

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 TOWER HOMES, LLC, a Nevada
4 limited liability company;

5 Plaintiff,

6
7 vs.

8 WILLIAM H. HEATON, individually;
9 NITZ, WALTON & HEATON, LTD.,
10 a domestic professional corporation;
11 and DOES I through X, inclusive,

12 Defendants.
13

CASE NO.: 65755

Electronically Filed
Feb 05 2015 10:42 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

14 **APPELLANT TOWER HOMES, LLC'S APPENDIX**

15 **VOLUME 3**

16
17 Appellant, Tower Homes, LLC, by and through its attorneys of record, PRINCE |
18 KEATING, hereby concurrently files this Appendix in supplement to its Opening Brief.
19 This Appendix contains true and accurate portions of the district court record and other
20 sources that are essential to understand the matters set forth in the aforementioned
21 Petition.
22
23
24
25
26
27
28

CHRONOLOGICAL APPENDIX OF DOCUMENTS

DOCUMENT	DATE	PAGE
Complaint	06/12/2012	Vol. 1 AA1-10
Defendants William Heaton and the law firm of Nitz, Walton & Heaton, Ltd.'s Motion to Dismiss, or in the Alternative, Motion for Summary Judgment	07/19/2012	Vol. 1 AA11-173 Vol. 2 AA174-196
Plaintiff Tower Homes, LLC's Opposition to Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment	09/04/2012	Vol. 2 AA197-379 Vol. 3 AA380-424
Defendants William Heaton and the law firm of Nitz, Walton & Heaton, Ltd.'s Reply to Opposition to Motion to Dismiss, or in the Alternative, Motion for Summary Judgment	09/19/2012	Vol. 4 AA425-465
Order Regarding Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment	11/01/2012	Vol. 4 AA466-468
Defendants William Heaton and the law firm of Nitz, Walton & Heaton, Ltd.'s Renewed Motion to Dismiss	07/26/2013	Vol. 4 AA469-600
Plaintiff Tower Homes, LLC's Opposition to Defendants' Renewed Motion to Dismiss	08/16/2013	Vol. 5 AA601-704
Defendants William Heaton and the law firm of Nitz, Walton & Heaton, Ltd.'s Reply to Plaintiff's Opposition to Renewed Motion to Dismiss	08/20/2013	Vol. 5 AA705-713
Order Denying Defendants' Renewed Motion to Dismiss	09/04/2013	Vol. 5 AA714-715
Defendants William Heaton and the law firm of Nitz, Walton & Heaton, Ltd.'s Motion for Summary Judgment	02/18/2014	Vol. 5 AA716-846
Plaintiff Tower Homes, LLC's Opposition to Defendants' Motion for Summary Judgment	03/07/2014	Vol. 6 AA847-868
Defendants William Heaton and the law firm of Nitz, Walton & Heaton, Ltd.'s Reply to Plaintiff's Opposition to Motion for Summary Judgment	03/14/2014	Vol. 6 AA869-891

1	Defendants William Heaton and the law	03/21/2014	Vol. 6 AA892-899
2	firm of Nitz, Walton & Heaton, Ltd.'s		
3	Supplemental Exhibit in Support of Motion		
4	for Summary Judgment		
5	Discovery Commissioner's Reports and	03/19/2014	Vol. 6 AA900-906
6	Recommendations on Plaintiff's Motion to		
7	Compel		
8	Minute Order Granting Defendants William	03/25/2014	Vol. 6 AA907-908
9	Heaton and the law firm of Nitz, Walton &		
10	Heaton, Ltd.'s Motion for Summary		
11	Judgment		
12	Order Granting Defendants' Motion for	05/15/2014	Vol. 6AA909-915
13	Summary Judgment		
14	Notice of Entry of Order	05/15/2014	Vol. 6 AA916-924
15	Notice of Appeal	05/28/2014	Vol. 6 AA925-926
16	Transcript of Proceedings on Defendants	12/02/2014	Vol. 6 AA927-948
17	William Heaton and the law firm of Nitz,		
18	Walton & Heaton, Ltd.'s Motion for		
19	Summary Judgment heard on March 21,		
20	2014		

DATED this 4th February, 2015.

PRINCE | KEATING



DENNIS M. PRINCE
Nevada Bar No. 5092
ERIC N. TRAN
Nevada Bar No. 11876
9130 West Russell Road, Suite 200
Las Vegas, Nevada 89148
Attorneys for Appellant
Tower Homes, LLC

1 Internal Revenue Code, will seek to expense from current income the amounts paid under the
2 Plan. Notwithstanding the foregoing, the feasibility of the Plan does not depend on the
3 deductibility of amounts paid.

4 To the extent that funds of the Estate (as opposed to third party funds) are used to pay
5 back taxes or tax penalties of the Estate, those expenditures may not represent payments that can
6 be deducted as expenses for federal or state income tax purposes, potentially resulting in
7 increased tax liability to the Estate.

8 The Trustee is unaware of any adverse tax consequences of the Plan to Creditors
9 generally. It is not necessary or practicable to present a detailed explanation of the federal
10 income tax aspects of the Plan or the related bankruptcy tax matters involved in the Bankruptcy
11 Case. The Trustee is unaware of any tax consequences resulting from the Plan to each individual
12 Creditor which would vary significantly from the past tax consequences realized by each
13 individual Creditor upon receipt of payment from the Debtor. EACH CREDITOR IS URGED
14 TO SEEK ADVICE FROM HIS/HER/ITS OWN COUNSEL OR TAX ADVISOR WITH
15 RESPECT TO THE TAX CONSEQUENCES RESULTING FROM CONFIRMATION OF
16 THE PLAN.

17 **E. Exculpation**

18 From and after the Effective Date, neither the Trustee nor any of his respective present or
19 former members, officers, directors, managers, employees, advisors, accountants, brokers,
20 attorneys or agents, shall have or incur any liability to any holder of a Claim or Equity Interest or
21 any other party in interest, or any of their respective agents, employees, representatives, financial
22 advisors, accountant, brokers or attorneys, or any of their successors or assigns, for any act or
23 omission in connection with, relating to, or arising out of the Bankruptcy Case, the pursuit of
24 confirmation or the consummation of this Plan, except for willful misconduct, and in all respects
25 shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and
26 responsibilities under this Plan or in the context of the Bankruptcy Case. No holder of a Claim
27 or Equity Security, nor any other party in interest, including their respective agents, employees,
28 representatives, financial advisors, attorneys or Affiliates, shall have any right of action against

the Trustee nor any of his respective present or former members, officers, directors, managers, employees, advisors, accountants, brokers, attorneys or agents, for any act or omission in connection with, relating to, or arising out of, the Bankruptcy Case, the pursuit of confirmation of the Plan, the consummation of this Plan or the administration of this Plan, except for (a) such parties' willful misconduct; and (b) matters specifically contemplated by this Plan.

F. Injunction/Further Actions

From and after the Effective Date, the assets of the Debtor dealt with under the Plan shall be free and clear from any and all Claims or the holders of Claims, except as specifically provided otherwise in the Plan or the Confirmation Order, and all entities that have held, currently hold or may hold a Claim or other debt or liability or an Equity Interest are permanently enjoined from taking any of the following actions on account of any such Claims, debts, liabilities or terminated Equity Interests or rights: (1) commencing or continuing in any manner any action or other proceeding against the Trustee, the Reorganized Debtor or property of the Estate; (2) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Trustee, the Reorganized Debtor or property of the Estate; (3) creating, perfecting or enforcing any Lien or encumbrance against the Trustee, the Reorganized Debtor or property of the Estate; (4) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Trustee, the Reorganized Debtor or the Estate; and (5) commencing or continuing any action, in any manner or any place, that does not comply with or is inconsistent with the provisions of this Plan or the Bankruptcy Code, including, without limitation, the assertion of any claim or defense against Bank of George or with respect to the SPF Loan Documents. By accepting Distributions pursuant to this Plan, each holder of an Allowed Claim receiving Distributions pursuant to this Plan will be deemed to have specifically consented to the injunction set forth in this section.

From and after the Effective Date, the Trustee shall be entitled to control the financial affairs of the Estate without further order of the Bankruptcy Court and to use, acquire and distribute assets of the Estate free of any restrictions of the Bankruptcy Code or the Bankruptcy Court, except as specifically provided otherwise in the Plan or the Confirmation Order. The

1 Trustee shall be authorized to take such actions and to execute, deliver, file or record such
2 contracts, instruments, releases and other agreements or documents and to take such actions as
3 may be necessary or appropriate to effectuate, implement and further evidence the terms and
4 conditions of this Plan and any securities issued, transferred or canceled pursuant to this Plan.

5 **XII.**

6 **CONCLUSION AND RECOMMENDATION**

7 The Trustee believes that this combined Plan and Disclosure Statement and its exhibits
8 demonstrate that the Trustee's Plan will provide the greatest amount of funds for the payment of
9 the legitimate Claims of Creditors. The Trustee strongly urges all Creditors to vote to accept the
10 Plan. You are urged to complete the enclosed ballot and return it immediately in accordance
11 with the instructions in section III(C) above.

12 **XIII.**

13 **GLOSSARY OF DEFINED TERMS**

14 As used in this Plan, the following terms shall have the respective meanings specified
15 below:

16 1. Administrative Claimant: Any Person entitled to payment of an Administrative
17 Expense Claim.

18 2. Administrative Expense Claim: Any cost or expense of administration of the
19 Bankruptcy Case that is entitled to priority in accordance with Bankruptcy Code sections 503(b)
20 and 507(a)(1), including, without limitation: any actual and necessary expenses of preserving the
21 Estate incurred from and after the Petition Date through and including the Confirmation Date; all
22 allowances of compensation and reimbursement of costs and expenses to Professional Persons,
23 as approved by a Final Order of the Bankruptcy Court; and any fees or charges assessed against
24 the Estate under Chapter 123 of Title 28 of the United States Code.

25 3. Allowed: With respect to a Claim of any nature, a Claim is "Allowed" if it meets
26 either of the following two requirements:

- 27 a. proof of such Claim was filed on or before the Bar Date, or, if no proof of
28 claim is filed, the Claim has been or hereafter is listed by the Debtor in its

schedules as liquidated in amount and not disputed or contingent as to liability, and, in either case, no objection to the allowance of such Claim has been filed on or before the Claims Objection Date; or

b. a Claim as to which any objection has been filed and such Claim has been allowed in whole or in part by a Final Order of the Bankruptcy Court.

4. Bank of George Claim: All amounts due to Bank of George pursuant to the SPF Loan Documents, including, without limitation, all principal, interest, default rate interest, late charges, attorneys' fees, appraisal fees, reconveyance fees, and other fees and costs.

5. Bankruptcy Case: The instant bankruptcy case.

6. Bankruptcy Code: The United States Bankruptcy Code, Title 11 of the United States Code, sections 101, et seq., as amended.

7. Bankruptcy Court: The unit of the United States District Court for the District of Nevada, constituted pursuant to section 1515 of Title 28 of the United States Code, having jurisdiction over the Bankruptcy Case to the extent of any reference made pursuant to section 157(a) of Title 28 of the United States Code, or in the event such court ceases to exercise jurisdiction over the Bankruptcy Case, such court or adjunct thereof that has jurisdiction over the Bankruptcy Case.

8. Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure, as amended.

9. Bar Date: January 1, 2008, as established by the Bankruptcy Court order entered August 27, 2007, pursuant to Federal Rule of Bankruptcy Procedure 3003(c)(3), after which any proof of claim or interest filed will not be allowed and will have no effect upon the Plan and the holder of such filed proof of claim or interest shall have no right to vote upon or participate in any Distributions under the Plan.

10. Benchmark: Benchmark Enterprises, LLC, a Nevada limited liability company.

11. Business Day: Any day that is not a Saturday, Sunday or legal holiday as identified in Federal Rule of Bankruptcy Procedure 9006.

12. Cash: Cash and cash equivalents, including, but not limited to, bank deposits, checks and other similar items.

1 13. Causes of Action: All causes of action, claims for relief, Claims, debts, defenses,
2 offsets, or other rights of any kind at law or in equity, held at any time by the Trustee, the Debtor
3 or the Estate, whether or not such rights are the subject of presently pending lawsuits, adversary
4 proceedings or appeals, including, without limitation, (i) causes of action belonging to the Debtor
5 or the Trustee as of the Petition Date, (ii) causes of action belonging to the Debtor, the Trustee or
6 the Estate that arose after the Petition Date, and (iii) rights exercisable by the Debtor as a Debtor
7 In Possession or by the Trustee pursuant to Bankruptcy Code sections 506, 510, 544, 545, 547,
8 548, 549, 550 or 553.

9 14. Claim: Any right to payment from the Debtor, whether or not such right is
10 reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed,
11 undisputed, legal, equitable, secured or unsecured, or any right to an equitable remedy for breach
12 of performance if such breach gives rise to a right to payment from the Debtor, whether or not
13 such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured,
14 disputed, undisputed, secured or unsecured.

15 15. Claims Objection Date: With respect to each Class, the date initial distributions
16 are made to Creditors in such Class, or such other date(s) as the Court may order.

17 16. Class: A group of Claims classified together in a Class designated in section VII
18 of this Plan.

19 17. Confirmation Date: (i) If no appeal of the Confirmation Order is filed, the first
20 Business Day after the expiration of time for an appeal of the Confirmation Order; or (ii) if an
21 appeal of the Confirmation Order has been filed, the first Business Day after the expiration of
22 time for an appeal of the Confirmation Order provided that no stay of the Confirmation Order
23 pending appeal has been granted; or (iii) if an appeal of the Confirmation Order has been filed
24 and a stay of the Confirmation Order has been granted, the first Business Day after the expiration
25 or termination of such stay.

26 18. Confirmation Order: The order entered by the Bankruptcy Court confirming the
27 Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

28 ///

1 19. Creditor: Any Person who has a Claim against the Debtor that arose on or before
2 the Petition Date, or a Claim against the Debtor of any kind specified in section 502(g), 502(h) or
3 502(i) of the Bankruptcy Code.

4 20. Debtor: Tower Homes, LLC, a Nevada limited liability company.

5 21. Debtor In Possession: The Debtor, during the time in which it was acting as a
6 Debtor In Possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

7 22. Disclosure Statement: The Trustee's disclosure statement filed pursuant to
8 Bankruptcy Code section 1125, as embodied in this document.

9 23. Distribution: The property required by the Plan to be distributed to the holders of
10 Allowed Claims.

11 24. Effective Date: The Confirmation Date or such other date as the Bankruptcy
12 Court may order.

13 25. Equity Interest: The interest, whether or not asserted, of any holder of an "equity
14 security," as that term is defined in Bankruptcy Code section 101(17). The Trustee is informed
15 and believes that Yanke holds all Equity Interests in the Debtor.

16 26. Estate: The Debtor's Estate, arising under Bankruptcy Code section 541.

17 27. Final Order: An order or a judgment of a court which has not been reversed,
18 stayed, modified or amended, and as to which (i) the time to appeal or to seek review by
19 certiorari or rehearing has expired and no appeal, review, certiorari or rehearing petition has been
20 filed, or (ii) any appeal, review, certiorari or rehearing proceeding that has been filed has been
21 finally determined or dismissed, and the time to further appeal or to seek further review by
22 certiorari or rehearing has expired and no further appeal, review, certiorari or rehearing petition
23 has been filed.

24 28. Financial Projections: The Trustee's financial projections attached as Exhibit "1"
25 hereto.

26 29. Mechanics' Lien Creditors: All Claims of all Creditors asserting mechanics' lien
27 Claims under applicable state law.

28 ///

1 30. Net Recoveries: Proceeds of Causes of Action pursued by the Debtor or the
2 Trustee, less costs of prosecution of such Claims, including attorneys' fees, expert witness fees,
3 filing fees, and related costs of litigation.

4 31. OneCap: OneCap Mortgage Corporation, a Nevada corporation.

5 32. Person: An individual, governmental entity, partnership, corporation, or other
6 form of business entity.

7 33. Petition Date: May 30, 2007, the date the Petitioning Creditors filed their
8 involuntary petition for relief, commencing the Bankruptcy Case.

9 34. Plan: The Trustee's Plan of Reorganization, as embodied in the instant document,
10 either in its present form or as it may be altered, amended or modified from time to time.

11 35. Post-Trustee Administrative Expense Claims: (i) Administrative Expense Claims
12 incurred between the Trustee's appointment date of January 18, 2008 and the Confirmation Date;
13 and (ii) Administrative Expense Claims incurred by the Trustee and his professionals on or after
14 the Confirmation Date.

15 36. Pre-Purchaser Claimants: Persons who made pre-purchase deposit payments
16 toward the purchase of condominium units in the Property, irrespective of which Bankruptcy
17 Code section under which they assert Claims, Priority Non-Tax Claims, or otherwise. A list of
18 Pre-Purchaser Claimants known to the Trustee is attached as Exhibit "2" hereto.

19 37. Pre-Trustee Administrative Expense Claims: Administrative Expense Claims
20 incurred before the Trustee's appointment date of January 18, 2008.

21 38. Priority Non-Tax Claim: Any Claim entitled to priority and payment under
22 section 507 of the Bankruptcy Code other than Administrative Expense Claims and Priority Tax
23 Claims.

24 39. Priority Tax Claim: Any Claim entitled to priority and payment under section
25 507(a)(8) of the Bankruptcy Code.

26 40. Professional Person: Any attorney, accountant, or other professional: (i) engaged
27 by the Debtor or the Trustee and approved by order of the Bankruptcy Court in the Bankruptcy
28 Case; or (ii) engaged by the Trustee after the Effective Date.

1 41. Pro Rata: Proportionately, so that the ratio of the amount of a particular Claim to
2 the total amount of Allowed Claims of the Class in which a particular Claim is included is the
3 same as the ratio of the amount of consideration distributed on account of such particular Claim
4 to the consideration distributed on account of the Allowed Claims of the Class as a whole in
5 which the particular Claim is included.

6 42. Property. The Debtor's real estate development project comprising approximately
7 15 acres of partially developed real property located in the Southwest Las Vegas Valley along
8 the I-215 Beltway at Buffalo, commonly referred to as the Spanish View Tower Homes.

9 43. Purchase Contracts: All executory contracts with the Debtor under which Pre-
10 Purchaser Claimants agreed to purchase one or more condominium units within the Property.

11 44. Ratable Share of Administrative Expenses: The amount of Administrative
12 Expense Claims to be assessed against each respective Class of Secured Claims on a Pro Rata
13 basis, based on Distribution amounts paid and to be paid to each such Class from proceeds of a
14 sale or refinancing of the Property, as a surcharge pursuant to Bankruptcy Code section 506(c).

15 45. Refinance Period: The period of time described in section V(B)(1) above, during
16 which the Debtor will be afforded an opportunity to deliver to the Trustee a binding financing
17 commitment, satisfactory to the Trustee, under which the Estate would receive funds sufficient to
18 provide for the payment in full of all Allowed Claims against the Estate. If the Debtor timely
19 delivers a binding financing commitment satisfactory to the Trustee, then the Debtor will have an
20 additional 30 days of Refinance Period to close such financing and have the funds on deposit
21 with the Estate in an account under the Trustee's control.

22 46. Reorganized Debtor: The Debtor, to the extent that (i) a Timely Refinancing is
23 achieved, and (ii) a final decree is entered by the Bankruptcy Court providing that the Debtor is
24 to emerge from bankruptcy protection as a Reorganized Debtor.

25 47. Sale Procedure: The procedure set forth in section V(C)(2) above, under which
26 the Trustee will market and sell the Property (absent a Timely Refinancing), pursuant to
27 Bankruptcy Code section 1123(b)(4), with the Property to transfer free and clear of all liens,
28 claims and interests, pursuant to Bankruptcy Code section 1123(b)(1) and (5), and with such

1 liens, claims and interests attaching to sale proceeds, pursuant to Bankruptcy Code section
2 1129(b)(2)(A).

3 48. Sale Motion: A motion filed by the Trustee in the Bankruptcy Case seeking
4 Bankruptcy Court approval of a sale of the Property in accordance with Bankruptcy Code section
5 1123(b)(4) and the terms of this Plan.

6 49. Secured Claim: A Claim to the extent such Claim is secured as defined in
7 Bankruptcy Code section 506, inclusive of a Creditor's right of setoff or recoupment under
8 Bankruptcy Code section 553.

9 50. Secured Creditor: Any Creditor that is the holder of a Secured Claim, to the
10 extent of such Secured Claim.

11 51. SPF Financing: The post-petition financing provided to the Estate by Bank of
12 George, as approved by the Bankruptcy Court's order entered May 7, 2008.

13 52. Timely Refinancing: A refinancing of the Property on the terms and conditions
14 set forth in section V(B) above.

15 53. Trustee's Fee: The fee payable to the Trustee in accordance with the agreement
16 described in section VIII(J) of this Plan.

17 54. Unsecured Claim: Any Claim other than an Administrative Expense Claim, a
18 Priority Tax Claim, a Priority Non-Tax Claim, or a Secured Claim, and all Claims of Secured
19 Creditors to the extent such Claims are valued as unsecured pursuant to section 506(a) of the
20 Bankruptcy Code.

21 55. Unsecured Creditor: Any Creditor holding an Unsecured Claim.

22 56. Yanke: Rodney Yanke, the Debtor's principal.

23 The words "herein" and "hereunder" and other words of similar import refer to this Plan
24 as a whole and not to any particular section, subsection or clause contained in this Plan, unless
25 the context requires otherwise. Whenever from the context it appears appropriate, each term
26 stated in either the singular or the plural includes the singular and the plural, and pronouns stated
27 in the masculine, feminine or neuter gender include the masculine, feminine and the neuter. The
28 ///

1 section headings contained in the Plan are for reference purposes only and shall not affect in any
2 way the meaning or interpretation of the Plan.

3 A term used in this Plan and not defined herein but that is defined in the Bankruptcy
4 Code has the meaning assigned to the term in the Bankruptcy Code. A term used in this Plan and
5 not defined herein or in the Bankruptcy Code, but which is defined in the Bankruptcy Rules, has
6 the meaning assigned to the term in the Bankruptcy Rules.

7
8 Dated: November __, 2008

SULLIVAN, HILL, LEWIN, REZ & ENGEL
A Professional Law Corporation

9

10

By: /s/ James P. Hill

11

James P. Hill

12

Christine A. Roberts

13

Attorneys for William A. Leonard, Jr.,
Chapter 11 Trustee

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- THIS PAGE INTENTIONALLY LEFT BLANK -

EXHIBIT 1

Tower Homes, LLC - Case No. 07-13208
Proposed Distribution at \$30 Million

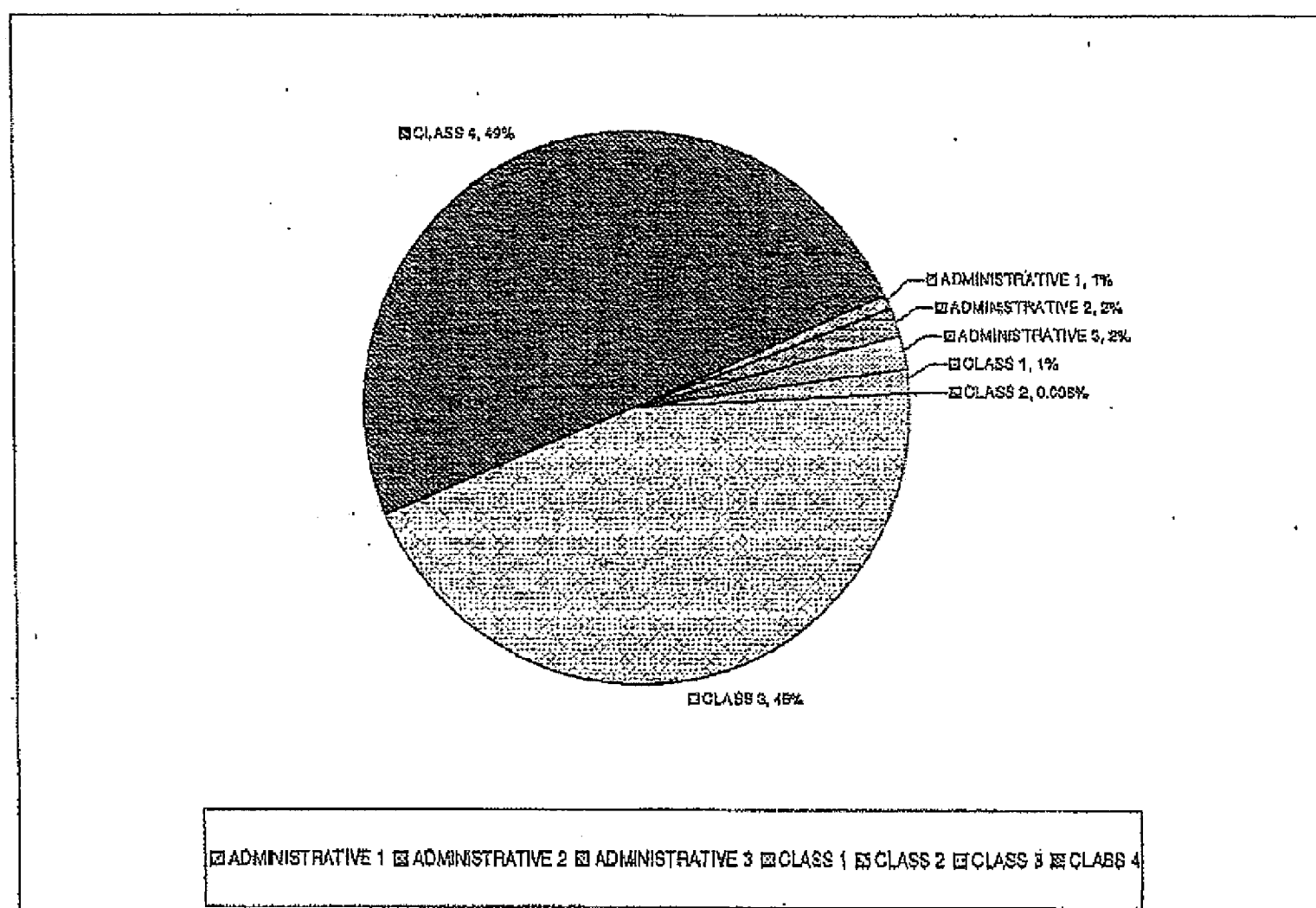
A

Bank Balances 8/1/08	\$0
Proposed Sale Price	\$30,000,000
Funds Available for Distribution	\$30,000,000

CREDIT CLASS	DESCRIPTION	Allowed	Proposed Payment	\$20,000,000	Distribution %
ADMINISTRATIVE 1	TRUSTEE	\$250,000	(\$250,000)	\$29,750,000	100.00%
ADMINISTRATIVE 2	SHLRE	\$500,000	(\$500,000)	\$29,250,000	100.00%
ADMINISTRATIVE 3	BROKER	\$600,000	(\$600,000)	\$28,650,000	100.00%
CLASS 1	BANK OF GEORGE ¹	\$375,000	(\$375,000)	\$28,275,000	100.00%
CLASS 2	PRIORITY TAX CLAIMS	\$2,260	(\$2,260)	\$28,272,740	100.00%
CLASS 3	ONECAP CLAIM 44 - \$9.5M	\$13,369,288 ²	(\$13,369,288)	\$14,903,452	100.00%
CLASS 4	ONECAP CLAIM 42 - \$13M	\$16,031,671	(\$14,903,452)	\$0	92.96%
CLASS 5	MECHANICS LIEN CLAIMS	\$28,139,544	\$0	\$0	0.00%
CLASS 6	ONECAP CLAIM 43 - \$5.2M	\$7,307,923	\$0	\$0	0.00%
CLASS 7	BENCHMARK	\$4,300,000	\$0	\$0	0.00%
CLASS 8	ONECAP MOP	\$0	\$0	\$0	0.00%
CLASS 9	SECURED	\$502,500	\$0	\$0	0.00%
CLASS 10	LEXUS/TOYOTA	\$0	\$0	\$0	0.00%
CLASS 11	GMAC	\$0	\$0	\$0	0.00%
CLASS 12	PRIORITY NON-TAX	\$0.00	\$0	\$0	0.00%
CLASS 13	PRIORITY NON TAX (PRE-PURCHASERS)	\$84,875	\$0	\$0	0.00%
CLASS 14	GENERAL UNSECURED	\$21,865,114 ³	\$0	\$0	0.00%
CLASS 15	SUBORDINATED	\$0	\$0	\$0	0.00%
CLASS 16	EQUITY INTERESTS	\$0	\$0	\$0	0.00%
TOTAL		\$15,222,115	(\$15,222,115)	\$0	0.00%

FUNDS REMAINING IN ESTATE

\$0.00



¹ As of the preparation of this model, the Trustee has drawn \$272,250.00 from the Bank of George line of credit, and intends to draw an additional \$100,000.00.

² The three OneCap figures represent the principal loan balances, with accrued interest, through August 14, 2008.

³ This figure represents the total value of all claims in this class at the amounts asserted in each proof of claim, or, if no proof of claim was filed, at the amounts scheduled by the Debtor in its bankruptcy filing. In the event that the estate has sufficient funds to pay claims in this class after satisfaction of all senior claims, the Trustee will consider conducting a comprehensive round of claims objections. The Trustee believes that the claim objection process would dramatically reduce this figure.

Tower Homes, LLC - Case No. 07-13208
Proposed Distribution at \$50 Million

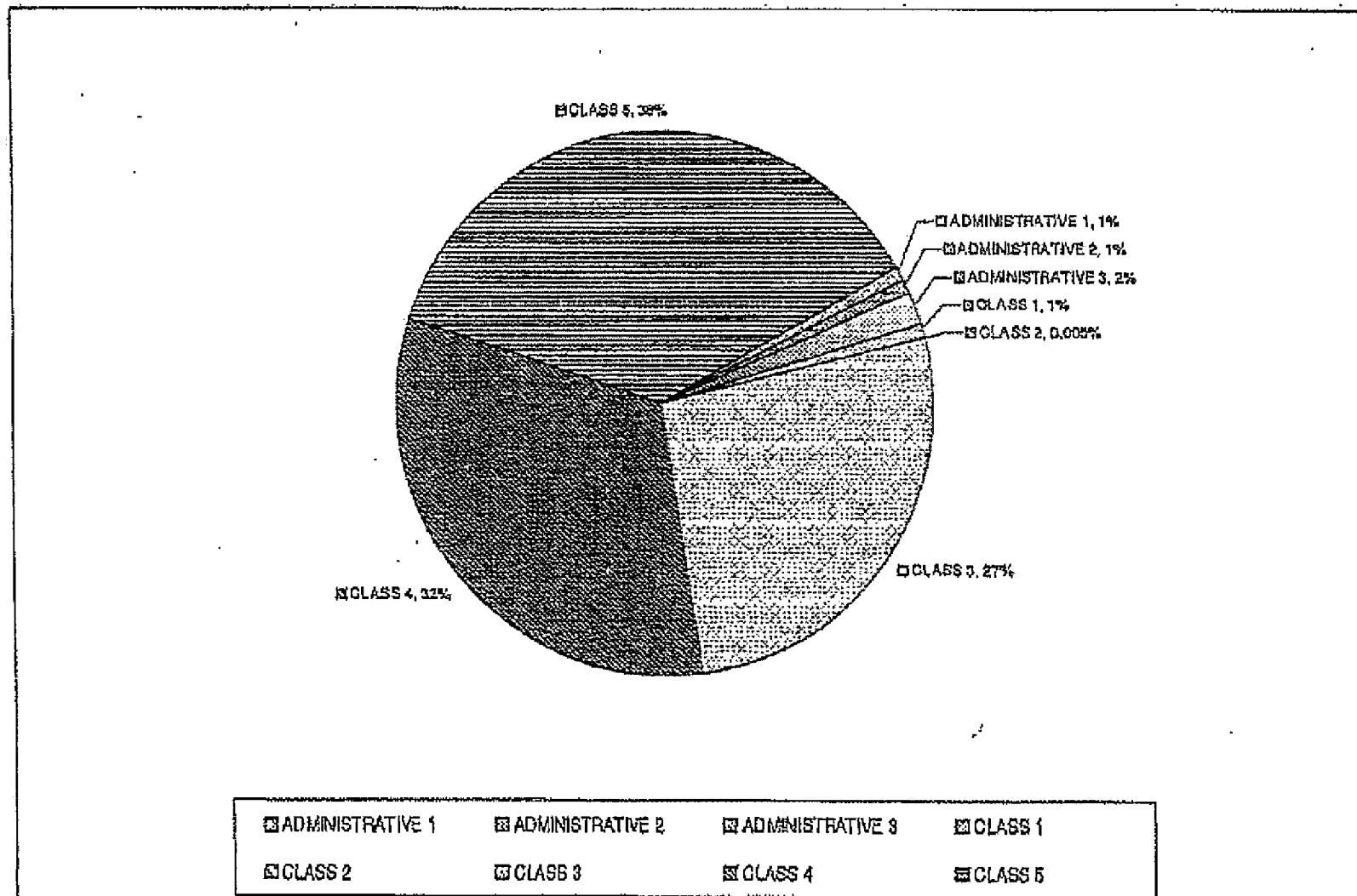
B

Bank Balances 8/1/08	\$0
Proposed Sale Price	\$50,000,000
Funds Available for Distribution	\$50,000,000

CLASS	DESCRIPTION	Amount Asserted	Proposed Payment	\$50,000,000	Distribution %
ADMINISTRATIVE 1	TRUSTEE	\$350,000	(\$350,000)	\$49,650,000	100.00%
ADMINISTRATIVE 2	SHURE	\$500,000	(\$500,000)	\$49,150,000	100.00%
ADMINISTRATIVE 3	BROKER	\$1,000,000	(\$1,000,000)	\$48,150,000	100.00%
CLASS 1	BANK OF GEORGE ¹	\$375,000	(\$375,000)	\$47,775,000	100.00%
CLASS 2	PRIORITY TAX CLAIMS	\$2,260	(\$2,260)	\$47,772,740	100.00%
CLASS 3	ONECAP CLAIM 44 - \$9.5M	\$13,369,288 ²	(\$13,369,288)	\$34,403,452	100.00%
CLASS 4	ONECAP CLAIM 42 - \$13M	\$16,031,671	(\$16,031,671)	\$18,371,781	100.00%
CLASS 5	MECHANICS LIEN CLAIMS	\$28,139,544	(\$18,371,781)	\$0	55.29%
CLASS 6	ONECAP CLAIM 43 - \$5.2M	\$7,307,923	\$0	\$0	0.00%
CLASS 7	BENCHMARK	\$4,300,000	\$0	\$0	0.00%
CLASS 8	ONECAP MOP	\$0	\$0	\$0	0.00%
CLASS 9	SECURED	\$502,500	\$0	\$0	0.00%
CLASS 10	LEXUS/TOYOTA	\$0	\$0	\$0	0.00%
CLASS 11	GMAC	\$0	\$0	\$0	0.00%
CLASS 12	PRIORITY NON-TAX	\$0	\$0	\$0	0.00%
CLASS 13	PRIORITY NON-TAX (PRE-PURCHASERS)	\$84,875	\$0	\$0	0.00%
CLASS 14	GENERAL UNSECURED	\$21,865,114 ³	\$0	\$0	0.00%
CLASS 15	SUBORDINATED	\$0	\$0	\$0	0.00%
CLASS 16	EQUITY INTERESTS	\$0	\$0	\$0	0.00%
TOTAL		\$94,335,125	(\$70,335,125)	\$0	55.29%

FUNDS REMAINING IN ESTATE

\$0.00



¹ As of the preparation of this model, the Trustee has drawn \$272,250.00 from the Bank of George line of credit, and intends to draw an additional \$100,000.00.

² The three OneCap figures represent the principal loan balances, with accrued interest, through August 14, 2008.

³ This figure represents the total value of all claims in this class at the amounts asserted in each proof of claim, or, if no proof of claim was filed, at the amounts scheduled by the Debtor in its bankruptcy filing. In the event that the estate has sufficient funds to pay claims in this class after satisfaction of all senior claims, the Trustee will consider conducting a comprehensive round of claims objections. The Trustee believes that the claim objection process would dramatically reduce this figure.

Tower Homes, LLC - Case No. 07-13208
Proposed Distribution at \$70 Million

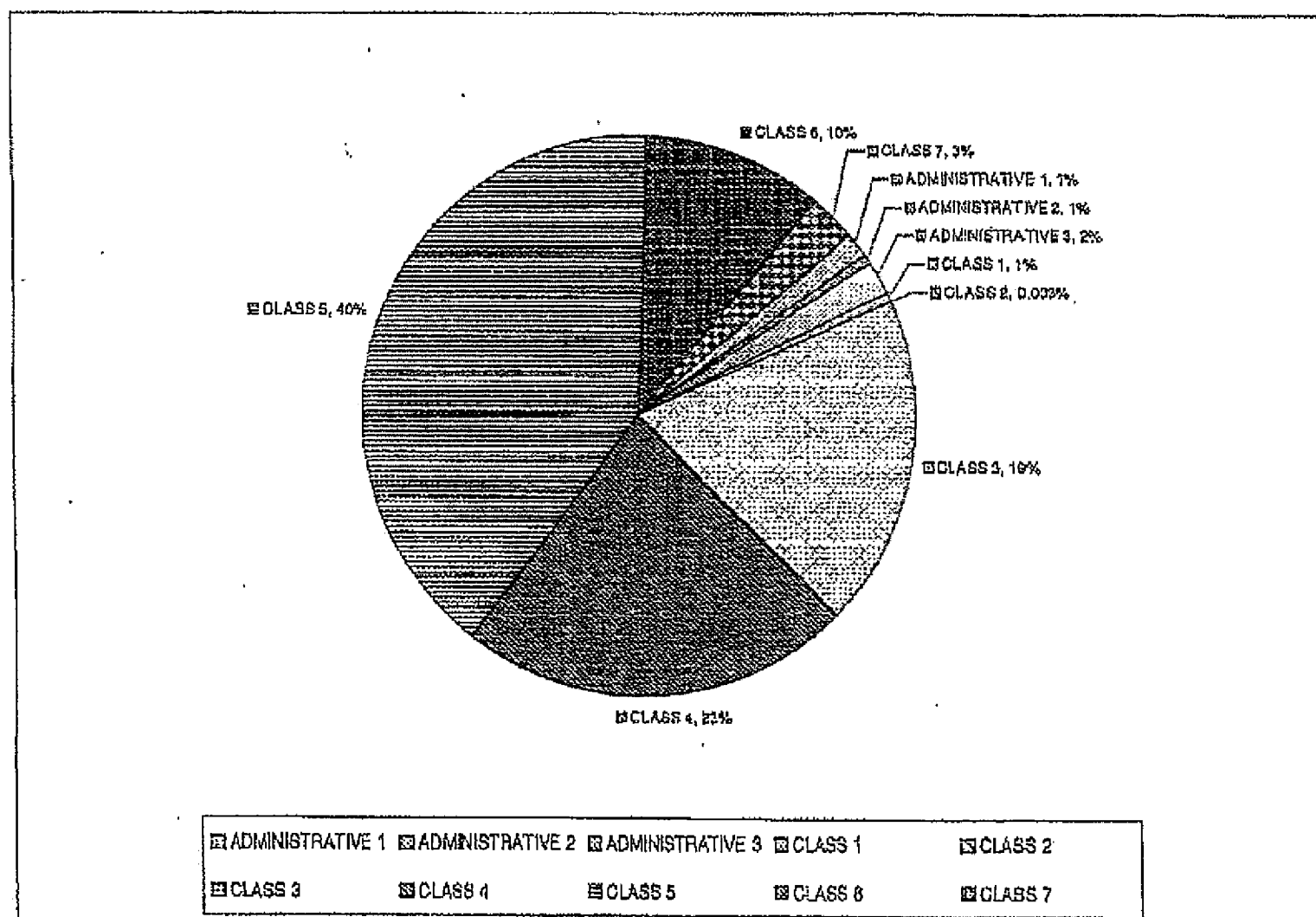
C

Bank Balances 8/1/08	\$0
Proposed Sale Price	\$70,000,000
Funds Available for Distribution	\$70,000,000

CREDIT CLASS	DESCRIPTION	Amount Proposed		\$70,000,000	Distribution %
		Allocated	Proposed Payment		
ADMINISTRATIVE 1	TRUSTEE	\$900,000	(\$900,000)	\$69,100,000	100.00%
ADMINISTRATIVE 2	SHARE	\$500,000	(\$500,000)	\$68,600,000	100.00%
ADMINISTRATIVE 3	BROKER	\$1,400,000	(\$1,400,000)	\$67,200,000	100.00%
CLASS 1	BANK OF GEORGE ¹	\$375,000	(\$375,000)	\$66,825,000	100.00%
CLASS 2	PRIORITY TAX CLAIMS	\$2,260	(\$2,260)	\$66,822,740	100.00%
CLASS 3	ONECAP CLAIM 44 - \$8.5M	\$12,369,288 ²	(\$12,369,288)	\$53,453,452	100.00%
CLASS 4	ONECAP CLAIM 42 - \$13M	\$16,031,671	(\$16,031,671)	\$37,421,781	100.00%
CLASS 5	MECHANICS LIEN CLAIMS	\$28,139,544	(\$28,139,544)	\$9,282,237	100.00%
CLASS 6	ONECAP CLAIM 43 - \$5.2M	\$7,307,923	(\$7,307,923)	\$1,974,314	100.00%
CLASS 7	BENCHMARK	\$4,300,000	(\$1,974,314)	\$0	45.91%
CLASS 8	ONECAP MOP	\$0	\$0	\$0	0.00%
CLASS 9	SECURED	\$502,500	\$0	\$0	0.00%
CLASS 10	LEXUS/TOYOTA	\$0	\$0	\$0	0.00%
CLASS 11	GMAC	\$0	\$0	\$0	0.00%
CLASS 12	PRIORITY NON TAX	\$0	\$0	\$0	0.00%
CLASS 13	PRIORITY NON TAX (PRE-PURCHASERS)	\$84,875	\$0	\$0	0.00%
CLASS 14	GENERAL UNSECURED	\$21,865,114 ³	\$0	\$0	0.00%
CLASS 15	SUBORDINATED	\$0	\$0	\$0	0.00%
CLASS 16	EQUITY INTERESTS	\$0	\$0	\$0	0.00%
TOTAL		\$94,705,025	(\$50,000,000)	\$0	73.75%

FUNDS REMAINING IN ESTATE

\$0.00



¹ As of the preparation of this model, the Trustee has drawn \$272,250.00 from the Bank of George line of credit, and intends to draw an additional \$100,000.00.

² The three OneCap figures represent the principal loan balances, with accrued interest, through August 14, 2008.

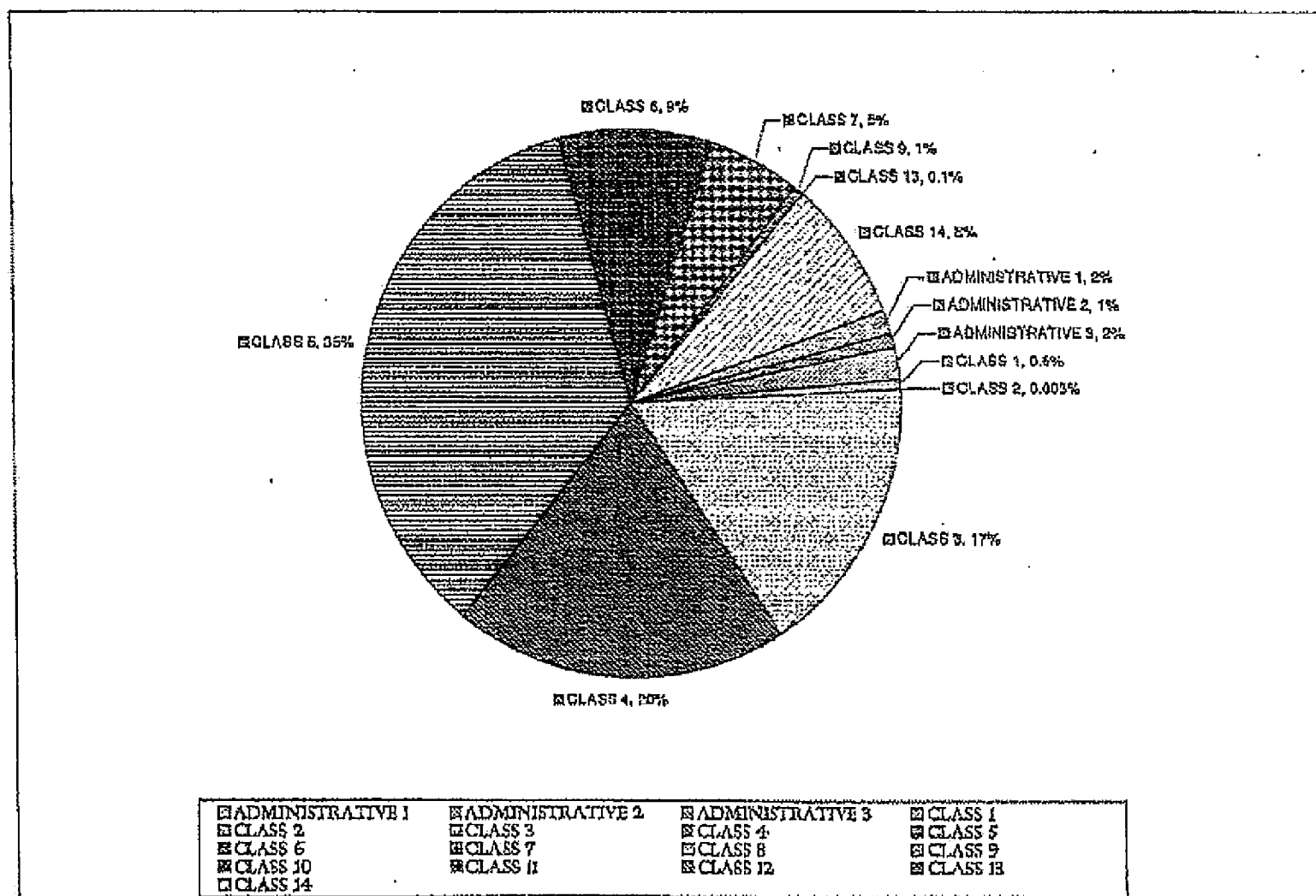
³ This figure represents the total value of all claims in this class at the amounts asserted in each proof of claim, or, if no proof of claim was filed, at the amounts scheduled by the Debtor in its bankruptcy filing. In the event that the estate has sufficient funds to pay claims in this class after satisfaction of all senior claims, the Trustee will consider conducting a comprehensive round of claims objections. The Trustee believes that the claim objection process would dramatically reduce this figure.

Tower Homes, LLC - Case No. 07-13208
Proposed Distribution at \$80 Million

D

Bank Balances 8/1/08	\$0
Proposed Sale Price	\$80,000,000
Funds Available for Distribution	\$80,000,000

ORDER CLASS	DESCRIPTION	Amount Asserted	Proposed Payment	\$80,000,000	Distribution %
ADMINISTRATIVE 1	TRUSTEE	\$1,200,000	(\$1,200,000)	\$78,800,000	100.00%
ADMINISTRATIVE 2	SHLRE	\$500,000	(\$500,000)	\$78,300,000	100.00%
ADMINISTRATIVE 3	BROKER	\$1,600,000	(\$1,600,000)	\$76,700,000	100.00%
CLASS 1	BANK OF GEORGE ¹	\$375,000	(\$375,000)	\$76,325,000	100.00%
CLASS 2	PRIORITY TAX CLAIMS	\$2,260	(\$2,260)	\$76,322,740	100.00%
CLASS 3	ONECAP CLAIM 44 - \$9.5M	\$13,369,288 ²	(\$13,369,288)	\$62,953,452	100.00%
CLASS 4	ONECAP CLAIM 42 - \$13M	\$16,031,671	(\$16,031,671)	\$46,921,781	100.00%
CLASS 5	MECHANICS LIEN CLAIMS	\$28,139,544	(\$28,139,544)	\$18,782,237	100.00%
CLASS 6	ONECAP CLAIM 43 - \$5.2M	\$7,307,923	(\$7,307,923)	\$11,474,314	100.00%
CLASS 7	BENCHMARK	\$4,300,000	(\$4,300,000)	\$7,174,314	100.00%
CLASS 8	ONECAP MDP	\$0	\$0	\$7,174,314	0.00%
CLASS 9	SECURED	\$502,500	(\$502,500)	\$6,671,814	100.00%
CLASS 10	LEXUS/TOYOTA	\$0	\$0	\$6,671,814	0.00%
CLASS 11	GMAC	\$0	\$0	\$6,671,814	0.00%
CLASS 12	PRIORITY NON-TAX	\$0	\$0	\$6,671,814	0.00%
CLASS 13	PRIORITY NON TAX (PRE-PURCHASERS)	\$84,875	(\$84,875)	\$6,586,939	100.00%
CLASS 14	GENERAL UNSECURED	\$21,865,114 ³	(\$6,586,939)	\$0	30.13%
CLASS 15	SUBORDINATED	\$0	\$0	\$0	0.00%
CLASS 16	EQUITY INTERESTS	\$0	\$0	\$0	0.00%
TOTAL		\$80,000,000	(\$80,000,000)	\$0	



¹ As of the preparation of this model, the Trustee has drawn \$272,250.00 from the Bank of George line of credit, and intends to draw an additional \$100,000.00.

² The three OneCap figures represents the principal loan balances, with accrued interest, through August 14, 2008.

³ This figure represents the total value of all claims in this class at the amounts asserted in each proof of claim, or, if no proof of claim was filed, at the amounts scheduled by the Debtor in its bankruptcy filing. In the event that the estate has sufficient funds to pay claims in this class after satisfaction of all senior claims, the Trustee will consider conducting a comprehensive round of claims objections. The Trustee believes that the claim objection process would dramatically reduce this figure.

Tower Homes, LLC - Case No. 07-13208
Proposed Distribution at \$90 Million

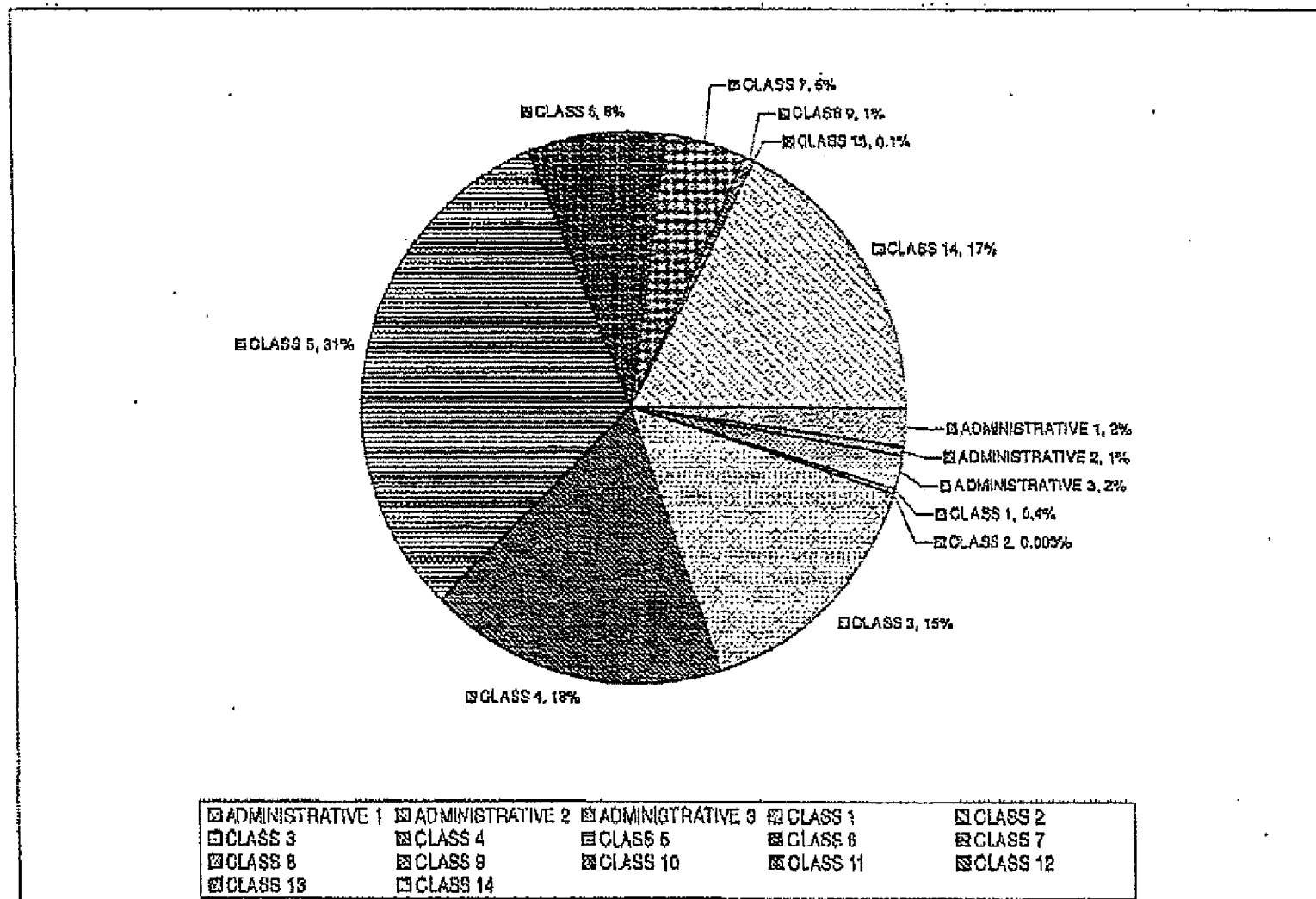
E

Bank Balances 8/1/08	\$0
Proposed Sale Price	\$90,000,000
Funds Available for Distribution	\$90,000,000

DEBTOR CLASS	DESCRIPTION	Amount	Proposed Payment	\$20,000,000	Distribution %
ADMINISTRATIVE 1	TRUSTEE	\$1,900,000	(\$1,900,000)	\$88,100,000	100.00%
ADMINISTRATIVE 2	SHARE	\$500,000	(\$500,000)	\$87,600,000	100.00%
ADMINISTRATIVE 3	BROKER	\$1,800,000	(\$1,800,000)	\$85,800,000	100.00%
CLASS 1	BANK OF GEORGIA ¹	\$375,000	(\$375,000)	\$85,425,000	100.00%
CLASS 2	PRIORITY TAX CLAIMS	\$2,260	(\$2,260)	\$85,422,740	100.00%
CLASS 3	ONECAP CLAIM 44 - \$9.5M	\$13,369,288 ²	(\$13,369,288)	\$72,053,452	100.00%
CLASS 4	ONECAP CLAIM 42 - \$13M	\$16,031,671	(\$16,031,671)	\$56,021,781	100.00%
CLASS 5	MECHANICS LIEN CLAIMS	\$28,139,544	(\$28,139,544)	\$27,882,237	100.00%
CLASS 6	ONECAP CLAIM 49 - \$5.2M	\$7,307,923	(\$7,307,923)	\$20,574,314	100.00%
CLASS 7	BENCHMARK	\$4,300,000	(\$4,300,000)	\$16,274,314	100.00%
CLASS 8	ONECAP MOP	\$0	\$0	\$16,274,314	0.00%
CLASS 9	SECURED	\$502,500	(\$502,500)	\$15,771,814	100.00%
CLASS 10	LEXUS/TOYOTA	\$0	\$0	\$15,771,814	0.00%
CLASS 11	GMAC	\$0	\$0	\$15,771,814	0.00%
CLASS 12	PRIORITY NON-TAX	\$0	\$0	\$15,771,814	0.00%
CLASS 13	PRIORITY NON TAX (PRE-PURCHASERS)	\$84,875	(\$84,875)	\$15,686,939	100.00%
CLASS 14	GENERAL UNSECURED	\$21,865,114 ³	(\$15,686,939)	\$0	71.74%
CLASS 15	SUBORDINATED	\$0	\$0	\$0	0.00%
CLASS 16	EQUITY INTERESTS	\$0	\$0	\$0	0.00%
TOTAL		\$72,053,452	(\$72,053,452)	\$0	

FUNDS REMAINING IN ESTATE

\$0.00



¹ As of the preparation of this model, the Trustee has drawn \$272,250.00 from the Bank of Georgia line of credit, and intends to draw an additional \$100,000.00.

² The three OneCap figures represent the principal loan balances, with accrued interest, through August 14, 2008.

³ This figure represents the total value of all claims in this class at the amounts asserted in each proof of claim, or, if no proof of claim was filed, at the amounts scheduled by the Debtor in its bankruptcy filing. In the event that the estate has sufficient funds to pay claims in this class after satisfaction of all senior claims, the Trustee will consider conducting a comprehensive round of claims objections. The Trustee believes that the claim objection process would dramatically reduce this figure.

F

FF

F

F



F

F

F

Tower Homes, LLC - Case No. 07-13208
Refinanced at \$80 Million

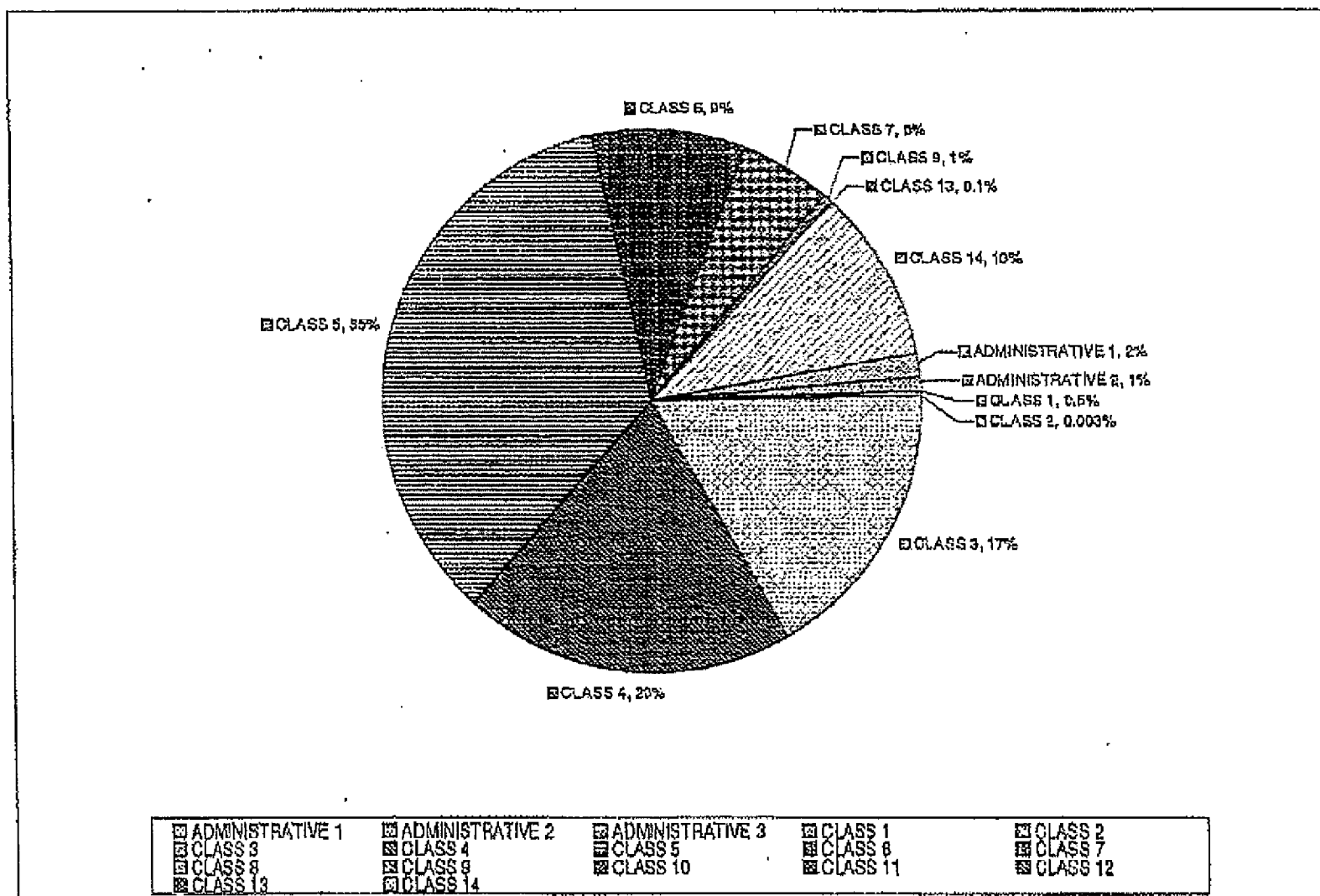
G

Bank Balances 8/1/08	\$0
Refinance Price	\$80,000,000
Funds Available for Distribution	\$80,000,000

CREDITOR CLASS	DESCRIPTION	Amount Allowed ¹	Proposed Payment	\$80,000,000	Distribution %
ADMINISTRATIVE 1	TRUSTEE	\$1,200,000	(\$1,200,000)	\$78,800,000	100.00%
ADMINISTRATIVE 2	SHLRE	\$500,000	(\$500,000)	\$78,300,000	100.00%
ADMINISTRATIVE 3	BROKER	\$0	\$0	\$78,300,000	0.00%
CLASS 1	BANK OF GEORGE ¹	\$375,000	(\$375,000)	\$77,925,000	100.00%
CLASS 2	PRIORITY TAX CLAIMS	\$2,260	(\$2,260)	\$77,922,740	100.00%
CLASS 3	ONECAP CLAIM 44 - \$2.5M	\$13,369,288 ²	(\$13,369,288)	\$64,553,452	100.00%
CLASS 4	ONECAP CLAIM 42 - \$13M	\$16,031,671	(\$16,031,671)	\$48,521,781	100.00%
CLASS 5	MECHANICS LIEN CLAIMS	\$28,139,544	(\$28,139,544)	\$20,382,237	100.00%
CLASS 6	ONECAP CLAIM 43 - \$5.2M	\$7,307,923	(\$7,307,923)	\$13,074,314	100.00%
CLASS 7	BENCHMARK	\$4,300,000	(\$4,300,000)	\$8,774,314	100.00%
CLASS 8	ONECAP MOP	\$0	\$0	\$8,774,314	0.00%
CLASS 9	SECURED	\$502,500	(\$502,500)	\$8,271,814	100.00%
CLASS 10	LEXUS/TOYOTA	\$0	\$0	\$8,271,814	0.00%
CLASS 11	GMAC	\$0	\$0	\$8,271,814	0.00%
CLASS 12	PRIORITY NON-TAX	\$0	\$0	\$8,271,814	0.00%
CLASS 13	PRIORITY NON-TAX (PRE-PURCHASERS)	\$84,875	(\$84,875)	\$8,186,939	100.00%
CLASS 14	GENERAL UNSECURED	\$8,186,939 ³	(\$8,186,939)	\$0	100.00%
CLASS 15	SUBORDINATED	\$0	\$0	\$0	0.00%
CLASS 16	EQUITY INTERESTS	\$0	\$0	\$0	0.00%
TOTAL		\$80,000,000	(\$80,000,000)	\$0	100.00%

FUNDS REMAINING IN ESTATE

\$0.00



¹ As of the preparation of this model, the Trustee has drawn \$272,250.00 from the Bank of George (ke of credit), and intends to draw an additional \$100,000.00.

² The three OneCap figures represent the principal loan balances, with accrued interest, through August 14, 2008.

³ This figure represents the value of all claims allowed against the estate (\$21,872,299) after discounts negotiated by Yankee with various creditors (\$13,680,600), as required under the Trustee's plan.

EXHIBIT 2

TOWER HOMES
PLAN AND DISCLOSURE STATEMENT

PRE-PURCHASER CLAIMANTS

1	BERG, DAVID
2	BIRKETT, KAREN & BORJA, WENDY
3	BROWN, MELVA
4	CHANDLER, BARBARA L.
5	CHANDLER, BARBARA L. as Trustee of the SARA LEE M. BOWERS TRUST
6	CLARK, EDWARD & SANDRA
7	COOLEY, JUDGE W.
8	DEMORALES, DAN
9	DK IV LIMITED PARTNERSHIP JOHN & JENNIFER KILPATRICK
10	EDEJER, EDWIN & GAIL M.
11	EMBLETON, ROBERT
12	GAYNOR, ALLISON G.
13	GLANTZ, LARRY & MORALES, MAYRA
14	GOODALL, RICHARD
15	GRANDE, EILEEN
16	HARRIS, ANDREA
17	HERZLICH, HAROLD J. AND CAROL P.
18	JONES, DEBRA
19	KALMAN, TIMUCIN
20	KOMAN, CHRISTOPHER
21	MERZANIS, DAVID & ROBERTA
22	MIDORA, DAHN
23	MUELLER, ANN & ROBERT
24	MUSTAPHA, ASSI
25	NEVADA BROWN, LLC.
26	ORION STAR TRUST
27	RCY LEASING
28	SHIFFMAN, IRVING & JUDITH
29	SIEMANS, ABE
30	STROMER, PHILLIP & KATHERINE
31	TEJADA, CLIFFORD & CARMENCHITA
32	TOUMAIAI, MARTIN
33	WESTFIELD, LISA
34	WILLIAMS, ARTHUR
35	WOODCOCK, JACK

EXHIBIT 2

10F1

EXHIBIT C

EXHIBIT C



Entered on Docket
June 03, 2010

A handwritten signature in black ink, appearing to read "Bruce A. Markell".

Hon. Bruce A. Markell
United States Bankruptcy Judge

MARQUIS & AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

Marquis & Aurbach
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
DAVID A. COLVIN, ESQ.
Nevada Bar No. 4096
BRIAN HARDY, ESQ.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
bhardy@marquisaurbach.com
(702) 382-0711
Attorneys for the Tower Homes Purchasers

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In Re:

TOWER HOMES, LLC, a Nevada limited
liability company, dba Spanish View Tower
Homes.

Debtor.

Case No.: BK-07-13208-BAM
Chapter:11

Hearing Date: June 1, 2010
Hearing Time: 10:00 a.m.

**ORDER GRANTING MOTION TO APPROVE STIPULATION TO RELEASE CLAIMS
AND ALLOW MARQUIS & AURBACH, AS COUNSEL FOR THE TOWER HOMES
PURCHASERS, TO PURSUE CLAIMS ON BEHALF OF DEBTOR**

This matter having come before the Court for a hearing on June 1, 2010, on the Motion to Approve Stipulation to Release Claims and Allow Marquis & Aurbach as Counsel for the Tower Homes Purchasers to Pursue Claims on Behalf of the Debtor, Tower Homes Purchasers appearing by and through their counsel of record, Brian Hardy, Esq. of Marquis & Aurbach, the Court finding based upon the reasons stated on the record, the papers and pleadings on file


herein, the Motion, the oral arguments of counsel, and good cause appearing;

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Motion to Approve the Stipulation to Release Claims and Allow Marquis & Aurbach as Counsel for the Tower Homes Purchasers to Pursue Claims on Behalf of the Debtor, attached hereto as Exhibit 1, is hereby granted;

IT IS SO ORDERED.

Respectfully Submitted By:

MARQUIS & AURBACH

By 
Brian Hardy, Esq.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney(s) for Tower Homes Purchasers

ALTERNATIVE METHOD RE: RULE 9021

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement of approval under LR 9021.

☐ This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

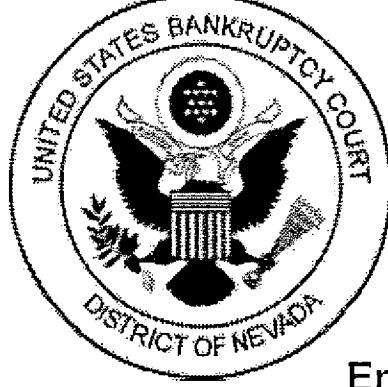
☐ This is a chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

☒ I certify that I have served a copy of this order with the motion, and no parties appeared or filed written objections.

###

EXHIBIT “F”

EXHIBIT “F”



Entered on Docket
June 03, 2010

Bruce A. Markell

Hon. Bruce A. Markell
United States Bankruptcy Judge

Marquis & Aurbach
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
DAVID A. COLVIN, ESQ.
Nevada Bar No. 4096
BRIAN HARDY, ESQ.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
bhardy@marquisaurbach.com
(702) 382-0711
Attorneys for the Tower Homes Purchasers

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In Re:

TOWER HOMES, LLC, a Nevada limited
liability company, dba Spanish View Tower
Homes.

Debtor.

Case No.: BK-07-13208-BAM
Chapter:11

Hearing Date: June 1, 2010
Hearing Time: 10:00 a.m.

**ORDER GRANTING MOTION TO APPROVE STIPULATION TO RELEASE CLAIMS
AND ALLOW MARQUIS & AURBACH, AS COUNSEL FOR THE TOWER HOMES
PURCHASERS, TO PURSUE CLAIMS ON BEHALF OF DEBTOR**

This matter having come before the Court for a hearing on June 1, 2010, on the Motion to Approve Stipulation to Release Claims and Allow Marquis & Aurbach as Counsel for the Tower Homes Purchasers to Pursue Claims on Behalf of the Debtor, Tower Homes Purchasers appearing by and through their counsel of record, Brian Hardy, Esq. of Marquis & Aurbach, the Court finding based upon the reasons stated on the record, the papers and pleadings on file

herein, the Motion, the oral arguments of counsel, and good cause appearing;

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Motion to Approve the Stipulation to Release Claims and Allow Marquis & Aurbach as Counsel for the Tower Homes Purchasers to Pursue Claims on Behalf of the Debtor, attached hereto as Exhibit 1, is hereby granted;

IT IS SO ORDERED.

Respectfully Submitted By:

MARQUIS & AURBACH

By 

Brian Hardy, Esq.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney(s) for Tower Homes Purchasers

ALTERNATIVE METHOD RE: RULE 9021

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement of approval under LR 9021.

☐ This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

☐ This is a chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

☒ I certify that I have served a copy of this order with the motion, and no parties appeared or filed written objections.

###

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

MARQUIS & AURBACH
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
DAVID A. COLVIN, ESQ.
Nevada Bar No. 4096
BRIAN HARDY, ESQ.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
dcolvin@marquisaurbach.com
(702) 382-0711
Attorneys for the Tower Homes Purchasers

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In Re:

TOWER HOMES, LLC, a Nevada limited
liability company, dba Spanish View Tower
Homes.

Debtor.

Case No.: BK-07-13208-BAM
Chapter:11

**STIPULATION TO RELEASE CLAIMS AND ALLOW MARQUIS & AURBACH, AS
COUNSEL FOR THE TOWER HOMES PURCHASERS, TO PURSUE CLAIMS ON
BEHALF OF DEBTOR**

Creditors, Allison Gaynor, Barbara Chandler individually and as trustee of the Saralee M. Bowers Trust, Melva Nevada Brown, Richard Goodall, Harold & Carol Herzlich, Robert Embleton, Dahn Midora, Arthur Williams, Larry & Judy Shiffman, Edwin & Gail Edejer, Judge Angel Cooley, Debra Jones, Abe Siemens; John & Jennifer Kilpatrick, Clifford & Carmen Chita Tejada, Lisa Westfield, Ann & Robert Mueller, Phillip & Katherine Stromer, Karen Birkett, Wendy Borja, Eileen Grande, and Edward Goldin (collectively the "Tower Homes Purchasers"), by and through their counsel, David A. Colvin, Esq. of Marquis & Aurbach, and William A. Leonard, Jr., Post-Confirmation Chapter 11 Trustee (the "Trustee") by and through his counsel Christine A. Roberts, Esq. of Sullivan, Hill, Lewin, Rez & Engel, hereby stipulate and agree as follows:

1) The Trustee has determined that he does not intend and, in any event, does not have sufficient funds in the Estate to pursue claims on behalf of the Debtor against Rodney

MARQUIS & AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 C. Yanke, Americana LLC dba Americana Group, Mark L. Stark, Jeannine Cutter, David
2 Berg, Equity Title of Nevada, LLC or any other individual or entity later identified through
3 discovery which has or may have liability to Debtor or others for the loss of the earnest
4 money deposits provided by purchasers for units in the Spanish View Tower Homes
5 condominium project.

6 2) The Trustee has determined that the claims against Rodney C. Yanke, Americana
7 LLC dba Americana Group, Mark L. Stark, Jeannine Cutter, David Berg, Equity Title of
8 Nevada, LLC or any other individual or entity later identified through discovery which has or
9 may have liability to Debtor or others for the loss of the earnest money deposits provided by
10 purchasers for units in the Spanish View Tower Homes condominium project are or may be
11 direct claims held by the Tower Homes Purchasers and, therefore, are not claims held solely
12 and exclusively by the Estate.

13 3) The Trustee hereby stipulates and agrees to release to the Tower Homes
14 Purchasers any and all claims on behalf of the Debtor against Rodney C. Yanke, Americana
15 LLC dba Americana Group, Mark L. Stark, Jeannine Cutter, David Berg, Equity Title of
16 Nevada, LLC or any other individual or entity later identified through discovery which has or
17 may have any liability or owed any duty to Debtor or others for the loss of the Tower Homes
18 Purchasers earnest money deposits and all claims to any and all earnest money deposits
19 provided by purchasers for units in the Spanish View Tower Homes condominium project.

20 4) The Trustee hereby stipulates and agrees to allow Marquis & Aurbach, as counsel
21 for the Tower Homes Purchasers, to pursue any and all claims on behalf of the Debtor
22 against Rodney C. Yanke, Americana LLC dba Americana Group, Mark L. Stark, Jeannine
23 Cutter, David Berg, Equity Title of Nevada, LLC or any other individual or entity later
24 identified through discovery which has or may have any liability or owed any duty to Debtor
25 or others for the loss earnest money deposits provided by purchasers for units in the Spanish
26 View Tower Homes condominium project.

27 5) The Trustee hereby stipulates and agrees to allow Marquis & Aurbach, as counsel
28 for the Tower Homes Purchasers, to recover any and all earnest monies deposits, damages,


attorneys fees and costs, and interest thereon on behalf of Debtor and the Tower Homes
Purchasers with respect to those claims released to the Tower Homes Purchasers herein.

Dated, this ____ day of April, 2010.


MARQUIS & AURBACH

SULLIVAN, HILL, LEWIN, REZ & ENGEL

By:


Terry A. Coffing, Esq.
Nevada Bar No. 4949
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for the Tower
Homes Purchasers

By:

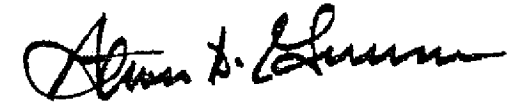

Christine A. Roberts, Esq.
Nevada Bar No. 6472
228 South Fourth Street, First Floor
Las Vegas, NV 89101
Attorneys for William A. Leonard, Jr.,
Post-Confirmation Chapter 11 Trustee

MARQUIS & AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX (702) 382-5816

EXHIBIT “G”

EXHIBIT “G”



CLERK OF THE COURT

MARQUIS AURBACH COFFING
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
BRIAN HARDY, ESQ.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
tcoffing@maclaw.com;
bhardy@maclaw.com
(702) 382-0711
Attorneys for the Tower Homes Purchasers

DISTRICT COURT

CLARK COUNTY, NEVADA

ALLISON GAYNOR, an individual; BARBARA CHANDLER, individually and as TRUSTEE OF THE SARALEE M. BOWERS TRUST; MELVA NEVADA BROWN, an individual; RICHARD GOODALL, an individual; HAROLD & CAROL HERZLICH, individuals; ROBERT EMBLETON, an individual; DAHN MIDORA, an individual; ARTHUR WILLIAMS, an individual; LARRY & JUDY SHIFFMAN, individuals; EDWIN & GAIL EDEJER, individuals; JUDGE ANGEL COOLEY, an individual; DEBRA JONES, an individual; ABE SIEMENS, an individual; JOHN & JENNIFER KILPATRICK, individuals; CLIFFORD & CARMEN CHITA TEJADA, individuals; LISA WESTFIELD, an individual; ANN & ROBERT MUELLER, individuals; and PHILLIP & KATHERINE STROMER, individuals, and TIMUCIN KALMAN, an individual

Plaintiffs,

vs.

TOWER HOMES, LLC., a Nevada limited liability company; RODNEY C. YANKE, an individual; AMERICANA LLC dba AMERICANA GROUP; Nevada limited liability company; MARK L. STARK, an individual in his capacity as a broker; JEANNINE CUTTER, an individual in her capacity as an agent; DAVID BERG, an individual in his capacity as an agent; EQUITY TITLE OF NEVADA, LLC, a Nevada limited liability company; DOE REAL ESTATE AGENTS I through X, individually, DOE REAL ESTATE BROKERS I through X, individually, ROE REAL ESTATE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A541668
Dept. No. XI

**STIPULATION TO ENTRY OF ORDER
GRANTING JUDGMENT AGAINST
RODNEY C. YANKE AND DISMISSING
CLAIMS AGAINST RODNEY C. YANKE,
AND ORDER**

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 **STIPULATION TO ENTRY OF ORDER GRANTING JUDGMENT AGAINST RODNEY**
2 **C. YANKE AND DISMISSING CLAIMS AGAINST RODNEY C. YANKE, AND ORDER**

3 This Stipulation to Entry of Order Granting Judgment Against Rodney C. Yanke, and
4 Dismissing Claims Against Rodney C. Yanke ("Stipulation") is made and entered into by and
5 between Plaintiffs, through their counsel, the law firm of Marquis Aurbach Coffing, and
6 Defendant, Rodney C. Yanke, an individual ("Yanke"), through his counsel, the law firm of Nitz,
7 Walton & Heaton, Ltd., based on the following acknowledged and approved facts and
8 circumstances:

9 **RECITALS**

10 A. On or about March 31, 2009, Plaintiff's caused their counsel to served a Second
11 Amended Complaint ("Complaint") in the above-captioned matter which alleges seven civil
12 causes of action/claims for relief against Yanke, those causes of action being: (i) First Cause of
13 Action alleging breach of contract; (ii) Second Cause of Action alleging breach of the covenant
14 of good faith and fair dealing; (iii) Third Cause of Action alleging an entitlement on the part of
15 Plaintiffs to declaratory relief; (iv) Fourth Cause of Action alleging unjust enrichment; (v)
16 Seventh Cause of Action alleging a violation of duties and obligations arising under NRS
17 Chapter 116; (vi) Eighth Cause of Action alleging a claim for civil RICO; and (vii) Ninth Cause
18 of Action alleging conversion.

19 B. Yanke served his Answer to Plaintiffs' Complaint on or about April 13, 2009. By
20 way of that Answer, Yanke steadfastly denied liability on the causes of action alleged in
21 Plaintiffs' Complaint, and asserted a number of affirmative defenses.

22 C. Trial of the above-captioned matter is set to commence on May 9, 2011.

23 D. Yanke has been and continues to be without financial resources necessary to
24 enable him to adequately prepare for trial.

25 E. Plaintiffs and Yanke have reached an agreement to settle and resolve the claims
26 that have been and/or could be hereinafter asserted by Plaintiffs against Yanke based upon the
27 facts alleged in Plaintiffs' Complaint and/or the circumstances and transactions from which the
28 Complaint arises, all on the terms set forth hereinbelow.

1 F. This Stipulation is entered into for the sole purpose of resolving disputed civil
2 claims, and nothing herein and/or in any order entered pursuant to this Stipulation shall be
3 deemed or construed as evidence of an admission by Yanke, or as creating a basis for
4 establishment, of any fact or circumstance that would support: (i) initiation or maintenance of a
5 criminal action against Yanke; (ii) imposition of criminal penalties or sanctions against Yanke;
6 (iii) imposition by the Commission for Common-Interest Communities and Condominium Hotels
7 of a fine or penalty against Yanke pursuant to NRS 116.785; (iv) imposition by any other
8 governmental agency of a fine or penalty of any kind or nature against Yanke; and/or (v) a
9 determination that the debt or obligation arising from any order entered pursuant to this
10 Stipulation is not dischargeable under 11 USC § 523 or any other applicable provision of the
11 United States Bankruptcy Code.

12 G. Nothing herein shall be deemed or construed as an admission that the acts and/or
13 omissions of Yanke of which Plaintiffs complain were made or undertaken willfully or
14 intentionally, and the parties acknowledge and agree that the treble damages remedy provided in
15 NRS 116.4117(3) is, therefore, inapplicable.

16 **NOW, THEREFORE**, in reliance on the foregoing Recitals, it is hereby stipulated by
17 and between Plaintiffs and Yanke as follows:

18 1. That an order may be entered in the above-captioned matter granting judgment in
19 favor of Plaintiffs (jointly and not severally) and against Yanke upon the causes of action and in
20 the amounts set forth below:

21 a. Judgment in the total amount of Eight Hundred Thousand Dollars
22 (\$800,000.00) shall be entered pursuant to the Second Cause of Action in Plaintiffs'
23 Complaint for breach of the implied covenant of good faith and fair dealing;

24 b. Judgment in the total amount of One Hundred Thousand Dollars
25 (\$100,000.00) shall be entered pursuant to the Fourth Cause of Action in Plaintiffs'
26 Complaint for unjust enrichment; and

27 c. Judgment in the total amount of One Hundred Thousand Dollars
28 (\$100,000.00) shall be entered pursuant to the Seventh Cause of Action in Plaintiff's

1 Complaint under authority of NRS 116.4117(1) for damages incurred emanating from the
2 violation of duties and obligations arising under NRS Chapter 116.

3 2. That said order shall implement a dismissal and/or release of each and all of the
4 other claims and causes of action that have been and/or could have been asserted in Plaintiffs'
5 Complaint against Yanke with prejudice, including, without limitation, all claims and/or causes
6 of action which Plaintiffs received by way of assignment from the Trustee in the Tower Homes,
7 LLC Bankruptcy and could have been asserted against Yanke, based on that assignment, in the
8 above-captioned matter or otherwise. Nothing herein shall be deemed or construed as a waiver
9 or release of any claim and/or cause of action which Plaintiffs now possess or could assert
10 against any person or entity, other than Yanke, by reason of the assignment from the Trustee in
11 the Tower Homes, LLC Bankruptcy.

12 3. That said order shall provide that Plaintiffs and Yanke each bear their own
13 attorney's fees and costs incurred in the above-captioned action.

14 4. That said order shall provide that nothing in this Stipulation or any order entered
15 pursuant hereto shall be deemed or construed as evidence of an admission by Yanke, or as
16 creating a basis for establishment of any fact or circumstance that would provide justification for:
17 (i) initiation or maintenance of a criminal action against Yanke; (ii) imposition of criminal
18 penalties or sanctions against Yanke; (iii) imposition of a fine or penalty against Yanke by the
19 Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS
20 116.785; (iv) imposition by any other governmental agency of a fine or penalty of any kind or
21 nature against Yanke; and/or (v) a determination that the debt or obligation arising from any
22 order entered pursuant to this Stipulation is not dischargeable under 11 USC § 523 or any other
23 applicable provision of the United States Bankruptcy Code.

24 ///

25 ///

26 ///

27 ///

28 ///

5. Nothing herein shall be deemed or construed as an admission that the acts and/or omissions of Yanke of which Plaintiffs complain were made or undertaken willfully or intentionally, and the treble damages remedy provided in NRS 116.4117(3) is inapplicable.

DATED this 26th day of April, 2011.

MARQUIS AURBACH COFFING

DATED this 25th day of April, 2011.

NITZ, WALTON & HEATON, LTD.

By: 

Terry A. Coffing, Esq.
Nevada Bar No. 4949
Brian Hardy, Esq.
Nevada Bar No. 10068
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiffs

By: 

William H. Heaton, Esq.
Nevada Bar No. 1097
601 S. 10th Street, #201
Las Vegas, Nevada 89101
Attorneys for Tower Homes, LLC
and Rodney Yanke

ORDER

The Court having read and reviewed the foregoing stipulation of the parties, and good cause appearing,

IT IS HEREBY ORDERED, that judgment is hereby entered in favor of Plaintiffs (jointly and not severally) and against Yanke upon the causes of action and in the amounts set forth below:

a. Judgment in the total amount of Eight Hundred Thousand Dollars (\$800,000.00) is hereby entered pursuant to the Second Cause of Action in Plaintiffs' Complaint for breach of the implied covenant of good faith and fair dealing;

b. Judgment in the total amount of One Hundred Thousand Dollars (\$100,000.00) is hereby entered pursuant to the Fourth Cause of Action in Plaintiffs' Complaint for unjust enrichment; and

c. Judgment in the total amount of One Hundred Thousand Dollars (\$100,000.00) is hereby entered pursuant to the Seventh Cause of Action in Plaintiff's Complaint under authority of NRS 116.4117(1) for damages incurred emanating from the violation of duties and obligations arising under NRS Chapter 116.

1 IT IS FURTHER ORDERED, that each and all of the other claims and causes of action
2 that have been and/or could have been asserted in Plaintiffs' Complaint against Yanke shall be
3 and are hereby dismissed with prejudice, including, without limitation, all claims and/or causes
4 of action which Plaintiffs received by way of assignment from the Trustee in the Tower Homes,
5 LLC Bankruptcy and could have been asserted against Yanke, based on that assignment, in the
6 above-captioned matter or otherwise; provided, however, nothing herein shall be deemed or
7 construed as a waiver or release of any claim and/or cause of action which Plaintiffs now possess
8 or could assert against any person or entity, other than Yanke, by reason of the assignment from
9 the Trustee in the Tower Homes, LLC Bankruptcy.

10 IT IS FURTHER ORDERED, that Plaintiffs and Yanke shall each bear their own
11 attorney's fees and costs incurred in the above-captioned action.

12 IT IS FURTHER ORDERED, that nothing in this Stipulation or any order entered
13 pursuant hereto shall be deemed or construed as evidence of an admission by Yanke, or as
14 creating a basis for establishment of any fact or circumstance, that would provide justification
15 for: (i) initiation or maintenance of a criminal action against Yanke; (ii) imposition of criminal
16 penalties or sanctions against Yanke; (iii) imposition of a fine or penalty against Yanke by the
17 Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS
18 116.785; (iv) imposition by any other governmental agency of a fine or penalty of any kind or
19 nature against Yanke; and/or (v) a determination that the debt and obligation arising from this
20 order are not dischargeable under 11 USC § 523 or any other applicable provision of the United
21 States Bankruptcy Code.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 IT IS FURTHER ORDERED, that nothing herein shall be deemed or construed as an
2 admission that the acts and/or omissions of Yanke of which Plaintiffs complain were made or
3 undertaken willfully or intentionally, and the treble damages remedy provided in NRS
4 116.4117(3) is inapplicable.

5 DATED this 27th day of April, 2011.
6

7
8 
9 DISTRICT COURT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “H”

EXHIBIT “H”

SAO
MICHAEL E. STOBERSKI, ESQ.
Nevada Bar No. 004762
RAYMOND E. McKAY, ESQ.
Nevada Bar No. 008569
OLSON, CANNON, GORMLEY & DESRUISSEAU
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012

DISTRICT COURT
CLARK COUNTY, NEVADA

ALLISON GAYNOR, an individual;) CASE NO. A541668
BARBARA CHANDLER, individually) DEPT. NO. XI
and as TRUSTEE OF THE SARALEE M.)
BOWERS TRUST; MELVA NEVADA BROWN,)
an individual; RICHARD GOODALL,)
an individual; HAROLD & CAROL)
HERZLICH, individuals; ROBERT)
EMBLETON, an individual; DAHN)
MIDORA, an individual; ARTHUR)
WILLIAMS, an individual; LARRY &)
JUDY SHIFFMAN, individuals; EDWIN)
& GAIL EDEJER, individuals; JUDGE)
ANGEL COOLEY, an individual;)
DEBRA JONES; an individual; ABE)
SIEMENS, an individual; JOHN &)
JENNIFER KILPATRICK, individuals;)
CLIFFORD & CARMEN CHITA TEJADA,)
individuals; and LISA WESTFIELD,)
an individual; and ANN & ROBERT)
MUELLER, individuals; and PHILLIP)
& KATHERINE STROMER, individuals,)

VS.

TOWER HOMES, LLC, a Nevada limited liability company; RODNEY C. YANKE, an individual; AMERICANA LLC dba AMERICANA GROUP, a Nevada limited liability company; MARK L. STARK, an individual in his capacity as a broker; JEANNINE CUTTER, an individual in her capacity as an

<input type="checkbox"/> Voluntary Dis	<input checked="" type="checkbox"/> Slip Dis	<input type="checkbox"/> Sum Jdgmt
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Slip Jdgmt	<input type="checkbox"/> Non-jury Trial
<input type="checkbox"/> Jdgmt on Auto Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Min to Dis (by del't)	<input type="checkbox"/> Transferred	

Law Office of
OLSON, CANNON, GORMLEY & DESRUISSEAUX
A Professional Corporation
9550 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012 Telecopier (702) 383-0701

1 agent; DAVID BERG, an individual)
2 in his capacity as an agent; DOE)
3 REAL ESTATE AGENTS I through X,)
4 individually, DOE REAL ESTATE)
5 BROKERS I through X,)
6 individually, ROE REAL ESTATE)
7 CORPORATIONS I through X,)
8 inclusive,)

Defendants.)

STIPULATION AND ORDER FOR DISMISSAL WITH PREJUDICE

9 COME NOW, Defendants MARK L. STARK, JEANNINE CUTTER, and
10 DAVID BERG, by and through their attorneys, OLSON, CANNON,
11 GORMLEY & DESRUISSEAUX, and Plaintiffs named in the above
12 caption, by and their attorneys, MARQUIS AURBACH COFFING, and
13 hereby stipulate that the claims asserted by Plaintiffs against
14 Defendants MARK L. STARK, JEANNINE CUTTER, and DAVID BERG, only
15 be dismissed with prejudice, each party to bear their own
16 attorneys' fees and costs. Plaintiffs' claims against Defendant
17 RODNEY C. YANKE have already been dismissed.

18 . . .

19 . . .

20 . . .

21 . . .

22 . . .

23 . . .

24 . . .

25 . . .

26 . . .

27 . . .

28

1 Trial began on June 9, 2011 and this matter was settled
2 during trial between the remaining parties.

3 DATED this 27 day of June, 2011.

4 OLSON, CANNON, GORMLEY
5 & DESRUISSEAU

MARQUIS AURBACH COFFING

6 By

MICHAEL E. STOBERSKI, ESQ.
Nevada Bar No. 004762
RAYMOND E. MCKAY, ESQ.
Nevada Bar No. 008569
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Attorneys for Defendants
MARK L. STARK, JEANNINE
CUTTER and DAVID BERG

By

TERRY A. COFFING, ESQ.
Nevada Bar No. 004949
BRIAN R. HARDY, ESQ.
Nevada Bar No. 010068
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiffs

12 ORDER

13 IT IS ORDERED, ADJUDGED AND DECREED that the claims asserted
14 by Plaintiffs named in the above caption against Defendants MARK
15 L. STARK, JEANNINE CUTTER, and DAVID BERG be dismissed with
16 prejudice;

17 Dated this 29 day of June, 2011.

18
19
20
21
22
23
24
25
26
27
28
DISTRICT COURT JUDGE

SUBMITTED BY:

OLSON, CANNON, GORMLEY
& DESRUISSEAU

By

MICHAEL E. STOBERSKI, ESQ.
Nevada Bar No. 004762
RAYMOND E. MCKAY, ESQ.
Nevada Bar No. 008569
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Attorneys for Defendants
MARK L. STARK, JEANNINE CUTTER
and DAVID BERG

EXHIBIT “I”

EXHIBIT “I”

1
2 **DECLARATION OF DENNIS M. PRINCE IN SUPPORT OF PLAINTIFF'S**
3 **OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR IN THE**
4 **ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT**

5 STATE OF NEVADA)
6) ss.
7 COUNTY OF CLARK)

8 I, Dennis M. Prince, counsel for Plaintiff, hereby declare the following:

9 1. I am a partner at Prince & Keating, counsel of record for Plaintiff in the above
10 entitled action. I make this declaration in support of Plaintiff's Opposition to
11 Defendants' Motion to Dismiss or in the Alternative, Motion for Summary Judgment.
12 I have personal knowledge of the facts stated herein and if called upon to testify, I am
13 competent to testify to the facts stated herein.

14 2. I was contacted by the law firm of Marquis Aurbach Coffin ("MAC")
15 regarding MAC's desire to associate my law firm as lead counsel in the above entitled
16 action. At the time my law firm was contacted, MAC were the attorneys of record for
17 numerous Plaintiffs in the case of Gaynor, et. al v. Tower Homes, LLC Case No
18 A541668 in the Eight Judicial District Court of Nevada. My role as lead counsel is to
19 work in conjunction with MAC in bringing this instant legal malpractice action against
20 Defendants William H. Heaton, and the law firm of Nitz, Walton, & Heaton, LTD on
21 behalf of Tower Homes, LLC for the benefit of the plaintiffs in the case Gaynor, et. al
22 v. Tower Homes, LLC.

23
24
25 DENNIS M. PRINCE

26 SUBSCRIBED AND SWORN to before
27 me this 4th day of September, 2012.

28 NOTARY PUBLIC in and for said County and State

