3923 Gogo Way, 109 / Reference 3401602
Attachments: Ledger 11-15-11 Dues Gogo.pdf; Breakdown of Fees - Super Priority_11152011_12668.snp
Gogo.pdf

Hi Diana,

I setn you a demand on 11-15 that expires 12-15. I have attached a copy. If you need an updated demand, please let me know.

Thank you

From: Ana Calabrese
Sent: Monday, December 05, 2011 10:27 AM
To: Naomi Eden
Subject: FW: 3923 Gogo Way, 109 / Reference 3401602

Ana Calabrese
Receptionist
ana@alessikoenig.com
Alessi & Koenig, LLC
www.alessikoenig.com

OUR OFFICE CLOSSES AT 2:00 PM ON FRIDAYS

From: Dianna Palmer-Hopkins [<mailto:Dianna.Palmer-Hopkins@mynycb.com>]
Sent: Friday, December 02, 2011 9:53 AM
To: demandreq
Subject: FW: 3923 Gogo Way, 109 / Reference 3401602

Hello,

I sent this email below 11/02/11. In order to pay this we will need a detailed statement.

Thanks,
Dianna

From: Dianna Palmer-Hopkins
Sent: Wednesday, November 02, 2011 3:16 PM
To: 'demandreq@alessikoenig.com'
Subject: 3923 Gogo Way, 109 / Reference 3401602

Hello,

In order to pay the dues on this property we will need a detailed statement.

Thanks,

Dianna Palmer-Hopkins
Default Risk Assistant
NYCB Mortgage Company, LLC
1801 East 9th St
Mail code OH98-0822
Cleveland, OH 44114
1-800-860-2025 x 3838 toll free
216-588-3838 direct
Hours: 8:00 - 5:00

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, PROPRIETARY AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. No confidentiality or privilege is waived or lost by any improper transmission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, forwarding or copying of this communication is strictly prohibited. If you have received this communication by mistake, please notify the sender immediately by e-mail or telephone, and delete the original message and any electronic or printed copies of this message immediately. Thank you. New York Community Bancorp, Inc. ("Company") reserves the right to monitor all e-mail communications sent through its networks. Any views expressed in this message are those of the individual sender, unless the message states otherwise and the sender is authorized to communicate on behalf of the Company or one of its subsidiaries.

DAVID ALESSI*
THOMAS BAYARD *
ROBERT KOENIG**
RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar



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PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-861-8300

FACSIMILE COVER LETTER

To:	dianna.palmer-hopkins@mynycb.com	Re:	3923 Gogo Wy #109/HO #12668
From:	Ryan Kerbow	Date:	Tuesday, November 15, 2011
Fax No.:		Pages:	1, including cover
		HO #:	12668

Dear dianna.palmer-hopkins@mynycb.com:

This cover will serve as a nine month super priority demand on behalf of Shadow Wood Homeowners' Association, Inc for the above referenced escrow; property located at 3923 Gogo Wy #109, Las Vegas, NV. The date of foreclosure was May 9, 2011. The total amount due through December, 15, 2011 is \$7,314.77. The breakdown of fees, interest and costs is as follows:

6/29/2011	Notice of Delinquent Assessment Lien -- Nevada	(2)	\$650.00
8/29/2011	Notice of Default	(2)	\$800.00
4/14/2010	Notice of Trustee's Sale		\$275.00
8/13/2011	Pre NOD		\$90.00
9/21/2009	Pre-Notice of Trustee's Sale		\$90.00
8/25/2010	Postponement of Trustees Sale		\$75.00
6/2/2010	Monitoring Foreclosure		\$100.00
11/9/2010	Demand Fee		\$150.00
11/15/2011	Update Demand Fee		\$75.00
	Trustee Deed Preparation & Recordation		\$0.00
Total			\$2,305.00

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000718

DAVID ALESSI*
THOMAS BAYARD *
ROBERT KOENIG**
RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar



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RENO NV
PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-861-8300

FACSIMILE COVER LETTER

1. Attorney and/or Trustees fees:	\$2,305.00
2. Notary, Recording, Copies, Mailings, and PACER	\$450.00
3. Assessments August 9, 2010 Through December 15, 2011	\$2,869.77
4. Late Fees Through December 15, 2011	\$170.00
5. Fines Through November 15, 2011	\$0.00
6. Interest Through December 15, 2011	\$0.00
7. RPIR-GI Report	\$170.00
8. Title Research (10-Day Mailings per NRS 116.31163)	\$550.00
9. Management Company Advanced Audit Fee	\$150.00
10. Management Account Setup Fee	\$300.00
11. Publishing and Posting of Trustee Sale	\$350.00
13. Conduct Foreclosure Sale	\$0.00
14. Capital Contribution	\$0.00
15. Progress Payments:	\$0.00
Sub-Total:	\$7,314.77
Less Payments Received:	\$0.00
Total Amount Due:	\$7,314.77

Please have a check in the amount of \$7,314.77 made payable to the Alessi & Koenig, LLC and mailed to the above listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000719

RUN DATE: 01/23/2012

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 02/01/2011 TO 02/28/2012
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

3923 GOGO WAY #109

STOP PAYMENT				
TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
01/31/2011	BEGINNING BALANCE			4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87
07/01/2011	LATE CHARGE	10.00		5,203.87
07/31/2011	LATE CHARGE	10.00		5,213.87
08/01/2011	MONTHLY ASSESSMENTS	168.81		5,382.68
08/31/2011	LATE CHARGE	10.00		5,392.68
09/01/2011	MONTHLY ASSESSMENTS	168.81		5,561.49
10/01/2011	MONTHLY ASSESSMENTS	168.81		5,730.30
10/01/2011	LATE CHARGE	10.00		5,740.30
10/31/2011	LATE CHARGE	10.00		5,750.30
11/01/2011	MONTHLY ASSESSMENTS	168.81		5,919.11
12/01/2011	MONTHLY ASSESSMENTS	168.81		6,087.92
12/01/2011	LATE CHARGE	10.00		6,097.92
12/31/2011	LATE CHARGE	10.00		6,107.92
01/01/2012	MONTHLY ASSESSMENTS	168.81		6,276.73
02/01/2012	MONTHLY ASSESSMENTS	168.81		6,445.54

1 OWNERS -

REPORT BALANCE AS OF: 02/28/2012

6,445.54

Exhibit “8”

Naomi Eden

From: Naomi Eden
Sent: Monday, February 13, 2012 9:55 AM
To: 'Dianna Palmer-Hopkins'
Subject: RE: 3923 Gogo 109
Attachments: Breakdown of Fees - Super Priority_1232012_12668.snp Gogo.pdf; Ledger 1-23-12 Dues Gogo.pdf

Here you go.

From: Dianna Palmer-Hopkins [<mailto:Dianna.Palmer-Hopkins@mynycb.com>]
Sent: Friday, February 10, 2012 1:35 PM
To: Naomi Eden
Subject: RE: 3923 Gogo 109

Ok, I will need a new statement with that amount.

From: Naomi Eden [<mailto:naomi@alessikoenig.com>]
Sent: Friday, February 10, 2012 11:47 AM
To: Dianna Palmer-Hopkins
Subject: RE: 3923 Gogo 109

Ok, but the amount due is \$9017.39, not \$6445.54.

From: Dianna Palmer-Hopkins [<mailto:Dianna.Palmer-Hopkins@mynycb.com>]
Sent: Friday, February 10, 2012 5:52 AM
To: Naomi Eden
Subject: RE: 3923 Gogo 109

Hello,

The amount on the ledger that was sent to me 01/23/12 had the amount of 6445.54 through 02/01/12. We actually paid more so that we could be caught up until April.

Thanks,
Dianna

From: Naomi Eden [<mailto:naomi@alessikoenig.com>]
Sent: Wednesday, February 08, 2012 2:29 PM
To: Dianna Palmer-Hopkins
Subject: 3923 Gogo 109

Hi Dianna,

The management company received a check in the amount of \$6783.16. The total due on the demand is \$9017.39. Would you like me to return this check so a new one can be issued with the proper amount?

Thanks,

Naomi Eden, J.D.

Alessi & Koenig, LLC
www.alessikoenig.com

Our Office closes at 2 pm on Fridays

Las Vegas Office
9500 W. Flamingo Road, Suite. 205
Las Vegas, NV 89147
Telephone: (702) 222-4033
Facsimile: (702) 222-4043

Reno Office
1135 Terminal Way, Suite 106A
Reno, NV 89502
Telephone: (775) 626-2323
Facsimile: (775) 222-4043

Los Angeles Office
28914 Roadside Dr., Suite. F-4
Agoura Hills, CA 91301
Telephone: (818) 735-9600
Facsimile: (818) 735-0096

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Naomi Eden

From: Naomi Eden
Sent: Monday, January 23, 2012 4:50 PM
To: 'dlanna.palmer-hopkins@mynycb.com'
Subject: breakdown of fees for 3923 Gogo 109
Attachments: Ledger 1-23-12 Dues Gogo.pdf; Ledger 1-23-12 Dues Gogo.pdf

Thank you ☺

Naomi Eden, J.D.

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www.alessikoenig.com

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DAVID ALESSI*
 THOMAS BAYARD*
 ROBERT KOENIG**
 RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
 and Colorado Bars

*** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm
 9500 W. Flamingo Road, Suite 205
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
 www.alessikoenig.com

ADDITIONAL OFFICES IN

AGOURA HILLS, CA
 PHONE: 818-735-9600

RENO NV
 PHONE: 775-626-2323
 &
 DIAMOND BAR CA
 PHONE: 909-861-8300

FACSIMILE COVER LETTER

To:	dianna.palmer-hopkins@mynycb.com	Re:	3923 Gogo Wy #109/HO #12668
From:	Ryan Kerbow	Date:	Monday, January 23, 2012
Fax No.:		Pages:	1, including cover
		HO #:	12668

Dear dianna.palmer-hopkins@mynycb.com:

This cover will serve as a nine month super priority demand on behalf of Shadow Wood Homeowners' Association, Inc for the above referenced escrow; property located at 3923 Gogo Wy #109, Las Vegas, NV. The date of foreclosure was May 9, 2011. The total amount due through February, 29, 2012 is \$9,017.39. The breakdown of fees, interest and costs is as follows:

6/29/2011	Notice of Delinquent Assessment Lien -- Nevada	(2)	\$650.00
8/29/2011	Notice of Default	(2)	\$800.00
4/14/2010	Notice of Trustee's Sale	(2)	\$550.00
8/13/2011	Pre NOD		\$90.00
9/21/2009	Pre-Notice of Trustee's Sale		\$90.00
8/25/2010	Postponement of Trustees Sale	(3)	\$225.00
6/2/2010	Monitoring Foreclosure		\$100.00
11/9/2010	Demand Fee		\$150.00
1/23/2012	Update Demand Fee	(2)	\$150.00
	Trustee Deed Preparation & Recordation		\$0.00
1/18/2012	Foreclosure Fee		\$150.00
Total			\$2,955.00

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000725

DAVID ALESSI*
THOMAS BAYARD *
ROBERT KOENIG**
RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar



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ADDITIONAL OFFICES IN

AGOURA HILLS, CA
PHONE: 818- 735-9600

RENO NV
PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-861-8300

FACSIMILE COVER LETTER

1. Attorney and/or Trustees fees:	\$2,955.00
2. Notary, Recording, Copies, Mailings, and PACER	\$625.00
3. Assessments August 9, 2010 Through February 29, 2012	\$3,252.39
4. Late Fees Through February 29, 2012	\$190.00
5. Fines Through January 23, 2012	\$0.00
6. Interest Through February 29, 2012	\$0.00
7. RPIR-GI Report	\$170.00
8. Title Research (10-Day Mailings per NRS 116.31163)	\$550.00
9. Management Company Advanced Audit Fee	\$150.00
10. Management Account Setup Fee	\$300.00
11. Publishing and Posting of Trustee Sale	\$700.00
13. Conduct Foreclosure Sale	\$125.00
14. Capital Contribution	\$0.00
15. Progress Payments:	\$0.00
Sub-Total:	\$9,017.39
Less Payments Received:	\$0.00
Total Amount Due:	\$9,017.39

Please have a check in the amount of \$9,017.39 made payable to the Alessi & Koenig, LLC and mailed to the above listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

APP000726

RUN DATE: 01/23/2012

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 02/01/2011 TO 02/28/2012
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

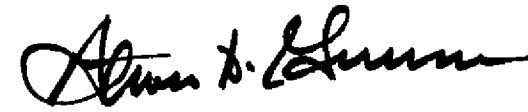
3923 GOGO WAY #109

STOP PAYMENT				
TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
01/31/2011	BEGINNING BALANCE			4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87
07/01/2011	LATE CHARGE	10.00		5,203.87
07/31/2011	LATE CHARGE	10.00		5,213.87
08/01/2011	MONTHLY ASSESSMENTS	168.81		5,382.68
08/31/2011	LATE CHARGE	10.00		5,392.68
09/01/2011	MONTHLY ASSESSMENTS	168.81		5,561.49
10/01/2011	MONTHLY ASSESSMENTS	168.81		5,730.30
10/01/2011	LATE CHARGE	10.00		5,740.30
10/31/2011	LATE CHARGE	10.00		5,750.30
11/01/2011	MONTHLY ASSESSMENTS	168.81		5,919.11
12/01/2011	MONTHLY ASSESSMENTS	168.81		6,087.92
12/01/2011	LATE CHARGE	10.00		6,097.92
12/31/2011	LATE CHARGE	10.00		6,107.92
01/01/2012	MONTHLY ASSESSMENTS	168.81		6,276.73
02/01/2012	MONTHLY ASSESSMENTS	168.81		6,445.54

1 OWNERS -

REPORT BALANCE AS OF: 02/28/2012

6,445.54



CLERK OF THE COURT

NOTC

Huong Lam, Esq.
Nevada Bar No. 10916
ALESSI & KOENIG, LLC
9500 W. Flamingo, Suite 205
Las Vegas, Nevada 89147
Phone: (702) 222-4033
Fax: (702) 222-4043
huong@alessikoenig.com
Attorneys for Defendants/Counterclaimants
Shadow Wood Homeowners' Association, Inc.; &
Gogo Way Trust

DISTRICT COURT
CLARK COUNTY, NEVADA

NEW YORK COMMUNITY BANCORP,
INC.,

Plaintiff,

vs.

SHADOW WOOD HOMEOWNERS
ASSOCIATION, INC.;, GOGO WAY TRUST;
and DOES 1 through 20, inclusive,

Defendants.

Case No. A-12-660328-C
Dept. No. XV

**NOTICE OF CHANGE OF
ATTORNEY OF RECORD**

AND RELATED CROSS-CLAIMS

COME NOW, Defendants/Counterclaimants SHADOW WOOD HOMEOWNERS
ASSOCIATION, INC and GOGO WAY TRUST, by and through their attorneys of record,
Huong Lam, Esq. of ALESSI & KOENIG, LLC, and hereby makes Notice to all parties that the
attorney of record in the instant matter is now Huong Lam, Esq. who appears in the place of
Ryan Kerbow, Esq.

///

1 All future communications should be addressed to Huong Lam, Esq. as follows:

2 Alessi & Koenig, LLC
3 9500 W. Flamingo Rd., Ste. 205
4 Las Vegas, NV 89147
5 702-222-4033 phone
6 702-222-4043 fax
7 huong@alessikoenig.com

8 Please be advised that providing Ms. Lam's fax and email address is not consenting to
9 service by electronic means.

10 DATED this 6th day of March, 2013.

11 ALESSI & KOENIG, LLC

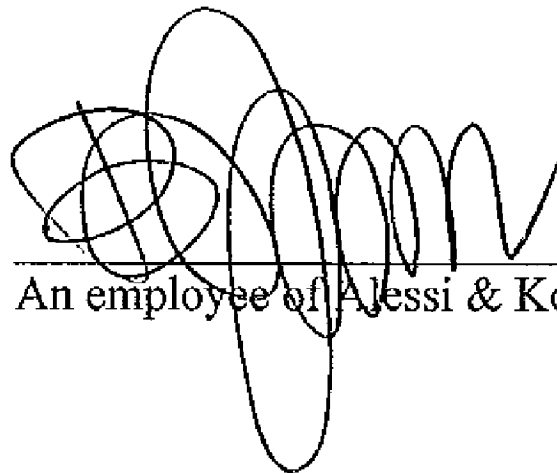
12 
13 Huong Lam, Esq.
14 Nevada Bar No. 10916
15 ALESSI & KOENIG, LLC
16 9500 W. Flamingo, Suite #205
17 Las Vegas, Nevada 89147
18 Phone: (702) 222-4033
19 Fax: (702) 222-4043
20 *Attorneys for Defendants/Counterclaimants*
21 *Shadow Wood Homeowners' Association, Inc.; &*
22 *Gogo Way Trust*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 10th day of March, 2013, I caused service of a true and
3 correct copy of the foregoing **NOTICE OF CHANGE OF ATTORNEY OF RECORD** to be
4 made by depositing same in the United States Mail in Las Vegas, Nevada, postage prepaid,
5 addressed as follows:
6

7 Gregg A. Hubley, Esq.
8 PITE DUNCAN
9 701 East Bridger Avenue, Suite 700
10 Las Vegas, NV 89101
11 702-991-4628 phone
12 702-685-6342 fax
13 *Attorneys for Plaintiff*
14 *New York Community Bancorp, Inc.*

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An employee of Alessi & Koenig

SHORT ANSWER TO #2:

No. The language in NRS 116.3116(2) defines the super priority lien. The super priority lien consists of unpaid assessments based on the association's budget and NRS 116.310312 charges, nothing more. The super priority lien is limited to: (1) 9 months of assessments; and (2) charges allowed by NRS 116.310312. The super priority lien based on assessments may not exceed 9 months of assessments as reflected in the association's budget, and it may not include penalties, fees, late charges, fines, or interest. References in NRS 116.3116(2) to assessments and charges pursuant to NRS 116.310312 define the super priority lien, and are not merely to determine a dollar amount for the super priority lien.

SHORT ANSWER TO #3:

No. The association must *take action* to enforce its super priority lien, but it need not institute a civil action by the filing of a complaint. The association may begin the process for foreclosure in NRS 116.31162 or exercise any other remedy it has to enforce the lien.

ANALYSIS OF THE ISSUES:

This advisory opinion – provided in accordance with NRS 116.623 – details the Real Estate Division's opinion as to the interpretation of NRS 116.3116(1) and (2). The Division hopes to help association boards understand the meaning of the statute so they are better equipped to represent the interests of their members. Associations are encouraged to look at the entirety of a situation surrounding a particular deficiency and evaluate the association's best option for collection. The first step in that analysis is to understand what constitutes the association's lien, what is not part of the lien, and the status of the lien compared to other liens recorded against the unit.

Subsection (1) of NRS 116.3116 describes what constitutes the association's lien; and subsection (2) states the lien's priority compared to other liens recorded against a unit. NRS 116.3116 comes from the Uniform Common Interest Ownership Act (1982) (the "Uniform Act"), which Nevada adopted in 1991. So, in addition to looking at the language of the relevant Nevada statute, this analysis includes references to the Uniform Act's equivalent provision (§ 3-116) and its comments.

I. NRS 116.3116(1) DEFINES WHAT THE ASSOCIATION'S LIEN CONSISTS OF.

NRS 116.3116(1) provides generally for the lien associations have against units within common-interest communities. NRS 116.3116(1) states as follows:

The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(emphasis added).

Based on this provision, the association's lien includes assessments, construction penalties, and fines imposed against a unit when they become due. In addition – unless the declaration otherwise provides – penalties, fees, charges, late charges, fines, and interest charged pursuant to NRS 116.3102(1)(j) through (n) are also part of the association's lien in that such items are enforceable as if they were assessments. Assessments can be foreclosed pursuant to NRS 116.31162, but liens for fines and penalties may not be foreclosed unless they satisfy the requirements of NRS 116.31162(4). Therefore, it is important to accurately categorize what comprises each portion of the association's lien to evaluate enforcement options.

A. "COSTS OF COLLECTING" (DEFINED BY NRS 116.310313) ARE NOT PART OF THE ASSOCIATION'S LIEN

NRS 116.3116(1) does not specifically make costs of collecting part of the association's lien, so the determination must be whether such costs can be included under the incorporated provisions of NRS 116.3102. NRS 116.3102(1)(j) through (n) identifies five very specific categories of penalties, fees, charges, late charges, fines, and interest associations may impose. This language encompasses all penalties, fees,

charges, late charges, fines, and interest that are part of the lien described in NRS 116.3116(1).

NRS 116.3102(1)(j) through (n) states:

1. Except as otherwise provided in this section, and subject to the provisions of the declaration, the association may do any or all of the following: ...

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) Impose charges for late payment of assessments pursuant to NRS 116.3115.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(emphasis added).

Whatever charges the association is permitted to impose by virtue of these provisions are part of the association's lien. Subsection (k) – emphasized above – has been used – the Division believes improperly – to support the conclusion that associations may include costs of collecting past due obligations as part of the association's lien. The Commission for Common Interest Communities and Condominium Hotels issued Advisory Opinion No. 2010-01 in December of 2010. The Commission's advisory concludes as follows:

An association may collect as a part of the super priority lien (a) interest permitted by NRS 116.3115, (b) late fees or charges authorized by the declaration, (c) charges for preparing any statements of unpaid assessments and (d) the "costs of collecting" authorized by NRS 116.310313.

Analysis of what constitutes the *super priority lien* portion of the association's lien is discussed in Section III, but the Division agrees that the association's lien does include items noted as (a), (b) and (c) of the Commission's advisory opinion above. To support item (d), the Commission relies on NRS 116.3102(1)(k) which gives associations the power to: "Impose charges for late payment of assessments pursuant to NRS 116.3115." This language would include interest authorized by statute and late fees if authorized by the association's declaration.

"Costs of collecting" defined by NRS 116.310313 is too broad to fall within the parameters of charges for late payment of assessments.¹ By definition, "costs of collecting" relate to the collection of past due "obligations." "Obligations" are defined as "any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner."² In other words, costs of collecting includes more than "charges for late payment of assessments."³ Therefore, the plain language of NRS 116.3116(1) does not incorporate costs of collecting into the association's lien. Further review of the relevant statutes and legislative action supports this conclusion.

B. PRIOR LEGISLATIVE ACTION SUPPORTS THE POSITION THAT COSTS OF COLLECTING ARE NOT PART OF THE ASSOCIATION'S LIEN DESCRIBED BY NRS 116.3116(1).

The language of NRS 116.3116(1) allows for "charges for late payment of assessments" to be part of the association's lien.⁴ "Charges for late payments" is not the same as "costs of collecting." "Costs of collecting" was first defined in NRS 116 by the adoption of NRS 116.310313 in 2009. NRS 116.310313(1) provides for the association's

¹ Charges for late payment of assessments comes from NRS 116.3102(1)(k) and is incorporated into NRS 116.3116(1).

² NRS 116.310313.

³ "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court. NRS 116.310313(3)(a).

⁴ NRS 116.3102(1)(k) (incorporated into NRS 116.3116(1)).

right to charge a unit owner “reasonable fees to cover the costs of collecting any past due obligation.” NRS 116.310313 is not referenced in NRS 116.3116 or NRS 116.3102, nor does NRS 116.310313 specifically provide for the association’s right to lien the unit for such costs.

In contrast, NRS 116.310312, also adopted in 2009, allows an association to enter the grounds of a unit to maintain the property or abate a nuisance existing on the exterior of the unit. NRS 116.310312 specifically provides for the association’s expenses to be a lien on the unit and provides that the lien is prior to the first security interest.⁵ NRS 116.3102(1)(j) was amended to allow these expenses to be part of the lien described in NRS 116.3116(1). And NRS 116.3116(2) was amended to allow these expenses to be included in the association’s super priority lien.

The Commission’s advisory opinion from December 2010 also relies on changes to the Uniform Act from 2008 to support the notion that collection costs should be part of the association’s super priority lien. Nevada has not adopted those changes to the Uniform Act. Since the Commission’s advisory opinion, the Nevada Legislature had an opportunity to clarify the law in this regard.

In 2011, the Nevada Legislature considered Senate Bill 174, which proposed changes to NRS 116.3116. S.B. 174 originally included changes to NRS 116.3116(1) such that the association’s lien would specifically include “costs of collecting” as defined in NRS 116.310313. S.B. 174 proposed changes to NRS 116.3116 (1) and (2) to bring the statute in line with the changes to the same provision in the Uniform Act amended in 2008.

The Uniform Act’s amendments were removed from S.B. 174 by the first reprint. As amended, S.B. 174 proposed changes to NRS 116.3116(2) expanding the super priority lien amount to include costs of collecting not to exceed \$1,950, in addition to 9 months

⁵ See NRS 116.310312(4) and (6).

of assessments. S.B. 174 was discussed in great detail and ultimately died in committee.⁶

Also in 2011, Senate Bill 204 – as originally introduced – included changes to NRS 116.3116(1) to expand the association's lien to include attorney's fees and costs and "any other sums due to the association."⁷ The bill's language was taken from the Uniform Act amendments in 2008. All changes to NRS 116.3116(1) were removed from the bill prior to approval.

The Nevada Legislature's actions in the 2009 and 2011 sessions are indicative of its intent not to make costs of collecting part of the lien. The Nevada Legislature could have made the costs of collecting part of the association's lien, like it did for costs under NRS 116.310312. It did not do so. In order for the association to have a right to lien a unit under NRS 116.3116(1), the charge or expense must fall within a category listed in the plain language of the statute. Costs of collecting do not fall within that language. Based on the foregoing, the Division concludes that the association's lien does not include "costs of collecting" as defined by NRS 116.310313.

A possible concern regarding this outcome could be that an association may not be able to recover their collection costs relating to a foreclosure of an assessment lien. While that may seem like an unreasonable outcome, a look at the bigger picture must be considered to put it in perspective. NRS 116.31162 through NRS 116.31168, inclusive, outlines the association's ability to enforce its lien through foreclosure. Associations have a lien for assessments that is enforced through foreclosure. The association's expenses are reimbursed to the association from the proceeds of the sale. NRS 116.31164(3)(c) allows the proceeds of the foreclosure sale to be distributed in the following order:

- (1) The reasonable expenses of sale;

⁶ See <http://leg.state.nv.us/Session/76th2011/Reports/history.cfm?ID=423>.

⁷ Senate Bill No. 204 – Senator Copenig, Sec. 49, ln. 1-16, February 28, 2011.

- (2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;
- (3) Satisfaction of the association's lien;
- (4) Satisfaction in the order of priority of any subordinate claim of record; and
- (5) Remittance of any excess to the unit's owner.

Subsections (1) and (2) allow the association to receive its expenses to enforce its lien through foreclosure *before* the association's lien is satisfied. Obviously, if there are no proceeds from a sale or a sale never takes place, the association has no way to collect its expenses other than through a civil action against the unit owner. Associations must consider this consequence when making decisions regarding collection policies understanding that every delinquent assessment may not be treated the same.

II. NRS 116.3116(2) ESTABLISHES THE PRIORITY OF THE ASSOCIATION'S LIEN.

Having established that the association has a lien on the unit as described in subsection (1) of NRS 116.3116, we now turn to subsection (2) to determine the lien's priority in relation to other liens recorded against the unit. The lien described by NRS 116.3116(1) is what is referred to in subsection (2). Understanding the priority of the lien is an important consideration for any board of directors looking to enforce the lien through foreclosure or to preserve the lien in the event of foreclosure by a first security interest.

NRS 116.3116(2) provides that the association's lien is prior to all other liens recorded against the unit *except*: liens recorded against the unit before the declaration; first security interests (first deeds of trust); and real estate taxes or other governmental assessments. There is one exception to the exceptions, so to speak, when it comes to priority of the association's lien. This exception makes a portion of an association's lien prior to the first security interest. The portion of the association's lien given priority status to a first security interest is what is referred to as the "super priority lien" to

distinguish it from the other portion of the association's lien that is subordinate to a first security interest.

The ramifications of the super priority lien are significant in light of the fact that superior liens, when foreclosed, remove all junior liens. An association can foreclose its super priority lien and the first security interest holder will either pay the super priority lien amount or lose its security. NRS 116.3116 is found in the Uniform Act at § 3-116. Nevada adopted the original language from § 3-116 of the Uniform Act in 1991. From its inception, the concept of a super priority lien was a novel approach. The Uniform Act comments to § 3-116 state:

[A]s to prior first security interests the association's lien does have priority for 6 months' assessments based on the periodic budget. A significant departure from existing practice, the 6 months' priority for the assessment lien strikes an equitable balance between the need to enforce collection of unpaid assessments and the obvious necessity for protecting the priority of the security interests of lenders. As a practical matter, secured lenders will most likely pay the 6 months' assessments demanded by the association rather than having the association foreclose on the unit. If the lender wishes, an escrow for assessments can be required.

This comment on § 3-116 illustrates the intent to allow for 6 months of assessments to be prior to a first security interest. The reason this was done was to accommodate the association's need to enforce collection of unpaid assessments. The controversy surrounding the super priority lien is in defining its limit. This is an important consideration for an association looking to enforce its lien. There is little benefit to an association if it incurs expenses pursuing unpaid assessments that will be eliminated by an imminent foreclosure of the first security interest. As stated in the comment, it is also likely that the holder of the first security interest will pay the super priority lien amount to avoid foreclosure by the association.

III. **THE AMOUNT OF THE SUPER PRIORITY LIEN IS LIMITED BY THE PLAIN LANGUAGE OF NRS 116.3116(2).**

NRS 116.3116(2) states:

A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

(emphasis added)

Having found previously that costs of collecting are not part of the lien means they are not part of the super priority lien. The question then becomes what can be included as part of the super priority lien. Prior to 2009, the super priority lien was limited to 6 months of assessments. In 2009, the Nevada legislature changed the 6 months of

assessments to 9 months and added expenses for abatement under NRS 116.310312 to the super priority lien amount. But to the extent federal law applicable to the first security interest limits the super priority lien, the super priority lien is limited to 6 months of assessments.

The emphasized language in the portion of the statute above identifies the portion of the association's lien that is prior to the first security interest, i.e. what comprises the super priority lien. This language states that there are two components to the super priority lien. The first is "to the extent of any charges" incurred by the association pursuant to NRS 116.310312. NRS 116.310312(4) makes clear that the charges assessed against the unit pursuant to this section are a lien on the unit and subsection (6) makes it clear that such lien is prior to first security interests. These costs are also specifically part of the lien described in NRS 116.3116(1) incorporated through NRS 116.3102(1)(j). This portion of the super priority lien is specific to charges incurred pursuant to NRS 116.310312. Payment of those charges relieves their super priority lien status. There does not seem to be any confusion as to what this part of the super priority lien is. Analysis of the super priority lien will focus on the second portion.

A. THE SUPER PRIORITY LIEN ATTRIBUTABLE TO ASSESSMENTS IS LIMITED TO 9 MONTHS OF ASSESSMENTS AND CONSISTS ONLY OF ASSESSMENTS.

The second portion of the super priority lien is "to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien."

The statute uses the language "to the extent of the assessments" to illustrate that there is a limit on the amount of the super priority lien, just like the language concerning expenses pursuant to NRS 116.310312, but this portion concerns assessments. The limit on the super priority lien is based on the assessments for

common expenses reflected in a budget adopted pursuant to NRS 116.3115 which would have become due in 9 months. The assessment portion of the super priority lien is no different than the portion derived from NRS 116.310312. Each portion of the super priority lien is limited to the specific charge stated and nothing else.

Therefore, while the association's *lien* may include any penalties, fees, charges, late charges, fines and interest charged pursuant to NRS 116.3102 (1) (j) to (n), inclusive, the total amount of the *super priority lien* attributed to assessments is no more than 9 months of the monthly assessment reflected in the association's budget. Association budgets do not reflect late charges or interest attributed to an anticipated delinquent owner, so there is no basis to conclude that such charges could be included in the super priority lien or in addition to the assessments. Such extraneous charges are not included in the association's super priority lien.

NRS 116.3116 originally provided for 6 months of assessments as the super priority lien. Comments to the Uniform Act quoted previously support the conclusion that the original intent was for 6 months of the assessments alone to comprise the super priority lien amount and not the penalties, charges, or interest. It is possible that an argument could be made that the language is so clear in this regard one should not look to legislative intent. But considering the controversy surrounding the meaning of this statute, the better argument is that legislative intent should be used to determine the meaning.

The Commission's advisory opinion of December 2010 concluded that assessments *and* additional costs are part of the super priority lien. The Commission's advisory opinion relies in part on a Wake Forest Law Review⁸ article from 1992 discussing the Uniform Act. This article actually concludes that the Uniform Act language limits the

⁸ See James Winokur, *Meaner Lienor Community Associations: The "Super Priority" Lien and Related Reforms Under the Uniform Common Interest Ownership Act*, 27 WAKE FOREST L. REV. 353, 366-69 (1992).

amount of the super priority lien to 6 months of assessments, but that the super priority lien does not necessarily consist of only delinquent assessments.⁹ It can include fines, interest, and late charges.¹⁰ The concept here is that all parts of the lien are prior to a first security interest and that reference to assessments for the super priority lien is only to define a specific dollar amount.

The Division disagrees with this interpretation because of the unreasonable consequences it leaves open. For example, a unit owner may pay the delinquent assessment amount leaving late charges and interest as part of the super priority lien. If the super priority lien can encompass more than just delinquent assessments in this situation, it would give the association the right to foreclose its lien consisting only of late charges and interest prior to the first security interest. It is also unreasonable to expect that fines (which cannot be foreclosed generally) survive a foreclosure of the first security interest. Either the lender or the new buyer would be forced to pay the prior owner's fines. The Division does not find that these consequences are reasonable or intended by the drafters of the Uniform Act or by the Nevada Legislature. Even the 2008 revisions to the Uniform Act do not allow for anything other than assessments and costs incurred to foreclose the lien to be included in the super priority lien. Fines, interest, and late charges are not *costs* the association incurs.

In 2009, the Nevada Legislature revised NRS 116.3116 to expand the association's super priority lien. Assembly Bill 204 sought to extend the super priority lien of 6 months of assessments to 2 years of assessments.¹¹ The Commission's chairman, Michael Buckley, testified on March 6, 2009 before the Assembly Committee on Judiciary on A.B. 204 that the law was unclear as to whether the 6 month priority can

⁹ See *id.* at 367 (referring to the super priority lien as the "six months assessment ceiling" being computed from the periodic budget).

¹⁰ See *id.*

¹¹ See <http://leg.state.nv.us/Session/75th2009/Reports/history.cfm?ID=416>.

include the association's costs and attorneys' fees.¹² Mr. Buckley explained that the Uniform Act amendments in 2008 allowed for the collection of attorneys' fees and costs incurred by the association in foreclosing the assessment lien as part of the super priority lien. Mr. Buckley requested that the 2008 change to the Uniform Act be included in A.B. 204. Mr. Buckley's requested change to A.B. 204 to expand the super priority lien never made it into A.B. 204. Ultimately, A.B. 204 was adopted to change 6 months to 9 months, but commenting on the intent of the bill, Assemblywoman Ellen Spiegel stated:

Assessments covered under A.B. 204 are the regular monthly or quarterly dues for their home. I carefully put this bill together to make sure it did not include any assessments for penalties, fines or late fees. The bill covers the basic monies the association uses to build its regular budgets.

(emphasis added).¹³

It is significant that the legislative intent in changing 6 months to 9 months was with the understanding that no portion of that amount would be for penalties, fines, or late fees and that it only covers the basic monies associations use to build their regular budgets. It does make sense that a lien superior to a first security interest would not include penalties, fines, and interest. To say that the super priority lien includes more than just 9 months of assessments allows several undesirable and unreasonable consequences.

B. NEVADA HAS NOT ADOPTED AMENDMENTS TO THE UNIFORM ACT TO ALTER THE ORIGINAL INTENT OF THE SUPER PRIORITY LIEN.

The changes to the Uniform Act support the contention that only what is referenced as the super priority lien in NRS 116.3116(2) is what comprises the super priority lien. In 2008, § 3-116 of the Uniform Act was revised as follows:

¹² See Minutes of the Meeting of the Assembly Committee on Judiciary, Seventy-fifth Session, March 6, 2009 at 44-45.

¹³ See Minutes of the Senate Committee on Judiciary, Seventy-fifth Session, May 8, 2009 at 27.

SECTION 3-116. LIEN FOR ASSESSMENTS; SUMS DUE ASSOCIATION; ENFORCEMENT.

(a) The association has a statutory lien on a unit for any assessment levied ~~against~~ attributable to that unit or fines imposed against its unit owner. Unless the declaration otherwise provides, reasonable attorney's fees and costs, other fees, charges, late charges, fines, and interest charged pursuant to Section 3-102(a)(10), (11), and (12), and any other sums due to the association under the declaration, this [act], or as a result of an administrative, arbitration, mediation, or judicial decision are enforceable in the same manner as unpaid assessments under this section. If an assessment is payable in installments, the lien is for the full amount of the assessment from the time the first installment thereof becomes due.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except:

(i)(1) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances ~~which~~ that the association creates, assumes, or takes subject to; ;

(ii)(2) except as otherwise provided in subsection (c), a first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, the first security interest encumbering only the unit owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent;; and

(iii)(3) liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

(c) A The lien under this section is also prior to all security interests described in subsection (b)(2) clause (ii) above to the extent of both the common expense assessments based on the periodic budget adopted by the association pursuant to Section 3-115(a) which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien and reasonable attorney's fees and costs incurred by the association in foreclosing the association's lien. ~~This subsection~~ Subsection (b) and this subsection ~~does~~ do not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. [The A lien under this section is not subject to the provisions of [insert appropriate reference to state homestead, dower and curtesy, or other exemptions].]

Explaining the reason for the changes to these sections, the Uniform Act includes the following comments:

Associations must be legitimately concerned, as fiduciaries of the unit owners, that the association be able to collect periodic common charges from recalcitrant unit owners in a timely way. To address those concerns, the section contains these 2008 amendments:

First, subsection (a) is amended to add the cost of the association's reasonable attorneys fees and court costs to the total value of the association's existing 'super lien' – currently, 6 months of regular common assessments. This amendment is identical to the amendment adopted by Connecticut in 1991; see C.G.S. Section 47-258(b). The increased amount of the association's lien has been approved by Fannie Mae and local lenders and has become a significant tool in the successful collection efforts enjoyed by associations in that state.

The Uniform Act's amendment in 2008 is very telling about § 3-116's original intent. The comments state reasonable attorneys' fees and court costs are *added* to the super priority lien stating that it is currently 6 months of regular common assessments. The Uniform Act adds attorneys' fees and costs to subsection (a) which defines the association's lien. Those attorneys' fees and costs attributable to foreclosure efforts are also added to subsection (c) which defines the super priority lien amount.

If the association's lien ever included attorneys' fees and court costs as "charges for late payment of assessments" or if such sum was part of the super priority lien, there would be no reason to add this language to subsection (a) and (c). Or at a minimum, the comments would assert the amendment was simply to make the language more clear. It is also clear by the language that only what is specified as part of the super priority lien can comprise the super priority lien. The additional language defining the super priority lien provides for costs that are *incurred* by the association foreclosing the lien. This is further evidence that the super priority lien does not and never did consist of interest, fines, penalties or late charges. These charges are not incurred by the association and they should not be part of any super priority lien.

The Nevada Legislature had the opportunity to change NRS 116.3116 in 2009 and 2011 to conform to the Uniform Act. It chose not to. While the revisions under the

Uniform Act may make sense to some and they may be adopted in other jurisdictions, the fact of the matter is, Nevada has not adopted those changes. The changes to the Uniform Act cannot be insinuated into the language of NRS 116.3116. Based on the plain language of NRS 116.3116, legislative intent, and the comments to the Uniform Act, the Division concludes that the super priority lien is limited to expenses stemming from NRS 116.310312 and assessments as reflected in the association's budget for the immediately preceding 9 months from institution of an action to enforce the association's lien.

IV. "ACTION" AS USED IN NRS 116.3116 DOES NOT REQUIRE A CIVIL ACTION ON THE PART OF THE ASSOCIATION.

NRS 116.3116(2) provides that the super priority lien pertaining to assessments consists of those assessments "which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien." NRS 116.3116 requires that the association take action to enforce its lien in order to determine the immediately preceding 9 months of assessments. The question presented is whether this action must be a civil action.

During the Senate Committee on Judiciary hearing on May 8, 2009, the Chair of the Committee, Terry Care, stated with reference to AB 204:

One thing that bothers me about section 2 is the duty of the association to enforce the liens, but I understand the argument with the economy and the high rate of delinquencies not only to mortgage payments but monthly assessments. Bill Uffelman, speaking for the Nevada Bankers Association, broke it down to a 210-day scheme that went into the current law of six months. Even though you asked for two years, I looked at nine months, thinking the association has a duty to move on these delinquencies.

NRS 116 does not require an association to take any particular action to enforce its lien, but that it institutes "an action." NRS 116.31162 provides the first steps to foreclose the association's lien. This process is started by the mailing of a notice of delinquent

assessment as provided in NRS 116.3116(1)(a). At that point, the immediately preceding 9 months of assessments based on the association's budget determine the amount of the super priority lien. The Division concludes that this action by the association to begin the foreclosure of its lien is "action to enforce the lien" as provided in NRS 116.3116(2). The association is not required to institute a civil action in court to trigger the 9 month look back provided in NRS 116.3116(2). Associations should make the delinquent assessment known to the first security holder in an effort to receive the super priority lien amount from them as timely as possible.

ADVISORY CONCLUSION:

An association's lien consists of assessments, construction penalties, and fines. Unless the association's declaration provides otherwise, the association's lien also includes all penalties, fees, charges, late charges, fines and interest pursuant to NRS 116.3102(1)(j) through (n). While charges for late payment of assessments are part of the association's lien, "costs of collecting" as defined by NRS 116.310313, are not. "Costs of collecting" defined by NRS 116.310313 includes costs of collecting any *obligation*, not just assessments. Costs of collecting are not merely a charge for a late payment of assessments. Since costs of collecting are not part of the association's lien in NRS 116.3116(1), they cannot be part of the super priority lien detailed in subsection (2).

The super priority lien consists of two components. By virtue of the detail provided by the statute, the super priority lien applies to the charges incurred under NRS 116.310312 and up to 9 months of assessments as reflected in the association's regular budget. The Nevada Legislature has not adopted changes to NRS 116.3116 that were made to the Uniform Act in 2008 despite multiple opportunities to do so. In fact, the Legislative intent seems rather clear with Assemblywoman Spiegel's comments to A.B. 204 that changed 6 months of assessments to 9 months. Assemblywoman Spiegel stated that she "carefully put this bill together to make sure it did not include any

assessments for penalties, fines or late fees.” This is consistent with the comments to the Uniform Act stating the priority is for assessments based on the periodic budget. In other words, when the super priority lien language refers to 9 months of assessments, assessments are the only component. Just as when the language refers to charges pursuant to NRS 116.310312, those charges are the only component. Not in either case can you substitute other portions of the entire lien and make it superior to a first security interest.

Associations need to evaluate their collection policies in a manner that makes sense for the recovery of unpaid assessments. Associations need to consider the foreclosure of the first security interest and the chances that they may not be paid back for the costs of collection. Associations may recover costs of collecting unpaid assessments if there are proceeds from the association’s foreclosure.¹⁴ But costs of collecting are not a lien under NRS 116.310313 or NRS 116.3116(1); they are the personal liability of the unit owner.

Perhaps an effective approach for an association is to start with foreclosure of the assessment lien after a nine month assessment delinquency or sooner if the association receives a foreclosure notice from the first security interest holder. The association will always want to enforce its lien for assessments to trigger the super priority lien. This can be accomplished by starting the foreclosure process. The association can use the super priority lien to force the first security interest holder to pay that amount. The association should incur only the expense it believes is necessary to receive payment of assessments. If the first security interest holder does not foreclose, the association will maintain its assessment lien consisting of assessments, late charges, and interest. If a loan modification or short sale is worked out with the owner’s lender, the association is better off limiting its expenses and more likely to recover the assessments. Adding unnecessary costs of collection – especially after a short period of delinquency – can

¹⁴ NRS 116.31164.

make it all the more impossible for the owner to come current or for a short sale to close.

This situation does not benefit the association or its members.

EXHIBIT 10

EXHIBIT 10

1 rephrase it, whatever. The goal here is to make
2 sure that you understand the question that I ask.
3 And what that means, is that, if you do answer then
4 we're going to assume that you did understand the
5 question. But again, feel free to ask me to repeat,
6 rephrase, clarify.

7 A Okay.

8 Q What exactly does MP Management
9 Association do? And I guess I will restrict that
10 further by saying with reference to Shadow Wood?

11 A Our responsibility is all the financials
12 and the handling of assessments coming in and out.
13 We pay all their bills. All the vendors that send
14 checks come through us. We do blank check stock and
15 then once we do up the checks, we send them to the
16 associations for signature.

17 Q Okay.

18 A So basically, we are just -- obviously,
19 dealing with homeowners on issues, complaints, any
20 of that type of thing.

21 Q Does MP Association Management or
22 Management Association -- which one?

23 A You're fine.

24 Q Sorry. Does it collect then the HOA
25 assessments from the homeowners?

1 A The assessments don't come to us directly.
2 They go to a bank. They do to Mutual of Omaha,
3 which is processing center. All assessments. We do
4 have homeowners that do send checks to us.
5 Obviously if we do get checks in, we have a scanner
6 in our office that we scan them in, you know, into
7 the bank.

8 Q But are they made out to MP Association?

9 A No, sir. They are made out to whatever
10 association it's being referenced to.

11 Q Are you the sole owner?

12 A Yes, I am.

13 Q When did MP -- again, just to make it
14 easier, can I just call it MP?

15 A Please.

16 Q When did MP begin doing business with
17 Shadow Wood HOA?

18 A Oh, my God. We have been with them since
19 '08, I believe. '07 or to -- wait a minute, because
20 we just did this last night. We had a Shadow Wood
21 meeting. I think it's '07. I'm just not sure of
22 what month, but I think it was '07.

23 Q And you just testified you had a Shadow
24 Wood meeting last night. Was that in reference to
25 this case?

1 A No. It's a regular board of directors
2 meeting.

3 Q I'm making an assumption here, correct me
4 if I'm wrong. MP and Shadow Wood HOA are not owned
5 and operated by the same people?

6 A Correct.

7 Q They are not?

8 A We are not. We are separate entities.

9 Q Do MP and Shadow Wood HOA share employees?

10 A No.

11 Q And they do not operate out of the same
12 physical address?

13 A No.

14 Q Okay. Other than the business
15 relationship between MP and Shadow Wood, there is no
16 other connection?

17 A Correct.

18 Q How many staff members or employees do you
19 have right now at MP?

20 A Six.

21 Q Has that number changed significantly
22 since the period between September 2011 and March of
23 2012?

24 A No. No, sir.

25 Q Are you familiar with the name with the

1 Virginia Fedel, that's F-e-d-e-l?

2 A Only by looking at the account history and
3 seeing the name.

4 Q Do you -- I understand just by seeing the
5 name, can you relate her name to anything in
6 particular?

7 A Other than the fact that I have a very
8 good memory, because I look at people's accounts and
9 everything even though I have bookkeepers. Names
10 and associations just click with me.

11 Q Well, I'll represent to you that, based
12 upon the records that we have received in this case
13 from MP and from other parties, that she was the
14 former owner of the home that is at issue here, the
15 subject property. Does that sound accurate to you?

16 A Yeah. There's -- we have a second owner
17 in there.

18 Q Okay. Moving right on. Exhibit 2, I'm
19 going to hand to you. And let me just get one back
20 from you so we can give it to the court reporter,
21 because otherwise she will slap me around. Exhibit
22 2, Mr. Marks, do you recognize that document?

23 A I have seen a number of these lately so
24 I'm not sure if it's specific to this one.

25 Q Going back to the subject property that is

1 Q If it came after to collection, what would
2 MP do --

3 A It would be forwarded immediately over to
4 the trustee company for them to fill it out.

5 Q So it would have been forwarded in this
6 case, and correct me if I'm wrong here, to Alessi
7 Koenig?

8 A Correct.

9 Q Not to the Shadow Wood?

10 A No. Alessi and Koenig.

11 Q How do you know the entity to whom you
12 send this type of letter to? In other words, is the
13 foreclosing trustee the same in every case or does
14 it differ from one HOA to the next --

15 A Any time Ticor Title, any of the title
16 companies send us something, that's telling us they
17 want to give you all the updated information for
18 either sale, foreclosure or whatever it is. So
19 that's when I know what to do.

20 Q I guess my question is though: How did
21 you know to send it to Alessi Koenig?

22 A We would look the record up. We would
23 look on the computer and look at the record.

24 Q Okay. Do you recall, as you sit here
25 today, as you can see this letter is purportedly

1 signed by Andy Coop (PHONETIC), escrow officer of
2 Ticor Title. Did I read that correctly?

3 A Yes.

4 Q Do you recall speaking or otherwise
5 communicating with Any Coop in relation to this
6 property?

7 A No.

8 Q Do you recall, Mr. Marks, whether you
9 responded in writing to Ticor Title to this letter,
10 Exhibit 3 --

11 A I don't. I don't remember this one in
12 particular.

13 Q Moving on. Exhibit 4. Do you recognize
14 Exhibit 4?

15 A I sure do. That is my writing.

16 Q That was my next question. Is that your
17 handwriting on Pages 1 and 2?

18 A That is me. I write very distinctly.

19 Q And is that also your signatures on Pages
20 1 and 2?

21 A Yes, it is.

22 Q And again, I hate to repeat myself. I
23 just want it clear on the record.

24 A That's okay.

25 Q And at that time you were the owner of MP,

1 right?

2 A Correct.

3 Q Why -- my first question is: Why did you
4 prepare this? Write this response as opposed to
5 someone else in MP?

6 A I'm a small company. At the time, I
7 had -- I felt I needed to be on top of a lot of
8 stuff. I'm one of these that want to know
9 everything that is going on as much as I can.

10 Q I can relate to that as well. Did you --
11 I don't see that you dated this. I could be missing
12 that. I don't see that it's dated. So my next
13 question is: Do you know what date you would have
14 signed that document?

15 A I can honestly say that myself and my
16 receptionist who now does this, our turn around time
17 on these are probably within 24 hours.

18 Q There's a good chance then that it was
19 probably prepared and signed by you within a day?

20 A Within a day. Yeah. This came from
21 Ticor. Oh, yeah that's there's, from Ticor.

22 Q And I think you already testified. Prior
23 to receiving this letter, you had seen a number of
24 these letters in your experience?

25 A Yes. Yes, a number.

1 Q So you were familiar with this type of
2 request for an identification of delinquent HOA
3 payments?

4 A Correct.

5 Q And you have prepared, I'm sure, a number
6 of responses to this type of a question?

7 A Many.

8 Q Page 2, Mr. Marks, Page 2 indicates that
9 monthly dues applicable to the subject property are
10 \$164.47, right?

11 A For this particular unit. Shadow Wood has
12 various assessments.

13 Q Okay.

14 A They have different size units. So their
15 assessments are different.

16 Q For this particular unit, the subject
17 property, that is the assessment that would have
18 been applied monthly?

19 A That's the figure I got down there, I'm
20 going to assume that's it.

21 Q The next line indicates that the dues had
22 been paid through to November 31, 2011, correct?

23 A Paid 11/31/11 to '12 -- oh, that's --
24 yeah. They're paid through then. I believe that's
25 what that means. And the next payment is due in

1 12/01.

2 Q That was my next question --

3 A Yes --

4 Q -- the next payment was due on want
5 12/1/11? It indicates that there are delinquencies
6 of \$328.94?

7 A Correct.

8 Q And that the late charges of \$10 will
9 accrue after 15 days?

10 A Yes, that is correct. That is what the
11 late charges are.

12 Q And 15 days from what? Would it be from
13 the date of this?

14 A It's from the date -- no. It's 15 days
15 from -- when we send you out a statement, your
16 dues -- your assessments are due on the first of the
17 month. And we gave you 15 days. So it would be on
18 the 16th day actually. The computer automatically
19 puts on late charges.

20 Q In relation to this one, where it says,
21 "The next payment is due 12/1/2011", the late charge
22 would accrue on December 16th --

23 A Correct.

24 Q -- 2011?

25 Okay. The next line indicates, no

1 transfer fees to the HOA are owed?

2 A Right.

3 Q And then the next line says management
4 company followed by the amount \$300?

5 A That's the transfer fees. It's a new
6 owner set up fee.

7 Q So is that the same with every new owner?

8 A Everybody. Every association.

9 Q And that fee represents just a new owner
10 taking over?

11 A Yes. What we have to do in our office.

12 Q And that is paid to --

13 A Us directly.

14 Q Okay. Good. Is there a statement,
15 contract or any other document setting forth this
16 \$300 management fee?

17 A In our contract.

18 Q In your contract?

19 A With the association.

20 Q Perfect. The response goes on to say --
21 and there is a check -- that no dues have been
22 referred to a collection agency?

23 A No amount of dues have been set -- at this
24 point, no.

25 Q Okay. And I guess my next question is --

1 maybe you already answered it. Okay. But I'm not
2 clear: Can MP refer an account to collection on
3 behalf of Shadow Wood? Does MP have that right?

4 A We -- yeah. Per the collection policy we
5 have the right because we're following the
6 collection policy of the association.

7 Q Got you. Does MP refer past due accounts
8 to collection on a regular basis?

9 A Almost every month, unfortunately.

10 Q I think you already answered this. My
11 question was: At what point is an account referred
12 to collection? I think you said it was two months,
13 right.

14 A It is after 60 days.

15 Q And according to the exhibits in front of
16 you, this account, this property, the HOA dues owed
17 by New York Community Bank, Corp. had not been
18 referred to collection?

19 A At that point.

20 Q And this also says there are no special
21 assessments due?

22 A At that time, there was not.

23 Q And then it identifies an insurance agent?

24 A Right.

25 Q Indicates that there is no sub or master

1 association, right?

2 A Correct.

3 Q Also indicates that no liens have been
4 filed?

5 A Correct.

6 Q And you're -- you have done this for a
7 number of years. You understood what a lien meant?

8 A Correct.

9 Q I think you wrote, need copy deed?

10 A Yes. What that means is that, when it's
11 transferred, the property transfers, we will not
12 make any changes until we get a grant deed.

13 Q Okay.

14 A Showing the new owner's name on it.

15 Q And again, that is your signature, right?

16 A Correct.

17 Q On Page 2, you wrote in the telephone
18 number and the address of MP at the time?

19 A Correct.

20 Q And that is your current address, correct?

21 A That is current.

22 Q And obviously, I'm assuming since you
23 signed this, that everything in it was true and
24 correct to the best of your knowledge?

25 A Correct.

EXHIBIT 11

EXHIBIT 11

DEC/28/2011/WED 01:21 AM

P. 002/002

DEC. 28. 2011 1:10PM TICOR TITLE OF NEVADA

NO. 7193 P. 1



December 28, 2011

Shadow Wood HOA FAX: 304-9458
C/O Mp Assoc Mgmt
8010 W Sahara Ste 160
Las Vegas, NV 89117

RE: Escrow No: 11142269TLC

Property Owner: Bank New York Community
Property Address: 3923 Gogo Way #109, Las Vegas, NV 89103

Gentlemen:

Ticor Title of Nevada, Inc. is the escrow agent for the sale and purchase of the above referenced property. The seller in the transaction acquired the property via a non-judicial foreclosure by the beneficiary of the first deed of trust.

As escrow agent we are requesting herewith a demand which reflects all funds owed by OUR SELLER ONLY and not those funds which might have been owed by the prior owner of the subject property. Please also include TRANSFER FEES due the association for the TRANSFER OF ACCOUNT from the above referenced SELLER to the NEW PURCHASER. Ticor Title will not be responsible for any transfer fees that are not listed on the demand statement sent to us.

As we are sure you are aware, under traditional property law, the HOA's lien would be completely extinguished by a foreclosure of the first deed of trust, and the new property owner would not be responsible for any past assessments. However, under Nevada's "super priority" lien statute (NRS § 116.3116), a lien for assessment for delinquent "common expenses based on the periodic budget adopted by the association" will survive the foreclosure sale. This means that the new owner, in this case our seller, remains responsible for association dues, common area maintenance dues, etc. incurred up to nine (9) months prior to the foreclosure sale. Landscape violations, which are not an assessment for a common area, do not fall under the purview of the statute, do not have priority over the mortgage company's interest, and therefore do not survive the foreclosure sale and are not chargeable to the new owner.

We would anticipate that upon receipt of the funds owed pursuant to your demand, you will provide us with a Release of Lien. However, if you are unwilling to prepare such a release document, we have enclosed for your convenience, a RELEASE OF REAL PROPERTY FROM LIEN. If you will sign this document before a Notary Public and return it with your demand, we will assume the responsibility for recording same after payment of the amounts owed. This document will release the subject property from the lien but WILL NOT release any rights or claims which you may legally have against the former owner.

If you should have any questions regarding this matter, please do not hesitate to contact the undersigned.

Sincerely,

Tami Cobb
Escrow Officer

Δ π EXHIBIT	4
Deponent	Marks
Date	11/15/12
WWW.DEPOBOOK.COM	

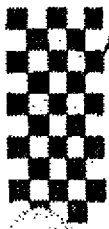
THE ABOVE INFORMATION HAS BEEN PROVIDED BY:

YOUR NAME: J Marks TELEPHONE NO.: 304-9455

MAIL CHECKS TO:

MP Assoc Mgmt
6029 S. 72 Apache #130
Las Vegas, NV 89148

PLEASE RETURN VIA FAX TO: (702) 938-8772



12/28/2011/WED 01:21 AM

P. 001/002

DEC. 28. 2011 1:10PM

TICOR TITLE OF NEVADA

NO. 7193

P. 2



December 28, 2011

Shadow Wood HOA FAX: 304-9458
C/O Mj Assoc Mgmt
8010 W Sahara Ste 160
Las Vegas, NV 89117

RE: Escrow No: 11142269TLC

Property Owner: Bank New York Community
Property Address: 3923 Gogo Way #109, Las Vegas, NV 89103

Dear Sir/Madam:

With reference to the above, we have a pending transaction which, if complete, will require the following information regarding the Homeowners dues:

☒ MONTHLY ☐ QUARTERLY ☐ YEARLY DUES \$ 164.47

PAID TO 11-31-11 NEXT PAYMENT DUE 12-01-11

DELINQUENCIES (IF ANY) \$ 328.54 LATE CHARGES \$ 10.00 AFTER 15 Days

TRANSFER FEE; HO ASSN. \$ 0 MANAGEMENT CO. \$ 300.00

☒ NO AMOUNT OR NO DUES HAVE BEEN SENT TO ANY COLLECTION AGENCY

☐ A PORTION OF THIS ACCOUNT HAS BEEN SENT TO COLLECTIONS. OUR COLLECTION AGENCY IS:

SPECIAL ASSESSMENTS None

BLANKET INSURANCE AGENT Brown + Brown Insurance

IS THERE A SUB-ASSOCIATION OR MASTER ASSOCIATION? no

ANY LIENS FILED? no

ADDITIONAL REQUIREMENTS FOR THE NEW PROPERTY OWNER, IF ANY:
need copy deed

Your response to the above constitutes a DEMAND on our escrow and will be complied with accordingly; therefore, if any of the foregoing should change, PLEASE CALL US WITH CORRECTED INFORMATION IMMEDIATELY.

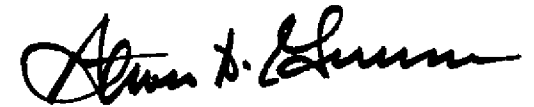
If your Association has "FIRST RIGHT OF REFUSAL" or "RIGHT TO APPROVE ANY PROPOSED BUYER" or any similar rights, this letter will serve to comply with the provision that your Association be notified. If our escrow is not served with written notice of your Association's intention to exercise those rights herein above set forth, on or before TEN (10) days from the date of this notice, your silence will be deemed evidence of your approval of the sale, and waiver of those rights for this transaction. In the event you should require information concerning the pending sale which is the subject of this escrow, you may wish to contact: Tami Coop at (702) 938-8770.

THE ABOVE INFORMATION HAS BEEN PROVIDED BY:

YOUR NAME: Mj Assoc Mgmt TELEPHONE NO.: 304-9455

MAIL CHECKS TO: Mj Assoc Mgmt
6029 S. 7th
Las Vegas Nev 89148

PLEASE RETURN VIA FAX TO: (702) 938-8771



CLERK OF THE COURT

1 **PMEM**

2 GREGG A. HUBLEY (NV Bar #007386)

3 K. ALEXANDRA CAVIN (NV Bar #011782)

4 **PITE DUNCAN, LLP**

5 701 Bridger Avenue, Suite 700

6 Las Vegas, NV 89101

7 Telephone: (702) 991-4628

8 Facsimile: (702) 685-6342

9 E-mail: Ghubley@piteduncan.com

10 Attorneys for Plaintiff/Counterdefendant NEW YORK COMMUNITY BANK

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 NEW YORK COMMUNITY BANK,

14 Plaintiff,

15 v.

16 SHADOW WOOD HOMEOWNERS'
ASSOCIATION, INC.; GOGO WAY TRUST;
and DOES 1 through 20, inclusive,

17 Defendants.

18 GOGO WAY TRUST,

19 Counterclaimant,

20 v.

21 NEW YORK COMMUNITY BANCORP,
INC.; DOE Individuals I through X; and ROE
Corporations XI through XX,

22 Counterdefendants.

Case No.: A-12-660328-C

Dept. No.: XV

**NEW YORK COMMUNITY BANK'S
PRE-TRIAL MEMORANDUM**

23 **NEW YORK COMMUNITY BANK'S PRE-TRIAL MEMORANDUM**

24
25 COMES NOW Plaintiff/Counterdefendant, NEW YORK COMMUNITY BANK
26 (hereinafter, "Plaintiff" or "NYCB"), by and through its attorney of record, Gregg A. Hubley, Esq.,
27 of Pite Duncan, LLP, and hereby submits its Pre-Trial Memorandum, pursuant to Eighth Judicial
28

1 District Court Rule 2.67, and in anticipation of the Calendar Call currently scheduled for March 13,
2 2013.

3 **A. STATEMENT OF FACTS**

4 **1. New York Community Bank's Foreclosure**

5 On April 25, 2007, non-party, Virginia V. Fedel, borrowed \$127,500.00 from CCSF, LLC
6 d/b/a Greystone Financial Group (hereinafter, "CCSF"), to purchase real property located at 3923
7 Gogo Way, #109, Las Vegas, Nevada, 89103 ("Subject Property"). As part of the same transaction,
8 Virginia V. Fedel executed a Promissory Note secured by a Deed of Trust.

9 Subsequently, Ms. Fedel defaulted by failing to make payments when due. As a result of Ms.
10 Fedel's failure to make payments as required by the Note and Deed of Trust, MTC Financial Inc.
11 d/b/a Trustee Corps (hereinafter, "Trustee Corps"), was retained to act as foreclosure trustee and
12 initiate foreclosure proceedings.

13 On May 28, 2010, a Substitution of Trustee was executed on behalf of Mortgage Electronic
14 Registration Systems, Inc. (hereinafter, "MERS"), the nominee beneficiary identified in the
15 underlying Deed of Trust, to substitute Trustee Corps as the foreclosure trustee. On June 1, 2010,
16 Trustee Corps recorded a Notice of Breach and Default and of Election to Cause Sale of Real
17 Property Under Deed of Trust (hereinafter, "NOD").

18 On May 27, 2010, MERS, as nominee for CCSF, assigned CCSF's beneficial interest in the
19 Deed of Trust to New York Community Bank. The Assignment of Deed of Trust was recorded on
20 July 7, 2010, in the Official Records of Clark County, Nevada. Thereafter, on March 8, 2011, the
21 Nevada Foreclosure Mediation Program issued a Certificate of Completion permitting the
22 beneficiary to proceed with foreclosure. On April 13, 2011, in connection with the foreclosure
23 proceedings, and pursuant to statutory authority governing Nevada non-judicial foreclosures, Trustee
24 Corps recorded a Notice of Trustee's Sale ("NOS") scheduling a foreclosure sale for May 9, 2011.

25 On May 9, 2011, NYCB purchased the Subject Property for \$45,900.00 at the Trustee's Sale
26 (hereinafter, "NYCB's Foreclosure Sale"). On May 24, 2011, First American Title Company, on
27 behalf of Trustee Corps, recorded a Trustee's Deed Upon Sale, in the Official Records of Clark
28 County, Nevada.

1 **2. Shadow Wood's Foreclosure**

2 On June 29, 2011, Defendant, SHADOW WOOD HOMEOWNERS' ASSOCIATION
3 ("Shadow Wood"), through its agent, Alessi & Koenig, executed a Notice of Delinquent Assessment
4 Lien ("Notice of Lien"). The Notice of Lien stated that Shadow Wood had a lien against the Subject
5 Property in the amount of \$8,238.87, consisting of collection and/or attorney fees, assessments,
6 interest, late fees, service charges, and collection costs.

7 On or about August 29, 2011, Shadow Wood, through its agent, Alessi & Koenig, executed
8 a Notice of Default and Election to Sell under Homeowners Association Lien (hereinafter, "HOA
9 NOD"). The HOA NOD stated that the Subject Property was in foreclosure because NYCB was
10 behind on monthly association assessments.

11 On November 2, 2011, NYCB, through its representative, Dianna Palmer-Hopkins, made a
12 request to Alessi & Koenig for a statement identifying all past due amounts. Thereafter, on
13 December 2, 2011, Ms. Palmer-Hopkins sent a follow-up communication to Alessi & Koenig stating,
14 "I sent this e-mail below 11/02/11. In order to pay this we will need a detailed statement."

15 On December 12, 2011, NYCB contacted its realtor for assistance with its attempts to
16 communicate with Alessi & Koenig and obtain a payoff statement and a W-9. On December 28,
17 2011, Ticor Title of Nevada, Inc., as the escrow agent for the sale and purchase of the Subject
18 Property, sent an escrow demand to Shadow Wood's management company, MP Association
19 Management.

20 On December 28, 2011, Gerald Marks, the owner of MP Association Management completed
21 the "Demand Form" and returned an executed copy to Ticor Title. The executed Demand Form
22 stated that monthly dues were paid to "11-31-11," the next payment was due "12-01-11," there was
23 a delinquent amount of "\$328.94," that "no amount or no dues have been sent to any collection
24 agency," and that "no" liens had been filed.

25 On January 19, 2012, NYCB made another request to Alessi & Koenig for a "detailed
26 statement...[to] pay the past due amount." Despite NYCB's unanswered requests, on or about
27 January 18, 2012, Shadow Wood, through its agent Alessi & Koenig, executed a Notice of Trustee's
28 Sale (hereinafter "HOA NOS"), scheduling a trustee's sale for February 22, 2012, at 2:00 p.m.

1 After numerous requests for a payoff statement, on January 23, 2012, NYCB received a
2 ledger of past due amounts from Alessi & Koenig listing an outstanding balance of **\$6,445.54**, good
3 through February 1, 2012. On January 31, 2012, a check in the amount of \$6,783.16, was sent to
4 Alessi & Koenig as payment of the outstanding balance reflected on the January 23, 2012, ledger and
5 payment of future assessments through April 1, 2012.

6 On February 8, 2012, Naomi Eden of Alessi and Koenig, rejected NYCB's payment of
7 \$6,783.16, and advised that total amount due and owing was **\$9,017.39**. On February 10, 2012,
8 NYCB responded and advised that the outstanding balance reflected on the January 23, 2012, ledger
9 was \$6,445.54 and that NYCB paid more so it would be caught up in payments until April. Ms.
10 Eden responded stating that the amount actually due and owing was **\$9,017.39**.

11 On February 22, 2012, Shadow Wood purported to sell the Subject Property to Defendant,
12 GOGO WAY TRUST ("Gogo Way Trust"), for \$11,018.39 at a trustee's sale (hereinafter "HOA
13 Sale"). A Trustee's Deed Upon Sale documenting the alleged transfer was recorded in the Official
14 Records of Clark County, Nevada on March 1, 2012.

15 As a result of Shadow Wood's failure to act in good faith by selling the Subject Property at
16 a commercially unreasonable price, Plaintiff initiated the instant action by filing a Verified
17 Complaint for Quiet Title and Declaratory Relief ("Original Complaint") on April 18, 2012. A
18 Notice of Pendency of Action was filed on April 20, 2012, and recorded in the Official Records of
19 Clark County, Nevada on May 17, 2012.

20 On May 10, 2012, Shadow Wood filed its Answer to the Original Complaint. Thereafter,
21 on October 5, 2012, Plaintiff filed its First Amended Complaint for Quiet Title and Declaratory
22 Relief ("First Amended Complaint"). On October 30, 2012, Defendants, Shadow Wood and Gogo
23 Way Trust, filed an Answer to the Amended Complaint. Gogo Way asserted a Counterclaim for
24 quiet title and declaratory relief against NYCB in the Answer to the Amended Complaint.

25 On February 7, 2013, Defendants filed their Motion for Summary Judgment, and on February
26 8, 2013, Plaintiff filed its Motion for Summary Judgment. A hearing on both Motions for Summary
27 Judgment is currently scheduled for March 13, 2013, at 9:00 a.m.

28 ///

1 **B. PLAINTIFF'S CLAIMS FOR RELIEF**

- 2 1. Quiet Title [NRS 40.010] (See Plaintiff's First Amended Complaint, ¶¶ 29 - 36); and
3 2. Declaratory Relief (See Plaintiff's First Amended Complaint, ¶¶ 37 - 42).

4 **C. SHADOW WOOD AND GOGO WAY'S AFFIRMATIVE DEFENSES**

- 5 1. Plaintiff's Complaint fails to state a claim against Defendants upon which relief may
6 be granted. (See Defendants' Answer and Counterclaim, p. 2, ll. 18-19.)
7 2. Subject to discovery, Plaintiff's claims are barred by laches and/or statutes of
8 limitation. (See Defendants' Answer and Counterclaim, p. 2, ll. 20-21.)
9 3. Subject to discovery, Plaintiff's claims are barred because of waiver, acquiescence,
10 and/or estoppel. (See Defendants' Answer and Counterclaim, p. 2, ll. 22-23.)
11 4. The injuries and damages Plaintiff incurred were proximately caused in whole, or in
12 part, or were contributed to by reason of Plaintiff's own negligence. (See Defendants' Answer and
13 Counterclaim, p. 2, ll. 24-25.)
14 5. By reason of its own acts, Plaintiff has released and discharged these Answering
15 Defendants from the alleged claims in the Complaint. (See Defendants' Answer and Counterclaim,
16 p. 2, ll. 26-28.)
17 6. Any damages Plaintiff may have sustained by reasons of the allegations of its
18 Complaint were proximately caused by the acts of persons other than these Answering Defendants
19 and, therefore, Plaintiff is not entitled to any relief from these Answering Defendants. (See
20 Defendants' Answer and Counterclaim, p. 3, ll. 1-3.)
21 7. Plaintiff has failed to do equity toward these Answering Defendants and, therefore,
22 is not entitled to any relief from these Answering Defendants. (See Defendants' Answer and
23 Counterclaim, p. 3, ll. 4-6.)
24 8. Plaintiff failed to properly mitigate its damages, if any. (See Defendants' Answer and
25 Counterclaim, p. 3, ll. 7.)
26 9. Defendants reserve the right to amend their affirmative defenses to assert new and
27 additional affirmative defenses at a later date. (See Defendants' Answer and Counterclaim, p. 3, ll.
28 8-9.)

D. GOGO WAY TRUST'S COUNTERCLAIM

1. Declaratory Relief and Quiet Title (See Defendants' Answer and Counterclaim, ¶¶ 19-30.)

E. LIST OF ALL CLAIMS OR DEFENSES TO BE ABANDONED

None at this time.

F. LIST OF EXHIBITS FOR PURPOSES OF TRIAL

Document Description	Bates Number
Deed of Trust	NYCB000001 - NYCB000025
Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust	NYCB000026 - NYCB000028
Trustee's Deed Upon Sale to NYCB	NYCB000029 - NYCB000032
June 29, 2011, letter from Alessi & Koenig enclosing Notice of Delinquent Assessment (Lien)	NYCB000033 - NYCB000034
Notice of Default and Election to Sell Under Homeowners Association Lien	NYCB000035
December 28, 2011, homeowners association information sheet	NYCB000036
January 23, 2012, electronic correspondence from Alessi & Koenig enclosing account ledger	NYCB000037 - NYCB000038
January 23, 2012, super priority demand and breakdown of fees, interest and costs	NYCB000039 - NYCB000040
Notice of Trustee's Sale	NYCB000041 - NYCB000043
Communications with Alessi & Koenig, LLC regarding payment of delinquent assessment fee	NYCB000044 - NYCB000045
Trustee's Deed Upon Sale to Gogo Way Trust	NYCB000046 - NYCB000047

1	Affidavit of Custodian of Records for MP	NYCB000050
2	Association Management, Inc.	
3	Written notes by the Custodian of Records for	NYCB000051
4	MP Association Management, Inc.	
5	Shadow Wood Homeowners' Association's	NYCB000052 - NYCB000054
6	Account History Reports	
7	Shadow Wood Homeowners' Association's	NYCB000055 - NYCB000060
8	Rules and Regulations	
9	Shadow Wood Homeowners Association's	NYCB000061 - NYCB000104
10	Amended and Restated Declaration of	
11	Covenants, Conditions and Restrictions	
12	Documents attached to Defendants' Initial	A&K-001 - A&K-066
13	Disclosure of Witnesses and Documents	
14	November 15, 2012, Deposition Transcript of	
15	Gerald Marks	
16	Documents attached to Plaintiff's Motion for	
17	Summary Judgment	
18	Documents attached to Defendants' Motion	
19	for Summary Judgment	

20 Plaintiff reserves the right to utilize any and all documents identified and/or produced by any
21 other party in this matter.

22 **G. AGREEMENTS AS TO THE LIMITATION OR EXCLUSION OF EVIDENCE**

23 None at this time.

24 **H. LIST OF WITNESSES**

25 1. The Person Most Knowledgeable of New York Community Bank c/o Gregg A.
26 Hubley, Esq., Pite Duncan, LLP, 701 East Bridger Avenue, Suite 700, Las Vegas, Nevada 89101.

27 ///

28 ///

1 2. The Person Most Knowledgeable of Shadow Wood Homeowners' Association, Inc.
2 c/o Ryan Kerbow, Esq., Alessi & Koenig, LLC, 9500 West Flamingo Road, #205, Las Vegas,
3 Nevada 89117.

4 3. The Person Most Knowledgeable of Gogo Way Trust c/o Ryan Kerbow, Esq., Alessi
5 & Koenig, LLC, 9500 West Flamingo Road, #205, Las Vegas, Nevada 89117.

6 4. The Person Most Knowledgeable of MP Management Association, Inc. c/o Gerald
7 R. Marks, 6029 South Fort Apache Road, Suite 130, Las Vegas, Nevada 89148.

8 Plaintiff reserves the right to call any and all other personnel or representatives of NYCB
9 and/or any witness named by any other party.

10 **I. PRINCIPAL ISSUES OF LAW FOR TRIAL**

11 1. Whether Shadow Wood breached its duty to act in good faith by selling the Subject
12 Property in a commercially unreasonable matter.

13 2. Whether Plaintiff's interest in the Subject Property is prior and superior to the interest
14 asserted by Defendants.

15 3. Whether Shadow Wood's claim for collection fees and costs in connection with the
16 Delinquent Assessment Lien violated Nevada law.

17 4. Whether Shadow Wood, through its agent, Alessi & Koenig, LLC, had authority to
18 execute the Notice of Delinquent Assessment Lien, Notice of Default, and Notice of Sale and initiate
19 foreclosure proceedings under the Delinquent Assessment Lien encumbering the Subject Property.

20 5. Whether Plaintiff is entitled to a judicial declaration of its rights and duties, and a
21 declaration as to its ownership of the Subject Property.

22 6. Whether Plaintiff has established that it is entitled to an award of damages, attorney's
23 fees, and costs.

24 7. Whether Defendants are liable for Plaintiff's damages, attorney's fees and costs.

25 **J. ESTIMATE OF TIME REQUIRED FOR TRIAL**

26 In the event the Court does not grant Plaintiff's Motion for Summary Judgment, the trial may
27 take one (1) day.

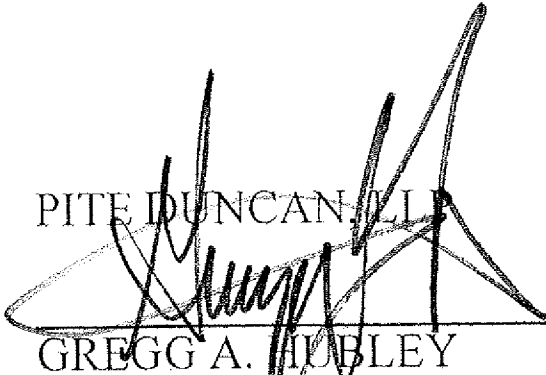
28 /././

1 **K. OTHER MATTERS FOR THE COURT'S ATTENTION**

2 None at this time.

3 DATED this 1st day of March, 2013.

4 PITE DUNCAN, LLC

5 
6 GREGG A. HUBLEY

7 K. ALEXANDRA CAVIN

8 *Attorneys for Plaintiff/Counterdefendant*

1 New York Community Bank. v. Shadow Wood, et al.
2 District Court Clark County, Nevada
3 Case No(s). A-12-660328-C

4 DECLARATION OF SERVICE

5 I, the undersigned, declare: I am, and was at the time of service of the papers herein referred
6 to, over the age of 18 years, and not a party to this action. My business address is 701 East Bridger
7 Avenue, Suite 700, Las Vegas, Nevada 89101.

8 On March 1, 2013, I served the following document(s):

9 **NEW YORK COMMUNITY BANK'S PRE-TRIAL MEMORANDUM**

10 on the parties in this action addressed as follows:

11 Robert Koenig
12 Ryan Kerbow
13 **ALESSI & KOENIG, LLC**
14 9500 West Flamingo Road, Suite 205
15 Las Vegas, Nevada 89147
16 *Attorneys for Defendants Shadow Wood Homeowners'*
17 *Association, Inc. and Gogo Way Trust*

18 X

19 **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am
20 readily familiar with the firm's practice of collection and processing correspondence for
21 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course
22 of business. I am aware that on motion of party served, service is presumed invalid if postal
23 cancellation date or postage meter date is more than one day after date of deposit for mailing
24 in affidavit.

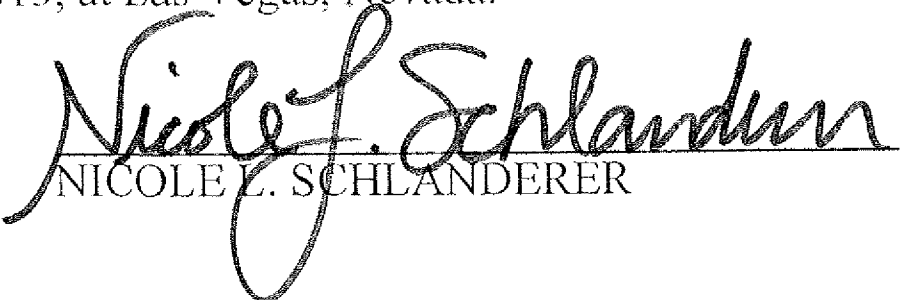
25 **BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as indicated
26 above via certified mail, return receipt requested.

27 **BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of the
28 above-described document(s). I verified transmission with a confirmation printed out by the
facsimile machine used. Thereafter, I placed a true copy in a sealed envelope addressed and
mailed as indicated above.

BY FEDERAL EXPRESS: I placed a true copy in a sealed Federal Express envelope
addressed as indicated above. I am familiar with the firm's practice of collection and
processing correspondence for Federal Express delivery and that the documents served are
deposited with Federal Express this date for overnight delivery.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
is true and correct.

Executed this 1st day of March 2013, at Las Vegas, Nevada.


NICOLE L. SCHLANDERER

DAVID ALESSI*
THOMAS BAYARD*
ROBERT KOENIG**
RYAN KERBOW***
* Admitted to the California Bar
** Admitted to the California, Nevada
and Colorado Bars
*** Admitted to the Nevada Bar
**** Admitted to the Nevada and California Bar

**ALESSI
&
KOENIG**
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Las Vegas, Nevada 89147
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ADDITIONAL OFFICES

AGOURA HILLS, CA
PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323
&

DIAMOND BAR CA
PHONE: 909-843-6590

Nevada Licensed Qualified Collection Manager
AMANDA LOWME

Pre-Notice of Trustee Sale Notification

September 21, 2009

Virginia Fedel
3923 Gogo Wy #109
Las Vegas, NV 89103

Re: Shadow Wood/3923 Gogo Wy #109/HO #12668

Dear Virginia Fedel:

Please be informed that as of today's date our office has not received payment pursuant to the Notice of Delinquent Assessment Lien recorded against your property on December 3, 2008 & the Notice of Default and Election to Sell recorded on June 3, 2009. Please understand that failure to bring your account current or failure to contact this office by October 6, 2009 will result in the continuation of foreclosure proceedings against your property and will include a minimum of \$1165.00 in additional charges.

The total amount currently due is \$2,813.86. Please submit payment to our offices at the below listed Nevada address, made payable to the Alessi & Koenig.

Again, it is extremely important that we receive your payment by October 6, 2009. Should you fail to bring your delinquent account current, you could lose ownership of your home.

Should you have any questions, please contact this office at 702-222-4033.

Yours very truly,

ALESSI & KOENIG, LLC

Stephanie Knickerbocker
Legal Assistant

A&K-014

When recorded mail to:
Alessi & Koenig, LLC
9500 West Flamingo Rd., Suite 100
Las Vegas, NV 89147
Phone: 702-222-4033

APN: 162-18-613-029
Title No. 052209-20-J TSN 12668-3923-109

Inst #: 201004220000852
Fee: \$14.00
NIC Fee: \$0.00
04/22/2010 09:33:21 AM
Receipt #: 321692
Requestor:
JUNEB LEGAL SERVICES
Recorded By: ARO Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

NOTICE OF TRUSTEE'S SALE

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL The Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.

NOTICE IS HEREBY GIVEN THAT:

On May 12, 2010, Alessi & Koenig as duly appointed Trustees pursuant to a certain lien, recorded on December 3, 2008, as Instrument number 03006, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIERS CHECK at 4:00 P.M. at 930 S. 4th Street, Las Vegas Nevada 89101.

The street address and other common designation, if any, of the real property described above is purported to be: 3923 Gogo Wy #109, Las Vegas, NV 89103. The owner of the real property is purported to be: Virginia Fedel

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made, without covenant or warranty, expressed or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of a note, homeowner's assessment or other obligation secured by this lien, with interest and other sum as provided therein: plus advances, if any, under the terms thereof and interest on such advances, plus fees, charges, expenses, of the Trustee and trust created by said lien. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$3,628.86. Payment must be in cash, a cashier's check drawn on a state or national bank, a check drawn by a state bank or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state.

Date: April 14, 2010 

By: Branko Jelic on behalf of Shadow Wood

A&K-015

APP000591

When recorded mail to:
Alessi & Koenig, LLC
9500 West Flamingo Rd., Suite 100
Las Vegas, NV 89147
Phone: 702-222-4033

APN: 162-18-613-029
Title No. 052209-20-J TSN 12668-3923-109

NOTICE OF TRUSTEE'S SALE

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL The Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.

NOTICE IS HEREBY GIVEN THAT:

On May 12, 2010, Alessi & Koenig as duly appointed Trustees pursuant to a certain lien, recorded on December 3, 2008, as instrument number 03006, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIERS CHECK at: 4:00 P.M. at 930 S. 4th Street, Las Vegas Nevada 89101.

The street address and other common designation, if any, of the real property described above is purported to be: 3923 Gogo Wy #109, Las Vegas, NV 89103. The owner of the real property is purported to be: Virginia Fedel

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made implied, regarding title, possession or encumbrances, to the homeowner's assessment or other obligation secured by this thereon; plus advances, if any, under the terms thereof and expenses, of the Trustee and trust created by said lien. The obligation secured by the property to be sold and reasonable cost of the initial publication of the Notice of Sale is \$3,628.86. Payment on a state or national bank, a check drawn by a state bank or federal savings and loan association, savings association, or Financial Code and authorized to do business in this state.

Date: April 14, 2010

By: Branko Jestic on behalf of Shadow Wood

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only: No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com .	
OFFICIAL USE	
Postage	9
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Registered Mail Fee (Endorsement Required)	
Total Postage	OMBUDSMANS OFFICE
Sent To	251 E. SAHARA AVE #205
Street, Apt. N	LAS VEGAS, NV 89104
or PO Box N	RE: GORDAN MILDEN
City, State, Zip	
PS Form 3800, August 2006	
See Reverse for Instructions	

A&K-016

VIRGINIA V FEDEL
3923 GOGO WY 109
LAS VEGAS, NV 89103

VIRGINIA V FEDEL
7180 POLLACK DR
LAS VEGAS NV 89119-9003

CCSF, LLC
DBA GREYSTONE FINANCIAL GROUP
7180 POLLOCK DRIVE, SUITE 100
LAS VEGAS, NV 89119
LOAN#237-0600703

MERS
P.O. BOX 2026
FLINT, MI 48501-2026
LOAN#237-0600703

OMBUDSMANS OFFICE
251 E. SAHARA AVE#205
LAS VEGAS, NV 89104
RE: GORDAN MILDEN

NOTS MAILINGS

12668

U.S. Postal ServiceTM
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For delivery information visit our website at www.usps.com.

OFFICIAL USE

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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Fee	

Postmark Here
APR 23 2010
POE

Sent To: VIRGINIA V FEDEL
3923 GOGO WY 109
LAS VEGAS, NV 89103

PS Form 3800, August 2005 See Reverse for Instructions

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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage	

Postmark Here
APR 23 2010
POE

Sent To: MERS
P.O. BOX 2026
FLINT, MI 48501-2026
LOAN#237-0600703

PS Form 3800, August 2005 See Reverse for Instructions

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Total	

Postmark Here
APR 23 2010
POE

Sent To: VIRGINIA V FEDEL
7180 POLLACK DR
LAS VEGAS NV 89119-9003

PS Form 3800, August 2005 See Reverse for Instructions

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	

Postmark Here
APR 23 2010
POE

Sent To: CCSF, LLC
DBA GREYSTONE FINANCIAL GROUP
7180 POLLOCK DRIVE, SUITE 100
LAS VEGAS, NV 89119
LOAN#237-0600703

PS Form 3800, August 2005 See Reverse for Instructions

A&K-017

EXHIBIT 5

EXHIBIT 5

1 A No, sir.

2 Q From your experience, Mr. Marks, has MP or
3 Shadow Wood HOA accepted partial payment from
4 owners?

5 A Yes. Payment plans, partial payments.

6 Q What are the circumstances, to your
7 knowledge, that allow for acceptance of a partial
8 payment instead proceeding with foreclosure, for
9 example?

10 A The board has the right to make the
11 decision.

12 Q But are there any circumstances that you
13 have encountered where that is -- where a partial
14 payment plan, for example, is accepted?

15 A My understanding, the boards allow the
16 trustee company to make payment arrangements and
17 take partial payments.

18 Q Okay. Would you say it's a relatively
19 common occurrence?

20 A Yes.

21 Q One more time, I'm going to ask you to go
22 back Exhibit 5, the ledger. And we're going to stay
23 on Page 1. And Page 1, it looks like there were a
24 number of credits applied in 2009. It looks like
25 there was a \$500 credit February 9, 2009. \$250 on

1 April 17, 2009 and \$500 July 2, 2009. First of all,
2 did I read those figures correctly?

3 A Correct.

4 Q Is it your understanding that these were
5 payments made by the former owner?

6 A Yes, because it's on her account.

7 Q And they were certainly accepted and
8 applied to the balance?

9 A Correct.

10 Q Now, between July 1st of 2008, according
11 to Exhibit 5, the ledger, on July 2, 2009 this
12 account always had a past due balance; didn't it?

13 A Well, up until -- well, June '08 is when
14 it had a zero balance -- actually, no. It had a --
15 it had a credit. It had a credit back in 3/19 of
16 '08, \$50 credit.

17 Q Right. Right. But my question was
18 between July 1, 2008 and July 2, 2009 --

19 A Okay.

20 Q -- there was always a past due balance,
21 correct?

22 A Correct.

23 Q Do you have any idea, as you sit here
24 today, why MP or Shadow Wood or Alessi Koenig
25 initiated HOA foreclosure proceedings during that

1 time period -- I'm sorry. Strike that.

2 Do you have any idea whether MP or
3 Shadow Wood initiated HOA foreclosure proceedings
4 during that time period, between July 1, 2008 and on
5 July 2, 2009?

6 A Well, on my I end, I don't see anything.

7 Q Would it be your impression, after having
8 reviewed Exhibit 5, the ledger, that the reason
9 foreclosure proceedings were not proceeded during
10 that time period is because the former owner was
11 making partial payments?

12 A Correct. I can't assume that there was a
13 payment plan or anything. It's just the way the
14 payments were coming in. That someone was making a
15 payment in that period of time. I don't know who
16 was making the payment because it was going to the
17 lock box.

18 Q Someone was making a payment?

19 A Correct.

20 Q And they were being credited?

21 A Correct.

22 Q Is it true, Mr. Marks, that MP received a
23 payment of \$6783.16 from New York Community Bancorp
24 in a check dated January 31, 2012 related to this
25 property?

1 A We did not get a check. To my knowledge,
2 we didn't. It would go to the trustee company. Any
3 checks that came would go to them.

4 Q I will represent to you that we have an
5 e-mail from Alessi Koenig that acknowledges payment
6 from New York Community Bank to, and I quote, "the
7 management company", on February 8, 2012 of this
8 amount.

9 A Okay. I can probably answer that easily.

10 Q Please.

11 A That if it did come to us, it would be
12 forwarded directly over to Alessi Koenig.

13 Q Okay.

14 A Because any payments that come in when
15 they're in collections, we forward over to the
16 trustee about.

17 Q And that -- and I think you said earlier
18 that basically everything that you get after
19 collection, any communications, you refer onto the
20 trustee?

21 A There are exceptions. If homeowner -- and
22 unfortunately we have battled this with the real
23 estate division, anybody sends us a check, we have
24 to take the check. If it's a payment, depending --
25 we will process it, run it through, post it to their

1 account, but send the ledger over to Alessi so
2 Alessi is made aware of it because we -- management
3 companies have gotten in trouble for not accepting
4 payments. And the law is very clear, we have to
5 accept payments regardless.

6 Q The ledger doesn't indicate though that
7 that check was accepted by MP; does it?

8 A No, it does not. So, in my mind, that
9 would say to me, it was such a large check that it
10 went directly over to Alessi.

11 Q Is there a distinction then in the amount
12 of the checks or the --

13 A Like I say, if a homeowner is making an
14 \$80 payment and they don't owe a lot of money and
15 they're in collections, we will post it. It depends
16 on the individual. Well sometimes, we will call
17 over to Alessi and we say, what do you want us to do
18 with this? Do you want us to post it, whatever.

19 Q Do you recall if that was done on this
20 one?

21 A I honestly don't remember this one.

22 Q And is it a fair -- is it fair to say that
23 you do not know why this payment of almost \$6400 was
24 not accepted as a partial payment?

25 A Why it wasn't accepted by us? Because --

1 that I can't answer, because I didn't see it come
2 through. I personally did not see it. So I'm not
3 aware of it coming to us. The bookkeeper could have
4 gotten it.

5 Q Who would have gotten it?

6 A It would come to our accounting
7 department.

8 Q Is there a particular person?

9 A There is Barbara or Christine it would
10 have gone to. And they don't -- again, I'm not
11 privy to everything that comes through.

12 Q I understand.

13 A They don't tell me everything.

14 Q Bottom line is, as you sit here today, you
15 don't know why this payment of almost \$6400 was not
16 accepted?

17 A Correct.

18 Q True statement?

19 A From us. From MP. I'm saying that I
20 don't see it here. That tells me it didn't come to
21 us.

22 Q Is there any other documents that MP has
23 that would tracked or confirmed whether or not this
24 payment came to MP?

25 A If, like I say, if it came over in a check

EXHIBIT 6

EXHIBIT 6

DAVID ALESSI*
 THOMAS DAYARD*
 ROBERT KOENIG**
 RYAN KERROW***
 * Admitted to the California Bar
 ** Admitted to the California, Nevada
 and Colorado Bars
 *** Admitted to the Nevada and California Bars

ALESSI & KOENIG
A Multi-Jurisdictional Law Firm
 9500 W. Flamingo Road, Suite 100
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
www.alessikoening.com

ADDITIONAL OFFICES

AGOURA HILLS CA
 PHONE: 818-735-9600

RENO NV
 PHONE: 775-626-2323

DIAMOND BAR CA
 PHONE: 909-861-8300

June 29, 2011

*LIEN LETTER
 VIA REGULAR AND CERTIFIED MAIL*

BANK NEW YORK COMMUNITY
 3923 Gogo Wy #109
 Las Vegas, NV 89103

Re: Shadow Wood Homeowners' Association, Inc/3923 Gogo Wy #109/HO #12668

Dear BANK NEW YORK COMMUNITY:

Our office has been retained by Shadow Wood Homeowners' Association, Inc to collect the past due assessment balance on your account. Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Shadow Wood Homeowners' Association, Inc on June 29, 2011. The total amount due by August 3, 2011 is \$8,238.87. Please note that the total amount due may differ from the amount shown on the enclosed lien. Please submit payment to our Nevada mailing address listed above by August 3, 2011. Payment must be in the form of a cashier's check or money order and made payable to Alessi & Koenig.

Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, our office will assume the debt is valid. If you notify our office in writing within the thirty-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt and a copy of such verification will be mailed to you. Upon receipt of your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor. Please note the law does not require me to wait until the end of the thirty-day period before proceeding to the next step in the collection process. If, however, you request proof of the debt or the name and address of the original creditor within the thirty-day period that begins with your receipt of this letter, the law requires me to suspend my efforts to collect the debt until I mail the request. You have the right to inspect the association records.

In the event Alessi & Koenig, LLC does not receive payment of \$8,238.87 by August 3, 2011, a Notice of Default will be recorded, resulting in additional fees and costs. Should you fail to pay, we will foreclose on your ownership of your property.

Sincerely,

ALESSI & KOENIG
 Naomi Eden, Legal Assistant

Please be advised that Alessi & Koenig, LLC is a debt collector the information obtained will be used for collection purposes.

U.S. Postal Service
CERTIFIED MAIL[®] RECEIPT
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 For delivery information visit our website at www.usps.com

OFFICIAL USE

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Return Receipt Fee (Endorsement Required)		
Registered Delivery Fee (Endorsement Required)		

TO: BANK NEW YORK COMMUNITY
 3923 GOGO WY #109
 LAS VEGAS, NV 89103

FLAMINGO ROAD
 JUN 30 2011
 HERE

PS Form 3800, August 2009 See Reverse for Instructions

A&K-022

DAVID ALESSI*
 THOMAS BAYARD*
 ROBERT KOENIG**
 RYAN KERNOW***
 * Admitted to the California Bar
 ** Admitted to the California, Nevada
 and Colorado Bars
 *** Admitted to the Nevada and California Bars

ALESSI & KOENIG
A Multi-Jurisdictional Law Firm
 9500 W. Flamingo Road, Suite 100
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
www.alessikoenig.com

ADDITIONAL OFFICES

AGOURA HILLS CA
 PHONE: 818-735-9600

RENO NV
 PHONE: 775-626-2323

DIAMOND BAR CA
 PHONE: 909-861-8100

June 29, 2011

LIEN LETTER
VIA REGULAR AND CERTIFIED MAIL

BANK NEW YORK COMMUNITY
 1801 E NINTH ST #200
 CLEVELAND, OH 44114

Re: Shadow Wood Homeowners' Association, Inc/3923 Gogo Wy #109/HO #12668

Dear BANK NEW YORK COMMUNITY:

Our office has been retained by Shadow Wood Homeowners' Association, Inc to collect the past due assessment balance on your account. Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Shadow Wood Homeowners' Association, Inc on June 29, 2011. The total amount due by August 3, 2011 is \$8,238.87. Please note that the total amount due may differ from the amount shown on the enclosed lien. Please submit payment to our Nevada mailing address listed above by August 3, 2011. Payment must be in the form of a cashier's check or money order and made payable to Alessi & Koenig.

Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, our office will assume the debt is valid. If you notify our office in writing within the thirty-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt and a copy of such verification will be mailed to you. Upon receipt of your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor. Please note the law does not require me to wait until the end of the thirty-day period before proceeding to the next step in the collection process. If, however, you request proof of the debt or the name and address of the original creditor within the thirty-day period that begins with your receipt of this letter, the law requires me to suspend my efforts to collect the debt until I mail the requested information to you. Please be advised that you have the right to inspect the association records.

In the event Alessi & Koenig, LLC does not receive costs of \$8,238.87 by August 3, 2011, a Notice of Default will be recorded, resulting in additional fees and costs. Should you own the property.

Sincerely,

ALESSI & KOENIG
 Naomi Eden, Legal

Please be advised that Alessi & Koenig, LLC is a debt collector and any communication obtained will be used for

U.S. Postal Service	
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Return Receipt Fee (Endorsement Required)	
Registered Delivery Fee (Endorsement Required)	
To: BANK NEW YORK COMMUNITY	
Attn: 1801 E NINTH ST #200	
CLEVELAND, OH 44114	
PS Form 3800, August 2006	See Reverse for Instructions

A&K-023

Inst #: 201107070002436
Fees: \$14.00
N/C Fee: \$0.00
07/07/2011 09:56:50 AM
Receipt #: 838995
Requestor:
ALESSI & KOENIG LLC (JUNES
Recorded By: TAH Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

When recorded return to:

ALESSI & KOENIG, LLC
9500 W. Flamingo Rd., Suite 100
Las Vegas, Nevada 89147
Phone: (702) 222-4033

A.P.N. 162-18-613-029

Trustee Sale # 12668-3923-109

NOTICE OF DELINQUENT ASSESSMENT (LIEN)

In accordance with Nevada Revised Statutes and the Association's Declaration of Covenants, Conditions and Restrictions (CC&Rs) of the official records of Clark County, Nevada, Shadow Wood Homeowners' Association, Inc HOA has a lien on the following legally described property.

The property against which the lien is imposed is commonly referred to as 3923 Gogo Wy #109, Las Vegas, NV 89103 and more particularly legally described as: Unit 109 Book 33 Page 44 in the County of Clark.

The owner(s) of record as reflected on the public record as of today's date is (are): **BANK NEW YORK COMMUNITY**

The mailing address(es) is: 3923 Gogo Wy #109, Las Vegas, NV 89103

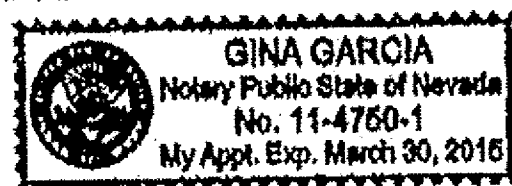
The total amount due through today's date is: \$8,238.87. Of this total amount \$8,003.87 represent Collection and/or Attorney fees, assessments, interest, late fees and service charges. \$235.00 represent collection costs. Note: Additional monies shall accrue under this claim at the rate of the claimant's regular monthly or special assessments, plus permissible late charges, costs of collection and interest, accruing subsequent to the date of this notice.

Date: June 29, 2011

By: Naomi Eden
Naomi Eden - Legal Assistant
Alessi & Koenig, LLC on behalf of Shadow Wood Homeowners' Association, Inc

State of Nevada
County of Clark
SUBSCRIBED and SWORN before me June 29, 2011

(Seal)



(Signature)

Gina Garcia
NOTARY PUBLIC

A&K-024

DAVID ALESSI*

THOMAS BAYARD*

ROBERT KOENIG**

RYAN KIRKOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bar

*** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm

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Telephone: 702-222-4033
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ADDITIONAL OFFICES

AGOURA HILLS, CA
PHONE: 818-735-9600

RINO NV
PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-861-8300

August 13, 2011

Pre-Notice of Default

BANK NEW YORK COMMUNITY
1801 E NINTH ST #200
CLEVELAND, OH 44114

Regarding: Shadow Wood Homeowners' Association, Inc/3923 Gogo Wy #109/HO #12668

Dear BANK NEW YORK COMMUNITY :

Please be informed that as of today's date our office has not received payment pursuant to the Notice of Delinquent Assessment Lien recorded against your property on July 7, 2011. Please understand that failure to bring your account current or failure to contact this office by August 28, 2011 will result in the initiation of foreclosure proceedings on your property and include a minimum \$750.00 in additional charges.

The total amount currently due is \$8,527.68. Please submit payment to our offices at the above listed Nevada address, made payable to the Alessi & Koenig, LLC.

Again, it is extremely important that we receive your payment by August 28, 2011. Should you fail to bring your delinquent account current, you could lose ownership of your home.

Should you have any questions, please contact this office at 702-222-4033.

Yours very truly,

ALESSI & KOENIG, LLC

Naomi Eden
Legal Assistant

A&K-025

APP000605

Inst #: 201110130001665
Fees: \$14.00
N/C Fee: \$0.00
10/13/2011 09:40:20 AM
Receipt #: 845349
Requestor:
ALESSI & KOENIG LLC (JUNES
Recorded By: MAT Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

When recorded mail to:

THE ALESSI & KOENIG, LLC
9500 West Flamingo Rd., Ste 100
Las Vegas, Nevada 89147
Phone: 702-222-4033

A.P.N. 162-18-613-029


Trustee Sale No. 12668-3923-109

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE! You may have the right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default recorded, which appears on this notice. The amount due is \$6,608.34 as of August 29, 2011 and will increase until your account becomes current. To arrange for payment to stop the foreclosure, contact: Shadow Wood Homeowners' Association, Inc, c/o Alessi & Koenig, 9500 W. Flamingo Rd, Ste 100, Las Vegas, NV 89147.

THIS NOTICE pursuant to that certain Assessment Lien, recorded on July 7, 2011 as document number 2436, of Official Records in the County of Clark, State of Nevada. Owner(s): BANK NEW YORK COMMUNITY, of Unit 109, as per map recorded in Book 33, Pages 44, as shown on the Condominium Plan, Recorded on as document number Pending as shown on the Subdivision map recorded in Maps of the County of Clark, State of Nevada. PROPERTY ADDRESS: 3923 Gogo Wy #109, Las Vegas, NV 89103. If you have any questions, you should contact an attorney. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. NOTICE IS HEREBY GIVEN THAT The Alessi & Koenig is appointed trustee agent under the above referenced lien, dated July 7, 2011, executed by Shadow Wood Homeowners' Association, Inc to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions (CC&Rs). A default in the obligation for which said CC&Rs has occurred in that the payment(s) have not been made of homeowners assessments due from and all subsequent assessments, late charges, interest, collection and/or attorney fees and costs.

Dated: August 29, 2011


Naomi Eden, Alessi & Koenig, LLC on behalf of Shadow Wood Homeowners' Association, Inc

A&K-026

APP000606

12008

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

MTG FINANCIAL, INC dba TRUSTEE CORP
T.S. NO. NV08000227-10-1
17100 GILLETTE AVE
IRVINE, CA 92614

FIRST AMERICAN NATIONAL DEFAULT TI
T.S. NO. NV08000227-10-1
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

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Restricted Delivery Fee (Endorsement Required)	
Total	\$5.10

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

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PS Form 3800, August 2006 See Reverse for Instructions

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For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	\$5.10
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	\$5.10

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

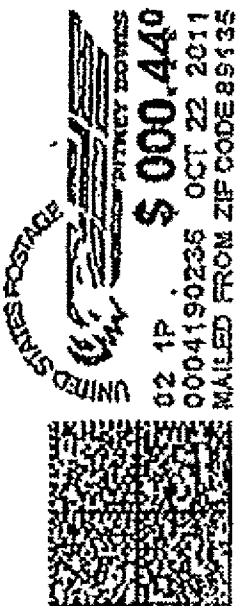
Postmark Here

PS Form 3800, August 2006 See Reverse for Instructions

A&K-027

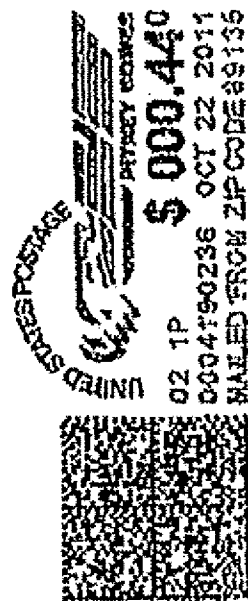
ALEXIS K OENIG
9500 W. Flamingo Rd. Suite 205
Las Vegas, NV 89147

FIRST AMERICAN NATIONAL DEFAULT II
T.S. NO. NV0800227-10-1
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707



ALEXIS K OENIG
9500 W. Flamingo Rd. Suite 205
Las Vegas, NV 89147

MTC FINANCIAL, INC dba TRUSTEE CORP
T.S. NO. NV0800227-10-1
17100 GILLETTE AVE
IRVINE, CA 92614



A&K-028

DAVID ALESSI*

THOMAS BAYARD*

ROBERT KOENIG**

RYAN KURBOW****

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada Bar

**** Admitted to the Nevada and California Bar



A Multi-Jurisdictional Law Firm

9500 W. Flamingo Road, Suite 100

Las Vegas, Nevada 89147

Telephone: 702-222-4033

Facsimile: 702-222-4043

www.alessikoenig.com

ADDITIONAL OFFICES

AGOURA HILLS, CA
PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323

&
DIAMOND BAR CA
PHONE: 909-843-6590

Nevada Licensed Qualified Collection Manager
AMANDA LOWER

Pre-Notice of Trustee Sale Notification

September 21, 2009

Virginia Fedel
7180 Pollack Dr
Las Vegas, NV 89119

Re: Shadow Wood/3923 Gogo Wy #109/HO #12668

Dear Virginia Fedel:

Please be informed that as of today's date our office has not received payment pursuant to the Notice of Delinquent Assessment Lien recorded against your property on December 3, 2008 & the Notice of Default and Election to Sell recorded on June 3, 2009. Please understand that failure to bring your account current or failure to contact this office by October 6, 2009 will result in the continuation of foreclosure proceedings against your property and will include a minimum of \$1165.00 in additional charges.

The total amount currently due is \$2,813.86. Please submit payment to our offices at the below listed Nevada address, made payable to the Alessi & Koenig.

Again, it is extremely important that we receive your payment by October 6, 2009. Should you fail to bring your delinquent account current, you could lose ownership of your home.

Should you have any questions, please contact this office at 702-222-4033.

Yours very truly,

ALESSI & KOENIG, LLC

Stephanie Knickerbocker
Legal Assistant

A&K-029

APP000609

When recorded mail to:
Alessi & Koenig, LLC
9500 West Flamingo Rd., Suite 205
Las Vegas, NV 89147
Phone: 702-222-4033

APN: 162-18-613-029

TSN 12668-3923-109

Inst #: 201201270002208
Fees: \$17.00
N/C Fee: \$0.00
01/27/2012 09:32:34 AM
Receipt #: 1049121
Requestor:
ALESSI & KOENIG LLC (JUNES
Recorded By: SOL Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

NOTICE OF TRUSTEE'S SALE

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.

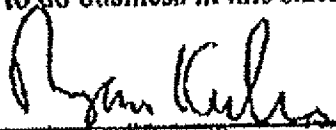
NOTICE IS HEREBY GIVEN THAT:

On February 22, 2012, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on July 7, 2011, as instrument number 2436, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIER'S CHECK at 2:00 PM, at 9500 W Flamingo Suite 205, Las Vegas, NV 89147 (Alessi&Koenig, LLC Office Building).

The street address and other common designation, if any, of the real property described above is purported to be: 3923 Gogo Wy #109, Las Vegas, NV 89103. The owner of the real property is purported to be: BANK NEW YORK COMMUNITY

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made, without covenant or warranty, expressed or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of a note, homeowner's assessment or other obligation secured by this lien, with interest and other sum as provided therein; plus advances, if any, under the terms thereof and interest on such advances, plus fees, charges, expenses, of the Trustee and trust created by said lien. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$8,539.77. Payment must be in cash, a cashier's check drawn on a state or national bank, a check drawn by a state bank or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state.

Date: January 18, 2012



By: Ryan Kerbow, Esq. of Alessi & Koenig LLC on behalf of Shadow Wood Homeowners' Association, Inc

A&K-030

HO # 12668

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

MYC FINANCIAL, INC dba TRUSTEE COR
T.S. NO. NV08000227-10-1
17100 GILLETTE AVE
IRVINE, CA 92614

FIRST AMERICAN NATIONAL DEFAULT TI
T.S. NO. NV08000227-10-1
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

OMBUDSMANS OFFICE
GORDAN MILDEN
251 E. SAHARA AVE. #205
LAS VEGAS, NV 89104

NOTS MAILINGS

7196 9008 9111 4262 4750

TO: NEW YORK COMMUNITY BANK
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

SENDER: TSN #: 12668-3923-109

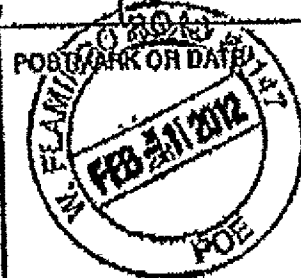
REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail



7196 9008 9111 4262 4767

TO: NEW YORK COMMUNITY BANK
3923 Gogo Wy #109
LAS VEGAS, NV 89103

SENDER:

TSN #: 12668-3923-109

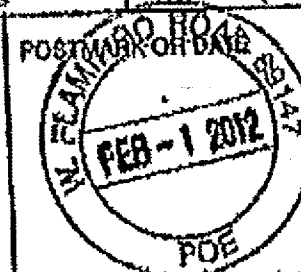
REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail



A&K-031

APP000611

7196 9008 9111 4262 4798

TO: OMBUDSMANS OFFICE
251 E. SAHARA AVE. #205
LAS VEGAS, NV 89104

TSN #: 12668-3923-109

SENDER:

REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Registered Delivery	
	Total Postage & Fees	

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**Receipt for
Certified Mail™**
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE
FEB-1 2012
POE

7196 9008 9111 4262 4781

TO: FIRST AMERICAN NATIONAL DEFAULT TITLE
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

TSN #: 12668-3923-109

SENDER:

REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Registered Delivery	
	Total Postage & Fees	

US Postal Service®
**Receipt for
Certified Mail™**
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE
FEB-1 2012
POE

7196 9008 9111 4262 4774

TO: MYC FINANCIAL, INC dba TRUSTEE CORPS
17100 GILLETTE AVE
IRVINE, CA 92614

TSN #: 12668-3923-109

SENDER:

REFERENCE:

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Registered Delivery	
	Total Postage & Fees	

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**Receipt for
Certified Mail™**
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE
FEB-1 2012
POE

A&K-032

EXHIBIT 7

EXHIBIT 7

162-18-613-029

WHEN RECORDED MAIL TO AND
RECORDING REQUESTED BY:

Trustee Corps
30 Corporate Park, Suite 400
Irvine, CA 92606

(C2)

Inst #: 201007070003641

Fees: \$15.00

N/C Fee: \$25.00

07/07/2010 04:00:26 PM

Receipt #: 416919

Requestor:

CLARK RECORDING SERVICE

Recorded By: SCA Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

82

The undersigned hereby affirms that there is no Social Security number
contained in this document
Trustee Sale No. NV08000227-10-1 Loan No. 0003401602
APN: 162-18-613-029 Title Order No: 4459625

ASSIGNMENT OF DEED OF TRUST

For Value Received, the undersigned corporation hereby grants, assigns, and transfers to: **NEW YORK COMMUNITY BANK** all beneficial interest under that certain Deed of Trust dated as of April 25, 2007 executed by VIRGINIA V. FEDEL, A WIDOW, as Trustor(s), to SOUTHWEST TITLE COMPANY as Trustee, and recorded April 27, 2007, as Instrument No. 20070427-0004835 in Book ., Page . of Official Records, in the office of the County Recorder of Clark County, NV together with the Promissory Note secured by said Deed of Trust and also all rights accrued or to accrue under said Deed of Trust.

SEE ATTACHED LEGAL EXHIBIT

Dated: **MAY 27 2010**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC
AS NOMINEE FOR LENDER AND LENDERS
SUCCESSORS OR ASSIGNEES

State of Ohio
County of Cuyahoga

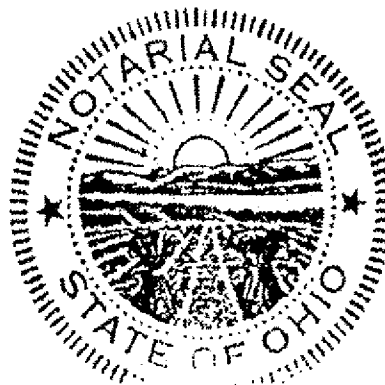
By: Paula J. Lechlitrner
Vice President
Paula

On 5-1-2010 before me, Michael S. Erb Notary Public in and for said county, personally appeared Paula Lechlitrner who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Ohio the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Michael S. Erb
MICHAEL S. ERB
Notary Public, State of Ohio
My Commission Expires Sept. 14, 2011
(Recorded in Cuyahoga County)



(Seal)

Trustee Sale No. NV08000227-10-1 Loan No. 0003401602
APN: 162-18-613-029 Title Order No:4459625

EXHIBIT

PARCEL ONE (1):

UNIT ONE HUNDRED NINE (109), AS SHOWN UPON THE MAP ENTITLED "SILVERADO VILLAS II, A SUBDIVISION FOR CONDOMINIUM PURPOSES, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, IN BOOK 33 OF PLATS, PAGE 44.

PARCEL TWO (2):

AN UNDIVIDED 7.345% INTEREST IN AND TO THE COMMON AREA AS DEFINED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA ON DECEMBER 3, 1985, IN BOOK 2226 OF OFFICIAL RECORDS AS DOCUMENT NO. 2185340.

EXCEPTING THEREFROM THE FOLLOWING:

ALL LIVING UNITS AS SHOWN UPON THE MAP HEREINABOVE REFERRED TO AND AS DEFINED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA ON DECEMBER 3, 1985 IN BOOK 2226 OF OFFICIAL RECORDS, AS DOCUMENT NO. 2185340.

AND FURTHER EXCEPTING THEREFROM:

THE EXCLUSIVE RIGHT TO POSSESSION OF ALL THOSE "RESTRICTED COMMON AREAS AND/OR EXCLUSIVE USE AREA", AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, HEREINABOVE, REFERRED TO, AND AS SET FOR ON THE SUBDIVISION MAP OF SILVERADO VILLAS II.

PARCEL THREE (3):

THE EXCLUSIVE RIGHT TO POSSESSION AND OCCUPANCY OF THOSE PORTIONS OF THE COMMON AREAS, ABOVE DESCRIBED, DESIGNATED AS "RESTRICTED COMMON AREAS AND/OR EXCLUSIVE USE AREAS", AS APPURTENANT TO PARCEL ONE (1) AND TWO (2), ABOVE DESCRIBED, AS DELINEATED ON THE AFOREMENTIONED MAP AND AS DEFINED ON THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, HEREINABOVE REFERRED.

EXHIBIT 8

EXHIBIT 8

(4)-1

A.P.N. # 162-18-613-029

[RECORDING REQUESTED BY:]

First American Title Company *AS AN*
on Behalf of Trustee Corps *ACCOMMODATION*
ONLY.

[WHEN RECORDED MAIL TO
AND MAIL TAX STATEMENTS TO:]

NEW YORK COMMUNITY BANK

1801 E. NINTH STREET

SUITE 200

CLEVELAND, OH 44114

THE UNDERSIGNED HEREBY AFFIRMS THAT

~~THERE IS NO~~ SOCIAL SECURITY NUMBER [REDACTED] ED IN THIS DOCUMENT

37

[Space above this line for recorder's use only]

Trustee Sale No. NV08000227-10-1

Title Order No. 4459625

Inst #: 201105240003017

Fees: \$16.00 N/C Fee: \$0.00

RPTT: \$234.60 Ex: #

05/24/2011 11:52:46 AM

Receipt #: 787078

Requestor:

PASION TITLE SERVICES

Recorded By: SCA Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

TRUSTEE'S DEED UPON SALE

The undersigned grantor declares:

- 1) The Grantee herein was the foreclosing beneficiary.
- 2) The amount of the unpaid debt together with costs was: **\$142,712.99**
- 3) The amount paid by the grantee at the trustee sale was: **\$45,900.00**
- 4) The documentary transfer tax is: **\$ 234.60**
- 5) Said property is in the city of: LAS VEGAS

and MTC FINANCIAL INC. dba TRUSTEE CORPS, herein called "Trustee", as Trustee (or as Successor Trustee) of the Deed of Trust hereinafter described, hereby grants and conveys, but without covenant or warranty, express or implied, to NEW YORK COMMUNITY BANK, herein called "Grantee", the real property in the County of Clark, State of Nevada, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE APART HEREOF

This deed is made pursuant to the authority and powers given to Trustee (or to Successor Trustee) by law and by that certain Deed of Trust dated April 25, 2007, made to VIRGINIA V. FEDEL, A WIDOW and recorded on April 27, 2007, as Instrument No. 20070427-0004835 Book . Page . of Official Records in the office of the Recorder of Clark County, Nevada, Trustee (or Successor Trustee) having complied with all applicable statutory provisions and having performed all of his duties under the said Deed of Trust.

NEW YORK COMMUNITY BANK

1801 E. NINTH STREET

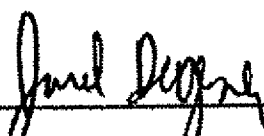
SUITE 200

CLEVELAND, OH 44114

All requirements of law and of said Deed of Trust relating to this sale and to notice thereof having been complied with. Pursuant to the Notice of Trustee's Sale, the above described property was sold by Trustee (or Successor Trustee) at public auction on 05/09/2011 at the place specified in said Notice, to Grantee who was the highest bidder therefor, for \$45,900.00 cash, in lawful money of the United States, which has been paid.

Dated: 05/09/2011

MTC FINANCIAL INC. dba TRUSTEE CORPS


By: Jared Degener, as authorized signer

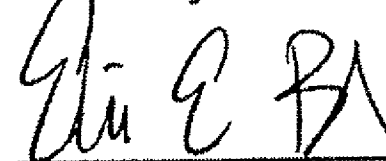
State of CALIFORNIA

County of ORANGE

On 5/23/11 before me, Elise E. Berg, a notary public personally appeared Jared Degener who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Notary Public in and for said County and State

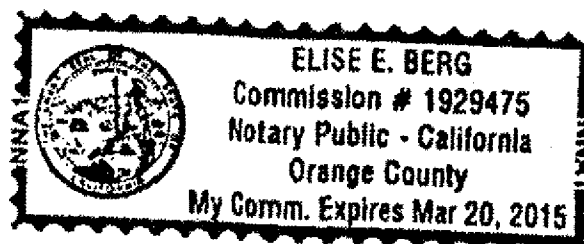


EXHIBIT "A"

PARCEL ONE (1):

UNIT ONE HUNDRED NINE (109), AS SHOWN UPON THE MAP ENTITLED "SILVERADO VILLAS II, A SUBDIVISION FOR CONDOMINIUM PURPOSES, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, IN BOOK 33 OF PLATS, PAGE 44.

PARCEL TWO (2):

AN UNDIVIDED 7.345% INTEREST IN AND TO THE COMMON AREA AS DEFINED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA ON DECEMBER 3, 1985, IN BOOK 2226 OF OFFICIAL RECORDS AS DOCUMENT NO. 2185340.

EXCEPTING THEREFROM THE FOLLOWING:

ALL LIVING UNITS AS SHOWN UPON THE MAP HEREINABOVE REFERRED TO AND AS DEFINED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA ON DECEMBER 3, 1985 IN BOOK 2226 OF OFFICIAL RECORDS, AS DOCUMENT NO. 2185340.

AND FURTHER EXCEPTING THEREFROM:

THE EXCLUSIVE RIGHT TO POSSESSION OF ALL THOSE "RESTRICTED COMMON AREAS AND/OR EXCLUSIVE USE AREA", AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, HEREINABOVE, REFERRED TO, AND AS SET FOR ON THE SUBDIVISION MAP OF SILVERADO VILLAS II.

PARCEL THREE (3):

THE EXCLUSIVE RIGHT TO POSSESSION AND OCCUPANCY OF THOSE PORTIONS OF THE COMMON AREAS, ABOVE DESCRIBED, DESIGNATED AS "RESTRICTED COMMON AREAS AND/OR EXCLUSIVE USE AREAS", AS APPURTENANT TO PARCEL ONE (1) AND TWO (2), ABOVE DESCRIBED, AS DELINEATED ON THE AFOREMENTIONED MAP AND AS DEFINED ON THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, HEREINABOVE REFERRED.

**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)

a. 162-18-613-029
b. _____
c. _____
d. _____

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
☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____

Date of Recording: _____

Notes: _____

- 3. a. Total Value/Sales Price of Property**
b. Deed in Lieu of Foreclosure Only (value of property)
c. Transfer Tax Value:
d. Real Property Transfer Tax Due

\$45,900.00 price is cost + bid

()

\$45,900.00 price is cost + bid

\$ 234.60

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 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 Jared Deogre Capacity Grantor (Trustee)

Signature Jared Deogre Capacity Grantee (Agent for Grantee)

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: TRUSTEE CORPS
Address: 17100 GILLETTE
AVENUE
City: IRVINE
State: CA Zip: 92614

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: NEW YORK COMMUNITY BANK
Address: 1801 E. NINTH STREET
City: CLEVELAND
State: OH Zip: 44114

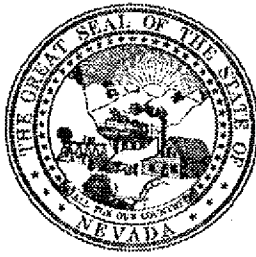
COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: FIRST AMERICAN NATIONAL Escrow #: 4459625
Address: DEFAULT TITLE
City: 3 FIRST AMERICAN WAY State: _____ Zip: _____
SANTA ANA, CA 92707

As a public record this form may be recorded/microfilmed

EXHIBIT 9

EXHIBIT 9



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
ADVISORY OPINION

Subject: The Super Priority Lien	Advisory No. 13-01	21 pages
	Issued By: Real Estate Division	
	Amends/Supersedes	N/A
Reference(s): NRS 116.3102; ; NRS 116.310312; NRS 116.310313; NRS 116.3115; NRS 116.3116; NRS 116.31162; Commission for Common Interest Communities and Condominium Hotels Advisory Opinion No. 2010-01		Issue Date: December 12, 2012

QUESTION #1:

Pursuant to NRS 116.3116, may the portion of the association's lien which is superior to a unit's first security interest (referred to as the "super priority lien") contain "costs of collecting" defined by NRS 116.310313?

QUESTION #2:

Pursuant to NRS 116.3116, may the sum total of the super priority lien ever exceed 9 times the monthly assessment amount for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115, plus charges incurred by the association on a unit pursuant to NRS 116.310312?

QUESTION #3:

Pursuant to NRS 116.3116, must the association institute a "civil action" as defined by Nevada Rules of Civil Procedure 2 and 3 in order for the super priority lien to exist?

SHORT ANSWER TO #1:

No. The association's lien does not include "costs of collecting" defined by NRS 116.310313, so the super priority portion of the lien may not include such costs. NRS 116.310313 does not say such charges are a lien on the unit, and NRS 116.3116 does not make such charges part of the association's lien.

FIXED/ADJUSTABLE RATE RIDER
(LIBOR One-Year Index (As Published In *The Wall Street Journal*) - Rate Caps -
Ten-Year Interest Only Period)

FEDEL
Loan #: 237-0600703
MIN: 100219307045046491

THIS FIXED/ADJUSTABLE RATE RIDER is made this 25TH day of APRIL, 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Fixed/Adjustable Rate Note (the "Note") to CCSF, LLC DBA GREYSTONE FINANCIAL GROUP ("Lender") of the same date and covering the property described in the Security Instrument and located at:

3923 GOGO WAY # 109, LAS VEGAS, NV 89103-1856
[Property Address]

THE NOTE PROVIDES FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADJUSTABLE RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial fixed interest rate of 6.500%. The Note also provides for a change in the initial fixed rate to an adjustable interest rate, as follows:

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

MULTISTATE FIXED/ADJUSTABLE RATE RIDER - WSJ One-Year LIBOR -
Ten-Year Interest Only Period -Single Family- Fannie Mae Uniform Instrument

 9030.6

Page 1 of 4

Form 3153 2/06

The initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of **MAY, 2012**, and the adjustable interest rate I will pay may change on that day every 12th month thereafter. The date on which my initial fixed interest rate changes to an adjustable interest rate, and each date on which my adjustable interest rate could change, is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my adjustable interest rate will be based on an Index. The "Index" is the average of interbank offered rates for one-year U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding **TWO AND THREE-FOURTHS** percentage points (**2.750%**) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of my monthly payment. For payment adjustments occurring before the First Principal and Interest Payment Due Date, the amount of my monthly payment will be sufficient to repay all accrued interest each month on the unpaid principal balance at the new interest rate. If I make a voluntary payment of principal before the First Principal and Interest Payment Due Date, my payment amount for subsequent payments will be reduced to the amount necessary to repay all accrued interest on the reduced principal balance at the current interest rate. For payment adjustments occurring on or after the First Principal and Interest Payment Due Date, the amount of my monthly payment will be sufficient to repay unpaid principal and interest that I am expected to owe in full on the Maturity Date at the current interest rate in substantially equal payments.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than **12.500%** or less than **2.750%**. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than two percentage points from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **12.500%**.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

Before the effective date of any change in my interest rate and/or monthly payment, the Note Holder will deliver or mail to me a notice of such change. The notice will include information required by law to be

given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

(G) Date of First Principal and Interest Payment

The date of my first payment consisting of both principal and interest on this Note (the "First Principal and Interest Payment Due Date") shall be that date which is the 10th anniversary date of the first payment due date, as reflected in Section 3(A) of the Note.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

1. Until Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument shall read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

2. When Borrower's initial fixed interest rate changes to an adjustable interest rate under the terms stated in Section A above, Uniform Covenant 18 of the Security Instrument described in Section B1 above shall then cease to be in effect, and the provisions of Uniform Covenant 18 of the Security Instrument shall be amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to

the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Fixed/Adjustable Rate Rider.

Virginia V. Fedel 4-26-2007
- BORROWER - VIRGINIA V. FEDEL - DATE -

1-4 FAMILY RIDER (Assignment of Rents)

FEDL
Loan #: 237-0600703
MIN: 100219307045046491

THIS 1-4 FAMILY RIDER is made this 25TH day of APRIL, 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to **CCSF, LLC DBA GREYSTONE FINANCIAL GROUP** (the "Lender") of the same date and covering the Property described in the Security Instrument and located at: **3923 GOGO WAY # 109, LAS VEGAS, NV 89103-1856** [Property Address].

1-4 FAMILY COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADDITIONAL PROPERTY SUBJECT TO THE SECURITY INSTRUMENT. In addition to the Property described in Security Instrument, the following items now or hereafter attached to the Property to the extent they are fixtures are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, paneling and attached floor coverings, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or the leasehold estate if the Security Instrument is on a leasehold) are referred to in this 1-4 Family Rider and the Security Instrument as the "Property."

B. USE OF PROPERTY; COMPLIANCE WITH LAW. Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has

agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

C. SUBORDINATE LIENS. Except as permitted by federal law, Borrower shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Lender's prior written permission.

D. RENT LOSS INSURANCE. Borrower shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Section 5.

E. "BORROWER'S RIGHT TO REINSTATE" DELETED. Section 19 is deleted.

F. BORROWER'S OCCUPANCY. Unless Lender and Borrower otherwise agree in writing, Section 6 concerning Borrower's occupancy of the Property is deleted.

G. ASSIGNMENT OF LEASES. Upon Lender's request after default, Borrower shall assign to Lender all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Lender shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Lender's sole discretion. As used in this paragraph G, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

H. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues ("Rents") of the Property, regardless of to whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Lender or Lender's agents. However, Borrower shall receive the Rents until (i) Lender has given Borrower notice of default pursuant to Section 22 of the Security Instrument and (ii) Lender has given notice to the tenant(s) that the Rents are to be paid to Lender or Lender's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of default to Borrower: (i) all Rents received by Borrower shall be held by Borrower as trustee for the benefit of Lender only, to be applied to the sums secured by the Security Instrument; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's agents upon Lender's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Lender, Lender's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by the Security Instrument pursuant to Section 9.

Borrower represents and warrants that Borrower has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Lender from exercising its rights under this paragraph.

Lender, or Lender's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the Property before or after giving notice of default to Borrower. However, Lender, or Lender's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

I. CROSS-DEFAULT PROVISION. Borrower's default or breach under any note or

237-0600703

agreement in which Lender has an interest shall be a breach under the Security Instrument and Lender may invoke any of the remedies permitted by the Security Instrument.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this 1-4 Family Rider.

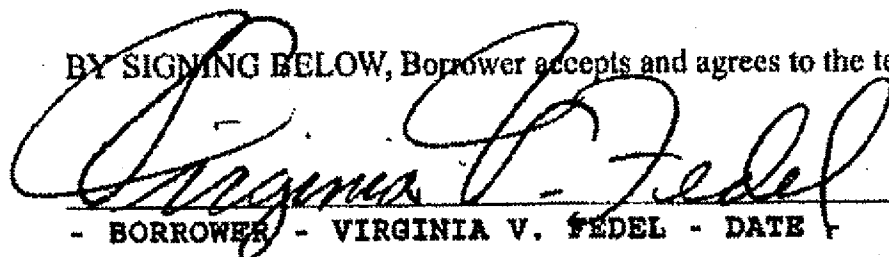
 4-26-2007
- BORROWER - VIRGINIA V. FEDEL - DATE -

EXHIBIT 2

EXHIBIT 2

APR/05/2010/MON 03:34 AM

P. 019

RUN DATE: 04/05/2010

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2009 TO 04/30/2010
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

TRX DATE	DESCRIPTION	CHARGE	CREDITS	BALANCE
12/31/2008	BEGINNING BALANCE			920.76
01/01/2009	MONTHLY ASSESSMENTS	168.81		1,089.57
01/31/2009	LATE CHARGE	10.00		1,099.57
02/01/2009	MONTHLY ASSESSMENTS	168.81		1,268.38
02/09/2009	LOCKBOX PAYMENT CK: 1038		500.00	768.38
03/01/2009	MONTHLY ASSESSMENTS	168.81		937.19
03/03/2009	LATE CHARGE	10.00		947.19
03/31/2009	LATE CHARGE	10.00		957.19
04/01/2009	MONTHLY ASSESSMENTS	168.81		1,126.00
04/17/2009	LOCKBOX PAYMENT CK: 1068		250.00	876.00
05/01/2009	MONTHLY ASSESSMENTS	168.81		1,044.81
05/01/2009	LATE CHARGE	10.00		1,054.81
05/31/2009	LATE CHARGE	10.00		1,064.81
06/01/2009	MONTHLY ASSESSMENTS	168.81		1,233.62
07/01/2009	MONTHLY ASSESSMENTS	168.81		1,402.43
07/01/2009	LATE CHARGE	10.00		1,412.43
07/02/2009	LOCKBOX PAYMENT CK: 1126		500.00	912.43
07/31/2009	LATE CHARGE	10.00		922.43
08/01/2009	MONTHLY ASSESSMENTS	168.81		1,091.24
08/31/2009	LATE CHARGE	10.00		1,101.24
09/01/2009	MONTHLY ASSESSMENTS	168.81		1,270.05
10/01/2009	MONTHLY ASSESSMENTS	168.81		1,438.86
10/01/2009	LATE CHARGE	10.00		1,448.86
10/31/2009	LATE CHARGE	10.00		1,458.86
11/01/2009	MONTHLY ASSESSMENTS	168.81		1,627.67
12/01/2009	MONTHLY ASSESSMENTS	168.81		1,796.48
12/01/2009	LATE CHARGE	10.00		1,806.48
12/31/2009	LATE CHARGE	10.00		1,816.48
01/01/2010	MONTHLY ASSESSMENTS	168.81		1,985.29
01/31/2010	LATE CHARGE	10.00		1,995.29
02/01/2010	MONTHLY ASSESSMENTS	168.81		2,164.10
03/01/2010	MONTHLY ASSESSMENTS	168.81		2,332.91
03/03/2010	LATE CHARGE	10.00		2,342.91
04/01/2010	MONTHLY ASSESSMENTS	168.81		2,511.72

1 OWNERS -

REPORT BALANCE AS OF: 04/30/2010

2,511.72

A&K-054

APP000565

MAY/12/2009/TUE 14:19

MP MANAGMENT

FAX No. 7023049458

P. 005

RUN DATE: 05/12/2009

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2009 TO 05/15/2009
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
	BEGINNING BALANCE			920.76
01/01/2009	MONTHLY ASSESSMENTS	168.81		1,089.57
01/31/2009	LATE CHARGE	10.00		1,099.57
02/01/2009	MONTHLY ASSESSMENTS	168.81		1,268.38
02/09/2009	LOCKBOX PAYMENT CK: 1038		500.00	768.38
03/01/2009	MONTHLY ASSESSMENTS	168.81		937.19
03/03/2009	LATE CHARGE	10.00		947.19
03/31/2009	LATE CHARGE	10.00		957.19
04/01/2009	MONTHLY ASSESSMENTS	168.81		1,126.00
04/17/2009	LOCKBOX PAYMENT CK: 1068		250.00	876.00
05/01/2009	MONTHLY ASSESSMENTS	168.81		1,044.81
	ENDING BALANCE			1,044.81

1 OWNERS - REPORT BALANCE AS OF 05/15/2009

1,044.81

A&K-055

APP000566

MAY/04/2010/TUE 09:30 PM

P. 001/001

RUN DATE: 05/05/2010

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2009 TO 05/30/2010
SINGLE OWNER

PAGE: 1

3923 Gogo Way #109

000109-01 FEDEL, VIRGINIA

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
12/31/2008	BEGINNING BALANCE			920.76
01/01/2009	MONTHLY ASSESSMENTS	168.81		1,089.57
01/31/2009	LATE CHARGE	10.00		1,099.57
02/01/2009	MONTHLY ASSESSMENTS	168.81		1,268.38
02/09/2009	LOCKBOX PAYMENT CK: 1038		500.00	768.38
03/01/2009	MONTHLY ASSESSMENTS	168.81		937.19
03/03/2009	LATE CHARGE	10.00		947.19
03/31/2009	LATE CHARGE	10.00		957.19
04/01/2009	MONTHLY ASSESSMENTS	168.81		1,126.00
04/17/2009	LOCKBOX PAYMENT CK: 1068		250.00	876.00
05/01/2009	MONTHLY ASSESSMENTS	168.81		1,044.81
05/01/2009	LATE CHARGE	10.00		1,054.81
05/31/2009	LATE CHARGE	10.00		1,064.81
06/01/2009	MONTHLY ASSESSMENTS	168.81		1,233.62
07/01/2009	MONTHLY ASSESSMENTS	168.81		1,402.43
07/01/2009	LATE CHARGE	10.00		1,412.43
07/02/2009	LOCKBOX PAYMENT CK: 1126		500.00	912.43
07/31/2009	LATE CHARGE	10.00		922.43
08/01/2009	MONTHLY ASSESSMENTS	168.81		1,091.24
08/31/2009	LATE CHARGE	10.00		1,101.24
09/01/2009	MONTHLY ASSESSMENTS	168.81		1,270.05
10/01/2009	MONTHLY ASSESSMENTS	168.81		1,438.86
10/01/2009	LATE CHARGE	10.00		1,448.86
10/31/2009	LATE CHARGE	10.00		1,458.86
11/01/2009	MONTHLY ASSESSMENTS	168.81		1,627.67
12/01/2009	MONTHLY ASSESSMENTS	168.81		1,796.48
12/01/2009	LATE CHARGE	10.00		1,806.48
12/31/2009	LATE CHARGE	10.00		1,816.48
01/01/2010	MONTHLY ASSESSMENTS	168.81		1,985.29
01/31/2010	LATE CHARGE	10.00		1,995.29
02/01/2010	MONTHLY ASSESSMENTS	168.81		2,164.10
03/01/2010	MONTHLY ASSESSMENTS	168.81		2,332.91
03/03/2010	LATE CHARGE	10.00		2,342.91
03/31/2010	LATE CHARGE	10.00		2,352.91
04/01/2010	MONTHLY ASSESSMENTS	168.81		2,521.72
05/01/2010	MONTHLY ASSESSMENTS	168.81		2,690.53

1. OWNERS -

REPORT BALANCE AS OF: 05/30/2010

2,690.53

*Mail - 1350 E. Flamingo
Box 477
LV 89119*

A&K-056

APP000567

AUG/26/2010/THU 03:32 AM

P. 001/001

RUN DATE: 08/26/2010

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 09/01/2009 TO 09/30/2010
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

3923 GOGO WAY #109

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
08/31/2009	BEGINNING BALANCE			1,101.24
09/01/2009	MONTHLY ASSESSMENTS	168.81		1,270.05
10/01/2009	MONTHLY ASSESSMENTS	168.81		1,438.86
10/01/2009	LATE CHARGE	10.00		1,448.86
10/31/2009	LATE CHARGE	10.00		1,458.86
11/01/2009	MONTHLY ASSESSMENTS	168.81		1,627.67
12/01/2009	MONTHLY ASSESSMENTS	168.81		1,796.48
12/01/2009	LATE CHARGE	10.00		1,806.48
12/31/2009	LATE CHARGE	10.00		1,816.48
01/01/2010	MONTHLY ASSESSMENTS	168.81		1,985.29
01/31/2010	LATE CHARGE	10.00		1,995.29
02/01/2010	MONTHLY ASSESSMENTS	168.81		2,164.10
03/01/2010	MONTHLY ASSESSMENTS	168.81		2,332.91
03/03/2010	LATE CHARGE	10.00		2,342.91
03/31/2010	LATE CHARGE	10.00		2,352.91
04/01/2010	MONTHLY ASSESSMENTS	168.81		2,521.72
05/01/2010	MONTHLY ASSESSMENTS	168.81		2,690.53
05/01/2010	LATE CHARGE	10.00		2,700.53
05/31/2010	LATE CHARGE	10.00		2,710.53
06/01/2010	MONTHLY ASSESSMENTS	168.81		2,879.34
07/01/2010	MONTHLY ASSESSMENTS	168.81		3,048.15
07/01/2010	LATE CHARGE	10.00		3,058.15
07/31/2010	LATE CHARGE	10.00		3,068.15
08/01/2010	MONTHLY ASSESSMENTS	168.81		3,236.96
09/01/2010	MONTHLY ASSESSMENTS	168.81		3,405.77

1. OWNERS -

REPORT BALANCE AS OF: 09/30/2010

3,405.77

A&K-057

APP000568

SEP/18/2009/FRI 12:36 AM

P. 001

TO: STEPHANIE

RUN DATE: 09/18/2009

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2008 TO 12/31/2009
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

3923 Gogo #109

STOP PAYMENT

TRX DATE	DESCRIPTION	CHARGE	CREDIT	BALANCE
12/31/2007	BEGINNING BALANCE			50.00
01/01/2008	MONTHLY ASSESSMENTS	153.46		103.46
02/01/2008	MONTHLY ASSESSMENTS	153.46		256.92
03/01/2008	MONTHLY ASSESSMENTS	153.46		410.38
03/19/2008	LOCKBOX PAYMENT CK: 10132		460.38	50.00
04/01/2008	MONTHLY ASSESSMENTS	153.46		103.46
04/16/2008	LOCKBOX PAYMENT CK: 10171		153.46	50.00
05/01/2008	MONTHLY ASSESSMENTS	153.46		103.46
06/01/2008	MONTHLY ASSESSMENTS	153.46		256.92
06/16/2008	LATE CHARGE	10.00		266.92
06/16/2008	REVERSE LATE CHARGE		10.00	256.92
06/25/2008	LOCKBOX PAYMENT CK: 10238		256.92	0.00
07/01/2008	MONTHLY ASSESSMENTS	153.46		153.46
08/01/2008	MONTHLY ASSESSMENTS	153.46		306.92
09/01/2008	MONTHLY ASSESSMENTS	153.46		460.38
10/01/2008	MONTHLY ASSESSMENTS	153.46		613.84
11/01/2008	MONTHLY ASSESSMENTS	153.46		767.30
12/01/2008	MONTHLY ASSESSMENTS	153.46		920.76
01/01/2009	MONTHLY ASSESSMENTS	168.81		1,089.57
01/31/2009	LATE CHARGE	10.00		1,099.57
02/01/2009	MONTHLY ASSESSMENTS	168.81		1,268.38
02/09/2009	LOCKBOX PAYMENT CK: 1038		500.00	768.38
03/01/2009	MONTHLY ASSESSMENTS	168.81		937.19
03/03/2009	LATE CHARGE	10.00		947.19
03/31/2009	LATE CHARGE	10.00		957.19
04/01/2009	MONTHLY ASSESSMENTS	168.81		1,126.00
04/17/2009	LOCKBOX PAYMENT CK: 1068		250.00	876.00
05/01/2009	MONTHLY ASSESSMENTS	168.81		1,044.81
05/01/2009	LATE CHARGE	10.00		1,054.81
05/31/2009	LATE CHARGE	10.00		1,064.81
06/01/2009	MONTHLY ASSESSMENTS	168.81		1,233.62
07/01/2009	MONTHLY ASSESSMENTS	168.81		1,402.43
07/01/2009	LATE CHARGE	10.00		1,412.43
07/02/2009	LOCKBOX PAYMENT CK: 1126		500.00	912.43
07/31/2009	LATE CHARGE	10.00		922.43
08/01/2009	MONTHLY ASSESSMENTS	168.81		1,091.24
08/31/2009	LATE CHARGE	10.00		1,101.24
09/01/2009	MONTHLY ASSESSMENTS	168.81		1,270.05
10/01/2009	MONTHLY ASSESSMENTS	168.81		1,438.86

1. OWNERS -

REPORT BALANCE AS OF: 12/31/2009

1,438.86

A&K-058

APP000569

RUN DATE: 01/23/2012

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 02/01/2011 TO 02/28/2012
SINGLE OWNER

PAGE: 1

000109-01 FEDERAL, VIRGINIA

3923 GOGO WAY #109

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
01/31/2011	BEGINNING BALANCE			4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87
07/01/2011	LATE CHARGE	10.00		5,203.87
07/31/2011	LATE CHARGE	10.00		5,213.87
08/01/2011	MONTHLY ASSESSMENTS	168.81		5,382.68
08/31/2011	LATE CHARGE	10.00		5,392.68
09/01/2011	MONTHLY ASSESSMENTS	168.81		5,561.49
10/01/2011	MONTHLY ASSESSMENTS	168.81		5,730.30
10/01/2011	LATE CHARGE	10.00		5,740.30
10/31/2011	LATE CHARGE	10.00		5,750.30
11/01/2011	MONTHLY ASSESSMENTS	168.81		5,919.11
12/01/2011	MONTHLY ASSESSMENTS	168.81		6,087.92
12/01/2011	LATE CHARGE	10.00		6,097.92
12/31/2011	LATE CHARGE	10.00		6,107.92
01/01/2012	MONTHLY ASSESSMENTS	168.81		6,276.73
02/01/2012	MONTHLY ASSESSMENTS	168.81		6,445.54

1 OWNERS -

REPORT BALANCE AS OF: 02/28/2012

6,445.54

A&K-059

NOV/14/2011/MON 01:36 AM

P. 001

RUN DATE: 11/14/2011

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2011 TO 12/31/2011
SINGLE OWNER

PAGE: 1

000109-01 FEDEX, VIRGINIA

3923 GOGO WAY #109

STOP PAYMENT

TRX DATE	DESCRIPTION	CHARGE	CREDIT	BALANCE
12/31/2010	BEGINNING BALANCE			3,962.20
01/01/2011	MONTHLY ASSESSMENTS	168.81		4,131.01
01/31/2011	LATE CHARGE	10.00		4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87
07/01/2011	LATE CHARGE	10.00		5,203.87
07/31/2011	LATE CHARGE	10.00		5,213.87
08/01/2011	MONTHLY ASSESSMENTS	168.81		5,382.68
08/31/2011	LATE CHARGE	10.00		5,392.68
09/01/2011	MONTHLY ASSESSMENTS	168.81		5,561.49
10/01/2011	MONTHLY ASSESSMENTS	168.81		5,730.30
10/01/2011	LATE CHARGE	10.00		5,740.30
11/01/2011	MONTHLY ASSESSMENTS	168.81		5,909.11

1 OWNERS -

REPORT BALANCE AS OF: 12/31/2011

5,909.11

A&K-060

APP000571

RUN DATE: 06/27/2011

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 07/01/2010 TO 12/31/2011
SINGLE OWNER

PAGE: 1

000109-01 FEDEL, VIRGINIA

3923 GOGO WAY #109

STOP PAYMENT		CHARGES	CREDITS	BALANCE
TRX DATE	DESCRIPTION			
06/30/2010	BEGINNING BALANCE			2,879.34
07/01/2010	MONTHLY ASSESSMENTS	168.81		3,048.15
07/01/2010	LATE CHARGE	10.00		3,058.15
07/31/2010	LATE CHARGE	10.00		3,068.15
08/01/2010	MONTHLY ASSESSMENTS	168.81		3,236.96
08/31/2010	LATE CHARGE	10.00		3,246.96
09/01/2010	MONTHLY ASSESSMENTS	168.81		3,415.77
10/01/2010	MONTHLY ASSESSMENTS	168.81		3,584.58
10/01/2010	LATE CHARGE	10.00		3,594.58
10/31/2010	LATE CHARGE	10.00		3,604.58
11/01/2010	MONTHLY ASSESSMENTS	168.81		3,773.39
12/01/2010	MONTHLY ASSESSMENTS	168.81		3,942.20
12/01/2010	LATE CHARGE	10.00		3,952.20
12/31/2010	LATE CHARGE	10.00		3,962.20
01/01/2011	MONTHLY ASSESSMENTS	168.81		4,131.01
01/31/2011	LATE CHARGE	10.00		4,141.01
02/01/2011	MONTHLY ASSESSMENTS	168.81		4,309.82
03/01/2011	MONTHLY ASSESSMENTS	168.81		4,478.63
03/03/2011	LATE CHARGE	10.00		4,488.63
03/31/2011	LATE CHARGE	10.00		4,498.63
04/01/2011	MONTHLY ASSESSMENTS	168.81		4,667.44
05/01/2011	MONTHLY ASSESSMENTS	168.81		4,836.25
05/01/2011	LATE CHARGE	10.00		4,846.25
05/31/2011	LATE CHARGE	10.00		4,856.25
06/01/2011	MONTHLY ASSESSMENTS	168.81		5,025.06
07/01/2011	MONTHLY ASSESSMENTS	168.81		5,193.87

1 OWNERS -

REPORT BALANCE AS OF: 12/31/2011

5,193.87

A&K-061

APP000572

NOV/08/2010/MON 09:25 PM

P. 004

RUN DATE: 11/09/2010

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 11/01/2009 TO 12/31/2010
SINGLE OWNER

PAGE: 1

000109-01 FBDEL, VIRGINIA

3923 GOGO WAY #109

STOP PAYMENT

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
10/31/2009	BEGINNING BALANCE			1,450.86
11/01/2009	MONTHLY ASSESSMENTS	168.81		1,627.67
12/01/2009	MONTHLY ASSESSMENTS	168.81		1,796.48
12/01/2009	LATE CHARGE	10.00		1,806.48
12/31/2009	LATE CHARGE	10.00		1,816.48
01/01/2010	MONTHLY ASSESSMENTS	168.81		1,985.29
01/31/2010	LATE CHARGE	10.00		1,995.29
02/01/2010	MONTHLY ASSESSMENTS	168.81		2,164.10
03/01/2010	MONTHLY ASSESSMENTS	168.81		2,332.91
03/03/2010	LATE CHARGE	10.00		2,342.91
03/31/2010	LATE CHARGE	10.00		2,352.91
04/01/2010	MONTHLY ASSESSMENTS	168.81		2,521.72
05/01/2010	MONTHLY ASSESSMENTS	168.81		2,690.53
05/01/2010	LATE CHARGE	10.00		2,700.53
05/31/2010	LATE CHARGE	10.00		2,710.53
06/01/2010	MONTHLY ASSESSMENTS	168.81		2,879.34
07/01/2010	MONTHLY ASSESSMENTS	168.81		3,048.15
07/01/2010	LATE CHARGE	10.00		3,058.15
07/31/2010	LATE CHARGE	10.00		3,068.15
08/01/2010	MONTHLY ASSESSMENTS	168.81		3,236.96
08/31/2010	LATE CHARGE	10.00		3,246.96
09/01/2010	MONTHLY ASSESSMENTS	168.81		3,415.77
10/01/2010	MONTHLY ASSESSMENTS	168.81		3,584.58
10/01/2010	LATE CHARGE	10.00		3,594.58
11/01/2010	MONTHLY ASSESSMENTS	168.81		3,763.39

1 OWNERS -

REPORT BALANCE AS OF: 12/31/2010

3,763.39

A&K-062

APP000573

11/24/2008 00:07 986928H

MANAGEMENT

PAGE 13/13

RUN DATE: 11/21/2008

SHADOW WOOD
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2008 TO 12/31/2008
SINGLE OWNER

PAGE: 1

000109-01 RETRELLA, RUTH

TRX DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
	BEGINNING BALANCE			50.00
01/01/2008	MONTHLY ASSESSMENTS	153.46		103.46
02/01/2008	MONTHLY ASSESSMENTS	153.46		256.92
03/01/2008	MONTHLY ASSESSMENTS	153.46		410.38
03/19/2008	LOCKBOX PAYMENT CK: 10132		460.38	50.00
04/01/2008	MONTHLY ASSESSMENTS	153.46		103.46
04/16/2008	LOCKBOX PAYMENT CK: 10171		153.46	50.00
05/01/2008	MONTHLY ASSESSMENTS	153.46		103.46
06/01/2008	MONTHLY ASSESSMENTS	153.46		256.92
06/16/2008	LATE CHARGE	10.00		266.92
06/16/2008	REVERSE LATE CHARGE		10.00	256.92
06/25/2008	LOCKBOX PAYMENT CK: 10238		256.92	0.00
07/01/2008	MONTHLY ASSESSMENTS	153.46		153.46
08/01/2008	MONTHLY ASSESSMENTS	153.46		306.92
09/01/2008	MONTHLY ASSESSMENTS	153.46		460.38
10/01/2008	MONTHLY ASSESSMENTS	153.46		613.84
11/01/2008	MONTHLY ASSESSMENTS	153.46		767.30
12/01/2008	ENDING BALANCE	153.46		920.76

12/08 m. assessments

1 OWNERS - REPORT BALANCE AS OF 12/31/2008

767.30

2928 Goss way #109

RECEIVED NOV 24 2008

A&K-063

APP000574

EXHIBIT 3

EXHIBIT 3

DAVID ALESSI*
 THOMAS DAYARD*
 ROBERT KOENIG**
 RYAN KERBOW***

* Admitted to the California Bar
 ** Admitted to the California, Nevada
 and Colorado Bars
 *** Admitted to the Nevada Bar
 **** Admitted to the Nevada and California Bar



AGOUR

A Multi-Jurisdictional Law Firm
 9500 W. Flamingo Road, Suite 100
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
 www.alessikoenig.com

ADDITIONAL OFFICES IN

ALHILLS, CA
 PHONE: 818-735-9600

RENO NV
 PHONE: 775-626-2323
 &
 DIAMOND BAR CA
 PHONE: 909-843-6590

Nevada Licensed Qualified Collection
 Manager

AMANDA LOWER

FACSIMILE COVER LETTER

To:	Virginia Fedol	Re:	3923 Gogo Wy #109/HO #12668
From:	Stephanie Knickerbocker	Date:	Wednesday, May 05, 2010
Fax No.:		Pages:	1, including cover
		HO #:	12668

Dear Virginia:

This cover will serve as an amended demand on behalf of Shadow Wood for the above referenced escrow; property located at 3923 Gogo Wy #109, Las Vegas, NV. The total amount due through June, 1, 2010 is \$5,144.34. The breakdown of fees, interest and costs is as follows:

11/24/2008	Notice of Delinquent Assessment Lien -- Nevada	\$345.00
6/3/2009	Notice of Default	\$395.00
4/14/2010	Notice of Trustee's Sale	\$395.00
9/21/2009	Pre-Notice of Trustee's Sale	\$150.00
4/14/2010	Trustees Fees	\$420.00
5/5/2010	Postponement of Trustees Sale	\$0.00
Total		\$1,705.00
1.	Attorney and/or Trustees fees:	\$1,705.00
2.	Costs (Notary, Recording, Copies, Mailings, Publication and Posting)	\$160.00
3.	Interest Through June, 1, 2010	\$0.00
4.	Title Research (10-Day Mailings per NRS 116.31163)	\$240.00
5.	Management Company Advanced Audit Fee	\$75.00
6.	Management Document Processing & Transfer Fee	\$0.00
7.	Late Fees Through June, 1, 2010	\$20.00
8.	Fines Through May, 4, 2010	\$0.00
9.	Assessments Through June, 1, 2010 @ \$168.81 per month	\$2,859.34
10.	Progress Payments:	\$0.00
12.	RPIR-GI Report	\$85.00
Sub-Total:		\$5,144.34
Less Payments Received:		\$0.00
Total Amount Due:		\$5,144.34

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&K-001

DAVID ALESSI*

THOMAS BAYARD*

ROBERT KOENIG**

RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada Bar

*** Admitted to the Nevada and California Bar



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Las Vegas, Nevada 89147

Telephone: 702-222-4033

Facsimile: 702-222-4043

www.alessikoenig.com

ADDITIONAL OFFICES IN

ATHENS, CA
PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323

&
DIAMOND BAR CA
PHONE: 909-843-6390

Nevada Licensed Qualified Collection
Manager

AMANDA LOWER

FACSIMILE COVER LETTER

Please have a check in the amount of \$5,144.34 made payable to the Alessi & Koenig, LLC and mailed to the below listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&K-002

APP000577

DAVID ALESSI*
 THOMAS DAYARD*
 ROBERT KOENIG**
 RYAN KIRKOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
 and Colorado Bars

*** Admitted to the Nevada and California Bar



AGOUR

A Multi-Jurisdictional Law Firm

9500 W. Flamingo Road, Suite 100
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
 www.alessikoenig.com

ADDITIONAL OFFICES IN

ALHAMBRA, CA
 PHONE: 818-735-9600

RENO NV
 PHONE: 775-626-2323
 &
 DIAMOND BAR CA
 PHONE: 909-861-8300

FACSIMILE COVER LETTER

To:	Ruth Petrella	Re:	3923 Gogo Wy #109/HO #12668
From:	Stephanie Knickerbocker	Date:	Friday, August 27, 2010
Fax No.:	702-932-2210	Pages:	1, including cover
		HO #:	12668

Dear Ruth Petrella:

This cover will serve as an amended demand on behalf of Shadow Wood for the above referenced escrow; property located at 3923 Gogo Wy #109, Las Vegas, NV. The total amount due through September, 30, 2010 is \$6,284.58. The breakdown of fees, interest and costs is as follows:

11/24/2008	Notice of Delinquent Assessment Lien -- Nevada	\$345.00
6/3/2009	Notice of Default	\$395.00
4/14/2010	Notice of Trustee's Sale	\$395.00
9/21/2009	Pre-Notice of Trustee's Sale	\$150.00
4/14/2010	Trustees Fees	\$420.00
8/25/2010	Postponement of Trustees Sale	\$150.00
6/2/2010	Monitoring Foreclosure	\$100.00
Total		\$1,955.00
1.	Attorney and/or Trustees fees:	\$1,955.00
2.	Costs (Notary, Recording, Copies, Mailings, Publication and Posting)	\$160.00
3.	Assessments Through September 30, 2010	\$3,384.58
4.	Late Fees Through September 30, 2010	\$210.00
5.	Fines Through August 26, 2010	\$0.00
6.	Interest Through September 30, 2010	\$0.00
7.	RPIR-GI Report	\$85.00
8.	Title Research (10-Day Mailings per NRS 116.31163)	\$240.00
9.	Management Company Advanced Audit Fee	\$75.00
10.	Management Document Processing & Transfer Fee	\$175.00
11.	Progress Payments:	\$0.00
Sub-Total:		\$6,284.58
Less Payments Received:		\$0.00
Total Amount Due:		\$6,284.58

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&K-003

DAVID ALESSI*
THOMAS DAYARD*
ROBERT KOENIG**
RYAN KERBOW***

* Admitted to the California Bar

** Admitted to the California, Nevada
and Colorado Bars

*** Admitted to the Nevada and California Bar



AGOUR

A Multi-Jurisdictional Law Firm
9500 W. Flamingo Road, Suite 100
Las Vegas, Nevada 89147
Telephone: 702-222-4033
Facsimile: 702-222-4043
www.alessikoenig.com

ADDITIONAL OFFICES IN

A HILLS, CA
PHONE: 818-735-9600

RENO NV
PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-861-8300

FACSIMILE COVER LETTER

Please have a check in the amount of \$6,284.58 made payable to the Alessi & Koenig, LLC and mailed to the below listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&K-004

EXHIBIT 4

EXHIBIT 4

DAVID ALESSI*
 THOMAS BAYARD*
 ROBERT KOENIG**
 CHARLES GRISBENDORF***
 * Admitted to the California Bar
 ** Admitted to the California, Nevada
 and Colorado Bars
 *** Admitted to the Nevada Bar
 Nevada Licensed Qualified Collection Manager
 AMANDA LOWRIE

**ALESSI
 KOENIG**
A Multi-Jurisdictional Law Firm
 9500 W. Flamingo Road, Suite 100
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
www.alessikoenig.com

CALIFORNIA OFFICE
 28914 Roadside Drive Suite F-4
 Agoura Hills, California 91301
 Telephone: (818) 735-9600
 Facsimile: (818) 735-0096

ADDITIONAL OFFICES IN

RENO NV
 PHONE: 775-676-2323
 &
 DIAMOND BAR CA
 PHONE: 909-843-6590

November 24, 2008

LIEN LETTER
VIA REGULAR AND CERTIFIED MAIL

Virginia Fedel
 7180 Pollack Dr
 Las Vegas, NV 89119

Re: Shadow Wood/3923 Gogo Wy #109

Dear Virginia Fedel:


Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Shadow Wood on November 24, 2008. The total amount due by December 29, 2008 is \$1,390.76. Please note that the total amount due may differ from the amount shown on the enclosed lien. Please submit payment to our Nevada mailing address listed below by December 29, 2008. Payment must be in the form of a cashier's check or money order and made payable to the Alessi & Koenig.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose. We will assume that the debt referenced herein is valid unless you notice us that you are disputing the validity of the debt, or any portion thereof, within thirty (30) days of receipt of this notice. If you notify Alessi & Koenig within the thirty-day period that the debt, or any portion thereof, is disputed, we will cease collection of the debt until verification of the debt or a copy of a judgment against you is obtained and mailed to you by us. Upon your request, we will provide you with a copy of the original creditor, if different from

In the event Alessi & Koenig, LLC does not receive payment by the date indicated above, a pre-notice of default letter will be recorded in the office of the County Recorder. Should you continue to fail to reinstate your account, you

Very truly,

ALESSI &
 Kristy Diaz, T

U.S. Postal Service <small>TM</small>	
CERTIFIED MAIL <small>TM</small> RECEIPT	
<small>(Domestic Mail Only; No Insurance Coverage Provided)</small>	
<small>For delivery information visit our website at www.usps.com</small>	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee <small>(Endorsement Required)</small>	
Restricted Delivery Fee <small>(Endorsement Required)</small>	
	
VIRGINIA FEDEL 7180 POLLACK DR LAS VEGAS, NV 89119 RE: SHADOW WOOD	
<small>PS Form 3800, August 2006</small>	

A&K-005

DAVID ALESSI
 THOMAS BAYARD *
 ROBERT KOENIG **
 CHARLES QUISINDORF ***
 * Admitted to the California Bar
 ** Admitted to the California, Nevada
 and Colorado Bars
 *** Admitted to the Nevada Bar
 Nevada Licensed Qualified Collection Manager
 AMANDA LOWER

**ALESSI
 KOENIG**
A Multi-Jurisdictional Law Firm
 9500 W. Flamingo Road, Suite 100
 Las Vegas, Nevada 89147
 Telephone: 702-222-4033
 Facsimile: 702-222-4043
www.alessikoenig.com

CALIFORNIA OFFICE
 28914 Roadside Drive Suite F-4
 Agoura Hills, California 91301
 Telephone: (818) 735-9600
 Facsimile: (818) 735-0096

ADDITIONAL OFFICES IN
 RENO NV
 PHONE: 775-626-2323
 &
 DIAMOND BAR CA
 PHONE: 909-843-6590

November 24, 2008

LIEN LETTER
VIA REGULAR AND CERTIFIED MAIL

Virginia Fedel
 3923 Gogo Wy #109
 Las Vegas, NV 89103

Re: Shadow Wood/3923 Gogo Wy #109

Dear Virginia Fedel:

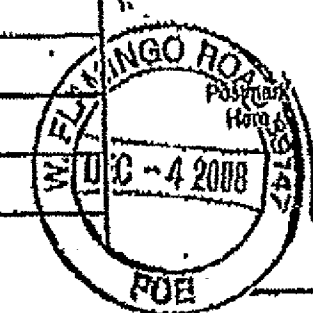
Please find the enclosed Notice of Delinquent Assessment (Lien), signed and dated on behalf of Shadow Wood on November 24, 2008. The total amount due by December 29, 2008 is \$1,390.76. Please note that the total amount due may differ from the amount shown on the enclosed lien. Please submit payment to our Nevada mailing address listed below by December 29, 2008. Payment must be in the form of a cashier's check or money order and made payable to the Alessi & Koenig.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose. We will assume that the debt referenced herein is valid unless you notice us that you are disputing the validity of the debt, or any portion thereof, within thirty (30) days of receipt of this notice. If you notify Alessi & Koenig within the thirty-day period that the debt, or any portion thereof, is disputed, we will cease collection of the debt until verification of the debt or a copy of a judgment against you is obtained and mailed to you by us. Upon your request, we will provide you with the name and address of the original creditor, if different from the name and address of the original creditor.

In the event Alessi & Koenig, LLC does not receive payment by the date indicated above, a pre-notice of default letter will be mailed to you. Should you fail to reinstate your account, your account will be recorded in the office of the County Recorder. Should you continue to fail to reinstate your account, you could lose your property.

Very truly

ALESSI & KOENIG
 Kristy Diaz, Trustee

U.S. Postal Service TM	
CERTIFIED MAILTM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
	
VIRGINIA FEDEL 3923 GOGO WY 109 LAS VEGAS, NV 89103 RE: SHADOW WOOD	
PS Form 3800, August 2009	

A&K-006

Receipt/Conformed Copy

Requestor:
JONES LEGAL SERVICES
12/03/2008 13:05:03 T20080297811
Book/Instr: 20081203-0003006
Lien Page Count: 1
Fees: \$14.00 H/C Fee: \$0.00

Debbie Conway
Clark County Recorder

When recorded return to:

ALESSI & KOENIG, LLC
9500 W. Flamingo Rd., Suite 100
Las Vegas, Nevada 89147
Phone: (702) 222-4033

A.P.N. 162-18-613-029

Trustee Sale # 12668-3923-109

NOTICE OF DELINQUENT ASSESSMENT (LIEN)

In accordance with Nevada Revised Statutes and the Association's Declaration of Covenants, Conditions and Restrictions (CC&Rs) of the official records of Clark County, Nevada, Shadow Wood HOA has a lien on the following legally described property.

The property against which the lien is imposed is commonly referred to as 3923 Gogo Wy #109, Las Vegas, NV 89103 and more particularly legally described as: Unit 109 Book 33 Page 44 in the County of Clark.

The owner(s) of record as reflected on the public record as of today's date is (are): Virginia Fedel

The mailing address(es) is: 7180 Pollack Dr, Las Vegas, NV 89119

The total amount due through today's date is: \$1,237.30. Of this total amount \$420.00 represent Collection and/or Attorney fees and \$50.00 represent collection costs, late fees, service charges and interest. Note: Additional monies shall accrue under this claim at the rate of the claimant's regular monthly or special assessments, plus permissible late charges, costs of collection and interest, accruing subsequent to the date of this notice.

Date: November 24, 2008

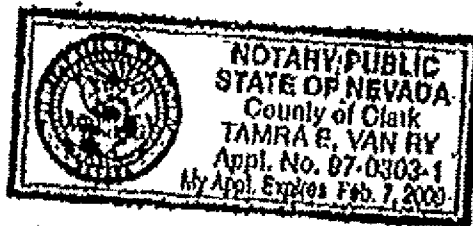
By:

Kristy Diaz - Trustee Sale Officer
Alessi & Koenig, LLC on behalf of Shadow Wood

State of Nevada
County of Clark

SUBSCRIBED and SWORN before me November 24, 2008

(Seal)



(Signature)

NOTARY PUBLIC

A&K-007

APP000583

When recorded mail to:

THE ALESSI & KOENIG, LLC
9500 West Flamingo Rd., Ste 100
Las Vegas, Nevada 89147
Phone: 702-222-4033

WWW.ALESSIKOENIG.COM

A.P.N. 162-18-613-029

Receipt/Conformed Copy

Requestor:

JONES LEGAL SERVICES

01/30/2009 11:52:47 Y20090033311

Book/Instr: 20090130-0003019

Default Page Count: 1

Fees: \$14.00 N/C Fee: \$0.00

Debbie Conway

Clark County Recorder

Trustee S

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE! You may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default is recorded. The date of recordation appears on this notice. The amount due is \$2,135.76 as of 1/13/2009 and will increase until your account becomes current. To arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact: Shadow Wood, c/o Alessi & Koenig, LLC, 9500 West Flamingo Road, Suite 100, Las Vegas, NV 89147.

THIS NOTICE pursuant to that certain Assessment Lien, recorded on December 3, 2008 as document number 03006, of Official Records in the County of Clark, State of Nevada.

Owner(s): Virginia Fedel

Of Unit 109, as per map recorded in Book 33, Pages 44, as shown on the Condominium Plan, Recorded on as document number Pending as shown on the Subdivision map recorded in Maps of the County of Clark, State of Nevada.

PROPERTY ADDRESS: 3923 Gogo Wy #109, Las Vegas, NV 89103

If you have any questions, you should contact an attorney or the Association that maintains the right of assessment upon your property. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. **REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

NOTICE IS HEREBY GIVEN THAT The Alessi & Koenig is appointed trustee agent under the above referenced lien, dated December 3, 2008, executed by Shadow Wood to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions. A breach of, and default in, the obligation for which said Covenants, Conditions, and Restrictions as security has occurred in that the payment(s) have not been made of homeowners assessments due from and all subsequent homeowner's assessments, monthly or otherwise, less credits and offsets, plus late charges, interest, Association's fees and costs, trustee's fees and costs, and attorney's fees and costs.

Dated: January 13, 2009

Stephanie Knickerbocker, Alessi & Koenig, LLC on behalf of Shadow Wood.

A&K-008

APP000584

VIRGINIA V FEDEL
3923 GOGO WY 109
LAS VEGAS, NV 89103

VIRGINIA V FEDEL
7180 POLLACK DR
LAS VEGAS NV 89119-9003

CCSF, LLC
DBA GREYSTONE FINANCIAL
GROUP
7180 POLLOCK DRIVE, SUITE 100
LAS VEGAS, NV 89119
LOAN#237-0600703

MERS
P.O. BOX 2026
FLINT, MI 48501-2026
LOAN#237-0600703

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A&K-009

12068

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
1801 E. NINTH STREET
SUITE 200
CLEVELAND, OH 44114

NEW YORK COMMUNITY BANK
T.S. NO. NV08000227-10-1
3923 Gogo Wy #109
LAS VEGAS, NV 89103

MTC FINANCIAL, INC dba TRUSTEE CORP
T.S. NO. NV08000227-10-1
17100 GILLETTE AVE
IRVINE, CA 92614

FIRST AMERICAN NATIONAL DEFAULT TI
T.S. NO. NV08000227-10-1
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

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SUITE 200
CLEVELAND, OH 44114

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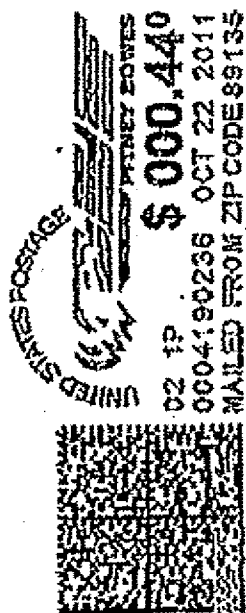
A&K-010



9500 W. Flamingo Rd. Suite 205
Las Vegas, NV 89147

FIRST AMERICAN NATIONAL DEFAULT II
T.S. NO. NV0800227-10-1
3 FIRST AMERICAN WAY

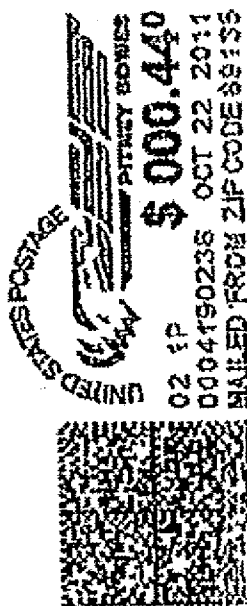
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9500 W. Flamingo Rd. Suite 205
Las Vegas, NV 89147

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T.S. NO. NV0800227-10-1
17100 GILLETTE AVE

IRVINE, CA 92614



A&K-011

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Requestor:

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Debbie Conway

Clark County Recorder

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THE ALESSI & KOENIG, LLC
9500 West Flamingo Rd., Ste 100
Las Vegas, Nevada 89147
Phone: 702-222-4033

WWW.ALESSIKOENIG.COM

A.P.N. 162-18-613-029

Trustee Sale No. 12668-3923-109

NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE! You may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default is recorded. The date of recordation appears on this notice. The amount due is \$2,259.81 as of May 13, 2009 and will increase until your account becomes current. To arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact: Shadow Wood, c/o Alessi & Koenig, LLC, 9500 West Flamingo Road, Suite 100, Las Vegas, NV 89147.

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Dated: May 13, 2009

Stephanie Knickerbocker, Alessi & Koenig, LLC on behalf of Shadow Wood.

A&K-012

APP000588

VIRGINIA V FEDEL
3923 GOGO WY 109
LAS VEGAS, NV 89103

VIRGINIA V FEDEL
7180 POLLACK DR
LAS VEGAS NV 89119-9003

12668
CCSF, LLC
DBA GREYSTONE FINANCIAL
GROUP
7180 POLLOCK DRIVE, SUITE 100
LAS VEGAS, NV 89119
LOAN#237-0800703

MERS
P.O. BOX 2026
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LAS VEGAS, NV 89119
LOAN#237-0600703

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LAS VEGAS, NV 89103

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A&K-013

APP000589

1 MICHAEL F. BOHN, ESQ.
Nevada Bar No.: 1641
2 mbohn@bohnlawfirm.com
LAW OFFICES OF
3 MICHAEL F. BOHN, ESQ., LTD.
376 East Warm Springs Road, Ste. 125
4 Las Vegas, Nevada 89119
(702) 642-3113 / (702) 642-9766 FAX
5 Attorney for appellant/plaintiff
6

Electronically Filed
Dec 05 2013 10:22 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

7
8 SUPREME COURT COURT

9 STATE OF NEVADA

10 GOGO WAY TRUST; SHADOW WOOD
HOMEOWNERS' ASSOCIATION, INC

CASE NO.: 63180

11 Appellant

12 vs.

13
14 NEW YORK COMMUNITY BANK.

15 Respondent.
16

17 **JOINT APPENDIX 4**
18

19
20 Michael F. Bohn, Esq.
Law Office of Michael F. Bohn, Esq., Ltd.
376 East Warm Springs Road, Ste. 125
21 Las Vegas, Nevada 89119
(702) 642-3113/ (702) 642-9766 FAX
22 Attorney for Appellant Gogo Way Trust
23

Gregg A. Hubley, Esq.
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Attorney for Respondents

24 Ryan Kerbow, Esq.
ALESSI & KOENIG, LLC
9500 West Flamingo Rd, Ste 205
25 Las Vegas, NV 89146
26 Attorney for Appellant Shadow Wood
Homeowners' Association, Inc.
27
28

1 **ALPHABETICAL INDEX TO JOINT APPENDIX 1-6**

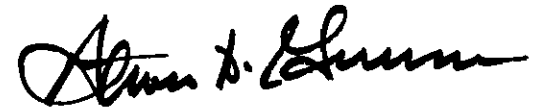
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17	Notice of Change of attorney of record.	APP000728



CLERK OF THE COURT

SMSJ
GREGG A. HUBLEY (NV Bar #007386)
K. ALEXANDRA CAVIN (NV Bar #11782)
PITE DUNCAN, LLP
701 Bridger Avenue, Suite 700
Las Vegas, NV 89101
Telephone: (702) 991-4628
Facsimile: (702) 685-6342
E-mail: Ghublely@piteduncan.com

Attorneys for Plaintiff/Counterdefendant NEW YORK COMMUNITY BANK

DISTRICT COURT

CLARK COUNTY, NEVADA

NEW YORK COMMUNITY BANK,

Plaintiff,

v.

SHADOW WOOD HOMEOWNERS'
ASSOCIATION, INC.; GOGO WAY TRUST;
and DOES 1 through 20, inclusive,

Defendants.

Case No.: A-12-660328-C

Dept. No.: XV

**SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT AND IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

Date of Hearing: March 13, 2013

Time of Hearing: 9:00 a.m.

GOGO WAY TRUST,

Counterclaimant,

v.

NEW YORK COMMUNITY BANCORP,
INC.; DOE Individuals I through X; and ROE
Corporations XI through XX,

Counterdefendants.

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

COMES NOW Plaintiff/Counterdefendant, NEW YORK COMMUNITY BANK
(hereinafter, "Plaintiff" or "NYCB"), by and through its attorneys of record, Pite Duncan, LLP, and
respectfully submits its Supplemental Memorandum in support of its Motion for Summary Judgment

1 and Opposition to Defendants’ Motion for Summary Judgment (“Opposition”), seeking judgment
2 against Defendants, SHADOW WOOD HOMEOWNERS’ ASSOCIATION, INC. (“Shadow
3 Wood”) and GOGO WAY TRUST (“Gogo Way”) (collectively, “Defendants”).

4 This Supplement/Opposition is based upon the following Memorandum of Points and
5 Authorities, the pleadings and papers on file herein, the arguments of counsel at hearing, and upon
6 such other papers, arguments, evidence and other matters the Court may consider.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I.**

9 **INTRODUCTION**

10 This supplemental memorandum and Opposition addresses an additional development that
11 post-dates the original briefs filed in this matter. Defendants believe that they completely destroyed
12 NYCB’s interest in the Subject Property by simply holding an HOA foreclosure sale and selling the
13 Subject Property for an amount far less than its fair market value despite repeated and affirmative
14 attempts by NYCB to satisfy the lien asserted by Shadow Wood prior to sale. However, this
15 reasoning not only violates equitable principles inherent in a quiet title and declaratory relief action,
16 but it is also inconsistent with this Court’s interpretation of the Nevada statute authorizing HOA
17 foreclosures, as illustrated below. For these reasons and others, NYCB is entitled to summary
18 judgment.

19 As will be discussed herein, the HOA foreclosure was improper, deceptive, fraudulent, and
20 the foreclosure sale was not conducted in a commercially reasonable manner. The undisputed
21 evidence clearly demonstrates that Defendants acted in bad faith by providing vastly different
22 amounts of the alleged HOA assessments owed, and frustrating all attempts by NYCB to satisfy the
23 alleged assessments, and then improperly selling the Subject Property well below fair market value.
24 Perhaps even more importantly, Shadow Wood continued to demand the payment of a junior lien
25 that had been extinguished by virtue of NYCB’s foreclosure sale, and Shadow Wood’s foreclosure
26 was premised upon payment of this extinguished junior lien. Even though NYCB attempted to pay
27 the lien in full (based upon the written demand prepared and forwarded by the Defendants), its
28 payment was rejected and the HOA proceeded to sale. The subject HOA foreclosure sale was

1 improper from its inception, and is, indeed, based upon an amount the HOA was not permitted to
2 collect from NYCB. Thereafter, the HOA and its agents continued to confuse the matter by
3 providing various payoff demands, which contained significant discrepancies/inconsistencies, and
4 rejecting the payment of more than it was entitled to collect. The HOA foreclosure sale should be
5 set aside.

6 II.

7 RELEVANT PROCEDURAL POSTURE FOR SUPPLEMENTAL BRIEFING

8 Notably, the Court advised counsel for the parties at the pre-trial conference (February 13,
9 2013) that it had adjudicated the issue of HOA foreclosure sales and asked if counsel for the parties
10 were familiar with its prior rulings. The Court went on to advise that, while it had not analyzed the
11 pending Motions for Summary Judgment on file in this case, and that while its prior rulings may or
12 may not be applicable to the facts of this case, the Court had thoroughly analyzed the law relating
13 to NRS 116.3116(2)(c). Ultimately, the Court advised counsel for the parties that it has found in
14 prior cases that the HOA's "super-priority lien" under that statute could total no more than nine (9)
15 months of regular monthly assessments, excluding any fees, costs or penalties, and that the super-
16 priority lien does not extinguish a prior/senior deed of trust, but that the third-party purchaser takes
17 subject to that prior deed of trust, which the Court advised is simply secured property law in Nevada.

18 Counsel for NYCB understands that the Court's holdings in prior cases do not dictate how
19 the Court will rule under the facts of this case. Nonetheless, the Court's prior holdings/interpretation
20 is significant enough to warrant the provision of some additional factual background and
21 supplemental briefing. Counsel for NYCB respectfully submits the following additional facts and
22 argument in support of its Motion for Summary Judgment, incorporating the facts and arguments
23 contained within its Motion for Summary Judgment filed on February 8, 2013.

24 III.

25 SUPPLEMENTAL PROVISION OF UNDISPUTED MATERIAL FACTS

26 A. The prior owner of the subject property (Virginia Fedel) failed to pay her mortgage
27 payments and her HOA assessments prior to NYCB's foreclosure sale. Virginia Fedel borrowed
28 \$127,500.00 from CCSF, LLC d/b/a Greystone Financial Group (hereinafter, "CCSF"), to purchase

1 real property located at 3923 Gogo Way, #109, Las Vegas, Nevada, 89103 (“Subject Property”).
2 As part of the same transaction, Ms. Fedel executed a Promissory Note secured by a Deed of Trust.
3 The Deed of Trust was recorded on April 27, 2007, in the Official Records of Clark County, Nevada
4 as Instrument No. 20070427-0004835. A true and correct copy of said Deed of Trust is attached
5 hereto as **Exhibit 1** and is subject to judicial notice pursuant to Nevada Revised Statute (“NRS”)
6 47.130.¹ Subsequently, Ms. Fedel defaulted on her mortgage by failing to make payments when due.
7 NYCB purchased the subject property at foreclosure sale on May 9, 2011.

8 B. After sending NYCB various payoff demands from June, 2011, to January, 2012, and
9 after receiving and rejecting a payment of \$6,783.16, Shadow Wood held an HOA foreclosure sale
10 on February 22, 2012, where it purportedly sold the Subject Property to Gogo Way Trust for
11 \$11,018.39.

12 C. After NYCB purchased the Subject Property on May 9, 2011, Shadow Wood
13 demanded that NYCB pay all of the prior assessments (including all penalties, late fees, and other
14 charges costs) that Ms. Fedel had failed to pay since 2008. As of May 1, 2011, the HOA was
15 claiming Ms. Fedel owed a total of \$4,846.25 in assessments and late charges. **See, Exhibit “2,”**
16 for a true copy of the “HOA ledgers for the subject property,” provided by counsel for Defendants
17 and included as Exhibit “K” to Defendants’ List of Trial Witnesses and Exhibits. Notably, however,
18 Defendants’ counsel (Alessi & Koenig) inconsistently claimed that as of September 30, 2010 (8
19 months prior), Ms. Fedel owed a total of \$6,284.58.² **See, Exhibit “3,”** for a true copy of the
20 “Breakdowns,” provided by counsel for Defendants and included as Exhibit “A” to Defendants’ List
21 of Trial Witnesses and Exhibits.

22 //.

23 //.

25 ¹ NRS 47.130 authorizes this Court to take judicial notice of facts that are “(a) [g]enerally known
26 within the territorial jurisdiction of the trial court; or (b) [c]apable of accurate and ready
27 determination by resort to sources whose accuracy cannot reasonably be questioned, so that the
28 fact is not subject to reasonable dispute.”

² Apparently, Shadow Wood also provided drastically different payoff amounts to Ms. Fedel as well
as NYCB.

1 D. Although the HOA had apparently recorded a Notice of Trustee's Sale in relation to
2 Ms. Fedel's default, the HOA postponed the sale until after NYCB purchased the Subject Property.
3 **See, Exhibit "4,"** for a true copy of the "Various foreclosure documents and proofs of mailing,"
4 provided by counsel for Defendants and included as Exhibit "B" to Defendants' List of Trial
5 Witnesses and Exhibits. For over three (3) years, Ms. Fedel was in arrears on her HOA dues, but
6 Shadow Wood simply kept adding the assessments, late charges and fees to her tally, and did not
7 take her account to an HOA foreclosure sale. Indeed, the HOA allowed her to make "partial
8 payment arrangements," which the HOA manager, Gerald Marks, testified to be a "relatively
9 common occurrence." **See, Exhibit "5,"** for pages from the deposition of Gerald Marks, at pp. 66-
10 71. While the HOA accepted "partial payments" of \$250.00 and \$500.00 from Ms. Fedel and
11 postponed any foreclosure based upon these partial payments, the HOA chose not to accept NYCB's
12 payment of **\$6,284.58** as a partial payment, rejected it and continued with its foreclosure. **Id.**

13 E. Only one month after NYCB purchased the Subject Property, the HOA claimed that
14 the amount owed totaled \$8,238.87, and counsel for Defendants recorded a "Notice of Delinquent
15 Assessment (Lien)" on July 7, 2011, asserting that the total amount due was \$8,238.87. **See, Exhibit**
16 **"6,"** for a true copy of the "Various foreclosures notices and proofs of mailing for the subject real
17 property," provided by counsel for Defendants and included as Exhibit "D" to Defendants' List of
18 Trial Witnesses and Exhibits. Consequently, the HOA was clearly seeking all of the assessments,
19 late charges, and other fees that had accrued while Ms. Fedel owned the Subject Property, and before
20 NYCB purchased the Subject Property at foreclosure on May 9, 2011. The HOA did this in spite
21 of the fact that most, if not all, of these prior assessments, late charges, and fees had been
22 extinguished by virtue of the May 9, 2011, foreclosure sale under Nevada law.

23 IV.

24 SUPPLEMENTAL BRIEFING - LEGAL ARGUMENT

25 The assessments, fees and other charges that accrued prior to NYCB's purchase of the
26 Subject Property were effectively "sold out" when NYCB purchased the Subject Property on May
27 9, 2011, at a foreclosure sale. For decades, Nevada has upheld the nearly universal principle that a
28 ///

1 junior lienholder obtains an interest in the property as it is at the time the junior lien attaches, and
2 subject to the interests of a prior lien holder or mortgagee.

3 A "...junior incumbrancer acquires a lien upon the property as it then is[.]" Chartz v. Cardelli,
4 52 Nev. 1, 279 P. 761, 763 (1929). "Thus, when a senior lienholder forecloses and sells property
5 to a person other than the junior lienholder, the junior lienholder is 'sold-out' and can institute
6 proceedings to collect the debt without attempting to fruitlessly proceed against the property."
7 McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC, 121 Nev. 812, 818, 123 P.3d 748
8 (2005). An HOA lien, like a mechanic's lien, is "...subject to a prior recorded deed of trust of the
9 Bank[.]" and "...when the Bank foreclose[s] on its deed of trust," the HOA lien is extinguished.
10 Erickson Construction Co. v. Nevada National Bank, 89 Nev. 350, 513 P.2d 1236, 1238 (1973).

11 "Generally, the funds received at a trustee's sale are to be distributed as follows:

- 12 1. The costs of the trustee sale;
- 13 2. Satisfaction of the senior lien;
- 14 3. Satisfaction of the junior liens; and
- 15 4. Remainder to the trustor."

16 Citibank Nevada, N.A. v. Wood, 104 Nev. 93, 753 P.3d 341, 342 (1988).

17 Here, NYCB was the beneficiary of Ms. Fedel's deed of trust, under which the Subject
18 Property acted as security for the \$127,500.00 loan that she borrowed to purchase the Subject
19 Property. **See, Exhibit "7,"** for the Assignment of Deed of Trust recorded on July 7, 2010. NYCB
20 purchased the Subject Property at the foreclosure sale on May 9, 2011, for \$45,900.00. **See, Exhibit**
21 **"8,"** for the Trustee's Deed Upon Sale recorded May 24, 2011. Obviously, there were no excess
22 funds to satisfy the junior lien claimed by Shadow Wood, and its junior interest in the Subject
23 Property was, therefore, sold-out on May 9, 2011.

24 Admittedly, Nevada law provides for super-priority lien rights to an HOA. Specifically, NRS
25 116.3116(2)(a) makes an HOA lien "prior to all other liens and encumbrances on a unit[.]" with the
26 exception of "...a first security interest on the unit recorded before the date on which the assessment
27 sought to be enforced became delinquent[.]" The exception to the exception, does permit, however,
28 an HOA lien to take priority to a prior recorded security interest to the extent of "...any charges

1 incurred by the association” for nuisance abatement costs (under NRS 116.310312). Of more
2 relevance, the statute permits the HOA lien to take priority:

3 “...to the extent of the assessments for common expenses based on the periodic
4 budget adopted by the association which would have become due in the absence
5 of acceleration during the 9 months immediately preceding institution of an action
6 to enforce the lien[.]” NRS 116.3116(2).

7 It is noteworthy, though not precedential, that the State of Nevada Department of Business
8 and Industry, Real Estate Division, (hereinafter, “Division”) published an Advisory Opinion on
9 December 12, 2012, in which the Division formally adopted the exact same position that this Court
10 has used in its prior cases. Specifically, the Division has stated that the “super-priority” HOA lien
11 “...consists of unpaid assessments based on the association’s budget and NRS 116.310312 charges
12 (i.e., nuisance abatement charges) [and] nothing more.” **See, Exhibit “9,”** for a true copy of the
13 Division’s Advisory Opinion, at p. 2. Moreover, this amount “...may not exceed 9 months of
14 assessments as reflected in the association’s budget, and it may not include penalties, fees, late
15 charges, fines or interest.” **Id.**

16 In light of Nevada statute and this Court’s interpretation of the statute, and reinforced by the
17 Advisory Opinion, Shadow Wood may have been entitled to collect a portion of the \$8,238.87 lien
18 it asserted in the July 7, 2011, “Notice of Delinquent Assessment (Lien)” that was recorded after
19 NYCB purchased the Subject Property. (**Exhibit “4.”**) Specifically, under Nevada law, the HOA
20 may have been able to collect the regular assessments that had accrued during the nine (9) months
21 preceding that “Notice of Delinquent Assessment (Lien).” The regular assessments applicable to the
22 subject property between October, 2010, and June, 2011, totaled \$168.81 per month. (**Exhibit “1.”**)
23 For this nine (9) month period, the HOA could potentially assert a super-priority lien for the total
24 sum of \$1,519.29 under NRS 116.3116(2)(c). Nonetheless, the HOA sought to collect \$8,238.87,
25 even though \$6,719.58³ had been extinguished by NYCB’s purchase at the May 9, 2011, foreclosure
26 sale. Adding insult to injury, NYCB sent the HOA \$6,783.16, which more than satisfied the amount

27 ³ Total amount of lien *claimed* by the HOA (\$8,238.87) minus the 9 months of regular monthly
28 assessments (\$1,519.29).

1 it was legally permitted to collect from NYCB, but the HOA returned this payment and proceeded
2 to hold its own foreclosure sale and sell the Subject Property. Obviously, the HOA could pursue Ms.
3 Fedel for the fees, costs, and other charges that accrued before NYCB's foreclosure sale. It cannot,
4 however, use these as the basis of a proclaimed security instrument and attempt to extort payment
5 from NYCB to avoid an HOA foreclosure sale.

6 Since the HOA foreclosure sale, and without regard to the fact that NYCB's foreclosure
7 extinguished the HOA lien and attempted to pay more than the HOA was entitled under statute,
8 Defendant, GOGO WAY TRUST, has taken possession and control and has received rental income
9 from the new tenant in the Subject Property. None of the rental proceeds have been remitted to
10 NYCB.

11 Shadow Wood's HOA foreclosure sale, as indicated above, was handled improperly from
12 the inception as it was based largely upon an amount that was wiped out by NYCB's foreclosure and
13 that the HOA could not collect from NYCB. Moreover, the foreclosure sale proceeded anyway,
14 despite the fact that NYCB attempted to pay the HOA more than it was legally entitled to collect
15 under its super-priority lien. Respectfully, Shadow Wood and its various agents have acted
16 unlawfully and duplicitously, and have completely abdicated their statutory responsibilities to act
17 in a commercially reasonable manner.

18 The material facts set forth in NYCB's pending Motion for Summary Judgment, and this
19 Supplemental Briefing, are not in dispute. NYCB foreclosed on the Subject Property before the
20 HOA, thereby eliminating all but a portion of the HOA's claimed lien, at least as a security
21 instrument. NYCB attempted to discern the amount needed to satisfy the HOA's lien, receiving
22 substantially different figures from Shadow Wood, MP Association Management, and Alessi &
23 Koenig. Thereafter, NYCB remitted payment to Shadow Wood of more than four times (4X) the
24 amount Shadow Wood was entitled to under the statute. Although Shadow Wood had accepted far
25 less than this amount as a "partial payment," sufficient to postpone HOA foreclosure proceedings
26 against Ms. Fedel, it inexplicably chose not to do so with respect to NYCB.⁴ Under clear Nevada
27

28 ⁴ It is unknown whether Shadow Wood, MP Association Management, or Alessi & Koenig knew the
principals/trustors of GOGO WAY TRUST, or whether this was a sweetheart deal under which

(continued...)

1 law, using the principles this Court has applied in prior super-priority cases, and in line with the
2 reasoning of the Division, NYCB is entitled to judgment as a matter of law. The HOA foreclosure
3 sale at issue here was improper and should be set aside.

4 **V.**

5 **OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT - LEGAL**
6 **ARGUMENT**

7 **A. DEFENDANTS HAVE NOT SHOWN THAT THERE IS NO GENUINE ISSUE OF**
8 **MATERIAL FACT AND THAT NYCB IS NOT ENTITLED TO JUDGMENT AS A**
9 **MATTER.**

10 As detailed above, Plaintiff purchased the Subject Property on May 9, 2011, thereby
11 extinguishing Shadow Wood's statutory lien, with the possible exception of the super priority
12 portion. Nevertheless, Shadow Wood improperly proceeded with its foreclosure sale in bad faith.
13 Foundationally, as referenced above, Shadow Wood claimed a security interest, sufficient to permit
14 an HOA foreclosure, of an amount far in excess of its statutory entitlement - \$9,017.39, as opposed
15 to \$1,519.29. Most of the claimed \$9,017.39 figure was made up of prior fees and charges that had
16 accrued against the prior owner, Ms. Fedel, since 2008, which had been wiped out by NYCB's
17 foreclosure.

18 Additionally, Shadow Wood and its agents, MP Association Management and Alessi &
19 Koenig, provided NYCB with inconsistent information in writing when NYCB attempted to satisfy
20 the HOA lien. The figures supplied by the HOA and its agents differed substantially. MP
21 Association Management,⁵ in a writing signed by its owner/President, Gerald Marks, indicated that

22 ⁴(...continued)

23 financial and/or other benefits were exchanged so that this HOA foreclosure sale could go forward
24 and the property could be purchased for a fraction of its actual value. If the Court chooses not to
25 grant NYCB's Motion for Summary Judgment, this will become one of many factual issues that
26 need to be probed in further discovery.

27 ⁵ Notably, MP Association Management was the management company hired by Shadow Wood, and
28 its owner/President, Gerald Marks, testified about MP Association Management's responsibilities
in this regard:

"Our responsibility is all the financials and the handling of assessments coming in and out. We
pay all their bills." See, **Exhibit "10,"** for true copies of relevant portions of Mr. Marks'
deposition testimony.

1 the assessments related to the Subject Property had been paid in full to November 31, 2011, that the
2 delinquencies as of December 28, 2011 (2 months before the HOA foreclosure sale) totaled \$328.94,
3 and that no lien had been recorded. **See, Exhibit "11,"** for a true copy of the correspondence signed
4 by Mr. Marks that identified the status of the HOA assessments. Nonetheless, a month after the
5 December 28, 2011, letter signed by Mr. Marks, Shadow Wood's other agent (and now attorney of
6 record), Alessi & Koenig demanded \$9,017.39. Indeed, it is noteworthy that even Shadow Wood's
7 Motion for Summary Judgment is unclear about the proper amount that was allegedly owed by
8 NYCB. Defendants claim that "...as of February 2, 2012, the amount of past due assessments and
9 late charges (excluding costs of collection) for the property totaled \$6,445.54." **See, Defendants'**
10 **Motion for Summary Judgment**, pg. 10 at l. 13. Then, in the very next line of their Motion,
11 Defendants claim, "As of January 23, 2012, the Associations assessment lien totaled \$9,017.39."
12 **Id.** Shadow Wood and/or their various agents were required to conduct this sale in good faith, and
13 in a commercially reasonable manner, but their own inability to articulate what was necessary to pay
14 off the outrageous and unlawful lien demand demonstrates at the very least genuine issues of
15 material fact that would preclude summary judgment to Defendants.

16 In their Motion for Summary Judgment, Defendants argue that "...mere inadequacy of price
17 is not sufficient to justify setting aside a foreclosure sale, absent a showing of fraud, unfairness, or
18 oppression," and claim that Plaintiff has failed to demonstrate how the Defendants acted unfairly.
19 Long v. Towne, 98 Nev. 11, 13, 639 P.2d 528 (1982). However, to the contrary, the undisputed facts
20 clearly demonstrate unfairness and oppression, if not outright fraud. Indeed, the Defendants still
21 cannot explain in consistent fashion the amount that was required to satisfy the alleged HOA lien.
22 Likewise, while the HOA allowed the prior owner (Ms. Fedel) to avoid foreclosure based upon
23 partial payments of \$250.00 and \$500.00, the HOA rejected NYCB's payment of \$6,783.16 and
24 proceeded almost immediately to sale. The fact that the HOA could only legally assert a lien of
25 \$1,519.29, but demanded over \$9,000.00, most of which was owed by Ms. Fedel and was
26 extinguished by NYCB's foreclosure sale, certainly supports an inference of fraud.

27 It this regard, NYCB still is unable to account for the funds received at the foreclosure sale.
28 It is presumed that Alessi & Koenig kept the difference between the sale price (\$11,018.39) and the

1 amount remitted to Shadow Wood (\$3,442.39), although it has never been shown why Alessi &
2 Koenig was or should have been entitled to collect more than \$7,500.00. Furthermore, counsel for
3 NYCB is unable to determine what Alessi & Koenig did or did not do, and why the differing
4 amounts were provided, because Alessi & Koenig is counsel for Defendants and not subject to
5 discovery.⁶ Even if Alessi & Koenig was entitled to proceed to sale for a lien payoff in excess of
6 nine months of regular monthly assessments from NYCB (which is expressly disputed), it claimed
7 a total of \$5,575.00 in "collection fees and costs" on January 23, 2012, this does not account for
8 more than \$2,000.00 of the sale proceeds.⁷

9 Thus, Shadow Wood unfairly breached its duty to act in good faith and failed to do equity
10 by selling the Subject Property in a commercially unreasonable manner. Additionally, Shadow
11 Wood was required to make an effort to sell the Subject Property for the best price, pay off the HOA
12 lien and associated interest/fees, and remit any excess proceeds to NYCB.

13 It should be without dispute that Shadow Wood was further obliged to act with "honesty in
14 fact" and to use "reasonable standards of fair dealing." UCIOA, Section 1-113. The record
15 establishes that neither Shadow Wood nor its agents did so. Defendants' Motion for Summary
16

17 ⁶ As NYCB's counsel advised at the pretrial conference, there are very serious concerns that Alessi
18 & Koenig should be substituted out as counsel for Defendants, or be removed/disqualified by the
19 Court. Counsel for NYCB has prepared written correspondence to Alessi & Koenig, outlining the
20 reasons for which such a substitution is necessary, and will proceed with a Motion to Disqualify if
21 necessary. In brief, however, counsel for NYCB provides the following areas of concern:

- 22 1. Alessi & Koenig was the trustee retained to conduct the foreclosure sale, and trial counsel
23 (Ryan Kerbow, Esq.) corresponded with NYCB about the amounts allegedly owed, and now being
24 challenged, prior to foreclosure;
- 25 2. Alessi & Koenig has identified one of the partners of that firm as its chief fact witness. If
26 counsel for NYCB asks questions of this witness at trial, the attorney-client privilege can be
27 asserted to prevent disclosure/testimony.
- 28 3. Counsel for NYCB is effectively prevented from doing discovery to find out about the
communications between Alessi & Koenig and the HOA or GOGO WAY TRUST.
4. Alessi & Koenig represents both the seller at the foreclosure sale (Shadow Wood) as well as the
purchaser at foreclosure sale (GOGO WAY TRUST), and Alessi & Koenig acted as the Trustee at
the HOA foreclosure sale. While it is unknown whether Shadow Wood or GOGO WAY TRUST
provided written informed consent under NRPC 1.7(4), this clearly poses a potential conflict, and,
if NYCB is successful and the HOA foreclosure sale is set aside, the Defendants and Alessi &
Koenig will be in actual conflict.

27 ⁷ \$11,018.39 (sale price) minus \$3,442.39 (amount paid to Shadow Wood) totals \$7,576.00.
28 However, Alessi & Koenig claimed NYCB owed \$5,575.00 for collection fees and costs, so this
additional \$2,001.00 is unaccounted for.

1 Judgment does not demonstrate the absence of genuine material facts, but in fact reinforces the need
2 to conduct further discovery if NYCB is not granted summary judgment. Quite simply, the record
3 before the Court demonstrates that the Defendants' failed to act appropriately, responsibly and
4 equitably.

5 Defendants' Motion for Summary Judgment must be denied as summary judgment is only
6 appropriate when the moving party can demonstrate that there is no genuine issue as to any material
7 fact and that the moving party is entitled to judgment as a matter of law. See, Pegasus v. Reno
8 Newspapers, Inc. 118 Nev. 706, 713 (2002). Clearly, there are material facts in dispute as to whether
9 the Defendants conducted this HOA foreclosure sale fairly, in good faith, and in a commercially
10 reasonable manner. It is just as clear, under the authority cited above as well as this Court's own
11 prior decisions, that the HOA's asserted super-priority lien was grossly inflated, contained fees and
12 charges that are not only improper under NRS 116.3116(2), and was based upon amounts that had
13 been wiped out by NYCB's prior foreclosure action. Consequently, the Defendants are not entitled
14 to judgment as a matter of law.

15 VI.

16 CONCLUSION

17 With respect to NYCB's Motion for Summary Judgment, this case is ripe for a decision in
18 NYCB's favor. The undisputed facts show that the HOA foreclosed on an asserted lien, even though
19 a majority of the amounts on which the lien was based had been wiped out at a prior foreclosure
20 action. The undisputed facts also show that the HOA received payment from NYCB for far more
21 than it was entitled under the super-priority lien statute, but that the HOA rejected the payment.
22 Finally, the undisputed facts demonstrate that the HOA, and its various agents, provided markedly
23 different amounts to NYCB to satisfy the lien, and that, instead of working in good faith to
24 accommodate the lien payoff, hurried to sale and collected more than it was entitled to collect under

25 /././

26 /././

27 /././

28 /././

1 law. NYCB's Motion for Summary Judgment should be granted, the Defendants' Motion for
2 Summary Judgment should be denied, and the Court should rescind the unlawful HOA foreclosure
3 sale, restoring title to NYCB immediately pursuant to NRCP 56.

4 DATED this 1st day of March, 2013.

5 PITE DUNCAN, LLP

6 
7 GREGG A. HUBLEY

8 K. ALEXANDRA CAVIN

9 *Attorneys for Plaintiff/Counterdefendant*
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1 New York Community Bank. v. Shadow Wood, et al.
2 District Court Clark County, Nevada
3 **Case No(s). A-12-660328-C**

4 **DECLARATION OF SERVICE**

5 I, the undersigned, declare: I am, and was at the time of service of the papers herein referred
6 to, over the age of 18 years, and not a party to this action. My business address is 701 East Bridger
7 Avenue, Suite 700, Las Vegas, Nevada 89101.

8 On March 1, 2013, I served the following document(s):

9 **SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION
10 FOR SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANTS'
11 MOTION FOR SUMMARY JUDGMENT**

12 on the parties in this action addressed as follows:

13 Robert Koenig
14 Ryan Kerbow
15 **ALESSI & KOENIG, LLC**
16 9500 West Flamingo Road, Suite 205
17 Las Vegas, Nevada 89147
18 *Attorneys for Defendants Shadow Wood Homeowners'
19 Association, Inc. and Gogo Way Trust*

20 ☒ **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am
21 readily familiar with the firm's practice of collection and processing correspondence for
22 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course
23 of business. I am aware that on motion of party served, service is presumed invalid if postal
24 cancellation date or postage meter date is more than one day after date of deposit for mailing
25 in affidavit.

26 ☐ **BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as indicated
27 above via certified mail, return receipt requested.

28 ☐ **BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of the
above-described document(s). I verified transmission with a confirmation printed out by the
facsimile machine used. Thereafter, I placed a true copy in a sealed envelope addressed and
mailed as indicated above.

☐ **BY FEDERAL EXPRESS:** I placed a true copy in a sealed Federal Express envelope
addressed as indicated above. I am familiar with the firm's practice of collection and
processing correspondence for Federal Express delivery and that the documents served are
deposited with Federal Express this date for overnight delivery.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
is true and correct.

Executed this 1st day of March 2013, at Las Vegas, Nevada.

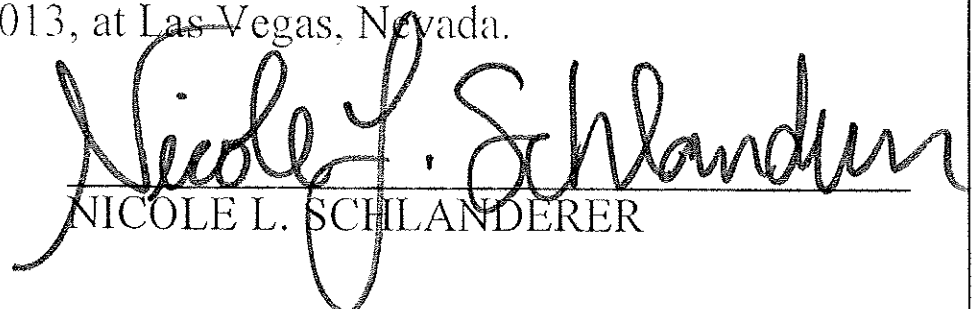

NICOLE L. SCHLANDERER

EXHIBIT 1

EXHIBIT 1

(Handwritten signature)

20070427-0004835

PIN #: 162-18-613-029
After Recording Return To:
CCSF, LLC DBA GREYSTONE FINANCIAL GROUP
7180 POLLOCK DRIVE, SUITE 100
LAS VEGAS, NV 89119

Grantee:
CCSF, LLC DBA GREYSTONE FINANCIAL GROUP
7180 POLLOCK DRIVE, SUITE 100, LAS VEGAS,
NV 89119

Mail Tax Statement To:
CCSF, LLC DBA GREYSTONE FINANCIAL GROUP
7180 POLLOCK DRIVE, SUITE 100
LAS VEGAS, NV 89119

#07-03-0237 JT

[Space Above This Line For Recording Data]

Fee: \$38.00
N/C Fee: \$0.00
04/27/2007 14:27:24
T20070072379
Requestor:
SOUTHWEST TITLE

Debbie Conway LEX
Clark County Recorder Pgs: 25

DEED OF TRUST

FEDEL
Loan #: 237-0600703
MIN: 100219307045046491
PIN: 162-18-613-029

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated APRIL 25, 2007, together with all Riders to this document.
- (B) "Borrower" is VIRGINIA V. FEDEL, A WIDOW. Borrower is the trustor under this Security Instrument.
- (C) "Lender" is CCSF, LLC DBA GREYSTONE FINANCIAL GROUP. Lender is a LIMITED LIABILITY COMPANY organized and existing under the laws of NEVADA. Lender's address is 7180 POLLOCK DRIVE, SUITE 100, LAS VEGAS, NV 89119.
- (D) "Trustee" is SOUTHWEST TITLE COMPANY.
- (E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
- (F) "Note" means the promissory note signed by Borrower and dated APRIL 25, 2007. The Note states that Borrower owes Lender ONE HUNDRED TWENTY-SEVEN THOUSAND FIVE HUNDRED AND 00/100 Dollars (U.S. \$127,500.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than MAY 1, 2037.
- (G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
- (H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges

NEVADA- Single Family -Fannie Mae/Freddie Mac
UNIFORM INSTRUMENT Form 3029 1/01

due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☒ Adjustable Rate Rider
☐ Balloon Rider
☒ 1-4 Family Rider

☒ Condominium Rider
☐ Planned Unit Development Rider
☐ Other(s) [specify]

☐ Second Home Rider
☐ Biweekly Payment Rider

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the COUNTY (Type of Recording Jurisdiction) of CLARK (Name of Recording Jurisdiction):

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

NEVADA- Single Family -Fannie Mae/Freddie Mac
 UNIFORM INSTRUMENT Form 3029 1/01

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Page 2 of 14

which currently has the address of 3923 GOGO WAY # 109, LAS VEGAS, Nevada 89103-1856 ("Property Address").

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.

Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to

Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as

mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. Borrower shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. Borrower shall not, without the express written consent of Lender, alter or amend the ground lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of

making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this

Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section

20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower

is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lenders' election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on

Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

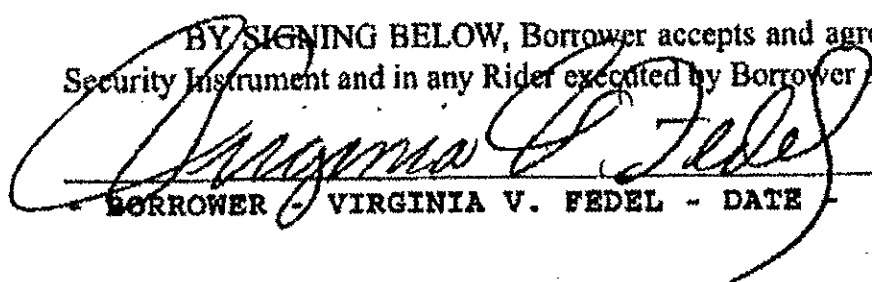
Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. **Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. **Substitute Trustee.** Lender at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. **Assumption Fee.** If there is an assumption of this loan, Lender may charge an assumption fee of U.S. N/A.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

 4-26-2007
BORROWER VIRGINIA V. FEDEL - DATE

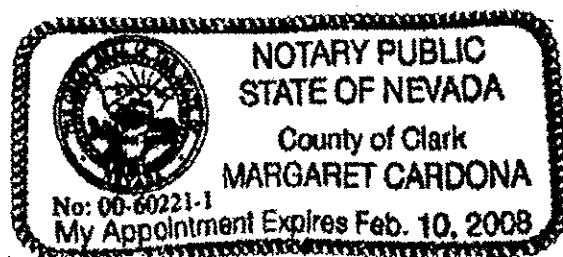
237-0600703

[Space Below This Line for Acknowledgment]

STATE OF NEVADA.
COUNTY OF CLARK

This instrument was acknowledged before me on 4-26-2007 by

VIRGINIA V. FEDEK



Notary Public

My Commission Expires: 02-10-2008

EXHIBIT "A"
Legal Description

PARCEL I:

Unit 109 as shown by map entitled SILVERADO VILLAS II, a Subdivision for condominium purposes, thereof on file in Book 33, of Plats, Page 44 in the Office of the County Recorder of Clark County, Nevada

PARCEL II:

An undivided 7.345% interest in and to the Common Area as defined in that certain Declaration of Covenants, Conditions and Restrictions, recorded in the Office of the County Recorder of Clark County, Nevada on December 3, 1985 in Book 2226 of Officials Records as Document No. 2185340.

EXCEPTING THE FOLLOWING:

All living units as shown upon the map hereinabove referred to and as defined in that certain Declaration of Covenants, Conditions, and Restrictions, recorded in the Office of the County Recorder of Clark County, Nevada on December 3, 1985 in Book 2226 of Official Records, as Document No. 2185340.

AND FURTHER EXCEPTING THEREFROM:

The exclusive right to possession of all those "Restricted Common Areas and/or Exclusive Use Area" as defined in the Declaration of Covenants, Conditions, and Restrictions, hereinabove, referred to, and as set for in the subdivision map of SILVERADO VILLAS II.

PARCEL III:

The exclusive right to possession and occupancy of those portions of the Common Areas, above described, designated as "Restricted Common Areas and/or Exclusive Use Areas", as appurtenant to Parcel I and Parcel II, above described, as delineated on the aforementioned map and as defined on the Declaration of Covenants, Conditions, and Restrictions, hereinabove referred.

CONDOMINIUM RIDER

FEDEL
Loan #: 237-0600703
MIN: 100219307045046491

THIS CONDOMINIUM RIDER is made this 25TH day of APRIL, 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to CCSF, LLC DBA GREYSTONE FINANCIAL GROUP (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

3923 GOGO WAY # 109, LAS VEGAS, NV 89103-1856

[Property Address]

The Property includes a unit in, together with an undivided interest in the common elements of, a condominium project known as:

SILVERADO VILLAS UNIT II

[Name of Condominium Project]

(the "Condominium Project"). If the owners association or other entity which acts for the Condominium Project (the "Owners Association") holds title to property for the benefit or use of its members or shareholders, the Property also includes Borrower's interest in the Owners Association and the uses, proceeds and benefits of Borrower's interest.

CONDOMINIUM COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. Condominium Obligations. Borrower shall perform all of Borrower's obligations under the Condominium Project's Constituent Documents. The "Constituent Documents" are the: (i) Declaration or any other document which creates the Condominium Project; (ii) by-laws; (iii) code of regulations; and (iv) other equivalent documents. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy on the Condominium Project which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not

limited to, earthquakes and floods, from which Lender requires insurance, then:

(i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and

(ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of the common elements, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to any provision of the Constituent Documents if the provision is for the express benefit of Lender;

(iii) termination of professional management and assumption of self-management of the Owners Association; or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay condominium dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

237-0600703

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this
Condominium Rider.

Virginia V. Fedel 4-26-2007
- BORROWER - VIRGINIA V. FEDEL - DATE -