

**IN THE SUPREME COURT OF NEVADA**

SATICOY BAY, LLC 34  
INNISBROOK,

Appellant,

vs.

THORNBURG MORTGAGE  
SECURITIES TRUST 2007-3; FRANK  
TIMPA; MADELAINE TIMPA;  
TIMPA TRUST; RED ROCK  
FINANCIAL SERVICES, LLC;  
SPANISH TRAIL MASTER  
ASSOCIATION; REPUBLIC  
SERVICES; AND LAS VEGAS  
VALLEY WATER DISTRICT,

Respondents.

Supreme Court Case No. 80111

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**JOINT APPENDIX VOLUME 2**

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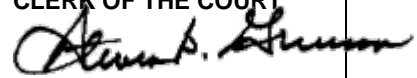
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13 *Trust 2007-3*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 **SATICOY BAY LLC SERIES 34**  
17 **INNISBROOK,**

18 Plaintiff,

19 vs.

20 **THORNBURG MORTGAGE SECURITIES**  
21 **TRUST 2007-3; RECONTRUST COMPANY,**  
22 **N.A. a division of BANK OF AMERICA;**  
23 **FRANK TIMPA and MADELAINE TIMPA,**  
24 **individually and as trustees of the TIMPA**  
25 **TRUST**

26 Defendants.

Case No.: A-14-710161-C  
Dept. No.: XV

**THORNBURG MORTGAGE**  
**SECURITIES TRUST 2007-3'S**  
**ANSWER TO SATICOY**  
**BAY LLC SERIES 34 INNISBROOK'S**  
**THIRD AMENDED COMPLAINT AND**  
**COUNTERCLAIMS**

1 THORNBURG MORTGAGE SECURITIES  
2 TRUST 2007-3,

3 Counterclaimant,  
4 vs.

5 SATICOY BAY LLC SERIES 34  
6 INNISBROOK, a Nevada limited-liability  
7 company; SPANISH TRAIL MASTER  
8 ASSOCIATION, a Nevada Non-Profit  
9 Corporation; RED ROCK FINANCIAL  
SERVICES, an unknown entity; FRANK  
TIMP A, an individual; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

10 Counter-Defendants.

11 RED ROCK FINANCIAL SERVICES,

12 Counterclaimant,  
13 vs.

14 THORNBURG MORTGAGE SERCURITIES  
15 TRUST 2007-3; COUNTRYWIDE HOME  
16 LOANS, INC.; ESTATES WEST AT  
17 SPANISH TRAILS; MORTGAGE  
18 ELECTRONIC REGISTRATION SYSTEMS,  
19 INC.; REPUBLIC SERVICES; LAS VEGAS  
20 VALLEY WATER DISTRICT; FRANK  
21 TIMP A and MADELAINE TIMPA,  
22 individually and as trustees of the TIMP A  
TRUS U/T/D March 3,1999; and DOES 1-100,  
inclusive,

Counter-Defendants.

23 Defendant, Thornburg Mortgage Securities Trust 2007-3 ("Thornburg"), by and through  
24 its attorneys of record Dana Jonathon Nitz, Esq., and Michael S. Kelley, Esq., of the law firm of  
25 Wright, Finlay & Zak, LLP, hereby submits its Answer to Saticoy Bay LLC Series 34  
26 Innisbrook's ("Saticoy" or "Plaintiff") Third Amended Complaint. Nothing in this Answer to  
27 Third Amended Complaint is intended to disturb Thornburg's previously filed Counterclaims filed  
28 on April 10, 2015.

**ANSWER TO SECOND AMENDED COMPLAINT**

1  
2           1.       Thornburg denies that Plaintiff is the owner of the Property. Thornburg maintains  
3 that its interest in the Property is secure and valid.

4           2.       Thornburg avers that the allegations contained in Paragraph 3 make reference to  
5 recorded documents, quote recorded documents, statutes, or case law, and/or offer opinions or  
6 conclusions of law, and therefore cannot be either admitted or denied; however, to the extent a  
7 response is necessary to any facts alleged therein, Thornburg admits only that a foreclosure deed  
8 recorded November 10, 2014 purports to state that Plaintiff was the highest bidder at a foreclosure  
9 sale conducted on November 7, 2014. Thornburg denies that Plaintiff has obtained title to the  
10 Property. Thornburg maintains that its interest in the Property is secure and valid.

11          3.       Thornburg avers that the allegations contained in Paragraph 3 make reference to  
12 recorded documents, quote recorded documents, statutes, or case law, and/or offer opinions or  
13 conclusions of law, and therefore cannot be either admitted or denied; however, to the extent a  
14 response is necessary to any facts alleged therein, then Thornburg objects to any document  
15 referenced in these paragraphs on the ground that the document speaks for itself; and, without  
16 waiving the objection, Thornburg otherwise does not possess enough information to admit or deny  
17 the allegations in these paragraphs and therefore denies the allegations contained therein on that  
18 basis.

19          4.       Thornburg admits the allegations contained in Paragraph 4 of the Complaint.

20          5.       The allegations contained in Paragraph 5 contain statements directed to entities in  
21 which Thornburg is not a party therefore, no response is required. To the extent a response is  
22 required; Thornburg admits that Madelaine and Frank Timpa were the former owners of the  
23 Property.

24          6.       The allegations contained in Paragraph 6 contain statements directed to entities in  
25 which Thornburg is not a party therefore, no response is required. To the extent a response is  
26 required; Thornburg is without information or knowledge to admit or deny the allegations  
27 contained therein, and therefore denies the same.

7. Thornburg avers that the allegations contained in Paragraph 7 of the Complaint contain legal conclusions to which no response is required; provided however, to the extent Paragraph 7 does require a response, Thornburg denies the allegations contained therein.

8. Thornburg avers that the allegations contained in Paragraph 8 of the Complaint contain legal conclusions to which no response is required; provided however, to the extent Paragraph 8 does require a response, Thornburg denies the allegations contained therein.

9. Thornburg avers that the allegations contained in Paragraph 9 of the Complaint contain legal conclusions to which no response is required; provided however, to the extent Paragraph 9 does require a response, Thornburg denies the allegations contained therein.

10. Thornburg denies the allegations contained in Paragraph 10 of the Complaint.

## **SECOND CLAIM FOR RELIEF**

11. Answering Paragraph 11, Thornburg hereby repeats, re-alleges and incorporates each of its admissions, denials, or other responses to all the paragraphs referenced hereinabove as if set forth at length and in full.

12. Thornburg avers that the allegations contained in paragraph 12 state legal conclusions for which no response is required; provided however, to the extent paragraph 40 does require a response, Thornburg denies the allegations contained in Paragraph 12 of the Complaint.

13. Thornburg denies the allegations contained in Paragraph 13 of the Complaint.

## SECOND CLAIM FOR RELIEF

14. Answering Paragraph 14, Thornburg hereby repeats, re-alleges and incorporates each of its admissions, denials, or other responses to all the paragraphs referenced hereinabove as if set forth length and in full.

15. Thornburg does not have adequate information or knowledge to admit or deny the allegations contained in Paragraph 15; therefore, Thornburg denies said allegations.

16. Thornburg does not have adequate information or knowledge to admit or deny the allegations contained in Paragraph 16; therefore, Thornburg denies said allegations.

17. Thornburg does not have adequate information or knowledge to admit or deny the allegations contained in Paragraph 17; therefore, Thornburg denies said allegations.

1           18.     Thornburg denies the allegations contained in Paragraph 18 of the Complaint.

2           19.     Thornburg denies the allegations contained in Paragraph 19 of the Complaint.

3                                   **FOURTH CLAIM FOR RELIEF**

4           20.     Answering Paragraph 20, Thornburg hereby repeats, re-alleges and incorporates  
5 each of its admissions, denials, or other responses to all the paragraphs referenced hereinabove as  
6 if set forth length and in full.

7           21.     Thornburg admits the allegations contained in Paragraph 21 of the Complaint.

8           22.     The allegations contained in Paragraph 22 are directed towards entities in which  
9 THORNBURG is not a party, therefore no response is required. To the extent a response is  
10 required, THORNBURG is without information or knowledge to admit or deny the allegations  
11 contained therein and therefore denies the same.

12          23.     The allegations contained in Paragraph 23 are directed towards entities in which  
13 THORNBURG is not a party, therefore no response is required. To the extent a response is  
14 required, THORNBURG is without information or knowledge to admit or deny the allegations  
15 contained therein and therefore denies the same.

16          24.     The allegations contained in Paragraph 24 are directed towards entities in which  
17 THORNBURG is not a party, therefore no response is required. To the extent a response is  
18 required, THORNBURG is without information or knowledge to admit or deny the allegations  
19 contained therein and therefore denies the same.

20          25.     The allegations contained in Paragraph 25 are directed towards entities in which  
21 THORNBURG is not a party, therefore no response is required. To the extent a response is  
22 required, THORNBURG is without information or knowledge to admit or deny the allegations  
23 contained therein and therefore denies the same.

24          26.     The allegations contained in Paragraph 26 are directed towards entities in which  
25 THORNBURG is not a party and contain legal conclusions, therefore no response is required. To  
26 the extent a response is required, THORNBURG is without information or knowledge to admit or  
27 deny the allegations contained therein and therefore denies the same.

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1           27.     The allegations contained in Paragraph 27 are directed towards entities in which  
2 THORNBURG is not a party, therefore no response is required. To the extent a response is  
3 required, THORNBURG is without information or knowledge to admit or deny the allegations  
4 contained therein and therefore denies the same.

5           28.     Thornburg denies the allegations contained in Paragraph 28 of the Complaint.

6                                   **FIFTH CLAIM FOR RELIEF**

7           29.     Answering Paragraph 29, Thornburg hereby repeats, re-alleges and incorporates  
8 each of its admissions, denials, or other responses to all the paragraphs referenced hereinabove as  
9 if set forth length and in full.

10          30.     The allegations contained in Paragraph 30 are directed towards entities in which  
11 THORNBURG is not a party, therefore no response is required. To the extent a response is  
12 required, THORNBURG is without information or knowledge to admit or deny the allegations  
13 contained therein and therefore denies the same.

14          31.     The allegations contained in Paragraph 31 are directed towards entities in which  
15 THORNBURG is not a party, therefore no response is required. To the extent a response is  
16 required, THORNBURG is without information or knowledge to admit or deny the allegations  
17 contained therein and therefore denies the same.

18          32.     Thornburg denies the allegations contained in Paragraph 32 of the Complaint.

19                                   **AFFIRMATIVE DEFENSES**

20                                   **FIRST AFFIRMATIVE DEFENSE**

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

22           Plaintiffs Complaint fails to state a claim against Thornburg upon which relief can be  
23 granted.

24                                   **SECOND AFFIRMATIVE DEFENSE**

25                                   **(Priority)**

26           Plaintiff took title of the Property subject to Thornburg's first priority Deed of Trust,  
27 thereby forestalling any enjoinder/extinguishment of Thornburg's interest in the Property.  
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**EIGHTH AFFIRMATIVE DEFENSE**

**(Void for Vagueness, Ambiguity, Violation of Due Process)**

To the extent that Plaintiffs interpretation of NRS 116.3116 is accurate, the statute and Chapter 116 as a whole are void for vagueness, ambiguity, and violation of due process.

**NINTH 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 14 Amendment of the United States Constitution and Article 1, Sec. 8, of the Nevada Constitution.

**TENTH AFFIRMATIVE DEFENSE**

**(Violation of Procedural Due Process)**

The HOA sale is void or otherwise does not operate to extinguish the first Deed of Trust pursuant to the Due Process Clause of the Nevada Constitution and United States Constitution.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Supremacy Clause)**

The HOA sale is void or otherwise does not operate to extinguish the first Deed of Trust pursuant to the Supremacy Clause of the United States Constitution.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Property Clause)**

The HOA sale is void or otherwise does not operate to extinguish the first Deed of Trust pursuant to the Property Clause of the United States Constitution.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate Damages)**

Plaintiff alleges that the PJ's claims are barred in whole or in part because of the Plaintiffs failure to take reasonable steps to mitigate the damages, if any, in this case.

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 **(Contracts Clause)**

3 The HOA Sale is void or otherwise does not operate to extinguish the first Deed of  
4 Trust pursuant to the Contracts Clause of both the United States Constitution and the Nevada  
5 Constitution.

6 **FIFTEENTH AFFIRMATIVE DEFENSE**

7 **(Additional Affirmative Defenses)**

8  
9 Plaintiff reserves the right to assert additional affirmative defenses in the event  
10 discovery and/or investigation indicates that additional affirmative defenses are applicable.

11 WHEREFORE, Thornburg prays as follows:

- 12 1. That the Court make a judicial determination that Thornburg's Deed of Trust is superior  
13 to Plaintiff's claim of title;
- 14 2. That the Court make a judicial determination that Thornburg's Deed of Trust survived  
15 the HOA Sale;
- 16 3. That the Court make a judicial determination that Plaintiff took title subject to  
17 Thornburg's Deed of Trust;
- 18 4. That Plaintiff recovers nothing on account of the claims made in the Second Amended  
19 complaint and each of their purported claims;
- 20 5. For reasonable attorney's fees and costs; and
- 21 6. For any such other and further relief as the Court may deem just and proper in the case.

22 **THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S COUNTERCLAIM**

23 Defendant/Counterclaimaint, Thornburg Mortgage Securities Trust 2007-3  
24 ("Thornburg") by and through its attorneys of record, Dana Jonathon Nitz, Esq. and Michael S.  
25 Kelley, Esq. of the law firm of Wright Finlay & Zak, LLP hereby submits its Counterclaims  
26 against Saticoy Bay LLC Series 34 Innisbrook ("Saticoy" or "Buyer"), Spanish Trail Master  
27 Association ("HOA"), and Red Rock Financial Services ("HOA Trustee").  
28

1 **INTRODUCTION**

2 1. This action is within the jurisdictional limits of this Court and this Venue is  
3 appropriate because the Property involved is located within the jurisdiction of this Court.  
4 Counterclaimant is also authorized to bring this action in the State of Nevada by NRS 40.430.

5 2. The real property which is the subject of this civil action consists of a residence  
6 commonly known as 34 Innisbrook Ave., Las Vegas, Nevada 89113, APN No. 163-28-614-00  
7 (hereinafter "Property").

8 **JURISDICTION AND VENUE**

9 3. Venue and jurisdiction is proper in this judicial district because Counter-  
10 Defendants reside in this district; a substantial part of the events or omissions giving rise to  
11 Thornburg's claims occurred in this district; and the property that is the subject of this action is  
12 situated in this district, in Las Vegas, Clark County, Nevada.

13 **PARTIES**

14 4. Thornburg is an entity authorized to do business in the state of Nevada.  
15 THORNBURG is the Beneficiary under the Deed of Trust executed by Frank A. Timpa  
16 (hereinafter "Timpa"), recorded on June 12, 2006, (hereinafter "Deed of Trust"), which  
17 encumbers the Property and secures a promissory note.

18 5. Upon information and belief, Saticoy is a Nevada limited liability company, and  
19 claims it is the current titleholder of the Property.

20 6. Upon information and belief, Spanish Trail Master Association (hereinafter  
21 "HOA") is a Nevada Non-Profit Corporation and at all times relevant was doing business in the  
22 State of Nevada, and is the HOA that foreclosed upon the property that is the subject of this  
23 litigation.

24 7. Upon information and belief, Red Rock Financial Services, LLC (hereinafter  
25 "HOA Trustee" or "RRFS") is a Nevada Limited Liability Company and at all times relevant  
26 was doing business in the State of Nevada, and is the HOA Trustee that foreclosed upon the  
27 property that is the subject of this litigation.

8. Upon information and belief, HOA Trustee was the agent of the HOA, and the HOA is responsible for their acts and omissions under the doctrine of respondeat superior

9. Thornburg does not know the true names, capacities or bases of liability of fictitious defendants sued as Does I through X, Roe Corporations XI through XX, inclusive (collectively "fictitious Defendants"). Each fictitiously named defendant is in some way liable to Thornburg or claims some rights, title, or interest in the Subject Property that is subsequent to or subject to the interests of Thornburg, or both. Thornburg will amend this Counterclaim to reflect the true names of said defendants when the same have been ascertained.

## GENERAL ALLEGATIONS

1. On or about December 21, 2006, Borrower Frank Timpa purchased the Property.

2. The Deed of Trust executed by Timpa identified Countrywide Home Loans, Inc., as the lender, Mortgage Electronic Registration Systems, Inc. (MERS), as nominee for Lender and Lender's assigns as Beneficiary, and Recontrust Company, N.A. as the Trustee, securing loan in the amount of \$3,780,000.00 (hereinafter the "Borrower's Loan").<sup>1</sup>

3. The borrower became delinquent on his payment obligations under the Deed of Trust on or about February 1, 2008.

4. On June 9, 2010, Countrywide Home Loans, Inc. assigned all beneficial interest in the Deed of Trust to Thornburg.<sup>2</sup>

5. Thornburg is the current beneficiary of the Deed of Trust.

6. Public records show that on August 4, 2011, a Notice of Delinquent Assessment Lien was recorded against the Property by HOA Trustee, as agent for HOA.<sup>3</sup>

7. Public records show that on December 6, 2011, a Notice of Default and Election to Sell under Homeowners Association Lien was recorded against the Property by the HOA Trustee, on behalf of the HOA.<sup>4</sup>

<sup>1</sup> A true and correct copy of the Deed of Trust recorded as Book and Instrument Numbers 20060612-0001581 is attached hereto as **Exhibit 1**.

<sup>2</sup> A true and correct copy of the Assignment of Deed of Trust recorded as Book and Instrument Numbers 20100609-0003189 is attached hereto as **Exhibit 2**.

<sup>3</sup> A true and correct copy of the Notice of Delinquent Assessment Lien recorded as Book and Instrument Number 20110804-0002324, is attached hereto as **Exhibit 3**.

1           8.       Public records show that on September 15, 2014, a Notice of Foreclosure Sale  
2 was recorded against the Property by the HOA Trustee on behalf of the HOA.<sup>5</sup>

3           9.       Upon information and belief, pursuant to that Notice of Foreclosure Sale, a non-  
4 judicial foreclosure sale occurred on November 7, 2014 (hereinafter the "HOA Sale"), whereby  
5 Saticoy acquired its interest in the Property, if any, for \$1,201,000.00.

6           10.      On November 10, 2014, a Foreclosure Deed was recorded by which Saticoy  
7 claims its interest.<sup>6</sup>

8           11.      A homeowner's association sale conducted pursuant to NRS Chapter 116 must  
9 comply with all notice provisions as stated in NRS 116.31162 through NRS 116.31168 and  
10 NRS 107.090.

11          12.      The documents identified as the HOA's Notice of Delinquent Assessment Lien,  
12 Notice of Default, and Notice of Sale (collectively "HOA Foreclosure Notices") failed to  
13 identify what proportion of the claimed lien was for alleged assessments, late fees, interest,  
14 fines/violations, or collection fees/costs.

15          13.      A recorded notice of default must "describe the deficiency in payment."

16          14.      The HOA Sale occurred without notice to The Trust or its predecessors, agents,  
17 servicers or trustees what portion of the lien, if any, that the HOA and HOA Trustee claimed  
18 constituted a "super-priority" lien.

19          15.      None of the HOA Foreclosure Notices discloses what portion of the lien, if any,  
20 the HOA claimed to be the "super-priority" portion of the HOA lien.

21          16.      None of the HOA Foreclosure Notices specified whether HOA was foreclosing  
22 on the "super-priority" portion of its lien, if any, or under the non-super-priority portion of the  
23 lien.

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24  
25 <sup>4</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
26 Association Lien recorded as Book and Instrument Number 20111206-0001106 is attached  
hereto as **Exhibit 4**.

27 <sup>5</sup> A true and correct copy of the Notice of Foreclosure Sale recorded as Book and Instrument  
Number 20140915-0001527 is attached hereto as **Exhibit 5**.

28 <sup>6</sup> A true and correct copy of the Foreclosure Deed recorded as Book and Instrument Numbe  
20141110-0002475 is attached hereto as **Exhibit 6**.

1           17.     None of the HOA Foreclosure Notices provided notice of a right to protect the  
2 senior trust deed position by cure or payment of the super priority amount owed.

3           18.     A lender or holder, such as The Trust and/or its predecessors ("Lender"), has a  
4 right to cure a delinquent homeowner's association lien in order to protect their security interest.

5           19.     Prior to the HOA Sale, Thornburg and its predecessors demanded an accounting  
6 of the HOA liens, including what portion of said lien(s) constituted the super-priority amount.

7           20.     HOA Trustee responded with an accounting of the claimed lien, but did not  
8 specify what portion of the lien constituted the super priority lien.<sup>7</sup>

9           21.     HOA Trustee demanded payment of the full lien, including amounts not legally  
10 included in the super-priority lien.

11           22.     Prior to the HOA Sale, Thornburg and its predecessors tendered payment of 9  
12 months of assessments to the HOA and its agents, thus satisfying the super-priority lien prior to  
13 the HOA's foreclosure of the remaining lien amount.<sup>8</sup>

14           23.     Thornburg's satisfaction of the HOA super-priority lien prevented  
15 extinguishment of its First Deed of Trust, thereby preserving its first lien position and security  
16 interest in the Property.

17           24.     The HOA Sale violated Thornburg's rights and harmed it because the HOA  
18 Trustee failed to inform potential buyers at the lien sale that actual tender of the HOA super-  
19 priority lien had been made prior to the sale.

20           25.     The HOA Sale was invalid and could not have extinguished Thornburg's security  
21 interest because Thornburg had in fact tendered the 9 month super-priority lien prior to the  
22 HOA Sale.

23           26.     The HOA Sale occurred without notice to Thornburg, or its predecessors, agents,  
24 servicers or trustees what portion of the lien, if any, that the HOA and HOA Trustee claimed  
25 constituted a super-priority lien.

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27 <sup>7</sup> HOA Trustee Letter and Ledger dated January 26, 2012 is attached hereto as **Exhibit 7**.

28 <sup>8</sup> Tender letter and tender check dated February 9, and February 6, 2012 respectively, is  
attached hereto as **Exhibit 8**.

1           27.     The HOA Sale occurred without notice to Thornburg, or its predecessors, agents,  
2           servicers or trustees whether the HOA was foreclosing on the super-priority portion of its lien,  
3           if any, or under the non-super priority portion of the lien.

4           28.     Extinguishment of Thornburg's Deed of Trust would deprive it of its right to due  
5           process because, upon information and belief, the HOA included amounts in its super-priority  
6           lien, such as fines, late fees, interest, dues, and costs of collection that are not allowed to be  
7           included in its super-priority lien, if any, under Nevada law.

8           29.     Extinguishment of Thomburg's Deed of Trust would deprive it of its right to due  
9           process because the HOA Trustee and/or the HOA failed to describe the deficiency in payment  
10          as required by Nevada law and failed to give the Trust or its predecessors, agents or servicers  
11          any reasonable opportunity to satisfy the super-priority lien, if any.

12          30.     The Property is located within a common interest community, and is governed  
13          by CC&R's that appear of record from and after August 10, 1988.

14          31.     The CC&Rs require reasonable notice of delinquency to all lien holders on the  
15          Property.

16          32.     Further, the CC&Rs provide for the priority of a first mortgage of record made in  
17          good faith and for value (Sections 10.7) and 11.3).

18          33.     Upon information and belief, the Lender never received copies of the HOA  
19          Foreclosure Notices from the HOA or the HOA Trustee.

20          34.     Upon information and belief, the HOA and its agent, the HOA Trustee, did not  
21          comply with all mailing, curing, and noticing requirements stated in NRS 116.31162 through  
22          NRS 116.31168 and the CC&Rs.

23          35.     The HOA Sale occurred without notice to Lender whether HOA was foreclosing  
24          on the "super-priority" portion of its lien, if any, or under the non-super-priority portion of the  
25          lien.

26          36.     The HOA Sale occurred without notice to Lender of a right to cure the  
27          delinquent assessment and the super-priority lien, if any.

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1           37.     The HOA Sale violated Lender's rights to due process because it was not given  
2 proper, adequate notice and the opportunity to cure the deficiency or default in the payment of  
3 the HOA's assessments and the super-priority lien, if any.

4           38.     The HOA Sale was an invalid sale and could not have extinguished The Trust's  
5 secured interest because of defects in the notices given, if any, to Lender.

6           39.     Extinguishment of The Trust's Deed of Trust would deprive it of its right to due  
7 process because, upon information and belief, the HOA included amounts in its super-priority  
8 lien, such as fines, late fees, interest, dues, and costs of collection that are not allowed to be  
9 included in its super-priority lien, if any, under Nevada law.

10          40.     Extinguishment of The Trust's Deed of Trust would deprive it of its right to due  
11 process because the HOA Trustee and/or the HOA failed to describe the deficiency in payment  
12 as required by Nevada law and failed to give The Trust or its predecessors, agents, servicers or  
13 trustees any reasonable opportunity to satisfy the super-priority lien, if any.

14          41.     Under NRS Chapter 116 a lien under NRS 116.3116(1) can only include costs  
15 and fees that are specifically enumerated in the statute.

16          42.     A homeowner's association may only collect as a part of the super priority lien  
17 (a) nuisance abatement charges incurred by the association pursuant to NRS 116.310312 and (b)  
18 nine months of common assessments which became due prior to the institution of an action to  
19 enforce the lien, unless Fannie Mae and Freddie Mac regulations require a shorter period of not  
20 less than six months.

21          43.     Upon information and belief, the HOA Foreclosure Notices included improper  
22 fees and costs in the amount demanded.

23          44.     The attorney's fees and the costs of collecting on a homeowner's association lien  
24 cannot be included in the super-priority lien.

25          45.     Upon information and belief, the HOA assessment lien and foreclosure notices  
26 included fines, interest, late fees, dues, attorney's fees, and costs of collection that are not  
27 properly included in a super-priority lien under Nevada law and that are not permissible under  
28 NRS116.3102 et seq.



1           46.     The HOA Sale is unlawful and void under NRS 116.3102 et seq.

2           47.     The HOA Sale deprived The Trust or its predecessor of its right to due process  
3 because the Foreclosure Notices failed to identify the super-priority amount, to adequately  
4 describe the deficiency in payment, to provide The Trust or its predecessor notice of the correct  
5 super-priority amount, and to provide a reasonable opportunity to satisfy that amount.

6           48.     A homeowner's association sale must be done in a commercially reasonable  
7 manner and in good faith.

8           49.     Upon information and belief, at the time of the HOA Sale, the fair market value  
9 of the Property exceeded \$3,000,000.

10          50.     Upon information and belief, at the time of the HOA Sale, the secured  
11 indebtedness against the Property exceeded \$4,000,000.00.

12          51.     The amount allegedly paid by Buyer at the HOA Sale was \$1,021,000.00.

13          52.     The sale price at the HOA Sale is not commercially reasonable, and not done in  
14 good faith, when compared to the debt owed to The Trust on the Venegas Loan and the fair  
15 market value of the Property.

16          53.     The HOA Sale was commercially unreasonable if it extinguished The Trust's  
17 Deed of Trust.

18          54.     In the alternative, the HOA Sale was an invalid sale and could not have  
19 extinguished The Trust's secured interest because it was not a commercially reasonable sale.

20          55.     Without providing Lender notice of the correct super-priority amount and a  
21 reasonable opportunity to satisfy that amount, including the failure to identify the super-priority  
22 amount and its failure to adequately describe the deficiency in payment as required by Nevada  
23 law, the HOA Trustee did not discharge its legal duties, and the HOA Sale is commercially  
24 unreasonable and deprived Lender of its right to due process.

25          56.     Because Lender was not given proper notice that the HOA intended to foreclose  
26 on the super-priority portion of the dues owing, Lender did not know that it had to attend the  
27 HOA Sale to protect its security interest.

28

1           57.     Because proper notice that the HOA intended to foreclose on the super-priority  
2 portion of the dues owing was not given, prospective bidders did not appear for the HOA Sale,  
3 making the HOA Sale commercially unreasonable.

4           58.     The Buyer, HOA, and HOA Trustee knew that Lender would not know that the  
5 HOA was foreclosing on super-priority amounts because of the failure of the HOA and HOA  
6 Trustee to provide such notice. Lender's absence from the HOA Sale allowed Buyer to appear at  
7 the HOA Sale and purchase the Property for a fraction of market value, making the HOA Sale  
8 commercially unreasonable.

9           59.     The Buyer, HOA, and HOA Trustee knew that prospective bidders would be less  
10 likely to attend the HOA Sale because the public at large did not receive notice, constructive or  
11 actual, that the HOA was foreclosing on a super-priority portion of its lien since the HOA  
12 improperly failed to provide such notice. The general public's belief therefore was that a buyer  
13 at the HOA Sale would take title to the Property subject to The Trust's Deed of Trust. This  
14 general belief resulted in the absence of prospective bidders at the HOA Sale, which allowed  
15 the Buyer to appear at the HOA Sale and purchase the Property for a fraction of market value,  
16 making the HOA Sale commercially unreasonable.

17           60.     The circumstances of the HOA Sale of the Property breached the HOA's and  
18 HOA Trustee's obligation of good faith under NRS 116.1113 and their duty to act in a  
19 commercially reasonable manner.

20           61.     The Trust is informed and believes that Buyer is a professional property  
21 purchaser.

22           62.     The circumstances of the HOA Sale of the Property and the status as a  
23 professional property purchaser, prevents Buyer from being deemed a bona fide purchaser or  
24 lender for value.

25           63.     Upon information and belief, the Buyer had actual, constructive or inquiry notice  
26 of The Trust's first Deed of Trust, which prevents Buyer from being deemed a bona fide  
27 purchaser or lender for value.

28

1           64.     In the event The Trust's interest in the Property is not reaffirmed or restored, The  
2 Trust will have suffered damages in the amount of the fair market value of the Property or the  
3 unpaid balance of the Venegas Loan secured by the Deed of Trust, at the time of the HOA Sale,  
4 whichever is greater, as a proximate result of the HOA and HOA Trustee's acts and omissions.

5           65.     Because the CC&R's contain a Mortgagee Protection Clause in Sections 10.7 and  
6 11.3 and because proper notice that the HOA intended to foreclose on the super-priority portion  
7 of the dues owing was not given, prospective bidders did not appear at the HOA sale, making it  
8 commercially unreasonable.

9           66.     The Buyer, HOA, and HOA Trustee knew that Thornburg would rely on the  
10 Mortgagee Protection Clause and knew Thornburg or its predecessors, agents, servicers, or  
11 trustees would not know that the HOA was foreclosing on the super-priority amount because of  
12 failure of the HOA and HOA Trustee to provide such notice. Thornburg's absence from the  
13 HOA Sale allowed Saticoy to appear at the HOA Sale and acquire the Property for a fraction of  
14 its market value, making the Sale commercially unreasonable.

15                                   **FIRST CAUSE OF ACTION**

16                   **(Quiet Title/Declaratory Relief Pursuant to NRS 30.010 et seq. and NRS 40.010**  
17                                   **versus all Parties)**

18           67.     The Trust incorporates by reference the allegations of all previous paragraphs, as  
19 if fully set forth herein.

20           68.     Pursuant to NRS 30.010 et seq. and NRS 40.010, this Court has the power and  
21 authority to declare The Trust's rights and interests in the Property and to resolve the Buyer's  
22 adverse claims in the Property.

23           69.     Further, pursuant to NRS 30.010 et seq., this Court has the power and authority  
24 to declare the rights and interests of the parties following the acts and omissions of the HOA  
25 and HOA Trustee in foreclosing the Property.

26           70.     The Trust's Deed of Trust is a first secured interest on the Property as intended  
27 by NRS 116.3116(2)(b).

28           71.     The Trust is the current beneficiary of the Deed of Trust.

1           72.     The Trust's interest still encumbers the Property, retains its first position status in  
2 the chain of title for the Property after the HOA Sale and is superior to the interest, if any,  
3 acquired by the Buyer, or held or claimed by any other party.

4           73.     The Buyer claims an interest in the Property through a Foreclosure Deed  
5 recorded in the Clark County Recorder's Office that is adverse to The Trust's interest.

6           74.     As alleged, the HOA and HOA Trustee failed to provide proper, adequate notices  
7 required by Nevada statutes, the CC&R's and due process to Lender, and therefore the HOA  
8 Sale is void and should be set aside or rescinded.

9           75.     Further, the CC&R's provide for the priority of a first-position mortgage or deed  
10 of trust over the HOA lien, so that Buyer took title subject to the Deed of Trust.

11           76.     Based on the adverse claims and conduct by the parties, The Trust is entitled to a  
12 judicial determination regarding the rights and interests of the respective parties to the case.

13           77.     For all the reasons set forth above and in the General Allegations, The Trust is  
14 entitled to a determination from this Court, pursuant to NRS 30.010 and NRS 40.010, that The  
15 Trust is the beneficiary of a first position Deed of Trust which still encumbers the Property and  
16 which is superior to the interest, if any, acquired by the Buyer.

17           78.     In the alternative, for all the reasons set forth above and in the General  
18 Allegations, The Trust is entitled to a determination from this Court, pursuant to NRS 30.010  
19 and NRS 40.010, that the HOA Sale is unlawful and void.

20           79.     The Trust has been required to retain counsel and is entitled to recover  
21 reasonable attorney's fees and costs to prosecute this action.

## 22                                   **SECOND CAUSE OF ACTION**

### 23                                   **(Permanent and Preliminary Injunction versus the Buyer)**

24           80.     The Trust incorporates by reference the allegations of all previous paragraphs, as  
25 if fully set forth herein.

26           81.     As set forth above, the Buyer may claim an ownership interest in the Property  
27 that is adverse to The Trust.

28

1           82.     Any sale or transfer of the Property, prior to a judicial determination concerning  
2 the respective rights and interests of the parties to the case, may be rendered invalid if The  
3 Trust's Deed of Trust still encumbered the Property in first position and was not extinguished by  
4 the HOA Sale.

5           83.     The Trust has a reasonable probability of success on the merits, for which  
6 compensatory damages will not compensate The Trust for the irreparable harm of the loss of  
7 title to a bona fide purchaser or loss of the first position priority status secured by the Property.

8           84.     The Trust has no adequate remedy at law due to the uniqueness of the Property  
9 involved in the case.

10          85.     The Trust is entitled to a preliminary and permanent injunction prohibiting the  
11 Buyer, their successors, assigns, and agents from conducting a sale, transfer or encumbrance of  
12 the Property if it is claimed to be superior to The Trust's Deed of Trust or not subject to that  
13 Deed of Trust.

14          86.     The Trust is entitled to a preliminary injunction requiring the Buyer to pay all  
15 taxes, insurance and homeowner's association dues during the pendency of this action.

16          87.     The Trust is entitled to a preliminary requiring the Buyer to segregate and  
17 deposit with the Court or a Court-approved trust account over which the Buyer has no control  
18 during the pendency of this action.

19          88.     The Trust has been required to retain counsel to prosecute this action and is  
20 entitled to recover reasonable attorney's fees to prosecute this action.

21                   **THIRD CAUSE OF ACTION**

22                   **(Wrongful Foreclosure versus the HOA, HOA Trustee, and fictitious Defendants)**

23          89.     The Trust incorporates by reference the allegations of all previous paragraphs, as  
24 if fully set forth herein.

25          90.     Because the HOA, HOA Trustee, and fictitious Defendants did not give the Trust  
26 or its predecessors, agents, servicers or trustees the proper, adequate notice and the opportunity  
27 to cure the deficiency or default in the payment of the HOA's assessments and super-priority  
28

1 lien (if any) required by Nevada statutes, the CC&R's and due process, the HOA Sale was  
2 wrongfully conducted and should be set aside.

3 91. Because the HOA, HOA Trustee, and fictitious Defendants did not give notice to  
4 the bidders that the title conveyed would be subject to the Deed of Trust, the HOA Sale was  
5 wrongfully conducted and should be set aside.

6 92. Because the HOA Sale was not done in accordance with Nevada statutes and the  
7 CC&R's, the HOA Sale was wrongfully conducted and should be set aside.

8 93. Because, upon information and belief, the HOA Foreclosure Notices included  
9 improper fees and costs in the amount demanded, the HOA Sale was wrongfully conducted and  
10 should be set aside.

11 94. As a proximate result of the HOA's, HOA Trustee's, and the fictitious  
12 Defendants' wrongful foreclosure of the Property by the HOA Sale, The Trust has suffered  
13 general and special damages in an amount in excess of \$10,000.00.

14 95. The Trust has been required to retain counsel to prosecute this action and is  
15 entitled to recover reasonable attorney's fees to prosecute this action.

#### 16 **FOURTH CAUSE OF ACTION**

##### 17 **(Negligence versus the HOA, HOA Trustee, and fictitious Defendants)**

18 96. The Trust incorporates by reference the allegations of all previous paragraphs, as  
19 if fully set forth herein

20 97. The HOA, HOA Trustee, and fictitious Defendants owed a duty to the Trust  
21 and/or its predecessors and subordinate lienholders to conduct the HOA foreclosure sale at issue  
22 in this case properly and in a manner that would fairly allow them an opportunity to protect  
23 their interest and cure the super-priority lien threatening their security interests.

24 98. The HOA, HOA Trustee, and fictitious Defendants breached their duty by failing  
25 to disclose the amount of the super-priority lien, if any, by failing to specify that it was f  
26 foreclosing on the super-priority portion of its lien as opposed to the non-super-priority portion,  
27 by failing to provide notice that The Trust and/or its predecessors and subordinate lienholders  
28

1 had an opportunity to cure, and by failing to announce at the sale that the Buyer took title  
2 subject to the Deed of Trust.

3 99. As a proximate result of the HOA's, HOA Trustee's, and fictitious Defendants'  
4 breach of their duties, The Trust and/or its predecessors were either unable to cure by tendering  
5 a pay-off of the super-priority lien threatening its security interest, or the tender was refused, so  
6 that the Trust is therefore forced to defend their title in the Property, incurring attorney's fees  
7 and costs to do so.

8 100. As an actual and proximate result of the HOA's, HOA Trustee's, and fictitious  
9 Defendants' breach of their duties, the Trust has incurred general and special damages in an  
10 amount in excess of \$10,000.00.

11 101. If The Trust is found to have lost its first secured interest in the Property, it was  
12 the proximate result of the HOA's, HOA Trustee's, and fictitious Defendants' breach of their  
13 duties, and The Trust has thereby suffered general and special damages in an amount in excess  
14 of \$10,000.00.

15 102. The Trust has been required to retain counsel to prosecute this action and is  
16 entitled to recover reasonable attorney's fees to prosecute this action.

17 **FIFTH CAUSE OF ACTION**

18 **(Negligence Per Se versus the HOA, HOA Trustee, and fictitious Defendants)**

19 103. The Trust incorporates by reference the allegations of all previous paragraphs, as  
20 if fully set forth herein.

21 104. NRS Chapter 116 imposes a duty on homeowner's associations and their agents  
22 to conduct their foreclosure sales in a manner that is consistent with its provisions.

23 105. The HOA, HOA Trustee, and fictitious Defendants breached the duties imposed  
24 by NRS Chapter 116.

25 106. The HOA, HOA Trustee, and fictitious Defendants violated NRS  
26 116.31162(1)(b)(1) by failing to properly and adequately describe the deficiency in payment of  
27 a super-priority lien.

28

107. The Trust is a member of the class of persons whom NRS Chapter 116 is intended to protect.

108. The injury that The Trust faces-extinguishment of its first-position deed of trust-is the type against which NRS Chapter 116 is intended to protect.

109. As a proximate result of the HOA's, HOA Trustee's, and fictitious Defendants' breach of their statutory duties, The Trust was unable to cure by tendering a pay-off of the super-priority lien threatening its security interest.

110. As a proximate result of the HOA's, HOA Trustee's, and fictitious Defendants' breach of their duties, The Trust has incurred general and special damages in an amount in excess of \$10,000.00.

111. If The Trust is found to have lost its first secured interest in the Property, it was the proximate result of the HOA's, HOA Trustee's, and fictitious Defendants' breach of their statutory duties, and The Trust has thereby suffered general and special damages in an amount in excess of \$10,000.00.

112. The Trust has been required to retain counsel to prosecute this action and is entitled to recover reasonable attorney's fees to prosecute this action.

## **SIXTH CAUSE OF ACTION**

**(Breach of Contract versus the HOA and HOA Trustee)**

113. The Trust incorporates by reference the allegations of all previous paragraphs, as if fully set forth herein.

114. The Trust was an intended beneficiary of the HOA's CC&Rs.

115. The HOA, the HOA Trustee and fictitious Defendants breached the obligations, promises, covenants and conditions of the CC&Rs owed to The Trust by the circumstances under which they conducted the HOA Sale of the Property.

116. The HOA, the HOA Trustee and fictitious Defendants' breaches of the obligations, promises, covenants and conditions of the CC&Rs proximately caused The Trust general and special damages in an amount in excess of \$10,000.00.



1           117. The Trust has been required to retain counsel to prosecute this action and is  
2 entitled to recover reasonable attorney's fees to prosecute this action.

3                                   **SEVENTH CAUSE OF ACTION**

4                   **(Misrepresentation versus the HOA, HOA Trustee and Fictitious Defendants)**

5           118. The Trust incorporates by reference the allegations of all previous paragraphs, as  
6 if fully set forth herein.

7           119. The Trust is within the class or persons or entities the HOA intended or had  
8 reason to expect to act or to refrain from action in reliance upon the provisions of the CC&Rs,  
9 including without limitation, the Mortgage Protection Clause.

10          120. The Trust and its predecessors in interest, justifiably relied upon the provisions  
11 of the CC&Rs and NRS 116.3116(2)(b) in giving consideration for the Deed of Trust, and the  
12 promissory note it secures, and the HOA intended or had reason to expect their conduct would  
13 be influenced.

14          121. The HOA's representations in the provisions of the CC&Rs, including without  
15 limitation, the Mortgage Protection Clause, were false.

16          122. The HOA had knowledge or a belief that the representations in the provisions of  
17 the CC&Rs, including without limitation, the Mortgage Protection Clause, were false or it had  
18 an insufficient basis for making the representations.

19          123. The HOA had a pecuniary interest in having The Trust and its predecessors in  
20 interest rely on the provisions of the CC&Rs, including without limitation, the Mortgage  
21 Protection Clause.

22          124. The HOA failed to exercise reasonable care or competence in communicating the  
23 information within the provisions of the CC&Rs, including without limitation, the Mortgage  
24 Protection Clause, which was false or it had an insufficient basis for making.

25          125. The HOA, the HOA Trustee and fictitious Defendants acted in contravention to  
26 the provisions of the CC&Rs, including without limitation, the Mortgage Protection Clause,  
27 when it conducted the HOA Sale in a manner that could lead the bidders to believe they would  
28 acquire the Property free and clear of The Trust's Deed of Trust.

1           126. The Trust suffered general and special damages in an amount in excess of  
2 \$10,000.00 as a proximate result of its reliance.

3           127. The Trust has been required to retain counsel to prosecute this action and is  
4 entitled to recover reasonable attorney's fees to prosecute this action.

5                                   **EIGHTH CAUSE OF ACTION**

6           **(Unjust Enrichment versus the Buyer, HOA, HOA Trustee, and fictitious Defendants)**

7           128. The Trust incorporates by reference the allegations of all previous paragraphs, as  
8 if fully set forth herein.

9           129. The Trust has been deprived of the benefit of the Deed of Trust by the actions of  
10 the Buyer, HOA, and HOA's Trustee.

11           130. The Buyer, HOA, HOA Trustee, and fictitious Defendants have benefitted from  
12 the unlawful HOA Sale and nature of the real property.

13           131. Should The Trust's action be successful in quieting title and/or obtaining  
14 declaratory relief against the Buyer, HOA, HOA Trustee, and fictitious Defendants, and setting  
15 aside the HOA Sale; the Buyer, HOA, and HOA Trustee will have been unjustly enriched by the  
16 HOA

17           132. Sale, usage of the Property and advancements by The Trust.

18           133. The Trust will have suffered damages if the Buyer, HOA, HOA Trustee, and  
19 fictitious Defendants are allowed to retain their interests in the Property and the funds received  
20 from the HOA Sale.

21           134. The Trust is entitled to general and special damages in excess of \$10,000.00.

22           135. The Trust has furthermore been required to retain counsel and is entitled to  
23 recover reasonable attorney's fees for having brought the underlying action.

24                                   **NINTH CAUSE OF ACTION**

25           **(Breach of the Covenant of Good Faith and Fair Dealing versus the HOA and HOA**  
26                                   **Trustee, and the fictitious Defendants)**

27           136. The Trust incorporates by reference the allegations of all previous paragraphs, as  
28 if fully set forth herein.

137. Implicit in every contract in the state of Nevada is an implied covenant of good faith and fair dealing.

138. The Trust was an intended beneficiary of the HOA's CC&Rs.

139. The HOA, the HOA Trustee, and fictitious Defendants breached the duties, obligations, promises, covenants and conditions, express and implied, in the CC&Rs owed to The Trust by the circumstances under which they conducted the HOA Sale of the Property.

140. The HOA, the HOA Trustee, and fictitious Defendants took affirmative action to convey the Property a third party without disclosing the sale was subject to The Trust's Deed of Trust, in direct contravention of the HOA's duties to The Trust as promised in the CC&Rs.

141. The HOA, the HOA Trustee, and fictitious Defendants' breaches of the obligations, promises, covenants and conditions of the CC&Rs, and to act in good faith regarding same, proximately caused The Trust general and special damages in an amount in excess of \$10,000.00.

142. The Trust has been required to retain counsel to prosecute this action and is entitled to recover reasonable attorney's fees to prosecute this action.

## PRA YER

Wherefore, Thornburg prays for judgment against all Counter-defendants, jointly and severally, as follows:

1. For a declaration and determination that The Trust's interest is secured against the Property, and that the Deed of Trust was not extinguished by the HOA Sale;

2. For a declaration and determination that The Trust's interest is superior to the interest, if any, acquired by the Buyer, or held or claimed by any other Counter-defendant;

3. For a declaration and determination that the HOA Sale was invalid to the extent it purports to convey the Property free and clear to the Buyer;

4. In the alternative, for a declaration and determination that the HOA Sale was invalid and conveyed no legitimate interest to the Buyer;

1           5.       For a preliminary and permanent injunction that the Buyer, its successors,  
2 assigns, and agents are prohibited from conducting a sale, transfer or encumbrance of the  
3 Property;

4           6.       For a preliminary injunction that the Buyer, its successors, assigns, and agents  
5 pay all taxes, insurance and homeowner's association dues during the pendency of this action.

6           7.       For a preliminary injunction that the Buyer be required to segregate and deposit  
7 with the Court or a Court-approved trust account over which the Buyer has no control during  
8 the pendency of this action.

9           8.       If it is determined that The Trust's Deed of Trust has been extinguished by the  
10 HOA Sale, for special damages in the amount equal to the fair market value of the Property or  
11 the unpaid balance of the Venegas Loan and Deed of Trust, at the time of the HOA Sale,  
12 whichever is greater.

13          9.       For general and special damages in an amount in excess of \$10,000.00.

14          10.      For costs incurred herein, including post-judgment costs;

15          11.      For attorney's fees; and

16          12.      For any and all further relief deemed appropriate by this Court.

17         DATED this 30<sup>th</sup> day of May, 2017.

18                                 WRIGHT, FINLAY & ZAK, LLP

19                                 \_\_\_\_\_  
20                                 /s/ Michael S. Kelley

21                                 Dana Jonathon Nitz, Esq.

22                                 Nevada Bar No. 0050

23                                 Michael S. Kelley, Esq.

24                                 Nevada Bar No. 10101

25                                 7785 W. Sahara Ave., Suite 200

26                                 Las Vegas, Nevada 89117

27                                 Attorney for Defendant/Counterclaimant/Counter-  
28                                 Defendant, Thornburg Mortgage Securities Trust  
                                      2007-3

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**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S ANSWER TO SATICOY BAY LLC SERIES 34 INNISBROOK'S THIRD AMENDED COMPLAINT AND COUNTERCLAIMS** filed in Case No. A-14-710161-C does not contain the social security number of any person.

DATED this 30<sup>th</sup> day of May, 2017.

WRIGHT, FINLAY & ZAK, LLP

/s/ Michael S. Kelley  
Dana Jonathon Nitz, Esq.  
Nevada Bar No. 0050  
Michael S. Kelley, Esq.  
Nevada Bar No. 10101  
7785 W. Sahara Ave., Suite 200  
Las Vegas, Nevada 89117  
*Attorney for Defendant/Counterclaimant/Counter-Defendant, Thornburg Mortgage Securities Trust 2007-3*

1 **CERTIFICATE OF MAILING**

2 I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this  
3 30<sup>th</sup> day of May, 2017, I did cause a true copy of **THORNBURG MORTGAGE**  
4 **SECURITIES TRUST 2007-3'S ANSWER TO SATICOY BAY LLC SERIES 34**  
5 **INNISBROOK'S THIRD AMENDED COMPLAINT AND COUNTERCLAIMS** to be e-  
6 served through the CM/ECF system and/or by depositing a true copy of same in the United  
7 States Mail, at Las Vegas, Nevada, addressed as follows:

8  
9 "Bryan Naddafi, Esq." . bryan@olympialawpc.com  
10 "Donald H. Williams, Esq." . dwilliams@dhwlawlv.com  
11 David R. Koch . dkoch@kochscow.com  
12 Eserve Contact . office@bohnlawfirm.com  
13 Michael F Bohn Esq . mbohn@bohnlawfirm.com  
14 Robin Gullo . rgullo@dhwlawlv.com  
15 Staff . aeshenbaugh@kochscow.com  
16 Steven B. Scow . sscow@kochscow.com

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*/s/ Jason Craig*

An Employee of WRIGHT, FINLAY & ZAK, LLP

Exhibit 1

Exhibit 1

Exhibit 1

  
20060612-0001581

Assessor's Parcel Number:  
16328614007  
After Recording Return To:  
COUNTRYWIDE HOME LOANS, INC.



Fee: \$40.00  
N/C Fee: \$0.00

06/12/2006 09:05:04  
T20060102568

Requestor:  
NEVADA TITLE COMPANY

Frances Deane CDO  
Clark County Recorder Pgs: 27

MS SV-79 DOCUMENT PROCESSING  
P.O.Box 10423  
Van Nuys, CA 91410-0423  
Prepared By:  
JOHNNA HOBDY  
~~Recording Requested By:~~  
J. FOX



COUNTRYWIDE HOME LOANS, INC.

1455 FRAZEE ROAD #102  
SAN DIEGO  
CA 92108

\_\_\_\_\_[Space Above This Line For Recording Data]\_\_\_\_\_

06-04-1186JLP 00013834433506006  
[Escrow/Closing #] [Doc ID #]

## DEED OF TRUST


MIN 1001337-0001462176-0

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

NEVADA-Single Family- Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS

Page 1 of 16

 -6A(NV) (0507) CHL (11/05)(d)

VMP Mortgage Solutions, Inc.

Form 3029 1/01





DOC ID #: 00013834433506006

(A) "Security Instrument" means this document, which is dated JUNE 02, 2006, together with all Riders to this document.

(B) "Borrower" is

FRANK A TIMPA, A MARRIED MAN AS HIS SOLE & SEPARATE PROPERTY

Borrower is the trustor under this Security Instrument.

(C) "Lender" is

COUNTRYWIDE HOME LOANS, INC.

Lender is a

CORPORATION

organized and existing under the laws of NEW YORK

4500 Park Granada MSN# SVB-314

Calabasas, CA 91302-1613

(D) "Trustee" is

ReconTrust Company, N.A

225 West Hillcrest Dr., MSN TO-02

Thousand Oaks, CA 91360

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the beneficiary under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated JUNE 02, 2006

The Note states that Borrower owes Lender

THREE MILLION SEVEN HUNDRED EIGHTY THOUSAND and 00/100

Dollars (U.S. \$ 3,780,000.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than JULY 01, 2046

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

<input checked="" type="checkbox"/> Adjustable Rate Rider	<input type="checkbox"/> Condominium Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> Balloon Rider	<input checked="" type="checkbox"/> Planned Unit Development Rider	<input type="checkbox"/> 1-4 Family Rider
<input type="checkbox"/> VA Rider	<input type="checkbox"/> Biweekly Payment Rider	<input type="checkbox"/> Other(s) [specify]

DOC ID #: 00013834433506006

(J) "**Applicable Law**" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "**Community Association Dues, Fees, and Assessments**" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "**Electronic Funds Transfer**" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "**Escrow Items**" means those items that are described in Section 3.

(N) "**Miscellaneous Proceeds**" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "**Mortgage Insurance**" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "**Periodic Payment**" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "**RESPA**" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "**Successor in Interest of Borrower**" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

#### TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower

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irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the COUNTY

[Type of Recording Jurisdiction]

CLARK

:

[Name of Recording Jurisdiction]

LOT THRITTEEN (13) IN BLOCK ONE (1) OF ESTATES AT SPANISH TRAIL UNIT NO. 5, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 40, OF PLATS, PAGE 6, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

The legal description was obtained from the previous deed:

Recorded on:    Libor#    Page#

which currently has the address of

34 Innisbrook Ave, Las Vegas

[Street/City]

Nevada 89113-1225 ("Property Address"):

[Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums

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any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or

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defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be

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paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is

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reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive



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from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

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Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

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**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

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

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

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

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees,

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property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

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Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**23. Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

**24. Substitute Trustee.** Lender at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

**25. Assumption Fee.** If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$ 300.00 .


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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

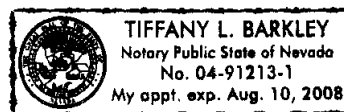
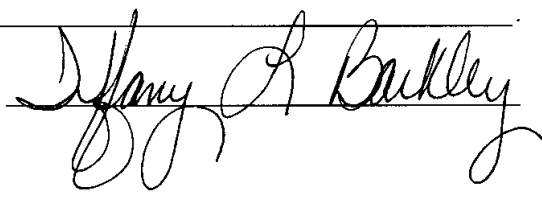
  
FRANK A. TIMPA (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

DOC ID #: 00013834433506006

STATE OF NEVADA  
COUNTY OF ClarkThis instrument was acknowledged before me on June 2, 2008 byFrank A. TimpaMail Tax Statements To:  
TAX DEPARTMENT SV3-24450 American Street  
Simi Valley CA, 93065

Escrow No.: 06-04-1186-JLP

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

LOT THIRTEEN (13) IN BLOCK ONE (1) OF ESTATES AT SPANISH TRAIL  
UNIT NO. 5, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 40, OF PLATS,  
PAGE 6, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY,  
NEVADA.



**PLANNED UNIT DEVELOPMENT RIDER**


After Recording Return To:  
COUNTRYWIDE HOME LOANS, INC.  
MS SV-79 DOCUMENT PROCESSING  
P.O.Box 10423  
Van Nuys, CA 91410-0423

PARCEL ID #:  
16328614007

Prepared By:  
JOHNNA HOBDY

06-04-1186JLP      00013834433506006  
[Escrow/Closing #]      [Doc ID #]

THIS PLANNED UNIT DEVELOPMENT RIDER is made this SECOND day of  
JUNE, 2006, and is incorporated into and shall be deemed to amend and supplement the  
Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the

**MULTISTATE PUD RIDER - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT**  
 -7R (0411)      CHL (11/04)(d)      Page 1 of 4      Initials: *JS*  
VMP Mortgage Solutions, Inc. (800)521-7291      **Form 3150 1/01**



DOC ID #: 00013834433506006

undersigned (the "Borrower") to secure Borrower's Note to  
COUNTRYWIDE HOME LOANS, INC.

(the "Lender") of the same date and covering the Property described in the Security Instrument and  
located at:

34 Innisbrook Ave  
Las Vegas, NV 89113-1225  
[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with  
other such parcels and certain common areas and facilities, as described in  
THE COVENANTS, CONDITIONS, AND RESTRICTIONS FILED OF RECORD  
THAT AFFECT THE PROPERTY

(the "Declaration"). The Property is a part of a planned unit development known as  
ESTATES AT SPANISH TRAILS

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or  
equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners  
Association") and the uses, benefits and proceeds of Borrower's interest.

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

**A. PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's  
Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of  
incorporation, trust instrument or any equivalent document which creates the Owners Association; and  
(iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay,  
when due, all dues and assessments imposed pursuant to the Constituent Documents.

**B. Property Insurance.** So long as the Owners Association maintains, with a generally accepted  
insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender  
and which provides insurance coverage in the amounts (including deductible levels), for the periods,  
and against loss by fire, hazards included within the term "extended coverage," and any other  
hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance,  
then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly  
premium installments for property insurance on the Property; and (ii) Borrower's obligation under  
Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent  
that the required coverage is provided by the Owners Association policy.

Initials

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What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

**F. Remedies.** If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

Initials: \_\_\_\_\_

 -7R (0411)


CHL (11/04)

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DOC ID #: 00013834433506006


BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this  
PUD Rider.

 (Seal)  
FRANK A. TIMPA - Borrower

\_\_\_\_ (Seal)  
- Borrower

\_\_\_\_ (Seal)  
- Borrower

\_\_\_\_ (Seal)  
- Borrower

 -7R (0411)

CHL (11/04)

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**ADJUSTABLE RATE RIDER**  
(PayOption MTA Twelve Month Average Index - Payment Caps)

06-04-1186JLP                      00013834433506006  
[Escrow/Closing #]                      [Doc ID #]

THIS ADJUSTABLE RATE RIDER is made this SECOND                      day of  
JUNE, 2006                      , and is incorporated into and shall be deemed to amend and supplement  
the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by  
the undersigned ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to  
COUNTRYWIDE HOME LOANS, INC.

("Lender") of the same date and covering the property described in the Security Instrument and  
located at:

34 Innisbrook Ave  
Las Vegas, NV 89113-1225  
[Property Address]

**THE NOTE CONTAINS PROVISIONS THAT WILL CHANGE THE INTEREST RATE AND THE  
MONTHLY PAYMENT. THERE MAY BE A LIMIT ON THE AMOUNT THAT THE MONTHLY  
PAYMENT CAN INCREASE OR DECREASE. THE PRINCIPAL AMOUNT TO REPAY COULD  
BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE  
MAXIMUM LIMIT STATED IN THE NOTE.**

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

**A. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

The Note provides for changes in the interest rate and the monthly payments, as follows:

• PayOption MTA ARM Rider  
1E310-XX (09/05)(d)

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DOC ID #: 0001383443350

**2. INTEREST****(A) Interest Rate**

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. Up until the first day of the calendar month that immediately precedes the first monthly payment due date set forth in Section 3 of the Note, I will pay interest at a yearly rate of 7.750 %. Additional days interest collected prior to the first monthly payment due date is sometimes called "Per Diem" interest and is due at the time I close my loan. Thereafter until the first Interest Rate Change Date, defined below in Section 2(B), I will pay interest at a yearly rate of 2.250 %. This rate is sometimes referred to as the "Start Rate" and is used to calculate the initial monthly payment described in Section 3. The interest rate required by this Section 2 of the Note is the rate I will pay both before and after any default described in Section 7(B) of the Note.

**(B) Interest Rate Change Dates**

The interest rate I will pay may change on the first day of AUGUST, 2006, and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date. The interest rate may change monthly, but the monthly payment is recalculated in accordance with Section 3.

**(C) Index**

Beginning with the first Interest Rate Change Date, my adjustable interest rate will be based on an Index. The "Index" is the "Twelve-Month Average" of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (H.15)" (the "Monthly Yields"). The Twelve Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12. The most recent Index figure available as of the date 15 days before each Interest Rate Change Date is called the "Current Index".

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

**(D) Calculation of Interest Rate Changes**

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE & 575/1000 percentage point(s) ( 3.575 %) ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

**3. PAYMENTS****(A) Time and Place of Payments**

I will make a payment every month.

• PayOption MTA ARM Rider  
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I will make my monthly payments on the FIRST day of each month beginning on August, 2006. I will make these payments every month until I have paid all the Principal and interest and any other charges described below that I may owe under the Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JULY 01, 2046, I still owe amounts under the Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at  
P.O. Box 10219, Van Nuys, CA 91410-0219

or at a different place if required by the Note Holder.

**(B) Amount of My Initial Monthly Payments**

Each of my initial monthly payments until the first Payment Change Date will be in the amount of U.S. \$ 11,950.17, unless adjusted under Section 3 (F).

**(C) Payment Change Dates**

My monthly payment may change as required by Section 3(D) below beginning on the first day of AUGUST, 2007, and on that day every 12th month thereafter. Each of these dates is called a "Payment Change Date." My monthly payment also will change at any time Section 3(F) or 3(G) below requires me to pay a different monthly payment. The "Minimum Payment" is the minimum amount Note Holder will accept for my monthly payment which is determined at the last Payment Change Date or as provided in Section 3(F) or 3(G) below. If the Minimum Payment is not sufficient to cover the amount of the interest due then negative amortization will occur.

I will pay the amount of my new Minimum Payment each month beginning on each Payment Change Date or as provided in Section 3(F) or 3(G) below.

**(D) Calculation of Monthly Payment Changes**

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Payment Change Date in full on the maturity date in substantially equal payments at the interest rate effective during the month preceding the Payment Change Date. The result of this calculation is called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment effective on a Payment Change Date, will not increase by more than 7.500% of my prior monthly payment. This 7.500% limitation is called the "Payment Cap." This Payment Cap applies only to the Principal and interest payment and does not apply to any escrow payments Lender may require under the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my Minimum Payment due the month preceding the Payment Change Date and multiplying it by the number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or 3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the Limited Payment and the Full Payment.

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**(E) Additions to My Unpaid Principal**

Since my monthly payment amount changes less frequently than the interest rate, and since the monthly payment is subject to the payment limitations described in Section 3(D), my Minimum Payment could be less than or greater than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid Principal I owe at the monthly payment date in full on the Maturity Date in substantially equal payments. For each month that my monthly payment is less than the interest portion, the Note Holder will subtract the amount of my monthly payment from the amount of the interest portion and will add the difference to my unpaid Principal, and interest will accrue on the amount of this difference at the interest rate required by Section 2. For each month that the monthly payment is greater than the interest portion, the Note Holder will apply the payment as provided in Section 3(A).

**(F) Limit on My Unpaid Principal; Increased Monthly Payment**

My unpaid Principal can never exceed the Maximum Limit equal to ONE HUNDRED FIFTEEN percent ( 115 %) of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my Minimum Payment would cause me to exceed that limit, I will instead pay a new Minimum Payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

**(G) Required Full Payment**

On the tenth Payment Change Date and on each succeeding fifth Payment Change Date thereafter, I will begin paying the Full Payment as my Minimum Payment until my monthly payment changes again. I also will begin paying the Full Payment as my Minimum Payment on the final Payment Change Date.

**(H) Payment Options**

After the first Interest Rate Change Date, the Note Holder may provide me with up to three (3) additional payment options that are **greater** than the Minimum Payment, which are called "Payment Options." The Payment Options are calculated using the new interest rate in accordance with Section 2(D). I may be given the following Payment Options:

(i) **Interest Only Payment:** the amount that would pay the interest portion of the monthly payment. The Principal balance will not be decreased by this Payment Option and it is only available if the interest portion exceeds the Minimum Payment.

(ii) **Amortized Payment:** the amount necessary to pay the loan off (Principal and interest) at the Maturity Date in substantially equal payments. This monthly payment amount is calculated on the assumption that the current rate will remain in effect for the remaining term.

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(iii) **15 Year Amortized Payment:** the amount necessary to pay the loan off (Principal and interest) within a fifteen (15) year term from the first payment due date in substantially equal payments. This monthly payment amount is calculated on the assumption that the current rate will remain in effect for the remaining term.

These Payment Options are only applicable if they are greater than the Minimum Payment.

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

Section 18 of the Security Instrument entitled "Transfer of the Property or a Beneficial Interest in Borrower" is amended to read as follows:

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

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

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

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by

• PayOption MTA ARM Rider  
1E310-XX (09/05)

Page 5 of 6

DOC ID #: 00013834433506006

this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

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

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.



FRANK A. TIMPA

-Borrower

-Borrower

-Borrower

-Borrower

• PayOption MTA ARM Rider  
1E310-XX (09/05)

Page 6 of 6

Exhibit 2

Exhibit 2

Exhibit 2

Inst #: 201006090003189

Fees: \$14.00

N/C Fee: \$0.00

06/09/2010 01:46:06 PM

Receipt #: 381952

Requestor:

CLARK RECORDING SERVICE

Recorded By: RNS Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

RECORDING REQUESTED BY:  
 RECONTRUST COMPANY, N.A.  
**AND WHEN RECORDED MAIL DOCUMENT TO:**  
 BAC Home Loans Servicing, LP  
 400 COUNTRYWIDE WAY SV-35  
 SIMI VALLEY, CA 93065

TS No. 08-0061701

TITLE ORDER#: 3766435

APN: 163-28-614-007

## CORPORATION ASSIGNMENT OF DEED OF TRUST NEVADA

FOR VALUE RECEIVED, THE UNDERSIGNED HEREBY GRANTS, ASSIGNS AND TRANSFER TO:  
**THORNBURG MORTGAGE SECURITIES TRUST 2007-3**

ALL BENEFICIAL INTEREST UNDER THAT CERTAIN DEED OF TRUST DATED 06/02/2006,  
 EXECUTED BY: FRANK A TIMPA, A MARRIED MAN AS HIS SOLE & SEPARATE  
 PROPERTY, TRUSTOR: TO RECONTRUST COMPANY, N.A., TRUSTEE AND RECORDED AS  
 INSTRUMENT NO. 0001581 ON 06/12/2006, IN BOOK 20060612, OF OFFICIAL RECORDS IN THE  
 COUNTY RECORDER'S OFFICE OF CLARK COUNTY, IN THE STATE OF NEVADA.

DESCRIBING THE LAND THEREIN: AS MORE FULLY DESCRIBED IN SAID DEED OF TRUST.

TOGETHER WITH THE NOTE OR NOTES THEREIN DESCRIBED OR REFERRED TO, THE  
 MONEY DUE AND TO BECOME DUE THEREON WITH INTEREST, AND ALL RIGHTS  
 ACCRUED OR TO ACCRUE UNDER SAID DEED OF TRUST/MORTGAGE.

DATED: June 04, 2010

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,  
INC.

State of: Texas  
 County of: Tarrant

BY: Khadija Gulley, Assistant Secretary  
Khadija Gulley

JUN 07 2010

On June 07 2010 before me Elsie E. Kroussakis, personally appeared  
Asst Secy, know to me (or proved to me on the oath of                      or through  
                    ) to be the person whose name is subscribed to the foregoing instrument and  
 acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.  
 Witness my hand and official seal.

Elsie E. Kroussakis  
 Notary Public's Signature

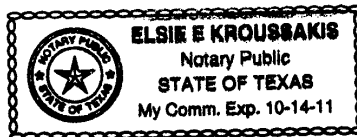


Exhibit 3

Exhibit 3

Exhibit 3

Assessor Parcel Number: 163-28-614-007  
File Number: R74507

### **Accommodation**

Inst #: 201108040002324

Fees: \$14.00

N/C Fee: \$0.00

08/04/2011 09:30:58 AM

Receipt #: 868886

Requestor:

NORTH AMERICAN TITLE COMPAN

Recorded By: CDE Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

### **LIEN FOR DELINQUENT ASSESSMENTS**

*Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.*

**NOTICE IS HEREBY GIVEN:** Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Spanish Trail Master Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 03/07/1984, in Book Number 1885, as Instrument Number 1844877 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

34 Innisbrook Ave, Las Vegas, NV 89113

ESTATES AT SPANISH TRAIL #5 PLAT BOOK 40 PAGE 6 LOT 13 BLOCK 1, in the County of Clark

Current Owner(s) of Record:

TIMPA TRUST U/T/D MARCH 3, 1999 (FRANK ANTHONY TIMPA AND MADELAINE TIMPA, TRUSTEES AND ANY SUCCESSOR TRUSTEE AS PROVIDED THEREIN)

**The amount owing as of the date of preparation of this lien is \*\*\$5,543.92.**

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

\*\* The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

Dated: July 28, 2011

Prepared By Anna Romero, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA )  
COUNTY OF CLARK )

On July 28, 2011, before me, personally appeared Anna Romero, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

When Recorded Mail To: Red Rock Financial Services  
7251 Amigo Street, Suite 100  
Las Vegas, Nevada 89119  
702-932-6887

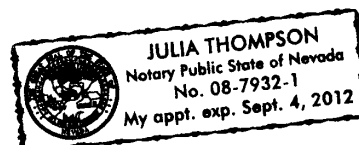


Exhibit 4

Exhibit 4

Exhibit 4

Assessor Parcel Number: 163-28-614-007  
 File Number: R74507  
 Property Address: 34 Innisbrook Ave  
 Las Vegas, NV 89113  
 Title Order Number: 35401

Inst #: 201112060001106  
 Fees: \$17.00  
 N/C Fee: \$0.00  
 12/06/2011 09:17:00 AM  
 Receipt #: 998591  
 Requestor:  
 NORTH AMERICAN TITLE COMPAN  
 Recorded By: SOL Pgs: 1  
 DEBBIE CONWAY  
 CLARK COUNTY RECORDER

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE  
 LIEN FOR DELINQUENT ASSESSMENTS**

**◆ IMPORTANT NOTICE ◆**

*Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.*

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**

**NOTICE IS HEREBY GIVEN:** Red Rock Financial Services officially assigned as agent by the Spanish Trail Master Association, under the Lien for Delinquent Assessments, recorded on 08/04/2011, in Book Number 20110804, as Instrument Number 0002324, reflecting TIMPA TRUST U/T/D MARCH 3, 1999 (FRANK ANTHONY TIMPA AND MADELAINE TIMPA, TRUSTEES AND ANY SUCCESSOR TRUSTEE AS PROVIDED THEREIN) as the owner(s) of record on said lien, land legally described as ESTATES AT SPANISH TRAIL #5 PLAT BOOK 40 PAGE 6 LOT 13 BLOCK 1, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 03/07/1984, in Book Number 1885, as Instrument Number 1844877, has been breached. As of 07/01/2010 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of November 29, 2011, the amount owed is \$ 8,312.52. This amount will continue to increase until paid in full.

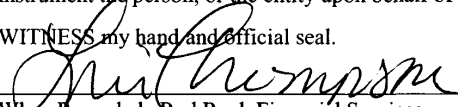
  
 Prepared By: Eungel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

Dated: November 29, 2011

STATE OF NEVADA )  
 COUNTY OF CLARK )

On November 29, 2011, before me, personally appeared Eungel Watson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
 When Recorded Red Rock Financial Services  
 Mail To: 7251 Amigo Street, Suite 100  
 Las Vegas, Nevada 89119  
 702-932-6887

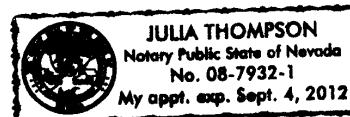




Exhibit 5

Exhibit 5

Exhibit 5

Assessor Parcel Number: 163-28-614-007  
File Number: R74507  
Property Address: 34 Innisbrook Ave  
Las Vegas NV 89113

Inst #: 20140915-0001527  
Fees: \$18.00  
N/C Fee: \$0.00  
09/15/2014 01:50:20 PM  
Receipt #: 2152614  
Requestor:  
RED ROCK FINANCIAL SERVICES  
Recorded By: JACKSM Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

**NOTICE OF FORECLOSURE SALE**  
**UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**

*Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.*

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL RED ROCK FINANCIAL SERVICES AT (702) 932-6887 or (702) 215-8130. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION AT (877) 829-9907 IMMEDIATELY.**

Red Rock Financial Services officially assigned as agent by the Spanish Trail Master Association under the Lien for Delinquent Assessments. **YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**, recorded on 08/04/2011 in Book Number 20110804 as Instrument Number 0002324 reflecting TIMPA TRUST U/T/D MARCH 3, 1999 (FRANK ANTHONY TIMPA AND MADELAINE TIMPA, TRUSTEES AND ANY SUCCESSOR TRUSTEE AS PROVIDED THEREIN) as the owner(s) of record. **UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT PUBLIC SALE.** If you need an explanation of the nature of the proceedings against you, you should contact an attorney.

The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on 12/06/2011 in Book Number 20111206 as Instrument Number 0001106 of the Official Records in the Office of the Recorder.

**NOTICE IS HEREBY GIVEN:** That on **10/08/2014**, at **10:00 a.m.** at the front entrance of the Nevada Legal News located at 930 South Fourth Street, Las Vegas, Nevada 89101, that the property commonly known as 34 Innisbrook Ave, Las Vegas, NV 89113 and land legally described as ESTATES AT SPANISH TRAIL #5 PLAT BOOK 40 PAGE 6 LOT 13 BLOCK 1 of the Official Records in the Office of the County Recorder of Clark County, Nevada, will sell at public auction to the highest bidder, for cash payable at the time of sale in lawful money of the United States, by cash, a cashier's check drawn by a state or national bank, a cashier's check drawn by a state or federal credit union, state

Assessor Parcel Number: 163-28-614-007  
File Number: R74507  
Property Address: 34 Innisbrook Ave  
Las Vegas NV 89113

or federal savings and loan association or savings association authorized to do business in the State of Nevada, in the amount of **\$20,309.95** as of 9/15/2014, which includes the total amount of the unpaid balance and reasonably estimated costs, expenses and advances at the time of the initial publication of this notice. Any subsequent Association assessments, late fees interest, expenses or advancements, if any, of the Association or its Agent, under the terms of the Lien for Delinquent Assessments shall continue to accrue until the date of the sale. The property heretofore described is being sold "as is".

The sale will be made without covenant or warranty, expressed or implied regarding, but not limited to, title or possession, encumbrances, obligations to satisfy any secured or unsecured liens or against all right, title and interest of the owner, without equity or right of redemption to satisfy the indebtedness secured by said Lien, with interest thereon, as provided in the Declaration of Covenants, Conditions and Restrictions, recorded on 03/07/1984, in Book Number 1885, as Instrument Number 1844877 of the Official Records in the Office of the Recorder and any subsequent amendments or updates that may have been recorded.

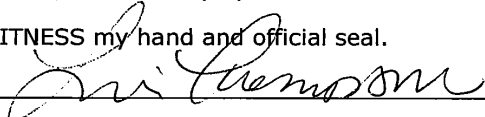
Dated: September 11, 2014

  
Prepared By Anna Romero, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA                   )  
COUNTY OF CLARK               )

On September 11, 2014, before me, personally appeared Anna Romero, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



**Reinstatement Information:** (702) 483-2996 or **Sale Information:** (714) 573-7777

When Recorded Mail To:  
Red Rock Financial Services  
4775 W. Teco Avenue, Suite 140  
Las Vegas, Nevada 89118  
(702) 483-2996 or (702) 932-6887



Exhibit 6

Exhibit 6

Exhibit 6

Mail Tax statement to:  
Saticoy Bay LLC, Series 34 Innisbrook  
900 S. Las Vegas Blvd., #810  
Las Vegas, NV 89101

APN # 163-28-614-007

Inst #: 20141110-0002475  
Fees: \$18.00 N/C Fee: \$25.00  
RPTT: \$6125.10 Ex: #  
11/10/2014 11:49:45 AM  
Receipt #: 2215809  
Requestor:  
RESOURCES GROUP  
Recorded By: DXI Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

### FORECLOSURE DEED


The undersigned declares: \$6125.10

Red Rock Financial Services, herein called agent for (Spanish Trail Master Association), was the duly appointed agent under that certain Lien for Delinquent Assessments, recorded 08/04/2011 as instrument number 0002324 Book 20110804, in Clark County. The previous owner as reflected on said lien is TIMPA TRUST U/T/D MARCH 3, 1999 (FRANK ANTHONY TIMPA AND MADELAINE TIMPA, TRUSTEES AND ANY SUCCESSOR TRUSTEE AS PROVIDED THEREIN). Red Rock Financial Services as agent for Spanish Trail Master Association does hereby grant and convey, but without warranty expressed or implied to: **Saticoy Bay LLC, Series 34 Innisbrook** (herein called grantee), pursuant to NRS 116.3116 through NRS 116.31168, all its right, title and interest in and to that certain property legally described as: ESTATES AT SPANISH TRAIL #5 PLAT BOOK 40 PAGE 6 LOT 13 BLOCK 1 which is commonly known as **34 Innisbrook Ave Las Vegas, NV 89113**.

#### AGENT STATES THAT:

This conveyance is made pursuant to the powers conferred upon agent by Nevada Revised Statutes, the Spanish Trail Master Association governing documents (CC&R's) and that certain Lien for Delinquent Assessments, described herein. Default occurred as set forth in a Notice of Default and Election to Sell, recorded on 12/06/2011 as instrument number 0001106 Book 20111206 which was recorded in the office of the recorder of said county. Red Rock Financial Services has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of Lien for Delinquent Assessments and Notice of Default and the posting and publication of the Notice of Sale. Said property was sold by said agent, on behalf of Spanish Trail Master Association at public auction on **11/07/2014**, at the place indicated on the Notice of Sale. Grantee being the highest bidder at such sale became the purchaser of said property and paid therefore to said agent the amount bid **\$1,201,000.00** in lawful money of the United States, or by satisfaction, pro tanto, of the obligations then secured by the Lien for Delinquent Assessment.

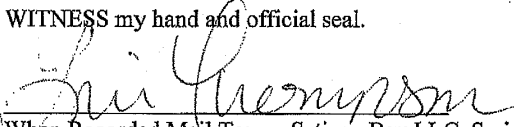
Dated: November 10, 2014

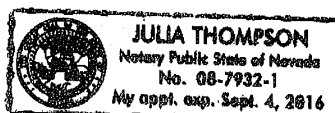
  
By: Christie Marling, employee of Red Rock Financial Services, agent for Spanish Trail Master Association

STATE OF NEVADA )  
COUNTY OF CLARK )

On November 10, 2014, before me, personally appeared Christie Marling, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
When Recorded Mail To: Saticoy Bay LLC, Series 34 Innisbrook  
900 S. Las Vegas Blvd., #810  
Las Vegas, NV 89101



Sept 4 2016

## STATE OF NEVADA DECLARATION OF VALUE

### 1. Assessor Parcel Number (s)

a) 163-28-614-007  
b) \_\_\_\_\_  
c) \_\_\_\_\_  
d) \_\_\_\_\_

### 2. Type of Property:

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

#### FOR RECORDERS OPTIONAL USE ONLY

Notes: \_\_\_\_\_

### 3. Total Value/Sales Price of Property:

Deed in Lieu of Foreclosure Only (value of property) \$

Transfer Tax Value: \$

Real Property Transfer Tax Due: \$

\$ 1,201,000.00

\$

\$ 1,201,000.00

\$ 6125.10

### 4. If Exemption Claimed:

a. Transfer Tax Exemption, per NRS 375.090, Section: \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

### 5. Partial Interest: Percentage being transferred: 100 %

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

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] Capacity AGENT

Signature \_\_\_\_\_ Capacity \_\_\_\_\_

### SELLER (GRANTOR) INFORMATION

(REQUIRED)

Print Name: Red Rock Financial Services

Address: 4775 West Teco Ave #140

City: Las Vegas

State: NV Zip: 89118

### BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: Saltcoy Bay LLC, Series 34 Innisbrook

Address: 900 S. Las Vegas Blvd., #810

City: Las Vegas

State: NV Zip: 89101

### COMPANY/PERSON REQUESTING RECORDING

(REQUIRED IF NOT THE SELLER OR BUYER)

Print Name: Rebecca J. Smith LLC Escrow # \_\_\_\_\_

Address: 900 S Las Vegas Blvd #810

City: NV State: NV Zip: 89101

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED)

Exhibit 7

Exhibit 7

Exhibit 7





Red Rock Financial Services

Numbers of Pages 5

January 26, 2012

Miles, Bauer, Bergstrom & Winters LLP  
Attn: Alexander Bhame  
Via Email: [abhame@mileslegal.com](mailto:abhame@mileslegal.com)

Re: 34 Innisbrook Ave, Las Vegas, NV 89113  
Spanish Trail Master Association / R74507

***Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.***

In response to your request for payoff figures for the above reference account, the following accounting ledger is a breakdown for the payoff request.

The current balance is \$9,255.44 **(Please collect additional \$200.00 transfer fee for new owner payable to: Spanish Trail Master Association)**. This demand and its balance due will expire on 2/10/12. You MUST request an update as this balance will only be valid through the date above. Payment received after the expiration date will not be accepted if the balance has changed. Failure to remit the balance by the expiration date may result in the continuation of the collection process at an additional cost. Check(s) should be made payable to Red Rock Financial Services and mailed to the address below.

**Spanish Trail Master Association and/or the Management Company's transfer fees as well as other fees and costs may not be included. You must contact Spanish Trail Master Association directly for those additional amounts at 702-367-8747.**

If you have any questions, please contact our office at 702-932-6887.

Regards,

Red Rock Financial Services

Red Rock Financial Services

■ 7251 Amigo Street, Suite 100 Las Vegas, NV 89119

[www.rrfs.com](http://www.rrfs.com)

■ Phone: 702-932-6887 Toll Free: 888-319-9460 Fax: 702.341.7733

By sending your check, please be aware that you are authorizing Red Rock Financial Services to use the information on your check to make a one-time electronic debit from your account at the financial institution indicated on your check. This electronic debit will be for the amount of your check; no additional amount will be added to the amount. (If we cannot collect your electronic payment, we will issue a draft against your account.) Please contact the Accounts Receivable department at (702) 932-6887 to learn about other payment options should you prefer to not have your payment processed in this manner.

JA0238

**Red Rock Financial Services**  
**Account Detail**  
**Spanish Trail Master Association**

Page 1

Information as of: January 26, 2012

Red Rock Financial Services Account Number: R74507

Property Address: 34 Innisbrook Ave, Las Vegas, NV 89113

COUNTRYWIDE HOME LOANS, INC., / ESTATES WEST AT SPANISH TRAIL  
ASSOCIATION, / FRANK ANTHONY TIMPA, TRUSTEE, / MADELAINE TIMPA,  
TRUSTEE, / MERS, / REPUBLIC SERVICES, / SPANISH TRAIL MASTER ASSOCIATION, /  
THORNBURG MORTGAGE SECURITIES TRUST 2007-3, / Timpa Trust u/t/d/ March 3, 1999,

**Detailed Summary**

Date	Description	Amount	Balance	Check#
07/01/2010	Assessment	\$225.00	\$225.00	
08/01/2010	Assessment	\$225.00	\$450.00	
08/16/2010	Late Fee	\$25.00	\$475.00	
09/01/2010	Assessment	\$225.00	\$700.00	
09/15/2010	Assessment	\$825.00	\$1,525.00	
09/16/2010	Late Fee	\$25.00	\$1,550.00	
10/01/2010	Assessment	\$225.00	\$1,775.00	
10/16/2010	Late Fee	\$25.00	\$1,800.00	
11/01/2010	Assessment	\$225.00	\$2,025.00	
11/16/2010	Late Fee	\$25.00	\$2,050.00	
12/01/2010	Assessment	\$225.00	\$2,275.00	
12/02/2010	Association Misc. Charge	\$200.00	\$2,475.00	
12/16/2010	Late Fee	\$25.00	\$2,500.00	
12/21/2010	Intent Mailing Costs	\$9.00	\$2,509.00	
12/21/2010	Intent to Lien Letter	\$125.00	\$2,634.00	
12/21/2010	Intent Mailing Costs	\$9.00	\$2,643.00	
01/01/2011	Assessment	\$225.00	\$2,868.00	
01/16/2011	Late Fee	\$25.00	\$2,893.00	
02/01/2011	Assessment	\$225.00	\$3,118.00	
02/16/2011	Late Fee	\$25.00	\$3,143.00	
03/01/2011	Assessment	\$225.00	\$3,368.00	
03/01/2011	Assessment	\$825.00	\$4,193.00	
03/16/2011	Late Fee	\$25.00	\$4,218.00	

7251 Amigo Street, Suite 100, Las Vegas, NV 89119 Phone: (702) 932-6887 Fax: (702) 341-7733

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

Printed: 1/26/12

**JA0239**

**Red Rock Financial Services**  
**Account Detail**  
**Spanish Trail Master Association**

Page 2

Information as of: January 26, 2012

Red Rock Financial Services Account Number: R74507

Property Address: 34 Innisbrook Ave, Las Vegas, NV 89113

COUNTRYWIDE HOME LOANS, INC., / ESTATES WEST AT SPANISH TRAIL  
ASSOCIATION, / FRANK ANTHONY TIMPA, TRUSTEE, / MADELAINE TIMPA,  
TRUSTEE, / MERS, / REPUBLIC SERVICES, / SPANISH TRAIL MASTER ASSOCIATION, /  
THORNBURG MORTGAGE SECURITIES TRUST 2007-3, / Timpa Trust u/t/d/ March 3, 1999,

**Detailed Summary**

Date	Description	Amount	Balance	Check#
03/17/2011	Red Rock Fee Adjustment	-\$348.96	\$3,869.04	
03/17/2011	Lien Mailing Costs	\$7.98	\$3,877.02	
03/17/2011	Lien for Delinquent Assessment	\$275.00	\$4,152.02	
03/17/2011	Lien Release	\$30.00	\$4,182.02	
03/17/2011	Lien Recording Costs	\$28.00	\$4,210.02	
03/17/2011	Lien Mailing Costs	\$7.98	\$4,218.00	
04/01/2011	Assessment	\$225.00	\$4,443.00	
04/16/2011	Late Fee	\$25.00	\$4,468.00	
05/01/2011	Assessment	\$225.00	\$4,693.00	
05/16/2011	Late Fee	\$25.00	\$4,718.00	
06/01/2011	Assessment	\$225.00	\$4,943.00	
06/16/2011	Late Fee	\$25.00	\$4,968.00	
07/01/2011	Assessment	\$225.00	\$5,193.00	
07/16/2011	Late Fee	\$25.00	\$5,218.00	
07/28/2011	Lien Mailing Costs	\$8.96	\$5,226.96	
07/28/2011	Lien for Delinquent Assessment	\$275.00	\$5,501.96	
07/28/2011	Lien Release	\$30.00	\$5,531.96	
07/28/2011	Lien Recording Costs	\$28.00	\$5,559.96	
07/28/2011	Lien Mailing Costs	\$8.96	\$5,568.92	
08/01/2011	Assessment	\$225.00	\$5,793.92	
08/16/2011	Late Fee	\$25.00	\$5,818.92	
09/01/2011	Assessment	\$225.00	\$6,043.92	

7251 Amigo Street, Suite 100, Las Vegas, NV 89119 Phone: (702) 932-6887 Fax: (702) 341-7733

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

Printed: 1/26/12

**JA0240**

**Red Rock Financial Services**  
**Account Detail**  
**Spanish Trail Master Association**

Page 3

Information as of: January 26, 2012

Red Rock Financial Services Account Number: R74507

Property Address: 34 Innisbrook Ave, Las Vegas, NV 89113

COUNTRYWIDE HOME LOANS, INC., / ESTATES WEST AT SPANISH TRAIL  
ASSOCIATION, / FRANK ANTHONY TIMPA, TRUSTEE, / MADELAINE TIMPA,  
TRUSTEE, / MERS, / REPUBLIC SERVICES, / SPANISH TRAIL MASTER ASSOCIATION, /  
THORNBURG MORTGAGE SECURITIES TRUST 2007-3, / Timpa Trust u/t/d/ March 3, 1999,

**Detailed Summary**

Date	Description	Amount	Balance	Check#
09/15/2011	Assessment	\$825.00	\$6,868.92	
09/16/2011	Late Fee	\$25.00	\$6,893.92	
10/01/2011	Assessment	\$225.00	\$7,118.92	
10/16/2011	Late Fee	\$25.00	\$7,143.92	
10/27/2011	Intent to NOD	\$90.00	\$7,233.92	
10/27/2011	Intent to NOD	\$90.00	\$7,323.92	
11/01/2011	Assessment	\$225.00	\$7,548.92	
11/16/2011	Late Fee	\$25.00	\$7,573.92	
11/28/2011	Adjustment	-\$90.00	\$7,483.92	
11/29/2011	NOD Mailing Costs	\$17.92	\$7,501.84	
11/29/2011	Notice of Default	\$375.00	\$7,876.84	
11/29/2011	NOD Mailing Costs	\$89.60	\$7,966.44	
11/29/2011	NOD Release	\$30.00	\$7,996.44	
11/29/2011	Trustee Sale Guarantee	\$350.00	\$8,346.44	
11/29/2011	NOD Recording Costs	\$17.00	\$8,363.44	
11/29/2011	NOD Release Recording Costs	\$17.00	\$8,380.44	
12/01/2011	Assessment	\$225.00	\$8,605.44	
12/15/2011	Late Fee	\$25.00	\$8,630.44	
01/01/2012	Assessment	\$225.00	\$8,855.44	
01/15/2012	Late Fee	\$25.00	\$8,880.44	
01/26/2012	Payoff Demand	\$150.00	\$9,030.44	
02/01/2012	Assessment	\$225.00	\$9,255.44	

7251 Amigo Street, Suite 100, Las Vegas, NV 89119 Phone: (702) 932-6887 Fax: (702) 341-7733

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

Printed: 1/26/12

**JA0241**

## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>RMI Management, LLC</b>	
Business name/disregarded entity name, if different from above <b>Red Rock Financial Services</b>	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input checked="" type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
<input type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.) <b>7251 Amigo Street, Suite 100</b>	Requester's name and address (optional)
City, state, and ZIP code <b>Las Vegas, NV 89119</b>	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

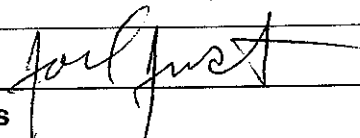
Social security number								
			-				-	
Employer identification number								
8	8	-	0	3	5	8	1	3 2

### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here    Signature of U.S. person ▶ 

Date ▶ 1/26/12

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Exhibit 8

Exhibit 8

Exhibit 8

DOUGLAS E. MILES  
Also Admitted in California &  
Illinois  
JEREMY T. BERGSTROM  
Also Admitted in Arizona  
GINA M. CORENA  
ROCK K. JUNG  
KRISTA J. NIELSON  
JORY C. GARABEDIAN  
THOMAS M. MORLAN  
Admitted in California  
STEVEN E. STERN  
Admitted in Arizona & Illinois  
ANDREW H. PASTWICK  
Also Admitted in Arizona &  
California



MILES, BAUER, BERGSTROM & WINTERS, LLP  
ATTORNEYS AT LAW SINCE 1985

2200 Paseo Verde Pkwy., Suite 250  
Henderson, NV 89052  
Phone: (702) 369-5960  
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CALIFORNIA OFFICE  
1231 E. Dyer Road, Suite 100  
Santa Ana, CA 92705  
Phone: (714) 481-9100  
Fax: (714) 481-9141

RICHARD J. BAUER, JR.  
FRED TIMOTHY WINTERS  
KEENAN E. McCLENAHAN  
MARK T. DOMEYER  
Also Admitted in the District  
of

Columbia & Virginia  
TAMI S. CROSBY  
L. BRYANT JAQUEZ  
WAYNE A. RASH  
VY T. PHAM  
HADI R. SEYED-ALI  
BRIAN H. TRAN  
ANNA A. GHAJAR  
CORI B. JONES  
CATHERINE K. MASON  
CHRISTINE A. CHUNG  
HANH T. NGUYEN  
S. SHIELLY RAISZADEH  
SHANNON C. WILLIAMS  
ABTIN SHAKOURI  
LAWRENCE R. BOIVIN

February 9, 2012

RED ROCK FINANCIAL SERVICES  
7251 Amigo Street, Suite 100  
Las Vegas, NV 89119

Re: *Property Address:* 34 Innisbrook Avenue  
ACCT NO.: R74509  
LOAN #: [REDACTED]  
*MBBW File No.* 11-H2280

Dear Sir/Madame:

As you may recall, this firm represents the interests of Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP (hereinafter "BANA") with regard to the issues set forth herein. We have received correspondence from your firm regarding our inquiry into the "Super Priority Demand Payoff" for the above referenced property. The Statement of Account provided by you in regards to the above-referenced address shows a full payoff amount of \$15,021.48. BANA is the beneficiary/servicer of the first deed of trust loan secured by the property and wishes to satisfy its obligations to the HOA. Please bear in mind that:

NRS 116.3116 governs liens against units for assessments. Pursuant to NRS 116.3116:

The association has a lien on a unit for:

...

*any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section*

While the HOA may claim a lien under NRS 116.3102 Subsection (1), Paragraphs (j) through (n) of this Statute clearly provide that such a lien is JUNIOR to first deeds of trust to the extent the lien is for fees and charges imposed for collection and/or attorney fees, collection costs, late fees, service charges and interest. See Subsection 2(b) of NRS 116.3116, which states in pertinent part:

JA0244

2. A lien under this section is prior to all other liens and encumbrances on a unit except:  
(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent...

**The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses...which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien.**

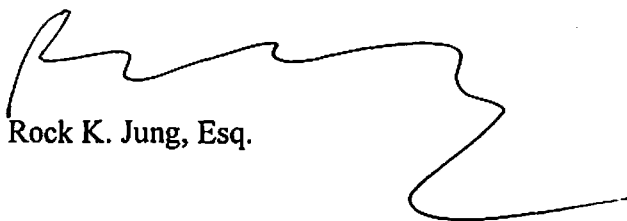
Based on Section 2(b), a portion of your HOA lien is arguably prior to BANA's first deed of trust, specifically the nine months of assessments for common expenses incurred before the date of your notice of delinquent assessment. As stated above, the payoff amount stated by you includes many fees that are junior to our client's first deed of trust pursuant to the aforementioned NRS 116.3102 Subsection (1), Paragraphs (j) through (n).

Our client has authorized us to make payment to you in the amount of \$2,025.00 to satisfy its obligations to the HOA as a holder of the first deed of trust against the property. Thus, enclosed you will find a cashier's check made out to Red Rock Financial Services in the sum of \$2,025.00, which represents the maximum 9 months worth of delinquent assessments recoverable by an HOA. This is a non-negotiable amount and any endorsement of said cashier's check on your part, whether express or implied, will be strictly construed as an unconditional acceptance on your part of the facts stated herein and express agreement that BANA's financial obligations towards the HOA in regards to the real property located at 34 Innisbrook Avenue have now been "paid in full".

Thank you for your prompt attention to this matter. If you have any questions or concerns, I may be reached by phone directly at (702) 942-0412.

Sincerely,

*MILES, BAUER, BERGSTROM & WINTERS, LLP*



Rock K. Jung, Esq.

JA0245



Miles, Bauer, Bergstrom & Winters, LLP Trust Acct

11-H2280

Initials: SRN

Payee: RED ROCK FINANCIAL SERVICES

Check #: 13325

Date: 2/7/2012

Amount: 2,025.00

Inv. Date	Reference #	Description	Inv. Amount	Case #	Matter Description	Cost Amount
2/7/2012	R74509	To Cure HOA Deficiency	2,025.00			

Miles, Bauer, Bergstrom & Winters, LLP  
Trust Account  
1231 E. Dyer Road, #100  
Santa Ana, CA 92705  
Phone: (714) 481-9100

Bank of America  
1100 N. Green Valley Parkway  
Henderson, NV 89074  
16-66/1220  
1020  
11-H2280

13325

Date: 2/7/2012

Amount \$\*\*\*\* 2,025.00

Loan #

Pay \$\*\*\*\*\*Two Thousand, Twenty-Five & No/100 Dollars  
to the order of

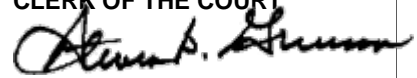
RED ROCK FINANCIAL SERVICES

Check Void After 90 Days

Details on back.  
Security Features Included.

⑈ 13325 ⑈

JA0246



CCAN  
DAVID R. KOCH  
Nevada Bar No. 8830  
STEVEN B. SCOW  
Nevada Bar No. 9906  
ROBERT L. ENGLISH  
Nevada Bar No. 3504  
KOCH & SCOW LLC  
11500 S. Eastern Ave., Suite 210  
Henderson, NV 89052  
dkoch@kochscow.com  
sscow@kochscow.com  
renglish@kochscow.com  
Telephone: (702) 318-5040  
Facsimile: (702) 318-5039

Attorneys for Counter-Defendant / Counterclaimant  
Red Rock Financial Services

**EIGHTH DISTRICT COURT  
CLARK COUNTY, NEVADA**

SATICOY BAY LLC SERIES 34 INNISBROOK,  
Plaintiff,

vs.

THORNBURG MORTGAGE SECURITIES  
TRUST 2007-3; RECONSTRUCT COMPANY,  
N.A. a division of BANK OF AMERICA;  
FRANK TIMPA and MADELAINE TIMPA,  
individually and as trustees of the TIMPA  
TRUST,

Defendants.

THORNBURG MORTGAGE SECURITIES  
TRUST 2007-3,

Counterclaimant,

vs.

SATICOY BAY LLC SERIES 34 INNISBROOK,  
a Nevada Limited-liability company; SPANISH  
TRAIL MASTER ASSOCIATION, a Nevada  
Non-Profit Corporation; RED ROCK  
FINANCIAL SERVICES, LLC, an unknown

Case No.: A-14-710161-C  
Dept.: XXXI

**RED ROCK FINANCIAL  
SERVICES' ANSWER TO  
THORNBURG MORTGAGE  
SECURITIES TRUST 2007-3  
COUNTERCLAIM; AND RED  
ROCK FINANCIAL SERVICES'  
COUNTERCLAIM FOR  
INTERPLEADER (NRCP 22)**

JA0247

1 entity; FRANK TIMPA, an individual; DOES I  
2 through X; and ROE CORPORATIONS I  
3 through X, inclusive,

4 Counter-Defendants.

5 RED ROCK FINANCIAL SERVICES,

6 Counterclaimant,

7 vs.

8 THORNBURG MORTGAGE SECURITIES  
9 TRUST 2007-3; COUNTRYWIDE HOME  
10 LOANS, INC.; ESTATES WEST AT SPANISH  
11 TRAILS; MORTGAGE ELECTRONIC  
12 REGISTRATION SYSTEM, INC.; REPUBLIC  
13 SERVICES; LAS VEGAS VALLEY WATER  
14 DISTRICT; FRANK TIMPA and MADELAINE  
15 TIMPA, individually and as trustees of the  
16 TIMPA TRUST U/T/D March 3, 1999; and  
17 DOES 1-100, inclusive,

18 Counter-Defendants.

19 RED ROCK FINANCIAL SERVICES ("Red Rock") answers the Counterclaim filed  
20 by Thornburg Mortgage Securities Trust 2007-3 ("Thornburg"), and admits, denies, and  
21 alleges as follows:

### 22 INTRODUCTION

23 1. In response to paragraph 1 of the Counterclaim, Red Rock states this  
24 paragraph constitutes a legal conclusion to which no response is required.

25 2. Admit the allegations in paragraph 2 of the Counterclaim.

### 26 JURISDICTION AND VENUE

27 3. In response to paragraph 3 of the Counterclaim, Red Rock states this  
28 paragraph constitutes a legal conclusion to which no response is required.

///

1 **PARTIES**

2 1. In response to paragraphs 4 through 6 and 9 of the Counterclaim, Red  
3 Rock is without sufficient information to form a belief as to the truth of the allegations of  
4 these paragraphs and on that basis denies the allegations.

5 2. In response to Paragraph 7 of the Counterclaim, Red Rock admits that it is  
6 doing business in Nevada and that it foreclosed on the property that is the subject of this  
7 litigation but denies that it is a Nevada limited liability company.

8 3. In response to paragraph 8 of the Counterclaim, Red Rock states this  
9 paragraph constitutes a legal conclusion to which no response is required.

10 **GENERAL ALLEGATIONS**

11 4. In response to paragraphs 1 through 5, 33, 50, and 56 of the Counterclaim,  
12 Red Rock is without sufficient information to form a belief as to the truth of the  
13 allegations of these paragraphs and on that basis Red Rock denies the allegations.

14 5. In response to paragraphs 6 through 10, 12, 14 through 17, 19 through 22,  
15 30 through 32, 35, 36, and 51 of the Counterclaim, Red Rock states the documents  
16 referenced therein speak for themselves and no response from Red Rock is required.  
17 Insomuch as the documents do not speak for themselves, the allegations in these  
18 paragraphs constitute legal conclusions and no response is required.

19 6. In response to paragraphs 11, 13, 18, 23 through 29, 34, 37 through 46, 48,  
20 49, 53 through 55, 57 through 60, 62 through 63, and 65 through 66 of the Counterclaim,  
21 Red Rock states the allegations in these paragraphs constitutes legal conclusions to which  
22 no response is required. To the extent the paragraphs do not state legal conclusions, Red  
23 Rock denies the allegations contained therein.

24 7. In response to the allegations of paragraphs 14, 47, 52, 61 and 64 Red Rock  
25 is without sufficient information to form a belief as to the truth of the allegations of these  
26 paragraphs regarding "The Trust" and on that basis denies the allegations.  
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**FIRST CAUSE OF ACTION**

**(Quiet Title/Declaratory Relief Pursuant to NRS 30.010 et seq. and NRS 40.010 et seq.  
versus and all Parties)**

8. In response to paragraph 67, Red Rock repeats and reasserts its responses to paragraphs 1 through 66 of the Counterclaim as though fully set forth herein.

9. In response to paragraphs 68 through 79 of the Counterclaim, Red Rock states these paragraphs set forth legal conclusions to which no response is necessary. To the extent responses are required, Red Rock is without sufficient knowledge or information to form a belief and on that basis denies the allegations in these paragraphs.

**SECOND CAUSE OF ACTION**

**(Permanent and Preliminary Injunction versus the Buyer)**

10. Red Rock states that this Second Cause of Action, paragraphs 80 through 88, is not applicable to it, therefore, no response is required to these allegations.

**THIRD CAUSE OF ACTION**

**(Wrongful Foreclosure versus the HOA, the HOA Trustee, and fictitious Defendants)**

11. In response to paragraph 89, Red Rock repeats and reasserts its responses to paragraph 1 through 88 of the Counterclaim as though fully set forth herein.

12. In response to paragraphs 90 through 95 of the Counterclaim, Red Rock states these paragraphs set forth legal conclusions to which no response is necessary. To the extent responses are required, Red Rock denies the allegations in these paragraphs.

**FOURTH CAUSE OF ACTION**

**(Negligence versus HOA, the HOA Trustee, and fictitious Defendants)**

13. In response to paragraph 96, Red Rock repeats and reasserts its responses to paragraph 1 through 96 of the Counterclaim as though fully set forth herein.

14. In response to paragraphs 97 through 102 of the Counterclaim, Red Rock states these paragraphs set forth legal conclusions to which no response is necessary. To the extent responses are required, Red Rock denies the allegations in these paragraphs.

1 **FIFTH CAUSE OF ACTION**

2 **(Negligence Per Se versus HOA, the HOA Trustee, and fictitious Defendants)**

3 15. In response to paragraph 103, Red Rock repeats and reasserts its responses  
4 to paragraph 1 through 102 of the Counterclaim as though fully set forth herein.

5 16. In response to paragraphs 104 through 112 of the Counterclaim, Red Rock  
6 states these paragraphs set forth legal conclusions to which no response is necessary. To  
7 the extent responses are required, Red Rock denies the allegations in these paragraphs.

8 **SIXTH CAUSE OF ACTION**

9 **(Breach of Contract versus HOA and the HOA Trustee)**

10 17. In response to paragraph 113, Red Rock repeats and reasserts its responses  
11 to paragraph 1 through 112 of the Counterclaim as though fully set forth herein.

12 18. In response to paragraphs 114 through 117 of the Counterclaim, Red Rock  
13 states these paragraphs set forth legal conclusions to which no response is necessary. To  
14 the extent responses are required, Red Rock denies the allegations in these paragraphs.

15 **SEVENTH CAUSE OF ACTION**

16 **(Misrepresentation versus HOA, HOA Trustee and Fictitious Defendants)**

17 19. In response to paragraph 118, Red Rock repeats and reasserts its responses  
18 to paragraphs 1 through 117 of the Counterclaim as though fully set forth in full herein.

19 20. In response to paragraphs 119, 120, and 125 through 127 of the  
20 Counterclaim, Red Rock states these paragraphs set forth legal conclusions to which no  
21 response is necessary. To the extent responses are required, Red Rock denies the  
22 allegations in these paragraphs.

23 21. Red Rock is without knowledge or information sufficient to respond to the  
24 allegations in paragraphs 121 through 124 of the Counterclaim.

25 **EIGHTH CAUSE OF ACTION**

26 **(Unjust Enrichment versus the Buyer, HOA, HOA Trustee, and fictitious Defendants)**

27 22. In response to paragraph 128, Red Rock repeats and reasserts its responses  
28 to paragraphs 1 through 127 of the Counterclaim as though fully set forth in full herein.

1           23. In response to paragraphs 129 through 135 of the Counterclaim, Red Rock  
2 states these paragraphs set forth legal conclusions to which no response is necessary. To  
3 the extent responses are required, Red Rock denies the allegations in these paragraphs.

4                                   **NINTH CAUSE OF ACTION**

5           **(Breach of the Covenant of Good Faith and Fair Dealing versus the HOA and HOA**  
6                                   **Trustee, and the fictitious Defendants)**

7           24. In response to paragraph 136, Red Rock repeats and reasserts its responses  
8 to paragraphs 1 through 135 of the Counterclaim as though fully set forth in full herein.

9           25. In response to paragraphs 137 through 142 of the Counterclaim, Red Rock  
10 states these paragraphs set forth legal conclusions to which no response is necessary. To  
11 the extent responses are required, Red Rock denies the allegations in these paragraphs

12                                   **AFFIRMATIVE DEFENSES**

13                                   **FIRST AFFIRMATIVE DEFENSE**

14           Counterclaimant Thornburg Mortgage Securities Trust 2007-3's counterclaim fails  
15 to state a claim for which relief can be granted.

16                                   **SECOND AFFIRMATIVE DEFENSE**

17           Counterclaimant Thornburg Mortgage Securities Trust 2007-3's unclean hands  
18 preclude any of the relief requested.

19                                   **THIRD AFFIRMATIVE DEFENSE**

20           Counterclaimant Thornburg Mortgage Securities Trust 2007-3's claims are barred  
21 by the doctrines of estoppel, laches, and waiver.

22                                   **FOURTH AFFIRMATIVE DEFENSE**

23           Counterclaimant Thornburg Mortgage Securities Trust 2007-3's claims are barred  
24 by the applicable statute of limitations.

25                                   **FIFTH AFFIRMATIVE DEFENSE**

26           Counterclaimant Thornburg Mortgage Securities Trust 2007-3 has acquiesced to  
27 any of the conduct and usage alleged in its Counterclaim.  
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**SIXTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3 has failed to mitigate its damages, if any.

**SEVENTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3’s damages, if any, are caused by its own actions or from the acts of others not parties to this action.

**EIGHTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3 has failed to join an indispensable party, in that other parties are wholly or at least partly caused Counterclaimant’s harm and complete relief may not be granted in their absence.

**NINTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3’s claims are barred by the voluntary payment doctrine.

**TENTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3 knowingly and voluntarily waived its rights to obtain any or all of the relief sought in its Counterclaim.

**ELEVENTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3 has no contract with this answering counter-defendant.

**TWELFTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3 has no fiduciary relationship with this answering counter-defendant.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3’s claims are barred by the economic loss doctrine.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Counterclaimant Thornburg Mortgage Securities Trust 2007-3 has no special relationship with this answering counter-defendant.



1 **FIFTEENTH AFFIRMATIVE DEFENSE**

2 This answering counter-defendant has limited facts available at this time and thus  
3 some of the foregoing Affirmative Defenses may have been plead in accordance to NRCP  
4 8, for purposes of non-waiver. Furthermore, pursuant to NRCP 11, this answering  
5 counter-defendant has or may have more affirmative defenses or counterclaims that are  
6 not known at this time but may be uncovered through further discovery wherefore, this  
7 answering counter-defendant reserves the right to assert any such affirmative defenses or  
8 Counterclaims so ascertained at a later date.

9 WHEREFORE, as to the Thornburg Mortgage Securities Trust 2007-3's  
10 Counterclaim, Red Rock prays as follows:

- 11 1. That Counterclaimant Thornburg Mortgage Securities Trust 2007-3 take  
12 nothing by way of its Counterclaim.
- 13 2. That judgment be rendered in favor of Red Rock;
- 14 3. That Counterclaimant Thornburg Mortgage Securities Trust 2007-3  
15 compensate Red Rock for reasonable fees and costs incurred in defending this action; and  
16 4. For any other such relief that the Court deems just and proper.

17  
18 Dated: June 12, 2017.

**KOCH & SCOW, LLC**

19 By: /s/Steven B. Scow  
20 Steven B. Scow  
21 *Attorneys for Red Rock Financial Services*

22 **COUNTERCLAIM FOR INTERPLEADER**

23 COMES NOW Counterclaimant RED ROCK FINANCIAL SERVICES (hereinafter  
24 sometimes "Red Rock"), and pleads as follows:

25 **PARTIES**

- 26 1. Counterclaimant Red Rock Financial Services is a licensed collection  
27 company, and at all times material herein was and is doing business in Clark County,  
28

1 Nevada. Red Rock was hired by Spanish Trail Master Association (the "Master  
2 Association") as its agent to manage and collect assessments charged to homeowners  
3 within the Association.

4 2. Counter-defendant Thornburg Mortgage Securities Trust 2007-3  
5 ("Thornburg"), is an unknown business entity, which at all times material herein, was  
6 doing business in Clark County, Nevada.

7 3. Counter-defendant Frank Timpa ("Frank") is individual who, on  
8 information and belief resides in Clark County, Nevada and is a co-trustee of the Timpa  
9 Trust U/T/D March 3, 1999 ("Timpa Trust").

10 4. Counter-defendant Madeline Timpa ("Madeline") is individual who, on  
11 information and belief resides in Clark County, Nevada and is a co-trustee of the Timpa  
12 Trust.

13 5. Counter-defendant Countrywide Home Loans, Inc. ("Countrywide"), is an  
14 unknown business entity, which at all times, material herein, was doing business in Clark  
15 County, Nevada.

16 6. Counter-defendant Estates West at Spanish Trail ("Sub HOA") is a Nevada  
17 corporation, which at all times material herein, was doing business in Clark County,  
18 Nevada.

19 7. Counter-defendant Mortgage Electronic Registration Systems, Inc.  
20 ("MERS") is an unknown business entity, which at all times material herein, was doing  
21 business in Clark County, Nevada.

22 8. Counter-Defendant Republic Services, ("Republic") is an unknown entity,  
23 which at all times material herein, was doing business in Clark County, Nevada.

24 9. Counter-defendant Las Vegas Valley Water District ("LVVWD") is a  
25 political subdivision of the State of Nevada, which at all times material herein, was doing  
26 business in Clark County, Nevada.

1           10. Countrywide, MERS, Sub HOA, Republic, and LVVWD are joined to this  
2 proceeding as Counterclaim defendants pursuant to *Lund v. Eighth Jud. Dist. Ct.*, 255 P.3d  
3 280 (2011) and NRCP 13(h).

4           11. Red Rock is unaware currently of the true names and capacities of those  
5 defendants sued herein as DOES 1-100 and therefore sues said counter-defendants by  
6 such fictitious names. Plaintiff will seek leave of the court to amend this Counterclaim to  
7 allege the true names and capacities of said defendants when the same have been  
8 ascertained.

9           12. Red Rock is informed and believes, and thereon alleges, that each of the  
10 cross-defendants sued herein, including those named as DOES, are the agents, servants,  
11 employees, predecessor entities, successor entities, parent entities, totally owned or  
12 controlled entities, or had some legal relationship of responsibility for, the other cross-  
13 defendants, and in doing the things herein alleged, acted within the course and scope  
14 and authority of such agency, employment, ownership or other relationship and with the  
15 full knowledge and consent of the other defendants, or are in some other manner legally  
16 responsible for the acts as alleged herein. Additionally, with respect to all corporate  
17 entity cross-defendants, the officers and directors of such entities ratified and affirmed all  
18 contracts of its employees, agents, directors and/or officers.

19                                   **GENERAL ALLEGATIONS**

20           13. Red Rock is a debt collection company, which works on behalf of  
21 homeowner associations to collect debts secured by real property, including delinquent  
22 homeowner assessments. When a property owner becomes delinquent to the  
23 homeowners association, Red Rock is contracted to collect the debt. These efforts include  
24 attempts to collect the debt directly from the property owner, but when the property  
25 owner does not pay after an extended period, the process leads to a non-judicial  
26 foreclosure action pursuant to Nevada law.

27           14. Here, Red Rock was contracted by the Master Association to collect debts  
28 for unpaid homeowners assessments owed to the Master Association by counter-

1 defendants Frank Timpa and Madeline Timpa individually and as trustees of the Timpa  
2 Trust for the property located at 34 Innisbrook Avenue, Las Vegas, NV 89113 (“the  
3 Subject property”). Red Rock’s efforts resulted in a foreclosure sale of the Subject  
4 Property on November 7, 2014.

5 15. In connection with the foreclosure sale, the Master Association was paid the  
6 money it was owed, and Red Rock was paid its fees and costs incurred in collecting the  
7 debt as allowed by contract and Nevada law. After paying these costs, Red Rock was left  
8 with funds of \$1,168,865.05. Red Rock has no further direct interest in such funds. These  
9 funds have been deposited into counsel’s attorney-client trust account and \$5,000 has  
10 been withheld for costs, expenses, and fees to commence this interpleader action. The  
11 remainder will be deposited into Court or disbursed as ordered by this Court.

12 **CAUSE OF ACTION**

13 **(Interpleader Against All Cross-Defendants [NRCF 22])**

14 16. Red Rock repeats and realleges all previous allegations as if fully set forth  
15 herein.

16 17. Public records in Clark County, Nevada indicate that there are several liens  
17 and other debts secured by the subject property in this action. These debts exceed the  
18 amount to be deposited with the Court. Red Rock does not know the current status of  
19 such debts, nor does it have knowledge how the funds should be distributed to the  
20 various cross-defendants. Red Rock is therefore faced with potential for multiple  
21 liability.

22 18. Red Rock requests that the Court determine how such funds should be  
23 distributed.

24 19. Red Rock has incurred attorneys’ fees and costs in preparing, filing and  
25 prosecuting this action and will apply and account for those attorneys’ fees and costs  
26 through the amount withheld, and will seek any further reimbursement from the amount  
27 to be deposited with the Court per Nevada law, including NRS 116.31164(3)(c).  
28

20. Red Rock requests that, after the parties have been served or at such other appropriate time, that it be dismissed from this interpleader action, as it has no direct interest in the interpleaded funds other than payment of its costs and fees for bringing the instant action.

## PRAYER

WHEREFORE, Red Rock prays for relief as follows:

1. That the court determine how the deposited funds should be distributed and order distribution of said funds;

2. That Red Rock be reimbursed out of said deposited funds its attorneys fees and costs in bringing this interpleader action;

3. That Red Rock be dismissed from this action with prejudice following payment of the excess proceeds as directed by the Court; and

4. For such other and further relief as the court determines proper.

Dated: June 12, 2017.

KOCH & SCOW, LLC

By: /s/Steven B. Scow  
David R. Koch (Nevada Bar No. 8830)  
Steven B. Scow (Nevada Bar No. 9906)  
Robert L. English (Nevada Bar No. 3504)  
11500 S. Eastern Ave., Suite 210  
Henderson, Nevada 89052  
*Attorneys for Red Rock Financial Services*

**CERTIFICATE OF SERVICE**

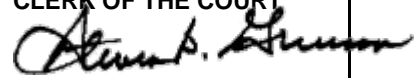
I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. I certify that on June 12, 2017, I caused the foregoing document entitled: **RED ROCK FINANCIAL SERVICES' ANSWER to BANK OF AMERICA'S COUNTERCLAIM and RED ROCK FINANCIAL SERVICES' FIRST AMENDED COUNTERCLAIM FOR INTERPLEADER** to be served by as follows:

- ☒ Pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in in the mail; and / or;
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Henderson, Nevada; and / or
- ☐ Pursuant to EDCR 7.26, to be sent via facsimile; and / or
- ☐ hand-delivered to the attorney(s) listed below at the address indicated below;
- ☐ to be delivered overnight via an overnight delivery service in lieu of delivery by mail to the addressee (s); and or:
- ☐ by electronic mailing to:

"Bryan Naddafi, Esq." . ([bryan@olympialawpc.com](mailto:bryan@olympialawpc.com))  
"Donald H. Williams, Esq." . ([dwilliams@dhwlawlv.com](mailto:dwilliams@dhwlawlv.com))  
David R. Koch . ([dkoch@kochscow.com](mailto:dkoch@kochscow.com))  
Eric Powers . ([epowers@wrightlegal.net](mailto:epowers@wrightlegal.net))  
Eserve Contact . ([office@bohnlawfirm.com](mailto:office@bohnlawfirm.com))  
Faith Harris . ([fharris@wrightlegal.net](mailto:fharris@wrightlegal.net))  
Michael F Bohn Esq . ([mbohn@bohnlawfirm.com](mailto:mbohn@bohnlawfirm.com))  
Robin Gullo . ([rgullo@dhwlawlv.com](mailto:rgullo@dhwlawlv.com))  
Sarah Greenberg Davis . ([sgreenberg@wrightlegal.net](mailto:sgreenberg@wrightlegal.net))  
Staff . ([aeshenbaugh@kochscow.com](mailto:aeshenbaugh@kochscow.com))  
Steven B. Scow . ([sscow@kochscow.com](mailto:sscow@kochscow.com))  
Michael Kelley ([mkelley@wrightlegal.net](mailto:mkelley@wrightlegal.net))  
Jason Craig ([jcraig@wrightlegal.net](mailto:jcraig@wrightlegal.net))

Executed on June 12, 2017 at Henderson, Nevada.

/s/ Andrea W. Eshenbaugh  
An Employee of Koch & Scow LLC



ANS

WRIGHT, FINLAY & ZAK, LLP

Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Michael S. Kelley, Esq.

Nevada Bar No. 10101

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[mkelley@wrightlegal.net](mailto:mkelley@wrightlegal.net)

*Attorneys for Defendant/Counterclaimant/Counter-Defendant, Thornburg Mortgage Securities Trust 2007-3*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SATICOY BAY LLC SERIES 34  
INNISBROOK,

Plaintiff,

vs.

THORNBURG MORTGAGE SECURITIES  
TRUST 2007-3; RECONTRUST COMPANY,  
N.A. a division of BANK OF AMERICA;  
FRANK TIMPA and MADELAINE TIMPA,  
individually and as trustees of the TIMPA  
TRUST

Defendants.

THORNBURG MORTGAGE SECURITIES  
TRUST 2007-3,

Counterclaimant,

vs.

SATICOY BAY LLC SERIES 34  
INNISBROOK, a Nevada limited-liability  
company; SPANISH TRAIL MASTER  
ASSOCIATION, a Nevada Non-Profit  
Corporation; RED ROCK FINANCIAL  
SERVICES, an unknown entity; FRANK  
TIMP A, an individual; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Case No.: A-14-710161-C

Dept. No.: XV

**DEFENDANT THORNBURG  
MORTGAGE SECURITIES TRUST  
2007-3'S ANSWER TO RED ROCK  
FINANCIAL SERVICES'  
COUNTERCLAIM**

1 Counter-Defendants.  
2 RED ROCK FINANCIAL SERVICES,  
3 Counterclaimant,  
4 vs.  
5 THORNBURG MORTGAGE SECURITIES  
6 TRUST 2007-3; COUNTRYWIDE HOME  
7 LOANS, INC.; ESTATES WEST AT  
8 SPANISH TRAILS; MORTGAGE  
9 ELECTRONIC REGISTRATION SYSTEMS,  
10 INC.; REPUBLIC SERVICES; LAS VEGAS  
11 VALLEY WATER DISTRICT; FRANK  
12 TIMPA and MADELAINE TIMPA,  
13 individually and as trustees of the TIMP A  
14 TRUS U/T/D March 3,1999; and DOES 1-100,  
15 inclusive,  
16 Counter-Defendants.

17 Defendant/Counterclaimant/Counter-Defendant, Thornburg Mortgage Securities Trust  
18 2007-3 (“Thornburg”), hereby responds to the Counterclaim of Red Rock Financial Services  
19 (“Red Rock”) as follows:

20 **PARTIES**

21 1. Answering Paragraph 1 of the Counterclaim, Thornburg admits that Red Rock is a  
22 collection company doing business in Clark County, Nevada. With respect to the remaining  
23 allegations in this Paragraph, Thornburg lacks sufficient information and belief as to the  
24 allegations in said paragraph and, on that basis, Thornburg denies the allegations thereof.

25 2. Answering Paragraph 2 of the Counterclaim, Thornburg admits the allegations  
26 thereof.

27 3. Answering Paragraph 3 of the Counterclaim, Thornburg lacks sufficient  
28 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
denies the allegations thereof.



1           4.       Answering Paragraph 4 of the Counterclaim, Thornburg lacks sufficient  
2 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
3 denies the allegations thereof.

4           5.       Answering Paragraph 5 of the Counterclaim, Thornburg lacks sufficient  
5 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
6 denies the allegations thereof.

7           6.       Answering Paragraph 6 of the Counterclaim, Thornburg lacks sufficient  
8 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
9 denies the allegations thereof.

10          7.       Answering Paragraph 7 of the Counterclaim, Thornburg lacks sufficient  
11 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
12 denies the allegations thereof.

13          8.       Answering Paragraph 8 of the Counterclaim, Thornburg lacks sufficient  
14 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
15 denies the allegations thereof.

16          9.       Answering Paragraph 9 of the Counterclaim, Thornburg lacks sufficient  
17 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
18 denies the allegations thereof.

19          10.      Answering Paragraph 10 of the Counterclaim, this paragraph does not require a  
20 response. To the extent that a response is required, Thornburg lacks sufficient information and  
21 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
22 thereof.

23          11.      Answering Paragraph 11 of the Counterclaim, this paragraph does not require a  
24 response. To the extent that a response is required, Thornburg lacks sufficient information and  
25 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
26 thereof.

27          12.      Answering Paragraph 12 of the Counterclaim, this paragraph does not require a  
28 response. To the extent that a response is required, Thornburg lacks sufficient information and

1 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
2 thereof.

3 **GENERAL ALLEGATIONS**

4 13. Answering Paragraph 13 of the Counterclaim, Thornburg lacks sufficient  
5 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
6 denies the allegations thereof.

7 14. Answering Paragraph 14 of the Counterclaim, Thornburg lacks sufficient  
8 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
9 denies the allegations thereof.

10 15. Answering Paragraph 15 of the Counterclaim, Thornburg lacks sufficient  
11 information and belief as to the allegations in said paragraph and, on that basis, Thornburg  
12 denies the allegations thereof.

13 **CAUSE OF ACTION**

14 **(Interpleader Against All Cross-Defendants [NRCP 22])**

15 16. Answering Paragraph 16 of the Counterclaim, Thornburg hereby repeats, re-  
16 alleges and incorporates each of its admissions, denials, or other responses to all the paragraphs  
17 referenced hereinabove as if set forth at length and in full.

18 17. Answering Paragraph 17 of the Counterclaim, this paragraph does not require a  
19 response. To the extent that a response is required, Thornburg lacks sufficient information and  
20 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
21 thereof.

22 18. Answering Paragraph 18 of the Counterclaim, this paragraph does not require a  
23 response. To the extent that a response is required, Thornburg lacks sufficient information and  
24 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
25 thereof.

26 19. Answering Paragraph 19 of the Counterclaim, this paragraph does not require a  
27 response. To the extent that a response is required, Thornburg lacks sufficient information and  
28

1 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
2 thereof.

3 20. Answering Paragraph 20 of the Counterclaim, this paragraph does not require a  
4 response. To the extent that a response is required, Thornburg lacks sufficient information and  
5 belief as to the allegations in said paragraph and, on that basis, Thornburg deny the allegations  
6 thereof.

### 7 **AFFIRMATIVE DEFENSES**

8 Thornburg's investigation of these claims is continuing. By this Answer, Thornburg  
9 waives no affirmative defenses and reserves its right to amend the Answer to insert any  
10 subsequently discovered affirmative defenses.

#### 11 **First Affirmative Defense**

12 The Counterclaim fails to state facts sufficient to constitute a claim upon which relief can  
13 be granted.

#### 14 **Second Affirmative Defense**

15 The acts alleged in the Counterclaim were the acts of third parties over whom Thornburg  
16 has no control or responsibility.

#### 17 **Third Affirmative Defense**

18 A senior deed of trust beneficiary cannot be deprived of its property interest in violation  
19 of the Procedural Due Process Clause of the 14<sup>th</sup> Amendment of the United States Constitution  
20 and Article 1, Section 8 of the Nevada Constitution.

#### 21 **Fourth Affirmative Defense**

22 The homeowner's association foreclosure sale purportedly occurring on November 7,  
23 2014, ("HOA Sale") is void or otherwise insufficient to extinguish the Deed of Trust based on  
24 the failure to provide proper notice of the "super-priority" assessment amounts in accordance  
25 with the requirements of NRS Chapter 116, federal, and constitutional law.

#### 26 **Fifth Affirmative Defense**

27 The HOA Sale was not commercially reasonable, and the circumstances of the sale of the  
28 property violated the HOA's obligation of good faith under NRS 116.1113 and duty to act in a

1 commercially reasonable manner.

2 **Sixth Affirmative Defense**

3 The purchaser of the property at the HOA Sale purchased the property with record notice  
4 of the interest of the senior deed of trust recorded against the property and is not a bona fide  
5 purchaser for value.

6 **Seventh Affirmative Defense**

7 Upon information and belief, Thornburg's deed of trust, secured against the property, is  
8 outstanding and due, which entitles it to satisfaction of its lien from whatever source, before any  
9 other party is entitled to the proceeds of the HOA Sale.

10 **Eighth Affirmative Defense**

11 The buyer under the Foreclosure Deed took title to the property subject to the first  
12 priority deed of trust, thereby forestalling any enjoinderment/extinguishment of the Thornburg's  
13 interest in the property.

14 **Ninth Affirmative Defense**

15 If Thornburg's interest in the property is found to have been extinguished by or  
16 subordinate to that of the purchaser at the HOA Sale Defendant is entitled to the entirety of the  
17 excess proceeds, pursuant to N.R.S. 116.3116 et seq.

18 **Tenth Affirmative Defense**

19 Thornburg asserts that any acceptance of any portion of the excess proceeds does not  
20 "satisfy" the amount due and owing on the loan and would not constitute a waiver of its rights  
21 under the loan and deed of trust, or statute.

22 **Eleventh Affirmative Defense**

23 Thornburg alleges that the Red Rock's claims are barred by the equitable doctrines of  
24 laches, unclean hands, and failure to do equity.

25 **PRAYER**

26 WHEREFORE, Thornburg prays for judgment as follows:

- 27 **1.** That the Court make a judicial determination that the Deed of Trust held by Thornburg  
28 is superior to all other interests and encumbrances, including the HOA lien subject of

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- the foreclosure sale resulting in the “excess proceeds” and remained the superior encumbrance after the sale;
2. That the Court make a judicial determination that Thornburg’s Deed of Trust was not a “subordinate lien” under NRS 116.3116 and NRS 116.31164;
3. That, in the alternative, if the Court determines that Thornburg’s Deed of Trust was in fact a “subordinate lien” under NRS 116.3116 and NRS 116.31164, that the Court make a judicial determination regarding the priority in payment of the excess proceeds that Thornburg’s Deed of Trust has priority over all other interests and encumbrances and is entitled to all the excess proceeds up to the unpaid balance of the Deed of Trust and the Note it secures;
4. That, in the alternative, if the Court determines that Thornburg’s Deed of Trust was in fact a “subordinate lien” under NRS 116.3116 and NRS 116.31164, that the Court make a judicial determination that amounts charged or retained by Red Rock and Spanish Trail Master Association were excessive and cannot include attorney’s fees and collection costs in their HOA lien amounts after the first deed of trust foreclosure sale;
5. That the Court make a judicial determination regarding what amounts were properly withheld and whether the amount Red Rock intends to interplead is sufficient and includes all amounts required to be interplead under the relevant statutes; and
6. That the Court make a judicial determination regarding the priority in payment of the excess proceeds;
7. That Red Rock take nothing by way of the Complaint;
8. For reasonable attorney’s fees and costs; and

///  
///  
///  
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///

9. For any such other and further relief as the Court may deem just and proper in the case.

DATED this 5<sup>th</sup> day of July, 2017.

WRIGHT, FINLAY & ZAK, LLP

/s/ Michael S. Kelley

Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Michael S. Kelley, Esq.

Nevada Bar No. 10101

7785 W. Sahara Ave, Suite 200

Las Vegas, NV 89117

*Attorneys for Defendant/Counterclaimant/Counter-Defendant, Thornburg Mortgage Securities Trust 2007-3*

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**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **DEFENDANT THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S ANSWER TO RED ROCK FINANCIAL SERVICES' COUNTERCLAIM** filed in Case No. A-14-710161-C **does not** contain the social security number of any person.

DATED this 5<sup>th</sup> day of July, 2017.

WRIGHT, FINLAY & ZAK, LLP

/s/ Michael S. Kelley  
Dana Jonathon Nitz, Esq.  
Nevada Bar No. 0050  
Michael S. Kelley, Esq.  
Nevada Bar No. 10101  
7785 W. Sahara Ave, Suite 200  
Las Vegas, NV 89117  
*Attorneys for Defendant/Counterclaimant/Counter-Defendant, Thornburg Mortgage Securities Trust 2007-3*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to N.R.C.P. 5(b), I certify that I am an employee of WRIGHT, FINLAY &  
3 ZAK, LLP, and that on this 5<sup>th</sup> day of July, 2017, I did cause a true copy of **DEFENDANT**  
4 **THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S ANSWER TO RED ROCK**  
5 **FINANCIAL SERVICES' COUNTERCLAIM** to be e-filed and e-served through the Eighth  
6 Judicial District EFP system pursuant to NEFCR 9, and/or by depositing a true and correct copy  
7 in the United States Mail, addressed as follows:

8 "Bryan Naddafi, Esq." . bryan@olympialawpc.com  
9 "Donald H. Williams, Esq." . dwilliams@dhwlawlv.com  
10 David R. Koch . dkoch@kochscow.com  
11 Eserve Contact . office@bohnlawfirm.com  
12 Michael F Bohn Esq . mbohn@bohnlawfirm.com  
13 Robin Gullo . rgullo@dhwlawlv.com  
14 Staff . aeshenbaugh@kochscow.com  
15 Steven B. Scow . sscow@kochscow.com

16 */s/ Jason Craig*  
17 \_\_\_\_\_  
18 An Employee of WRIGHT, FINLAY & ZAK, LLP  
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*Steven D. Grierson*

AFFIDAVIT OF SERVICE

DISTRICT COURT  
CLARK COUNTY, STATE OF NEVADA

Dept No. XV

SATICOY BAY LLC SERIES 34 INNISBROOK,

Plaintiff(s)

v.

THORNBURG MORTGAGE SECURITIES TRUST  
2007-3; et al.,

Defendant(s)

Case No.: A-14-710161-C

Michael S. Kelley, Esq., Bar No. 10101

WRIGHT FINLAY & ZAK - LITIGATION

7785 W. Sahara Avenue, Suite 200

Las Vegas, NV 89117

(702) 475-7964

Attorneys for the Thornburg Mortgage

Client File# Timpa 619-2015092

I, Adriana Garcia, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; Thornburg Mortgage Securities Trust 2007-3's Answer To Saticoy Bay LLC Series 34 Innisbrook's Third Amended Complaint And Counterclaims, from WRIGHT FINLAY & ZAK - LITIGATION

That on 6/26/2017 at 1:22 PM I served the above listed documents to Spanish Trail Master Association - c/o Lisa Parry, Registered Agent by personally delivering and leaving a copy at 7495 Mission Hills Drive, Las Vegas, NV 89113, a person of suitable age and discretion, authorized to accept service of process at the above address shown on the current certificate of designation filed with the Secretary of State.

That the description of the person actually served is as follows:

Gender: Female, Race: Caucasian, Age: 30's, Height: 5'11", Weight: 170 lbs., Hair: Blonde, Eyes: Brown

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 6/28/17

*Adriana Garcia*  
Adriana Garcia  
Registered Work Card# R-090327  
State of Nevada

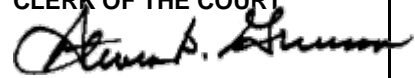
(No Notary Per NRS 53.045)

Service Provided for:  
Nationwide Legal Nevada, LLC  
626 S. 7th Street  
Las Vegas, NV 89101  
(702) 385-5444  
Nevada Lic # 1656



Order # **JA0270**

Their File Timpa 619-2015092



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Saticoy Bay LLC Series 34 Innisbrook

DISTRICT COURT  
CLARK COUNTY NEVADA

11 SATICOY BAY LLC SERIES 34  
INNISBROOK,

12 Plaintiff,

13 vs.

14 THORNBURG MORTGAGE SECURITIES  
15 TRUST 2007-3; and RECONTRUST  
COMPANY, N.A. a division of BANK OF  
16 AMERICA; FRANK TIMPA and MADELAINE  
TIMPA, individually and as trustees of the  
17 TIMPA TRUST,

18 Defendants.

CASE NO.: A-14-710161-C  
DEPT NO.: XV

**ANSWER TO THORNBURG MORTGAGE  
SECURITIES TRUST 2007-3'S  
COUNTERCLAIMS**

19 THORNBURG MORTGAGE SECURITIES  
20 TRUST 2007-3,

21 Counterclaimant,

22 vs.

23 SATICOY BAY LLC SERIES 34  
INNISBROOK, a Nevada Limited-liability  
24 company; SPANISH TRAIL MASTER  
ASSOCIATION, a Nevada Non-Profit  
25 Corporation; RED ROCK FINANCIAL  
SERVICES, LLC, an unknown entity; FRANK  
26 TIMPA, an individual; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

27 Counter-defendants.  
28

1 RED ROCK FINANCIAL SERVICES,

2 Counterclaimant,

3 vs.

4 THORNBURG MORTGAGE SECURITIES  
5 TRUST 2007-3; COUNTRYWIDE HOME  
6 LOANS, INC.; ESTATES WEST AT  
7 SPANISH TRAILS; MORTGAGE  
8 ELECTRONIC REGISTRATION SYSTEM,  
9 INC.; REPUBLIC SERVICES; LAS VEGAS  
10 VALLEY WATER DISTRICT; FRANK  
11 TIMPA and MADELAINE TIMPA,  
12 individually and as trustees of the TIMPA  
13 TRUST U/T/D March 3, 1999; and DOES 1-  
14 100, inclusive,

15 Counter-defendants.

16 Plaintiff/Counterdefendant Saticoy Bay LLC Series 34 Innisbrook (hereinafter  
17 “counterdefendant”), by and through its attorney, the Law Offices of Michael F. Bohn, Esq., Ltd.,  
18 hereby answers defendant Thornburg Mortgage Securities Trust 2007-3's counterclaim filed May 30,  
19 2017, as follows:

20 1. Counterdefendant admits the allegations contained in paragraphs 1 and 2 of the  
21 counterclaim.

22 2. Counterdefendant admits the allegations contained in paragraph 3 of the counterclaim.

23 3. Counterdefendant admits the allegations contained in paragraphs 4, 5, 6, 7 and 8 of the  
24 counterclaim.

25 4. Counterdefendant is without sufficient information upon which to admit or deny the allegations  
26 contained in paragraph 9, and, upon that basis, denies the same.

27 5. Counterdefendant admits the allegations contained in paragraphs, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,  
28 11, 18, 30, 31, 41, 42 and 51, of the counterclaim.

6. Counterdefendant denies the allegations contained in paragraphs 12, 13, 14, 15, 16, 17, 19, 20,  
21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53,  
54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 and 66 of the counterclaim.

///

1 **FIRST CLAIM FOR RELIEF**

2 7. Counterdefendant repeats its responses to paragraphs 1 through 67 of the counterclaim.

3 8. Counterdefendant admits the allegations contained in paragraphs 68, 69, 70 and 71 of the  
4 counterclaim.

5 9. Counterdefendant denies the allegations contained in paragraphs 72, 73, 74, 75, 76, 77, 78 and  
6 79 of the counterclaim.

7 **SECOND CLAIM FOR RELIEF**

8 10. Counterdefendant repeats its responses to paragraphs 1 through 80 of the counterclaim.

9 11. Counterdefendant admits the allegations contained in paragraph 81 of the counterclaim.

10 12. Counterdefendant denies the allegations contained in paragraphs 82, 83, 84, 85, 86, 87 and  
11 88 of the counterclaim.

12 **THIRD CLAIM FOR RELIEF**

13 13. Counterdefendant repeats its responses to paragraphs 1 through 89 of the counterclaim.

14 14. Counterdefendant denies the allegations contained in paragraphs 90, 91, 92, 93, 94 and 95  
15 of the counterclaim.

16 **FOURTH CLAIM FOR RELIEF**

17 15. Counterdefendant repeats its responses to paragraphs 1 through 96 of the counterclaim.

18 16. Counterdefendant admits the allegations contained in paragraph 97 of the counterclaim.

19 17. Counterdefendant denies the allegations contained in paragraphs 98, 99, 100, 101 and 102  
20 of the counterclaim.

21 **FIFTH CLAIM FOR RELIEF**

22 18. Counterdefendant repeats its responses to paragraphs 1 through 103 of the counterclaim.

23 19. Counterdefendant admits the allegations contained in paragraph 104 of the counterclaim.

24 20. Counterdefendant denies the allegations contained in paragraphs 105, 106, 107, 108, 109,  
25 110, 111 and 112 of the counterclaim.

26 **SIXTH CLAIM FOR RELIEF**

27 21. Counterdefendant repeats its responses to paragraphs 1 through 113 of the counterclaim.

1 22. Counterdefendant denies the allegations contained in paragraphs 114, 115, 116 and 117 of  
2 the counterclaim.

3 **SEVENTH CLAIM FOR RELIEF**

4 23. Counterdefendant repeats its responses to paragraphs 1 through 118 of the counterclaim.

5 24. Counterdefendant denies the allegations contained in paragraphs 119, 120, 121, 122, 123,  
6 124, 125, 126 and 127 of the counterclaim.

7 **EIGHTH CLAIM FOR RELIEF**

8 25. Counterdefendant repeats its responses to paragraphs 1 through 128 of the counterclaim.

9 26. Counterdefendant denies the allegations contained in paragraphs 129, 130, 131, 132, 133, 134  
10 and 135 of the counterclaim.

11 **NINTH CLAIM FOR RELIEF**

12 27. Counterdefendant repeats its responses to paragraphs 1 through 136 of the counterclaim.

13 28. Counterdefendant denies the allegations contained in paragraphs 137, 138, 139, 140, 141 and  
14 142 of the counterclaim.

15 **AFFIRMATIVE DEFENSES**

16 **FIRST AFFIRMATIVE DEFENSE**

17 The counterclaim fails to state a claim against counterdefendant upon which relief may be granted.

18 **SECOND AFFIRMATIVE DEFENSE**

19 Counterclaimant has failed to mitigate its damages.

20 **THIRD AFFIRMATIVE DEFENSE**

21 Counterclaimant is guilty of laches and unclean hands.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 Counterclaimant's damages, if any, were caused by its own acts and omissions or by the acts or  
24 omissions of third parties over which counterdefendant had no authority or control.

25 **FIFTH AFFIRMATIVE DEFENSE**

26 Counterclaimant's claims are barred by the applicable statute of limitations.

27 **SIXTH AFFIRMATIVE DEFENSE**

1 Counterclaimant's claims are barred by the doctrine of estoppel.

2 SEVENTH AFFIRMATIVE DEFENSE

3 Counterclaimant assumed the risk of the damages of which it now complains.

4 EIGHTH AFFIRMATIVE DEFENSE

5 Counterclaimant failed to exercise due care in its business dealings.

6 NINTH AFFIRMATIVE DEFENSE

7 Counterclaimant's claims are barred by the doctrine of waiver.

8 TENTH AFFIRMATIVE DEFENSE

9 Counterclaimant gave its consent, expressed or implied to the acts, omissions and/or conduct  
10 alleged of this answering counterdefendant.

11 ELEVENTH AFFIRMATIVE DEFENSE

12 Counterclaimant ratified the alleged acts of this answering counterdefendant.

13 TWELFTH AFFIRMATIVE DEFENSE

14 Counterclaimant expressly, impliedly and/or equitably released all rights against this answering  
15 counterdefendant.

16 THIRTEENTH AFFIRMATIVE DEFENSE

17 The HOA Sale was conducted pursuant to statute and therefore extinguished counterclaimant's  
18 security interest in the property

19 FOURTEENTH AFFIRMATIVE DEFENSE

20 Counterdefendant is a bona fide purchaser for value without notice of any claims of any party or  
21 defects in title.

22 FIFTEENTH AFFIRMATIVE DEFENSE

23 Counterdefendant is a bona fide purchaser without knowledge of the claims of counterclaimant.

24 SIXTEENTH AFFIRMATIVE DEFENSE

25 Counterclaimant has failed to include indispensable parties to this action.

26 SEVENTEENTH AFFIRMATIVE DEFENSE

27 Counterclaimant's claims are barred by the voluntary payment doctrine.

1 EIGHTEENTH AFFIRMATIVE DEFENSE

2 Counterclaimant lacks standing to prosecute this action.

3 NINETEENTH AFFIRMATIVE DEFENSE

4 Counterdefendant has good title pursuant to NRS 116.31164

5 TWENTIETH AFFIRMATIVE DEFENSE

6 The foreclosure sale was conducted pursuant to statute which is commercially reasonable as a  
7 matter of law.

8 TWENTY-FIRST AFFIRMATIVE DEFENSE

9 Counterdefendant reserves the right to add additional affirmative defenses as new information  
10 currently not known or available to counterdefendant becomes known or knowable during the pendency  
11 of this action.

12 WHEREFORE, counterdefendant prays as follows:

- 13 1. That the counterclaimants take nothing by way of their counterclaim;  
14 2. For an award of attorneys fees and costs; and  
15 3. For such other and further relief as the Court may deem just and proper.  
16

17 DATED this 7<sup>th</sup> day of September, 2017.

18 LAW OFFICES OF  
19 MICHAEL F. BOHN, ESQ., LTD.

20 By: /s/ Adam R. Trippiedi, Esq.  
21 MICHAEL F. BOHN, ESQ.  
22 ADAM R. TRIPPIEDI, ESQ.  
23 376 E. Warm Springs Rd., Ste. 140  
24 Las Vegas, Nevada 89119  
25 Attorneys for plaintiff  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of Law  
3 Offices of Michael F. Bohn., Esq., and on the 7<sup>th</sup> day of September, 2017, an electronic copy of the  
4 **ANSWER TO THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S COUNTERCLAIMS**  
5 was served on opposing counsel via the Court's electronic service system to the following:

6  
7 Melanie Morgan Esq.  
8 Tenesa S. Scaturro, Esq  
9 AKERMAN LLP  
10 1160 Town Center Drive, Suite 330  
11 Las Vegas, NV 89144  
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13 Trust 2007-3

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Attorney for defendants,  
Frank and Madeline Timpa

19 /s/ /Marc Sameroff /  
20 An Employee of the LAW OFFICES OF  
21 MICHAEL F. BOHN, ESQ.  
22  
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