

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS DEVELOPMENT GROUP, LLC,)
a Nevada limited liability company,)
Appellant,)

vs.)

JAMES R. BLAHA, an individual; BANK OF)
AMERICA, NA, a National Banking)
Association, as successor by merger to BAC)
HOME LOANS SERVICING, LP;)
RECONTRUST COMPANY NA, a Texas)
corporation; EZ PROPERTIES, LLC, a Nevada)
limited liability company; K&L BAXTER)
FAMILY LIMITED PARTNERSHIP, a Nevada)
limited partnership; FCH FUNDING, INC, an)
unknown corporate entity,)
Respondents.)

Supreme Court No. 71875

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Clerk of Supreme Court

APPEAL

From the Eighth Judicial District Court,

The Honorable Jerry A. Wiese II , District Judge

District Court Case No. A-15-715532-C

JOINT APPENDIX - VOLUME 1

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DISTRICT COURT CIVIL COVER SHEET A – 1 5 – 7 1 5 5 3 2 – C

Clark County Nevada

Case No. _____
(Assigned by Clerk's Office)

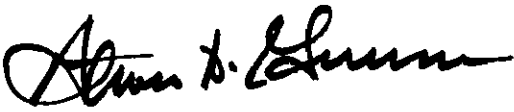
V I I I

I. Party Information		
Plaintiff(s) (name/address/phone): LAS VEGAS DEVELOPMENT GROUP, LLC, a Nevada limited liability company, Attorney (name/address/phone): ROGER P. CROTEAU & ASSOCIATES, LTD. 9120 W. POST ROAD, SUITE 100 LAS VEGAS, NEVADA 89148 (702) 254-7775		Defendant(s) (name/address/phone): JAMES R. BLAHA, an individual; BAC HOME LOANS SERVICING, LP, a Texas limited partnership; RECONTRUST COMPANY, NA, a Texas corporation; JOSE PEREZ, JR., an individual; EZ PROPERTIES, LLC, a Nevada limited liability company; K & L BAXTER FAMILY LIMITED PARTNERSHIP, a Nevada limited partnership; FCH FUNDING, INC., an unknown corporate entity; DOE individuals I through XX; and ROE CORPORATIONS I through XX, Attorney (name/address/phone):
II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)		
Civil Case Filing Types		
Real Property	Torts	
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input checked="" type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ		Other Civil Filing
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court Filings should be field using the Business Court civil coversheet

March 19, 2015
Date

/s/ Timothy E. Rhoda
Sig nature of initiating party or representative


CLERK OF THE COURT

COMP
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DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS DEVELOPMENT GROUP, LLC,)
a Nevada limited liability company,)

Plaintiff,)

vs.)

JAMES R. BLAHA, an individual; BANK OF)
AMERICA, NA, a National Banking)
Association, as successor by merger to BAC)
HOME LOANS SERVICING, LP;)
RECONTRUST COMPANY NA, a Texas)
corporation; JOSE PEREZ, JR. an individual;)
EZ PROPERTIES, LLC, a Nevada limited)
liability company; K&L BAXTER FAMILY)
LIMITED PARTNERSHIP, a Nevada limited)
partnership; FCH FUNDING, INC, an unknown)
corporate entity; DOE individuals I through)
XX; and ROE CORPORATIONS I through)
XX,)

Defendants.)

Case No. A - 15 - 715532 - C
Dept. No. VIII

**ARBITRATION EXEMPTION
CLAIMED: (1) TITLE TO REAL
PROPERTY; (2) DECLARATORY
RELIEF**

COMPLAINT

COMES NOW, Plaintiff, LAS VEGAS DEVELOPMENT GROUP, LLC, by and through
its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby complains and alleges
as follows:

PARTIES

1. At all times relevant to this matter, Plaintiff, LAS VEGAS DEVELOPMENT GROUP, LLC, was and is a Nevada limited liability company, authorized to do business and doing business in the County of Clark, State of Nevada.
2. Upon information and belief, at all times relevant to this matter, Defendant, BANK OF AMERICA, NA, (*"BANA"*), successor by merger to BAC HOME LOANS SERVICING, LP (*"BAC Home Loans"*), was and is and doing business in the County of Clark, State of Nevada.
3. Upon information and belief, at all times relevant to this matter, Defendant, RECONTRUST COMPANY NA (*"Recontrust"*), was and is a Texas corporation, authorized to do business and doing business in the County of Clark, State of Nevada.
4. Upon information and belief, at all times relevant to this matter, Defendant, JOSE PEREZ, JR. was and is an individual and resident of the County of Clark, State of Nevada.
5. Upon information and belief, at all times relevant to this matter, Defendant, EZ PROPERTIES, LLC (*"EZ Properties"*), was and is a Nevada limited liability company, authorized and doing business in the County of Clark, State of Nevada.
6. Upon information and belief, at all times relevant to this matter, Defendant, K & L BAXTER FAMILY LIMITED PARTNERSHIP (*Baxter Family Partnership*), was and is a Nevada limited partnership, authorized and doing business in the County of Clark, State of Nevada.
7. Upon information and belief, at all times relevant to this matter, Defendant, JAMES R. BLAHA, was and is an individual and resident of the County of Clark, State of Nevada.
8. Upon information and belief, at all times relevant to this matter, Defendant, FCH FUNDING, INC. (*"FCH Funding"*), was and is an unknown corporate entity, doing business in the County of Clark, State of Nevada.
9. Plaintiff is unaware of the true names and capacities whether individuals, corporations, associates, or otherwise of Defendants DOES I through X and ROE Corporations I

1 through X, inclusive, and therefore sues these Defendants by such fictitious names.

2 Plaintiff is informed and believes and thereupon alleges that the Defendants, and each of
3 them, are in some manner responsible and liable for the acts and damages alleged in this
4 Complaint. Plaintiff will seek leave of this Court to amend this Complaint to allege the
5 true names and capacities of the DOES and ROE CORPORATIONS Defendants when
6 the true names of the DOES and ROE CORPORATIONS Defendants are ascertained.

7 **GENERAL ALLEGATIONS**

8 10. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1
9 through 9 hereof as if set forth fully herein.

10 11. On or about June 8, 2004, a Declaration was recorded in the Official Records of the Clark
11 County Recorder as instrument number 200406080002308, thereby creating Nevada
12 Trails II Community Association (*the "HOA"*) and perfecting a lien in favor of the HOA
13 on all real property located within the common interest community it governed, including
14 but not limited to that real property commonly known as 7639 Turquoise Stone Court,
15 Las Vegas, Nevada 89113, Assessor Parcel No. 176-10-213-042 (*the "Property"*).

16 12. The lien having been recorded prior to any other liens is first in right and first in time as
17 to all other interests recorded after the Declaration with the exception of liens for real
18 estate taxes and other governmental assessments.

19 13. N.R.S. Chapter 116 provides that the lien perfected by the Declaration is subordinate to a
20 "first security interest on the unit recorded before the date on which the assessment
21 sought to be enforced became delinquent."

22 14. While this statutory subordination applies to the majority of the lien perfected by the
23 Declaration, pursuant to N.R.S. 116.3116(2)(c), it does not subordinate the lien to two
24 specific charges incurred under it.

25 15. The charges which are specifically NOT subordinated to the first security interest include:
26 (1) any charges incurred by the association on a unit pursuant to N.R.S. 116.310312 and;
27 (2) that portion of the assessments for common expenses based on the periodic budget
28 adopted by the association pursuant to N.R.S. 116.3115 which would have become due in

1 the absence of acceleration during the 9 months immediately preceding institution of an
2 action to enforce the lien.

3 16. On or about March 23, 2006, Defendant, JOSE PEREZ, JR. (*"Former Owner"*), acquired
4 title to and ownership of the Property.

5 17. Between approximately March 23, 2006, and April 13, 2011, Former Owner held title to
6 and ownership of the Property either jointly or in an individual capacity.

7 18. Upon information and belief, Former Owner obtained one or more mortgages and/or lines
8 of credit secured by the Property.

9 19. On or about March 28, 2007, Countrywide FSB recorded a deed of trust against the
10 Property in the Official Records of the Clark County Recorder as Instrument No.
11 200703280002128 (*"First Deed of Trust"*).

12 20. Upon information and belief, BAC Home Loans subsequently became the holder and/or
13 owner of the First Deed of Trust through an assignment recorded in the Official Records
14 of the Clark County Recorder on or about April 4, 2011 as Instrument No.
15 201104040003342.

16 21. The Property is and was subject to certain Covenants, Conditions and Restrictions
17 (*"CC&Rs"*) of HOA.

18 22. By virtue of his ownership of the Property, Former Owner was a member of the HOA and
19 accordingly was obligated to pay HOA assessments pursuant to the terms of the CC&Rs.

20 23. At some point in time during his ownership of the Property, Former Owner failed to pay
21 the HOA assessments related to the Property.

22 24. As a result of the failure of Former Owner to pay the HOA assessments, HOA recorded a
23 Notice of Delinquent Assessment Lien (*"HOA Lien"*) with the Office of the Recorder of
24 Clark County, Nevada.

25 25. Thereafter, HOA recorded a Notice of Default and Election to Sell with the Office of the
26 Recorder of Clark County, Nevada.

27 26. Upon information and belief, the Notice of Default and Election to Sell was served upon
28 the Former Owner, as well as all interested parties holding a security interest in the

Property.

27. After the expiration of 90 days from the recording and mailing of the Notice of Default, HOA caused a Notice of Trustee's Sale to be recorded with the Office of the Recorder of Clark County, Nevada.
28. Upon information and belief, the Notice of Trustee's Sale was served upon the Former Owner, as well as all interested parties holding a security interest in the Property.
29. On or about April 12, 2011, HOA caused a foreclosure sale ("*HOA Foreclosure Sale*") to be conducted pursuant to the powers conferred by the Nevada Revised Statutes 116.3116, 116.31162, 116.31163 and 116.31164; the CC&Rs; the Notice of Delinquent Assessment Lien; and the Notice of Default and Election to Sell.
30. Plaintiff purchased the Property by successfully bidding at the HOA Foreclosure Sale in accordance with N.R.S. 116.3116, et seq.
31. On or about April 13, 2011, a Trustee's Deed Upon Sale ("*HOA Foreclosure Deed*") was recorded in the Official Records of the Clark County Recorder as Instrument No. 201104130000979, vesting title to the Property in the Plaintiff.
32. The HOA Foreclosure Sale complied with all requirements of law, including but not limited to, the recording and mailing of copies of the Notice of Delinquent Assessment and Notice of Default, and the recording, posting and publication of the Notice of Sale.
33. Upon information and belief, Defendants had actual and/or constructive notice of the HOA foreclosure proceedings.
34. N.R.S. 116.3116(2) provides that an HOA Lien has priority over all other liens and encumbrances 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.
35. N.R.S. 116.3116(2) further provides that a portion of the HOA Lien has priority over

1 even a first security interest in the Property, stating as follows:

2 The lien is also prior to all security interests described in paragraph (b) to the
3 extent of any charges incurred by the association on a unit pursuant to NRS
4 116.310312 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[.]

5 36. Upon information and belief, the HOA incurred charges within the 9 months immediately
6 preceding the initiation of the HOA foreclosure action that constituted super priority
7 amounts.

8 37. Upon information and belief, no party still claiming an interest in the Property recorded a
9 lien or encumbrance prior to the declaration creating the HOA.

10 38. Upon information and belief, Plaintiff's bid at the HOA Foreclosure Sale was equal to or
11 in excess of the amount necessary to satisfy the costs of sale and the super-priority portion
12 of the HOA Lien.

13 39. Upon information and belief, the HOA or its agent distributed or should have distributed
14 any excess funds to lien holders in order of priority pursuant to N.R.S. 116.3114(c).

15 40. Upon information and belief, Defendants had actual and/or constructive notice of the
16 requirement to pay assessments to the HOA and of the HOA Lien.

17 41. Upon information and belief, prior to the HOA Foreclosure Sale, BAC Home Loans had
18 not assigned the First Deed of Trust to the Secretary of Housing and Urban Development
19 ("*HUD*"), the Federal National Mortgage Association ("*FNMA*"), the Federal Home
20 Loan Mortgage Corporation ("*Freddie Mac*") or any governmental agency or
21 instrumentality.

22 42. Upon information and belief, at the time of the HOA Foreclosure Sale, neither the United
23 States nor any of its agencies or instrumentalities possessed any interest in the First Deed
24 of Trust or the Property.

25 43. Upon information and belief, prior to the HOA Foreclosure Sale, no individual or entity
26 paid the full amount of delinquent assessments described in the Notice of Default.

27 44. Upon information and belief, prior to the HOA Foreclosure Sale, no individual or entity
28

1 paid the super priority portion of the delinquent assessments described in the Notice of
2 Default.

3 45. Upon information and belief, Defendants had actual and/or constructive notice of the
4 super priority portion of the HOA Lien.

5 46. Upon information and belief, BAC Home Loans knew or should have known that any
6 security interest that it may have possessed pursuant to the First Deed of Trust would be
7 extinguished through foreclosure if it failed to cure the super-priority portion of the HOA
8 Lien representing 9 months of assessments for common expenses based upon the periodic
9 budget adopted by the HOA which would have become due in the absence of acceleration
10 for the relevant time period.

11 47. Pursuant to N.R.S. 116.31166, the HOA Foreclosure Sale vested title in Plaintiff “without
12 equity or right of redemption.”

13 48. Pursuant to N.R.S. 116.31166, the HOA Foreclosure Deed is conclusive against the
14 Property’s “former owner, his or her heirs and assigns, and all other persons.”

15 49. Former Owner’s ownership interest in the Property was extinguished by the foreclosure
16 of the HOA Lien.

17 50. BAC Home Loan’s security interest in the Property, if any, was extinguished by the
18 foreclosure of the HOA Lien and the First Deed of Trust was rendered null, void and
19 unenforceable.

20 51. Any other existing security interests in the Property, if any, were likewise extinguished by
21 the foreclosure of the HOA Lien and rendered null, void and unenforceable.

22 52. By virtue of its purchase of the Property at the HOA Foreclosure Sale, Plaintiff became
23 the sole owner of all right, title and interest in the Property free and clear of any
24 encumbrances of the Defendants.

25 53. On or about April 14, 2011, BANA and/or Recontrust caused a Notice of Default and
26 Election to Sell to be recorded in the Official Records of the Clark County Recorder as
27 Instrument No. 201104140003343.

28 54. On or about August 9, 2011, BANA and/or Recontrust caused a Notice of Trustee’s Sale

1 to be recorded in the Official Records of the Clark County Recorder as Instrument No.
2 201108090003456.

3 55. On or about August 29, 2011, Recontrust purported to conduct a foreclosure sale ("*Bank*
4 *Foreclosure Sale*") based upon the First Deed of Trust.

5 56. EZ Properties purported to purchase the Property at the Bank Foreclosure Sale and on
6 September 19, 2011, a Trustee's Deed Upon Sale Nevada to be recorded in the Official
7 Records of the Clark County Recorder as Instrument No. 201109190002647.

8 57. Upon information and belief, EZ Properties purchased the Property at the alleged
9 September 19, 2011 Bank Foreclosure Sale with the aid of a mortgage from the Baxter
10 Family Partnership.

11 58. On or about September 19, 2011, the Baxter Family Partnership recorded a deed of trust
12 against the Property in the Official Records of the Clark County Recorder as Instrument
13 No. 201109190002648. ("*Baxter Family Partnership Deed of Trust*").

14 59. On or about September 30, 2011, EZ Properties purported to transfer the Property to
15 James R. Blaha by deed recorded in the Official Records of the Clark County Recorder as
16 Instrument No. 201109300001615.

17 60. Upon information and belief, James R. Blaha purchased the Property from EZ Properties
18 with the aid of a mortgage loan from FCH Funding.

19 61. On or about December 30, 2011, FCH Funding recorded a deed of trust against the
20 Property in the Official Records of the Clark County Recorder as Instrument No.
21 201112300003312 ("*FCH Funding Deed of Trust*").

22 62. In the matter of *SFR Investments Pool I, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d
23 408, 2014 WL 4656471 (Adv. Op. No. 75, Sept. 18, 2014), the Nevada Supreme Court
24 resolved a split that previously existed in the state and federal courts of the State of
25 Nevada regarding the force, effect and interpretation of N.R.S. §116.3116.

26 63. In doing so, the Nevada Supreme Court clarified that the statute provides a homeowners
27 association a true super-priority lien over real property that can and does extinguish a first
28 deed of trust when non-judicially foreclosed. *Id.*

64. In *SFR Investments*, the Nevada Supreme Court also recognized that a foreclosure deed “reciting compliance with notice provisions of NRS 116.31162 through NRS 116.31168 ‘is conclusive’ as to the recitals ‘against the unit’s former owner, his or her heirs and assigns and all other persons.’” *See id.* at 3 (citing NRS 116.3116(2)).

65. Moreover, under Nevada law, the Association foreclosure sale and the resulting foreclosure deed are both presumed valid. NRS 47.250(16)-(18) (stating that disputable presumptions exist “that the law has been obeyed”; “that a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to that person, when such presumption is necessary to perfect the title of such person or a successor in interest”; “that private transactions have been fair and regular”; and “that the ordinary course of business has been followed.”).

66. Based upon the foregoing, the Bank Foreclosure Sale and all subsequent transfers related to the Property were and are invalid, void and unenforceable.

FIRST CAUSE OF ACTION

(Quiet Title against all Defendants)

67. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 66 hereof as if set forth fully herein.

68. Plaintiff properly acquired title and ownership of the Property at the HOA Foreclosure Sale for good and valuable consideration.

69. By virtue of its purchase of the Property at the HOA Foreclosure Sale, Plaintiff became the sole owner of all right, title and interest in the Property free and clear of any encumbrances of the Defendants.

70. Because the HOA Foreclosure Sale extinguished the First Deed of Trust, BAC Home Loans and Recontrust possessed no right to conduct a Trustee’s Sale based upon the First Deed of Trust.

71. The sale of the Property to EZ Properties and all subsequent transfers of the Property were and are null, void and of no effect.

72. Any and all deeds of trust subsequently recorded against the Property and any

1 assignments thereof are unauthorized, null, void and unenforceable, including the Baxter
2 Family Partnership and FCH Funding Deeds of Trust.

3 73. Plaintiff remains the sole owner of the Property free and clear of any and all
4 encumbrances.

5 74. One or more of the Defendants may claim some right, title and/or interest in the Property.

6 75. A justiciable controversy exists regarding the right, title and interest held by Plaintiff and
7 Defendants in the Property.

8 76. The interests of Plaintiff and Defendants are adverse in this justiciable controversy.

9 77. The Plaintiff has a legally protectible interest in the Property.

10 78. The controversy between Plaintiff and Defendants is ripe for judicial determination.

11 79. This Court should enter an Order which determines all and every claim, estate or interest
12 of the parties in the Property.

13 80. The Plaintiff is entitled to a declaratory judgment finding that: (1) Plaintiff is the title
14 owner of the Property; (2) the HOA Foreclosure Deed is valid and enforceable; (3) the
15 HOA Foreclosure Sale extinguished the applicable Defendants' ownership and security
16 interests in the Property; (4) the subsequent transfers of the Property were null, void and
17 of no effect; and (5) Plaintiff's rights and interest in the Property are superior to any
18 interest claimed by the Defendants.

19 81. Title to the Property should be quieted solely in the name of Plaintiff.

20 82. As a direct and proximate result of the actions of the Defendants, it has become necessary
21 for Plaintiff to retain the services of an attorney to protect its rights and prosecute this
22 Claim.

23 83. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
24 Procedure as further facts become known.

25 **SECOND CAUSE OF ACTION**

26 **(Unjust Enrichment against BANA [BAC Home Loans], Recontrust and EZ Properties)**

27 84. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1
28 through 83 hereof as if set forth fully herein.

1 85. Plaintiff expended significant funds and resources in connection with the acquisition and
2 maintenance of the Property.

3 86. In the event that the Plaintiff does not maintain sole and exclusive title to and possession
4 of the Property, the Defendants will obtain substantial benefits from the funds and
5 resources expended by the Plaintiff.

6 87. Upon information and belief, Defendants sold the Property for significant monetary gain.

7 88. All proceeds received by the Defendants from the sale of the Property rightfully belong to
8 the Plaintiff as the rightful owner of the Property.

9 89. It would be unjust for the Defendants to accept and retain such benefits without
10 compensating Plaintiff for the value of the benefits which they received.

11 90. As a direct and proximate result of the actions of the Defendants, it has become necessary
12 for Plaintiff to retain the services of an attorney to protect its rights and prosecute this
13 Claim.

14 91. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
15 Procedure as further facts become known.

16 **THIRD CAUSE OF ACTION**

17 **(Equitable Mortgage against all Defendants)**

18 92. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through
19 91 hereof as if set forth fully herein.

20 93. Plaintiff has expended significant funds and resources in connection with the acquisition
21 and maintenance of the Property.

22 94. In the event that the Plaintiff does not maintain sole and exclusive title to and possession
23 of the Property, the Defendants will obtain substantial benefits from the funds and
24 resources expended by the Plaintiff.

25 95. Upon information and belief, Defendants sold the Property for significant monetary gain.

26 96. All proceeds received by the Defendants from the sale of the Property rightfully belong to
27 the Plaintiff as the rightful owner of the Property.

28 97. It would be unjust for the Defendants to accept and retain such benefits without

1 compensating Plaintiff for the value of the benefits which they received.

2 98. In the event that the Plaintiff does not maintain sole and exclusive title to and possession
3 of the Property, the existence of an equitable mortgage is essential to the effectuation of
4 justice and to protect the interests of Plaintiff.

5 99. In the event that Plaintiff is divested of title to the Property for any reason, an equitable
6 mortgage should be imposed against the Property in favor of Plaintiff to secure the
7 payment of all sums rightfully owed to the Plaintiff in connection with the Property.

8 100. As a direct and proximate result of the actions of the Defendants, it has become necessary
9 for Plaintiff to retain the services of an attorney to protect its rights and prosecute this
10 Claim.

11 101. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
12 Procedure as further facts become known.

13 **FOURTH CAUSE OF ACTION**

14 **(Slander of Title against all Defendants)**

15 102. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1
16 through 101 hereof as if set forth fully herein.

17 103. Plaintiff properly acquired title and ownership of the Property at the HOA Foreclosure
18 Sale.

19 104. By virtue of its purchase of the Property at the HOA Foreclosure Sale, Plaintiff became
20 the sole owner of all right, title and interest in the Property free and clear of any
21 encumbrances of the Defendants.

22 105. On or about April 14, 2011, BAC Home Loans and/or Recontrust caused a Notice of
23 Default and Election to Sell to be recorded in the Official Records of the Clark County
24 Recorder as Instrument No. 201104140003343.

25 106. On or about August 9, 2011, BAC Home Loans and/or Recontrust caused a Notice of
26 Trustee's Sale to be recorded in the Official Records of the Clark County Recorder as
27 Instrument No. 201108090003456.

28 107. On or about September 19, 2011, a Trustee's Deed Upon Sale ("*Bank Foreclosure*

108. The Notice of Default and Election to Sell, Notice of Trustee's Sale, Bank Foreclosure Deed and/or other documents recorded by Defendants since the time that Plaintiff purchased the Property have impugned Plaintiff's title to the Property.
109. Plaintiff's title to the Property has been disparaged and slandered, and there is a cloud on Plaintiff's title.
110. The actions of the Defendants were done with the intent to cause Plaintiff harm, or in conscious disregard for its rights, or were done with conscious disregard for the consequences of their actions, and were therefore done with either express or implied malice.
111. As a direct and proximate result of the actions of the Defendants, it has become necessary for Plaintiff to retain the services of an attorney to protect its rights and prosecute this Claim.
112. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil Procedure as further facts become known.

(Conversion against BOA [BAC Home Loans] and Recontrust)

014

- 1 despite their knowledge that the First Deed of Trust was void and unenforceable.
- 2 118. Defendants exercised dominion and control over the property of Plaintiff to the exclusion
- 3 of Plaintiff's rights in said property by purportedly selling the Property pursuant to the
- 4 extinguished First Trust Deed.
- 5 119. Defendants have received and maintained control of monies that rightfully belong to the
- 6 Plaintiff.
- 7 120. The actions of the Defendants were done with the intent to cause Plaintiff harm, or in
- 8 conscious disregard for Plaintiff's rights, or were done with conscious disregard for the
- 9 consequences of their actions, and were therefore done with either express or implied
- 10 malice.
- 11 121. As a direct and proximate result of the actions of the Defendants, it has become necessary
- 12 for Plaintiff to retain the services of an attorney to protect its rights and prosecute this
- 13 Claim.
- 14 122. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
- 15 Procedure as further facts become known.
- 16 **SIXTH CAUSE OF ACTION**
- 17 **(Equitable Relief – Wrongful Foreclosure)**
- 18 123. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1
- 19 through 122 hereof as if set forth fully herein.
- 20 124. Plaintiff properly acquired title and ownership of the Property at the HOA Foreclosure
- 21 Sale in exchange for good and valuable consideration.
- 22 125. By virtue of its purchase of the Property at the HOA Foreclosure Sale, Plaintiff became
- 23 the sole owner of all right, title and interest in the Property free and clear of any
- 24 encumbrances of the Defendants.
- 25 126. The purported foreclosure sale based upon the First Deed of Trust was invalid and
- 26 ineffective because the First Deed of Trust was extinguished by virtue of the HOA
- 27 Foreclosure Sale.
- 28 127. At the time that BAC Home Loans and/or Recontrust purportedly foreclosed upon the

1 First Deed of Trust, BAC Home Loans lacked any valid security interest in the Property
2 and therefore lacked any right or power to foreclose.

3 128. The purported foreclosure sale by BAC Home Loans and/or Recontrust was wrongful and
4 void.

5 129. As a direct and proximate result of the actions of the Defendants, it has become necessary
6 for Plaintiff to retain the services of an attorney to protect its rights and prosecute this
7 Claim.

8 130. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
9 Procedure as further facts become known.

10 **SEVENTH CAUSE OF ACTION**

11 **(Equitable Relief - Recission)**

12 131. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through
13 130 hereof as if set forth fully herein.

14 132. Plaintiff properly acquired title and ownership of the Property at the HOA Foreclosure
15 Sale in exchange for good and valuable consideration.

16 133. By virtue of its purchase of the Property at the HOA Foreclosure Sale, Plaintiff became
17 the sole owner of all right, title and interest in the Property free and clear of any
18 encumbrances of the Defendants.

19 134. The purported foreclosure sale based upon the First Deed of Trust was invalid and
20 ineffective because the First Deed of Trust was extinguished by virtue of the HOA
21 Foreclosure Sale.

22 135. At the time that BAC Home Loans and/or Recontrust purportedly foreclosed upon the
23 First Deed of Trust, BAC Home Loans lacked any valid security interest in the Property
24 and therefore lacked any right or power to foreclose.

25 136. It would be unjust for the Defendants to receive the benefit of the foreclosure sale.

26 137. The purported foreclosure sale of the Property based upon the First Deed of Trust should
27 be rescinded and the parties should be returned to the positions they held prior to the
28 conveyance.

1 138. As a direct and proximate result of the actions of the Defendants, it has become necessary
2 for Plaintiff to retain the services of an attorney to protect its rights and prosecute this
3 Claim.

4 139. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
5 Procedure as further facts become known.

6 WHEREFORE, Plaintiff, LAS VEGAS DEVELOPMENT GROUP, LLC, prays for
7 judgment as follows:

- 8 A. On its First Cause of Action, for an Order which determines all and every claim,
9 estate or interest of the parties in the Property, finding that: (1) Plaintiff is the title
10 owner of the Property; (2) the HOA Foreclosure Deed is valid and enforceable;
11 (3) the HOA Foreclosure Sale extinguished the applicable Defendants' ownership
12 and security interests in the Property; (4) the subsequent transfers of the Property
13 were null, void and of no effect; and (5) Plaintiff's rights and interest in the
14 Property are superior to any interest claimed by the Defendants.
- 15 B. On its Second Cause of Action, for general and special damages in excess of Ten
16 Thousand Dollars (\$10,000.00);
- 17 C. On its Third Cause of Action, in the event that Plaintiff is divested of title to the
18 Property for any reason, for the imposition of an equitable mortgage against the
19 Property in favor of Plaintiff to secure the payment of all sums rightfully owed to
20 the Plaintiff associated with the Property;
- 21 D. On its Fourth Cause of Action, for general and special damages in excess of Ten
22 Thousand Dollars (\$10,000.00) and for exemplary or punitive damages in an
23 amount sufficient to deter Defendants and others from engaging in similar
24 conduct, said amount to adequately express social outrage over Defendants'
25 wrongful actions;
- 26 E. On its Fifth Cause of Action, for general and special damages in excess of Ten
27 Thousand Dollars (\$10,000.00) and for exemplary or punitive damages in an
28 amount sufficient to deter Defendants and others from engaging in similar

conduct, said amount to adequately express social outrage over Defendants' wrongful actions;

- F. On its Sixth Cause of Action, for an Order declaring the sale of the Property to be void;
- G. On its Seventh Cause of Action, for an Order rescinding and setting aside the sale of the Property based upon the Court's equitable power of rescission;
- H. For costs and attorneys' fees incurred in bringing this action; and
- I. For such other and further relief as this Court may deem meet and proper.

DATED this 18th day of March, 2015.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Timothy E. Rhoda

ROGER P. CROTEAU, ESQ.

Nevada Bar No. 4958

TIMOTHY E. RHODA, ESQ.

Nevada Bar No. 7878

9120 West Post Road, Suite 100

Las Vegas, Nevada 89148

(702) 254-7775

Attorney for Plaintiff

LAS VEGAS DEVELOPMENT GROUP, LLC

IAFD
 ROGER P. CROTEAU, ESQ.
 Nevada Bar No. 4958
 TIMOTHY E. RHODA, ESQ.
 Nevada Bar No. 7878
 ROGER P. CROTEAU & ASSOCIATES, LTD.
 9120 West Post Road, Suite 100
 Las Vegas, Nevada 89148
 (702) 254-7775
 (702) 228-7719 (facsimile)
 croteaulaw@croteaulaw.com
Attorney for Plaintiff
 LAS VEGAS DEVELOPMENT GROUP, LLC

DISTRICT COURT
 CLARK COUNTY, NEVADA

LAS VEGAS DEVELOPMENT GROUP, LLC,)
 a Nevada limited liability company,)
)
 Plaintiff,)
)
 vs.)
)
 JAMES R. BLAHA, an individual; BANK OF)
 AMERICA, NA, a National Banking)
 Association, as successor by merger to BAC)
 HOME LOANS SERVICING, LP;)
 RECONTRUST COMPANY NA, a Texas)
 corporation; JOSE PEREZ, JR. an individual;)
 EZ PROPERTIES, LLC, a Nevada limited)
 liability company; K&L BAXTER FAMILY)
 LIMITED PARTNERSHIP, a Nevada limited)
 partnership; FCH FUNDING, INC, an unknown)
 corporate entity; DOE individuals I through)
 XX; and ROE CORPORATIONS I through)
 XX,)
 Defendants.)

Case No.
 Dept. No.

ARBITRATION EXEMPTION
 CLAIMED: (1) TITLE TO REAL
 PROPERTY; (2) DECLARATORY
 RELIEF

INITIAL APPEARANCE FEE DISCLOSURE (NRS CHAPTER 19)

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for

//
 //
 //

ROGER P. CROTEAU & ASSOCIATES, LTD.
• 9120 West Post Road, Suite 100 • Las Vegas, Nevada 89148 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

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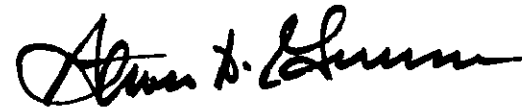
parties appearing in the above entitled action as indicated below:

<u>LAS VEGAS DEVELOPMENT GROUP, LLC</u>	<u>\$ 270.00</u>
TOTAL REMITTED:	\$ 270.00

DATED this 19th day of March, 2015.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Timothy E. Rhoda
TIMOTHY E. RHODA, ESQ.
Nevada Bar No. 7878
9120 West Post Road, Suite 100
Las Vegas, Nevada 89148
(702) 254-7775
Attorney for Plaintiff
LAS VEGAS DEVELOPMENT GROUP, LLC



CLERK OF THE COURT

AFFT

Roger P. Croteau & Associates, Ltd.
Timothy E. Rhoda, Esq.
9120 W. Post Rd., Suite 100
Las Vegas, NV 89148
State Bar No.: 7878
Attorney(s) for: Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Las Vegas Development Group, LLC, a Nevada limited
liability company

Case No.: A-15-715532-C

Dept. No.: VIII

Date:
Time:

Plaintiff(s)

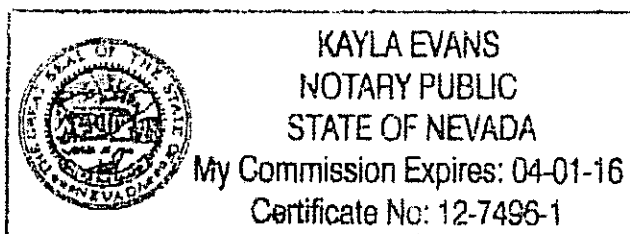
vs.

James R. Blaha, an individual, et al.

Defendant(s)

AFFIDAVIT OF SERVICE

I, **Laura Mitz**, being duly sworn deposes and says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #1926C, and not a party to or interested in the proceeding in which this Affidavit is made. The Affiant received 1 copy of the: **Summons; Complaint** on the 13th day of **April, 2015** and served the same on the 16th day of **April, 2015** at 2:40pm by serving to **Defendant(s), K&L Baxter Family Limited Partnership, a Nevada limited liability company**, by personally delivering and leaving a copy at **New Address of Registered Agent, 5440 W. Sahara Ave., #206, Las Vegas, NV 89146**, with **Gabby Rodriguez, Receptionist**, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.



State of Nevada, County of Clark
SIGNED AND SWORN to before me on this
16th day of April, 2015

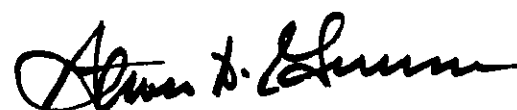
Notary Public:

Affiant: Laura Mitz
#: R-022566

J & L Legal Service License # 1926C

Work Order No: 2015095

J & L Process Service (702) 883-5725



CLERK OF THE COURT

AFFT

Roger P. Croteau & Associates, Ltd.
Timothy E. Rhoda, Esq.
9120 W. Post Rd., Suite 100
Las Vegas, NV 89148
State Bar No.: 7878
Attorney(s) for: Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Las Vegas Development Group, LLC, a Nevada limited
liability company

Case No.: A-15-715532-C

Dept. No.: VIII

Date:

Time:

Plaintiff(s)

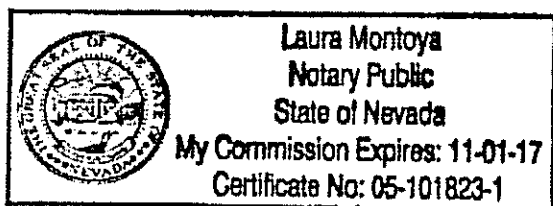
vs.

James R. Blaha, an individual, et al.

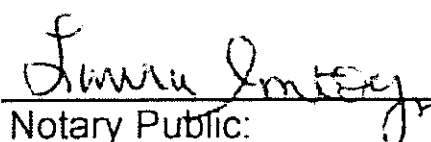
Defendant(s)

AFFIDAVIT OF SERVICE

I, **Laura Mitz**, being duly sworn deposes and says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #1926C, and not a party to or interested in the proceeding in which this Affidavit is made. The Affiant received **1 copy** of the: **Summons; Complaint** on the **13th** day of **April, 2015** and served the same on the **19th** day of **April, 2015** at **11:34am** by serving the **Defendant(s), FCH Funding, Inc, an unknown corporate entity**, by personally delivering and leaving a copy at **7224 Platinum Peak Ave., Las Vegas, NV 89129** with **Forice Ham** as **Owner** an agent lawfully designated by statute to accept service of process.



State of Nevada, County of Clark
SIGNED AND SWORN to before me on this
20th day of **April**, **2015**

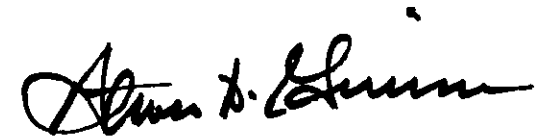

Notary Public:



Affiant: **Laura Mitz**
#: **R-022566**
J & L Legal Service License # **1926C**

Work Order No: 2015098

J & L Process Service (702) 883-5725



CLERK OF THE COURT

J & L Process Service (702) 883-5725

AFFT

Roger P. Croteau & Associates, Ltd.
Timothy E. Rhoda, Esq.
9120 W. Post Rd., Suite 100
Las Vegas, NV 89148
State Bar No.: 7878
Attorney(s) for: Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Las Vegas Development Group, LLC, a Nevada limited
liability company

Case No.: A-15-715532-C

Dept. No.: VIII

Date:

Time:

Plaintiff(s)

vs.

James R. Blaha, an individual, et al.

Defendant(s)

AFFIDAVIT OF SERVICE

I, **Denorris Britt**, being duly sworn deposes and says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process and not a party to or interested in the proceeding in which this Affidavit is made. The Affiant received **1 Copy** of the: **Summons; Complaint** on the **20th** day of **April, 2015** and served the same on the **20th** day of **April, 2015** at **12:45pm** by serving the Defendant(s), **Bank of America, NA, a National Banking Association, as successor by merger to BAC Home Loans Servicing, LP**, by personally delivering and leaving a copy at **1100 N. King St., Wilmington, DE 19801** with **Ashley Mendick** as **Authorized Employee** an agent lawfully designated by statute to accept service of process.

State of Delaware, County of NEW CASTLE
SIGNED AND SWORN to before me on this
21st day of April, 2015

Notary Public:

KEVIN DUNN
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires April 4, 2016

Affiant: Denorris Britt

Work Order No: 2015119

Alan D. Shuman

CLERK OF THE COURT

AFFT

Roger P. Croteau & Associates, Ltd.
Timothy E. Rhoda, Esq.
9120 W. Post Rd., Suite 100
Las Vegas, NV 89148
State Bar No.: 7878
Attorney(s) for: Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Las Vegas Development Group, LLC, A Nevada limited
liability company

Case No.: A-15-715532-C

Dept. No.: VIII

Date:

Time:

Plaintiff(s)

vs.

James R. Blaha, an individual, et al.

Defendant(s)

AFFIDAVIT OF SERVICE

I, **Richard Berberian**, being duly sworn deposes and says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to or interested in the proceeding in which this Affidavit is made. The Affiant received 1 copy of the:
Summons; Complaint on the **22nd** day of **April, 2015** and served the same on the **27th** day of **April, 2015** at **7:35pm** by serving to Defendant, **Jose Perez, Jr. an individual** by personally delivering and leaving a copy with **Breanna Hayes, Daughter**, a person of suitable age and discretion residing at the Defendant's usual place of abode located at **17216 Iron Gate Ln., Lathrop, CA 95330**.



State of California, County of Stanislaus

Subscribed and sworn to (or affirmed) before me on
this 28 day of April, 2015 by

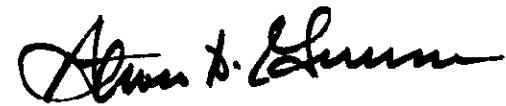
Richard Berberian, proved to me on the basis
of satisfactory evidence to be the person(s) who appeared
before me.

Notary Public:

Richard Berberian
Affiant: Richard Berberian
#: 07-005

Work Order No: 2015093

J & L Process Service (702) 883-5725



CLERK OF THE COURT

ACSR

Roger P. Croteau & Associates, Ltd.

Timothy E. Rhoda, Esq.

9120 W. Post Rd., Suite 100

Las Vegas, NV 89148

State Bar No.: 7878

Attorney(s) for: Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Las Vegas Development Group, LLC, a
Nevada limited liability company

Plaintiff(s),

-vs-

James R. Blaha, an individual, et al.

Defendant(s).

CASE NO. A-15-715532-C

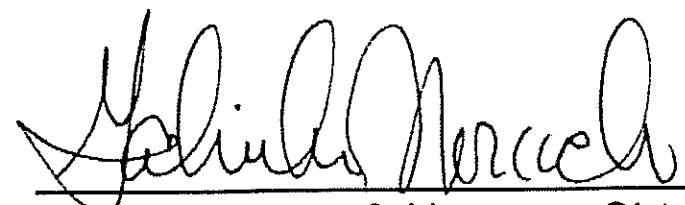
DEPT. NO. VIII

**ACCEPTANCE OF SERVICE
OF SUMMONS AND COMPLAINT**

I, Kevin R. Hansen, ☒ Counsel for Defendant, EZ Properties, LLC, a Nevada
limited liability company, hereby accept service of Summons and Complaint on behalf of
said Defendant.

DATED this 1st day of May, 2015.

Gabriela Mercado
Paralegal



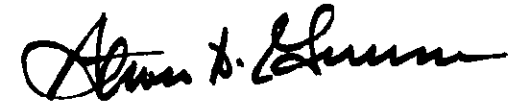
Shumway Van & Hansen, Chtd.

Kevin R. Hansen

State Bar No.: 6336

5440 W. Sahara Ave., #206

Las Vegas, NV 89146



CLERK OF THE COURT

AFFT

Roger P. Croteau & Associates, Ltd.
Timothy E. Rhoda, Esq.
9120 W. Post Rd., Suite 100
Las Vegas, NV 89148
State Bar No.: 7878
Attorney(s) for: Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Las Vegas Development Group, LLC, a Nevada limited
liability company

Case No.: A-15-715532-C

Dept. No.: VIII

Date:
Time:

Plaintiff(s)

vs.

James R. Blaha, an individual, et al.

Defendant(s)


AFFIDAVIT OF SERVICE

I, Emily Philemon, being duly sworn deposes and says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to or interested in the proceeding in which this Affidavit is made. The Affiant received 1 copy of the: Summons; Complaint on the 28th day of April, 2015 and served the same on the 4th day of May, 2015 at 10:24am by delivering and leaving a copy with the Defendant, James R. Blaha, an individual at Place of Employment, Way to Grow, 3201 E. Mulberry St., Unit K, Fort Collins, CO 80524.

STEPHEN J CARLYLE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054022691
MY COMMISSION EXPIRES JUNE 8, 2017

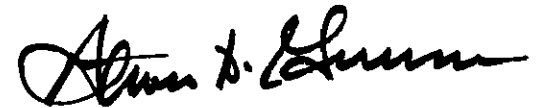
State of Colorado, County of Las Vegas
SIGNED AND SWORN to before me on this
4th day of May, 2015


Affiant: Emily Philemon


Notary Public:

Work Order No: 2015142

J & L Process Service (702) 883-5725



CLERK OF THE COURT

1 **ANS**
AARON R. MAURICE, ESQ.
2 Nevada Bar No. 006412
BRITTANY WOOD, ESQ.
3 Nevada Bar No. 007562
KOLESAR & LEATHAM
4 400 South Rampart Boulevard Suite 400
Las Vegas, Nevada 89145
5 Telephone: (702) 362-7800
Facsimile: (702) 362-9472
6 E-Mail: amaurice@klnevada.com
bwood@klnevada.com
7

8 Attorneys for Defendants,
JAMES R. BLAHA and NOBLE HOME
9 LOANS, INC. formerly known as FCH
FUNDING, INC.

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 * * *

13 LAS VEGAS DEVELOPMENT GROUP, LLC,
14 a Nevada limited liability company,

15 Plaintiff,

16 vs.

17 JAMES R. BLAHA, an individual; BANK OF
AMERICA, NA, a National Banking
18 Association, as successor by merger to BAC
HOME LOANS SERVICING, LP;
19 RECONSTRUCT COMPANY NA, a Texas
corporation; JOSE PEREZ, JR. an individual;
20 EZ PROPERTIES, LLC, a Nevada limited
liability company; K&L BAXTER FAMILY
21 LIMITED PARTNERSHIP, a Nevada limited
partnership; FCH FUNDING, INC., an
22 unknown corporate entity; DOE individuals I
through XX; and ROE CORPORATIONS I
23 through XX,

24 Defendants.

CASE NO. A-15-715532-C

DEPT NO. VIII

25 **DEFENDANTS JAMES R. BLAHA AND NOBLE HOME LOANS, INC.'S, (FORMERLY**
26 **KNOWN AS FCH FUNDING INC.) ANSWER TO COMPLAINT**

27 Defendants, JAMES R. BLAHA ("Blaha") and NOBLE HOME LOANS, INC. formerly
28 known as FCH FUNDING, INC. ("Noble") (collectively "Answering Defendants"), by and
through their counsel, Kolesar & Leatham, for their Answer to the Complaint filed by Plaintiff

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

1 LAS VEGAS DEVELOPMENT GROUP, LLC, ("Plaintiff"), respectfully answer as follows:

2 1. Answering Paragraph 1 of the Complaint, Answering Defendants are without
3 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
4 contained therein and therefore deny said allegations.

5 2. Answering Paragraph 2 of the Complaint, Answering Defendants are without
6 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
7 contained therein and therefore deny said allegations.

8 3. Answering Paragraph 3 of the Complaint, Answering Defendants are without
9 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
10 contained therein and therefore deny said allegations.

11 4. Answering Paragraph 4 of the Complaint, Answering Defendants are without
12 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
13 contained therein and therefore deny said allegations.

14 5. Answering Paragraph 5 of the Complaint, Answering Defendants are without
15 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
16 contained therein and therefore deny said allegations.

17 6. Answering Paragraph 6 of the Complaint, Answering Defendants are without
18 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
19 contained therein and therefore deny said allegations.

20 7. Answering Paragraph 7 of the Complaint, Answering Defendants deny the
21 allegations.

22 8. Answering Paragraph 8 of the Complaint, Answering Defendants assert that
23 Noble Home Loans, Inc. is a Utah corporation, formerly known as FCH Funding, Inc. By
24 Certificate of Name Change, FCH Funding, Inc. became known as Noble Home Loans, Inc. At
25 all times relevant to the Complaint, Noble is and was registered with the Nevada Secretary of
26 State.

9. Answering Paragraph 9 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

GENERAL ALLEGATIONS

10. Answering Paragraph 10 of the Complaint, Answering Defendants repeat and reallege each of the answers to the previous paragraphs as if each were fully set forth herein.

11. Answering Paragraph 11 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

12. Answering Paragraph 12 of the Complaint, Answering Defendants deny the allegations.

13. Paragraph 13 of Plaintiff's Complaint includes a legal conclusion to which no answer is required. To the extent that an answer is required, Answering Defendants deny the allegations.

14. Paragraph 14 of Plaintiff's Complaint includes a legal conclusion to which no answer is required. To the extent that an answer is required, Answering Defendants deny the allegations.

15. Paragraph 15 of Plaintiff's Complaint includes a legal conclusion to which no answer is required. To the extent that an answer is required, Answering Defendants deny the allegations.

16. Answering Paragraph 16 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

17. Answering Paragraph 17 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

18. Answering Paragraph 18 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

19. Answering Paragraph 19 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

20. Answering Paragraph 20 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

21. Answering Paragraph 21 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

22. Answering Paragraph 22 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

23. Answering Paragraph 23 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

24. Answering Paragraph 24 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

25. Answering Paragraph 25 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

26. Answering Paragraph 26 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

1 27. Answering Paragraph 27 of the Complaint, Answering Defendants are without
2 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
3 contained therein and therefore deny said allegations.

4 28. Answering Paragraph 28 of the Complaint, Answering Defendants are without
5 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
6 contained therein and therefore deny said allegations.

7 29. Answering Paragraph 29 of the Complaint, Answering Defendants are without
8 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
9 contained therein and therefore deny said allegations.

10 30. Answering Paragraph 30 of the Complaint, Answering Defendants are without
11 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
12 contained therein and therefore deny said allegations.

13 31. Answering Paragraph 31 of the Complaint, Answering Defendants are without
14 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
15 contained therein and therefore deny said allegations.

16 32. Answering Paragraph 32 of the Complaint, Answering Defendants deny the
17 allegations.

18 33. Answering Paragraph 33 of the Complaint, Answering Defendants deny the
19 allegations.

20 34. Paragraph 34 of Plaintiff's Complaint includes a legal conclusion to which no
21 answer is required. To the extent that an answer is required, Answering Defendants deny the
22 allegations.

23 35. Paragraph 35 of Plaintiff's Complaint includes a legal conclusion to which no
24 answer is required. To the extent that an answer is required, Answering Defendants deny the
25 allegations.

26 36. Answering Paragraph 36 of the Complaint, Answering Defendants are without
27 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
28 contained therein and therefore deny said allegations.

1 37. Answering Paragraph 37 of the Complaint, Answering Defendants are without
2 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
3 contained therein and therefore deny said allegations.

4 38. Answering Paragraph 38 of the Complaint, Answering Defendants are without
5 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
6 contained therein and therefore deny said allegations.

7 39. Answering Paragraph 39 of the Complaint, Answering Defendants are without
8 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
9 contained therein and therefore deny said allegations.

10 40. Answering Paragraph 40 of the Complaint, Answering Defendants deny the
11 allegations.

12 41. Answering Paragraph 41 of the Complaint, Answering Defendants are without
13 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
14 contained therein and therefore deny said allegations.

15 42. Answering Paragraph 42 of the Complaint, Answering Defendants are without
16 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
17 contained therein and therefore deny said allegations.

18 43. Answering Paragraph 43 of the Complaint, Answering Defendants are without
19 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
20 contained therein and therefore deny said allegations.

21 44. Answering Paragraph 44 of the Complaint, Answering Defendants are without
22 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
23 contained therein and therefore deny said allegations.

24 45. Answering Paragraph 45 of the Complaint, Answering Defendants deny the
25 allegations.

26 46. Answering Paragraph 46 of the Complaint, Answering Defendants are without
27 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
28 contained therein and therefore deny said allegations.

1 47. Paragraph 47 of Plaintiff's Complaint includes a legal conclusion to which no
2 answer is required. To the extent that an answer is required, Answering Defendants deny the
3 allegations.

4 48. Paragraph 48 of Plaintiff's Complaint includes a legal conclusion to which no
5 answer is required. To the extent that an answer is required, Answering Defendants deny the
6 allegations.

7 49. Paragraph 49 of Plaintiff's Complaint includes a legal conclusion to which no
8 answer is required. To the extent that an answer is required, Answering Defendants deny the
9 allegations.

10 50. Answering Paragraph 50 of the Complaint, Answering Defendants deny the
11 allegations.

12 51. Answering Paragraph 51 of the Complaint, Answering Defendants deny the
13 allegations.

14 52. Answering Paragraph 52 of the Complaint, Answering Defendants deny the
15 allegations.

16 53. Answering Paragraph 53 of the Complaint, Answering Defendants are without
17 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
18 contained therein and therefore deny said allegations.

19 54. Answering Paragraph 54 of the Complaint, Answering Defendants are without
20 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
21 contained therein and therefore deny said allegations.

22 55. Answering Paragraph 55 of the Complaint, Answering Defendants are without
23 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
24 contained therein and therefore deny said allegations.

25 56. Answering Paragraph 56 of the Complaint, Answering Defendants are without
26 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
27 contained therein and therefore deny said allegations.
28

1 57. Answering Paragraph 57 of the Complaint, Answering Defendants are without
2 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
3 contained therein and therefore deny said allegations.

4 58. Answering Paragraph 58 of the Complaint, Answering Defendants are without
5 sufficient information or knowledge to form a belief as to the truth or falsity of the allegations
6 contained therein and therefore deny said allegations.

7 59. Answering Paragraph 59 of the Complaint, Answering Defendants admit that on
8 or about September 30, 2011, EZ Properties transferred the Property to James R. Blaha by deed
9 recorded in the Official Records of the Clark County Recorder as Instrument No.
10 201109300001615.

11 60. Answering Paragraph 60 of the Complaint, Answering Defendants deny the
12 allegations.

13 61. Answering Paragraph 61 of the Complaint, Answering Defendants admit the
14 allegations.

15 62. Paragraph 62 of Plaintiff's Complaint includes a legal conclusion to which no
16 answer is required. To the extent that an answer is required, Answering Defendants deny the
17 allegations.

18 63. Answering Paragraph 63 of the Complaint, Answering Defendants deny the
19 allegations.

20 64. Paragraph 64 of Plaintiff's Complaint includes a legal conclusion to which no
21 answer is required. To the extent that an answer is required, Answering Defendants deny the
22 allegations.

23 65. Paragraph 65 of Plaintiff's Complaint includes a legal conclusion to which no
24 answer is required. To the extent that an answer is required, Answering Defendants deny the
25 allegations.

26 66. Answering Paragraph 66 of the Complaint, Answering Defendants deny the
27 allegations.
28

FIRST CAUSE OF ACTION

(Quiet Title against all Defendants)

67. Answering Paragraph 67 of the Complaint, Answering Defendants repeat and reallege each of the answers to the previous paragraphs as if each were fully set forth herein.

68. Answering Paragraph 68 of the Complaint, Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

69. Answering Paragraph 69 of the Complaint, Answering Defendants deny the allegations.

70. Answering Paragraph 70 of the Complaint, Answering Defendants deny the allegations.

71. Answering Paragraph 71 of the Complaint, Answering Defendants deny the allegations.

72. Answering Paragraph 72 of the Complaint, Answering Defendants deny the allegations.

73. Answering Paragraph 73 of the Complaint, Answering Defendants deny the allegations.

74. Answering Paragraph 74 of the Complaint, Answering Defendants admit the allegations.

75. Answering Paragraph 75 of the Complaint, Answering Defendants admit the allegations.

76. Answering Paragraph 76 of the Complaint, Answering Defendants admit the allegations.

77. Answering Paragraph 77 of the Complaint, Answering Defendants deny the allegations.

78. Answering Paragraph 78 of the Complaint, Answering Defendants admit the allegations.

1 79. Answering Paragraph 79 of the Complaint, Answering Defendants admit the
2 allegations.

3 80. Answering Paragraph 80 of the Complaint, Answering Defendants deny the
4 allegations.

5 81. Answering Paragraph 81 of the Complaint, Answering Defendants deny the
6 allegations.

7 82. Answering Paragraph 82 of the Complaint, Answering Defendants deny the
8 allegations.

9 83. Answering Paragraph 83 of the Complaint, Answering Defendants deny the
10 allegations.

11 SECOND CAUSE OF ACTION

12 (Unjust Enrichment against BANA [BAC Home Loans], Reconstrust and EZ Properties)

13 84. Answering Paragraph 84 of the Complaint, Answering Defendants repeat and
14 reallege each of the answers to the previous paragraphs as if each were fully set forth herein.

15 85. Answering Paragraph 85 of the Complaint, Defendants are without sufficient
16 information or knowledge to form a belief as to the truth or falsity of the allegations contained
17 therein and therefore deny said allegations.

18 86. Answering Paragraph 86 of the Complaint, Answering Defendants deny the
19 allegations.

20 87. Answering Paragraph 87 of the Complaint, Answering Defendants deny the
21 allegations.

22 88. Answering Paragraph 88 of the Complaint, Answering Defendants deny the
23 allegations.

24 89. Answering Paragraph 89 of the Complaint, Answering Defendants deny the
25 allegations.

26 90. Answering Paragraph 90 of the Complaint, Answering Defendants deny the
27 allegations.

28

4 (Equitable Mortgage against all Defendants)

5 92. Answering Paragraph 92 of the Complaint, Defendants repeat and reallege each of
6 the answers to the previous paragraphs as if each were fully set forth herein.

93. Answering Paragraph 93 of the Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

10 94. Answering Paragraph 94 of the Complaint, Answering Defendants deny the
11 allegations.

12 95. Answering Paragraph 95 of the Complaint, Answering Defendants deny the
13 allegations.

14 96. Answering Paragraph 96 of the Complaint, Answering Defendants deny the
15 allegations.

16 97. Answering Paragraph 97 of the Complaint, Answering Defendants deny the
17 allegations.

18 98. Answering Paragraph 98 of the Complaint, Answering Defendants deny the
19 allegations.

20 99. Answering Paragraph 99 of the Complaint, Answering Defendants deny the
21 allegations.

100. Answering Paragraph 100 of the Complaint, Answering Defendants deny the
allegations.

24 101. Answering Paragraph 101 of the Complaint, Answering Defendants deny the
25 allegations.

27 (Slander of Title against all Defendants)

28 102. Answering Paragraph 102 of the Complaint, Defendants repeat and reallege each

1 of the answers to the previous paragraphs as if each were fully set forth herein.

2 103. Answering Paragraph 103 of the Complaint, Defendants are without sufficient
3 information or knowledge to form a belief as to the truth or falsity of the allegations contained
4 therein and therefore deny said allegations.

5 104. Answering Paragraph 104 of the Complaint, Answering Defendants deny the
6 allegations.

7 105. Answering Paragraph 105 of the Complaint, Defendants are without sufficient
8 information or knowledge to form a belief as to the truth or falsity of the allegations contained
9 therein and therefore deny said allegations.

10 106. Answering Paragraph 106 of the Complaint, Defendants are without sufficient
11 information or knowledge to form a belief as to the truth or falsity of the allegations contained
12 therein and therefore deny said allegations.

13 107. Answering Paragraph 107 of the Complaint, Defendants are without sufficient
14 information or knowledge to form a belief as to the truth or falsity of the allegations contained
15 therein and therefore deny said allegations.

16 108. Answering Paragraph 108 of the Complaint, Answering Defendants deny the
17 allegations.

18 109. Answering Paragraph 109 of the Complaint, Answering Defendants deny the
19 allegations.

20 110. Answering Paragraph 110 of the Complaint, Answering Defendants deny the
21 allegations.

22 111. Answering Paragraph 111 of the Complaint, Answering Defendants deny the
23 allegations.

24 112. Answering Paragraph 112 of the Complaint, Answering Defendants deny the
25 allegations.

26 FIFTH CAUSE OF ACTION

27 (Conversion against BOA [BAC Home Loans] and Recontrust)

28 113. Answering Paragraph 113 of the Complaint, Defendants repeat and reallege each

of the answers to the previous paragraphs as if each were fully set forth herein.

114. Answering Paragraph 114 of the Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

115. Answering Paragraph 115 of the Complaint, Answering Defendants deny the allegations.

116. Answering Paragraph 116 of the Complaint, Answering Defendants deny the allegations.

117. Answering Paragraph 117 of the Complaint, Answering Defendants deny the allegations.

118. Answering Paragraph 118 of the Complaint, Answering Defendants admit Blaha has exercised dominion and control over the property. Answering Defendants deny Plaintiff has any rights in or to the property. Answering Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the remaining allegations contained therein and therefore deny said allegations.

119. Answering Paragraph 119 of the Complaint, Answering Defendants deny the allegations.

120. Answering Paragraph 120 of the Complaint, Answering Defendants deny the allegations.

121. Answering Paragraph 121 of the Complaint, Answering Defendants deny the allegations.

122. Answering Paragraph 122 of the Complaint, Answering Defendants deny the allegations.

SIXTH CAUSE OF ACTION

(Equitable Relief – Wrongful Foreclosure)

123. Answering Paragraph 123 of the Complaint, Defendants repeat and reallege each of the answers to the previous paragraphs as if each were fully set forth herein.

124. Answering Paragraph 124 of the Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

125. Answering Paragraph 125 of the Complaint, Answering Defendants deny the allegations.

126. Answering Paragraph 126 of the Complaint, Answering Defendants deny the allegations.

127. Answering Paragraph 127 of the Complaint, Answering Defendants deny the allegations.

128. Answering Paragraph 128 of the Complaint, Answering Defendants deny the allegations.

129. Answering Paragraph 129 of the Complaint, Answering Defendants deny the allegations.

130. Answering Paragraph 130 of the Complaint, Answering Defendants deny the allegations.

SEVENTH CAUSE OF ACTION

(Equitable Relief – Rescission)

131. Answering Paragraph 131 of the Complaint, Defendants repeat and reallege each of the answers to the previous paragraphs as if each were fully set forth herein.

132. Answering Paragraph 132 of the Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained therein and therefore deny said allegations.

133. Answering Paragraph 133 of the Complaint, Answering Defendants deny the allegations.

134. Answering Paragraph 134 of the Complaint, Answering Defendants deny the allegations.

135. Answering Paragraph 135 of the Complaint, Answering Defendants deny the allegations.

1 136. Answering Paragraph 136 of the Complaint, Answering Defendants deny the
2 allegations.

3 137. Answering Paragraph 137 of the Complaint, Answering Defendants deny the
4 allegations.

5 138. Answering Paragraph 138 of the Complaint, Answering Defendants deny the
6 allegations.

7 139. Answering Paragraph 139 of the Complaint, Answering Defendants deny the
8 allegations.

9 **AFFIRMATIVE DEFENSES**

10 **FIRST AFFIRMATIVE DEFENSE**

11 Plaintiff's Complaint fails to state a claim against these Answering Defendants upon
12 which relief may be granted.

13 **SECOND AFFIRMATIVE DEFENSE**

14 Plaintiff's Complaint is barred by the applicable statute of limitations.

15 **THIRD AFFIRMATIVE DEFENSE**

16 Plaintiff is estopped from bringing its claims for failing to comply with the statutes
17 creating the remedy Plaintiff seeks to invoke.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 Plaintiff's delay in asserting this claim against Answering Defendants has prejudiced
20 Answering Defendants' ability to defend this action so that Plaintiff's Complaint should be
21 barred by the Doctrine of Laches.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 Answering Defendants are bona fide purchasers for value and their rights in the Property
24 are protected by the recording statutes of the State of Nevada.

25 **SIXTH AFFIRMATIVE DEFENSE**

26 The foreclosure by which Plaintiff purportedly acquired his interest in the Property (if
27 any) is void.
28

SEVENTH AFFIRMATIVE DEFENSE

The foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) failed to comply with Nevada law.

EIGHTH AFFIRMATIVE DEFENSE

The foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) was not “an action to enforce the lien” as required by Nevada law.

NINTH AFFIRMATIVE DEFENSE

Alternatively, if the foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) did constitute “an action to enforce the lien” as required by Nevada law, the agent who purportedly commenced the action to enforce the lien was not authorized by statute to initiate the action to enforce the lien pursuant to NRS Chapter 116 or NRS Chapter 107.

TENTH AFFIRMATIVE DEFENSE

Alternatively, if the foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) did constitute “an action to enforce the lien” as required by Nevada law, the agent who purportedly commenced the action to enforce the lien failed to comply with the notice provisions required by Nevada law.

ELEVENTH AFFIRMATIVE DEFENSE

Alternatively, if the foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) did constitute “an action to enforce the lien” as required by Nevada law, the agent who purportedly commenced the action to enforce the lien failed to provide the beneficiary of the first security interest with notice of the action as required by Nevada law.

TWELFTH AFFIRMATIVE DEFENSE

Alternatively, if the foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) did constitute “an action to enforce the lien” as required by Nevada law, the agent who purportedly commenced the action to enforce the lien failed to provide the beneficiary of the first security interest with notice of the amount of the lien as required by Nevada law.

THIRTEENTH AFFIRMATIVE DEFENSE

Alternatively, if the foreclosure by which Plaintiff purportedly acquired its interest in the

Property (if any) did constitute “an action to enforce the lien” as required by Nevada law, the agent who purportedly commenced the action to enforce the lien failed to comply with all conditions precedent to commencing the action.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to satisfy conditions precedent to bringing an action to quiet title to the Property.

FIFTEENTH AFFIRMATIVE DEFENSE

The foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) violated the deed of trust beneficiary’s right to due process as guaranteed by the United States and Nevada Constitutions.

SIXTEENTH AFFIRMATIVE DEFENSE

The foreclosure by which Plaintiff purportedly acquired its interest in the Property (if any) was void as a violation of federal law.

SEVENTEENTH AFFIRMATIVE DEFENSE

The beneficiary of the deed of trust cannot be deprived of its interest in the Property in violation of federal law.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff had actual knowledge of the Deed of Trust prior to its purchase of the Property.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff had constructive notice of the deed of trust prior to its purchase of the Property.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiff’s action to quiet title to the Property is void by the mortgage savings clause of the applicable CC&Rs.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The foreclosure sale through which Plaintiff purportedly acquired its interest in the Property (if any) is void by the mortgage savings clause of the applicable CC&Rs.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The lien upon which the foreclosure by which Plaintiff purportedly acquired its interest in

1 the Property (if any) is void by the mortgage savings clause of the applicable CC&Rs.

2 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

3 Plaintiff is not entitled to the protections of Nevada's bona fide purchaser statute.

4 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

5 The sale by which Plaintiff acquired its interest in the Property (if any) was not
6 commercially reasonable.

7 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

8 Plaintiff purchased the Property subject to the deed of trust.

9 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

10 Plaintiff's conduct has forced these Answering Defendants to retain the services of an
11 attorney and these Answering Defendants are entitled to be compensated for the reasonable
12 attorneys' fees and costs incurred in the defense of this action.

13 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

14 Plaintiff's Complaint fails as a matter of law under the doctrines of equitable estoppel,
15 laches, waiver, economic loss, release, unclean hands, failure to mitigate, and is otherwise time
16 barred.

17 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

18 The injuries or damages sustained by Plaintiff, if any, are a direct and proximate result of
19 Plaintiff's own conduct.

20 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

21 These Answering Defendants hereby incorporate by reference those affirmative defenses
22 enumerated in Rule 8 of the Nevada Rules of Civil Procedure as though fully set forth herein.

23 **THIRTIETH AFFIRMATIVE DEFENSE**

24 Pursuant to NRCP 11, as amended, all possible affirmative defenses may not have been
25 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
26 filing of the answer of these Answering Defendants, and therefore, these Answering Defendants
27 reserve the right to amend their Answer to allege additional affirmative defenses if warranted
28 during the course of discovery or further investigation.

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

WHEREFORE, these Answering Defendants pray for the following relief:

1. That Plaintiff take nothing by way of its Complaint;
2. For an award of attorney's fees and costs incurred in the defense of this litigation;
3. For such further and other relief as this Court deems just and proper.

DATED this 11th day of May, 2015.

KOLESAR & LEATHAM

By

Ann R W Maes

AARON R. MAURICE, ESQ.

Nevada Bar No. 006412

BRITTANY WOOD, ESQ.

Nevada Bar No. 007562

400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Attorneys for Defendants

JAMES R. BLAHA and NOBLE HOME

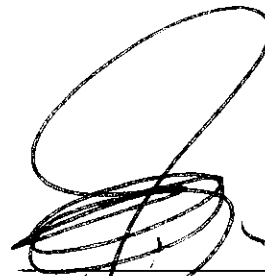
LOANS, INC. formerly known as FCH

FUNDING, INC.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 11th day of May, 2015, I caused to be served a true and correct copy of foregoing DEFENDANTS JAMES R. BLAHA AND NOBLE HOME LOANS, INC. FORMERLY KNOWN AS FCH FUNDING, INC. in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.



An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472


CLERK OF THE COURT

ANSW
LAW OFFICES OF KEVIN R. HANSEN
KEVIN R. HANSEN, ESQ.
Nevada Bar No. 6336
5440 W. Sahara Ave., Suite 206
Las Vegas, Nevada 89146
Telephone: (702) 478-7777
Facsimile: (702) 728-2484
Email: kevin@kevinrhansen.com
Attorney for Defendants
*EZ Properties, LLC & K&L Baxter
Family Limited Partnership*

DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS DEVELOPMENT GROUP,
LLC, a Nevada limited liability company,

Plaintiff,

vs.

JAMES R. BLAHA, an individual; BANK OF
AMERICA, NA, a National Banking
Association Successor by merger to BAC
HOME LOANS SERVICING, LP;
RECONSTRUCT COMPANY NA, a Texas
corporation; JOSE PEREZ, JR. an individual;
EZ PROPERTIES, LLC, a Nevada limited
liability company; K&L BAXTER FAMILY
LIMITED PARTNERSHIP, a Nevada limited
partnership; FCH FUNDING, INC, an
unknown corporate entity; DOE individuals I
through XX; and ROE CORPORATIONS I
through XX,

Defendants

Case No.: A-15-715532-C
Dept. No.: VIII

**DEFENDANT EZ PROPERTIES, LLC. AND K&L BAXTER FAMILY LIMITED
PARTNERSHIP ANSWER TO PLAINTIFF'S COMPLAINT**

COMES NOW the Defendants, EZ PROPERTIES, LLC and K&L BAXTER FAMILY
LIMITED PARTNERSHIP by and through their attorney KEVIN R. HANSEN, ESQ. of the
LAW OFFICES OF KEVIN R. HANSEN to answer Plaintiff's Complaint on the file here,
admits, denies and alleges as follows:

1 1. Answering Paragraphs 1, 2, 3, and 4, of Plaintiff's Complaint, the answering
2 Defendants' state that they are without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained therein;

4 2. Answering Paragraphs 5, and 6, of Plaintiff's Complaint, the answering
5 Defendants' admit the allegations contained therein;

6 3. Answering Paragraphs 7, 8, and 9 of Plaintiff's Complaint, the answering
7 Defendants' state that they are without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained therein;

9 4. Answering Paragraph 10 of Plaintiff's Complaint, the answering Defendants'
10

11 5. Answering Paragraph 11, of Plaintiff's Complaint, the answering Defendants'
12 state that they are without knowledge or information sufficient to form a belief as to the truth of
13 the allegations contained therein;

14 6. Answering Paragraphs 12, 13, 14, and 15, of Plaintiff's Complaint, the answering
15 Defendants' deny the allegations contained therein;

16 7. Answering Paragraphs 16, 17, 18, 19, and 20, of Plaintiff's Complaint, the
17 answering Defendants' state that they are without knowledge or information sufficient to form a
18 belief as to the truth of the allegations contained therein;

19 8. Answering Paragraphs 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35,
20 36, 37, 38, 39, 40, and 41 of Plaintiff's Complaint, the answering Defendants' deny the
21 allegations contained therein;

22 9. Answering Paragraphs 42, 43, and 45 of Plaintiff's Complaint, the answering
23 Defendants' state that they are without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained therein;

25
26
27 \\\

1 10. Answering Paragraphs 45, 46, 47, 48, 49, 50, 51, and 52 of Plaintiff's Complaint,
2 the answering Defendants' deny the allegations contained therein;

3 11. Answering Paragraphs 53, 54, and 55 of Plaintiff's Complaint, these answering
4 Defendants' state that they are without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained therein;

6 12. Answering Paragraphs 56, and 57, of Plaintiff's Complaint, the answering
7 Defendants' deny the allegations contained therein;

8 13. Answering Paragraph 58 of Plaintiff's Complaint, the answering Defendants'
9 admits the allegations therein;

10 14. Answering Paragraphs 59, 60, and 61 of Plaintiff's Complaint, the answering
11 Defendants' state that they are without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained therein;

13 15. Answering Paragraphs 62, 63, 64, 65, and 66 of Plaintiff's Complaint, the
14 answering Defendants' deny the allegations contained therein;

15 **FIRST CAUSE OF ACTION**

16 **(Quiet Title against all Defendants)**

17 16. Answering Paragraph 67 of Plaintiff's Complaint, the answering Defendants'
18 repeat and reallege its answers to each and every allegation contained in Paragraphs 1 through
19 66, inclusive, as though fully set forth herein.

20 17. Answering Paragraphs 68, 69, 70, 71, 72, and 73 of Plaintiff's Complaint, the
21 answering Defendants' deny the allegations contained therein;

22 18. Answering Paragraph 74 of Plaintiff's Complaint, the answering Defendants'
23 state that they are without knowledge or information sufficient to form a belief as to the truth of
24 the allegations contained therein;

1 19. Answering Paragraphs 75, 76, 77, 78, 79, 80, 81, 82, and 83 of Plaintiff's
2 Complaint, the answering Defendants' deny the allegations contained therein;

3 **SECOND CAUSE ACTION**

4 **(Unjust Enrichment against BANA [BAC Home Loans], Recontrust and EZ Properties)**

5 20. Answering Paragraph 84 of Plaintiff's Complaint, the answering
6 Defendants' repeat and reallege its answers to each and every allegation contained in Paragraphs
7 1 through 83, inclusive, as though fully set forth herein.

8
9 21. Answering Paragraphs 85, 86, 87, 88, 89, 90, and 91 of Plaintiff's Complaint, the
10 answering Defendants' deny the allegations contained therein;

11 **THIRD CAUSE ACTION**

12 **(Equitable Mortgage against all Defendants)**

13 22. Answering Paragraph 92 of Plaintiff's Complaint, the answering Defendants'
14 repeat and reallege its answers to each and every allegation contained in Paragraphs 1 through
15 91, inclusive, as though fully set forth herein.

16
17 23. Answering Paragraphs 93, 94, 95, 96, 97, 98, 99, 100, and 101 of Plaintiff's
18 Complaint, the answering Defendants' deny the allegations contained therein;

19 **FOURTH CAUSE OF ACTION**

20 **(Slander of the Title against all Defendants)**

21 24. Answering Paragraph 102 of Plaintiff's Complaint, the answering Defendants'
22 repeat and reallege its answers to each and every allegation contained in Paragraphs 1 through
23 101, inclusive, as though fully set forth herein.

24
25 25. Answering Paragraphs 103, 104, 105, 106, 107, 108, 109, 110, 111, and 112 of
26 Plaintiff's Complaint, the answering Defendants' deny the allegations contained therein;

27 \\\

FIFTH CAUSE OF ACTION

(Conversion against BOA [BAC Loans] and Recontrust)

26. Answering Paragraph 113 of Plaintiff's Complaint, the answering Defendants' repeat and reallege its answers to each and every allegation contained in Paragraphs 1 through 112, inclusive, as though fully set forth herein.

27. Answering Paragraphs 114, 115, 116, 117, 118, 119, 120, 121, and 122 of Plaintiff's Complaint, the answering Defendants' state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations therein;

SIXTH CAUSE OF ACTION

(Equitable Relief – Wrongful Foreclosure)

28. Answering Paragraph 123 of Plaintiff's Complaint, the answering Defendants' repeat and reallege its answers to each and every allegation contained in Paragraphs 1 through 122, inclusive, as though fully set forth herein.

29. Answering Paragraphs 124, 125, 126, 127, 128, 129, and 130 of Plaintiff's Complaint, the answering Defendants' deny the allegations contained therein;

SEVENTH CAUSE OF ACTION

(Equitable Relief – Rescission)

30. Answering Paragraph 131 of Plaintiff's Complaint, the answering Defendants' repeat and reallege its answers to each and every allegation contained in Paragraphs 1 through 130, inclusive, as though fully set forth herein.

31. Answering Paragraphs 132, 133, 134, 135, 136, 137, 138, and 139 of Plaintiff's Complaint, the answering Defendants' deny the allegations contained therein;

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a cause of action upon which relief can be granted.

- 1 2. Plaintiff's claims are barred by lack of consideration
- 2 3. Plaintiff's claims are barred by waiver, estoppel and laches.
- 3 4. Plaintiff's claims are barred by the Statue of Frauds.
- 4 5. Plaintiff failed to notify Defendant of any alleged breach within a reasonable time after
5 discovery of the breach or after the breach should have been discovered.
- 6 6. Plaintiff failed to take such reasonable and seasonable action as was necessary to mitigate
7 any damage or damages or losses to Plaintiff that may have been cause by defendant.
- 8 7. Plaintiff has no standing to assert its claims.
- 9 8. In the event Plaintiff is entitled to a judgement against defendant on any claims asserted
10 in the Complaint, Defendant is entitled to an offset based upon its claim against the
11 Plaintiff or their agents.
- 12 9. Any damages sustained by the Plaintiff were caused solely or primarily by the negligence
13 or other conduct of the plaintiff.
- 14 10. Plaintiff knowingly and voluntarily assumed the risk of injuries and losses alleged in the
15 Complaint, and Plaintiff is therefore barred from any relief against the Defendant.
- 16 11. Plaintiff has no privity of contract with the Defendant.
- 17 12. Any or all damages at issue in this action were caused by an independent third party over
18 whom the Defendant has no control.
- 19 13. Any and all damages at issue herein were caused by an independent superceding cause
20 unrelated to any actions of the Defendant.
- 21 14. Plaintiff has failed to mitigate its damages.
- 22 15. Damages at issue herein were caused as a result of the fraudulent action or activities of
23 the Plaintiff.
- 24 16. The above action is not yet ripe for adjudication.
- 25 17. Plaintiff is barred from recovery based upon the doctrines of release and compromise.
- 26 18. Plaintiff has failed to name a necessary and indispensable party and thereby the claims
27 cannot be adequately of appropriately prosecuted.
- 28 19. Plaintiff has filed liens which are defective in whole or in part or were untimely filed.
20. Plaintiff is barred from recovery based upon the theory of accord and satisfaction.
27. Defendant asserts that they may have additional affirmative defenses which are not know
at this time, but which may be asserted through further discovery and which may include,

without limitation, contributory negligence, waiver, estoppel, failure of consideration, fraud, statute of frauds, statute of limitations and waiver. Defendant specifically reserves the right to assert these affirmative defenses as they are further ascertained through discovery.

WHEREFORE, Defendants prays for judgment against Plaintiff's, and each of them, as follows:

1. That Plaintiff take nothing by way of their complaint;
2. For indemnity for all damages and/or economic losses that Defendants' recovers against Plaintiffs by way of judgment, order, settlement, compromise or trial;
3. For reasonable attorney's fees, costs, expert costs and expenses, pursuant to statutory law, common law, and contract law; and
4. For such other and further relief as the Court may deem just, equitable and proper.

Dated this 1st day of June, 2015.

LAW OFFICES OF KEVIN R. HANSEN

/s/ Kevin R. Hansen
KEVIN R. HANSEN, ESQ.
Nevada Bar No. 6336 KEVIN R. HANSEN, ESQ.
5440 W. Sahara Ave., Suite 206
Las Vegas, Nevada 89146

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEFENDANTS' EZ PROPERTIES, LLC, AND K&L BAXTER FAMILY LIMITED PARTNERSHIP ANSWER TO PLAINTIFF'S COMPLAINT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 1st day of June, 2015. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

LAW OFFICES OF KEVIN R. HANSEN

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Las Vegas, Nevada 89146

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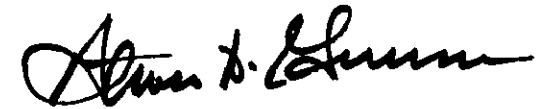
1 Roger P. Croteau, Esq.
2 Timothy E. Rhoda, Esq.
3 ROGER P. CROTEAU & ASSOCIATES
4 9120 West Post Rd., Suite 100
5 Las Vegas, NV 89148
6 *Attorney for Plaintiff*
7 *Las Vegas Development Group, LLC*

8 I further certify that I served a copy of this document by mailing a true and correct copy
9 thereof, postage prepaid, addressed to:

10 Roger P. Croteau, Esq.
11 Timothy E. Rhoda, Esq.
12 ROGER P. CROTEAU & ASSOCIATES
13 9120 West Post Rd., Suite 100
14 Las Vegas, NV 89148
15 *Attorney for Plaintiff*
16 *Las Vegas Development Group, LLC*

17 /s/ Gabriela Mercado

18 an employee of The Law Offices of Kevin R. Hansen



CLERK OF THE COURT

1 **DLFT**
2 ROGER P. CROTEAU, ESQ.
3 Nevada Bar No. 4958
4 TIMOTHY E. RHODA, ESQ.
5 Nevada Bar No. 7878
6 ROGER P. CROTEAU & ASSOCIATES, LTD.
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8 Las Vegas, Nevada 89148
9 (702) 254-7775
10 (702) 228-7719 (facsimile)
11 croteaulaw@croteaulaw.com
12 *Attorney for Plaintiff*
13 **LAS VEGAS DEVELOPMENT GROUP, LLC**

8 DISTRICT COURT
9
10 CLARK COUNTY, NEVADA

11 ***

12 LAS VEGAS DEVELOPMENT GROUP, LLC,))
13 a Nevada limited liability company,))
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Case No. A-15-715532-C
Dept. No. VIII

DEFAULT

It appearing from the files and records in the above-entitled action that the Defendant, **JOSE PEREZ, JR.**, was duly served with a copy of the Summons and Complaint on April 27, 2015; that more than 20 days, exclusive of the day of service, have expired since service upon the said Defendant; and that no answer or other appearance has been filed and no further time has

ROGER P. CROTEAU & ASSOCIATES, LTD.
• 9120 W. Post Road, Suite 100 • Las Vegas, Nevada 89148 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

CLERK OF THE COURT

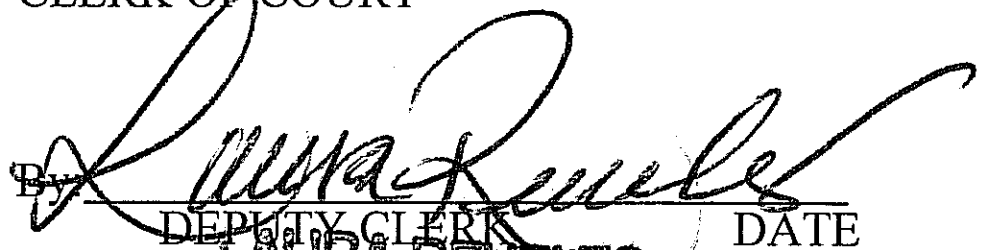
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RECEIVED

ROGER P. CROTEAU & ASSOCIATES, LTD.
• 9120 W. Post Road, Suite 100 • Las Vegas, Nevada 89148 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

1 been granted, the default of the above-named Defendant for failing to answer or otherwise plead
2 to Plaintiff's Complaint is hereby entered.

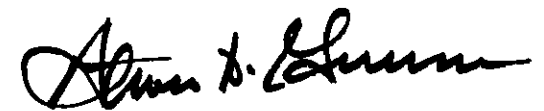
3 STEVEN D. GRIERSON,
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8 The undersigned hereby requests
9 and directs the entry of default:

10 ROGER P. CROTEAU & ASSOCIATES, LTD.

11 
12 TIMOTHY E. RHODA, ESQ.
13 Nevada Bar No. 7878
14 9120 West Post Road, Suite 100
15 Las Vegas, Nevada 89148
16 (702) 254-7775
17 *Attorney for Plaintiff*
18 LAS VEGAS DEVELOPMENT GROUP, LLC
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CLERK OF THE COURT

ANS

DARREN T. BRENNER, ESQ.
Nevada Bar No. 8386
WILLIAM S. HABDAS, ESQ.
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1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Telephone: (702) 634-5000
Facsimile: (702) 380-8572
Email: darren.brenner@akerman.com
Email: william.habdas@akerman.com

*Attorneys for Bank of America, N.A., successor
by merger to BAC Home Loans Servicing, LP,
and Recontrust Company, N.A.*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS DEVELOPMENT GROUP, LLC,
a Nevada limited liability company,

Plaintiff,

v.

JAMES R. BLAHA, an individual; BANK OF
AMERICA, N.A., a National Banking
Association, as successor by merger to BAC
HOME LOANS SERVICING, LP;
RECONTRUST COMPANY, N.A., a Texas
corporation; JOSE PEREZ, JR., an individual;
EZ PROPERTIES, LLC, a Nevada limited
liability company; K&L BAXTER FAMILY
LIMITED PARTNERSHIP, a Nevada limited
partnership; FCH FUNDING, INC., an unknown
corporate entity; DOE individuals I through XX;
and ROE CORPORATIONS I through XX,

Defendants.

Case No.: A-15-715532-C
Dept. No.: VIII

**DEFENDANTS BANK OF AMERICA,
N.A. AND RECONTRUST, N.A.'S
ANSWER TO PLAINTIFF'S
COMPLAINT**

Defendants Bank of America, N.A., as successor by merger to BAC Home Loans Servicing,
LP (**Bank of America**) and Recontrust Company, N.A. (**Recontrust**) (collectively **Defendants**)
answer Plaintiff Las Vegas Development Group, LLC's (**Plaintiff**) Complaint as follows:

ANSWER TO COMPLAINT**PARTIES**

1. Defendants lack sufficient information to admit or deny the allegations of Paragraph 1, and therefore deny the same.

2. Defendants admit the allegations of Paragraph 2.

3. Defendants admit the allegations of Paragraph 3.

4. Defendants lack sufficient information to admit or deny the allegations of Paragraph 4, and therefore deny the same.

5. Defendants lack sufficient information to admit or deny the allegations of Paragraph 5, and therefore deny the same.

6. Defendants lack sufficient information to admit or deny the allegations of Paragraph 6, and therefore deny the same.

7. Defendants lack sufficient information to admit or deny the allegations of Paragraph 7, and therefore deny the same.

8. Defendants lack sufficient information to admit or deny the allegations of Paragraph 8, and therefore deny the same.

9. The allegations of Paragraph 9 relate to alleged fictitious parties, and Defendants lack sufficient information to admit or deny allegations related to unknown fictitious parties, and therefore deny the same.

GENERAL ALLEGATIONS

10. Defendants adopt and incorporate by reference all the preceding paragraphs as though set forth fully herein. To the extent a response is required, Defendants deny the allegations of Paragraph 10.

11. Defendants state that the recorded documents speak for themselves. To the extent the allegations of Paragraph 11 contain Plaintiff's legal conclusions, no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations of Paragraph 11, and therefore deny the same.

12. To the extent the allegations of Paragraph 12 contain Plaintiff's legal conclusions, no response is required. To the extent a response is required, Defendants deny the allegations of Paragraph 12.

13. To the extent the allegations of Paragraph 13 describe statutory provisions, no response is required. To the extent a response is required, Defendants admit the allegations of Paragraph 13.

14. To the extent the allegations of Paragraph 14 describe statutory provisions, no response is required. To the extent a response is required, Defendants admit only that a portion of an HOA's lien can have priority over a first deed of trust.

15. To the extent the allegations of Paragraph 15 describe statutory provisions, no response is required. To the extent a response is required, Defendants admit only that a portion of an HOA's lien can have priority over a first deed of trust.

16. Defendants lack sufficient information to admit or deny the allegations of Paragraph 16, and therefore deny the same.

17. Defendants lack sufficient information to admit or deny the allegations of Paragraph 17, and therefore deny the same.

18. Defendants admit only that Bank of America once claimed an interest in the Property by way of its senior Deed of Trust. Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 18, and therefore deny the same.

19. Defendants state that the recorded documents speak for themselves. To the extent a response is required, Defendants admit the allegations of Paragraph 19.

20. Defendants state that the recorded documents speak for themselves. To the extent a response is required, Defendants admit the allegations of Paragraph 20.

21. Defendants admit the allegations of Paragraph 21.

22. Defendants lack sufficient information to admit or deny the allegations of Paragraph 22, and therefore deny the same.

23. Defendants lack sufficient information to admit or deny the allegations of Paragraph 23, and therefore deny the same.

1 24. Defendants state that the recorded documents speak for themselves. To the extent a
2 response is required, Defendants admit the allegations of Paragraph 24.

3 25. Defendants state that the recorded documents speak for themselves. To the extent a
4 response is required, Defendants admit the allegations of Paragraph 25.

5 26. Defendants lack sufficient information to admit or deny the allegations of Paragraph
6 26, and therefore deny the same.

7 27. Defendants state that the recorded documents speak for themselves. To the extent a
8 response is required, Defendants admit the allegations of Paragraph 27.

9 28. Defendants lack sufficient information to admit or deny the allegations of Paragraph
10 28, and therefore deny the same.

11 29. Defendants admit only that a Trustee's Deed Upon Sale states that the Property was
12 sold at a foreclosure sale on April 12, 2011. Defendants lack sufficient information to admit or deny
13 the remaining allegations of Paragraph 29, and therefore deny the same.

14 30. Defendants lack sufficient information to admit or deny the allegations of Paragraph
15 30, and therefore deny the same.

16 31. Defendants admit only that a Trustee's Deed Upon Sale recorded on April 13, 2011
17 purports to convey the Property to Plaintiff. Defendants specifically deny that their respective
18 interests in the Property were extinguished by the HOA foreclosure sale. Defendants further deny
19 that Plaintiff is in fact the legal and equitable owner of the Property.

20 32. Defendants deny the allegations of Paragraph 32.

21 33. Defendants deny the allegations of Paragraph 33.

22 34. To the extent the allegations of Paragraph 34 describe statutory provisions, no
23 response is required. To the extent a response is required, Defendants admit the allegations of
24 Paragraph 34.

25 35. To the extent the allegations of Paragraph 35 describe statutory provisions, no
26 response is required. To the extent a response is required, Defendants admit only that a portion of an
27 HOA's lien can have priority over a first deed of trust.

1 36. Defendants lack sufficient information to admit or deny the allegations of Paragraph
2 36, and therefore deny the same.

3 37. Defendants lack sufficient information to admit or deny the allegations of Paragraph
4 37, and therefore deny the same.

5 38. Defendants lack sufficient information to admit or deny the allegations of Paragraph
6 38, and therefore deny the same.

7 39. Defendants lack sufficient information to admit or deny the allegations of Paragraph
8 39, and therefore deny the same.

9 40. Defendants lack sufficient information to admit or deny the allegations of Paragraph
10 40, and therefore deny the same.

11 41. Defendants admit the allegations of Paragraph 41.

12 42. Defendants admit the allegations of Paragraph 42.

13 43. Defendants lack sufficient information to admit or deny the allegations of Paragraph
14 43, and therefore deny the same.

15 44. Defendants lack sufficient information to admit or deny the allegations of Paragraph
16 44, and therefore deny the same.

17 45. Defendants deny the allegations of Paragraph 45.

18 46. Defendants deny the allegations of Paragraph 46.

19 47. To the extent the allegations of Paragraph 47 describe statutory provisions or contain
20 Plaintiff's legal conclusions, no response is required. To the extent a response is required,
21 Defendants deny the allegations of Paragraph 47.

22 48. To the extent the allegations of Paragraph 48 describe statutory provisions or contain
23 Plaintiff's legal conclusions, no response is required. To the extent a response is required,
24 Defendants deny the allegations of Paragraph 48.

25 49. Defendants deny the allegations of Paragraph 49.

26 50. Defendants deny the allegations of Paragraph 50.

27 51. Defendants deny the allegations of Paragraph 51.

28 52. Defendants deny the allegations of Paragraph 52.

1 53. Defendants state that the recorded document speaks for itself. To the extent a
2 response is required, Defendants admit the allegations of Paragraph 53.

3 54. Defendants state that the recorded document speaks for itself. To the extent a
4 response is required, Defendants admit the allegations of Paragraph 54.

5 55. Defendants admit that Recontrust conducted a foreclosure sale pursuant to the First
6 Deed of Trust. Defendants deny the remaining allegations of Paragraph 55.

7 56. Defendants state that the recorded documents speak for themselves. To the extent a
8 response is required, Defendants admit only that EZ Properties purchased the Property at the
9 foreclosure sale. Defendants deny the remaining allegations of Paragraph 56.

10 57. Defendants admit only that EZ Properties purchased the Property at the foreclosure
11 sale. Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph
12 57, and therefore deny the same.

13 58. Defendants state that the recorded document speaks for itself. To the extent a
14 response is required, Defendants lack sufficient information to admit or deny the allegations of
15 Paragraph 58, and therefore deny the same.

16 59. Defendants state that the recorded document speaks for itself. To the extent a
17 response is required, Defendants lack sufficient information to admit or deny the allegations of
18 Paragraph 59, and therefore deny the same.

19 60. Defendants lack sufficient information to admit or deny the allegations of Paragraph
20 60, and therefore deny the same.

21 61. Defendants state that the recorded document speaks for itself. To the extent a
22 response is required, Defendants lack sufficient information to admit or deny the allegations of
23 Paragraph 61, and therefore deny the same.

24 62. To the extent the allegations of Paragraph 62 contain Plaintiff's legal conclusions, no
25 response is required. To the extent a response is required, Defendants admit only that the Nevada
26 Supreme Court held that NRS 116.3116 does provide homeowners associations with a limited super-
27 priority lien in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*
28

1 63. To the extent the allegations of Paragraph 63 contain Plaintiff's legal conclusions, no
2 response is required. To the extent a response is required, Defendants admit that the Nevada
3 Supreme Court held that NRS 116.3116 does provide homeowners associations with a limited super-
4 priority lien in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.* Defendants further state that the
5 Nevada Supreme Court has made no pronouncement regarding the constitutionality of NRS 116, *et*
6 *seq.*

7 64. To the extent the allegations of Paragraph 64 describe statutory provisions or contain
8 Plaintiff's legal conclusions, no response is required. To the extent a response is required,
9 Defendants deny that the quoted language has the meaning ascribed to it by Plaintiff.

10 65. To the extent the allegations of Paragraph 65 describe statutory provisions or contain
11 Plaintiff's legal conclusions, no response is required. To the extent a response is required,
12 Defendants deny the allegations of Paragraph 65.

13 66. Defendants deny the allegations of Paragraph 66.

14 **FIRST CAUSE OF ACTION**

15 **(Quiet Title Against All Defendants)**

16 67. Defendants adopt and incorporate by reference all the preceding paragraphs as though
17 set forth fully herein. To the extent a response is required, Defendants deny the allegations of
18 Paragraph 67.

19 68. Defendants deny the allegations of Paragraph 68.

20 69. Defendants deny the allegations of Paragraph 69.

21 70. Defendants deny the allegations of Paragraph 70.

22 71. Defendants deny the allegations of Paragraph 71.

23 72. Defendants deny the allegations of Paragraph 72.

24 73. Defendants deny the allegations of Paragraph 73.

25 74. Defendants deny that they claim any interest in the Property. The remaining
26 allegations are not directed at Defendants, and thus no response is required.

83. Defendants deny the allegations of Paragraph 83.

(Unjust Enrichment against BANA [BAC Home Loans], Recontrust, and EZ Properties)

91. Defendants deny the allegations of Paragraph 91.

THIRD CAUSE OF ACTION**(Equitable Mortgage against all Defendants)**

92. Defendants adopt and incorporate by reference all the preceding paragraphs as though set forth fully herein. To the extent a response is required, Defendants deny the allegations of Paragraph 92.

93. Defendants lack sufficient information to admit or deny the allegations of Paragraph 93, and therefore deny the same.

94. Defendants deny the allegations of Paragraph 94.

95. Defendants admit only that Bank of America sold the Property pursuant to its rights under its senior Deed of Trust. Defendants deny the remaining allegations of Paragraph 95.

96. Defendants deny the allegations of Paragraph 96.

97. Defendants deny the allegations of Paragraph 97.

98. Defendants deny the allegations of Paragraph 98.

99. Defendants deny the allegations of Paragraph 99.

100. Defendants deny the allegations of Paragraph 100.

101. Defendants deny the allegations of Paragraph 101.

FOURTH CAUSE OF ACTION**(Slander of Title against all Defendants)**

102. Defendants adopt and incorporate by reference all the preceding paragraphs as though set forth fully herein. To the extent a response is required, Defendants deny the allegations of Paragraph 102.

103. Defendants deny the allegations of Paragraph 103.

104. Defendants deny the allegations of Paragraph 104.

105. Defendants state that the recorded document speaks for itself. To the extent a response is required, Defendants admit the allegations of Paragraph 105.

106. Defendants state that the recorded document speaks for itself. To the extent a response is required, Defendants admit the allegations of Paragraph 106.

1 107. Defendants state that the recorded document speaks for itself. To the extent a
2 response is required, Defendants admit the allegations of Paragraph 107.

3 108. Defendants deny the allegations of Paragraph 108.

4 109. Defendants deny the allegations of Paragraph 109.

5 110. Defendants deny the allegations of Paragraph 110.

6 111. Defendants deny the allegations of Paragraph 111.

7 112. Defendants deny the allegations of Paragraph 112.

8 **FIFTH CAUSE OF ACTION**

9 **(Conversion against BOA [BAC Home Loans] and Recontrust)**

10 113. Defendants adopt and incorporate by reference all the preceding paragraphs as though
11 set forth fully herein. To the extent a response is required, Defendants deny the allegations of
12 Paragraph 113.

13 114. Defendants deny the allegations of Paragraph 114.

14 115. Defendants deny the allegations of Paragraph 115.

15 116. Defendants deny the allegations of Paragraph 116.

16 117. Defendants admit only that Bank of America sold the Property pursuant to its rights
17 under its senior Deed of Trust. Defendants deny the remaining allegations of Paragraph 117.

18 118. Defendants admit only that Bank of America sold the Property pursuant to its rights
19 under its senior Deed of Trust. Defendants deny the remaining allegations of Paragraph 118.

20 119. Defendants deny the allegations of Paragraph 119.

21 120. Defendants deny the allegations of Paragraph 120.

22 121. Defendants deny the allegations of Paragraph 121.

23 122. Defendants deny the allegations of Paragraph 122.

24 **SIXTH CAUSE OF ACTION**

25 **(Equitable Relief – Wrongful Foreclosure)**

26 123. Defendants adopt and incorporate by reference all the preceding paragraphs as though
27 set forth fully herein. To the extent a response is required, Defendants deny the allegations of
28 Paragraph 123.

124. Defendants deny the allegations of Paragraph 124.

125. Defendants deny the allegations of Paragraph 125.

126. Defendants deny the allegations of Paragraph 126.

127. Defendants deny the allegations of Paragraph 127.

128. Defendants deny the allegations of Paragraph 128.

129. Defendants deny the allegations of Paragraph 129.

130. Defendants deny the allegations of Paragraph 130.

SEVENTH CAUSE OF ACTION

(Equitable Relief – Rescission [sic])

131. Defendants adopt and incorporate by reference all the preceding paragraphs as though set forth fully herein. To the extent a response is required, Defendants deny the allegations of Paragraph 131.

132. Defendants deny the allegations of Paragraph 132.

133. Defendants deny the allegations of Paragraph 133.

134. Defendants deny the allegations of Paragraph 134.

135. Defendants deny the allegations of Paragraph 135.

136. Defendants deny the allegations of Paragraph 136.

137. Defendants deny the allegations of Paragraph 137.

138. Defendants deny the allegations of Paragraph 138.

139. Defendants deny the allegations of Paragraph 139.

PRAYER FOR RELIEF

A. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph A of the Prayer.

B. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph B of the Prayer.

C. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph C of the Prayer.

1 D. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph D of the
2 Prayer.

3 E. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph E of the
4 Prayer.

5 F. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph F of the
6 Prayer.

7 G. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph G of the
8 Prayer.

9 H. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph H of the
10 Prayer.

11 I. Defendants deny that Plaintiff is entitled to the relief requested in Paragraph I of the
12 Prayer.

13 **AFFIRMATIVE DEFENSES**

14 Defendants assert the following additional defenses. Discovery and investigation of this case
15 is not yet complete, and Defendants reserve the right to amend this Answer by adding, deleting, or
16 amending defenses as may be appropriate. In further answer to the Complaint, and by way of
17 additional defenses, Defendants aver as follows:

18 **FIRST AFFIRMATIVE DEFENSE**

19 **(Failure to State a Claim)**

20 Plaintiff has failed to state facts sufficient to constitute any cause of action against any
21 Defendant.

22 **SECOND AFFIRMATIVE DEFENSE**

23 **(Void for Vagueness)**

24 To the extent that Plaintiffs' interpretation of NRS 116.3116 is accurate, the statute, and
25 Chapter 116, are void for vagueness as applied to this matter.

THIRD AFFIRMATIVE DEFENSE**(Due Process Violations)**

A senior deed of trust beneficiary cannot be deprived of its property interest in violation of the Procedural Due Process Clause of the Fourteenth Amendment of the United States Constitution and Article 1, Sec. 8, of the Nevada Constitution.

FOURTH AFFIRMATIVE DEFENSE**(Tender, Estoppel, Laches, and Waiver)**

The super-priority lien was satisfied prior to the homeowners association's foreclosure under the doctrines of tender, estoppel, laches, or waiver.

FIFTH AFFIRMATIVE DEFENSE**(Commercial Reasonableness and Violation of Good Faith)**

The homeowners association's foreclosure sale was not commercially reasonable, and the circumstances of the sale of the property violated the homeowners association's obligation of good faith and duty to act in a commercially reasonable manner.

SIXTH AFFIRMATIVE DEFENSE**(Failure to Mitigate Damages)**

Plaintiff's claims are barred in whole or in part because of its failure to take reasonable steps to mitigate its damages, if any.

SEVENTH AFFIRMATIVE DEFENSE**(No Standing)**

Plaintiff lacks standing to bring some or all of its claims and causes of action.

EIGHTH AFFIRMATIVE DEFENSE**(Unclean Hands)**

Defendants aver the affirmative defense of unclean hands.

NINTH AFFIRMATIVE DEFENSE**(Plaintiff is Not Entitled to Relief)**

Defendants deny that Plaintiff is entitled to any relief for which it prays.

TENTH AFFIRMATIVE DEFENSE**(Failure to Do Equity)**

Defendants aver the affirmative defense of failure to do equity.

ELEVENTH AFFIRMATIVE DEFENSE**(Failure to Provide Notice)**

Defendants were not provided proper notice of the “super-priority” assessment amounts and of the homeowners association’s foreclosure sale, and any such notice provided to Defendants failed to comply with the statutory and common law requirements of Nevada and with state and federal constitutional law.

TWELFTH AFFIRMATIVE DEFENSE**(Void Foreclosure Sale)**

The HOA foreclosure sale is void for failure to comply with the provisions of NRS Chapter 116, and other provisions of law.

THIRTEENTH AFFIRMATIVE DEFENSE**(Federal Law)**

The homeowners association’s sale is void or otherwise fails to extinguish the applicable deed of trust because it violates provisions of the United States Constitution and/or applicable federal law.

FOURTEENTH AFFIRMATIVE DEFENSE**(Due Process — Facially Unconstitutional Provisions)**

Chapter 116 of the Nevada Revised Statutes is facially unconstitutional because its “opt-in” notice provisions do not mandate that reasonable and affirmative steps be taken to give actual notice to a record lien holder before depriving that lien holder of its property rights, in violation of the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution and of the Nevada Constitution.

FIFTEENTH AFFIRMATIVE DEFENSE

(Additional Affirmative Defenses)

Pursuant to NRCP 11, Defendants reserve the right to assert additional affirmative defenses in the event discovery and/or investigation disclose the existence of other affirmative defenses.

PRAYER FOR RELIEF

WHEREFORE, Defendants pray for the following:

1. That Plaintiff's Complaint be dismissed in its entirety with prejudice and that Plaintiff take nothing by way of its Complaint;
2. For attorney's fees and costs for defending this action; and
3. For such other and further relief as this Court deems just and proper.

DATED: July 20, 2015

AKERMAN LLP

/s/ William S. Habdas

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*Attorneys for Bank of America, N.A., successor
by merger to BAC Home Loans Servicing, LP,
and Recontrust Company, N.A.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of July, 2015 and pursuant to NRCP 5(b), I through this Court's electronic service notification system ("Wiznet") a true and correct copy of the foregoing **DEFENDANTS BANK OF AMERICA, N.A. AND RECONTRUST COMPANY, N.A.'S ANSWER TO PLAINTIFF'S COMPLAINT** addressed to:

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