

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 3

Counsel for Appellant:

Roger P. Croteau, Esq.
Nevada Bar No. 4958
ROGER P. CROTEAU & ASSOCIATES, LTD.
2810 W. Charleston Blvd., Ste. 75
Las Vegas, Nevada 89102
Tel: (702) 254-7775
Fax: (702) 228-7719
Email: croteaulaw@croteaulaw.com

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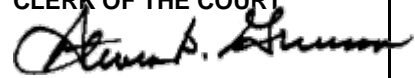
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MICHAEL F. BOHN, ESQ.
Nevada Bar No.: 1641
mbohn@bohnlawfirm.com
LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.
2260 Corporate Circle, Ste. 480
Henderson, Nevada 89074
(702) 642-3113/ (702) 642-9766 FAX

Attorney for plaintiff/counterdefendant
Saticoy Bay LLC Series 34 Innisbrook

DISTRICT COURT
CLARK COUNTY, NEVADA

SATICOY BAY LLC SERIES 34
INNISBROOK,

Plaintiff,

vs.

THORNBURG MORTGAGE SECURITIES
TRUST 2007-3; and 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, LLC, an unknown
entity; FRANK TIMPA, an individual; DOES I
through X; and ROE CORPORATIONS I through
X, inclusive,

Counter-defendants.

And All related claims

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

MOTION FOR SUMMARY JUDGMENT

1 Plaintiff/Counterdefendant Saticoy Bay LLC Series 34 Innisbrook , by and through its attorneys,
2 the Law Offices of Michael F. Bohn, Esq. moves this court for summary judgment against the defendant
3 bank and the granting of quiet title to the plaintiff. This motion is based upon the points and authorities
4 contained herein.

5 DATED this 4th day of May, 2018.

6 LAW OFFICES OF
7 MICHAEL F. BOHN, ESQ., LTD.

8 By: /s/ Adam R. Trippiedi, Esq.
9 Michael F. Bohn, Esq.
10 Adam R. Trippiedi, Esq.
11 2260 Corporate Circle., Ste. 480
12 Henderson, NV 89074
13 Attorney for plaintiff
14 Saticoy Bay LLC Series 34 Innisbrook

12 **NOTICE OF MOTION**

13 TO: Defendants above named; and

14 TO: Their respective counsel of record.

15 YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the
16 above and foregoing Motion on for hearing before the above entitled Court, Department 26, on the
17 **12** day of **JUNE**, 2018 at **9:30A** a.m. or as soon thereafter as counsel can be heard.

18 DATED this 4th day of May, 2018.

19
20 LAW OFFICES OF
21 MICHAEL F. BOHN, ESQ., LTD.

22 By: /s/ Adam R. Trippiedi, Esq.
23 Michael F. Bohn, Esq.
24 Adam R. Trippiedi, Esq.
25 2260 Corporate Circle., Ste. 480
26 Henderson, NV 89074
27 Attorney for plaintiff
28 Saticoy Bay LLC Series 34 Innisbrook

FACTS

1. Facts regarding the foreclosure sale

Plaintiff Saticoy Bay LLC Series 34 Innisbrook (“plaintiff” or “Saticoy Bay”) is the owner of real property commonly known as 34 Innisbrook Avenue, Las Vegas, Nevada. Plaintiff acquired title by way of foreclosure deed recorded on November 10, 2014. A copy of the foreclosure deed is attached as Exhibit 1. The plaintiff’s title stems from a foreclosure deed arising from a delinquency in assessments due from the former owner to the Sunrise Ridge HOA (“the HOA”) pursuant to NRS Chapter 116. As a result, the interest of each defendant has been extinguished by reason of the foreclosure.

Defendant Thornburg Mortgage Securities Trust 2007-3 (“defendant bank” or “defendant”) is the beneficiary of a deed of trust that was recorded as an encumbrance to the Property on June 12, 2006. Defendant Recontrust Company, N.A. is the trustee of the deed of trust. Defendants Frank and Madelaine Timpa are the former owners of the Property. A copy of the deed of trust is attached as Exhibit 2. An assignment to defendant was recorded on June 9, 2010 as Instrument #201006090003189. The Assignment is attached as Exhibit 3.

On December 21, 2010, the foreclosure agent sent the former owners the pre-lien letter and a copy of the notice of lien. A copy of the letter and the proof of mailing is Exhibit 4.

On August 4, 2011, the foreclosure agent recorded the notice of lien. A copy of the notice of lien is attached as Exhibit 5.

On December 6, 2011, the foreclosure agent recorded a notice of default and election to sell under homeowners association lien. The foreclosure agent also mailed the notice to the former owner and the defendant bank. A copy of the notice of default and the proof of mailing is Exhibit 6.

On September 15, 2014, the foreclosure agent recorded a notice of foreclosure sale. A copy of the notice of foreclosure Sale is attached as Exhibit 7. The foreclosure agent also mailed a copy of the notice of foreclosure sale to the former owner and defendant bank. The proof of mailing is attached as part of Exhibit 8.

The foreclosure agent also posted the notice on the property and in three locations throughout the county. A copy of the affidavit of posting is Exhibit 9. The foreclosure agent also published the notice

1 of sale in the Nevada Legal News. A copy of the affidavit of publication is Exhibit 10.

2 As evidenced by the foreclosure deed attached hereto as Exhibit 1, the public auction was held
3 on November 7, 2014. Plaintiff, being the highest bidder at the sale, became the purchaser of the subject
4 property.

5 These exhibits demonstrate that the defendant bank was on actual notice of the HOA foreclosure
6 and failed to take any action to avoid a sale to its own detriment, eventually resulting in the
7 extinguishment of the deed of trust.

8 **2. Discovery conducted during litigation**

9 During discovery, defendant Red Rock Financial Services, the foreclosure agent, produced their
10 foreclosure file as part of their initial disclosures. Exhibits 4 through 10 were in this initial disclosure
11 of documents.

12 During discovery in this case, the defendant bank was served with interrogatories regarding the
13 plaintiffs status as a bona fide purchaser, and for proof of fraud, oppression or unfairness or irregularities
14 regarding the noticing or the sale of the property. The defendant bank's answers contained objections
15 and were otherwise non-responsive. A copy of the answers to interrogatories is Exhibit 11.

16 In the interrogatories, the plaintiff propounded interrogatory 13:

17 **INTERROGATORY NO. 13:** Identify all facts, information, and evidence of which you
18 are aware that contradicts Plaintiff's assertion that it was a bona fide purchaser for value
at the Association foreclosure sale.

19 The defendant responded:

20 **RESPONSE:** Objection. This request calls for a legal conclusion to which no response is
21 required. This request is subject to the attorney work-product doctrine. Subject to the foregoing
22 objections and without waiving the same, Thornburg intends to produce an expert report regarding
23 Plaintiff's bona fide purchaser status. Moreover, Thornburg contends that Plaintiff was aware of
Thornburg's competing interest in the Property and recorded Deed of Trust prior to sale thus
negating its bond fide purchaser status. Discovery is ongoing. Thornburg reserves the right to
supplement its response as information becomes known or available.

24 The plaintiff propounded interrogatory 15:

25 **INTERROGATORY NO. 15:** Identify all facts, information, and evidence of which you
26 are aware which evidences any fraud, oppression or unfairness in regards to the
association foreclosure sale.

27 The defendant responded:

1 **RESPONSE:** Objection. This request calls for a legal conclusion to which no response is
2 required. This request is subject to the attorney work-product doctrine. This request calls for an
3 incomplete hypothetical. This request is unlimited in time and scope. Subject to the foregoing
4 objections and without waiving the same, the (sic).

5 The plaintiff propounded interrogatory 17:

6 **INTERROGATORY NO. 17:** Identify all facts, information, and evidence of which you
7 are aware which evidences that the association foreclosure sale was not properly
8 conducted.

9 The defendant responded:

10 **RESPONSE:** See response to Interrogatory No. 16.

11 The plaintiff propounded interrogatory 18:

12 **INTERROGATORY NO. 18:** Identify all facts, information, and evidence of which you
13 are aware which evidences that the association foreclosure sale was not properly noticed.

14 The defendant responded:

15 **RESPONSE:** Objection. This request calls for a legal conclusion to which no response is
16 required. This request is vague and ambiguous as to the term “properly noticed.” This request
17 is overly broad and unduly burdensome. Subject to the foregoing objections and without waiving
18 the same, Thornburg is currently unaware of whether the foreclosure notices were properly mailed
19 or received. Thornburg also contends the foreclosure notices contained improper super-priority
20 lien amounts, thus the sale was at a minimum, subject to Thornburg’s first deed of trust.
21 Discovery is ongoing, Thornburg reserves the right to supplement its response as information
22 becomes known or available.

23 The defendant has shown no facts which the plaintiff could have been on notice of to deprive it
24 of bona fide purchaser status. The defendant has also failed to identify any fraud, oppression or
25 unfairness. For these reasons, the court should grant summary judgment granting quiet title and
26 declaratory relief to the plaintiff.

27 POINTS AND AUTHORITIES

28 **A. The new Shadow Canyon case**

The new case of Nationstar Mortgage v. Saticoy Bay, LLC Series 2227 Shadow Canyon, 133
Nev. Adv. Op. 91 (Nov. 22, 2017) clarified a large numbers of issues regarding real property foreclosure
sales in Nevada.

1. The commercial reasonableness standard from Article 9 of the UCC is not applicable to real
property foreclosures.

1 2. The court re-affirmed what it said in Shadow Wood, that price alone, however gross, is not
2 sufficient grounds to set aside a foreclosure sale, but there must be some element of fraud, oppression or
3 unfairness as accounts for and brings about the inadequate price.”

4 3. The 20% standard contained in the Restatement (Third) of Property: Mortgages §8.3 (1997)
5 was outright rejected by the court.

6 4. The bank has the burden to show that the sale should be set aside in light of the purchaser’s
7 status as record title holder.

8 5. There is a presumption in favor of the record title holder.

9 6. There is the statutory presumption that the foreclosure sale complied with the provisions of
10 NRS Chapter 116, citing to NRS 47.250(16) providing for a rebuttable presumption “[that] the law has
11 been obeyed”) and NRS 116.31166, providing for the conclusiveness of the deed containing the recitals
12 of the required steps for a valid sale.

13 7. There must be “actual” evidence of fraud, unfairness or oppression.

14 8. Fines may be included in an assessment lien and foreclosed upon

15 9. The fact that the notice of lien stated the current amount due rather than the estimated amount
16 as of the scheduled sale date does not invalidate the sale when there was no evidence in the record to
17 show that the bank was prejudiced by the error.

18 10. Post foreclosure activities do not affect the validity of the sale.

19 11. The class of persons who signed the recorded notices is very broad.

20 **B. General principles of law and equity apply to sales under NRS Chapter 116**

21 NRS 116.1108 provides:

22 **Supplemental general principles of law applicable.** The principles of **law and equity**,
23 including the law of corporations and any other form of organization authorized by law
24 of this State, the law of unincorporated associations, **the law of real property**, and the
25 law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud,
misrepresentation, duress, coercion, mistake, receivership, substantial performance, or
to the extent inconsistent with this chapter. (emphasis added)

26 The principles of equity and real property are applicable to this foreclosure sale, and preclude
27
28

1 relief to the defendant.

2 **C. Equitable relief is not available because the defendant was on notice of the sale and failed to**
3 **take any steps to protect its interests.**

4 The court in Shadow Wood, noted that equitable relief is not available to a party that was on
5 notice but failed to act. Footnote 7 to the decision states:

6 Consideration of harm to potentially innocent third parties is especially pertinent here
7 where NYCB did not use the legal remedies available to it to prevent the property from
8 being sold to a third party, such as by seeking a temporary restraining order and
9 preliminary injunction and filing a lis pendens on the property. *See* NRS 14.010; NRS
10 40.060. *Cf. Barkley's Appeal, Bentley's Estate*, 2 Monag. 274, 277 (Pa.1888) (“**In the case**
11 **before us, we can see no way of giving the petitioner the equitable relief she asks**
12 **without doing great injustice to other innocent parties who would not have been in**
13 **a position to be injured by such a decree as she asks if she had applied for relief at**
14 **an earlier day.”). (emphasis added)**

15 The Shadow Wood court also cited the case of Nussbaumer v. Superior Court in & for Yuma City,
16 107 Ariz. 504, 489 P.2d 843, 846 (Ariz. 1971) “Where the complaining party has access to all the facts
17 surrounding the questioned transaction and merely makes a mistake as to the legal consequences of his
18 act, equity should normally not interfere, especially where the rights of third parties might be prejudiced
19 thereby,”

20 Also in Shadow Wood, the court cited several cases refusing to grant equitable relief where the
21 rights of third persons are affected, invoking the bona fide purchaser doctrine.

22 When sitting in equity, however, courts must consider the entirety of the circumstances
23 that bear upon the equities....
24 This includes considering the status and actions of all parties involved, including whether
25 an innocent party may be harmed by granting the desired relief.⁷ *Smith v. United States*,
26 373 F.2d 419, 424 (4th Cir.1966) (“Equitable relief will not be granted to the possible
27 detriment of innocent third parties.”); *see also In re Vlasek*, 325 F.3d 955, 963 (7th
28 Cir.2003) (“[I]t is an age-old principle that in formulating equitable relief a court must
consider the effects of the relief on innocent third parties.”); *Riganti v. McElhinney*, 248
Cal.App.2d 116, 56 Cal.Rptr. 195, 199 (Ct.App.1967) (“[E]quitable relief should not be
granted where it would work a gross injustice upon innocent third parties.”).

29 The defendant received the foreclosure notices and failed to act, and the property was acquired
30 by a third party. The defendant is not entitled to equitable relief.

31 **D. Equitable relief is not available because there is an adequate remedy at law**

1 The common law rule is that there is no equity jurisdiction when a party has available to itself an
2 adequate remedy at law. See Las Vegas Valley Water District v. Curtis Park Manor Water Users
3 Association, 98 Nev. 275, 646 P.2d 549 (1982) “The district court was without authority to grant
4 equitable relief since an adequate remedy exists at law.”

5 In Washoe County v. City of Reno 77 Nev. 152, 360 P.2d 602 (1961), the court held that the fact
6 that the judgment may not be collectable is not an issue to be considered. The court stated:

7 During oral argument, counsel for respondents suggested that an action at law would not
8 be adequate because it could not be enforced by a writ of execution against a county fund.
9 Whether this be true or not, it is hardly to be supposed that an execution would be
10 necessary in the event a judgment at law were obtained against the county in this type of
11 case any more than a contempt proceeding would be required in the event a peremptory
12 writ of mandamus were issued. **In answer to this suggestion however it is necessary to
say only that our concern is with the existence of a remedy and not whether it will
be unproductive in this particular case,** Hughes v. Newcastle Mutual Insurance Co., 13
U.C.Q.B. (Ont.) 153, or inconvenient, Gulf Research & Development Co. v. Harrison, 9
Cir., 185 F.2d 457, or ineffectual, United States ex rel. Crawford v. Addison, 22 How.
174, 63 U.S. 174, 16 L.Ed. 304.

13 In Stewart v. Manget, 132 Fla. 498, 181 So. 370, in affirming an order dismissing a bill
14 in equity on the ground that the plaintiff had an adequate remedy at law, the Florida
Supreme Court cited with approval the following language from Tampa & G. C. R. Co.
v. Mulhern, 73 Fla. 146, 74 So. 297, 299:

15 ‘The inadequacy of a remedy at law to produce money is not the test of the
16 applicability of the rule. **All remedies, whether at law or in equity,
frequently fail to do that; and to make that the test of equity
jurisdiction would be substituting the result of a proceeding for the
proceeding which is invoked to produce the result. The true test is,
17 could a judgment be obtained in a proceeding at law, and not, would
the judgment procure pecuniary compensation.’**

18
19 (Emphasis added)

20
21 In the case of Moeller v. Lien, 25 Cal. App. 4th 822, 30 Cal. Rptr. 2d 777 (1994), the respondent
22 allowed a trustee’s sale to go forward even though it had available cash deposits to pay off the loan. Id.
23 at 828. The trial court set aside the sale because “[t]he value of the property was four times the amount
24 of the debt/sales price.” Id. at 829. The Court of Appeals reversed the trial court’s order and stated:

25 **Thus as a general rule, a trustor has no right to set aside a trustee’s deed as against**
26 **a bona fide purchaser for value by attacking the validity of the sale.** (Homestead
27 Savings v. Damiento, supra, 230 Cal. App. 3d at p. 436.) The conclusive presumption
precludes an attack by the trustor on a trustee’s sale to a bona fide purchaser **even though**
28 **there may have been a failure to comply with some required procedure which**

1 **deprived the trustor of his right of reinstatement or redemption.** (4 Miller & Starr,
2 supra, § 9:141, p. 463; cf. *Homestead v. Damiento*, supra, 230 Cal. App. 3d at p. 436.)
3 The conclusive presumption precludes an attack by the trustor on the trustee's sale to a
4 bona fide purchaser even where the trustee wrongfully rejected a proper tender of
reinstatement by the trustor. **Where the trustor is precluded from suing to set aside
the foreclosure sale, the trustor may recover damages from the trustee.** (*Munger v.*
Moore (1970) 11 Cal. App. 3d 1, 9, 11 [89 Cal. Rptr. 323].)

5 Id. at 831-832. (emphasis added)

6 Under the Shadow Wood factors, the defendant must show there is some defect with the sales
7 process to justify equitable relief, and if the plaintiff is a bona fide purchaser, the bank's remedy is against
8 the foreclosure agent.

9 There has been no defect with the sales process, however, even assuming there was some defect
10 in the sale (which the plaintiff denies) the defendant has no remedies against plaintiff because any
11 damages which the defendant may have sustained as a result of any alleged wrongful foreclosure can be
12 compensated with money damages against the foreclosure agent.

13 The Restatement (Third) of Prop.: Mortgages § 8.3, Comment (b) recognizes that where the
14 property has been purchased by a bona fide purchaser, "the real estate is unavailable" and that "price
15 inadequacy" may be raised in a suit against the foreclosing mortgagee for damages, stating:

16 On the other hand, where foreclosure is by power of sale, judicial confirmation of the sale
17 is usually not required and the issue of price inadequacy will therefore arise only if the
18 party attacking the sale files an independent judicial action. Typically this will be an
19 action to set aside the sale; it may be brought by the mortgagor, junior lienholders, or the
20 holders of other junior interests who are prejudiced by the sale. **If the real estate is**
21 **unavailable because title has been acquired by a bona fide purchaser,** the issues of
price inadequacy may be raised by the mortgagor or a junior interest holder in a suit
against the foreclosing mortgagee for damages for wrongful foreclosure. **This latter**
remedy, however, is not available based on gross price inadequacy alone. In addition,
the mortgagee must be responsible for a defect in the foreclosure process of the type
described in Comment c of this section. (emphasis added)

22 Shadow Wood, consistent with this stated:

23 "The decisions are uniform that the bona fide purchaser of a legal title is not affected by
24 any latent equity founded either on a trust, [e]ncumbrance, or otherwise, of which he has
25 no notice, actual or constructive." citing *Moore v. De Bernardi*, 47 Nev. 33, 54, 220 P.
544, 547 (1923)

26 There is no defect with the sales process and fore, if the purchaser is a bona fide purchaser, the
27 sale cannot be set aside. The bank, however, is not without a remedy, providing, of course, that there was

1 a prejudicial defect with the sale (which has not been shown here). It has an claim for money damages
2 against the foreclosure agent for any defect in the sale process.

3 **E. Equitable relief is not available because of the bona fide purchaser doctrine**

4 Miller & Starr, California Real Estate §10.51 (4th Ed. 2016) provides:

5 **Evidence required.** The person claiming to be a bona fide purchaser satisfies the burden
6 of proof when it is proved that he or she paid value for the title or lien. It is then
7 presumed that the lien or interest was received in good faith and without notice, and the
burden shifts to the other person to prove that the alleged bona fide purchaser had notice.

...

8 In a commentary to this section, the treatise states:

9 As a practical matter, it makes little difference who has the burden of proof. The alleged
10 bona fide purchaser usually testifies that he or she did not have notice, and the other party
must prove that he or she did.

11 Nationstar Mortgage v. Saticoy Bay, LLC Series 2227 Shadow Canyon 133 Nev. Adv. Op. 91
12 (2017) clarified that the bank has the burden to show that the sale should be set aside in light of the
13 purchaser's status as record title holder, and there is a presumption in favor of the record title holder.

14 In Shadow Wood Homeowners Association v. New York Community Bank, 132 Nev. Adv. Op
15 5, 366 P.3d 1105 (2016) the court stated:

16 The question remains whether NYCB demonstrated sufficient grounds to justify the
17 district court in setting aside Shadow Wood's foreclosure sale on NYCB's motion for
summary judgment.

18 Similarly, in First Fidelity Thrift & Loan Ass'n v. Alliance Bank, 60 Cal. App. 4th 1433, 71 Cal.
19 Rptr. 2d 295 (1998), the court recognized that where a party is seeking equitable relief, the burden is on
20 the party seeking equitable relief to allege and prove that the person holding legal title is not a bona fide
21 purchaser:

22 **That Alliance had knowledge of First Fidelity's equitable claim for reinstatement of**
23 **its reconveyed deed of trust was an element of First Fidelity's case.** "The general rule
24 places the burden of proof upon a person claiming bona fide purchaser status to present
evidence that he or she acquired interest in the property without notice of the prior
25 interest. (Bell v. Pleasant (1904) 145 Cal. 410, 413-414, 78 P. 957; Alcorn v. Buschke
(1901) 133 Cal. 655, 657-658, 66 P. 15; Hodges v. Lochhead (1963) 217 Cal. App.2d 199,
26 203, 31 Cal. Rptr. 879; 2 Miller & Starr, Current Law of Cal. Real Estate [1977] § 11:28,
p. 51.) ... [¶] If the prior party claims an equitable rather than a legal title, however, the
27 burden of proof is upon the person asserting that title. (Bell v. Pleasant, *supra*, 145 Cal.
410, 414-415, 78 P. 957; Garber v. Gianella (1893) 98 Cal. 527, 529-530, 33 P. 458; 2
Miller & Starr, Current Law of Cal. Real Estate, *supra*, § 11:28, pp. 52-53.)" (Gates

1 Rubber Co. v. Ulman (1989) 214 Cal. App. 3d 356, 366, fn. 6, 262 Cal. Rptr. 630.) (2b)
2 **Showing that Alliance was not an innocent purchaser for value was hence an element**
3 **of First Fidelity's claim.** (Firato v. Tuttle, *supra*, 48 Cal.2d 136, 138, 308 P.2d 333.)
4 (emphasis added)

5 60 Cal. App. 4th at 1442, 71 Cal. Rptr. at 301.

6 The defendant has the burden to prove a defect with the sale, and that the purchaser knew of the
7 defect at or before the time of the sale. The defendant has failed in both counts.

8 The concept of bona fide purchaser has more application in voluntary sales in which title is
9 transferred by deed. In these cases, a purchaser takes subject to any matters which are recorded against
10 the property. However, in foreclosure cases, the bona fide purchaser doctrine rarely comes into play
11 because all interests on the property which are junior to the lien being foreclosed upon are extinguished.
12 This is even more so with an HOA foreclosure because it is senior to all other liens other than prior
13 existing debts and taxes are extinguished by the foreclosure. In these situations, the purchaser would be
14 precluded from bona fide purchaser status in HOA foreclosure cases only if there was some irregularity
15 in the sale AND the purchaser knew of the irregularity.

16 The treatise 1 Grant S. Nelson, Dale A. Whitman, Ann M. Burkhart & R. Wilson Freyermuth,
17 *Real Estate Finance Law* (6th ed. 2014) was cited in the Shadow Wood decision.

18 Section 7.21 of this treatise is entitled “defective power of sale foreclosure-“void-
19 voidable” distinction. The treatise explains there are three types of defects which may affect the validity
20 of foreclosure sales, void, voidable, or inconsequential.

21 The treatise then explains:

22 Most defects render the foreclosure voidable and not void. When a voidable error occurs,
23 bare legal title passes to the sale purchaser, subject to the redemption rights of those
24 injured by the defective foreclosure. Typically, a voidable error is “an irregularity in the
25 execution of a foreclosure sale” and must be “substantial or result in a probably
26 unfairness.”

27 If the defect only renders the sale voidable, the redemption rights can be cut off if a bona
28 fide purchase for value acquires the land. When this occurs, an action for damages against
the foreclosing mortgagee or trustee may be the only remaining remedy.

...
The treatise then goes on to explain who is a bona fide purchaser in a foreclosure context:

If the defective sale is only voidable, who is a bona fide purchaser? A mortgagee

1 purchaser should rarely, if every, qualify as a bona fide purchaser, because the mortgagee
2 or its attorney normally manages the power of sale foreclosure and should be responsible
3 for defects. The result should be the same when a deed of trust is foreclosed. Although
4 the trustee, rather than the lender, normally is in charge of the proceedings, the court
5 probably will treat the trustee as the lender's agent for purposes of determining BFP
6 status. **If the sale purchaser paid value and is unrelated to the mortgagee, he should
take free of voidable defects if : (a) he has no actual knowledge of he defects; (b) he
is not on reasonable notice from recorded instruments; and © the defects are such
of the defects....**

(emphasis added, footnotes omitted)

7 The defendant answered an interrogatory about the plaintiff's status as bona fide purchaser. The
8 plaintiff propounded interrogatory 13:

9
10 **INTERROGATORY NO. 13:** Identify all facts, information, and evidence of which you
11 are aware that contradicts Plaintiff's assertion that it was a bona fide purchaser for value
at the Association foreclosure sale.

12 The defendant responded:

13 **RESPONSE:** Objection. This request calls for a legal conclusion to which no response is
14 required. This request is subject to the attorney work-product doctrine. Subject to the
15 foregoing objections and without waiving the same, Thornburg intends to produce an
16 expert report regarding Plaintiff's bona fide purchaser status. Moreover, Thornburg
17 contends that Plaintiff was aware of Thornburg's competing interest in the Property and
recorded Deed of Trust prior to sale thus negating its bond fide purchaser status. Discovery
is ongoing. Thornburg reserves the right to supplement its response as information
becomes known or available.

18 The defendant's answers to interrogatories regarding the issue of bona fide purchaser do not allege
19 any defect in the sales process or that the purchaser knew of the defect in the sales process.

20 From the three factors listed here, the purchaser would be a bona fide purchaser. The purchaser's
21 representative, Eddie Haddad's affidavit is attached. It states in part:

22 6. Prior to and at the time of the foreclosure sale, there was nothing recorded in
23 the public record to put me on notice of any claims or notices that any portion of the lien
had been paid.

24 7. Prior to and at the time of the foreclosure sale, there is no way for myself or any
25 other potential bidder at the foreclosure sale to research if the notices were sent to the
26 proper parties at the proper address. I, and other potential bidders are forced to rely only
27 on the professional foreclosure agent to have obtained a trustee's sale guarantee issued by
28 a local title and escrow company and to serve the notices upon the parties who are entitled
to notice.

1 8. As a result of the limited information available to myself and other potential
2 bidders, I, on behalf of the plaintiff, am a bona fide purchaser of the property, for
3 value, without notice of any claims on the title to the property or any alleged defects in
4 the sale itself.

5 The mailing of notices, the addresses to where they are sent, or even an attempted tender of
6 the super priority lien are not matters to be found in the public record.

7 Additionally, the defendant's answers to interrogatories regarding the issue of bona fide
8 purchaser do not allege any defect in the sales process or that the purchaser knew of the defect in the
9 sales process. The court should therefore find that the plaintiff purchaser is a bona fide purchaser, and
10 its title should not be affected.

11 The answers set forth two basis to claim that the plaintiff is not a bona fide purchaser. The
12 price paid and his knowledge of the existing deed of trust. Neither of these are appropriate grounds.
13 The court in Shadow Wood specifically stated:

14 Although, as mentioned, NYCB might believe that Gogo Way purchased the property
15 for an amount lower than the property's actual worth, that Gogo Way paid "valuable
16 consideration" cannot be contested. *Fair v. Howard*, 6 Nev. 304, 308 (1871) ("The
17 question is not whether the consideration is adequate, but whether it is valuable."); see
18 also *Poole v. Watts*, 139 Wash.App. 1018 (2007) (unpublished disposition) (stating
19 that the fact that the foreclosure sale purchaser purchased the property for a "low
20 price" did not in itself put the purchaser on notice that anything was amiss with the
21 sale).

22 The fact that the plaintiff knew of the trust deed is of no consequence. Under 116.3116 as
23 interpreted by the SFR case, the foreclosure sale extinguishes the deed of trust. It does not survive
24 simply because it was recorded and known to exist to the world.

25 Shadow Wood discusses bona fide purchaser in detail. The many points contained in the
26 decision can be summarized as:

- 27 1. A bona fide purchase is without notice of any **prior equity**.
- 28 2. "The decisions are uniform" that the title of a bona fide purchaser is not affected by any
matter of which he has no notice.
3. The bona fide purchaser must pay **valuable** consideration, not "adequate" consideration.
4. The fact that the foreclosure price may be "low" is not sufficient to put the purchaser on

1 notice of any alleged defects with the sale.

2 5. The fact that the court retains equitable power to void the sale does deprive the purchaser
3 of bona fide purchaser status.

4 6. The time to determine the status of bona fide purchaser is at the time of the sale.

5 The defendant has failed to produce any evidence or basis during discovery to deprive the
6 plaintiff of its status as a bona fide purchaser

7 **F. The failure of the defendant to protect its interest before the sale precludes relief in its favor**

8 The defendant created the situation by letting the property go to sale without doing anything to
9 satisfy the lien or stop the sale, and permitted an innocent third party purchase the property. The
10 Supreme Court in both SFR and Shadow Wood noted that the defendant banks were responsible for
11 their own damages.

12 In SFR Investments Pool 1 v. U.S. Bank 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014) the
13 court said not once, but twice, that the price paid at the foreclosure sale was not an issue because the
14 bank could simply have paid the super priority amount to preserve its interest in the property. The
15 Court stated at page 414:

16 U.S. Bank's final objection is that it makes little sense and is unfair to allow a
17 relatively nominal lien—nine months of HOA dues—to extinguish a first deed of trust
18 securing hundreds of thousands of dollars of debt. But as a junior lienholder, U.S.
19 Bank could have paid off the SHHOA lien to avert loss of its security; it also could
20 have established an escrow for SHHOA assessments to avoid having to use its own
funds to pay delinquent dues. 1982 UCIOA § 3116 cmt. 1; 1994 & 2008 UCIOA §
3–116 cmt. 2. **The inequity U.S. Bank decries is thus of its own making and not a
reason to give NRS 116.3116(2) a singular reading at odds with its text and the
interpretation given it by the authors and editors of the UCIOA.** (emphasis added)

21 The Court also stated at page 418:

22 U.S. Bank further complains about the content of the notice it received. It argues that
23 due process requires specific notice indicating the amount of the superpriority piece of
the lien and explaining how the beneficiary of the first deed of trust can prevent the
24 superpriority foreclosure sale. But it appears from the record that specific lien amounts
were stated in the notices, ranging from \$1,149.24 when the notice of delinquency was
25 recorded to \$4,542.06 when the notice of sale was sent. The notices went to the
homeowner and other junior lienholders, not just U.S. Bank, so it was appropriate to
26 state the total amount of the lien. As U.S. Bank argues elsewhere, dues will typically
comprise most, perhaps even all, of the HOA lien. *See supra* note 3. **And from what
27 little the record contains, nothing appears to have stopped U.S. Bank from
determining the precise superpriority amount in advance of the sale or paying the**

1 **entire amount and requesting a refund of the balance.** *Cf. In re Medaglia*, 52 F.3d
2 451, 455 (2d Cir.1995) (“[I]t is well established that due process is not offended by
3 requiring a person with actual, timely knowledge of an event that may affect a right to
exercise due diligence and take necessary steps to preserve that right.”). (Emphasis
added)

4 In the case of *Shadow Wood Homeowners Association v. New York Community Bank*, 132
5 Nev. Ad. Op. 5, 366 P.3d 1105 (2016), the Supreme Court stated other ways that a bank could
6 protect itself.

7 Against these inconsistencies, however, must be weighed NYCB's (in)actions. The
8 NOS was recorded on January 27, 2012, and the sale did not occur until February 22,
9 2012. NYCB knew the sale had been scheduled and that it disputed the lien amount,
yet it did not attend the sale, request arbitration to determine the amount owed, or seek
10 to enjoin the sale pending judicial determination of the amount owed. The NOS
included a warning as required by NRS 116.311635(3)(b):

11

12 366 P.3d at 1114

13 The defendant had remedies available to it to protect its interests before the foreclosure sale
14 and failed to avail itself of these remedies. It cannot now seek relief from this court.

15 **G. Presumptions**

16 Nationstar Mortgage v. Saticoy Bay, LLC Series 2227 Shadow Canyon, 133 Nev. Adv. Op. 91
17 (Nov. 22, 2017) recognized the presumptive validity of the foreclosure sales, citing the statutory
18 disputable presumption that “the law has been obeyed.” in NRS 47.250(16) and the recitals in the
19 deed are sufficient and conclusive proof that the required notices were complied with. NRS
20 116.31166.

21 The purpose of the presumption of validity and the public policy of finality is to encourage
22 prospective purchasers to participate in the foreclosure process and to maximize the prices paid at
23 foreclosure sale. See Moeller v. Lien 25 Cal. App. 4th 822, 30 Cal. Rptr. 2d 777 (1994).

24 **H. Fraud, oppression or unfairness and price paid**

25 The case of Nationstar Mortgage v. Saticoy Bay, LLC Series 2227 Shadow Canyon, 133 Nev.
26 Adv. Op. 91 (Nov. 22, 2017) re-affirmed the standard to set aside a sale is in inadequate sales price,
27 inadequacy of price, and additional proof of some fraud, oppression or unfairness **that accounts for**

1 **and brings about the inadequacy of price.** The 20% rule of the Restatement was specifically
2 rejected.

3 The bank's answers to interrogatories do not set forth any evidence or contentions of any
4 defect in the sale that would constitute fraud, oppression or unfairness.

5 **I. The Trust Deed has been Extinguished.**

6 In its decision in the case of SFR Investments Pool 1, LLC v. U.S. Bank, N.A., 130 Nev., Adv.
7 Op. 75, 334 P.3d 408 (2014), the Nevada Supreme Court stated:

8 NRS 116.3116 gives a homeowners' association (HOA) a superpriority lien on an individual
9 homeowner's property for up to nine months of unpaid HOA dues. With limited exceptions,
10 this lien is "prior to all other liens and encumbrances" on the homeowner's property, even a
11 first deed of trust recorded before the dues became delinquent. NRS 116.3116(2). We must
12 decide whether this is a true priority lien such that its foreclosure extinguishes a first deed of
13 trust on the property and, if so, whether it can be foreclosed nonjudicially. We answer both
14 questions in the affirmative and therefore reverse.

15 334 P.3d at 409.

16 At the conclusion of its opinion, the Nevada Supreme Court stated:

17 NRS 116.3116(2) gives an HOA a true superpriority lien, proper foreclosure of which
18 will extinguish a first deed of trust. Because Chapter 116 permits nonjudicial
19 foreclosure of HOA liens, and because SFR's complaint alleges that proper notices
20 were sent and received, we reverse the district court's order of dismissal. In view of
21 this holding, we vacate the order denying preliminary injunctive relief and remand for
22 further proceedings consistent with this opinion.

23 334 P.3d at 419.

24 Because the facts in the present case are substantially the same as the facts in SFR
25 Investments Pool 1, LLC v. U.S. Bank, N.A., this Honorable Court should reach the same conclusion
26 that the nonjudicial foreclosure arising from the HOA's super priority lien extinguished the deed of
27 trust held by the plaintiff bank on the date of sale. As a result, this Court should rule that the deed of
28 trust held by defendant was extinguished by the HOA's foreclosure sale.

29 **J. Defendant's attempted tender does not affect Saticoy Bay's title.**

30 Defendant's Answer and Counterclaims, filed on April 10, 2015, on page 10, paragraph 31,
31 states that "Prior to the HOA Sale, THORNBURG and its predecessors tendered payment of 9 months
32 of assessments to HOA and its agents, thus satisfying the super-priority lien prior to HOA's
33

1 foreclosure of the remaining lien amount.”

2 However, defendant’s Answer and Counterclaims contains no allegations that defendant did
3 anything to keep the remaining amount of the super-priority amount “good.”

4 The concept of tender is discussed in the Restatement (Third) of Prop.: Mortgages §6.4 and
5 persuasive California case law. The rules regarding payments made by a person not primarily liable
6 on the debt are as follows:

7 **§ 6.4 Redemption from Mortgage by Performance or Tender**

8 ...
9 (e) A performance in full of the obligation secured by a mortgage, or a
10 performance that is accepted by the mortgagee in lieu of payment in full, **by**
11 **one who holds an interest in the real estate subordinate to the mortgage**
12 **but is not primarily responsible for performance, does not extinguish the**
13 **mortgage**, but redeems the interest of the person performing from the
14 mortgage and entitles the person performing to subrogation to the mortgage
15 under the principles of §7.6. Such performance may not be made until the
16 obligation secured by the mortgage is due, but may be made at or after the time
17 the obligation is due but prior to foreclosure.

18 (f) Upon receipt of performance as provided in Subsection (e), the mortgagee has a
19 duty to provide to the person performing, within a reasonable time, an
20 appropriate assignment of the mortgage in recordable form. If the mortgagee
21 fails to do so upon reasonable request, the person performing may obtain
22 judicial relief ordering the mortgage assigned and, unless the mortgagee acted
23 in good faith in rejecting the request, awarding against the mortgagee any
24 damages resulting from the delay.

25 (g) An **unconditional tender of performance in full by a person described in**
26 **Subsection (e)**, even if rejected by the mortgagee, **if kept good** has the effect
27 of performance under Subsections (e) and (f) above. (emphasis added)

28 A photocopy of this section from the Restatement is attached as Exhibit 12.

 At the threat of foreclosure by a senior lien, a junior lienor is entitled, even without express
contractual authority, to reinstate the loan by making a payment sufficient to cure the default or to pay
off the senior lien and become subrogated to the rights of the senior lienholder as against the owner of
the property. See Restatement (Third) of Prop.: Mortgages §7.6; American Sterling Bank v. Johnny
Management LV, Inc., 126 Nev. 423, 245 P.3d 535 (2010); Houston v. Bank of America 119 Nev.
485, 78 P.3d 71 (2003).

 The Restatement (Third) of Prop.: Mortgages §6.4 , comment a, explains the distinction
between payment or tender by someone primarily liable for the debt, and payment or tender by a party

1 seeking to protect its interest in the property. It states in part:

2 Equitable redemption is ultimately accomplished by performance in full of the
3 obligation secured by the mortgage. **However, redemption has two quite distinct**
4 **results, depending on whether the performance is made by a person who is**
5 **primarily responsible for payment of the mortgage obligation, or by someone else**
6 **who holds an interest in the land subordinate to the mortgage.** In the first of these
7 situations, the mortgage is simply extinguished, as provided in Subsection (a) of this
8 section. **In the second, the mortgage is not extinguished, but by virtue of**
9 **Subsection (e) is assigned by operation of law to the payor under the doctrine of**
10 **subrogation;** see §7.6. Subrogation does not occur in the first situation, since one
11 who is primarily responsible for payment of a debt cannot have subrogation by
12 performing that duty; see §7.6, Comment b. (emphasis added)

13 Subrogation is a device adopted by equity which applies in a great variety of cases and is
14 broad enough to include every instance in which one party pays a debt for which another is primarily
15 liable, and which in equity and good conscience should have been discharged by the latter.

16 Laffranchini v. Clark 39 Nev. 48, 153 P. 250 (1915).

17 Comment g to §6.4 of the Restatement further explains the significance when payment is
18 made by a subordinate lienholder:

19 The second distinction, mentioned above, is that redemption by a person who is not
20 primarily responsible for payment of the debt **does not extinguish the mortgage, but**
21 **rather assigns both the mortgage and the debt to the payor by operation of law**
22 **under the doctrine of subrogation;** See §7.6 (emphasis added)

23 Paragraph F on page 2 of 4 of the Planned Unit Development Rider to the deed of trust
(Exhibit 2 attached) states:

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

This language is consistent with Restatement (Third) of Prop.: Mortgages §6.4(e) and (f) that
treat any payment offered by plaintiff as an assignment.

**K. After the tender was sent to the foreclosure agent, plaintiff did nothing
to keep the tender good.**

As set forth above, Restatement (Third) of Prop.: Mortgages §6.4 (g) provides that where an
unconditional tender is rejected by the mortgagee, the tender must be “kept good” in order to have

1 “the effect of performance under Subsections (e) and (f) above.”

2 Comment d to section 6.4 further explains:

3 *d. Tender of payment rejected by mortgagee.* Under Subsection ©, a mortgage
4 is extinguished by mere *tender* of full payment **by the person primarily responsible**
5 **for payment**, even if the mortgagee rejects it. **The tender must be kept good in the**
6 **sense that the person making the tender must continue at all times to be ready,**
7 **willing, and able to make the payment.** If the payor brings an action to have the
8 mortgage canceled, the money must be paid into the court to keep the tender good.

9 **The tender must be unconditional.** However, the payor’s demand that the
10 mortgagee return the mortgagor’s promissory note, mark it “paid,” or execute a
11 discharge of the mortgage is not a condition of the sort that will invalidate the tender.
12 See Illustration 5.

13 The rule extinguishing the mortgage when a tender is rejected has only limited
14 modern significance. The reason is that mortgages are virtually always recorded, and
15 **the payor derives little benefit, merely from the theoretical extinction of the**
16 **mortgage if it is in fact still present, and apparently undischarged in the public**
17 **records. . . .**

18 Nonetheless, the tender of full payment *per se* relieves the real estate of the
19 mortgage lien. Tender is significant in at least two ways. First, the tender stops the
20 accrual of interest, late fees, and any other charges that might otherwise result from the
21 passage of additional time. **Second, under Subsection (b) the mortgagee who**
22 **wrongfully refuses a tender may be held liable for damages flowing from any**
23 **unreasonable delay that results in clearing the mortgage from the real estate’s**
24 **title.** See Illustrations 5 and 6. (emphasis added)

25 The last section from this comment shows that defendant’s remedy, if any, is for money
26 damages against the party that wrongfully refused the tender if the tender was valid. Because this
27 claim for money damages is an adequate remedy at law, it precludes the court from invoking its
28 equitable powers to affect the title of the bona fide purchaser.

Illustration 5 to §6.4 of the Restatement contains an example of how to keep a tender good:

5. Mortgagor is indebted to Mortgagee for the principal sum of \$100,000,
secured by a mortgage on Blackacre. Mortgagor sends a check to Mortgagee for
\$100,000, purporting to pay the debt, but Mortgagee refuses to accept the check or
execute a discharge of the mortgage. Mortgagor then deposits \$100,000 in an escrow
account established for the purpose of paying the debt, and informs Mortgagee that the
funds are available upon Mortgagee’s request and execution of a document discharging
the mortgage. Mortgagor’s tender is effective, continuing, and conditional. The
mortgage is extinguished, and no further interest will accrue on the debt.

The statements in comment d relate only to a tender made by “the person primarily
responsible for payment.” Defendant has produced no evidence that the former owner ever made

1 such a payment.

2 The Nevada Supreme Court has previously adopted the position that a tender must be “kept
3 good” in several cases.

4 In the case of Rhodes v. O’Farrell 2 Nev. 60 (1866), Respondent Rhodes attempted to pay his
5 property taxes to the Storey County tax collector in legal tender notes. The tax collector refused the
6 tender and insisted in payment in gold coin. The court stated:

7 Respondent ought not to be restrained from selling **unless the tender is kept good.**

8 As it does not appear from the transcript whether that has been done or not, the court
9 will retain this case until that is ascertained. Upon the respondent producing
10 satisfactory evidence, either by receipt of appellant, or by the certificate of the clerk,
11 **that he has either paid the money tendered to the appellant, or that he has**
12 **deposited it in court subject to the disposal of the appellant,** the judgment of the
13 court below will be affirmed, with costs.

14 The case of State v. Central Pacific Railroad 21 Nev. 247, 30 P. 686 (1892) also dealt with the
15 payment of property taxes. The court stated:

16 *Tender.* In our judgment, the tender of the taxes to the treasurer as ex officio tax
17 receiver, and their subsequent payment to the district attorney, were sufficient to avoid
18 the penalties. The defendant, at the proper time, tendered all the taxes due upon all its
19 property, except land. We held upon the former appeal that it had a right to make such
20 payment, and need not tender the full amount due upon the entire assessment, which
21 included other subdivisions of property. The tender was doubtless refused upon the
22 theory that the defendant must pay upon all or none. ...The money being promptly paid
23 to the district attorney when demanded by him, **it must be presumed that the tender**
24 **was kept good.** The judgment and orders overruling motions for new trial are
25 affirmed.

26 The case of State v. Ernst 26 Nev. 113, 65 P.7 (1901) also dealt with the payment of taxes.
27 The court stated:

28 It appears from the record that the appellants Ernst & Esser have tendered (and kept
good their tender) the amount of taxes due upon the property assessed to them, and that
a retrial of the case will not be necessary.

**L. To be effective against plaintiff, defendant was required to record the claim that the
party had tendered the amount of the HOA’s superpriority lien.**

Because the alleged tender creates an assignment of an interest in real property, it must be
recorded to be effective as to subsequent purchasers.

NRS 116.1108 provides:

1 **Supplemental general principles of law applicable.** The principles of law and
2 equity, including the law of corporations and any other form of organization
3 authorized by law of this State, the law of unincorporated associations, **the law of real**
4 **property**, and the law relative to capacity to contract, principal and agent, eminent
5 domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership,
6 substantial performance, or other validating or invalidating cause supplement the
7 provisions of this chapter, except to the extent inconsistent with this chapter.
8 (emphasis added)

9 Nevada law requires that interests in real property must be recorded. An unrecorded interest
10 in real property is void against a subsequent purchaser if the subsequent purchaser's interest is first
11 duly recorded. Tae-Si Kim v. Kearney, 838 F. Supp. 2d 1077, 1087-1088 (D. Nev. 2012).

12 The word "conveyance" is defined in NRS 111.010(1) to include "every instrument in
13 writing" by which "any estate or interest in lands is created, aliened, **assigned** or surrendered."
14 (emphasis added)

15 NRS 111.315 states:

16 **Every conveyance of real property**, and every instrument of writing setting forth an
17 agreement to convey any real property, or **whereby any real property may be**
18 **affected**, proved, acknowledged and certified in the manner prescribed in this chapter,
19 **to operate**
20 **as notice to third persons, shall be recorded** in the office of the recorder of the
21 county in which the real property is situated or to the extent permitted by NR 105.010
22 to 105.080, inclusive, in the Office of the Secretary of State, but shall be valid and
23 binding between the parties thereto without such record. (emphasis added)

24 NRS 111.325 provides that an unrecorded satisfaction of lien on the part of the plaintiff is
25 void against a subsequent purchaser, such as defendant:

26 Every conveyance of real property within this State hereafter made, which shall not be
27 recorded as provided in this chapter, **shall be void as against any subsequent**
28 **purchaser, in good faith and for valuable consideration**, of the same real property,
or any portion thereof, where his or her own conveyance shall be first duly recorded.
(emphasis added)

29 **M. If tender discharges a lien, it must be recorded to be effective.**

30 Even if the alleged tender of payment by defendant is not viewed as the basis for equitable
31 subrogation and is instead viewed as extinguishing the superpriority lien, the payment must still be
32 recorded because an extinguishment or surrender of the debt owed by the lien is also a "conveyance."

33 Because the satisfaction of a lien is a form of conveyance, surrender or discharge, NRS
34 111.315 requires that the plaintiff bank's satisfaction be recorded in order to be effective as to Saticoy

1 Bay.

2 Likewise, NRS 111.325, makes it abundantly clear that an unrecorded satisfaction of lien on
3 the part of the defendant is void against a subsequent purchaser, such as plaintiff.

4 Additionally, to the extent that the purported tender is claimed to have worked to discharge or
5 extinguish the HOA's lien, such a discharge or release must also be recorded in the office of the
6 county recorder. Separate and apart from "conveyances," all discharges of liens must be recorded.

7 **NRS 106.260 Discharge and assignment: Marginal entries; discharge or release**
8 **must be recorded when mortgage or lien recorded by microfilm.**

9 1. Any mortgage or lien, that has been or may hereafter be recorded, may be
10 discharged or assigned by an entry on the margin of the record thereof, signed by the
11 mortgagee or the mortgagee's personal representative or assignee, acknowledging the
12 satisfaction of or value received for the mortgage or lien and the debt secured thereby,
in the presence of the recorder or the recorder's deputy, who shall subscribe the same
as a witness, and such entry shall have the same effect as a deed of release or
assignment duly acknowledged and recorded. Such marginal discharge or assignment
shall in each case be properly indexed by the recorder.

13 2. In the event that the mortgage or lien has been recorded by a microfilm or other
14 photographic process, a marginal release may not be used and **a duly acknowledged**
discharge or release of such mortgage or lien must be recorded. (emphasis added)

15 The super-priority lien under NRS 116.3116(2) is a true priority lien and is superior to a first
16 deed of trust. SFR Investments Pool 1, LLC v. U.S. Bank, N.A., 334 P.3d at 412-414. The Nevada
17 Supreme Court relied, in part, on the holding in 7912 Limbwood Court Trust v. Wells Fargo Bank,
18 N.A., 979 F. Supp. 2d 1142, 1149 (D. Nev. 2013). Limbwood recognizes that in order to avoid the
19 extinguishment of the first deed of trust, the first deed of trust holder needs to pay the HOA to obtain
20 the priority position.

21 NRS 111.325 mandates that any claimed interest on the part of the plaintiff bank is void as a
22 matter of law. The purpose of recording documents is to provide notice to all persons of the
23 recording party's interest in the property. An unrecorded or other instrument required to be recorded
24 is not valid and effective against a bona fide purchaser.

25 As shown above, whether regarded as an assignment, subrogation or subordination, an
26 instrument must be recorded with the Clark County Recorder's office in order to be effective as to
27 subsequent purchasers, such as plaintiff. Defendant does not allege nor can it show any evidence that

1 defendant recorded this property interest. The purported tender of payment of the super-priority
2 interest is void as a matter of law against the foreclosure deed to Saticoy Bay LLC Series 34
3 Innisbrook because evidence of the payment was not recorded in accordance with Nevada's recording
4 laws. As a result of the failure to record any evidence of this property interest prior to the date that
5 the foreclosure deed was recorded, any property interest created by the payment offered by defendant
6 is void as against Saticoy Bay LLC Series 34 Innisbrook.

7 This analysis is consistent with the recent amendment to the statute by the Nevada Legislature
8 which requires recording of evidence of the payments and announcement of the payment at the
9 auction, prior to bidding.

10 **N. Any change in priority must be recorded.**

11 Further, because the purported tender of payment would have the effect of changing the
12 priority of the HOA's lien, versus the deed of trust, it is required to be recorded as well.

13 **NRS 106.220 Filing and recording of instruments subordinating or waiving**
14 **priority of mortgages or deeds of trust; constructive notice; effect of unrecorded**
15 **instruments.**

16 1. **Any instrument by which any mortgage or deed of trust of, lien upon or**
17 **interest in real property is subordinated or waived as to priority,** must, in case it
18 concerns only one or more mortgages or deeds of trust of, liens upon or interests in real
19 property, together with, or in the alternative, one or more mortgages of, liens upon or
20 interests in personal property or crops, the instruments or documents evidencing or
21 creating which have been recorded prior to March 27, 1935, be recorded in the office
22 of the recorder of the county in which the property is located, and from the time any of
23 the same are so filed for record operates as constructive notice of the contents thereof
24 to all persons. **The instrument is not enforceable under this chapter or chapter 107**
25 **of NRS unless and until it is recorded.**

26 2. Each such filing or recording must be properly indexed by the recorder.
27 (Emphasis added)

28 Thus, in order to be effective, any subordination of the HOA's superpriority lien must be recorded.

29 A foreclosure agent has a duty to act impartially and in good faith. By analogy, NRS
30 107.028(5), involving the duties of a trustee under a deed of trust, provides in part:

31 The trustee does not have a fiduciary obligation to the grantor or any other person
32 having an interest in the property which is subject to the deed of trust. **The trustee**
33 **shall act impartially and in good faith with respect to the deed of trust and shall**
34 **act in accordance with the laws of this State.** A rebuttable presumption that a trustee
35 has acted impartially and in good faith exists if the trustee acts in compliance with the

1 provisions of NRS 107.080. (emphasis added)

2 As verified by the affidavit of Iyad Haddad filed herewith, Saticoy Bay LLC Series 34
3 Innisbrook had no notice of defendant's attempted payment prior to entering and paying its high bid
4 of \$1,201,000.00 to purchase the Property.

5 **O. Notice to third parties is of utmost significance.**

6 Notice to potential third party bidders who could otherwise claim status of a bona fide
7 purchaser is critical to this court's evaluation of this case. Defendant had actual knowledge that the
8 property was in foreclosure and that third persons would likely bid on the Property. For the nominal
9 cost of recording a notice at \$17.00 for the first page with the Clark County Recorder, defendant
10 could have simply recorded a one page notice with the recorder and put the world on notice.

11 In evaluating the equities between the various parties, the court should keep in mind that
12 defendant, had a simple and inexpensive method to notify the world, including plaintiff, of its
13 attempted payment and alleged preservation of its deed of trust. Because defendant failed to do so,
14 the equities weigh in favor of plaintiff as the bona fide purchaser without knowledge of the rejected
15 tender.

16 **P. The foreclosure statutes are constitutional**

17 As recognized by the Nevada Supreme Court in Saticoy Bay LLC Series 350 Durango 104 v.
18 Wells Fargo Home Mortgage, 133 Nev., Adv. Op. 5, at *10 (Jan. 26, 2017), the foreclosure statutes as
19 found in NRS Chapter 116 are constitutional. The court found that the statutes do not involve either
20 state action or a state actor and does not constitute a taking.

21 **Q. The fact that the deed has no warranties has no effect on the purchasers title**

22 The only warranties recognized at law are contained in NRS 111.170 which provides:

23 **Construction of words "grant, bargain and sell" in conveyances; suit upon covenants.**

24 1. The words "grant, bargain and sell" in all conveyances made after December 2,
25 1861, in and by which any estate of inheritance or fee simple is to be passed, shall,
26 unless restrained by express terms contained in such conveyances, be construed to be
27 the following express covenants, and none other, on the part of the grantor, for the
28 grantor and the heirs of the grantor to the grantee, the heirs of the grantee, and assigns:

(a) That previous to the time of the execution of the conveyance the grantor has not
conveyed the same real property, or any right, title, or interest therein, to any person
other than the grantee.

1 (b) That the real property is, at the time of the execution of the conveyance, free
2 from encumbrances, done, made or suffered by the grantor, or any person claiming
3 under the grantor.

4 2. Such covenants may be sued upon in the same manner as if they had been
5 expressly inserted in the conveyance.

6 The covenants in a grant deed have nothing to do with a representation of the validity of the
7 sale or the condition of the title conveyed.

8 CONCLUSION

9 The HOA's foreclosure sale extinguished both the defendant's deed of trust, and its interest in
10 the subject property. The foreclosure sale is presumed to be valid by statute, the and the recitals in
11 the foreclosure deed are conclusive proof the HOA's foreclosure sale complied with all requirements
12 of Nevada law. The burden of proof is on the bank to set the sale aside, and the purchaser, as record
13 title holder has the presumption of validity title in its favor. The defendant has not produced any
14 evidence to show that the defendant is not a bona fide purchaser, and has failed to demonstrate any
15 defect in the sale to justify setting aside the foreclosure sale. Additionally, the defendant has failed to
16 take any steps to protect its interests, and permitted the sale to go forward. Further, defendant bank
17 failed to record anything putting potential purchasers, such as defendants, on notice of its alleged
18 tender.

19 ///

20 ///

21 ///

22 ///

1 Accordingly, it is respectfully requested that this Court enter an order granting the plaintiff's
2 motion for summary judgment and quieting title to the Property in the name of the plaintiff, free and
3 clear of all liens and encumbrances and forever enjoining defendant from asserting any estate, title,
4 right, interest, or claim to the property adverse to the plaintiff.

5 DATED this 4th day of May, 2018

6 LAW OFFICES OF
7 MICHAEL F. BOHN, ESQ., LTD.

8
9 By: / s / Michael F. Bohn, Esq. /
10 Michael F. Bohn, Esq.
11 2260 Corporate Circle, Ste. 480
12 Henderson, Nevada 89074
13 Attorney for Plaintiff
14 Saticoy Bay LLC Series 34 Innisbrook
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of
3 Law Offices of Michael F. Bohn., Esq., and on the 4th day of May, 2018, an electronic copy of the
4 **MOTION FOR SUMMARY JUDGMENT** was served on opposing counsel via the Court's
5 electronic service system to the following counsel of record:

6
7 Melanie D. Morgan, Esq.
8 Tenesa Scaturro, Esq.
9 AKERMAN LLP
10 1635 Village Center Circle Suite 200
11 Las Vegas, Nevada 89134
12 Attorneys for Thornburg Mortgage Securities
13 Trust 2007-3

David R. Koch, Esq.
Steven B. Scow, Esq.
Daniel H. Stewart, Esq.
KOCH & SCOW LLC
11500 S. Eastern Ave., Suite 210
Henderson, NV 89052
Attorneys for
counterdefendant/counterclaimant
Red Rock Financial Services

14 Donald H. Williams, Esq.
15 Drew Starbuck, Esq.
16 WILLIAMS & ASSOCIATES
17 612 South Tenth Street
18 Las Vegas, NV 89101
19 Attorney for counterdefendant,
20 Republic Services, Inc.

Bryan Naddafi, Esq.
OLYMPIC LAW P.C.
292 Francisco St.
Henderson, NV 89014
Attorney for defendants,
Frank and Madeline Timpa

21 /s/ Marc Sameroff /
22 An employee of the LAW OFFICES
23 OF MICHAEL F. BOHN, ESQ., LTD.
24
25
26
27
28

1 **AFFT**
MICHAEL F. BOHN, ESQ.
2 Nevada Bar No.: 1641
mbohn@bohnlawfirm.com
3 ADAM R. TRIPPIEDI, ESQ.
Nevada Bar No. 12294
4 atrippiedi@bohnlawfirm.com
LAW OFFICES OF
5 MICHAEL F. BOHN, ESQ., LTD.
376 East Warm Springs Road, Ste. 140
6 Las Vegas, Nevada 89119
(702) 642-3113/ (702) 642-9766 FAX
7
Attorney for plaintiff

8
9
10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 SATICOY BAY LLC SERIES 34
INNISBROOK,

13 Plaintiff,

14 vs.

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

19 Defendants.

20 And all related matters.

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

**AFFIDAVIT IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

21
22 **AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

23 STATE OF NEVADA)
) ss:
24 COUNTY OF CLARK)

25 IYAD HADDAD being first duly sworn, deposes and says;

26 1. Affiant is the person most knowledgeable for Saticoy Bay LLC Series 34 Innisbrook, the
27 plaintiff/counterdefendant herein, and makes this affidavit based on personal knowledge.

1 2. Plaintiff/Counterdefendant, Saticoy Bay LLC Series 34 Innisbrook, is the owner of the real
2 property commonly known as 34 Innisbrook Avenue, Las Vegas, Nevada.

3 3. Plaintiff/Counterdefendant, Saticoy Bay LLC Series 34 Innisbrook, acquired title to the
4 property at foreclosure sale conducted on November 7, 2014 as evidenced by the foreclosure deed
5 recorded on November 10, 2014.

6 4. The foreclosure deed reflects that valuable consideration in the sum of \$1,201,000.00 was paid
7 for the property.

8 5. The plaintiff/counterdefendant's title stems from a foreclosure deed arising from a delinquency
9 in assessments due from the former owner to the Spanish Trail Master Association pursuant to NRS
10 Chapter 116.

11 6. Prior to and at the time of the foreclosure sale, there was nothing recorded in the public record
12 to put me on notice of any claims or notices that any portion of the lien had been paid.

13 7. Prior to and at the time of the foreclosure sale, there is no way for myself or any other potential
14 bidder at the foreclosure sale to research if the notices were sent to the proper parties at the proper
15 address. I, and other potential bidders are forced to rely only on the professional foreclosure agent to have
16 obtained a trustee's sale guarantee issued by a local title and escrow company and to serve the notices
17 upon the parties who are entitled to notice.

18 8. As a result of the limited information available to myself and other potential bidders at
19 foreclosure sale, I, on behalf of the plaintiff/counterdefendant, am a bona fide purchaser of the
20 property, for value, without notice of any claims on the title to the property or any alleged defects in
21 the sale itself.

22 9. At no time prior to the foreclosure sale did I receive any information from the HOA or the
23 foreclosure agent about the property or the foreclosure sale.

24 10. Neither myself or anyone associated with plaintiff/counterdefendant, Saticoy Bay LLC
25 Series 34 Innisbrook, have any affiliation with the HOA board or the foreclosure agent.

26 ///

27

28

1 11. Any attempt to contact the bank to find anything out about payment of the super priority
2 amount would have been futile. The banks have a very long hold time, and agents will not speak to
3 anyone except the borrower, and they require the borrowers social security number for identification.
4 In addition, the banks have many departments, and it is impossible to get through to anyone with any
5 information.

6 12. Any attempt to find out any information about a tender or payment of the super priority lien
7 at the auction would also be a futile act. Asking questions during the auctions would be considered to
8 be a disruption. I would not get a response and would be prohibited from bidding the rest of the day.
9 In addition, often, the persons crying the sale are third party contractors without any knowledge of
10 what is in the file other than what is provided to cry the sale.

11 13. If called upon to testify to the above facts, affiant could do so competently.

12
13
14 IYAD HADDAD

15 SUBSCRIBED and SWORN to before me
16 this 7th day of March, 2018.

17 Marc Sameroff
18 NOTARY PUBLIC in and for said
County and State

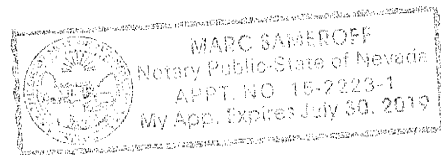


EXHIBIT 1

EXHIBIT 1

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.

JA0309

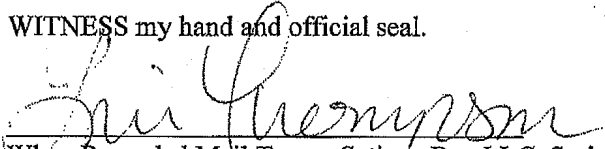
Dated: November 10, 2014

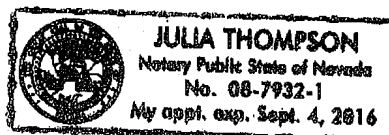

By: Christie Marling, employee of Red Rock Financial Services, agent for Spanish Trail Master Association

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

JA0310

STATE OF NEVADA DECLARATION OF VALUE

1. Assessor Parcel Number (s)

- a) 163-28-614-007
b) _____
c) _____
d) _____

2. Type of Property:

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

FOR RECORDERS OPTIONAL USE ONLY

Notes: _____

3. Total Value/Sales Price of Property:

Deed in Lieu of Foreclosure Only (value of property) \$ 1,201,000.00
Transfer Tax Value: \$ 1,201,000.00
Real Property Transfer Tax Due: \$ 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: Saticoy 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: Reserve Property LLC Escrow # _____
Address: 900 S Las Vegas Blvd #810
City: NV State: NV Zip: 89101

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED)

JA0311

EXHIBIT 2

EXHIBIT 2

20060612-0001581

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

27

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

82

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

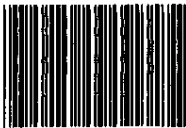
Page 1 of 16



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

VMP Mortgage Solutions, Inc.

Form 3029 1/01



* 2 3 9 9 1 *



* 1 3 8 3 4 4 3 3 5 0 0 0 0 1 0 0 6 A *

JA0313

(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] |



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

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

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

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

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

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

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

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

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

TRANSFER OF RIGHTS IN THE PROPERTY

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

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

[Type of Recording Jurisdiction]

CLARK

:

[Name of Recording Jurisdiction]

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of 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.

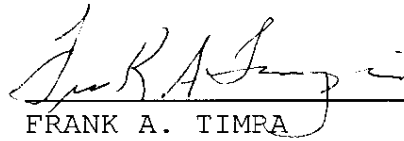
23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without 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 .

DOC ID #: 00013834433506006

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



-6A(NV) (0507)

CHL (11/05)

Page 15 of 16

Form 3029 1/01

JA0327

STATE OF NEVADA
COUNTY OF Clark

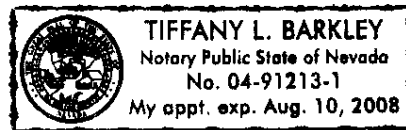
This instrument was acknowledged before me on June 2, 2006 by

Frank A. Timpa

Tiffany L. Barkley

Mail Tax Statements To:
TAX DEPARTMENT SV3-24

450 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.

JA0329

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
[Escrow/Closing #]

00013834433506006
[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

VMP -7R (0411)

CHL (11/04)(d)

Page 1 of 4

Initials: *JA*

VMP Mortgage Solutions, Inc. (800)521-7291

Form 3150 1/01



* 2 3 9 9 1 *



* 1 3 8 3 4 4 3 3 5 0 0 0 0 1 0 0 7 R *

JA0330

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: 

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)

Page 3 of 4

Form 3150 1/01

JA0332

DOC ID #: 00013834433506006

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


FRANK A. TIMPA

(Seal)

- Borrower

(Seal)

- Borrower

(Seal)

- Borrower

(Seal)

- Borrower



-7R (0411)

CHL (11/04)

Page 4 of 4

Form 3150 1/01

JA0333

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)

Page 1 of 6



JA0334

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.

DOC ID #: 00013834433506006

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.

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

Page 3 of 6

JA0336

(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.

(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

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

JA0339

EXHIBIT 3

EXHIBIT 3

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

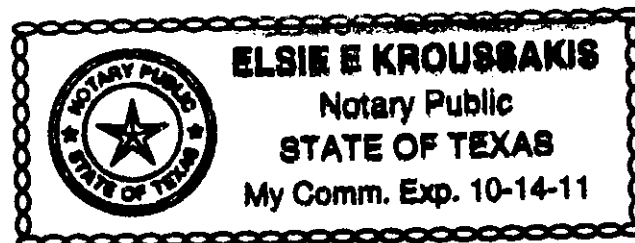


EXHIBIT 4

EXHIBIT 4



RED ROCK FINANCIAL SERVICES

MAILING AFFIDAVIT

File Number: R 74607

STATE OF NEVADA)
) Ss.
COUNTY OF CLARK)

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

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

Dated: 12/21/10

Signature →

See Attached 2 Pages

RRFS000676

JA0343

Revised 4/3/08

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein)
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #1

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein)
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #2

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein)
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #3

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein)
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Charge
Amount:

Charge
To:

FOLD AND TEAR THIS WAY →

2. Article Number



7160 3901 9849 0909 1677

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and Madelaine Timpa, Trustees and any successor Trustee as provided therein)
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507 Spanish Trail Master Association

TO: Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and Madelaine Timpa, Trustees and any successor Trustee as provided therein)
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

SENDER:

REFERENCE: R74507

PS Form 3800, January 2005

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

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided
Do Not Use for International Mail

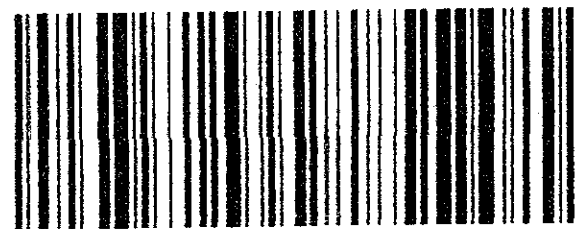
POSTMARK OR DATE

Mailed on 12/21/10 by
Red Rock Financial Services
See Firm Book

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7160 3901 9849 0909 1677

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes
☐ No

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

WALZ
CERTIFIED
MAILER™

Label #1 Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #2 Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #3 Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

TEAR ALONG THIS LINE

TO: Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony
Timpa and Madelaine Timpa, Trustees and any
successor Trustee as provided therein
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

SENDER:

REFERENCE: R74507

PS Form 3800, January 2005

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

US Postal Service
**Receipt for
Certified Mail**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 12/21/10 by
Red Rock Financial Services
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Certified Article Number
099T 6060 6486 T06E 09T?
SENDER'S RECORD

Label #5 Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and
Madelaine Timpa, Trustees and any successor Trustee as
provided therein
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

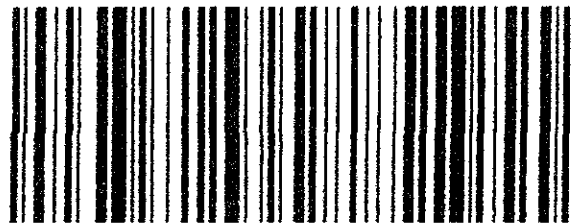
Charge
Amount:

Charge
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL



7160 3901 9849 0909 1660

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7160 3901 9849 0909 1660

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and Madelaine Timpa, Trustees and any successor Trustee as provided therein
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507 Spanish Trail Master Association

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery
C. Signature X	
D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee <input type="checkbox"/> Yes <input type="checkbox"/> No

Thank you for using Return Receipt Service



Red Rock Financial Services

December 21, 2010

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and Madelaine Timpa, Trustees and any successor Trustee as provided therein)

c/o Frank Anthony Timpa, Trustee

34 Innisbrook Avenue

Las Vegas, NV 89113

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

Dear 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 is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

Spanish Trail Master Association (herein also called the Association) has given permission under its agency agreement to Red Rock Financial Services to collect past due homeowner's association assessments. Accounting information obtained from the association or its managing agent, in regards to account balance, will not be accurate as additional collection fees and costs have been added to the above account.

The current balance due on the above account is \$2,643.00. If you choose to reinstate the account, payment in full must be received in the Red Rock Financial Services office within 30 days from the date of this letter. Payment must be in the form of a **cashier's check** or **money order**, made payable to Red Rock Financial Services and mailed to the address indicated below. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

If you choose not to pay your account in full within 30 days from the date of this letter, in accordance with Nevada Revised Statutes, Red Rock Financial Services will prepare and record a Lien for Delinquent Assessments on behalf of Spanish Trail Master Association. Additional fees estimated in the amount of \$340.00 plus mailing fees will be added to the above account to cover the cost of preparing and/or recording the Lien for Delinquent Assessments. Please note these are estimated costs.

A "30 Day Period" has been established for disputing the validity of the debt. Federal Law does not require Red Rock Financial Services to wait the "30 Day Period" to prepare and/or record the Lien for Delinquent Assessments. The "30 Day Period", according to Federal Law, begins from the date this letter is received by you.

All disputes regarding the validity of the debt must be submitted in written form to Red Rock Financial Services. When the dispute is received, Red Rock Financial Services will provide verification of the debt and a copy of such verification will be mailed to you. Collection efforts on the part of Red Rock Financial Services will cease during the research process. When the research is completed, you will receive a written response. In addition, Red Rock Financial Services will provide you with the original creditor(s) and address(es) if different from the current. In the event that Red Rock Financial Services does not receive in written form, a dispute of the debt, Red Rock Financial Services will assume the debt is valid.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact the office of Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services

Red Rock Financial Services

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

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.

RRFS000679
JA0346



Red Rock Financial Services

December 21, 2010

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999 (Frank Anthony Timpa and Madelaine Timpa, Trustees and any successor Trustee as provided therein

c/o Madelaine Timpa, Trustee

34 Innisbrook Avenue

Las Vegas, NV 89113

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

Dear 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 is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

Spanish Trail Master Association (herein also called the Association) has given permission under its agency agreement to Red Rock Financial Services to collect past due homeowner's association assessments. Accounting information obtained from the association or its managing agent, in regards to account balance, will not be accurate as additional collection fees and costs have been added to the above account.

The current balance due on the above account is \$2,643.00. If you choose to reinstate the account, payment in full must be received in the Red Rock Financial Services office within 30 days from the date of this letter. Payment must be in the form of a **cashier's check** or **money order**, made payable to Red Rock Financial Services and mailed to the address indicated below. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

If you choose not to pay your account in full within 30 days from the date of this letter, in accordance with Nevada Revised Statutes, Red Rock Financial Services will prepare and record a Lien for Delinquent Assessments on behalf of Spanish Trail Master Association. Additional fees estimated in the amount of \$340.00 plus mailing fees will be added to the above account to cover the cost of preparing and/or recording the Lien for Delinquent Assessments. Please note these are estimated costs.

A "30 Day Period" has been established for disputing the validity of the debt. Federal Law does not require Red Rock Financial Services to wait the "30 Day Period" to prepare and/or record the Lien for Delinquent Assessments. The "30 Day Period", according to Federal Law, begins from the date this letter is received by you.

All disputes regarding the validity of the debt must be submitted in written form to Red Rock Financial Services. When the dispute is received, Red Rock Financial Services will provide verification of the debt and a copy of such verification will be mailed to you. Collection efforts on the part of Red Rock Financial Services will cease during the research process. When the research is completed, you will receive a written response. In addition, Red Rock Financial Services will provide you with the original creditor(s) and address(es) if different from the current. In the event that Red Rock Financial Services does not receive in written form, a dispute of the debt, Red Rock Financial Services will assume the debt is valid.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact the office of Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services

Red Rock Financial Services

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

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.

RRFS000680

JA0347

EXHIBIT 5

EXHIBIT 5

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

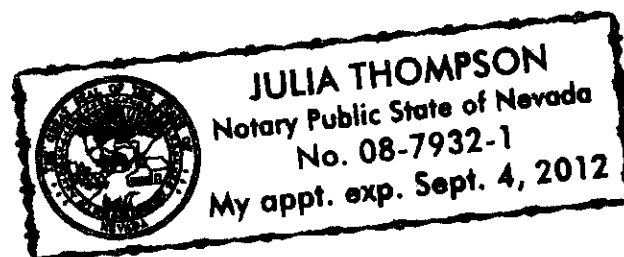
Prepared By Anna Romero, Red Rock Financial Services, on behalf of Spanish Trail Master Association

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



RRFS000634
JA0349



RED ROCK FINANCIAL SERVICES

MAILING AFFIDAVIT

File Number: R 74507

STATE OF NEVADA)
) Ss.
COUNTY OF CLARK)

The declarant, whose signature appears below, and who is an employee of Red Rock Financial Services, states that he/she is now and at all times herein mentioned was, a citizen of the United States and over the age of eighteen (18) years; on the date as set forth below, he/she personally mailed the Notice, of which the annexed is a true copy, upon the addressee attached hereto, by depositing in the United States Mail in the County set forth above, an envelope, certified and first class with postage prepaid thereon, containing a copy of such Notice, addressed to the attached named person(s) at the address herein attached stated.

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

Dated: 8/11/11

Signature 

See Attached 2 Pages

THE
WALZ
CERTIFIED
MAILER™

FROM

WALZ™

FORM #35663 VERSION: 02/11
U.S. PAT. NO. 5,501,393

7196 9008 9111 2774 4732

Label #1

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #2

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #3

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

TO: Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

SENDER:

REFERENCE: R74507

PS Form 3800, January 2005

RETURN
RECEIPT
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service®

**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Mailed on 8/11/11 by
Red Rock Financial Services
See Firm Book

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Charge
Amount:

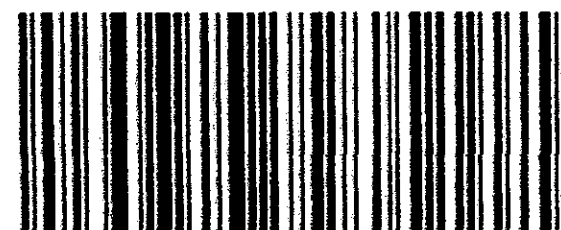
Charge
To:

FOLD AND TEAR THIS WAY →

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL™



7196 9008 9111 2774 4732

Certified Article Number

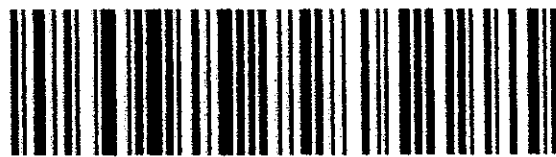
7196 9008 9111 2774 4732

SENDER'S RECORD

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

2. Article Number



7196 9008 9111 2774 4732

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507 Spanish Trail Master Association

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes
☐ No

PS Form 3811, January 2005

Domestic Return Receipt

RRFS000630

JA0351

Thank you for using Return Receipt Service

THE
WALZ
CERTIFIED
MAILER™

FROM

WALZ™

FORM #35663 VERSION: 02/11
U.S. PAT. NO. 5,501,393

7196 9008 9111 2774 4725

Label #1

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #2

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Label #3

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

FOLD AND TEAR THIS WAY → OPTIONAL

Label #5

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507

Charge
Amount:

Charge
To:

FOLD AND TEAR THIS WAY →

TEAR ALONG THIS LINE

TO:

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

SENDER:

REFERENCE: R74507

PS Form 3800, January 2005

RETURN
RECEIPT
SERVICE

Postage

Certified Fee

Return Receipt Fee

Restricted Delivery

Total Postage & Fees

US Postal Service®

**Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

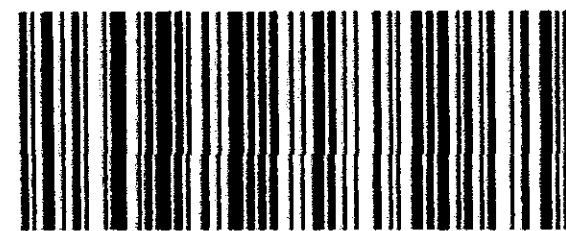
POSTMARK OR DATE

Mailed on 8/11/11 by
Red Rock Financial Services
See Firm Book

Label #6

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL™



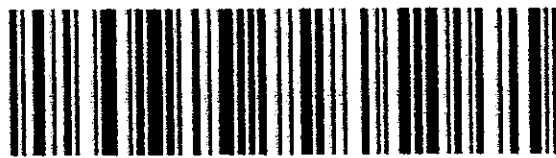
7196 9008 9111 2774 4725

Certified Article Number

7196 9008 9111 2774 4725

SENDER'S RECORD

2. Article Number



7196 9008 9111 2774 4725

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113
R74507 Spanish Trail Master Association

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent

☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes

☐ No

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

Thank you for using Return Receipt Service

PS Form 3811, January 2005

Domestic Return Receipt

RRFS000631

JA0352



Red Rock Financial Services

August 11, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

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

Dear Timpa Trust u/t/d/ March 3, 1999:

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

Red Rock Financial Services initial correspondence to you stated that failure to reinstate the above account would result in the Lien for Delinquent Assessments being prepared and recorded on the above referenced property. Noted in the initial correspondence, additional fees and costs have been added to the account balance. As of the date of this letter, the account balance is \$5,793.92.

Enclosed, please find a copy of the Lien for Delinquent Assessments. The amount noted on this letter and the Lien for Delinquent Assessments may differ. The "Amount Due" on the Lien for Delinquent Assessments is accurate as of the date of preparation. These variations may be due to additional assessments, late fees, interest, fines and collection fees and costs being assessed to the account. Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier's check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

As of the date of this letter, the "30 Day Period" is still in effect. In the case that Red Rock Financial Services does not receive in written form a dispute of the debt, Red Rock Financial Services will assume the debt is valid. All disputes of the validity of the debt must be submitted in written form to Red Rock Financial Services. When the dispute is received, Red Rock Financial Services will provide verification of the debt and a copy of such verification will be mailed to you. Upon receipt of a written dispute, collection efforts on the part of Red Rock Financial Services will cease. A written response will be provided detailing the result of our findings regarding said dispute.

Allowed by Nevada Revised Statutes, Red Rock Financial Services may record a Notice of Default and Election to Sell no sooner than the 31st day from the mailing of the Lien for Delinquent Assessments. As a courtesy to you, an Intent to Notice of Default courtesy letter will be sent to you via first class mail at an additional charge.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact the office of Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services
enclosure(s)

Red Rock Financial Services

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

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.

RRFS000632

JA0353



Red Rock Financial Services

August 11, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

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

Dear Timpa Trust u/t/d/ March 3, 1999:

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

Red Rock Financial Services initial correspondence to you stated that failure to reinstate the above account would result in the Lien for Delinquent Assessments being prepared and recorded on the above referenced property. Noted in the initial correspondence, additional fees and costs have been added to the account balance. As of the date of this letter, the account balance is \$5,793.92.

Enclosed, please find a copy of the Lien for Delinquent Assessments. The amount noted on this letter and the Lien for Delinquent Assessments may differ. The "Amount Due" on the Lien for Delinquent Assessments is accurate as of the date of preparation. These variations may be due to additional assessments, late fees, interest, fines and collection fees and costs being assessed to the account. Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier's check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

As of the date of this letter, the "30 Day Period" is still in effect. In the case that Red Rock Financial Services does not receive in written form a dispute of the debt, Red Rock Financial Services will assume the debt is valid. All disputes of the validity of the debt must be submitted in written form to Red Rock Financial Services. When the dispute is received, Red Rock Financial Services will provide verification of the debt and a copy of such verification will be mailed to you. Upon receipt of a written dispute, collection efforts on the part of Red Rock Financial Services will cease. A written response will be provided detailing the result of our findings regarding said dispute.

Allowed by Nevada Revised Statutes, Red Rock Financial Services may record a Notice of Default and Election to Sell no sooner than the 31st day from the mailing of the Lien for Delinquent Assessments. As a courtesy to you, an Intent to Notice of Default courtesy letter will be sent to you via first class mail at an additional charge.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact the office of Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services
enclosure(s)

Red Rock Financial Services

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

www.rrfs.com

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

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RRFS000633

JA0354

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

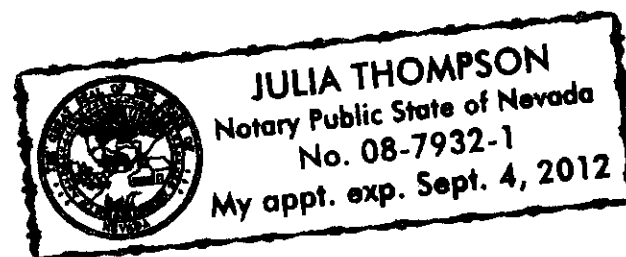
Prepared By Anna Romero, Red Rock Financial Services, on behalf of Spanish Trail Master Association

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



RRFS000634
JA0355

EXHIBIT 6

EXHIBIT 6



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

SPANISH TRAIL MASTER ASSOCIATION
7495 W. MISSION HILLS DR.
LAS VEGAS, NV 89113

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

Dear SPANISH TRAIL MASTER ASSOCIATION:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier's check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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.

RRFS000580
JA0357



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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 20110894, as Instrument Number 0002324, reflecting TIMPA TRUST UTD 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, said legally described as ESTATES AT SPANISH TRAIL 85 PLAT BOOK 40 PAGE 6 LOT 13 BLOCK 1, of the Official Record in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 03/07/1994, 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 Restrictions 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.

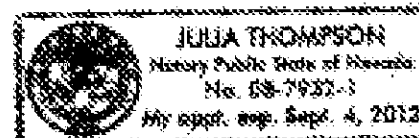
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

On November 29, 2011, before me, personally appeared Engel 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.

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



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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.

RRFS000581

JA0358



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

COUNTRYWIDE HOME LOANS, INC.
4500 PARK GRANADA
MIN 1001337-001462185-1
CALABASAS, CA 91302-1613

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

Dear COUNTRYWIDE HOME LOANS, INC.:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier's check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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

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RRFS000582
JA0359



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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 ◆

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Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restrictions 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.

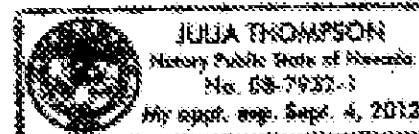
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

On November 29, 2011, before me, personally appeared Engel 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.

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



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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RRFS000583

JA0360



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

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

Dear Timpa Trust u/t/d/ March 3, 1999:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier's check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

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Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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

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RRFS000584
JA0361



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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

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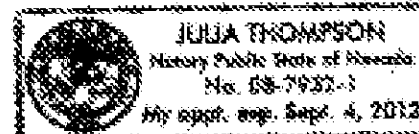
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

On November 29, 2011, before me, personally appeared Engel 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.

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



Red Rock Financial Services

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

www.rrfs.com

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

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RRFS000585

JA0362



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

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

Dear Timpa Trust u/t/d/ March 3, 1999:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

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Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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

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RRFS000586
JA0363



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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

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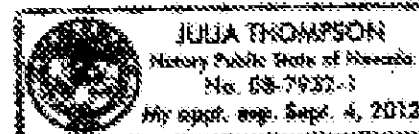
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

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WITNESS my hand and official seal.

[Signature]
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Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



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RRFS000587

JA0364



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

THORNBURG MORTGAGE SECURITIES TRUST 2007-3
C/O BAC HOME LOANS SERVICING, LP
400 COUNTRYWIDE WAY SV-35
MIN 1001337-001462185-1
SIMI VALLEY, CA 93065

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

Dear THORNBURG MORTGAGE SECURITIES TRUST 2007-3:

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

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Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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

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RRFS000588
JA0365



Red Rock Financial Services

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File Number: R74507
Property Address: 34 Innishbrook Ave
Las Vegas, NV 89113
Title Order Number: 35401

Inst #: 201112060001106
Fees: \$17.00
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Recorded By: SOL Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

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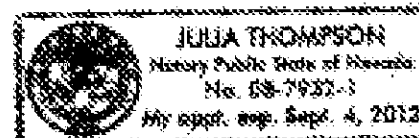
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

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WITNESS my hand and official seal.

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Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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RRFS000589

JA0366



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

COUNTRYWIDE HOME LOANS, INC.
4500 PARK GRANADA MSN #SVB-314
MIN 1001337-0001462176-0
CALABASAS, CA 91302-1613

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

Dear COUNTRYWIDE HOME LOANS, INC.:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

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Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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

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RRFS000590
JA0367



Red Rock Financial Services

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File Number: R74507
Property Address: 34 Innishbrook Ave
Las Vegas, NV 89113
Title Order Number: 35401

Inst #: 201112060001106
Fees: \$17.00
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Receipt #: 998591
Requestor:
NORTH AMERICAN TITLE
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Recorded By: SOL Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

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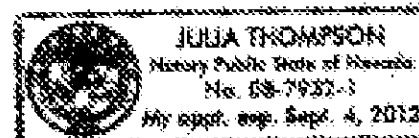
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

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WITNESS my hand and official seal.

[Signature]
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Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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

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RRFS000591

JA0368



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

ESTATES WEST AT SPANISH TRAIL ASSOCIATION
C/O RED ROCK FINANCIAL SERVICES
7251 AMIGO STREET, STE. 100
#R74509
LAS VEGAS, NV 89119

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

Dear ESTATES WEST AT SPANISH TRAIL ASSOCIATION:

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

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Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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.

RRFS000592
JA0369



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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 ◆

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Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restrictions 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.

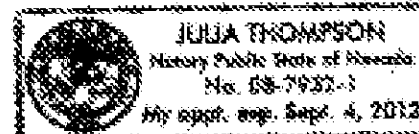
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

On November 29, 2011, before me, personally appeared Engel 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.

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



Red Rock Financial Services

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

www.rrfs.com

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RRFS000593

JA0370



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

MERS
P.O. BOX 2026
MIN 1001337-0001462176-0
FLINT, MI 48501-2026

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

Dear MERS:

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

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RRFS000594
JA0371



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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
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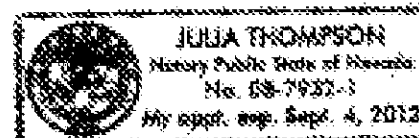
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

On November 29, 2011, before me, personally appeared Engel 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.

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



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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RRFS000595
JA0372



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

REPUBLIC SERVICES
P.O. BOX 98508
ACCT. #21-16173-7
LAS VEGAS, NV 89193-8508

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

Dear REPUBLIC SERVICES:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

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Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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

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RRFS000596
JA0373



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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
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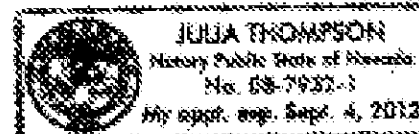
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

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WITNESS my hand and official seal.

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



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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RRFS000597

JA0374



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

MADELAINE TIMPA, TRUSTEE
6975 EMERALD SPRINGS LANE
LAS VEGAS, NV 89113

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

Dear MADELAINE TIMPA, TRUSTEE:

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

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Red Rock Financial Services

Red Rock Financial Services

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RRFS000598
JA0375



Red Rock Financial Services

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File Number: R74507
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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

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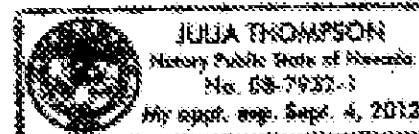
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

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WITNESS my hand and official seal.

[Signature]
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Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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RRFS000599

JA0376



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

FRANK ANTHONY TIMPA, TRUSTEE
6975 EMERALD SPRINGS LANE
LAS VEGAS, NV 89113

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

Dear FRANK ANTHONY TIMPA, TRUSTEE:

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RRFS000600
JA0377



Red Rock Financial Services

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File Number: R74507
Property Address: 34 Innishbrook 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

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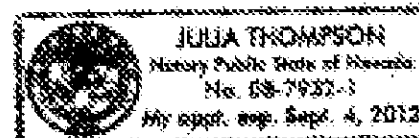
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

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WITNESS my hand and official seal.

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



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

www.rrfs.com

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RRFS000601

JA0378



Red Rock Financial Services

December 14, 2011

VIA CERTIFIED AND FIRST CLASS MAIL

MERS
P.O. BOX 2026
MIN 1001337-001462185-1
FLINT, MI 48501-2026

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

Dear MERS:

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

Red Rock Financial Services correspondence to you stated that failure to reinstate the above account would result in the ***Notice of Default and Election to Sell*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Default and Election to Sell***.

Please contact Red Rock Financial Services to obtain an "up to date" account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier's check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to your account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-932-6887 with any questions.

Regards,

Red Rock Financial Services

Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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.

RRFS000602
JA0379



Red Rock Financial Services

Assessor Parcel Number: 163-22-614-007
File Number: R74507
Property Address: 34 Innishbrook 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 20110894, as Instrument Number 0002324, reflecting TIMPA TRUST UTD 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, said legally described as ESTATES AT SPANISH TRAIL 85 PLAT BOOK 40 PAGE 6 LOT 13 BLOCK 1, of the Official Record 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 Restrictions 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.

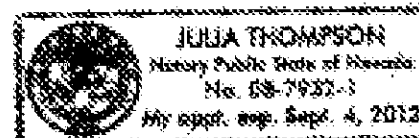
[Signature] Dated: November 29, 2011
Prepared By: Engel Watson, Red Rock Financial Services, on behalf of Spanish Trail Master Association

STATE OF NEVADA
COUNTY OF CLARK

On November 29, 2011, before me, personally appeared Engel 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.

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



Red Rock Financial Services

7251 Amigo Street, Suite 100 Las Vegas, NV 89119

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.

RRFS000603

JA0380

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**

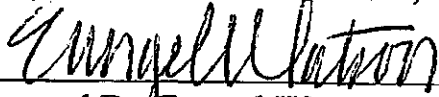
◆ IMPORTANT NOTICE ◆

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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

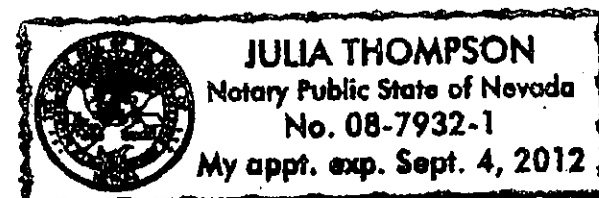
Dated: November 29, 2011

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



RRFS000604

JA0381

EXHIBIT 7

EXHIBIT 7

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

RRFS000140
JA0383

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



RRFS000141
JA0384

EXHIBIT 8

EXHIBIT 8



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999
c/o Frank Anthony Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

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

Dear Timpa Trust u/t/d/ March 3, 1999 ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

Please contact Red Rock Financial Services to obtain an “up to date” account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier’s check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to the account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.)

RRFS000190

JA0386

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

RRFS000191
JA0387

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.

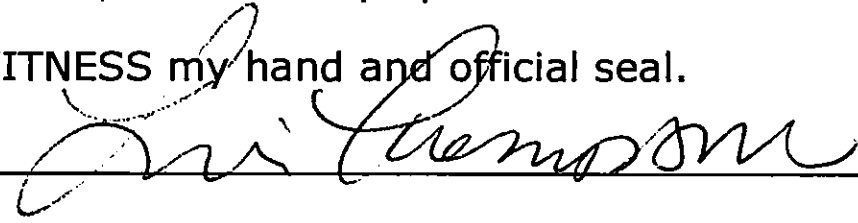
Dated: September 11, 2014


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



RRFS000192
JA0388



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

Timpa Trust u/t/d/ March 3, 1999
c/o Madelaine Timpa, Trustee
34 Innisbrook Avenue
Las Vegas, NV 89113

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

Dear Timpa Trust u/t/d/ March 3, 1999 ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000193

JA0389

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

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RRFS000194
JA0390

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".

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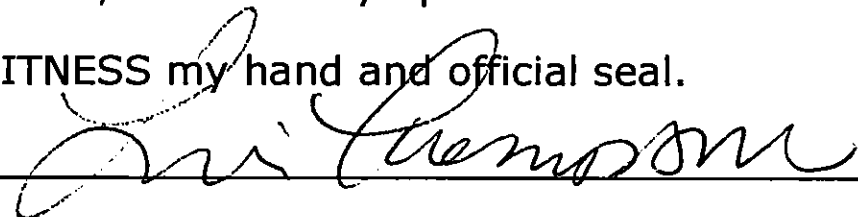
Dated: September 11, 2014


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



RRFS000195
JA0391



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

THORNBURG MORTGAGE SECURITIES TRUST 2007-3
C/O BAC HOME LOANS SERVICING, LP
400 COUNTRYWIDE WAY SV-35
MIN 1001337-0001462176-0
SIMI VALLEY, CA 93065

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

Dear THORNBURG MORTGAGE SECURITIES TRUST 2007-3 ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.

RRFS000196

JA0392

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

RRFS000197
JA0393

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.

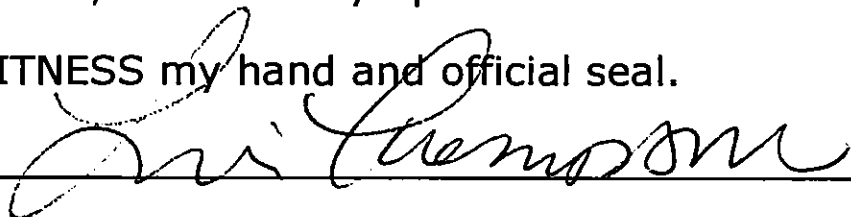
Dated: September 11, 2014


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

STATE OF NEVADA)
COUNTY OF CLARK)

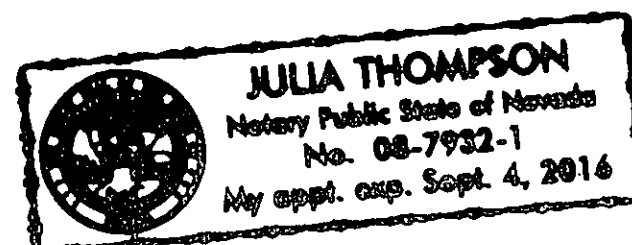
On September 11, 2014, before me, personally appeared Anna Romero, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that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



RRFS000198
JA0394



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

COUNTRYWIDE HOME LOANS, INC.
4500 PARK GRANADA MSN #SVB-314
MIN 1001337-0001462176-0
CALABASAS, CA 91302-1613

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

Dear COUNTRYWIDE HOME LOANS, INC. ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

Please contact Red Rock Financial Services to obtain an “up to date” account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier’s check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to the account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.)

RRFS000199

JA0395

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

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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

RRFS000200
JA0396

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.

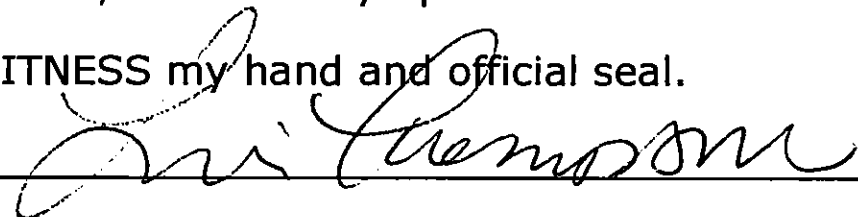
Dated: September 11, 2014


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



RRFS000201
JA0397



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

ESTATES WEST AT SPANISH TRAIL ASSOCIATION
C/O RED ROCK FINANCIAL SERVICES
#R74509
7251 AMIGO STREET, STE. 100
LAS VEGAS, NV 89119

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

Dear ESTATES WEST AT SPANISH TRAIL ASSOCIATION ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000202

JA0398

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

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RRFS000203
JA0399

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.

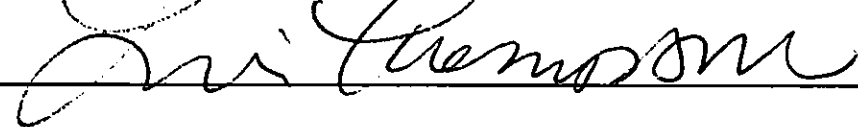
Dated: September 11, 2014


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



RRFS000204
JA0400



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

MERS
P.O. BOX 2026
MIN 1001337-0001462176-0
FLINT, MI 48501-2026

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

Dear MERS ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000205

JA0401

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

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RRFS000206
JA0402

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".

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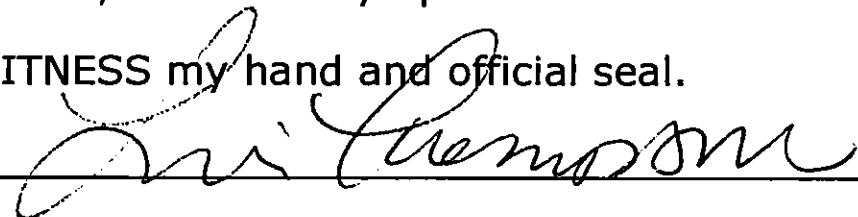
Dated: September 11, 2014


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

STATE OF NEVADA)
COUNTY OF CLARK)

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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



RRFS000207
JA0403



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

REPUBLIC SERVICES
P.O. BOX 98508
ACCT. #21-16173-7
LAS VEGAS, NV 89193-8508

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

Dear REPUBLIC SERVICES ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000208

JA0404

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

RRFS000209
JA0405

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.

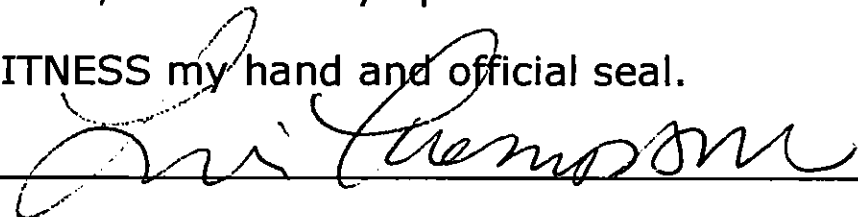
Dated: September 11, 2014


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



RRFS000210
JA0406



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

SPANISH TRAIL MASTER ASSOCIATION
7495 W. MISSION HILLS DR.
LAS VEGAS, NV 89113

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

Dear SPANISH TRAIL MASTER ASSOCIATION ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

Please contact Red Rock Financial Services to obtain an “up to date” account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier’s check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to the account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.

RRFS000211

JA0407

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

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RRFS000212
JA0408

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.

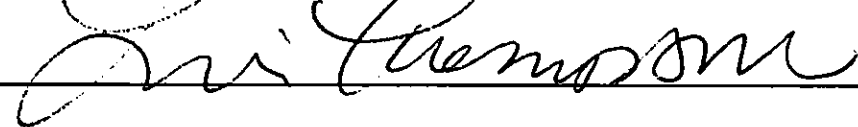
Dated: September 11, 2014


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



RRFS000213
JA0409



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

COUNTRYWIDE HOME LOANS, INC.
4500 PARK GRANADA
MIN 1001337-0001462185-1
CALABASAS, CA 91302-1613

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

Dear COUNTRYWIDE HOME LOANS, INC. ,

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

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Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.

RRFS000214

JA0410

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

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RRFS000215
JA0411

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".

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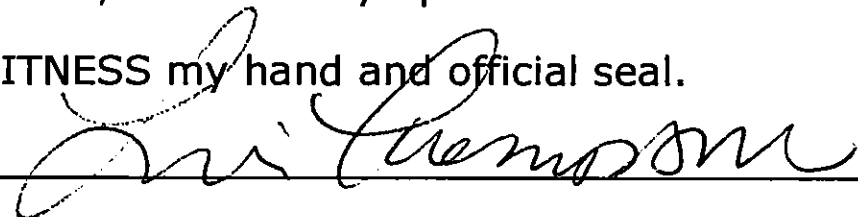
Dated: September 11, 2014


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

STATE OF NEVADA)
COUNTY OF CLARK)

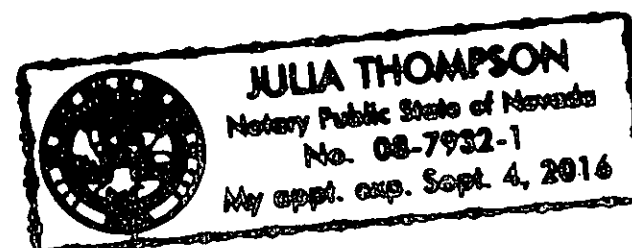
On September 11, 2014, before me, personally appeared Anna Romero, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that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



RRFS000216
JA0412



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

MADELAINE TIMPA, TRUSTEE
6975 EMERALD SPRINGS LANE
LAS VEGAS, NV 89113

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

Dear MADELAINE TIMPA, TRUSTEE ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000217

JA0413

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

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RRFS000218
JA0414

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

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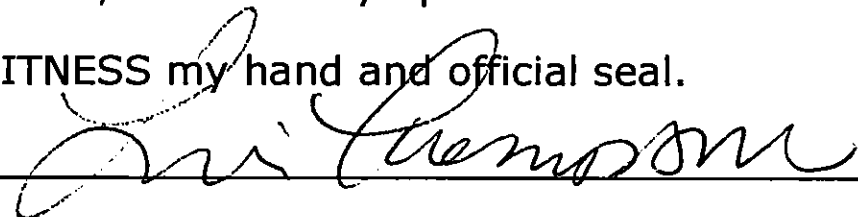
Dated: September 11, 2014


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

STATE OF NEVADA)
COUNTY OF CLARK)

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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



RRFS000219
JA0415



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

FRANK ANTHONY TIMPA, TRUSTEE
6975 EMERALD SPRINGS LANE
LAS VEGAS, NV 89113

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

Dear FRANK ANTHONY TIMPA, TRUSTEE ,

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

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Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000220

JA0416

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

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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

RRFS000221
JA0417

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.

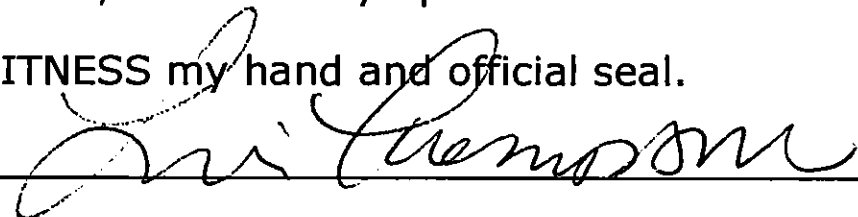
Dated: September 11, 2014


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

STATE OF NEVADA)
COUNTY OF CLARK)

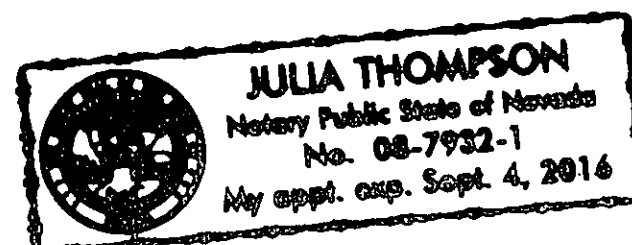
On September 11, 2014, before me, personally appeared Anna Romero, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that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



RRFS000222
JA0418



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

MERS
P.O. BOX 2026
MIN 1001337-0001462185-1
FLINT, MI 48501-2026

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

Dear MERS ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

Please contact Red Rock Financial Services to obtain an “up to date” account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier’s check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to the account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.

RRFS000223

JA0419

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

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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

RRFS000224
JA0420

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.

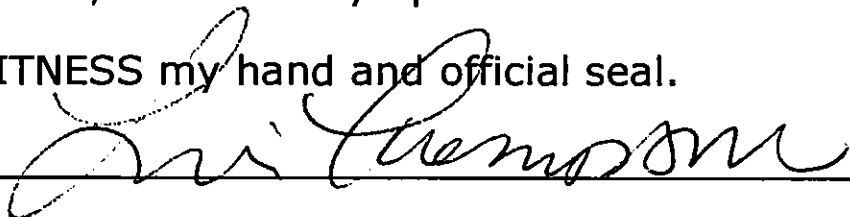
Dated: September 11, 2014


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



RRFS000225
JA0421



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

TIMPA TRUST
6975 EMERALD SPRINGS LANE
LAS VEGAS, NV 89113

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

Dear TIMPA TRUST ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

Please contact Red Rock Financial Services to obtain an “up to date” account balance or to discuss alternative payment arrangements. All Payments must be in the form of a cashier’s check or money order. Please ensure the account number is listed on any payments remitted to our office. If we receive partial payments, they will be credited to the account, however, we will continue with the collection process on the balance owed as described above.

Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.

RRFS000226

JA0422

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

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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

RRFS000227
JA0423

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.

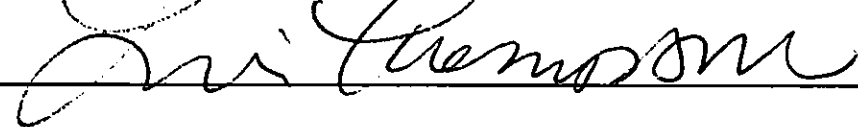
Dated: September 11, 2014


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



RRFS000228
JA0424



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

REPUBLIC SERVICES
ACCT NO. 620-2116173
P.O. BOX 98508
LAS VEGAS, NV 89193-8508

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

Dear REPUBLIC SERVICES ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Additional information regarding this account can be obtained at www.rrfs.com. Please contact Red Rock Financial Services at 702-483-2996 or 702-215-8130 with any questions.

Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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.

RRFS000229

JA0425

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

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RRFS000230
JA0426

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".

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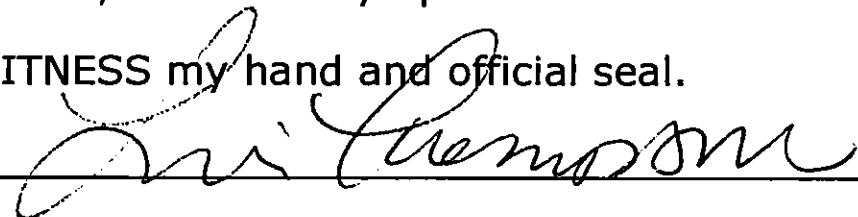
Dated: September 11, 2014


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

STATE OF NEVADA)
COUNTY OF CLARK)

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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



RRFS000231
JA0427



September 15, 2014

VIA CERTIFIED AND FIRST CLASS MAIL

LAS VEGAS VALLEY WATER DISTRICT
ACCT NO. 3062542962
1001 S. VALLEY VIEW BLVD M/S 680
LAS VEGAS, NV 89153

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

Dear LAS VEGAS VALLEY WATER DISTRICT ,

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

Red Rock Financial Services previous correspondence stated that the failure to reinstate the above account would result in the ***Notice of Sale*** being prepared and recorded on the above referenced property. Noted in the correspondence, additional fees and costs have been added to the account balance. Enclosed, please find a copy of the ***Notice of Sale***. This notice is being sent to any parties that may have an interest in the property.

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Regards,

Red Rock Financial Services

702.932.6887 | fax 702.341.7733 | 4775 W. Teco Avenue, Suite 140, Las Vegas, Nevada 89118 | www.rrfs.com

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RRFS000232

JA0428

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

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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

RRFS000233
JA0429

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.

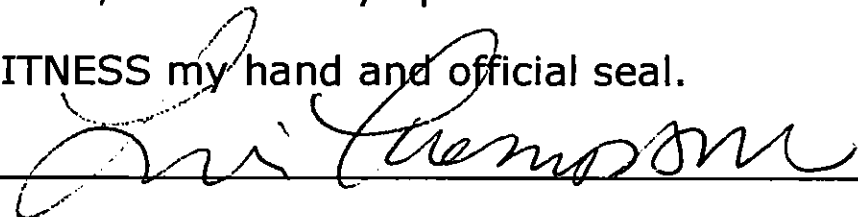
Dated: September 11, 2014


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



RRFS000234
JA0430

EXHIBIT 9

EXHIBIT 9

Priority Posting & Publishing
Order # P1112659
TS # R74507

AFFIDAVIT OF SERVICE

State of Nevada)
County of Clark)

I, Kevin Dunn, state:

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

I served **Frank Anthony Timpa and Madelaine Timpa, Trustees** with a copy of the Notice of Sale, on 9/17/2014 at approximately 1:59 PM, by:

Attempting to personally serve the person(s) residing at the property, however no one answered the door. I thereafter posted a copy of the Notice of Sale on the property in the manner prescribed pursuant to NRS 116.311635, in a conspicuous place on the property, which is located at:

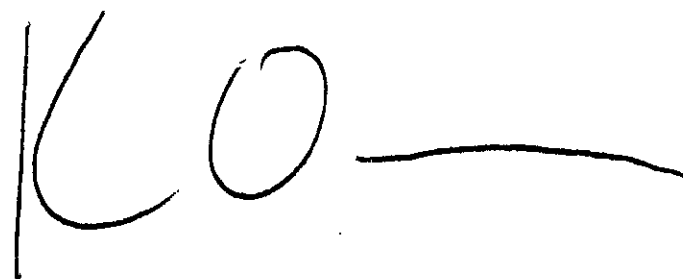
**34 Innisbrook Avenue
Las Vegas NV 89113**

To the best of my knowledge, the property is vacant and unoccupied.

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

Dated 9/17/2014

Nevada Legal Support Services LLC

A handwritten signature in black ink, appearing to be 'KD' followed by a horizontal line.

Kevin Dunn, 1675964
930 S. 4th Street, Suite 200
Las Vegas, NV 89101
(702) 382-2747
NV License #1711

NVLSS ID# 490145 16
COUNTY OF SERVICE: CLARK
SERVER: Kevin Dunn

RRFS000184
JA0432

Priority Posting & Publishing
Order # P1112659
TS # R74507

AFFIDAVIT OF POSTING NOTICE OF SALE

State of Nevada)
County of Clark)

I, Jessica Pruett, state:

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

On 9/17/2014, I posted a copy of the Notice of Sale pursuant to NRS 116.311635, concerning Sale R74507, in a public place in the county where the property is situated, to wit:

NEVADA LEGAL NEWS, 930 S FOURTH ST, LAS VEGAS
CLARK COUNTY COURTHOUSE, 200 LEWIS ST, LAS VEGAS
CLARK COUNTY BUILDING, 309 S THIRD ST, LAS VEGAS

The purported owner and address of the property contained in the Notice of Sale being:

Frank Anthony Timpa and Madelaine Timpa, Trustees, 34 Innisbrook Avenue, Las Vegas NV 89113.

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

Dated 9/17/2014

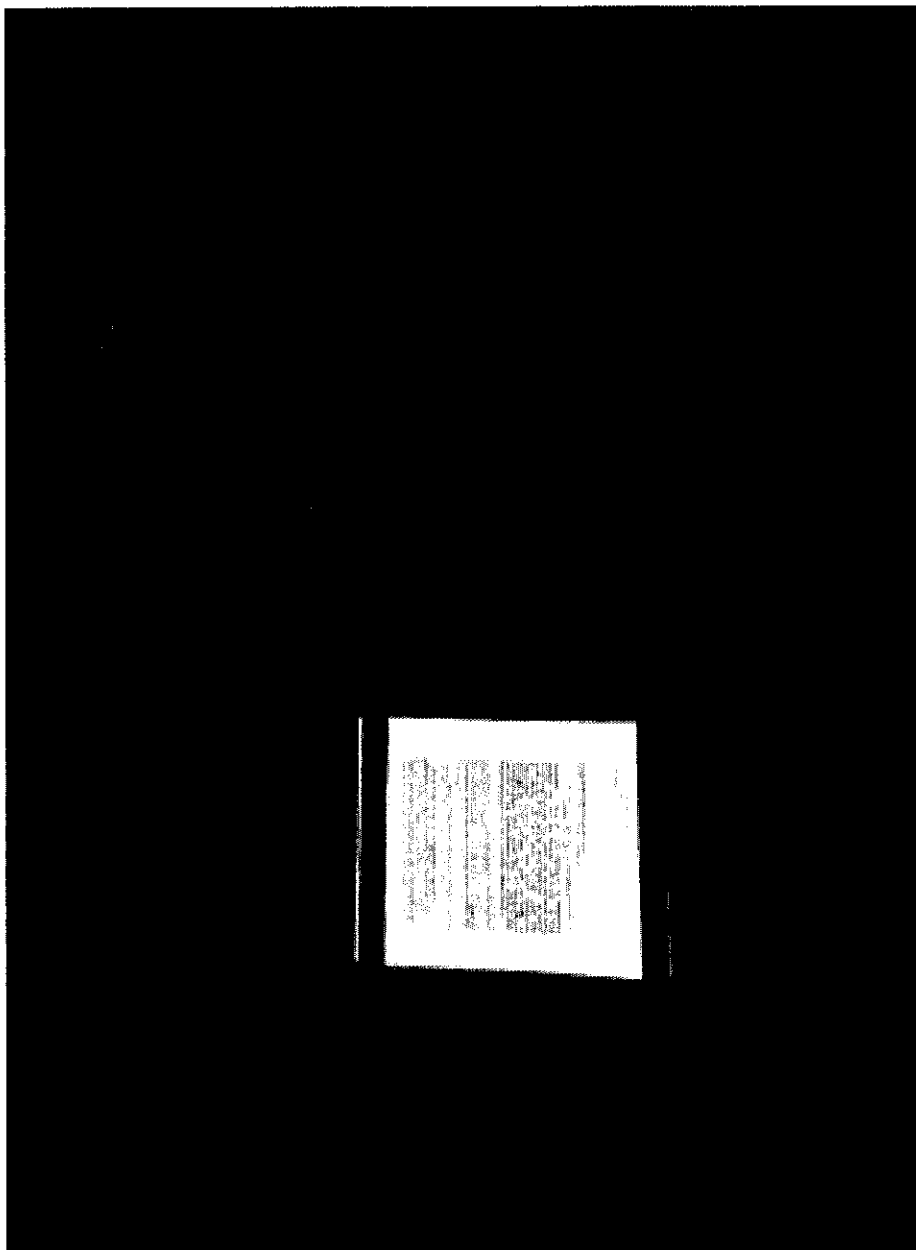
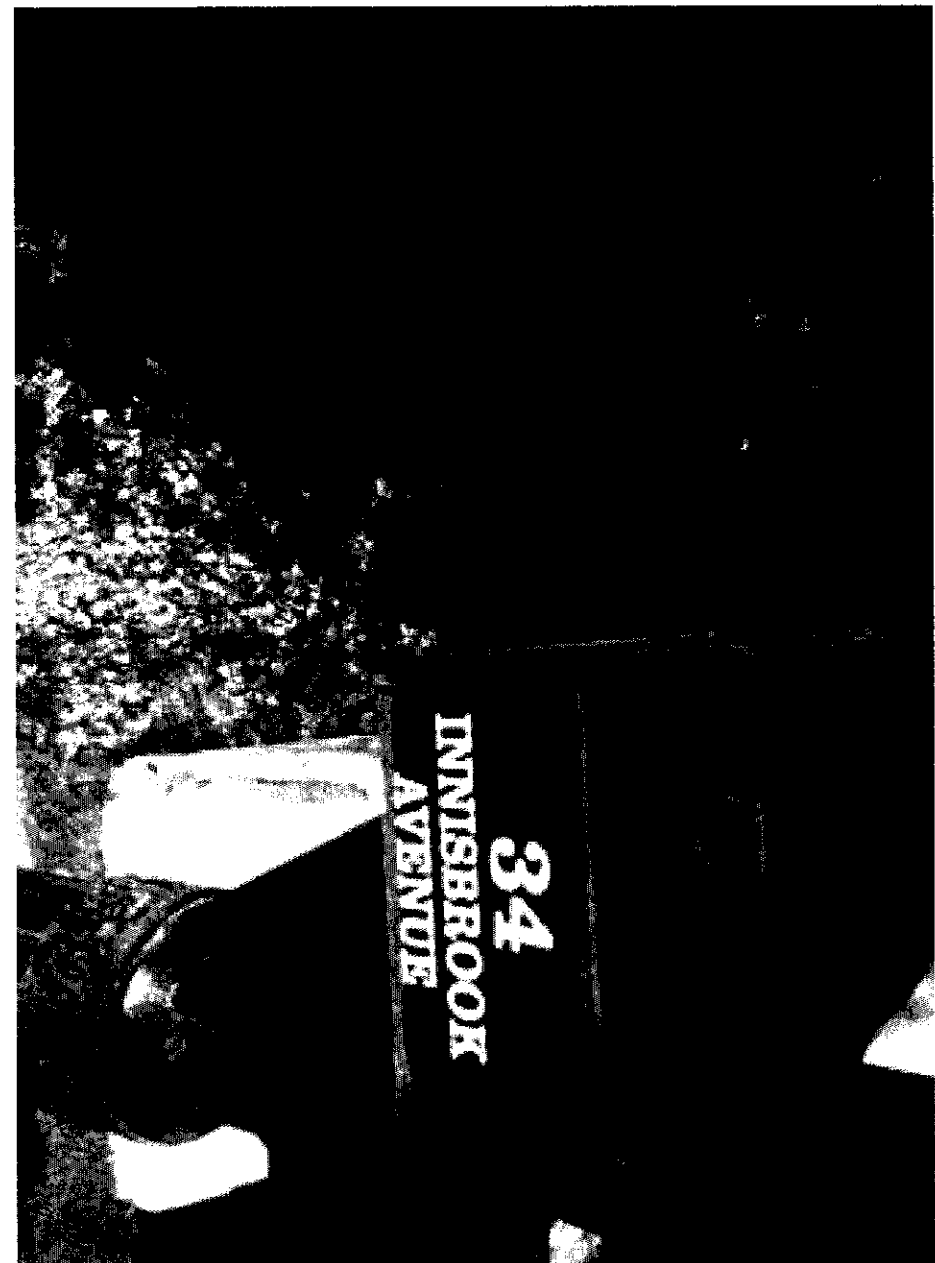
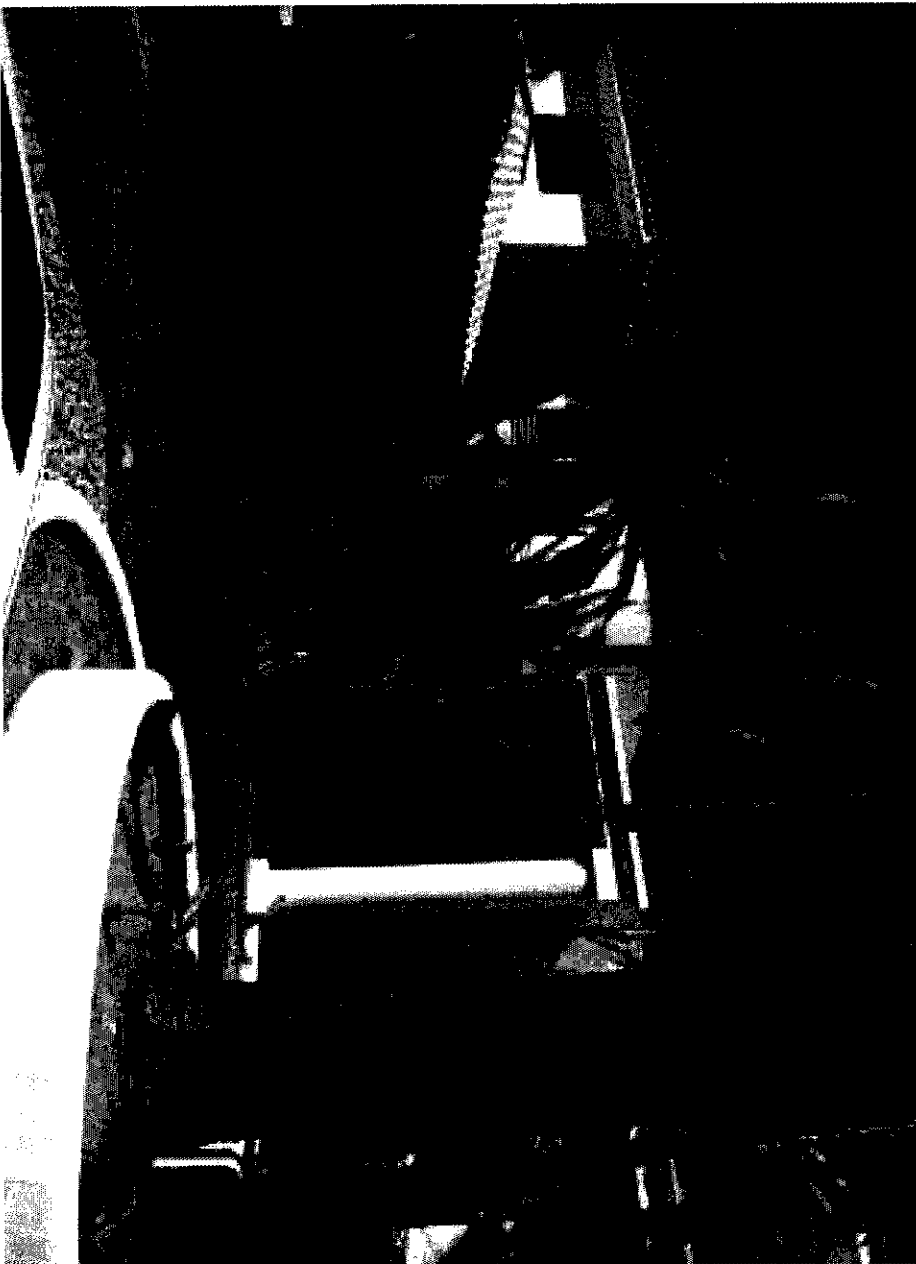
Nevada Legal Support Services LLC



Jessica Pruett
930 S. 4th Street, Suite 200
Las Vegas, NV 89101
(702) 382-2747
NV License #1711

NVLSS ID# 490145 16
COUNTY OF SERVICE: CLARK
SERVER: Jessica Pruett
RED ROCK FINANCIAL SERVICES

RRFS000185
JA0433



Photos taken by: Kevin Dunn County: CLARK 133
Photo Date: 9/17/2014 Time: 1:59 PM NLN ID# 490145 Page 1 of 1
Primary Borrower: Frank Anthony Timpa and Madelaine Timpa, Trustees
Property Address: 34 Innisbrook Avenue, Las Vegas NV 89113

Nevada Legal Support Services LLC
930 S. 4th Street, Suite 200
Las Vegas, NV 89101
(702) 382-2747 NV. Lic. #1711

Priority Posting & Publishing Order # P1112659 TS#R74507

RRFS000186
JA0434

EXHIBIT 10

EXHIBIT 10

AFFP

P1112659

Affidavit of Publication

STATE OF NEVADA)
COUNTY OF CLARK) SS

I, Rosalie Qualls state:

That I am Assistant Operations Manager of the Nevada Legal News, a daily newspaper of general circulation, printed and published in Las Vegas, Clark County, Nevada; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

Sep 17, 2014
Sep 24, 2014
Oct 01, 2014

That said newspaper was regularly issued and circulated on those dates. I declare under penalty of perjury that the foregoing is true and correct.

DATED: Oct 01, 2014



Rosalie Qualls

04108130 00381669

PRIORITY POSTING & PUBLISHING (2014)
17501 IRVINE BLVD, SUITE 1
TUSTIN, CA 92780

Assessor Parcel Number: 163-28-614-007 File Number: R74507 Property Address: 34 Innisbrook Ave Las Vegas, NV 89113 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 A 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 10/8/2014, at 10:00 a.m. at the front entrance to The Nevada Legal News located at 930 So. Fourth St., 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 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 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, NV 89118 (702) 483-2996 or (702) 932-6887 P1112659 9/17, 9/24, 10/01/2014

RRFS000139

JA0436

EXHIBIT 11

EXHIBIT 11

1 WRIGHT, FINLAY & ZAK, LLP

2 Edgar C. Smith, Esq.

3 Nevada Bar No. 5506

4 Eric S. Powers, Esq.

5 Nevada Bar No. 12850

6 7785 W. Sahara Ave., Suite 200

7 Las Vegas, NV 89117

8 (702) 475-7964; Fax: (702) 946-1345

9 epowers@wrightlegal.net

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

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 SATICOY BAY LLC SERIES 34
15 INNISBROOK,

16 Plaintiff,

17 vs.

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

24 Defendants.

25 THORNBURG MORTGAGE SECURITIES
26 TRUST 2007-3,

27 Counterclaimant

28 vs.

29 SATICOY BAY LLC SERIES 34
30 INNISBROOK, a Nevada limited-liability
31 company; SPANISH TRAIL MASTER
32 ASSOCIATION, a Nevada Non-Profit
33 Corporation; RED ROCK FINANCIAL
34 SERVICES, an unknown entity; FRANK
35 TIMPA, an individual; DOES I through X; and
36 ROE CORPORATIONS I through X, inclusive,

37 Counter-defendants.

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

**THORNBURG MORTGAGE SECURITIES
TRUST 2007-3'S ANSWERS TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

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 SYSTEMS,
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 TRUS U/T/D March 3,1999; and DOES 1-100,
14 inclusive,

15 Counter-Defendants.

16 COMES NOW, Defendant/Counterclaimant/Counter-Defendant, Thornburg Mortgage
17 Securities Trust 2007-3 (hereinafter "Thornburg"), by and through its attorney of record, Eric S.
18 Powers, Esq. of the law firm of Wright, Finlay & Zak, LLP, and hereby submits its Answers to
19 Plaintiff's First Set of Interrogatories.

20 **PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

21 The Answers herein to the Plaintiff's First Set of Interrogatories (the "Responses") are
22 subject to the following general objections (the "General Objections"). The General Objections
23 may be specifically referred to in the Responses for the purpose of clarity. The failure to
24 specifically incorporate a General Objection, however, should not be construed as a waiver of the
25 General Objections.

26 1. Nothing herein shall be construed as an admission or waiver by Thornburg of: (a)
27 its rights respecting admissibility, competency, relevance, privilege, materiality, and authenticity
28 of any information provided in the Responses, any documents identified therein, or the subject
matter thereof; (b) its objection due to vagueness, ambiguity, or undue burden; and (c) its rights
to object to the use of any information provided in the Responses, any document identified
therein, or the subject matter contained in the Responses during a subsequent proceeding,
including the trial of this or any other action.

2. The Responses are made solely for the purposes of, and in relation to, this litigation.

3. Thornburg objects to the Interrogatories to the extent they seek documents and information protected by the attorney-client privilege and/or seeks the work product of counsel.

4. Thornburg has not completed: (a) its investigation of facts, witnesses, or documents relating to this case, (b) discovery in this action, (c) its analysis of available data, and (d) its preparations for trial. Thus, although a good faith effort has been made to supply pertinent information where the same has been requested, it is not possible in some instances for unqualified Responses to be made to the Discovery Requests. Further, the Responses are necessarily made without prejudice to Thornburg's right to produce evidence of subsequently discovered fact, witnesses, or documents, as well as any new theories or contentions that Thornburg may adopt. The Responses are further given without prejudice to Thornburg's right to provide information concerning facts, witnesses, or documents omitted by the Responses as a result of oversight, inadvertence, good faith error, or mistake. Thornburg has responded to the Requests based on information that is presently available to it and to the best of its knowledge to date. The Responses may include hearsay and other forms of evidence that may be neither reliable nor admissible.

Without waiving its General Objections, Thornburg responds to the Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1:

Identify the facts, information and evidence of which you are aware that supports each affirmative defense claimed in your answer.

RESPONSE TO INTERROGATORY NO. 1:

Objection: This request is overly broad and unduly burdensome. This request seeks information protected by the attorney-client and attorney work-product privileges. Subject to the foregoing objections and without waiving the same, BONY reserves the right to call each and every witness indicated in its Initial Disclosures, Supplemental Disclosures, Expert Disclosures, or deposed witness. Discovery is ongoing. BONY reserves the right to supplement and/or call

1 additional witnesses as information becomes known or available.

2 **INTERROGATORY NO. 2:**

3 Identify all communications between you and the Association and/ or the Association's
4 agents regarding the Property from the time when the Borrower applied for the loan secured
5 by the First Deed of Trust to the present.

6 **RESPONSE TO INTERROGATORY NO. 2:**

7 Objection: This request is overly broad and unduly burdensome. This request seeks
8 information that is irrelevant and not reasonably calculated to lead to the discovery of admissible
9 evidence. This request is unlimited in time and scope. This request calls for an incomplete
10 hypothetical. Subject to the foregoing objections, and without waiving the same, Thornburg is
11 not currently in possession of communications responsive to this request. Thornburg further
12 disputes that it received notice of the HOA foreclosure sale.

13 **INTERROGATORY NO. 3:**

14 Identify any pooling and servicing agreement and/ or servicing guidelines applicable to
15 your security interest in the Property, including any pooling and servicing agreements for prior
16 servicers.

17 **RESPONSE TO INTERROGATORY NO. 3:**

18 Objection: This request seeks information that is irrelevant and not reasonably calculated
19 to lead to the discovery of admissible evidence. This request improperly seeks information that is
20 confidential and subject to privacy rights. This request is unlimited in time and scope. This
21 request seeks information that is publicly available.

22 **INTERROGATORY NO. 4:**

23 Identify all communications between you and the current and any prior servicer of your
24 loan regarding any association lien on the Property.

25 **RESPONSE TO INTERROGATORY NO. 4:**

26 Objection: This request seeks information that is irrelevant and not reasonably calculated
27 to lead to the discovery of admissible evidence. This request improperly seeks information that is
28 confidential and subject to privacy rights regarding consumers and/or individuals. This request is
subject to the attorney-client privilege. This request is overly broad and unduly burdensome.
This request is unlimited in time and scope. Subject to the foregoing objections and without
waiving the same, Thornburg is unable to respond to this request without further detail and/or

1 clarification. Discovery is ongoing. Thornburg reserves the right to supplement its response as
2 information becomes known or available.

3 **INTERROGATORY NO. 5:**

4 Please provide a list of each and every monetary payment sent to the Association or its
5 agents relating to an Association lien on the Property. For each payment, please include the date
6 of payment, amount of payment, the name and address of the person/entity to whom the payment
7 was sent, the method and manner the payment was sent, the name of the person who sent the
8 payment, and whether the payment was accepted or rejected.

9 **RESPONSE TO INTERROGATORY NO. 5:**

10 Objection: This request is vague and ambiguous as to the term “payment”. This request is
11 overly broad and unduly burdensome. This request calls for a legal conclusion to which no
12 response is required. This request calls for an incomplete hypothetical. This request is unlimited
13 in time and scope. Subject to the foregoing objections and without waiving the same, Thornburg
14 is currently unaware of monetary payments made to the Association. Thornburg further asserts
15 that it disputes whether the lien notices were sent or received in this action. Thornburg further
16 asserts that the Association had a policy of not providing ledgers of super-priority amount to
17 lenders. Thus, submitting any tender or payment of the super-priority amount to the Association
18 would have been futile because the payment would have been rejected by the same. Discovery is
19 ongoing, Thornburg reserves the right to supplement its response as information becomes known
20 or available.

21 **INTERROGATORY NO. 6:**

22 For any monetary payment described in Interrogatory No. 6 that you allege was rejected,
23 please describe in detail the facts and circumstances of any such rejection, including the date,
24 time, manner, and entity or individuals involved.

25 **RESPONSE TO INTERROGATORY NO. 6:**

26 See Response to Interrogatory No. 5.

27 **INTERROGATORY NO. 7:**

28 For any monetary payment described in Interrogatory No. 6 that you allege was rejected,
please describe any steps or actions that you took after the payment was rejected.

RESPONSE TO INTERROGATORY NO. 7:

See Response to Interrogatory No. 5.

1 **INTERROGATORY NO. 8:**

2 Describe any steps that you took to put third persons on notice of your alleged tender or
3 alleged payment of the super priority portion of the association lien.

4 **RESPONSE TO INTERROGATORY NO. 8:**

5 See Response to Interrogatory No. 5.

6 **INTERROGATORY NO. 9:**

7 If you allege that the loan is insured by the FHA, please describe the terms of the policy,
8 any claim or claims made under the policy and the status of such claim or claims.

9 **RESPONSE TO INTERROGATORY NO. 9:**

10 Thornburg asserts that the loan is federally insured under the Federal Housing Act. No
11 claims have been made under the policy at this time.

12 **INTERROGATORY NO. 10:**

13 State each address, including post office boxes where you receive any mail from the time
14 you acquired your interest in the deed of trust until the present.

15 **RESPONSE TO INTERROGATORY NO. 10:**

16 Objection: This request is vague and ambiguous as to the term "receive any mail". This
17 request seeks information that is irrelevant and not reasonably calculated to lead to the discovery
18 of admissible evidence. This request seeks information that is publicly available. Subject to the
19 foregoing objections and without waiving the same, please refer to Thornburg's publicly
20 available website for applicable address and contact information.

21 **INTERROGATORY NO. 11:**

22 Describe any interest that any federal government entity may have in the loan.

23 **RESPONSE TO INTERROGATORY NO. 11:**

24 See Response to Interrogatory No. 9.

25 **INTERROGATORY NO. 12:**

26 Identify the current and all prior servicers and its mailing address for the loan secured to
27 the Property by the Deed of Trust.

28 **RESPONSE TO INTERROGATORY NO. 12:**

Objection: This request seeks information that is irrelevant and not reasonably calculated
to lead to the discovery of admissible evidence. This request seeks information that is publicly
available. This request is unlimited in time and scope. Subject to the foregoing objections and

1 without waiving the same, See Thornburg's Initial Disclosure of Witnesses and Documents.

2 **INTERROGATORY NO. 13:**

3 Identify all facts, information, and evidence of which you are aware that contradicts
4 Plaintiff's assertion that it was a bona fide purchaser for value at the Association foreclosure
5 sale.

6 **RESPONSE TO INTERROGATORY NO. 13:**

7 Objection: This request calls for a legal conclusion to which no response is required. This
8 request is subject to the attorney work-product doctrine. Subject to the foregoing objections and
9 without waiving the same, Thornburg intends to produce an expert report regarding Plaintiff's
10 bona fide purchaser status. Moreover, Thornburg contends that Plaintiff was aware of
11 Thornburg's competing interest in the Property and recorded Deed of Trust prior to sale thus
12 negating its bona fide purchaser status. Discovery is ongoing. Thornburg reserves the right to
13 supplement its response as information becomes known or available.

14 **INTERROGATORY NO. 14:**

15 Identify any prior equities in the subject property which you allege that the purchaser
16 knew of or should have known of at the time of the foreclosure sale.

17 **RESPONSE TO INTERROGATORY NO. 14:**

18 See Response to Interrogator No. 13

19 **INTERROGATORY NO. 15:**

20 Identify all facts, information, and evidence of which you are aware which evidences any
21 fraud, oppression or unfairness in regards to the association foreclosure sale.

22 **RESPONSE TO INTERROGATORY NO. 15:**

23 Objection: This request calls for a legal conclusion to which no response is required. This
24 request is subject to the attorney work-product doctrine. This request calls for an incomplete
25 hypothetical. This request is unlimited in time and scope. Subject to the foregoing objections and
26 without waiving the same, the

27 **INTERROGATORY NO. 16:**

28 Identify all facts, information, and evidence of which you are aware which evidences
how any alleged fraud, oppression or unfairness affected the price paid at the Association
foreclosure sale.

RESPONSE TO INTERROGATORY NO. 16:

1 Objection: This request is overly broad and unduly burdensome. This request is vague
2 and ambiguous as to the terms “fraud,” “oppression,” or “unfairness.” This request calls for a
3 legal conclusion to which no response is required. This request seeks information subject to the
4 attorney work product privilege. Discovery is ongoing in this action. Subject to and without
5 waiving these objections, Shadow Wood Homeowners Assoc. Inc., v. New York Community
6 Bancorp, Inc., 132 Nev., Adv. Op. 5, 2016 Nev. LEXIS 5, *20 (Jan. 28, 2016) (“Shadow
7 Wood”), and other cases expressly state that a grossly inadequate purchase price compared to the
8 fair market value at the time of the HOA Sale *can* be sufficient to set aside the HOA Sale. The
9 Shadow Wood Court said, at p. 15, that “demonstrating that an association sold a property at its
10 foreclosure sale for an inadequate price is not enough to set aside that sale; there must also be a
11 showing of fraud, unfairness, or oppression,” it nonetheless made clear that a *grossly* inadequate
12 sale price in and of itself is sufficient. The decision recognized the Restatement (Third) of Prop.:
13 Mortgages § 8.3 ant. b (1997), position that while “[g]ross inadequacy cannot be precisely
14 defined in terms of a specific percentage of fair market value, [g]enerally ... a court is warranted
15 in invalidating a sale where the price is less than 20 percent of fair market value and, absent
16 other foreclosure defects, is usually not warranted in invalidating a sale that yields in excess of
17 that amount.” Shadow Wood citing Golden v. Tomiyasu, Furthermore, Golden v. Tomiyasu 387
18 P.2d 989, 995 (Nev. 1964), also provides that the a grossly inadequate sale price alone is enough
19 to show fraud, oppression, or malice required to declare the sale commercially unreasonable. In
20 addition, the HOA and its Trustee provided varying lien amounts to Thornburg and its
21 predecessors throughout the foreclosure process, conduct that, if it rose to the level of
22 misrepresentations and nondisclosures that indeed prevented Thornburg and its predecessors’
23 ability to cure the default. Furthermore, the foreclosure notices do not state that a super-priority
24 lien is being foreclosed upon or what super-priority amounts existed, if any, or that they could be
25 cured by payment by any lienholder or other person with an interest. Thornburg reserves the
26 right to supplement its response should additional information become known or available.

27 **INTERROGATORY NO. 17:**

28 Identify all facts, information, and evidence of which you are aware which evidences that
the association foreclosure sale was not properly conducted.

RESPONSE TO INTERROGATORY NO. 17:

See Response to Interrogatory No. 16.

1
2 **INTERROGATORY NO. 18:**

3 Identify all facts, information, and evidence of which you are aware which evidences that
4 the association foreclosure sale was not properly noticed.

5 **RESPONSE TO INTERROGATORY NO. 18:**

6 Objection: This request calls for a legal conclusion to which no response is required. This
7 request is vague and ambiguous as to the term "properly noticed". This request is overly broad
8 and unduly burdensome. Subject to the foregoing objections and without waiving the same,
9 Thornburg is currently unaware of whether the foreclosure notices were properly mailed or
10 received. Thornburg also contends the foreclosure notices contained improper super-priority lien
11 amounts, thus the sale was at minimum, subject to Thornburg's first deed of trust. Discovery is
12 ongoing, Thornburg reserves the right to supplement its response as information becomes known
13 or available.

14 **INTERROGATORY NO. 19:**

15 Please state all amounts that you have paid for taxes or insurance on the subject property
16 since the date of the Association foreclosure sale.

17 **RESPONSE TO INTERROGATORY NO. 19:**

18 Objection: This requests seeks information that is irrelevant and not reasonably
19 calculated to lead to the discovery of admissible evidence. This request is overly broad and
20 unduly burdensome. This request is unlimited in time and scope. Subject to the foregoing
21 objections and without waiving the same, Thornburg has properly satisfied any tax or insurance
22 requirements it currently is or was previously obligated to maintain.

23 **INTERROGATORY NO. 20:**

24 To the extent you answered any of the Requests for Admissions served upon you
25 contemporaneously herewith, anything other than an unqualified "Admit," then for each and
26 every such answer, set forth the specific basis or grounds for your answer, whether you are aware
27 of any information, facts, writings or evidence whatsoever relating to this litigation that either
28 supports or contradicts your answer, and the identity of all persons who have any knowledge or
information which either supports or contradicts each of your answers which are not an
unqualified admission.

RESPONSE TO INTERROGATORY NO. 20:

Objection: This request is overly broad and unduly burdensome. This request is compound. This request seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Subject to the foregoing objections and without waiving the same, See Thornburg's Responses to Requests for Admissions served herein.

DATED this 26th day of December, 2016.

WRIGHT, FINLAY & ZAK, LLP

/s/ Eric S. Powers

Edgar C. Smith, Esq.

Nevada Bar No. 5506

Eric S. Powers, Esq.

Nevada Bar No. 12850

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

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

VERIFICATION

I, _____, am a _____ for Defendant/Counterclaimant/
Counter-Defendant, THORNBURG MORTGAGE SECURITIES TRUST 2007-3. I have read
the foregoing answers in **THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S
ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** and know the
contents thereof. The factual information set forth in the responses was assembled for
THORNBURG MORTGAGE SECURITIES TRUST 2007-3, with the assistance of counsel.

Based on the corporate sources of information, the factual matters stated herein are true
and correct to the best of my knowledge and belief, based upon the foregoing.

Executed this ____ day of _____ 2016, at _____. I declare under
penalty of perjury under the laws of the State of _____ that the foregoing is true and
correct.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 27th day of December, 2016, I did cause a true copy of **THORNBURG MORTGAGE SECURITIES TRUST 2007-3'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** to be e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 as follows:

Akerman LLP		
Contact	Email	
Akerman Las Vegas Office	akermanlas@akerman.com	
Ariel E. Stern, Esq.	ariel.stern@akerman.com	
Brieanne Siriwan	brieanne.siriwan@akerman.com	
Akerman, LLP		
Contact	Email	
Donna Wittig	donna.wittig@akerman.com	
Koch & Scow LLC		
Contact	Email	
David R. Koch	dkoch@kochscow.com	
Staff	aeshenbaugh@kochscow.com	
Steven B. Scow	sscow@kochscow.com	
Law Offices of Michael F. Bohn, Esq.		
Contact	Email	
Eserve Contact	office@bohnlawfirm.com	
Michael F Bohn Esq	mbohn@bohnlawfirm.com	
Olympia Law PC		
Contact	Email	
Bryan Naddafi, Esq.	bryan@olympialawpc.com	
Williams & Associates		
Contact	Email	
Donald H. Williams, Esq.	dwilliams@dhwlawlv.com	
Robin Gullo	rgullo@dhwlawlv.com	

/s/ Eric S. Powers

An Employee of WRIGHT, FINLAY & ZAK, LLP

EXHIBIT 12

EXHIBIT 12

Inc. v. Dade County, 209 So.2d 489, 489-90 (Fla. Dist. Ct. App. 1968); *DeKalb County v. United Family Life Ins. Co.*, 219 S.E.2d 707 (Ga. 1975); *Village of Rosemont v. Maywood-Proviso State Bank*, 501 N.E.2d 859, 862 (Ill. App. Ct. 1986); *Clinton Capital Corp. v. Straeb*, 589 A.2d 1363 (N.J. Super. Ch. 1990); *Jala Corp. v. Berkeley Sav. & Loan Ass'n*, 250 A.2d 150, 154 (N.J. Super. Ct. App. Div. 1969); *Silverman v. State*, 370 N.Y.S.2d 234, 236 (N.Y. App. Div. 1975). See generally 1 G. Nelson & D. Whitman, *Real Estate Finance Law* § 6.3 (3d ed. 1993).

Nonetheless, if the documents are sufficiently clear in providing that the fee must be paid in the event of an acceleration owing to eminent domain or an insured loss, there is authority sustaining collection of the fee. See *Melin v. TCF Financial Corp.*, 1995 WL 265064 (Minn. Ct. App. 1995); *Village of Rosemont v. Maywood-Proviso State Bank*, 501 N.E.2d 859, 862 (Ill. App. Ct. 1986) (stating in dictum, "in the event of condemnation, performance of a prepayment penalty

clause will be excused unless there is clear language which expressly delineates payment of a premium upon condemnation").

Most of the cases dealing with prepayment fees in the context of acceleration under a due-on-sale clause hold that the fee is uncollectible on the ground that the prepayment is "involuntary"; see *Tan v. California Fed. Sav. & Loan Ass'n*, 189 Cal. Rptr. 775 (Cal. Ct. App. 1983); *Slevin Container Corp. v. Provident Fed. Sav. & Loan Ass'n*, 424 N.E.2d 939 (Ill. App. Ct. 1981); *American Federal Sav. and Loan Ass'n v. Mid-America Service Corp.*, 329 N.W.2d 124 (S.D. 1983). Cf. *First Indiana Fed. Sav. Bank v. Maryland Devel. Co.*, 509 N.E.2d 253 (Ind. Ct. App. 1987) (where prepayment was made under threat of acceleration under due-on-sale clause, but without actual acceleration, mortgagee was entitled to prepayment fee); *First Nat. Bank of Springfield v. Equitable Life Assur. Soc.*, 510 N.E.2d 518 (Ill. Ct. App. 1987) (same).

§ 6.4 Redemption from Mortgage by Performance or Tender

(a) Except as provided in Subsection (d), a performance in full of the obligation secured by a mortgage, or a performance that is accepted by the mortgagee in lieu of performance in full, by one who is primarily responsible for performance of the obligation, redeems the real estate from the mortgage, terminates the accrual of interest on the obligation, and extinguishes the mortgage. Performance may be made prior to the time the obligation is due (except as restricted by agreement of the parties subject to §§ 6.1 and 6.2), or may be made at or after the time the obligation is due but prior to foreclosure.

(b) Upon receipt of performance as provided in Subsection (a), the mortgagee has a duty to provide to the person performing, within a reasonable time, an appropriate document in recordable form showing that the mort-

gage is discharged. If the mortgagee fails to do so upon reasonable request, the person performing may obtain judicial relief ordering the mortgage discharged and, unless the mortgagee acted in good faith in rejecting the request, awarding against the mortgagee any damages resulting from the delay.

(c) An unconditional tender of performance in full by one who is primarily responsible for the obligation, even if rejected by the mortgagee, if kept good, has the effect of performance under Subsections (a) and (b) above.

(d) Performance under Subsection (a) does not extinguish a mortgage or require the issuance of a document under Subsection (b) if the person performing and mortgagee agree that the mortgage is to remain in existence.

(e) A performance in full of the obligation secured by a mortgage, or a performance that is accepted by the mortgagee in lieu of payment in full, by one who holds an interest in the real estate subordinate to the mortgage but is not primarily responsible for performance, does not extinguish the mortgage, but redeems the interest of the person performing from the mortgage and entitles the person performing to subrogation to the mortgage under the principles of § 7.6. Such performance may not be made until the obligation secured by the mortgage is due, but may be made at or after the time the obligation is due but prior to foreclosure.

(f) Upon receipt of performance as provided in Subsection (e), the mortgagee has a duty to provide to the person performing, within a reasonable time, an appropriate assignment of the mortgage in recordable form. If the mortgagee fails to do so upon reasonable request, the person performing may obtain judicial relief ordering the mortgage assigned and, unless the mortgagee acted in good faith in rejecting the request, awarding against the mortgagee any damages resulting from the delay.

(g) An unconditional tender of performance in full by a person described in Subsection (e), even if rejected by the mortgagee, if kept good has the effect of performance under Subsections (e) and (f) above.

Cross-References:

Section 1.6, Mortgagee's Duty to Disclose Balance and Status of Obligation; § 3.1, The Mortgagor's Equity of Redemption and Agreements Limiting It; § 6.1, Right of Mortgagor to Prepay in the Absence of Agreement Prohibiting Prepayment; § 6.2, Enforceability of Prohibitions and Restrictions on Prepayment; § 7.6, Subrogation; § 8.5, The Merger Doctrine Inapplicable to Mortgages.

Comment:

a. Introduction. This section deals with the equitable right of redemption from a mortgage by the mortgagor and other persons having interests in the real estate junior to the mortgage. That right exists until foreclosure of the mortgage, at which time it is extinguished if the person seeking to redeem was properly joined or notified under applicable law. In the case of judicial foreclosure, which is available in every American jurisdiction, this means that the holder of a junior interest who has been made a party to a completed foreclosure action can no longer redeem. About half of the American jurisdictions also provide a nonjudicial form of foreclosure, typically by recognizing a "power of sale" in the mortgage or an equivalent document, such as a trust deed. Here the issue is whether applicable rules requiring notice and other procedural steps have been satisfied, thus cutting off the right of redemption of persons with interests junior to the mortgage being foreclosed. In nearly half of the jurisdictions, statutes provide for some further form of redemption after foreclosure, but that sort of statutory redemption is not the subject of this section.

Equitable redemption is ultimately accomplished by performance in full of the obligation secured by the mortgage. However, redemption has two quite distinct results, depending on whether the performance is made by a person who is primarily responsible for payment of the mortgage obligation, or by someone else who holds an interest in the land subordinate to the mortgage. In the first of these situations, the mortgage is simply extinguished, as provided in Subsection (a) of this section. In the second, the mortgage is not extinguished, but by virtue of Subsection (e) is assigned by operation of law to the payor under the doctrine of subrogation; see § 7.6. Subrogation does not occur in the first situation, since one who is primarily responsible for payment of a debt cannot have subrogation by performing that duty; see § 7.6, Comment *b*.

The term "performance" is used here to reflect the fact that, while the great majority of mortgages secure financial obligations that can be discharged by the payment of money, it is possible for a mortgage to secure a nonmonetary obligation, provided it is reducible to mone-

§ 6.4

MORTGAGES

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tary terms at the time of enforcement; see § 1.4. The full performance of a nonmonetary obligation has the same effect as full payment of a monetary obligation under this section, and the term "payor" is used in this Comment as synonymous with "person performing."

"Primarily responsible" is a concept of critical importance in this section, since upon it turns the distinction between a payment that extinguishes a mortgage (Subsection (a)) and one that assigns the mortgage to the payor through subrogation (Subsection (e)). As the term is used here, primary responsibility does not necessarily imply personal liability. For example, a nonassuming grantee of the mortgaged real estate has no personal liability on the debt but is nonetheless primarily responsible for payment, as is explained in § 5.2, Comment c, unless the grantor and grantee have agreed otherwise. Hence, the full payment of the mortgage obligation by a nonassuming grantee extinguishes the mortgage. See Illustration 1. The same result follows if a mortgagor whose debt is "nonrecourse" makes a full payment of the mortgage obligation, notwithstanding the absence of personal liability on the part of the mortgagor.

Illustration:

1. Mortgagor owns Blackacre subject to a mortgage held by Mortgagee securing a debt of \$60,000. Mortgagor sells Blackacre to Grantee for \$100,000. Grantee expressly takes subject to (but does not assume the obligation secured by) the first mortgage and pays Mortgagor \$40,000 in cash. Subsequently Grantee pays Mortgagee \$60,000, the full balance owing on the mortgage debt. The mortgage is extinguished and Mortgagee has a duty to provide Grantee with an appropriate recordable document showing that the mortgage is discharged.

On rare occasions a sale of mortgaged property will occur in which the grantee pays the full purchase price in cash and the grantor promises to complete the payments on the mortgage debt. Here, in distinction to the usual "subject-to" sale, the grantee is not primarily responsible for the obligation, and such a grantee who pays the debt because the grantor has defaulted in doing so is entitled to subrogation as to the debt against the grantor.

A similar situation may arise in which the grantee is informed of, and expressly assumes or takes subject to, a first mortgage debt on the real estate, but is not aware of, and hence does not assume, an existing second mortgage. In this sort of transaction, the cash price paid by the grantee for the land will be reduced by the balance owing on the first mortgage, but not by the second mortgage balance. When

the grantee subsequently discovers the existence of the second mortgage, the grantee is entitled to subrogation to the debt against the grantor. Perhaps more important, the grantee may pay the first mortgage debt and be subrogated to the first mortgage as against the second mortgage. Thus the grantee can foreclose the first mortgage to destroy the second. See § 7.6, Illustration 21. This result would seem to violate the principle that one cannot be subrogated to a mortgage debt for which he or she is primarily responsible. However, that principle is designed to prevent unjust enrichment, and on these facts no unjust enrichment will occur, since the grantee has already paid the second mortgage amount once as part of the cash portion of the purchase price for the real estate. Thus the rule prohibiting subrogation to a mortgage for which one is primarily responsible is inapplicable.

Cases often arise in which the payor of the debt has a primary responsibility to pay it, but is not the only person so responsible. For example, the payor may be one of two tenants in common, or may hold a life estate or a dower or other marital interest in the real estate. When such a person pays the mortgage debt in full, the mortgage is extinguished under Subsection (a) of this section except to the extent that another person has a duty to reimburse the payor; to that extent the mortgage remains alive and enforceable in the hands of the payor by virtue of the doctrine of subrogation. For example, when two equal tenants in common are responsible for payment, the one who actually pays the mortgage debt is entitled to contribution from the other for half of the payment; see § 7.6, Illustration 3. Thus, under Subsection (e) of this section, the paying cotenant may enforce the mortgage against the other cotenant for that amount.

When a mortgage obligation is paid in full by one who is primarily responsible for the payment, the mortgagee has a legal duty to provide an appropriate document in recordable form showing that the mortgage has been discharged. This section addresses the situation in which the mortgagee fails to do so. It establishes that the payment, or the continuing tender of payment, operates to extinguish the mortgage even if the mortgagee fails to provide a document of discharge. It also provides suitable judicial remedies against the recalcitrant mortgagee.

Under Subsection (a) a payment or tender of the mortgage obligation in full extinguishes the mortgage. This means that the mortgage is no longer a lien on the real estate in question, and that in general no action may be brought by the mortgagee on other covenants in the mortgage. For example, covenants prohibiting waste, requiring specific care or maintenance of the real estate, prohibiting transfers of title, and the like are simply irrelevant once the mortgage debt has been paid in full. Even if they have been breached by the

mortgagor, the mortgagee who has been paid in full can have suffered no damages, since the covenants were designed simply to protect the security for the debt. Similarly, covenants by the mortgagor to insure the real estate or pay property taxes become irrelevant upon a payment of the debt in full. If the mortgagee has made advances for taxes or insurance premiums unpaid by the mortgagor, these amounts can be added to the balance owing on the debt under § 2.2, and reimbursed as part of a payment of the debt in full. Thus it is unnecessary for such covenants to survive a full payment.

On rare occasions, however, a mortgage may contain covenants the breach of which has damaged the mortgagee, and for which payment of the mortgage obligation in full may not provide complete redress. For example, a mortgage might contain a term prohibiting the mortgagor from competing with the mortgagee's business for a fixed time period within a certain geographic radius. If the mortgagor breached this covenant, the mortgagee might suffer lost business profits as a result. A payment of the mortgage debt would not compensate for these lost profits, and the mortgagee might bring an action for damages. The fact that the mortgage debt had been paid in full would not bar such an action, and the mortgage would not be regarded as "extinguished" for this purpose.

b. *Payment must be in full.* The mortgagee is not obligated to discharge the mortgage, or to give it up by subrogation, unless it has received payment in full. This includes not only the principal debt, but all legally enforceable additional charges. Such charges may include future advances, accrued interest, late fees, prepayment fees, and attorneys' fees and costs if collection or foreclosure proceedings have commenced. They may also include a reasonable trustee's fee if the mortgage is in the form of a trust deed and provides for collection of such a fee. See Illustration 2. A mortgagee may, of course, voluntarily discharge the mortgage upon payment of less than the full balance owed, but has no duty to do so.

An exception to the rule requiring payment in full arises if the mortgage contains a "partial release" clause permitting the mortgagor to demand a discharge of the mortgage on a portion of the land upon payment of some fraction of the total mortgage debt. Such clauses, which are commonly used on land to be subdivided and are generally enforceable, have the effect of authorizing a redemption of part of the land upon payment of less than the full balance owing.

In some cases a mortgage may contain a "dragnet" clause purporting to secure advances under other transactions not directly related to the mortgage itself. If under § 2.4 the mortgage in fact

secures such advances, they too must be included in order for the payment to be "in full."

The payment may be made directly by the party who is primarily responsible for it, or by any agent properly acting for that person. Similarly, payment made to the mortgagee's agent is good against the mortgagee.

To be effective, the payment must conform to the requirements of the secured obligation. It must be in cash or its equivalent unless the obligation itself calls for some different form of payment or the mortgagee agrees to it. Except in these circumstances, for example, the mortgagor has no right to pay by tendering a deed of the real estate or by executing a new promissory note for the balance due on the existing obligation.

Illustration:

2. Mortgagor is indebted to Mortgagee for the principal sum of \$100,000 plus interest at 12 percent per annum, secured by a mortgage on Blackacre. Mortgagor sends a check to Mortgagee for \$100,000, purporting to pay the debt. However, at the time of the payment, interest has been accruing on the principal sum for six months and \$6,000 interest is owed. The payment is not "in full" and does not extinguish the mortgage. Mortgagee has no obligation to execute a document discharging the mortgage.

c. Duty to provide document of discharge. When payment or tender by the person primarily responsible for the debt has extinguished the mortgage, the payor derives little comfort unless a document can be recorded to clear the public records of the mortgage lien. Hence it is the mortgagee's duty to provide such a document. The precise nature of the document will vary from one jurisdiction to another. Most commonly a separate paper, entitled "mortgage satisfaction" or the like, is used. In some states it is customary for the mortgagee to provide an endorsement on the public records, to display the promissory note, marked "paid," to the recorder's office personnel, or to return the original mortgage document. The mortgagee's duty is coextensive with local custom in this respect.

The mortgagee may need a brief period of time to consult its records and verify that the payment amount is correct, and to complete the administrative process of executing a discharge. Any delay beyond such a time, however, raises the risk that the payor will be harmed by the continued existence of the mortgage of record. The mortgagee is liable for any damage caused by such a delay, unless the mortgagee can show that it refused to discharge the mortgage in good

faith—typically because a bona fide dispute existed concerning the proper amount of payment. See Illustrations 3 and 4. If the mortgagee's failure to discharge the mortgage is not based on any good faith reason, but instead is the result of negligence or intentional bad faith, liability for damages will arise.

Numerous jurisdictions have statutes providing fixed penalties for the failure of mortgagees to provide timely discharges; see the Statutory Note following this section. However, liability for actual damages under this section is additional to any such penalty, unless the relevant statute provides otherwise.

Illustrations:

3. Mortgagor is indebted to Mortgagee for the principal sum of \$100,000, secured by a mortgage on Blackacre. Mortgagor sends a check to Mortgagee for \$100,000 purporting to pay the debt. Mortgagee deposits the check but fails without reasonable cause to execute a discharge of the mortgage. Mortgagor has contracted with P to sell Blackacre to P free and clear of all encumbrances. Because of Mortgagee's refusal to discharge the mortgage of record, Mortgagor is unable to clear the record title to Blackacre. P therefore withdraws from the contract to purchase Blackacre. Mortgagor immediately attempts to find another purchaser. Later, after an unreasonable delay, Mortgagee discharges the mortgage of record. Mortgagor then finds another purchaser for Blackacre, but because of the delay and an ensuing decline in market value, Mortgagor sells Blackacre for \$10,000 less than the price P had contracted to pay. Mortgagee is liable to Mortgagor for damages of \$10,000, plus any incidental damages incurred by Mortgagor in connection with the frustrated sale.

4. The facts are the same as Illustration 3, except that Mortgagee's refusal to discharge the mortgage is based on Mortgagee's reasonable belief, based on Mortgagee's own reasonably maintained records, that Mortgagor owes an additional amount beyond the \$100,000 paid by Mortgagor. In addition, Mortgagee promptly communicates to Mortgagor the reasons for its refusal to discharge the mortgage and attempts to clarify the discrepancy expeditiously. Mortgagee is not liable to Mortgagor for damages, even if the basis for Mortgagee's refusal to discharge the mortgage is shown to be incorrect.

d. Tender of payment rejected by mortgagee. Under Subsection (c), a mortgage is extinguished by mere tender of full payment by the person primarily responsible for payment, even if the mortgagee

rejects it. The tender must be kept good in the sense that the person making the tender must continue at all times to be ready, willing, and able to make the payment. If the payor brings an action to have the mortgage canceled, the money must be paid into court to keep the tender good.

The tender must be unconditional. However, the payor's demand that the mortgagee return the mortgagor's promissory note, mark it "paid," or execute a discharge of the mortgage is not a condition of the sort that will invalidate the tender. See Illustration 5.

The rule extinguishing the mortgage when a tender is rejected has only limited modern significance. The reason is that mortgages are virtually always recorded, and the payor derives little benefit merely from the theoretical extinction of the mortgage if it is in fact still present, and apparently undischarged, in the public records. A payor in such a situation will, as a practical matter, need to file an action to redeem the mortgage or to have it declared extinguished and, as noted above, will be required to pay the funds into court in that action in order to keep the tender good. The court's decree will cancel the mortgage of record, thus giving the payor meaningful relief. At that point, the funds held by the court will be turned over to the mortgagee, and an actual payment will occur.

Nonetheless, the tender of full payment *per se* relieves the real estate of the mortgage lien. Tender is significant in at least two ways. First, the tender stops the accrual of interest, late fees, and any other charges that might otherwise result from the passage of additional time. Second, under Subsection (b) the mortgagee who wrongfully refuses a tender may be held liable for damages flowing from any unreasonable delay that results in clearing the mortgage from the real estate's title. See Illustrations 5 and 6.

Illustrations:

5. Mortgagor is indebted to Mortgagee for the principal sum of \$100,000, secured by a mortgage on Blackacre. Mortgagor sends a check to Mortgagee for \$100,000 purporting to pay the debt, but Mortgagee refuses to accept the check or execute a discharge of the mortgage. Mortgagor then deposits \$100,000 in an escrow account established for the purpose of paying the debt, and informs Mortgagee that the funds are available upon Mortgagee's request and execution of a document discharging the mortgage. Mortgagor's tender is effective, continuing, and unconditional. The mortgage is extinguished, and no further interest will accrue on the debt.

6. The facts are the same as Illustration 5. In addition, Mortgagor has contracted with P to sell Blackacre to P free and clear of all encumbrances. Because of Mortgagee's refusal to accept the tendered payment, Mortgagor is unable to clear the record title to Blackacre. P therefore withdraws from the contract to purchase Blackacre. Mortgagor immediately attempts to find another purchaser. Later, after an unreasonable delay, Mortgagee accepts the tendered payment and discharges the mortgage of record. Mortgagor then finds another purchaser for Blackacre, but because of the delay and an ensuing decline in market value, Mortgagor is only able to sell Blackacre for \$10,000 less than the price P had contracted to pay. Mortgagee is liable to Mortgagor for damages of \$10,000, plus any incidental damages incurred by Mortgagor in connection with the frustrated sale.

In Illustration 5 the mortgagor kept the tender good by depositing the required funds in an escrow account. This is a proper method, but not the only method of doing so. If the mortgagor is otherwise solvent and financially responsible, he or she need not necessarily segregate the funds, but must show that they continue to be available for actual payment upon demand.

e. Mortgage not extinguished if parties so agree. Sometimes the parties to a mortgage transaction do not desire that the mortgage be extinguished, even though the borrower has made payments that reduce the balance owing on the obligation to zero. This is most commonly the case with a "line of credit" mortgage loan, under which the mortgagor has the right to borrow and repay funds on multiple occasions at his or her discretion over some fixed period of time. In such a transaction, it would be very inconvenient if the mortgage were extinguished simply because the borrower paid the outstanding balance down to zero, since future borrowing would require the execution and recording of a new mortgage.

Under Subsection (d), a payment of the full balance owing will not extinguish the mortgage if the mortgagor and mortgagee agree that it is to be preserved. This principle, while most commonly applied to line-of-credit loans, is applicable to any mortgage loan. The parties' agreement may be stated in the loan documents themselves, which may provide that the mortgagor is entitled to reduce the balance to zero and subsequently to draw additional funds on the security of the mortgage. Alternatively, they may agree on the matter at the time of the payment in question. In the absence of any express agreement, the courts may infer an agreement from the parties' conduct, such as the mortgagor's request for an additional advance after the mortgage

balance has been paid to zero, and the mortgagee's granting of the request. See Illustrations 7 and 8.

One effect of extinguishment of a mortgage by payment or tender is to terminate the mortgagee's duty to extend any further advances. Even if the mortgagee originally agreed to make future advances, that agreement will ordinarily have been predicated on the continued existence of the mortgage; hence, unless the parties agree otherwise the obligation to lend does not survive if the mortgage is no longer in effect. See Illustration 8.

Illustrations:

7. Mortgagor enters into a transaction under which Mortgagee agrees to lend funds to Mortgagor under a line of credit, with repayment secured by a mortgage on Blackacre. The agreement provides that Mortgagor may borrow and repay funds at Mortgagor's discretion at any time or times during the ensuing five years, provided that the principal balance may never exceed \$10,000. Mortgagor borrows \$5,000 from Mortgagee and subsequently repays it in full with interest. However, Mortgagor does not communicate to Mortgagee an intention that the mortgage be extinguished. Thereafter, within the five-year period, Mortgagor borrows \$8,000 from Mortgagee under the original loan agreement. The mortgage is not extinguished, and this sum, with interest, is secured by the original mortgage.

8. The facts are the same as in Illustration 7, except that when Mortgagor repays the original \$5,000 principal with interest, Mortgagor requests that the mortgage be extinguished and discharged of record. The mortgage is extinguished under Subsection (a) of this section, and Mortgagee is obligated to provide an appropriate document of discharge under Subsection (b). This action also relieves Mortgagee of any obligation to lend additional funds to Mortgagor.

When a payment in full is made by a person who is primarily responsible for the obligation, but the payor and payee agree not to extinguish the mortgage, the payor might attempt to claim ownership of the mortgage, either under the principle of subrogation or by taking a formal assignment of the mortgage from the mortgagee. The payor might then purport to foreclose the mortgage against the holder of some junior lien or other interest subordinate to the mortgage. However, subrogation is inapplicable to this situation, since one who is primarily responsible for an obligation cannot have subrogation upon paying it; see § 7.6, Comment c. Indeed, even a formal assignment of

the mortgage to the payor would confer no power on the payor to foreclose the mortgage against junior interests, since doing so would unjustly enrich the payor; see § 8.5, Comment c(3).

f. Allocation of payment if payor has multiple obligations. A debtor may owe more than one debt to the same creditor. In such a case, a dispute may arise concerning against which debt a payment is to be credited. For example, if one debt is secured by a mortgage on real estate and the other is unsecured, the creditor may prefer to apply the payment against the unsecured debt. In general the choice is left to the payor, who is permitted to designate which debt is to receive the benefit of the payment. However, this right is subject to modification by the parties' contract. Thus, if loan documents executed by the debtor give the creditor the privilege of allocating the payment, the creditor may do so in the manner it regards as most advantageous, even if contrary to the debtor's wishes. See Illustrations 9 and 10. The creditor has a similar privilege if the debtor makes a payment without designating the debt to which it applies, subject to the general duty not to allocate the payment in a manner inconsistent with good faith and fair dealing.

Illustrations:

9. Mortgagor owes Mortgagee \$10,000 on a promissory note secured by a mortgage on Blackacre. In addition, Mortgagor owes \$10,000 to Mortgagee on an unsecured promissory note arising out of a different transaction. Mortgagor pays \$10,000 to Mortgagee, designating the payment as applicable to the secured note. Mortgagee must apply the payment to the secured note, and the mortgage is extinguished.

10. The facts are the same as Illustration 9, except that the mortgage contains the following term: "Any payment received from Mortgagor may be allocated to the debt secured by this mortgage, or to any other indebtedness owed by Mortgagor to Mortgagee, at Mortgagee's discretion." Mortgagee is entitled to apply the payment to the unsecured promissory note despite Mortgagor's contrary designation. If Mortgagee does so, the mortgage and the note it secures are unaffected by the payment.

g. Redemption by one who is not primarily responsible for the mortgage obligation. Persons who hold interests in the mortgaged real estate that are subordinate to the mortgage have a strong interest in preventing foreclosure, even when they are not primarily responsible for payment, since a foreclosure will destroy their interests if they are properly joined as parties. The right of redemption is recognized in

such persons to help them protect their interests. Those within this protection include junior mortgagees, the holders of junior mechanics' liens and other liens, junior lessees, and easement holders. See § 7.6, Illustrations 1-3.

The concept of redemption is applicable only to persons with interests in the real estate subordinate to the mortgage. Some individuals who have no interest in the real estate may have analogous rights of subrogation arising under § 7.6. Such parties include sureties and guarantors of the mortgage debt and mortgagors who have sold the real estate subject to, or with an assumption of, the mortgage. See § 7.6, Illustrations 12-15. While these persons may have a right to pay and be subrogated, their actions cannot properly be termed redemption, since they have no real estate interest to redeem from the mortgage.

There are two principal differences between redemption by individuals who are not primarily responsible for payment and redemption by those who are primarily responsible. First, as Subsection (e) provides, those who have no primary responsibility may not prepay the debt, but must wait until it is due before tendering payment. The reason is that a prepayment by the holder of a junior interest, such as a second mortgagee or a tenant of the mortgagor, would interfere with the relationship between the mortgagor and the mortgagee. Prepayment is a matter of contract between the two of them (see § 6.1), and third parties have no right to intrude upon it. Moreover, if the debt is not due foreclosure is not imminent and the holders of junior interests are not yet at risk; hence, they have no need to redeem.

The second distinction, mentioned above, is that redemption by a person who is not primarily responsible for payment of the debt does not extinguish the mortgage, but rather assigns both the mortgage and the debt to the payor by operation of law under the doctrine of subrogation; see § 7.6. In cases of this sort, the payor has paid, not out of duty, but to protect a real estate interest from foreclosure. Thus, the payor is entitled to reimbursement from whomever is primarily responsible for payment, and can enforce the mortgage against that person to aid in collection of the reimbursement. Subrogation in this context helps prevent the unjust enrichment of the party who is primarily responsible at the expense of the payor. See § 7.6, Illustrations 1 and 2. Since the mortgage is not extinguished, and since the payor has actually paid or tendered the balance owing to protect his or her interest, the accrual of interest on the balance ceases in favor of the mortgagee but continues unabated in favor of the payor.

With these two exceptions, redemption by the holder of a junior interest in the real estate operates in essentially the same manner as

redemption by one who is primarily responsible for the obligation. Under Subsection (g) a junior interest-holder may redeem either by actual payment, or by an unconditional tender that is kept good, by analogy to Subsection (c). See Illustration 11. Redemption by a junior interest-holder must be for the full amount of the obligation, including accrued interest and other items owed, as discussed in Comment *b* above. The junior interest-holder who redeems is not entitled to a document of discharge, but rather an assignment of the mortgage.

If the mortgagee fails to give an assignment voluntarily, a court may order it to do so, or may simply issue a decree declaring that the mortgage has been assigned. In addition, if the payor can show that he or she has been damaged by the delay, the court may order an award of compensatory damages under Subsection (f). See Illustration 11.

Illustration:

11. Blackacre is owned by Mortgagor subject to two mortgages held in order of priority by Mortgagee-1 and Mortgagee-2. Mortgagor defaults in payment of the debt secured by the first mortgage, and Mortgagee-1 notifies Mortgagor that the entire debt is now due under an acceleration clause in the mortgage. Mortgagee-2 approaches Mortgagee-1 and tenders the entire balance due on the first mortgage, including accrued interest. Mortgagee-1 refuses to accept the tender. Mortgagee-2 deposits the tendered funds in an escrow account and advises Mortgagee-1 that they are being held for payment of the first mortgage debt. This continuing tender stops the accrual of any further interest in favor of Mortgagee-1 and acts as an assignment by operation of law of the mortgage and the obligation it secures from Mortgagee-1 to Mortgagee-2. Further interest will accrue in favor of Mortgagee-2. At Mortgagee-2's request in an appropriate judicial action, the court may order Mortgagee-1 to execute a written assignment of the obligation and the mortgage to Mortgagee-2. If Mortgagee-2 can show harm resulting from the delay and Mortgagee-1 did not act in good faith in refusing to accept the tendered payment and assign the mortgage, the court may order Mortgagee-1 to pay damages.

In the foregoing illustration Mortgagee-2 places the funds in an escrow account to achieve a continuing tender. However, as noted in Comment *c* above, segregation of the funds is not essential if Mortgagee-2 can show that he or she continues to be ready, willing, and able to pay.

REPORTERS' NOTE

Introduction, Comment a. On redemption, payment, and tender see generally 1 G. Nelson & D. Whitman, Real Estate Finance Law §§ 6.6-6.7 (3d ed. 1993); I G. Glenn, Mortgage §§ 50-54 (1943); W. Walsh, Mortgages §§ 39-45 (1934).

The fundamental principle of this section, that a payment in full extinguishes the mortgage, is stated in many cases. See, e.g., FDIC v. Braceiro & Rivera, Inc., 895 F.2d 824 (1st Cir.1990); Judge Devel. Corp. v. Bank of New York, 814 F.Supp. 384 (D.Vt. 1993); U.S. v. Hoffman, 826 P.2d 340 (Ariz.App. 1992); Winnett v. Roberts, 225 Cal.Rptr. 82 (Cal.Ct.App.1986); C.T.W. Co. v. Rivergrove Apartments, Inc., 582 So.2d 18 (Fla.Dist.Ct. App.1991); Decker v. Decker, 89 N.W. 795 (Neb.1902); Home & City Sav. Bank v. Sperrazza, 612 N.Y.S.2d 259 (N.Y.App.Div.1994); O'Dell v. First Nat'l Bank, 855 S.W.2d 1 (Tex. Ct. App. 1991), reversed on other grounds, 856 S.W.2d 410 (Tex.1993); Fidelity Mut. Sav. Bank v. Mark, 767 P.2d 1382 (Wash.1989). See also Schultz v. Beulah Land Farm & Racing Stables, Inc., 581 N.Y.S.2d 509 (N.Y.App.Div.1992) (mortgage was extinguished by payment of debt in full by fire insurance carrier under policy purchased by mortgagee).

The essential effect of foreclosure is to cut off the right to extinguish the mortgage by payment or tender; see § 7.1; West Lumber Co. v. Schnuck, 51 S.E.2d 644 (Ga.1949).

While most mortgages secure obligations to pay money, the principle of extinguishment stated in this section also applies to other sorts of obligations. See, e.g., Whaley v. White, 7 So.2d 751 (La.Ct.App.1942) (obligation to remarry); Kline v. McElroy,

296 S.W.2d 664 (Mo.Ct.App.1956) (death of mortgagee); Jeffrey Towers, Inc. v. Straus, 297 N.Y.S.2d 450 (N.Y.App.Div.1969), aff'd, 257 N.E.2d 897 (N.Y. 1970) (obligation to complete building); In re Will of Gunderson, 211 N.W. 791 (Wis.1927) (obligation to support parents until their death).

Illustration 1 is based on Dietrich Industries v. United States, 988 F.2d 568 (5th Cir.1993). See also Pipola v. Chicco, 274 F.2d 909 (2d Cir.1960); Burgoon v. Lavezzo, 92 F.2d 726 (D.C.Cir.1937), noted in 113 A.L.R. 944; In re Hubbard, 89 B.R. 920 (Bankr.N.D.Ala.1988); Commonwealth Bldg. & Loan Ass'n v. Martin, 49 S.W.2d 1046 (Ark.1932); Prestridge v. Lazar, 95 So. 837, 838 (Miss. 1923); J. A. Tobin Constr. Co. v. Grandview Bank, 424 P.2d 81 (Okla. 1966) (purchaser took formal assignment of first chattel mortgage, was held subrogated to it as against a second chattel mortgage of which purchaser was unaware); Credit Bureau Corp. v. Beckstead, 385 P.2d 864 (Wash.1963) (prior mortgage paid by grantee's title insurer). Denying subrogation, generally on the ground that the purchaser had constructive notice of the junior lien, although it lacked actual notice because of a defective title examination, see Hieber v. Florida Nat. Bank, 522 So.2d 878 (Fla.Dist.Ct.App.1988); Bank of Canton v. Nelson, 160 S.E. 232 (Ga.1931); Smith v. Feltner, 83 S.W.2d 506 (Ky. 1935); Belcher v. Belcher, 87 P.2d 762 (Or.1939).

With respect to subrogation rights of grantees, see generally § 7.6, Comment b; § 8.5, Comment c.

Payment must be in full, Comment b. Illustration 2 is based on Lineham

v. Southern New England Prod. Credit Ass'n, 442 A.2d 585 (N.H. 1982); Goldome Realty Credit Corp. v. Harwick, 564 A.2d 463 (N.J. Super.Ch.1989); Weiss v. Weiss, 615 N.Y.S.2d 468 (N.Y.App.Div.1994); Household Finance Realty Corp. v. Delmerico, 609 N.Y.S.2d 310 (N.Y.App.Div.1994); National Sav. Bank v. Hartmann, 582 N.Y.S.2d 523 (N.Y.App.Div.1992); and Raintree Realty & Constr., Inc. v. Kasey, 447 S.E.2d 823 (N.C.Ct.App.1994). See also United Postal Sav. Ass'n v. Norbob Enter., Inc., 792 S.W.2d 898 (Mo. Ct.App.1990) (payment which purports to be in full, but which does not include a valid prepayment fee, does not entitle mortgagor to discharge of mortgage); FDIC v. Sumner, 820 P.2d 1357 (Okla.App. 1991) (full payment of one note did not entitle mortgagor to a discharge, where mortgage secured four other notes); Martin v. Fairburn Banking Co., 463 S.E.2d 507 (Ga.Ct.App.1995) (full payment of original debt did not entitle mortgagor to discharge, where other debts were secured under the mortgage's dragnet clause).

A partial payment may discharge the mortgage if the mortgagee voluntarily accepts it as doing so; see Dietrich Industries, Inc. v. United States, 988 F.2d 568 (5th Cir.1993); Winters v. Sami, 462 So.2d 521 (Fla. Dist. Ct. App.1985); Affronti v. Bodine, 508 N.E.2d 500 (Ill. App. Ct. 1987). Partial release clauses, which expressly permit a discharge of the mortgage from a portion of the real estate upon payment of less than the full balance owing on the obligation, are discussed in Annot., 41 A.L.R.3d 7 (1972).

In Polo Nat'l Bank v. Lester, 539 N.E.2d 783 (Ill. App. Ct. 1989), the mortgagee voluntarily discharged the mortgage upon payment of less than

the full balance owing on the note. The court held that since the note itself was not marked paid or released to the maker, the mortgagee could still sue on it for the remaining balance. See also Provence v. Hilltop Nat'l Bank, 780 P.2d 990 (Wyo.1989), in which the mortgagee and the SBA as guarantor agreed to discharge the mortgage as to a portion of the real estate if certain additional collateral was substituted for it. The parties were unable to provide all of the additional collateral, and the court held that the mortgagee consequently had no duty to execute the discharge.

If the mortgage contains a valid dragnet clause and thus secures other debts in addition to the original obligation, these other debts must also be paid to obtain a discharge of the mortgage; see Willis v. Rabun County Bank, 291 S.E.2d 52 (Ga.Ct.App. 1982); Jones v. American Coin Portfolios, Inc., 709 P.2d 303 (Utah 1985).

Payment may be made to an authorized agent of the mortgagee; see California Fed. Bank v. Matreyek, 10 Cal.Rptr.2d 58 (Cal.Ct.App.1992) (servicing agent waived prepayment fee; borrowers' payment without fee discharged mortgage, despite servicer's obligation to pay fee to holder); Tedesco v. Bekker, 741 S.W.2d 896 (Mo.Ct.App.1987). Payment may be made by an agent of the mortgagor; see Long v. Zirkle, 811 S.W.2d 840 (Mo.Ct.App.1991).

A further promise to pay is not payment; see Fleet Real Estate Funding Corp. v. Frampton, 812 P.2d 416 (Okla.Ct.App.1991). Cf. First State Bank v. Ford, 484 So.2d 407 (Ala.1986), in which a promissory note from one of the mortgagors was voluntarily accepted as payment by the mortgagee.

Payment must be in cash or its equivalent, unless the obligation calls for (or the mortgagee agrees to) a different form of payment. Thus, a tender of the land is generally not a proper payment unless the mortgagee elects to accept it; see *Bank of Boston Connecticut v. Platz*, 596 A.2d 31 (Conn. Super. Ct. 1991); *American Mini-Storage, Marietta Blvd., Ltd. v. Investguard, Ltd.*, 397 S.E.2d 199 (Ga.Ct.App.1990); *Berkeley Properties, Inc. v. Balcor Pension Investors, II*, 592 N.E.2d 63 (Ill. App. Ct. 1992) (conveyance of real estate was payment in full where parties had so agreed in a document executed simultaneously with mortgage); *Federal Land Bank of Wichita v. Cummings*, 735 P.2d 1110 (Kan.Ct.App.1987); *Brown v. Financial Sav.*, 828 P.2d 412 (N.M.1992) (tender of real estate did not satisfy obligation even though obligation was non-recourse and mortgagee had agreed to "look ... solely to the property" for satisfaction of the debt); *Albany Savings Bank, FSB v. Novak*, 574 N.Y.S.2d 140 (N.Y. Sup. 1991); *CUNA Mortgage v. Aafedt*, 459 N.W.2d 801 (N.D.1990); *Hennessey v. Bell*, 775 S.W.2d 650 (Tex. Ct. App. 1988). But see *Citicorp Mortgage, Inc. v. Upton*, 616 A.2d 1179 (Conn. Super. Ct. 1992), holding that a rejected tender of the real estate extinguished all interest and late charges accruing after the date of the tender. The decision is unusual and may be based on the Connecticut practice of strict foreclosure.

On the other hand, the mortgagee may voluntarily accept a deed to the land in full satisfaction of the obligation. See *RTC v. Kahn*, 501 N.W.2d 703 (Minn.Ct.App.1993), in which the purchaser under an installment contract gave a quitclaim deed to the vendor in lieu of a proceeding to ter-

minate the contract. The court presumed that the deed was given "in full performance of the contract," and hence extinguished the vendor's rights under both the contract and the accompanying promissory note. See also *Nash v. Miller*, 441 S.E.2d 924 (Ga.Ct.App.1994), reaching the same result where the mortgagors alleged that the mortgagee had accepted the deed in full satisfaction of the debt, and the mortgagee did not contradict that allegation.

The payment must actually be made; see *Cornwell v. Bank of America*, 274 Cal.Rptr. 322 (Cal.Ct.App. 1990) (payment by check is conditional and ineffective until check is actually presented to drawee bank and paid); *Upson v. Goodland State Bank*, 823 P.2d 704 (Colo.1992) (forged request, purportedly by beneficiary, for release of deed of trust, unaccompanied by actual payment, is void and release by trustee has no legal effect); *Desser v. Schatz*, 581 N.Y.S.2d 796 (N.Y.App.Div.1992) (satisfaction based on false statement of mortgagor that the mortgage debt had been paid is ineffective and may be set aside by mortgagee); *Reinbold v. Utah Fun Shares*, 850 P.2d 487 (Utah.Ct.App.1993) (alleged payment was a "paper shuffling exercise"; no actual payment was made and mortgage was not extinguished).

A discharge executed under fraud or mistake can be reformed or set aside unless it has been relied upon by a good-faith purchaser for value. See *In re Haas*, 31 F.3d 1081 (11th Cir.1994); *Gordon v. Gorman*, 436 So.2d 851 (Ala.1983); *First Nat'l Bank of Southwest Florida v. Cardinal Roofing & Siding of Florida, Inc.*, 639 So.2d 1101 (Fla.Dist.Ct.App.1994); *Republic Nat'l Bank v. Manzini & Assoc.*, 621 So.2d 709 (Fla.Dist.Ct.

App.1993); United Postal Sav. Ass'n v. Norbob Enter., Inc., 792 S.W.2d 898 (Mo.Ct.App.1990) (reforming note to delete the word "canceled," which was written by mortgagee's employee due to clerical error); Los Alamos Credit Union v. Bowling, 767 P.2d 352 (N.M.1989); First Financial Sav. Bank, Inc. v. Sledge, 415 S.E.2d 206 (N.C.Ct.App.1992); Leedom v. Spano, 647 A.2d 221 (Pa. Super. Ct. 1994). See also First Nationwide Sav. v. Perry, 15 Cal.Rptr.2d 173 (Cal. Ct. App. 1992) (where mortgagee discharged mortgage by mistake and mortgagor subsequently sold real estate to bona fide purchaser, mortgagee could obtain restitution from mortgagor for unjust enrichment).

Duty to provide document of discharge, Comment c. Cases recognizing the mortgagee's duty to provide a document of discharge include *Tenneco Oil Co. v. Clevenger*, 363 So.2d 316 (Ala. Ct. Civ.App. 1978); *Skorpios Properties, Ltd. v. Waage*, 374 A.2d 165 (Conn.1976); *Parke v. Gonzalez*, 606 So.2d 705 (Fla.Dist.Ct.App.1992); *Mickie v. McGehee*, 27 Tex. 134 (1863); *Knox v. Farmers' State Bank of Merkel*, 7 S.W.2d 918 (Tex. Ct. Civ. App. 1928), noted in 7 Tex. L. Rev. 323 (1929). See *Grossman v. Pendant Realty Corp.*, 634 N.Y.S.2d 61 (N.Y.App.Div.1995) (court's order to mortgagee to satisfy the mortgage was properly conditioned upon payment of balance due by mortgagors). See also La. Rev. Stat. Ann. § 9:5556-57.

Illustrations 3 and 4 are based on *Hector, Inc. v. United Sav. & Loan Ass'n*, 741 P.2d 542 (Utah 1987), holding the mortgagee liable for double damages (pursuant to a Utah statute) where the mortgagee refused in bad faith to discharge the mortgage upon full payment. See also *Mitchell v. Oli-*

ver, 327 S.E.2d 216 (Ga.1985) and *Edenfield v. Trust Co. Mortg.*, 365 S.E.2d 520 (Ga.Ct.App.1988), finding that the mortgagee acted in good faith and refusing to impose damages. *Tucker v. FSB Mortgage of Little Rock*, 886 P.2d 498 (Okla.Ct.App. 1994), points out that the "good faith" defense applies to a mortgagee's refusal to accept a tendered payment in full, not a refusal to discharge the mortgage after accepting the payment as being in full. In *Pintor v. Ong*, 259 Cal.Rptr. 577 (Cal.Ct.App. 1989), an award of \$15,000 in damages for the mortgagor's mental distress resulting from the mortgagee's failure to discharge the mortgage was sustained. See also *South Sanpitch Co. v. Pack*, 765 P.2d 1279 (Utah.Ct. App.1988) (trustee under deed of trust held liable for failure to record reconveyance).

State statutory provisions imposing a penalty for the mortgagee's failure to discharge the mortgage are generally held applicable even in the absence of a showing of actual damages; see, e.g., *Kinard v. Fleet Real Estate Funding Corp.*, 461 S.E.2d 833 (S.C.Ct.App.1995). Likewise, these statutes generally do not bar the recovery of actual damages. See *Tenneco Oil Co. v. Clevenger*, 363 So.2d 316 (Ala. Ct. Civ. App. 1978); *Trustors Security Service v. Title Recon Tracking Service*, 56 Cal.Rptr.2d 793 (Cal.Ct.App.1996); *Pintor v. Ong*, 259 Cal.Rptr. 577 (Cal.Ct.App.1989); *Skorpios Properties, Ltd. v. Waage*, 374 A.2d 165 (Conn.1976). Contra, see *Taylor v. Taylor*, 363 N.E.2d 1342 (Mass. Ct. App. 1977) (statute provides sole remedy). See the statutory table at the end of this section for further detail on this matter.

Tender of payment rejected by mortgagee, Comment d. Cases defin-

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ing tender include *Napue v. Gor-Mey West Inc.*, 220 Cal.Rptr. 799 (Cal.Ct. App.1985) (mortgagor must have present ability to make the tender good); *Rissman v. Kilbourne*, 643 So.2d 1136 (Fla.Dist.Ct.App.1994) (letter offering to pay is insufficient; "the actual production of the thing to be paid or delivered" is necessary); *Owens v. Idaho First Nat'l Bank*, 649 P.2d 1221 (Idaho.Ct.App.1982) (mere spoken offer to pay insufficient; "actual present physical offer" required); *Mr. U Inc. v. Mobil Oil Corp.*, 249 N.W.2d 909, 912 (Neb.1977) ("an offer to perform coupled with the present ability of immediate performance, so were it not for the refusal of cooperation by the party to whom the tender is made, the condition or obligation would be immediately satisfied"); *Tucker v. Gayle*, 709 S.W.2d 247 (Tex. Ct. App. 1986) ("an unconditional offer by a debtor to pay another, in current coin of the realm, a sum on a specified debt or obligation"). See also *Cornwell v. Bank of America*, 274 Cal.Rptr. 322 (Cal.Ct.App.1990) (check which was apparently lost in mail never reached mortgagee, and was not an effective tender).

A tender may be made by the authorized agent of the person who is primarily responsible for the obligation; see *Long v. Zirkle*, 811 S.W.2d 840 (Mo.Ct.App.1991).

Cases holding that a rejected tender extinguishes the mortgage include *Judge Devel. Corp. v. Bank of New York*, 814 F.Supp. 384 (D.Vt. 1993); *Winnett v. Roberts*, 225 Cal. Rptr. 82 (Cal.Ct.App.1986); *Foster Lumber Co. v. Weston Constructors, Inc.*, 521 P.2d 1294 (Colo.Ct.App. 1974); *Bowman v. Poole*, 91 S.E.2d 770 (Ga.1956); *McFarland v. Christoff*, 92 N.E.2d 555 (Ind.Ct.App.1950); *Depon v. Shawye*, 161 N.E. 243

(Mass.1928); *Caruthers v. Humphrey*, 12 Mich. 270 (1864); *Mr. U Inc. v. Mobil Oil Corp.*, 249 N.W.2d 909 (Neb.1977); *Kortright v. Cady*, 21 N.Y. 343 (1860); and *General Electric Credit Corp. v. Lunsford*, 167 S.E.2d 414 (Va.1969). See also *Mendez v. Rosenbaum*, 662 P.2d 751 (Or.Ct.App. 1983) (tender was effective, where mortgagee made deliberate attempts to obstruct mortgagors' tender). See generally Annot., 93 A.L.R. 31 (1934).

A tender, like an actual payment, must be for the full balance owing, including all interest and fees. See *Decker v. State Nat'l Bank*, 51 So.2d 538 (Ala.1951) (tender must include amounts due under dragnet clause); *Agostini v. Colonial Trust Co.*, 44 A.2d 21 (Del.Ch.1945) (tender was less than amount mortgagee demanded, but after recomputation of balance owed with reduced interest to account for usurious nature of loan, mortgagor was permitted to retender); *Daiwa Bank, Ltd. v. LaSalle Nat'l Trust*, 593 N.E.2d 105 (Ill. App. Ct. 1992) (tender must include debt, accrued interest, and costs); *Lake Mortgage Co. v. FNMA*, 308 N.E.2d 739 (Ind.Ct.App.1974), transfer denied and new trial ordered on other grounds, 321 N.E.2d 556 (1975); *Mutual Life Ins. Co. of New York v. Hilander*, 403 S.W.2d 260 (Ky.1966) (tender which included prepayment fee was effective, although fee was "paid under protest"); *Trovillion v. Countrywide Funding Corp.*, 910 S.W.2d 822 (Mo.Ct.App.1995) (tender was insufficient, under Missouri statute, where it did not include \$18 fee to cover cost of recording a release); *Roberts v. Rider*, 924 S.W.2d 555 (Mo.Ct.App.1996) (tender was insufficient, under Missouri statute, where it did not include attorneys' fee, despite the fact that amount of fee was

disputed and lender's demanded fee was grossly excessive); *National Sav. Bank of Albany v. Hartmann*, 582 N.Y.S.2d 523 (N.Y.App.Div.1992) (tender must include accrued interest and late fees); *Albany Sav. Bank FSB v. Seventy-Nine Columbia Street Inc.*, 603 N.Y.S.2d 72 (N.Y.App.Div.1993) (tender must include full balance, where loan has been accelerated); *Ingold v. Phoenix Assur. Co.*, 52 S.E.2d 366 (N.C.1949), noted in 8 A.L.R.2d 1439 (tender which fails to include all accrued interest is invalid); *Mid-State Homes, Inc. v. Jackson*, 519 P.2d 472 (Okla.1974); *Portland Trust & Sav. Bank v. Lincoln Realty Co.*, 170 P.2d 568 (Or.1946) (offer by owner of a portion of the mortgaged land to pay "pro-rata share" of balance was not an effective tender); *Home Owners' Loan Corp. v. Washington*, 161 P.2d 355 (Utah 1945) (tender was effective, though it did not include attorney's fees and costs demanded by mortgagee, where demand for such fees was improper).

However, if the mortgagor tenders the balance stated to be due under an "estoppel statement" or "payoff statement" issued by the mortgagee, the tender will be good even if the statement proves to have been erroneously low, provided that the party tendering reasonably relied on the statement; cf. § 1.6. See *Anderson v. Heart Fed. Sav. & Loan Ass'n*, 256 Cal.Rptr. 180 (Cal.Ct.App.1989); *Maddox v. Wright*, 489 N.E.2d 133 (Ind.Ct.App.1986).

The tender must be in cash or its commercial equivalent unless the obligation itself calls for a different form of payment. Restatement, Second, Contracts § 249 provides:

[P]ayment or offer of payment in any manner current in the ordinary course of business satisfies the re-

quirement unless the obligee demands payment in legal tender and gives any extension of time reasonably necessary to procure it.

See *Fleet Real Estate Funding Corp. v. Frampton*, 812 P.2d 416 (Okla.Ct.App.1991) (promise to pay in the future not a valid tender); *Fillion v. David Silvers Co.*, 709 S.W.2d 240 (Tex. Ct. App. 1986) (letter of credit not a valid tender); *Lido, Int'l v. Lambeth*, 601 S.W.2d 112 (Tex. Ct. App. 1980), reversed on other grounds, 611 S.W.2d 622 (Tex.1981) (postdated checks not a valid tender). On the other hand, an uncertified personal check is a valid tender if the checking account contains funds to cover it and the mortgage or note requires no more; see *Martin v. STM Mortg. Co.*, 903 S.W.2d 548 (Mo.Ct.App.1995); *TSB Exco v. E.N. Smith, III Energy Corp.*, 818 S.W.2d 417 (Tex. Ct. App. 1991); *Smith v. Avco Mortg. & Acceptance, Inc.*, 465 S.E.2d 588 (Va.1996). If the amount due is in dispute, the mortgagor must tender at least the amount that is conceded to be due; *Harpe v. Stone*, 92 S.E.2d 522 (Ga.1956), noted in 8 Mercer L. Rev. 144, 149 (1956).

To be effective, a tender must be unconditional. See *United States v. Garden Homes*, 113 F.Supp. 415 (D.N.H.1953) (tender was ineffective, where it was conditioned upon mortgagee's waiver of payment of principal during a period of "temporary unoccupancy"); *Soufal v. Griffith*, 198 N.W. 807 (Minn. 1924); *Lowry v. Northwestern Sav. & Loan Ass'n*, 542 S.W.2d 546 (Mo.Ct.App.1976) (promise to pay, conditioned upon payor's ability to obtain the funds from another, was not a valid tender); *Dallas v. Dallas*, 582 N.Y.S.2d 835 (N.Y.App.Div.1992) (promise to pay upon payor's receipt of a future personal inju-

ry settlement was not a valid tender); *Ingold v. Phoenix Assur. Co.*, 52 S.E.2d 366 (N.C.1949), noted in 8 A.L.R.2d 1439 (promise to pay, but without a tender into court of a draft for the full balance including interest, was not a valid tender); *Johnson v. Midland Bank*, 715 S.W.2d 607 (Tenn. Ct.App.1986) (tender not valid where conditioned upon mortgagee's release of mortgage on other property); *Perkins v. Factory Point Nat'l Bank*, 409 A.2d 578 (Vt.1979) (offer to pay out of proceeds of future sale of the real estate was not a valid tender); *Hartman v. Anderson*, 298 P.2d 1103 (Wash.1956) (tender not valid where conditioned upon mortgagee's granting of a second water right to mortgagors).

However, a condition merely demanding that the mortgagee provide the usual documents showing the payment and discharge does not invalidate the tender. See *Brinton v. Haight*, 870 P.2d 677 (Idaho App. 1994) (mortgagor's demand for an immediate document of discharge in return for the payment was not a condition that would vitiate the tender); *Lanier v. Romm*, 206 S.E.2d 588 (Ga. Ct.App.1974) (tender was valid and unconditional despite borrower's demand for surrender of promissory note and cancellation of mortgage); *Strulowitz v. Susan B. Anthony Bldg. & Loan Ass'n*, 280 A.2d 223 (N.J. Super. Ct. 1971); *Wallowa Lake Amusement Co. v. Hamilton*, 142 P. 321 (Or.1914).

Numerous cases hold that a rejected tender of full payment by a person primarily responsible for payment terminates the accrual of interest. See, e.g., *Bank of La Fayette v. Giles*, 69 S.E.2d 78 (Ga.1952); *Brinton v. Haight*, 870 P.2d 677 (Idaho App. 1994); *Gandrud v. Bremer*, 18 N.W.2d

687 (Minn.1945); *Mayer v. Middlem-iss*, 67 N.Y.S.2d 422 (N.Y.Sup.Ct. 1946). See also *First Family Mortg. Corp. v. White*, 549 So.2d 1049 (Fla. Dist.Ct.App.1989) (where mortgagee erroneously released mortgage, refused mortgagor's tender of further monthly payments, and made no demand for payments for two years, trial court had equitable discretion to absolve mortgagor from liability for interest during that period, although mortgage was reinstated by court).

While a rejected tender of full payment terminates the accrual of interest, it does not discharge the obligation to pay the principal amount of the debt. See *Lichty v. Whitney*, 182 P.2d 582 (Cal.Ct.App.1947); *Carteret Sav. Bank v. Snyder*, 608 So.2d 516 (Fla.Dist.Ct.App.1992) (mortgagor's tender of monthly payments, rejected by mortgagee because of a dispute as to the proper amount, did not reduce the balance owing on the debt); *Ward v. McGuire*, 100 S.E.2d 276 (Ga.1957).

By the prevailing view the tender, to be effective, must be kept good as required by this section. See *Decker v. State Nat'l Bank*, 51 So.2d 538 (Ala.1951); *Abbott v. Herron*, 118 S.W. 708 (Ark.1909); *Brinton v. Haight*, 870 P.2d 677 (Idaho App. 1994) ("tender may be kept good by keeping the tendered money on deposit in a bank, by paying it into court or by making the tender in writing"); *Crain v. McGoon*, 86 Ill. 431, 29 Am. Rep. 37 (1877); *McCool v. Decatur County Bank*, 480 N.E.2d 596 (Ind.Ct.App.1985); *French v. Winstead*, 299 S.W.2d 109 (Ky.1957); *Gandrud v. Bremer*, 18 N.W.2d 687 (Minn.1945); *Knollenberg v. Nixon*, 72 S.W. 41, 44 (Mo.1902); *Conservative Sav. & Loan Ass'n v. Karp*, 352 N.W.2d 900 (Neb.1984); *Geary v. Dade Development Corp.*, 329

N.Y.S.2d 569 (N.Y. 1972); *Tolbert v. Fouche*, 123 S.E. 859 (S.C.1924). See also *Storke and Sears, Discharge of Security Transactions*, 26 Rocky Mt. L. Rev. 115, 123 (1954).

Contra, holding that tender need not be kept good, see *Magnus v. Morrison*, 208 P.2d 407 (Cal.Ct.App.1949); *Home Owners' Loan Corp. v. Washington*, 161 P.2d 355 (Utah 1945).

Illustrations 5 and 6 are based on *Judge Devel. Corp. v. Bank of New York*, 814 F.Supp. 384 (D.Vt.1993). See also *Hohn v. Morrison*, 870 P.2d 513 (Colo.Ct.App.1993). In that case the mortgagor was unable to prove any actual damages, but was nonetheless permitted to recover attorney's fees from the mortgagee. The court adopted a standard of "wilfulness," analogous to the "bad faith" standard articulated in this section.

Mortgage not extinguished if parties so agree, Comment e. Illustrations 7 and 8 are based on *Barclay's Bank of New York v. Market Street Mortg. Corp.*, 592 N.Y.S.2d 874 (N.Y.App.Div.1993) (line-of-credit loan is discharged when payment in full is accompanied by borrower's request for discharge). See also *Household Realty v. Martin*, 1994 WL 60043 (Conn.Super.Ct.1994) (oral request by borrower's attorney to line-of-credit mortgagee to release mortgage, accompanied by payment of full balance owing, extinguished mortgage); *Prudential Home Mortg. Co. v. Johnson*, 1993 WL 117723 (Conn.Super.Ct.1993) (same); *In re Mortgage of Leslie*, 1994 WL 89346 (Del.Super.Ct.1994) (check for full balance sent to line-of-credit mortgagee, unaccompanied by any request that mortgage be satisfied, did not extinguish mortgage); *Tedesco v. CDC Fed. Credit Union*, 306 S.E.2d 397 (Ga.Ct.App.1983) (payment reducing

line-of-credit balance to zero does not entitle borrower to discharge of mortgage unless borrower gives up the right to demand further advances); *Turner v. Givens*, 166 So. 367 (Miss. 1936) (letter written after full payment established parties' intent to keep mortgage alive); *Raintree Realty & Constr., Inc. v. Kasey*, 447 S.E.2d 823 (N.C.Ct.App.1994) (under statute, discharge of line-of-credit loan occurs only upon reduction of balance to zero and a request by borrower for a discharge); *Beneficial Mort. Co. v. Kilbourn*, 1994 WL 758321 (Ohio.Ct.App.1994) (notation on payment check, "pay-off first mortgage," was insufficient to notify line-of-credit mortgagee that mortgagor intended to discharge mortgage). Some states have statutes stating this principle; see, e.g., La. Civ. Code Ann. art. 3298.

A typical provision in a line-of-credit mortgage preserving it against extinction when the balance is paid to zero is found in *Waller v. Maryland Nat'l Bank*, 620 A.2d 381, 393 (Md. Ct. App. 1993), vacated and remanded on other grounds, 631 A.2d 447 (Md.Ct.App.1993):

The fact that the balance hereunder may be reduced to zero from time to time pursuant to the Loan Documents (as hereinafter defined) will not affect the continuing validity of this note, or the Loan Documents, and the balance may be increased to the principal sum after any such reduction to zero.

Allocation of payment if payor has multiple obligations, Comment f. Illustrations 9 and 10 are based on *Farm Credit Bank of St. Louis v. Biethman*, 634 N.E.2d 1312 (Ill. App. Ct. 1994) (where payor does not specify to which debt payment is to be applied, payee may apply it as payee

was bound to apply payment in manner specified in the mortgage documents); *United Orient Bank v. Lee*, 504 A.2d 1215 (N.J. Super. Ct. 1986) (in the absence of any contrary agreement, payor's direction controlled application of funds); Restatement, Second, Contracts § 258, Comment a.

The duty of good faith and fair dealing is stated in Restatement, Second, Contracts § 205 and U.C.C. § 1-203 (1995). However, no case has been found in which a court discerned a breach of the duty by virtue of a lender's allocation of a payment by a borrower. See *S. Burton & E. Anderson, Contractual Good Faith* § 7.2ff. (1995), at 275, suggesting that a court should not enforce the remedial terms of a contract "unless they will accomplish their intended purpose without imposing needless costs on the other side." It is conceivable that some payment allocations by a creditor might lead a court to refuse enforcement of mortgage remedies on this basis.

may redeem mortgage and be subrogated to it); *Dominion Financial Corp. v. 275 Washington St. Corp.*, 316 N.Y.S.2d 803 (N.Y. Sup. Ct. 1970) (same).

Cases finding a duty on the part of a mortgagee to give a written assignment to a junior interest-holder who redeems the mortgage include *United States v. Boston & Berlin Transportation Co.*, 237 F.Supp. 1004, 1008 (D.N.H. 1964); *Motes v. Roberson*, 32 So. 225 (Ala. 1902); *Global Realty Corp. v. Charles Kannel Corp.*, 170 N.Y.S.2d 16 (1958) (redemption by junior tenant); *Payne v. Foster*, 135 N.Y.S.2d 819 (N.Y. App. Div. 1954) (redemption by holder of remainder); *Simonson v. Lauck*, 93 N.Y.S. 965 (N.Y. App. Div. 1905) (redemption by a third party at the request of a tenant in common of the real estate); *Averill v. Taylor*, 8 N.Y. 44 (1853). See generally 1 G. Nelson & D. Whitman, *Real Estate Finance Law* § 10.8 (3d ed. 1993); Annot., 93 A.L.R. 89 (1934).

A subordinate lienholder whose lien covers less than the entire parcel

Redemption by one who is not pri-

marily responsible for the mortgage

obligation, Comment g. Redemption is a concept applicable only to persons with interests in the mortgaged real estate; see Dawson v. Overmyer, 40 N.E. 1065 (Ind. 1895); *Smith v.*

of real estate encumbered by the senior lien may attempt to redeem based

on a pro tanto payment rather than payment of the full balance, but such attempts are nearly always rejected by the courts; see Annot., 46 A.L.R.3d 1362 (1972).

STATUTORY TABLE MORTGAGE DISCHARGE PENALTIES

The following table provides information about state statutes that impose penalties on mortgagees who do not provide a document of satisfaction or discharge in a timely

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fashion after receiving full payment of the mortgage debt. The table indicates the event that initiates the grace period allowed for the mortgagee to provide or record a satisfaction, the duration of the period, and the penalty that attaches if the mortgagee fails to comply.

Jurisdiction	Statutory citation	Grace period commences upon	Grace period	Penalty
Alabama	Ala. Code § 35-10-21	Full payment and written request	30 days	\$200
Alaska	Alaska Stat. § 34.20.050	Full performance, written request, and tender of reasonable charges	10 days	\$300 plus actual damages
Arizona	Ariz. Rev. Stat. Ann. § 33-712	Satisfaction	30 days	Actual damages
		Written request, certified mail	30 additional days	\$1,000 plus actual damages
Arkansas	Ark. Code Ann. § 18-40-010	Full satisfaction and request	60 days	Any sum, not exceeding the mortgage amount, recoverable in a civil action
California	Cal. Civ. Code § 2941	Satisfaction	Mortgages: 30 days	\$300 plus actual damages
		Receipt by trustee of original note, deed of trust, request for reconveyance, and fees	Deeds of trust: 21 days	
Colorado	Col. Rev. Stat. § 38-25-124	Satisfaction and receipt of reasonable costs	90 days	Liable to the owner of the real property encumbered
Connecticut	Conn. Gen. Stat. § 49-8	Satisfaction and written request	30 days	Actual damages or \$200 for each week beyond 30 days, whichever is greater
Delaware	Del. Code Ann. tit. 25 § 2111	Satisfaction or performance		Not more than \$1,000 for wilful failure to satisfy mortgage
			60 days	Recorder of deeds shall file complaint with Attorney General
Florida	Fla. Stat. Ann. ch. 705	Payment and written demand	30 days	Guilty of misdemeanor
Georgia	Ga. Code Ann. § 44-14-3	Payment in full	60 days	\$500 plus actual damages and attorneys' fees
Hawaii	Haw. Rev. Stat. § 506-8	Full satisfaction and request in writing	60 days	Treble damages and attorneys' fees
Idaho	Idaho Code § 45-915	Satisfaction and demand	None mentioned	\$100 plus actual damages
Illinois	Ill. Rev. Stat. ch. 765 § 905/2	Payment of the debt	One month	\$200 plus attorneys' fees
Indiana	Ind. Code § 32-8-1-2	Full payment and written demand	15 days	Not to exceed \$500 plus costs and attorneys' fees

PAYMENT AND DISCHARGE

Jurisdiction	Statutory citation	Grace period commences upon	Grace period	Penalty
Iowa	Iowa Code § 655.2	Satisfaction in full and request in writing	30 days	\$100 plus attorneys' fees; inapplicable if § 535B.11 applies
	Iowa Code § 535B.11 (residential property)	Written notice from Superintendent of the Division of Banking	Mortgage servicers: 15 days	Not to exceed \$50 for each day after 15 days
Kansas	Kan. Stat. Ann. § 58-2309a	Payment and demand	20 days	\$500 plus attorneys' fees and any additional damages
Kentucky	Ky. Rev. Stat. § 382.365	Satisfaction	30 days	\$50, actual expenses in securing the release, attorneys' fees and costs
Louisiana	La. Rev. Stat. Ann. § 9:5385	Full satisfaction and written demand	30 days	All damages, costs, and attorneys' fees
Maine	Me. Rev. Stat. Ann. tit. 33, § 551	Full performance and request	7 days	Not less than \$10 nor more than \$50
Maryland	Md. Real Prop. Code Ann. § 7-106	Satisfaction and written request	30 days	All costs and expenses of the action, including attorneys' fees
Massachusetts	Mass. Gen. L. Ann. ch. 183 § 55	Full performance, request, and tender of reasonable charges	7 days	All damages
Michigan	Mich. Comp. Laws § 565.44	Full performance, request, and tender of reasonable charges	7 days	\$100 plus actual damages and double costs in court's discretion
Minnesota	Minn. Stat. Ann. § 507.41	Full performance, request, and tender of reasonable charges	10 days	Actual damages
Mississippi	Miss. Code Ann. § 89-5-21	Full payment and request	1 month	\$50 plus any sum not exceeding the mortgage money
Missouri	Mo. Rev. Stat. § 443.130	Satisfaction, request, and tender of costs	30 days	10% of the mortgage amount, plus any other damages
Montana	Mont. Code Ann. § 71-1-212	Full performance and request	30 days	\$100 plus actual damages
Nebraska	Neb. Rev. Stat. § 76-252	Satisfaction and written request	60 days	The greater of \$1,000 or actual damages, plus costs and attorneys' fees
Nevada	Nev. Rev. Stat. § 106.290 (mortgages)	Full performance, request, and tender of reasonable charges	7 days	\$100 plus actual damages
	Nev. Rev. Stat. § 107.077 (deeds of trust)	Written notice that debt has been paid or discharged	21 days for beneficiary; 45 days for trustee after receipt of documents from beneficiary	\$100 plus actual damages, attorneys' fees, and costs
New Hampshire	N.H. Rev. Stat. Ann. § 479:7, :8	Satisfaction	60 days	"shall be guilty of a violation" with fine not to exceed \$500
New Jersey	N.J. Rev. Stat. § 46:18 -11.2, -11.3	Written notice, 30 days after receipt of payment and fees	15 business days	\$50 per day, not to exceed \$1,000, or actual damages if greater

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Jurisdiction	Statutory citation	Grace period commences upon	Grace period	Penalty
New York	N.Y. Real Prop. Acts § 1921	Payment of amounts due	90 days	The greater of \$500 or the economic loss caused (1-6-family owner-occupied residence)
North Carolina	N.C. Gen. Stat. § 45-36.3	Payment or satisfaction	60 days	\$500 to mortgagor, \$500 to purchaser of property
North Dakota	N.D. Cent. Code § 30-01-27	Satisfaction and demand	Immediately	All damages plus \$100
Ohio	Ohio Rev. Stat. Ann. § 5301.36	Satisfaction of residential mortgage	90 days	\$250 plus other available legal remedies
Oklahoma	Okla. Stat. Ann. tit. 46, § 15	Payment of the debt plus written request	50 days plus 10 days after written request	1% of the principal debt, not to exceed \$100 for each day after expiration of the 10-day period
Oregon	Or. Rev. Stat. § 86.140 (mortgages)	Full performance, tender of reasonable charges, and request	30 days	\$500 plus actual damages
	Or. Rev. Stat. § 86.720 (deeds of trust)	Performance of the obligation	30 days for beneficiary to send request to trustee; 30 additional days for trustee to reconvey	
Pennsylvania	Pa. Stat. Ann. tit. 21, §§ 681-82	Full satisfaction, request, and payment of reasonable charges	45 days	Forfeiture of any sum not exceeding the mortgage money
Puerto Rico	P.R. Stat. tit. 30, § 1878	Performance or tender, plus request	10 days	All damages
Rhode Island	R.I. Gen. Laws § 34-26-5	Satisfaction, request, and tender of reasonable charges	10 days	All damages, attorneys' fees, and triple costs
South Carolina	S.C. Code Ann. § 29-3-320	Payment, request, and tender of fees	3 months	Not exceeding one-half of the amount of the debt
	S.C. Code Ann. § 29-3-325 (financial institutions)	Receipt of full amount of obligation, and demand	90 days	\$100 for each 10 days after demand ¹
Tennessee	Tenn. Code Ann. § 66-25-102	Full payment and written request	45 days	\$100. If not satisfied within 30 days of a second request, a sum not to exceed \$1,000. Expenses, court costs, and attorneys' fees may also be recovered
Utah	Ut. Code Ann. § 57-1-38	Final payment	90 days	Treble damages, attorneys' fees, and costs
Vermont	Vt. Stat. Ann. tit. 27, § 464	Performance, tender of reasonable charges, and request	10 days	Damages occasioned thereby
Virginia	Va. Code Ann. § 6.1.330.82; § 55-66.3	Payment or satisfaction	90 days	\$300. If not paid within 10 business days after demand, must pay court costs and attorneys' fees

Jurisdiction	Statutory citation	Grace period commences upon	Grace period	Penalty
Virgin Islands	V.I. Code Ann. tit. 28, § 128	Full performance, tender of reasonable charges, and written request	10 days	Not to exceed \$100 plus actual damages
Washington	Wash. Rev. Code § 61.16.030	Satisfaction and request or demand	60 days	Damages and attorneys' fees
Wisconsin	Wis. Stat. § 706.05	Full performance	30 days, or 7 days after written request	\$100 per day, up to \$2,000, plus actual damages (for violation of 7-day rule only)
Wyoming	Wyo. Stat. § 34-1-132	Full performance and request in writing	30 days	0.1% of principal amount per day, not to exceed \$100 per day, plus actual damages

¹ See *Kinard v. Fleet Real Estate Funding Corp.*, 461 S.E.2d 833 (1995), holding that remedies under this section are alternative to those of § 29-3-20 at the option of the plaintiff, provided that both apply. The court held that, while no showing of actual damages was required in order to recover a penalty under § 29-3-20, consideration should be given to the existence of actual injury, and to the attitude and conduct of the mortgagee, in determining whether the full penalty amount (half the amount of the debt) should be awarded. On the facts of the case, the court determined that assessment of the full penalty was justified.