

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 80508

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Mar 05 2020 07:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

HELIX ELECTRIC OF NEVADA, LLC,

Appellant,

v.

APCO CONSTRUCTION, INC., A NEVADA CORPORATION,

Respondent.

**APPENDIX TO DOCKETING STATEMENT
Volume VI**

ERIC B. ZIMBELMAN, ESQ.

Nevada Bar No. 9407

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Helix Electric of Nevada, LLC

<u>Exhibit</u>	<u>Description</u>	<u>Bates Range</u>	<u>Volume</u>
A	Court Docket for Case No. 09A587168	Helix000001 – Helix000044	I
B	Notice of Entry of Order to Consolidate	Helix000045 – Helix000053	I
C	Consolidated Case List	Helix000054 – Helix000062	I
D			
D-1	Pleadings Related to Accuracy	Helix000063 - Helix000066	I
	Complaint Re Foreclosure filed by Accuracy Glass & Mirror Company	Helix000067 – Helix000103	I
	First Amended Complaint Re: Foreclosure	Helix000104 – Helix000119	I
	APCO's Answer to Accuracy's First Amended Complaint Re: Foreclosure	Helix000120 – Helix000135	I & II
	CAMCO's Answer and Counterclaim	Helix000136 – Helix000155	II
	Accuracy's Answer to CAMCO's Counterclaim	Helix000156 – Helix000160	II
D-2	Pleadings Related to Helix Electric of Nevada, LLC d/b/a Helix Electric	Helix000161 – Helix000163	II
	Helix Electric's Amended Statement of Facts Constituting Lien and Third-Party Complaint	Helix000164 – Helix000179	II

	APCO's Answer to Helix's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000180 – Helix000195	II
	CAMCO and Fidelity's Answer and CAMCO's Counterclaim	Helix000196 – Helix000211	II
	Notice of Entry of Granting Helix's Motion for Fees, Interest and Costs	Helix000212 – Helix000220	II
	Notice of Entry of Judgment	Helix000221 – Helix000240	II
	Notice of Entry of Judgment [As to the Claims of Helix and National Wood Products Against APCO]	Helix000241 – Helix000251	II & III
	Findings of Fact and Conclusions of Law and Order as to the Claims of Helix and Cabenotec Against APCO	Helix000252 – Helix000323	III
D-3	Pleadings Related to WRG Design, Inc.	Helix000324 – Helix000326	III
	WRG's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000327 – Helix000343	III
	APCO's Answer to Helix's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000344 – Helix000359	III
	CAMCO & FDCM's Answer and CAMCO's Third-Party Complaint	Helix000360 – Helix000380	III & IV
	Notice of Entry of Stipulation and Order of Dismissal	Helix000381 – Helix000388	IV

	WRG's Answer to CAMCO's Counterclaim	Helix000389 – Helix000393	IV
D-4	Pleadings Related to Heinaman Contract Glazing	Helix000394 – Helix000396	IV
	Heinaman's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000397 – Helix000409	IV
	CAMCO and FDCM's Answer to Heinaman's Statement of Facts and CAMCO's Counterclaim	Helix000410 – Helix000430	IV
	Notice of Entry of Order	Helix000431 – Helix000439	IV
	Notice of Entry of Judgment	Helix000440 – Helix000462	IV
	Heinaman's Answer to CAMCO's Counterclaim	Helix000463 – Helix000467	IV
D-5	Pleadings Related to Bruin Painting Corporation	Helix000468 – Helix000469	IV
	Bruin Painting's Amended Statement of Facts Constituting Amended Notice of Lien and Third-Party Complaint	Helix000470 – Helix000482	IV
	CAMCO's Answer and Counterclaim	Helix000483 – Helix000503	IV & V
	Voluntary Dismissal	Helix000503 – Helix000505	V

D-6	Pleadings Related to HD Supply Waterworks, LP	Helix000506 – Helix000508	V
	HD Supply's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000509 – Helix000526	V
	APCO's Answer to Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000527 – Helix000541	V
	Amended Answer to HD Supply & Waterworks, LP's Statement of Facts Constituting Lien and CAMCO's Third-Party Complaint	Helix000542 – Helix000548	V
	Jeff Heit Plumbing and Old Republic's Answer to HD Supply's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000549 – Helix000558	V
	Stipulation and Order to Dismiss E&E Fire Protection	Helix000559 – Helix000569	V
	Voluntary Dismissal of Platte River Insurance	Helix000570 – Helix000577	V
	Scott Financial's Answer to HD Supply's Amended Statement of Facts Constituting Notice of Lien and Third-Party Complaint	Helix000578 – Helix000601	V
E	Accuracy Glass & Mirror Company's Complaint Re: Foreclosure	Helix000602 – Helix000638	V & VI

F	Accuracy Glass & Mirror Company's First Amended Complaint Re: Foreclosure	Helix000639 – Helix 000654	VI
G	Bruin Painting	Helix000655- Helix691	VI
H	HD Supply	Helix000692 – Helix000785	VI & VII
I	Heinaman	Helix000786 – Helix000857	VII & VIII
J	WRG	Helix000858 – Helix000925	VIII & IX
K	131 Nev Advance Opinion	Helix000926 – Helix000943	IX
L	Notice of Entry of Order Granting Plaintiff's Motion to Dismiss	Helix000944 – Helix000950	IX
M	Notice of Entry of Judgment [As to the Claims of Helix Electric of Nevada, LLC and Plaintiff in Intervention National Wood Products, Inc.'s Against APCO Construction, Inc.	Helix000951 – Helix961	IX
N	Notice of Entry of Judgment [As to the Claims of Helix Electric of Nevada, LLC Against CAMCO Construction Co., Inc.]	Helix000962 – Helix000981	IX
O	Notice of Entry of Judgment [As to the Claims of Heinaman Contract Glazing Against CAMCO Construction Co., Inc.)	Helix000982 – Helix001004	IX & X

P	Order Dismissing Appeal (NV Supreme Court Case No. 76276)	Helix001005 – Helix001008	X
Q	Notice of Entry of Granting Helix Electric of Nevada's Motion for Rule 54(b) Certification	Helix001009 – Helix001017	X
R	Notice of Appeal	Helix001018 – Helix1607	X & XI & XII & XIII

Dated this 5th day of March, 2020.

PEEL BRIMLEY LLP

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFCR 9(f), I certify that I am an employee of **PEEL BRIMLEY, LLP**, and that on this 3rd day of March, 2020, I caused the above and foregoing document, **APPENDIX TO DOCKETING STATEMENT**, to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☒ pursuant to NEFCR 9, upon all registered parties via the Nevada Supreme Court's electronic filing system;
- ☐ pursuant to EDCR 7.26, to be sent **via facsimile**;
- ☐ to be hand-delivered; and/or
- ☐ other _____

to the attorney(s) and/or party(ies) listed below at the address and/or facsimile number indicated below:

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APCO Construction, Inc.

Settlement Judge:

Stephen E. Haberfeld
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Los Angeles, CA 90048


An employee of **PEEL BRIMLEY, LLP**

Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-119 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 213 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-120 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 214 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-121 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 215 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-122 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 216 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-123 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 217 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-124 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 218 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-125 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 219 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-126 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 220 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-127 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 301 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-128 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 302 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

*Lien Claimant has provided the best estimate of the amount owed to Lien Claimant with respect to materials or equipment furnished by Lien Claimant for the improvement of the property. Lien Claimant reserves the right to amend or modify the amount owed at Lien Claimant's discretion.

Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-129 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 303 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-130 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 304 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-131 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 305 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-132 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 306 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-133 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 307 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-134 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 308 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-135 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 309 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-136 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 310 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-137 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 311 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-138 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 312 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-139 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 313 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-140 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 314 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-141 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 315 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-142 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 316 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-143 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 317 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-144 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 318 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-145 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 319 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-146 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 320 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-147 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 401 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-148 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 402 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-149 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 403 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-150 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 404 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-151 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 405 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-152 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 406 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-153 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 407 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-154 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 408 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-155 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 409 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-156 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 410 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-157 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 411 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-158 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 412 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-159 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 413 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-160 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 414 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-161 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 415 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-162 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 416 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-163 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 417 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-164 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 418 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-165 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 419 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-166 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 420 Block 8 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-167 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 101 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-168 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 102 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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163-32-112-169 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 103 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-170 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 104 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-171 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 105 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-172 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 106 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-173 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 107 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-174 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 108 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-175 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 109 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-176 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 110 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-177 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 111 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-178 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 112 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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163-32-112-179 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 113 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-180 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 114 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-181 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 115 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-182 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 116 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-183 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 117 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-184 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 118 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-185 Spring Valley	Manhattan West-Phase 1 Plat Book 41 Page 28 Unit 119 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-186 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 120 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-187 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 201 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-188 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 202 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-189 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 203 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-190 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 204 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-191 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 205 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-192 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 206 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-193 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 207 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-194 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 208 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-195 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 209 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-196 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 210 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-197 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 211 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-198 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 212 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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163-32-112-199 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 213 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-200 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 214 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-201 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 215 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-202 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 216 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-203 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 217 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-204 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 218 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-205 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 219 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-206 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 220 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-207 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 301 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-208 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 302 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

*Lien Claimant has provided the best estimate of the amount owed to Lien Claimant with respect to materials or equipment furnished by Lien Claimant for the improvement of the property. Lien Claimant reserves the right to amend or modify the amount owed at Lien Claimant's discretion.

Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-209 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 303 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-210 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 304 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-211 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 305 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-212 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 306 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-213 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 307 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-214 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 308 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-215 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 309 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-216 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 310 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-217 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 311 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-218 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 312 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-219 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 313 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-220 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 314 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-221 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 315 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-222 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 316 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-223 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 317 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-224 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 318 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-225 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 319 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-226 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 320 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-227 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 401 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-228 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 402 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-229 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 403 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-230 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 404 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-231 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 405 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-232 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 406 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-233 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 407 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-234 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 408 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-235 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 409 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-236 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 410 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-237 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 411 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-238 Spring Valley	Manhattan West-Phase I Plat Book 141 Page 28 Unit 412 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

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Parcel Number/ Location Address/ Township	Property Description	Owner Name & Address
163-32-112-239 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 413 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-240 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 414 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-241 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 415 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-242 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 416 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-243 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 417 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-244 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 418 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-245 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 419 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-112-246 Spring Valley	Manhattan West-Phase 1 Plat Book 141 Page 28 Unit 420 Block 9 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-101-020 Spring Valley	PT NE4 NW4 SEC 32 21 60 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-101-022 Spring Valley	PT NE4 NW4 SEC 32 21 60 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238
163-32-101-023 Spring Valley	PT NE4 NW4 SEC 32 21 60 SEC 32 TWP 21 RNG 60	Gemstone Development West Inc 9121 W Russell Rd #117 Las Vegas, NV 89148-1238

*Lien Claimant has provided the best estimate of the amount owed to Lien Claimant with respect to materials or equipment furnished by Lien Claimant for the improvement of the property. Lien Claimant reserves the right to amend or modify the amount owed at Lien Claimant's discretion.

EXHIBIT F
(Accuracy Glass & Mirror Company's
First Amended Complaint Re Foreclosure)

Helix000639

Edmund H. Smith
CLERK OF THE COURT

1 **ACOM**
2 RICHARD L. PEEL, ESQ.
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16 *Attorneys for Accuracy Glass & Mirror Company, Inc.*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 **ACCURACY GLASS & MIRROR**
12 **COMPANY, INC.,** a Nevada corporation,

13 Plaintiff,

14 vs.

15 **APCO CONSTRUCTION,** a Nevada
16 corporation; **CAMCO PACIFIC**
17 **CONSTRUCTION COMPANY, INC.,** a
18 California corporation; **GEMSTONE**
19 **DEVELOPMENT WEST, INC.,** Nevada
20 corporation; **FIDELITY AND DEPOSIT**
21 **COMPANY OF MARYLAND;** **SCOTT**
22 **FINANCIAL CORPORATION,** a North Dakota
23 corporation; **DOES I through X;** **ROE**
24 **CORPORATIONS I through X;** **BOE**
25 **BONDING COMPANIES I through X;** **LOE**
26 **LENDERS I through X,** inclusive,

27 Defendants.

LEAD CASE NO.: A571228
DEPT. NO.: XIII

Consolidated with:

A571792

A574391

A577623

A583289

A584730

A587168

09A587168
203943



**FIRST AMENDED COMPLAINT RE
FORECLOSURE**

EXEMPTION FROM ARBITRATION:
Title to Real Estate

28 **ACCURACY GLASS & MIRROR COMPANY, INC.** ("Accuracy") by and through its
attorneys **PEEL BRIMLEY LLP,** as for its First Amended Complaint re Foreclosure ("Amended
Complaint") against the above-named defendants complains, avers and alleges as follows:

///

///

///

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THE PARTIES

1
2 1. Accuracy is and was at all times relevant to this action a Nevada corporation duly
3 authorized, licensed and qualified to do business in Clark County, Nevada holding a Nevada State
4 Contractor's license, which license is in good standing.

5
6 2. Accuracy is informed and believes and therefore alleges that Defendant
7 GEMSTONE DEVELOPMENT WEST, INC., Nevada corporation ("Owner") is and was at all
8 times relevant to this action, the owner, reputed owner, or the person, individual and/or entity
9 who claims an ownership interest in that certain real property portions thereof located in Clark
10 County, Nevada and more particularly described as follows:

11 Manhattan West Condominiums (Project)
12 Spring Valley
13 County Assessor Description: PT NE4 NW4 SEC 32 21 60 &
14 PT N2 NW4 SEC 32 21 60
SEC 32 TWP 21 RNG 60

15 and more particularly described as Clark County Assessor Parcel Numbers 163-32-101-020 and
16 163-32-101-022 through 163-32-101-024 (formerly known as 163-32-101-019 and 163-32-112-
17 001 thru 163-32-112-246) including all easements, rights-of-way, common areas and
18 appurtenances thereto, and surrounding space may be required for the convenient use and
19 occupation thereof, upon which Owners caused or allowed to be constructed certain
20 improvements (the "Property").

21
22 3. The whole of the Property is reasonably necessary for the convenient use and
23 occupation of the improvements.

24 4. Accuracy is informed and believes and therefore alleges that Defendant APCO
25 CONSTRUCTION, a Nevada corporation ("APCO"), is and was at all times relevant to this
26 action doing business as a licensed contractor authorized to conduct business in Clark County,
27 Nevada. APCO may also be known as Asphalt Products Company.
28

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1 5. Accuracy is informed and believes and therefore alleges that Defendant CAMCO
2 PACIFIC CONSTRUCTION COMPANY, INC., a California corporation ("CAMCO"), is and
3 was at all times relevant to this action doing business as a licensed contractor authorized to
4 conduct business in Clark County, Nevada.

5
6 6. Accuracy is informed and believes and therefore alleges that Defendant,
7 FIDELITY AND DEPOSIT COMPANY OF MARYLAND (hereinafter "CAMCO Surety"), was
8 and is a bonding company licensed and qualified to do business as a surety in Nevada.

9 7. Accuracy is informed and believes and therefore alleges that Defendant Scott
10 Financial Corporation ("SFC") is a North Dakota corporation with its principle place of business
11 in Bismark, North Dakota. SFC is engaged in the business of underwriting and originating loans,
12 selling participation in those loans, and servicing the loans. SFC has recorded deeds of trust
13 securing loans given to the Owner for, inter alia, development of the Property.

14
15 8. Accuracy does not know the true names of the individuals, corporations,
16 partnerships and entities sued and identified in fictitious names as DOES I through X, ROE
17 CORPORATIONS I through X, BOE BONDING COMPANIES I through X and LOE
18 LENDERS I through X. Accuracy alleges that such Defendants claim an interest in or to the
19 Properties, and/or are responsible for damages suffered by Accuracy as more fully discussed
20 under the claims for relief set forth below. Accuracy will request leave of this Honorable Court to
21 amend this Amended Complaint to show the true names and capacities of each such fictitious
22 Defendant when Accuracy discovers such information.

23
24 **FIRST CAUSE OF ACTION**
25 **(Breach of Contract against APCO)**

26 9. Accuracy repeats and realleges each and every allegation contained in the
27 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
28 alleges as follows:

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- Accuracy Glass & Mirror\008 - APCO
Construction [Manhattan]

1 10. On or about April 17, 2007 Accuracy entered into an Agreement with APCO to
2 provide certain glass and glazing related work, materials, and equipment (the "APCO Work") for
3 the Property located in Clark County, Nevada.

4 11. Accuracy furnished the APCO Work for the benefit of and at the specific instance
5 and request of APCO and/or the Owner.

6 12. Pursuant to the APCO Agreement, Accuracy was to be paid an amount in excess
7 of Ten Thousand Dollars (\$10,000.00) (hereinafter "APCO Outstanding Balance") for the APCO
8 Work.

9 13. Accuracy furnished the APCO Work and has otherwise performed its duties and
10 obligations as required by the APCO Agreement.

11 14. APCO breached the APCO Agreement by, among other things:

12 a. Failing and/or refusing to pay the monies owed to Accuracy for the APCO
13 Work;

14 b. Failing to adjust the APCO Agreement price to account for extra and/or
15 changed work, as well as suspensions and delays of the APCO Work caused or ordered by the
16 Defendants and/or their representatives;

17 c. Failing to promptly recognize and grant time extensions to reflect additional
18 time allowable under the APCO Agreement and permit related adjustments in scheduled
19 performance;

20 d. Failing and/or refusing to comply with the APCO Agreement and Nevada law;
21 and

22 e. Negligently or intentionally preventing, obstructing, hindering or interfering
23 with Accuracy's performance of the APCO Work.

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1 15. Accuracy is owed an amount in excess of Ten Thousand Dollars (\$10,000.00) for
2 the APCO Work.

3 16. Accuracy has been required to engage the services of an attorney to collect the
4 APCO Outstanding Balance, and Accuracy is entitled to recover its reasonable costs, attorney's
5 fees and interest therefore.
6

7 **SECOND CAUSE OF ACTION**
8 **(Breach of Contract against CAMCO)**

9 17. Accuracy repeats and realleges each and every allegation contained in the
10 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
11 alleges as follows:

12 18. On or about August 26, 2008, Accuracy entered into a Ratification and
13 Amendment of Subcontract Agreement with CAMCO ("CAMCO Agreement") who replaced
14 APCO as the general contractor on the Project, to continue and complete the provision of work,
15 materials, and equipment for the Property ("CAMCO Work").
16

17 19. Accuracy furnished the CAMCO Work for the benefit of and at the specific
18 instance and request of CAMCO and/or the Owner.

19 20. Pursuant to the CAMCO Agreement, Accuracy was to be paid an amount in excess
20 of Ten Thousand Dollars (\$10,000.00) (hereinafter "CAMCO Outstanding Balance") for the
21 CAMCO Work.

22 21. Accuracy furnished the CAMCO Work and has otherwise performed its duties and
23 obligations as required by the CAMCO Agreement.

24 22. CAMCO has breached the CAMCO Agreement by, among other things:

25 a. Failing and/or refusing to pay the monies owed to Accuracy for the CAMCO
26 Work;
27
28

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b. Failing to adjust the CAMCO Agreement price to account for extra and/or changed work, as well as suspensions and delays of CAMCO Work caused or ordered by the Defendants and/or their representatives;

c. Failing to promptly recognize and grant time extensions to reflect additional time allowable under the CAMCO Agreement and permit related adjustments in scheduled performance;

d. Failing and/or refusing to comply with the CAMCO Agreement and Nevada law; and

e. Negligently or intentionally preventing, obstructing, hindering or interfering with Accuracy's performance of the CAMCO Work.

23. Accuracy is owed an amount in excess of Ten Thousand Dollars (\$10,000.00) for the CAMCO Work.

24. Accuracy has been required to engage the services of an attorney to collect the CAMCO Outstanding Balance, and Accuracy is entitled to recover its reasonable costs, attorney's fees and interest therefore.

THIRD CAUSE OF ACTION

(Breach of Implied Covenant of Good Faith & Fair Dealing Against APCO)

25. Accuracy repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

26. There is a covenant of good faith and fair dealing implied in every agreement, including the APCO Agreement.

27. APCO breached its duty to act in good faith by performing the APCO Agreement in a manner that was unfaithful to the purpose of the APCO Agreement, thereby denying Accuracy's justified expectations.

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- Accuracy Glass & Mirror\008 - APCO
Construction [Manhattan]

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1 28. Due to the actions of APCO, Accuracy suffered damages in an amount to be
2 determined at trial for which Accuracy is entitled to judgment plus interest.

3 29. Accuracy has been required to engage the services of an attorney to collect the
4 APCO Outstanding Balance and Accuracy is entitled to recover its reasonable costs, attorney's
5 fees and interest therefore.
6

7 **FOURTH CAUSE OF ACTION**

8 **(Breach of Implied Covenant of Good Faith & Fair Dealing Against CAMCO)**

9 30. Accuracy repeats and realleges each and every allegation contained in the
10 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
11 alleges as follows:

12 31. There is a covenant of good faith and fair dealing implied in every agreement,
13 including the CAMCO Agreement.

14 32. CAMCO breached its duty to act in good faith by performing the CAMCO
15 Agreement in a manner that was unfaithful to the purpose of the CAMCO Agreement, thereby
16 denying Accuracy's justified expectations.

17 33. Due to the actions of CAMCO, Accuracy suffered damages in an amount to be
18 determined at trial for which Accuracy is entitled to judgment plus interest.

19 34. Accuracy has been required to engage the services of an attorney to collect the
20 CAMCO Outstanding Balance and Accuracy is entitled to recover its reasonable costs, attorney's
21 fees and interest therefore.
22

23 **FIFTH CAUSE OF ACTION**

24 **(Unjust Enrichment or in the Alternative Quantum Meruit – Against All Defendants)**

25 35. Accuracy repeats and realleges each and every allegation contained in the
26 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
27 alleges as follows:
28

1 36. Accuracy furnished the APCO Work and the CAMCO Work for the benefit of and
2 at the specific instance and request of the Defendants.

3 37. As to APCO and CAMCO this cause of action is being pled in the alternative.

4 38. The Defendants accepted, used, and enjoyed the benefit of the APCO Work and
5 CAMCO Work.
6

7 39. The Defendants knew or should have known that Accuracy expected to be paid for
8 the APCO Work and the CAMCO Work.

9 40. Accuracy has demanded payment of the APCO Outstanding Balance and the
10 CAMCO Outstanding Balance.

11 41. To date, the Defendants have failed, neglected, and/or refused to pay the APCO
12 Outstanding Balance or the CAMCO Outstanding Balance.

13 42. The Defendants have been unjustly enriched, to the detriment of Accuracy.

14 43. Accuracy has been required to engage the services of an attorney to collect the
15 APCO Outstanding Balance and the CAMCO Outstanding Balance and Accuracy is entitled to
16 recover its reasonable costs, attorney's fees and interest therefore.
17

18 **SIXTH CAUSE OF ACTION**
19 **(Foreclosure of Mechanic's Lien)**

20 44. Accuracy repeats and realleges each and every allegation contained in the
21 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
22 alleges as follows:

23 45. The provision of the APCO Work and CAMCO Work was at the special instance
24 and request of the Defendants for the Property.
25

26 46. As provided at NRS 108.245 and common law, the Defendants had knowledge of
27 Accuracy's delivery of the APCO Work and CAMCO Work to the Property or Accuracy
28 provided a Notice of Right to Lien.

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47. Accuracy demanded payment of the APCO Outstanding Balance and CAMCO Outstanding Balance.

48. On or about December 5, 2008, Accuracy timely recorded a Notice of Lien in Book 20081205 of the Official Records of Clark County, Nevada, as Instrument No. 0001947 (the "Original Lien").

49. On or about February 2, 2009, Accuracy timely recorded an Amended Notice of Lien in Book 20090202 of the Official Records of Clark County, Nevada, as Instrument No. 0000834 (the "Amended Lien").

50. The Original Lien and Amended Lien are hereinafter referred to as the "Liens".

51. The Liens were in writing and were recorded against the Property for the outstanding balance due to Accuracy in the amount of One Million Nine Hundred Fifty-Six Thousand Nine Hundred Two and 53/100 Dollars (\$1,956,902.53).

52. The Liens were served upon the Owner and/or its authorized agents, as required by law.

53. Accuracy is entitled to an award of reasonable attorney's fees, costs and interest on the APCO Outstanding Balance and CAMCO Outstanding Balance, as provided in Chapter 108 of the Nevada Revised Statutes.

SEVENTH CAUSE OF ACTION
(Claim of Priority)

54. Accuracy repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

55. Accuracy is informed and believes and therefore alleges that construction on the Property commenced before the recording of any deed(s) of trust and/or other interest(s) in the Property, including the deeds of trust recorded by SFC.

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- Accuracy Glass & Mirror\008 - APCO
Construction (Manhattan)

56. Accuracy is informed and believes and therefore alleges that even if a deed(s) of trust and/or other interest(s) in the Property were recorded before construction on the Property commenced, those deed(s) of trust, including SFC's, were thereafter expressly subordinated to Accuracy's statutory mechanics' lien thereby elevating Accuracy's statutory mechanics' lien to a position superior to those deed(s) of trust and/or other interests(s) in the Property.

57. Accuracy's claim against the Property is superior to the claim(s) of SFC, any other defendant, and/or any Loe Lender.

58. Accuracy has been required to engage the services of an attorney to collect the APCO Outstanding Balance due and owing for the APCO Work and to collect the CAMCO Outstanding Balance due and owing for the CAMCO Work and Accuracy is entitled to recover its reasonable costs, attorney's fees and interest therefore.

EIGHTH CAUSE OF ACTION
(Claim Against Bond – CAMCO Surety)

59. Accuracy repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

60. Prior to the events giving rise to this Amended Complaint, the CAMCO Surety issued License Bond No. 8739721 (hereinafter the "Bond") in the sum of Fifty Thousand Dollars (\$50,000.00).

61. CAMCO is named as principal and CAMCO Surety is named as surety on the Bond.

62. The Bond was provided pursuant to the requirements of NRS 624.270, which Bond was in force during all times relevant to this action.

63. Accuracy furnished the CAMCO Work as stated herein and has not been paid for the same. Accuracy therefore claims payment on said Bond.

1 64. The CAMCO Surety is obligated to pay Accuracy the sums due.

2 65. Demand for the payment of the sums due to Accuracy has been made, but
3 CAMCO and the CAMCO Surety have failed, neglected and refused to pay the same to
4 Accuracy.

5 66. CAMCO and the CAMCO Surety owe Accuracy the penal sum of the Bond.

6 67. Accuracy was required to engage the services of an attorney to collect the
7 CAMCO Outstanding Balance due and owing to Accuracy and Accuracy is entitled to recover its
8 reasonable attorney's fees and costs therefore.
9

10 **NINTH CAUSE OF ACTION**
11 **(Violation of NRS 624 - APCO)**

12 68. Accuracy repeats and realleges each and every allegation contained in the
13 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
14 alleges as follows:

15 69. NRS 624.606 to 624.630, et. seq. (the "Statute") requires contractors such as
16 APCO to, among other things, timely pay their subcontractors (such as Accuracy), as provided in
17 the in the Statute.

18 70. In violation of the Statute, APCO failed and/or refused to timely pay Accuracy
19 monies due and owing.
20

21 71. APCO's violation of the Statute constitutes negligence per se.

22 72. By reason of the foregoing, Accuracy is entitled to a judgment against APCO in
23 the amount of the APCO Outstanding Balance
24

25 73. Accuracy has been required to engage the services of an attorney to collect the
26 APCO Outstanding Balance and Accuracy is entitled to recover its reasonable costs, attorney's
27 fees and interests therefore.
28

TENTH CAUSE OF ACTION
(Violation of NRS 624 - CAMCO)

74. Accuracy repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

75. NRS 624.606 to 624.630, et. seq. (the "Statute") requires contractors such as CAMCO to, among other things, timely pay their subcontractors (such as Accuracy), as provided in the in the Statute.

76. In violation of the Statute, CAMCO failed and/or refused to timely pay Accuracy monies due and owing.

77. CAMCO's violation of the Statute constitutes negligence per se.

78. By reason of the foregoing, Accuracy is entitled to a judgment against CAMCO in the amount of the CAMCO Outstanding Balance

79. Accuracy has been required to engage the services of an attorney to collect the CAMCO Outstanding Balance and Accuracy is entitled to recover its reasonable costs, attorney's fees and interests therefore.

ELEVENTH CAUSE OF ACTION
(Declaratory Judgment)

80. Accuracy repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

81. Upon information and belief, Owner is the Trustor and SFC is the beneficiary under the following deeds of trust covering the real property at issue:

- a. Senior Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book 20060705, Instrument No. 0004264;

- b. Junior Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book 20060705, Instrument No. 0004265;
- c. Third Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book 20060705, Instrument No. 0004266; and,
- d. Senior Debt Deed of Trust dated and recorded February 7, 2008, at Book 20080207, Instrument No. 01482.

82. On February 7, 2008, SFC executed a Mezzanine Deeds of Trust Subordination Agreement that expressly subordinated the Senior, Junior, and Third Deeds of Trust to the Senior Debt Deed of Trust "in all respects", "for all purposes", and, " regardless of any priority otherwise available to SFC by law or agreement".

83. The Mezzanine Deeds of Trust Subordination Agreement contains a provision that it shall not be construed as affecting the priority of any other lien or encumbrances in favor of SFC. Thus, no presumptions or determinations are to be made in SFC's favor concerning the priority of competing liens or encumbrances on the property, such as Accuracy's mechanics' lien.

84. Pursuant to the a Mezzanine Deeds of Trust Subordination Agreement, SFC was to cause the Senior, Junior, and Third Deeds of Trust to contain specific statements thereon that they were expressly subordinated to the Senior Debt Deed of Trust and SFC was to mark its books conspicuously to evidence the subordination of the Senior, Junior, and Third Deeds of Trust to the Senior Debt Deed of Trust.

85. Accuracy is informed and believes and therefore alleges that construction on the Property commenced at least before the recording of the Senior Debt Deed of Trust and that by law, all mechanics' liens, including Accuracy's, enjoy a position of priority over the Senior Debt Deed of Trust.

86. Because the Mezzanine Deeds of Trust Subordination Agreement renders the Senior, Junior, and Third Deeds of Trust expressly subordinate to the Senior Debt Deed of Trust,

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1 it also renders, as a matter of law, the Senior, Junior, and Third Deeds of Trust expressly
2 subordinate to all mechanics' liens, including Accuracy's.

3 87. A dispute has arisen, and an actual controversy now exists over the priority issue
4 of Accuracy's mechanics' lien over other encumbrances on the property.

5 88. Accuracy is entitled to a court order declaring that its mechanics' lien has a
6 superior lien position on the Property over any other lien or encumbrance created by or for the
7 benefit of SFC or any other entity.

8
9 **WHEREFORE**, Accuracy prays that this Honorable Court:

10 1. Enters judgment against the Defendants, and each of them, jointly and severally, in
11 the APCO Outstanding Balance and CAMCO Outstanding Balance amounts;

12 2. Enters a judgment against Defendants, and each of them, jointly and severally, for
13 Accuracy's reasonable costs and attorney's fees incurred in the collection of the APCO
14 Outstanding Balance and the CAMCO Outstanding Balance, as well as an award of interest
15 thereon;

16 3. Enter a judgment declaring that Accuracy has valid and enforceable mechanic's
17 liens against the Property, with priority over all Defendants, in an amount of the APCO
18 Outstanding Balance and CAMCO Outstanding Balance;

19 4. Adjudge a lien upon the Property for the APCO Outstanding Balance and
20 CAMCO Outstanding Balance, plus reasonable attorneys fees, costs and interest thereon, and that
21 this Honorable Court enter an Order that the Property, and improvements, such as may be
22 necessary, be sold pursuant to the laws of the State of Nevada, and that the proceeds of said sale
23 be applied to the payment of sums due Accuracy herein;
24
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28

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1 5. Enter a judgment declaring that Accuracy's mechanics' lien enjoys a position of
2 priority superior to any lien or encumbrance created by or for the benefit of SFC or any other
3 entity; and,

4 6. For such other and further relief as this Honorable Court deems just and proper in
5 the premises.
6

7 Dated this 23 day of June 2009.

PEEL BRIMLEY LLP


RICHARD L. PEEL, ESQ.

Nevada Bar No. 4359

MICHAEL T. GEBHART, ESQ.

Nevada Bar No. 7718

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Attorneys for Accuracy Glass & Mirror
Company, Inc.

EXHIBIT G

(Bruin Painting)

**Bruin Painting's Amended Statement of
Facts Constituting Amended Notice of Lien
and Third-Party Complaint**

Edmund A. Hines
CLERK OF THE COURT

1 STMT
2 RICHARD L. PEEL, ESQ.
3 Nevada Bar No. 4359
4 MICHAEL T. GEBHART, ESQ.
5 Nevada Bar No. 7718
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15 dwayment@peelbrimley.com
16 Attorneys for Bruin Painting Corporation

DISTRICT COURT

CLARK COUNTY, NEVADA

11 ACCURACY GLASS & MIRROR
12 COMPANY, INC., a Nevada corporation,

13 Plaintiff,

14 vs.

15 ASPHALT PRODUCTS CORP., a Nevada
16 corporation; APCO CONSTRUCTION, a
17 Nevada corporation; CAMCO PACIFIC
18 CONSTRUCTION COMPANY, INC., a
19 California corporation; GEMSTONE
20 DEVELOPMENT WEST, INC., Nevada
21 corporation; FIDELITY AND DEPOSIT
22 COMPANY OF MARYLAND; SCOTT
23 FINANCIAL CORPORATION, a North Dakota
24 corporation; DOES I through X; ROE
25 CORPORATIONS I through X; BOE
26 BONDING COMPANIES I through X; LOE
27 LENDERS I through X, inclusive,

28 Defendants.

BRUIN PAINTING CORPORATION, a
California corporation,

Plaintiff in Intervention,

vs.

CAMCO PACIFIC CONSTRUCTION
COMPANY, INC., a California corporation;
GEMSTONE DEVELOPMENT WEST, INC.,
Nevada corporation; FIDELITY AND
DEPOSIT COMPANY OF MARYLAND;
SCOTT FINANCIAL CORPORATION, a
North Dakota corporation; DOES I through X;
ROE CORPORATIONS I through X; BOE

LEAD CASE NO.: A571228
DEPT. NO.: XIII

Consolidated with:

A571792
A574391
A577623
A583289
A584730
A587168

09A587168
257968



BRUIN PAINTING'S AMENDED
STATEMENT OF FACTS
CONSTITUTING NOTICE OF LIEN
AND THIRD-PARTY COMPLAINT

EXEMPTION FROM ARBITRATION:
Title to Real Estate

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BONDING COMPANIES I through X; LOE
LENDERS I through X, inclusive,
Defendants.

BRUIN PAINTING CORPORATION ("Bruin") by and through its attorneys PEEL
BRIMLEY LLP, as for its Amended Statement of Facts Constituting a Notice of Lien and Third
Party Complaint ("Amended Complaint") against the above-named defendants complains, avers
and alleges as follows:

THE PARTIES

1. Bruin is and was at all times relevant to this action a Nevada limited-liability
company, duly authorized, licensed and qualified to do business in Clark County, Nevada holding
a Nevada State Contractor's license, which license is in good standing.

2. Bruin is informed and believes and therefore alleges that Defendant GEMSTONE
DEVELOPMENT WEST, INC., Nevada corporation ("Owner") is and was at all times relevant
to this action, the owner, reputed owner, or the person, individual and/or entity who claims an
ownership interest in that certain real property portions thereof located in Clark County, Nevada
and more particularly described as follows:

Manhattan West Condominiums (Project)
Spring Valley

County Assessor Description: PT NE4 NW4 SEC 32 21 60 &
PT N2 NW4 SEC 32 21 60
SEC 32 TWP 21 RNG 60

and more particularly described as Clark County Assessor Parcel Numbers 163-32-101-020 and
163-32-101-022 through 163-32-101-024 (formerly known as 163-32-101-019 and 163-32-112-
001 thru 163-32-112-246) including all easements, rights-of-way, common areas and
appurtenances thereto, and surrounding space may be required for the convenient use and
occupation thereof, upon which Owners caused or allowed to be constructed certain
improvements (the "Property").

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- Bruin Painting Corp\011 - Camco Pacific
(Manhattan West)\PX\Originals\090622 Bruin Amd

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1 3. The whole of the Property is reasonably necessary for the convenient use and
2 occupation of the improvements.

3 4. Bruin is informed and believes and therefore alleges that Defendant CAMCO
4 PACIFIC CONSTRUCTION COMPANY, INC., a California corporation ("CPCC"), is and was
5 at all times relevant to this action doing business as a licensed contractor authorized to conduct
6 business in Clark County, Nevada and acting as the general contractor to the Project.
7

8 5. Bruin is informed and believes and therefore alleges that Defendant, FIDELITY
9 AND DEPOSIT COMPANY OF MARYLAND (hereinafter "CPCC Surety"), was and is a
10 bonding company licensed and qualified to do business as a surety in Nevada.

11 6. Bruin is informed and believes and therefore alleges that Defendant Scott
12 Financial Corporation ("SFC") is a North Dakota corporation with its principle place of business
13 in Bismark, North Dakota. SFC is engaged in the business of underwriting and originating loans,
14 selling participation in those loans, and servicing the loans. SFC has recorded deeds of trust
15 securing loans given to the Owner for, inter alia, development of the Property.
16

17 7. Bruin does not know the true names of the individuals, corporations, partnerships
18 and entities sued and identified in fictitious names as DOES I through X, ROE
19 CORPORATIONS I through X, BOE BONDING COMPANIES I through X and LOE
20 LENDERS I through X. Bruin alleges that such Defendants claim an interest in or to the
21 Properties, and/or are responsible for damages suffered by Bruin as more fully discussed under
22 the claims for relief set forth below. Bruin will request leave of this Honorable Court to amend
23 this Complaint to show the true names and capacities of each such fictitious Defendant when
24 Bruin discovers such information.
25

26 ///

27 ///

28
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FIRST CAUSE OF ACTION
(Breach of Contract against CPCC)

8. Bruin repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

9. On or about August 26, 2008, Bruin entered into a Subcontract Agreement ("Agreement") with CPCC to provide certain painting and wall covering related work, materials and equipment (the "Work") for the Property located in Clark County, Nevada

10. Bruin furnished the Work for the benefit of and at the specific instance and request of CPCC and/or Owner.

11. Pursuant to the Agreement, Bruin was to be paid an amount in excess of Ten Thousand Dollars (\$10,000.00) (hereinafter "Outstanding Balance") for the Work.

12. Bruin furnished the Work and has otherwise performed its duties and obligations as required by the Agreement.

13. CPCC has breached the Agreement by, among other things:

- a. Failing and/or refusing to pay the monies owed to Bruin for the Work;
- b. Failing to adjust the Agreement price to account for extra and/or changed work, as well as suspensions and delays of Work caused or ordered by the Defendants and/or their representatives;
- c. Failing to promptly recognize and grant time extensions to reflect additional time allowable under the Agreement and permit related adjustments in scheduled performance;
- d. Failing and/or refusing to comply with the Agreement and Nevada law; and
- e. Negligently or intentionally preventing, obstructing, hindering or interfering with Bruin's performance of the Work.

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1 14. Bruin is owed an amount in excess of Ten Thousand Dollars (\$10,000.00) for the
2 Work.

3 15. Bruin has been required to engage the services of an attorney to collect the
4 Outstanding Balance, and Bruin is entitled to recover its reasonable costs, attorney's fees and
5 interest therefore.
6

7 **SECOND CAUSE OF ACTION**

8 **(Breach of Implied Covenant of Good Faith & Fair Dealing Against CPCC)**

9 16. Bruin repeats and realleges each and every allegation contained in the preceding
10 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
11 follows:

12 17. There is a covenant of good faith and fair dealing implied in every agreement,
13 including the Agreement.

14 18. CPCC breached its duty to act in good faith by performing the Agreement in a
15 manner that was unfaithful to the purpose of the Agreement, thereby denying Bruin's justified
16 expectations.
17

18 19. Due to the actions of CPCC, Bruin suffered damages in an amount to be
19 determined at trial for which Bruin is entitled to judgment plus interest.

20 20. Bruin has been required to engage the services of an attorney to collect the
21 Outstanding Balance, and Bruin is entitled to recover its reasonable costs, attorney's fees and
22 interest therefore.
23

24 **THIRD CAUSE OF ACTION**

25 **(Unjust Enrichment or in the Alternative Quantum Meruit – Against All Defendants)**

26 21. Bruin repeats and realleges each and every allegation contained in the preceding
27 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
28 follows:

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1 22. Bruin furnished the Work for the benefit of and at the specific instance and request
2 of the Defendants.

3 23. As to CPCC, this cause of action is being pled in the alternative.

4 24. The Defendants accepted, used and enjoyed the benefit of the Work.

5 25. The Defendants knew or should have known that Bruin expected to be paid for the
6 Work.
7

8 26. Bruin has demanded payment of the Outstanding Balance.

9 27. To date, the Defendants have failed, neglected, and/or refused to pay the
10 Outstanding Balance.

11 28. The Defendants have been unjustly enriched, to the detriment of Bruin.

12 29. Bruin has been required to engage the services of an attorney to collect the
13 Outstanding Balance, and Bruin is entitled to recover its reasonable costs, attorney's fees and
14 interest therefore.
15

16 **FOURTH CAUSE OF ACTION**
17 **(Foreclosure of Mechanic's Lien)**

18 30. Bruin repeats and realleges each and every allegation contained in the preceding
19 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
20 follows:

21 31. The provision of the Work was at the special instance and request of the
22 Defendants for the Property.

23 32. As provided at NRS 108.245 and common law, the Defendants had knowledge of
24 Bruin's delivery of the Work to the Property or Bruin provided a Notice of Right to Lien.
25

26 33. Bruin demanded payment of an amount in excess of Ten Thousand and no/100
27 Dollars (\$10,000.00), which amount remains past due and owing.
28

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1 34. On or about December 17, 2008, Bruin timely recorded a Notice of Lien in Book
2 20081217 of the Official Records of Clark County, Nevada, as Instrument No. 0001837 (the
3 "Original Lien").

4 35. On or about February 3, 2009, Bruin timely recorded an Amended/Restated Notice
5 of Lien in Book 20090203 of the Official Records of Clark County, Nevada, as Instrument No.
6 0000315 (the "Amended Lien").

7 36. The Original Lien and Amended Lien are hereinafter referred to as the "Liens".

8 37. The Liens were in writing and were recorded against the Property for the
9 outstanding balance due to Bruin in the amount of Seven Hundred Seventy-One Thousand Four
10 Hundred One and 32/100 Dollars (\$771,401.32).

11 38. The Liens were served upon the Owner and/or its authorized agents, as required by
12 law.

13 39. Bruin is entitled to an award of reasonable attorney's fees, costs and interest on the
14 Outstanding Balance, as provided in Chapter 108 of the Nevada Revised Statutes.

15
16
17 **FIFTH CAUSE OF ACTION**
18 **(Claim of Priority)**

19 40. Bruin repeats and realleges each and every allegation contained in the preceding
20 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
21 follows:

22 41. Bruin is informed and believes and therefore alleges that construction on the
23 Property commenced before the recording of any deed(s) of trust and/or other interest(s) in the
24 Property, including the deeds of trust recorded by SFC.

25 42. Bruin is informed and believes and therefore alleges that even if a deed(s) of trust
26 and/or other interest(s) in the Property were recorded before construction on the Property
27 commenced, those deed(s) of trust, including SFC's, were thereafter expressly subordinated to
28

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- Bruin Painting Corp\011 - Canuco Pacific
(Manhattan West)\PX\Originals\090622 Bruin Amd

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1 Bruin's statutory mechanics' lien thereby elevating Bruin's statutory mechanics' lien to a position
2 superior to those deed(s) of trust and/or other interests(s) in the Property.

3 43. Bruin's claim against the Property is superior to the claim(s) of SFC, any other
4 defendant, and/or any Loe Lender.

5 44. Bruin has been required to engage the services of an attorney to collect the
6 Outstanding Balance due and owing for the Work, and Bruin is entitled to recover its reasonable
7 costs, attorney's fees and interest therefore.
8

9 **SIXTH CAUSE OF ACTION**
10 **(Claim Against Bond – CPCC Surety)**

11 45. Bruin repeats and realleges each and every allegation contained in the preceding
12 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
13 follows:

14 46. Prior to the events giving rise to this Complaint, the CPCC Surety issued License
15 Bond No. 8739721 (hereinafter the "Bond") in the sum of Fifty Thousand Dollars (\$50,000.00).
16

17 47. CPCC is named as principal and CPCC Surety is named as surety on the Bond.

18 48. The Bond was provided pursuant to the requirements of NRS 624.270, which
19 Bond was in force during all times relevant to this action.

20 49. Bruin furnished the Work as stated herein and has not been paid for the same.
21 Bruin therefore claims payment on said Bond.

22 50. The CPCC Surety is obligated to pay Bruin the sums due.

23 51. Demand for the payment of the sums due to Bruin has been made, but CPCC and
24 the CPCC Surety have failed, neglected and refused to pay the same to Bruin.
25

26 52. CPCC and the CPCC Surety owe Bruin the penal sum of the Bond.
27
28

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1 53. Bruin was required to engage the services of an attorney to collect the Outstanding
2 Balance due and owing to Bruin and Bruin is entitled to recover its reasonable attorney's fees and
3 costs therefore.

4 **SEVENTH CAUSE OF ACTION**
5 **(Violation of NRS 624)**

6 54. Bruin repeats and realleges each and every allegation contained in the preceding
7 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
8 follows:

9 55. NRS 624.606 to 624.630, et. seq. (the "Statute") requires contractors (such as
10 CPCC), to, among other things, timely pay their subcontractors (such as Bruin), as provided in the
11 in the Statute.

12 56. In violation of the Statute, CPCC have failed and/or refused to timely pay Bruin
13 monies due and owing.

14 57. CPCC's violation of the Statute constitutes negligence per se.

15 58. By reason of the foregoing, Bruin is entitled to a judgment against CPCC in the
16 amount of the Outstanding Balance

17 59. Bruin has been required to engage the services of an attorney to collect the
18 Outstanding Balance and Bruin is entitled to recover its reasonable costs, attorney's fees and
19 interests therefore.

20 **EIGHTH CAUSE OF ACTION**
21 **(Declaratory Judgment)**

22 60. Bruin repeats and realleges each and every allegation contained in the preceding
23 paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as
24 follows:

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1 61. Upon information and belief, Owner is the Trustor and SFC is the beneficiary
2 under the following deeds of trust covering the real property at issue:

- 3 a. Senior Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book
4 20060705, Instrument No. 0004264;
5 b. Junior Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book
6 20060705, Instrument No. 0004265;
7 c. Third Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book
8 20060705, Instrument No. 0004266; and,
9 d. Senior Debt Deed of Trust dated and recorded February 7, 2008, at Book
10 20080207, Instrument No. 01482.

11 62. On February 7, 2008, SFC executed a Mezzanine Deeds of Trust Subordination
12 Agreement that expressly subordinated the Senior, Junior, and Third Deeds of Trust to the Senior
13 Debt Deed of Trust "in all respects", "for all purposes", and, " regardless of any priority
14 otherwise available to SFC by law or agreement".

15 63. The Mezzanine Deeds of Trust Subordination Agreement contains a provision that
16 it shall not be construed as affecting the priority of any other lien or encumbrances in favor of
17 SFC. Thus, no presumptions or determinations are to be made in SFC's favor concerning the
18 priority of competing liens or encumbrances on the property, such as Bruin's mechanics' lien.

19 64. Pursuant to the a Mezzanine Deeds of Trust Subordination Agreement, SFC was to
20 cause the Senior, Junior, and Third Deeds of Trust to contain specific statements thereon that they
21 were expressly subordinated to the Senior Debt Deed of Trust and SFC was to mark its books
22 conspicuously to evidence the subordination of the Senior, Junior, and Third Deeds of Trust to the
23 Senior Debt Deed of Trust.

24 65. Bruin is informed and believes and therefore allcges that construction on the
25 Property commenced at least before the recording of the Senior Debt Deed of Trust and that by
26
27
28

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1 law, all mechanics' liens, including Bruin's, enjoy a position of priority over the Senior Debt
2 Deed of Trust.

3 66. Because the Mezzanine Deeds of Trust Subordination Agreement renders the
4 Senior, Junior, and Third Deeds of Trust expressly subordinate to the Senior Debt Deed of Trust,
5 it also renders, as a matter of law, the Senior, Junior, and Third Deeds of Trust expressly
6 subordinate to all mechanics' liens, including Bruin's.
7

8 67. A dispute has arisen, and an actual controversy now exists over the priority issue
9 of Bruin's mechanics' lien over other encumbrances on the property.

10 Bruin is entitled to a court order declaring that its mechanics' lien has a superior lien position on
11 the Property over any other lien or encumbrance created by or for the benefit of SFC or any other
12 entity.
13

14 WHEREFORE, Bruin prays that this Honorable Court:

15 1. Enters judgment against the Defendants, and each of them, jointly and severally, in
16 the Outstanding Balance amount;

17 2. Enters a judgment against Defendants, and each of them, jointly and severally, for
18 Bruin's reasonable costs and attorney's fees incurred in the collection of the Outstanding Balance,
19 as well as an award of interest thereon;
20

21 3. Enter a judgment declaring that Bruin has valid and enforceable mechanic's liens
22 against the Property, with priority over all Defendants, in an amount of the Outstanding Balance;

23 4. Adjudge a lien upon the Property for the Outstanding Balance, plus reasonable
24 attorneys fees, costs and interest thereon, and that this Honorable Court enter an Order that the
25 Property, and improvements, such as may be necessary, be sold pursuant to the laws of the State
26 of Nevada, and that the proceeds of said sale be applied to the payment of sums due Bruin herein;
27
28

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1 5. Enter a judgment declaring that Bruin's mechanics' lien enjoys a position of
2 priority superior to any lien or encumbrance created by or for the benefit of SFC or any other
3 entity; and

4 6. For such other and further relief as this Honorable Court deems just and proper in
5 the premises.

6 Dated this 22 day of June 2009.

PEEL BRIMLEY LLP


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MICHAEL T. GEBHART, ESQ.
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Attorneys for Bruin Painting Corporation

CAMCO's Answer and Counterclaim

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10 Camco Pacific Construction Company, Inc.

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DISTRICT COURT
CLARK COUNTY, NEVADA

9 **ACCURACY GLASS & MIRROR**
10 **COMPANY, INC.,** a Nevada corporation,

11 Plaintiff,

12 vs.

13 **ASPHALT PRODUCTS CORP.,** a Nevada
14 corporation; **APCO CONSTRUCTION,** a
15 Nevada corporation; **CAMCO PACIFIC**
16 **CONSTRUCTION COMPANY, INC.,** a
17 California corporation; **GEMSTONE**
18 **DEVELOPMENT WEST, INC.,** Nevada
19 corporation; **FIDELITY AND DEPOSIT**
20 **COMPANY OF MARYLAND;** **SCOTT**
21 **FINANCIAL CORPORATION,** a North
22 Dakota Corporation; **DOES I through X;**
23 **ROE CORPORATIONS I through X;** **BOE**
24 **BONDING COMPANIES I through X;** **LOE**
25 **LENDERS I through X, inclusive,**

26 Defendants.

Case No: A587168
Dept. No: XIII

Consolidated with:
A571228

**ANSWER TO BRUIN PAINTING
CORPORATION'S STATEMENT OF
FACTS CONSTITUTING LIEN, THIRD-
PARTY COMPLAINT, AND CAMCO
PACIFIC CONSTRUCTION INC.'S
COUNTERCLAIM**

09A587168
389434



FILED

SEP 11 5 22 PM '09

E. J. [Signature]
CLERK OF THE COURT

WOODBURY, MORRIS & BROWN
701 N. Green Valley Parkway, Suite 110
Henderson, Nevada 89074
(702) 933-0777 ♦ Fax (702) 933-0778

1 BRUIN PAINTING CORPORATION, a
California corporation,

2 Plaintiff in Intervention,

3 vs.

4 CAMCO PACIFIC CONSTRUCTION
5 COMPANY, INC., a California corporation;
6 GEMSTONE DEVELOPMENT WEST,
INC., Nevada corporation; FIDELITY AND
7 DEPOSIT COMPANY OF MARYLAND;
8 SCOTT FINANCIAL CORPORATION, a
North Dakota Corporation; DOES I through
9 X; ROE CORPORATIONS I through X;
BOE BONDING COMPANIES I through X;
LOE LENDERS I through X, inclusive,

10 Defendants.

11 CAMCO PACIFIC CONSTRUCTION
12 COMPANY, INC., a California corporation,

13 Counterclaimant,

14 vs.

15 BRUIN PAINTING CORPORATION, a
California corporation; and DOES I through
16 X, inclusive,

17 Counterdefendants,

18 Third Party Defendant CAMCO PACIFIC CONSTRUCTION COMPANY, INC.
19 (hereinafter "Camco"), by and through its counsel, Steven L. Morris, Esq. of the law firm of
20 Woodbury, Morris & Brown, hereby answer the Third Party Complaint of BRUIN PAINTING
21 CORPORATION, (hereinafter "Plaintiff" or "Bruin"), on file herein, and admits, denies, and
22 alleges as follows:

23 1. Camco denies each and every allegation contained in Paragraphs 12, 13, 14, 15,
24 18, 19, 20, 22, 23, 24, 26, 27, 28, 29, 31, 33, 39, 44, 53, 56, 57, 58 and 59 of Plaintiff's
25 Complaint.

26 2. Camco is without information or knowledge sufficient to ascertain the truth of
27 the allegations contained in Paragraphs 7, 32, 34, 35, 36, 37, 38 and 42 of Plaintiff's Complaint,
28

1 and therefore denies each and every allegation contained therein.

2 3. Camco admits the allegations contained in Paragraphs 1, 2, 3, 4, 6, 41, 61, 62,
3 65, and 66 of Plaintiff's Complaint.

4 4. As to Paragraphs 8, 16, 21, 30, 40, 45, 54, and 60 of Plaintiff's Complaint,
5 Camco repeats and realleges the answers to paragraphs 1 through 67 as though fully set forth
6 herein.

7 5. As to Paragraphs 5, 46, 47, 48, 49, 50, 51, and 52 of Plaintiff's Complaint, it is
8 unnecessary for Camco to respond in light of Bruin's August 3, 2009 Voluntary Dismissal of
9 Claims against Fidelity and Deposit Company of Maryland; nonetheless, Camco denies each
10 and every allegation contained therein.

11 6. As to Paragraph 9 Camco admits that Camco entered into a Subcontract
12 Agreement with Bruin, but as for the remaining allegations therein, Camco admits that the
13 contract speaks for itself.

14 7. As to Paragraph 10 Camco admits that Bruin furnished work for the benefit of
15 and at the specific request of the Owner, but denies the remaining allegations therein.

16 8. As to Paragraph 11 Camco admits that Bruin was to be paid by the Owner for its
17 services, but denies the remaining allegations therein.

18 9. As to Paragraph 17 Camco admits that it acted in good faith, but as for the
19 remaining allegations therein, Camco admits that the contract speaks for itself.

20 10. As to Paragraph 25 Camco admits that Bruin knew or should have known that
21 payment would have been made by Owner, but denies the remaining allegations therein.

22 11. As to Paragraph 43 Camco denies that Bruin's claim against the Property is
23 superior to Camco's, but is without information or knowledge sufficient to ascertain the truth of
24 the remaining allegations therein and therefore denies the same.

25 12. As to Paragraph 55 Camco admits that the Statute speaks for itself, but denies
26 the remaining allegations therein.

27 13. As to Paragraph 63 Camco admits that the Mezzanine Deeds of Trust
28 Subordination Agreement speaks for itself, but denies the remaining allegations therein.

1 14. As to Paragraph 64 Camco admits that the Mezzanine Deeds of Trust
2 Subordination Agreement speaks for itself, but denies the remaining allegations therein.

3 15. As to Paragraph 67 Camco admits that there is an actual controversy as to the
4 overall priority of all the mechanic's liens, but denies the remaining allegations therein.

5 16. To the extent that any allegations set forth in Plaintiff's Complaint have not been
6 answered, this answering Defendant denies each and every allegation or inference thereof not
7 expressly set forth hereinabove.

8 17. It has become necessary for this answering Defendant to retain the services of
9 WOODBURY, MORRIS, & BROWN, attorneys at law, to defend this action, and as a result,
10 this answering Defendant has been damaged by the Plaintiff, and this answering Defendant is
11 accordingly entitled to its attorney fees and costs incurred herein.

12 **AFFIRMATIVE DEFENSES**

13 1. The Complaint on file herein fails to state a claim against Camco upon which
14 relief can be granted.

15 2. That any or all negligence or fault on the part of the Plaintiff would be active and
16 primary, and any negligence or fault of Camco, if any, would be secondary and passive.

17 3. Any and all damages sustained by Plaintiff are the result of its own negligence
18 and breach of contract.

19 4. Camco is not negligent with respect to the transactions which are the subject of
20 the Complaint, and is and was not in breach of contract.

21 5. At the time and place under the circumstances alleged by the Plaintiff, Plaintiff
22 had full and complete knowledge and information in regard to the conditions and circumstances
23 then and there existing, and through Plaintiff's own knowledge, conduct, acts and omissions,
24 assume the risk attendant to any condition there or then present.

25 6. The liability, if any, of Camco must be reduced by the percentage of fault of
26 others, including the Plaintiff.

27 7. The claims, and each of them, are barred by the failure of the Plaintiff to plead
28 those claims with particularity.

1 8. The claims of Plaintiff have been waived as a result of the acts and the conduct
2 of the Plaintiff.

3 9. The claim for breach of contract is barred as a result of the failure to satisfy
4 conditions precedent.

5 10. Plaintiff brought the case at bar without reasonable grounds upon which to base a
6 claim for relief.

7 11. Plaintiff maintained the present action without reasonable grounds upon which to
8 base a claim for relief.

9 12. Plaintiff's claims are not well grounded in fact.

10 13. Plaintiff's claims are not warranted by existing law.

11 14. Plaintiff is barred from recovering by the doctrine of unclean hands.

12 15. Plaintiff's claims are barred by the doctrine of laches, waiver, and estoppel.

13 16. To the extent that Plaintiff's work was substandard, not workmanlike, defective,
14 incomplete, or untimely, Plaintiff is not entitled to recover for said work.

15 17. Plaintiff has approved and ratified the alleged acts of Camco for which Plaintiff
16 now complains.

17 18. There is no justiciable case or controversy as between Plaintiff and Camco.

18 19. Plaintiff lacks standing to assert all or part of the causes of action contained in
19 their complaint.

20 20. Camco's performance on any contract was excused by Plaintiff's material breach
21 thereof.

22 21. Plaintiff has failed to mitigate its damages.

23 22. It has been necessary for Camco to retain the services of the law offices of
24 Woodbury, Morris & Brown, attorneys at law, for the purpose of defending this action, and
25 Camco is entitled to payment of all costs, fees and expenses associated with and/or arising out
26 of the defense of this action.

27 23. Pursuant To NRCP 8, all possible affirmative defenses may not have been
28 alleged herein, inasmuch as sufficient facts were not available after reasonable investigation and
inquiry upon the filing of Defendant's Answer and, therefore, Defendant reserves the right to

1 amend its Answer to allege additional affirmative defenses if subsequent investigation warrants.

2 WHEREFORE, Third Party Defendant Camco prays as follows:

- 3 1. That Plaintiff take nothing by way of its Complaint;
- 4 2. For an award of reasonable attorneys' fees and costs for having to defend this
- 5 action; and
- 6 3. For such other and further relief as the Court deems just and proper.

7 **COUNTERCLAIM**

8 Counterclaimant CAMCO PACIFIC CONSTRUCTION COMPANY, INC. (hereinafter

9 "Camco") by and through its attorney, Steven L. Morris, Esq. of the law firm of Woodbury,

10 Morris & Brown complains as follows:

11 **JURISDICTIONAL ALLEGATIONS**

- 12 1. Camco was and is at all times relevant to this action, a California corporation,
- 13 doing business in Clark County, Nevada as a contractor duly licensed by the Nevada State
- 14 Contractors Board.
- 15 2. Counterdefendant BRUIN PAINTING CORPORATION, a California
- 16 corporation (hereinafter referred to as "Bruin") is and was at all times relevant to this action, a
- 17 corporation conducting business in Clark County, Nevada.
- 18 3. The true names and capacities, whether individual, corporate, associate or
- 19 otherwise of Defendants named herein as DOES I through X are unknown to Counterclaimant.
- 20 Said DOE Defendants are responsible for damages suffered by Counterclaimant; therefore,
- 21 Counterclaimant sues Defendants by such fictitious names. Counterclaimant will ask leave to
- 22 amend this Counterclaim to show the true names and capacities of each such DOE Defendants
- 23 at such time as the same have been ascertained.

24 **FIRST CAUSE OF ACTION**

25 **(Breach of Contract)**

- 26 4. Camco repeats and realleges each and every allegation contained in the
- 27 preceding paragraphs of Camco's Counterclaim, incorporates the same at this point by
- 28 reference and further alleges:

5. On or about September 8, 2008, Camco and Bruin entered into a Subcontract

1 Agreement (the "Agreement") relative to the Manhattan West Condominiums project, located
2 in Clark County, Nevada (the "Project").

3 6. Section II.A. of the Subcontract Agreement states: "Contractor and
4 Subcontractor expressly acknowledge that all payments due to Subcontractor under this
5 Agreement shall be made by Contractor solely out of funds actually received by Contractor
6 from Owner. Subcontractor acknowledges that Subcontractor is sharing, as set forth herein,
7 in the risk that Owner may for at any reason, including, but not limited to, insolvency or an
8 alleged dispute, fail to make one or more payments to Contractor for all or a portion of the
9 Contract Work. Contractor's receipt of the corresponding payment from Owner is a condition
10 precedent to Contractor's obligation to pay Subcontractor; it being understood that
11 Subcontractor is solely responsible for evaluating Owner's ability to pay for Subcontractor's
12 portion of the Contract Work, and Subcontractor acknowledges that Contractor is not liable
13 to Subcontractor for payment of Subcontractor's invoice unless and until Contractor receives
14 the corresponding payment from Owner."

15 7. All payments made to subcontractors and suppliers on the Project were made
16 directly by Gemstone through Nevada Construction Services. (See Exhibit A, attached
17 hereto and incorporated herein by this reference).

18 8. Camco never received payment on behalf of the subcontractors, including
19 Bruin, and was therefore, not responsible nor liable for payment to the subcontractors,
20 including Bruin.

21 9. Bruin agreed and expressly acknowledged that it assumed the risk of non-
22 payment by the Owner.

23 10. Bruin breached its contract with Camco by demanding payment from Camco
24 and by bringing claims against Camco and its License Bond Surety relative to payment for
25 the work allegedly performed by Bruin on the Project.

26 11. Camco is entitled to all of its attorneys' fees and costs pursuant to the terms
27 and conditions of the Agreement.

28 12. Camco has been required to engage the services of the law firm of
WOODBURY, MORRIS & BROWN to prosecute this matter and Camco is entitled to a

WOODBURY, MORRIS & BROWN
701 N. Green Valley Parkway, Suite 110
Henderson, Nevada 89074
(702) 933-0777 ♦ Fax (702) 933-0778

reasonable attorneys' fees and costs therefor.

SECOND CAUSE OF ACTION

(Breach of Covenant of Good Faith and Fair Dealing)

13. Camco repeats and realleges each and every allegation contained in the preceding paragraphs of Counterclaimant's Counterclaim, incorporate the same at this point by reference and further allege:

14. The law imposes upon Bruin, by virtue of the contract, a covenant to act in good faith and deal fairly with Counterclaimant;

15. Despite this covenant, Bruin's intentional failure to abide by the terms of the parties written contract, Bruin breached its covenant to act in good faith and deal fairly;

16. As a result of its breach of the covenant of good faith and fair dealing, Bruin has injured Camco in an amount in excess of \$10,000.00.

17. Camco has been required to engage the services of the law firm of WOODBURY, MORRIS & BROWN to prosecute this matter and Camco is entitled to a reasonable attorneys' fees and costs therefor.

WHEREFORE, Counterclaimant Camco prays as follows:

1. This Court enter judgment against Counterdefendants, and each of them, in an amount in excess of \$10,000.00, plus interest at the contract rate;

2. For an award of reasonable attorneys' fees and costs for having to prosecute this action; and

3. For such other and further relief as the Court deems just and proper.

DATED this 11th day of September 2009.

WOODBURY, MORRIS & BROWN

David B. Morris #11059 for

STEVEN L. MORRIS, ESQ.

Nevada Bar No. 7454

701 N. Green Valley Pkwy., Suite 110

Henderson, NV 89074-6178

Attorneys for Camco

WOODBURY, MORRIS & BROWN
701 N. Green Valley Parkway, Suite 110
Henderson, Nevada 89074
(702) 933-0777 • Fax (702) 933-0778

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of September 2009, I served a copy of the
ANSWER TO BRUIN PAINTING CORPORATION'S STATEMENT OF FACT'S
CONSTITUTING LIEN, THIRD-PARTY COMPLAINT, AND CAMCO PACIFIC
CONSTRUCTION'S COUNTERCLAIM by facsimile and by enclosing a true and correct
copy of the same in a sealed envelope upon which first-class postage was fully prepaid, and
addressed to the following:

RICHARD L. PEEL, ESQ
PEEL BRIMLEY, LLP
3333 E. Serene Avenue, Suite 200
Henderson, Nevada 89074
Fax: 702-990-7273

and that there is regular communication by mail between the place of mailing and the place so
addressed.

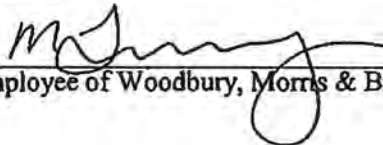

An Employee of Woodbury, Morris & Brown

EXHIBIT A



Date: April 28, 2009
To: Nevada State Contractor's Board
From: Scott Financial Corporation
Subject: ManhattanWest Project

I am the President of Scott Financial Corporation ("SFC"), which is a seasoned commercial finance company located in Bismarck, North Dakota and licensed in Nevada.

SFC is the lender for ManhattanWest Buildings 2, 3, 7, 8, and 9 located at West Russell Road and Rocky Hill Street in Las Vegas, Nevada (the "Project"). No other ManhattanWest buildings were funded or constructed. The Project consisted of condominiums developed by Gemstone Development West, Inc. ("Gemstone").

The purpose of this letter is to explain the payment process for the Project and to demonstrate that Camco Pacific Construction Company, Inc. ("Camco") had no direct responsibility to pay the trade contractors or any other contracting parties on the Project.

As the Project's lender, SFC established a credit facility between SFC (with its network of participating community banks) and Gemstone. As the loan originator and lead lender, SFC established both the Senior and Mezzanine Credit Facilities that were forecasted to fund the entire construction cost to complete the Project; provided however, that an adequate level of condominium sales were closed by Gemstone in a timely manner.

In connection with its funding of the Project, SFC required a very detailed and disciplined payment procedure, which it has used successfully and extensively in the past. This payment procedure was developed collectively between SFC, Gemstone, and Nevada Construction Services ("NCS") to execute the monthly construction funding on the Project in a proper and timely manner.

This payment procedure was communicated to the general contractors and the trade contractors through them and was used to facilitate the payment structure for all trade contractors/vendors.

Prior to the commencement of the Project, SFC entered into a voucher control contract with NCS. First, pursuant to such agreement, NCS managed the voucher control and served as the third party disbursement agent. Second, as part of such agreement, NCS also performed third party site construction inspections for SFC prior to each disbursement. Please note that NCS is a disbursement agent for SFC and does not "approve funding", that is a role of SFC and our participating banks exclusively.

APCO Construction ("APCO") was the original General Contractor for the Project. The protocol for issuing payment involved APCO submitting a monthly payment application to Gemstone based on a schedule of values and materials delivered by the vendors and trade contractors (the "Payment Application").

Next, Gemstone would review the Payment Application and approve or reject its contents based upon the work completed as of the submission of such Payment Application. Upon the final agreement and approval of the Payment Application by Gemstone and APCO, Gemstone would send the Payment Application and any supporting documents to NCS. NCS

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Office: 701.255.2215 • Fax: 701.223.7289

A licensed and bonded corporate finance company.

would review the Payment Application and the supporting documents and compare them with its payment records. Thereafter, NCS would order a formal NCS inspection of the jobsite to verify that sufficient progress was made to warrant the amount in the Payment Application. After completing such inspection, NCS submitted its request for funding to SFC.

Upon receiving such approval, SFC conducted its final monthly creditor review and completed the funding approval process by taking the following steps: (a) formally signing-off on the Payment Application and (b) obtaining final approval of the Payment Application from the co-lead bank.

Finally, after the Payment Application was properly approved and verified, the corresponding funds were requested by SFC from its participating lenders and advanced into the SFC Project Control Account. Thereafter, the respective (a) soft costs in the Payment Application were advanced directly to Gemstone and (b) the hard costs in the Payment Application were wired directly to NCS for controlled disbursement.

Upon receiving such hard cost funds, NCS would send the corresponding payment directly to APCO for disbursement to the trade contractors. This was the payment process throughout the period that APCO remained on the Project, except for the June and July 2008 Pay Applications where NCS was notified by Gemstone to issue joint checks to the sub contractors.

APCO was terminated by Gemstone for cause in August 2008. After such termination, Gemstone engaged Camco to serve as the General Contractor for the Project. When this substitution occurred, the payment process used during the APCO engagement was continued with some alterations.

The most important of these alterations was based on the shift from a Guaranteed Maximum Price to a simple monthly fee. APCO had agreed to deliver the Project for a Guaranteed Maximum Price and received a fee for its services based on a percentage of each Payment Application. Consequently, APCO assumed responsibility for the financial aspects of the Project and the proper engagement and payment of the trade contractors.

In contrast, Camco was paid a basic fee of \$100,000 per month plus certain expenses to serve as the General Contractor for the project; provided however, that Gemstone, not Camco, was solely responsible for selecting and negotiating the engagement of the trade contractors by Camco. Because of this shift in responsibility, all decisions and communications for payment authorization and processing were handled by Gemstone, without Camco's ongoing involvement.

In addition, Gemstone provided the financial management component of the Project and was responsible for (a) establishing and maintaining the budget and (b) keeping full and detailed accounts on the Project.

Furthermore, NCS's protocol also changed to effectively limit Camco's involvement. Because Camco was not responsible for establishing or maintaining the budget, Camco's only role in the payment process was to compile and submit each initial Payment Application.

Thereafter, the review, negotiation, and request for the corresponding payments were handled by Gemstone. As a result, NCS never sent payment for trade contractors to Camco. Instead, such payments were sent directly to the trade contractors.

Furthermore, Camco (a) as a rule did not communicate directly with SFC; (b) only occasionally communicated with NCS regarding the payment process; and (c) did not make any decisions related to the Payment Application or the corresponding payments to Camco or the trade contractors. Payments decisions were all made by Gemstone because they were responsible for the budget and as they pertained to credit decisions reviewed by SFC.

In addition, Camco had no physical control over the funds, and all disbursements were completed between NCS and the trade contractors directly. We understand the trade contractors were aware of Camco's limited role in this payment process. First, the negotiation of each trade contractor's engagement was managed by Gemstone employees and only subsequently ratified by Camco. Second, the terms of the engagement contracts between Camco and each trade contractor and Camco and Gemstone described this relationship. Third, on several occasions when a particular trade contractor expressed concern regarding the timing of a forthcoming payment, Gemstone and Camco repeatedly and consistently explained that all lending decisions regarding funding (credit issues specifically) were ultimately made by SFC and that neither Gemstone nor Camco had the ability, authority, or resources to make any payments that did not come from SFC approval.

To this end, on occasion, trade contractors demanded that they be provided with some evidence of payment in order to continue working. In response, Camco could not, and to our understanding did not, promise that any payment was forthcoming.

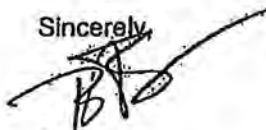
SFC delivered on a limited basis, letters to such disgruntled trade contractors informing them that all credit decisions on payment funding must be approved by SFC and that such funds would be only paid once SFC had completed its required approval process and determined that such payments were appropriate. Attached to this letter as Exhibit A are two such letters executed by SFC and delivered to certain trade contractors.

In December 2008, SFC sent correspondence to NCS that due to uncured loan defaults by Gemstone, a decision was made to cease all funding on the Project. The communications regarding this decision are attached to this letter as Exhibit B. SFC further requested that NCS return funds in the amount of \$993,866.72. NCS returned the funds requested and no additional payment for previous work performed was disbursed to Gemstone, Camco, or any of the trade contractors for the Project. Camco was not a part of these transactions, was not a participant in these decisions, and was unaware of such decisions until the above notice was sent to NCS.

Upon learning of SFC's decision to cease funding, we understand Camco terminated its engagement contract with Gemstone based on Gemstone's failure to pay Camco pursuant to the terms of such contract. As a result of changed circumstances on the Project after APCO's termination, Camco's role was limited with regard to payment.

As a result, SFC does not believe Camco or for that matter NCS can be held responsible for payment of any outstanding applications of the trade contractors.

Sincerely,



Brad Scott
President
Scott Financial Corporation

Exhibit A

Payment Status Letters from SFC to Trade Contractors



Exhibit A

November 4, 2008

Mr. Mike Evans

~~E&E Fire Protection LLC~~

6380 South Valley View, Suite 110
Las Vegas, NV 89118

RE: ManhattanWest Funding

Mr. Evans:

I have been asked by Gemstone to provide you with an update on the status of the September Draw.

As you may likely know Scott financial Corporation is the Creditor of record and has been funding the vertical construction through the various credit facilities established.

The September Draw was submitted to Scott Financial Corporation late last week. We are currently completing the final review of the ~~September Payment Application~~. However, in light of the complications related to the termination of the former general contractor, the approval of the September Payment Application has required more investigation and time than generally typical or expected.

Despite this temporary delay, the funding necessary to satisfy the outstanding amounts due pursuant to the September Payment Application are in final stages of approval and ~~are anticipated to be processed and funded to E&E~~ (voucher control) by November 13, 2008.

The amount in processing includes a payment of \$1,092,121.34 to E&E Fire Protection LLC and its corresponding suppliers.

I trust this letter assists you with your questions on the timing of the funding.

Please feel free to contact me directly if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad J. Scott', written over a horizontal line.

Brad J. Scott
President

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Office: 701.255.2215 • Fax: 701.223.7299
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Helix000684



Exhibit 'A'

December 1, 2008

Leo Duckstein

~~Gemstone~~

2711 E. Craig Road, Suite A
North Las Vegas, NV 89030

RE: ManhattanWest Funding

Mr. Duckstein:

I have been asked by Gemstone to provide you with an update on the status of the October Draw.

As you may likely know Scott financial Corporation (SFC) is the Creditor of record and has been funding the vertical construction through the various credit facilities established.

The October Draw was submitted to SFC late last week.

We are currently completing the final review of the ~~October Payment Application~~. However, in light of the complications related to in large part to the termination of the former general contractor, the approval of the October Payment Application has required more review, investigation and time than in the past.

Despite this delay, the funding necessary to satisfy the outstanding amounts due pursuant to the October Payment Application are in being reviewed and a determination of approval is being considered by our team.

Clearly approval of the draw is subject to our complete review process.


~~Although we cannot guarantee the amount of the draw request to be processed, we anticipate the draw request to be processed by the end of the month of December.~~

I understand the MHW draw which is in the review process at SFC includes a payment amount of approximately \$598,475.00 to CabineTec Inc. and its corresponding suppliers. I believe the Developer approved payment amount is \$483,664.32.

I trust this letter assists you with your questions on the timing of the funding.

Please feel free to contact me directly if you have any questions.

Sincerely,


Brad J. Scott
President

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Office: 701.255.2215 • Fax: 701.223.7299

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Helix000685

Exhibit B

SFC Notice to NCS Regarding the Decision to Stop Funding the Project

Exhibit "B"

Jennifer Olivares

[REDACTED] brad@scottfinancialcorp.com]

Sent: Tuesday, December 16, 2008 9:38 AM

[REDACTED]

Cc: 'Margo Scott'; 'Jason Ulmer'; Patricia Curtis; 'Tim James'

Subject: ManhattanWest Status

Importance: High

Jen:

As of right now 11AM CST 12/16/08 the October Draw is still on permanent hold.

A final decision confirming the lender's direction on Project was expected yesterday. It did not happen.

I anticipate this final decision will however likely lead to [REDACTED]

Foreclosure options and discussion on how we will proceed have been explored.

SFC has requested our legal counsel to address the return wire from NCS to SFC discussed yesterday.

Those funds will be held in the SFC escrow account at NSB for the time being, until further direction is provided to SFC.

SFC will keep you posted as a final determination is made.

Thanks.

Brad J. Scott
Scott Financial Corporation
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Bismarck, ND 58503
W: 701.255.2215
M: 701.220.3999
F: 701.223.7299
brad@scottfinancialcorp.com

	
Brad J. Scott, CRE President brad@scottfinancialcorp.com	15010 Sundown Drive Bismarck, ND 58503 Office: 701.255.2215 Fax: 701.223.7299 Cell: 701.220.3999
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4/1/2009

Helix000687

Exhibit B

Jennifer Olivares

From: Brad J. Scott [brad@scottfinancialcorp.com]

Sent: Monday, December 15, 2008 3:00 PM

To: 'Alex Edelstein'; 'Peter Smith'; 'Jim Homing'; dparry@camcopacific.com

Cc: 'Alex Edelstein'; 'Peter Smith'; 'Jim Homing'; dparry@camcopacific.com

Subject: FW: ManhattanWest

Importance: High

Attachments: Document.pdf; 09004-20-04 Billing #4 2008-12-12.pdf; Wiring Instructions TO SFC at NSB.XLS

Jennifer & Anne:

NSB is hereby instructed by SFC to wire the previous Wadsworth account and hold a
account at NSB in the amount of \$3,868,729.66 to be held with the last 6 bits

The amount includes the current Montana Palmetto Trust of \$3,868,729.66. This has been
approved by SFC's principals.

These funds will be held at SFC until further notice.

Please call with any questions.

Thanks.

Brad J. Scott
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 Fax: 701.223.7299
 Cell: 701.220.3999

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Email is not always a secure transmission medium. Caution should always be used to communicate "confidential information". If you elect to send or receive information via email, Scott Financial Corporation cannot assure its security and will not be liable if it is intercepted or viewed by another party. By continuing to use e-mail, you are agreeing to accept this risk.

4/1/2009

Helix000688

Voluntary Dismissal


CLERK OF THE COURT

1 **VDSM**
2 RICHARD L. PEEL, ESQ.
3 Nevada Bar No. 4359
4 MICHAEL T. GEBHART, ESQ.
5 Nevada Bar No. 7718
6 DALLIN T. WAYMENT, ESQ.
7 Nevada Bar No. 10270
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16 *Attorneys for Bruin Painting Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 **ACCURACY GLASS & MIRROR**
12 **COMPANY, INC.**, a Nevada corporation,

13 Plaintiff,

14 vs.

15 **ASPHALT PRODUCTS CORP.**, a Nevada
16 corporation; **APCO CONSTRUCTION**, a
17 Nevada corporation; **CAMCO PACIFIC**
18 **CONSTRUCTION COMPANY, INC.**, a
19 California corporation; **GEMSTONE**
20 **DEVELOPMENT WEST, INC.**, Nevada
21 corporation; **FIDELITY AND DEPOSIT**
22 **COMPANY OF MARYLAND**; **SCOTT**
23 **FINANCIAL CORPORATION**, a North Dakota
24 corporation; **DOES I through X**; **ROE**
25 **CORPORATIONS I through X**; **BOE**
26 **BONDING COMPANIES I through X**; **LOE**
27 **LENDERS I through X**, inclusive,

28 Defendants.

BRUIN PAINTING CORPORATION, a
California corporation,

Plaintiff in Intervention,

vs.

CAMCO PACIFIC CONSTRUCTION
COMPANY, INC., a California corporation;
GEMSTONE DEVELOPMENT WEST, INC.,
Nevada corporation; **FIDELITY AND**
DEPOSIT COMPANY OF MARYLAND;
SCOTT FINANCIAL CORPORATION, a
North Dakota corporation; **DOES I through X**;

LEAD CASE NO.: A571228
DEPT. NO.: XIII

Consolidated with:

A571792
A574391
A577623
A583289
A584730
A587168

**VOLUNTARY DISMISSAL OF
FIDELITY AND DEPOSIT
COMPANY OF MARYLAND ONLY
FROM BRUIN PAINTING
CORPORATION'S AMENDED
STATEMENT OF FACTS
CONSTITUTING NOTICE OF LIEN
AND THIRD-PARTY COMPLAINT
WITHOUT PREJUDICE**

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1 ROE CORPORATIONS I through X; BOE
2 BONDING COMPANIES I through X; LOE
3 LENDERS I through X, inclusive,

Defendants.

4 Pursuant to NRCP 41(a)(1), Plaintiff-in-Intervention, BRUIN PAINTING
5 CORPORATION, voluntarily dismisses FIDELITY AND DEPOSIT COMPANY OF
6 MARYLAND ONLY, from Bruin Painting Corporation's Amended Statement of Facts
7 Constituting Notice of Lien and Third-Party Complaint from District Court Case A587168
8 without prejudice. No answer or motion for summary judgment has been served and the Court
9 has set no trial date in this action.
10

11 Therefore, Plaintiff authorizes and directs the Clerk of this Court to enter a Dismissal of
12 this action.
13

14 DATED this 3 day of August, 2009.

15 PEEL BRIMLEY LLP

16 By: 

17 RICHARD L. PEEL, ESQ.

18 Nevada Bar No. 4359

19 MICHAEL T. GEBHART, ESQ.

20 Nevada Bar No. 7718

21 DALLIN T. WAYMENT, ESQ.

22 Nevada Bar No. 10270

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Attorneys for Bruin Painting Corporation.

EXHIBIT H

(HD Supply)

**HD Supply's Amended Statement of Facts
Constituting Notice of Lien and Third-Party
Complaint**

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16 Attorneys for HD Supply Waterworks, LP

DISTRICT COURT
CLARK COUNTY, NEVADA

11 ACCURACY GLASS & MIRROR
12 COMPANY, INC., a Nevada corporation,

Plaintiff,

vs.

14 ASPHALT PRODUCTS CORP., a Nevada
15 corporation; APCO CONSTRUCTION, a
16 Nevada corporation; CAMCO PACIFIC
17 CONSTRUCTION COMPANY, INC., a
18 California corporation; GEMSTONE
19 DEVELOPMENT WEST, INC., Nevada
20 corporation; FIDELITY AND DEPOSIT
21 COMPANY OF MARYLAND; SCOTT
22 FINANCIAL CORPORATION, a North Dakota
23 corporation; DOES I through X; ROE
24 CORPORATIONS I through X; BOE
25 BONDING COMPANIES I through X; LOE
26 LENDERS I through X, inclusive,

Defendants.

22 HD SUPPLY WATERWORKS, LP, a Florida
23 limited partnership,

Plaintiff in Intervention,

vs.

25 APCO CONSTRUCTION, a Nevada
26 corporation; CAMCO PACIFIC
27 CONSTRUCTION COMPANY, INC., a
28 California corporation; GEMSTONE
DEVELOPMENT WEST, INC., Nevada
corporation; JEFF HEIT PLUMBING CO, LLC,

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Edna H. Smith
CLERK OF THE COURT

LEAD CASE NO.: A571228
DEPT. NO.: XIII

Consolidated with:

A571792

A574391

A577623

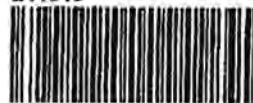
A583289

A584730

A587168

HD SUPPLY WATERWORKS'
AMENDED STATEMENT OF FACTS
CONSTITUTING A NOTICE OF LIEN
AND THIRD-PARTY COMPLAINT

09A587168
211018



EXEMPTION FROM ARBITRATION:
Title to Real Estate

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1 a Nevada limited-liability company; E & E
2 FIRE PROTECTION, LLC, a Nevada limited
3 liability company; FIDELITY AND DEPOSIT
4 COMPANY OF MARYLAND; OLD
5 REPUBLIC SURETY; PLATTE RIVER
6 INSURANCE COMPANY; SCOTT
7 FINANCIAL CORPORATION, a North Dakota
8 corporation ; DOES I through X; ROE
9 CORPORATIONS I through X; BOE
10 BONDING COMPANIES I through X; LOE
11 LENDERS I through X, inclusive,

12 Defendants.

13 HD SUPPLY WATERWORKS, LP ("HD Supply") by and through its attorneys PEEL
14 BRIMLEY LLP, as for its Amended Statement of Facts Constituting a Notice of Lien and Third-
15 Party Complaint ("Amended Complaint") against the above-named defendants complains, avers
16 and alleges as follows:

17 **THE PARTIES**

18 1. HD Supply is and was at all times relevant to this action a Florida limited
19 partnership, duly authorized, licensed and qualified to do business in Clark County, Nevada.

20 2. HD Supply is informed and believes and therefore alleges that Defendant
21 GEMSTONE DEVELOPMENT WEST, INC., Nevada corporation ("Owner") is and was at all
22 times relevant to this action, the owner, reputed owner, or the person, individual and/or entity
23 who claims an ownership interest in that certain real property portions thereof located in Clark
24 County, Nevada and more particularly described as follows:

25 Manhattan West Condominiums (Project)

26 Spring Valley

27 County Assessor Description: PT NE4 NW4 SEC 32 21 60 &

28 PT N2 NW4 SEC 32 21 60

SEC 32 TWP 21 RNG 60

and more particularly described as Clark County Assessor Parcel Numbers 163-32-101-020 and
163-32-101-022 through 163-32-101-024 (formerly known as 163-32-101-019 and 163-32-112-
001 thru 163-32-112-246) including all easements, rights-of-way, common areas and

H:\PH&S\CLIENT FILES\2000 - 2999 (F - H)\2879
- HD Supply Waterworks\037 - E & E Fire
Protection [Manhattan West]\PX\Originals\090622

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1 appurtenances thereto, and surrounding space may be required for the convenient use and
2 occupation thereof, upon which Owners caused or allowed to be constructed certain
3 improvements (the "Property").

4 3. The whole of the Property is reasonably necessary for the convenient use and
5 occupation of the improvements.
6

7 4. HD Supply is informed and believes and therefore alleges that Defendant APCO
8 CONSTRUCTION, a Nevada corporation ("APCO"), is and was at all times relevant to this
9 action doing business as a licensed contractor authorized to conduct business in Clark County,
10 Nevada.

11 5. HD Supply is informed and believes and therefore alleges that Defendant CAMCO
12 PACIFIC CONSTRUCTION COMPANY, INC., a California corporation ("CPCC"), is and was
13 at all times relevant to this action doing business as a licensed contractor authorized to conduct
14 business in Clark County, Nevada.
15

16 6. HD Supply is informed and believes and therefore alleges that Defendant JEFF
17 HEIT PLUMBING CO, LLC, a Nevada limited-liability company ("JHPC"), is and was at all
18 times relevant to this action doing business as a licensed contractor authorized to conduct
19 business in Clark County, Nevada.
20

21 7. HD Supply is informed and believes and therefore alleges that Defendant E & E
22 FIRE PROTECTION, LLC, a Nevada limited liability company ("E&E"), is and was at all times
23 relevant to this action doing business as a licensed contractor authorized to conduct business in
24 Clark County, Nevada.

25 8. HD Supply is informed and believes and therefore alleges that Defendant,
26 FIDELITY AND DEPOSIT COMPANY OF MARYLAND (hereinafter "CPCC Surety"), was
27 and is a bonding company licensed and qualified to do business as a surety in Nevada.
28

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1 9. HD Supply is informed and believes and therefore alleges that Defendant, OLD
2 REPUBLIC SURETY (hereinafter "JHPC Surety"), was and is a bonding company licensed and
3 qualified to do business as a surety in Nevada.

4 10. HD Supply is informed and believes and therefore alleges that Defendant,
5 PLATTE RIVER INSURANCE COMPANY (hereinafter "E&E Surety"), was and is a bonding
6 company licensed and qualified to do business as a surety in Nevada.

7 11. HD Supply is informed and believes and therefore alleges that Defendant Scott
8 Financial Corporation ("SFC") is a North Dakota corporation with its principle place of business
9 in Bismark, North Dakota. SFC is engaged in the business of underwriting and originating loans,
10 selling participation in those loans, and servicing the loans. SFC has recorded deeds of trust
11 securing loans given to the Owner for, inter alia, development of the Property.

12 12. HD Supply does not know the true names of the individuals, corporations,
13 partnerships and entities sued and identified in fictitious names as DOES I through X, ROE
14 CORPORATIONS I through X, BOE BONDING COMPANIES I through X and LOE
15 LENDERS I through X. HD Supply alleges that such Defendants claim an interest in or to the
16 Properties, and/or are responsible for damages suffered by HD Supply as more fully discussed
17 under the claims for relief set forth below. HD Supply will request leave of this Honorable Court
18 to amend this Amended Complaint to show the true names and capacities of each such fictitious
19 Defendant when HD Supply discovers such information.

20 **FIRST CAUSE OF ACTION**
21 **(Breach of Contract – JHPC Credit Agreement)**

22 13. HD Supply repeats and realleges each and every allegation contained in the
23 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
24 alleges as follows:

1 14. In or around November 2008, HD Supply entered into a Credit Agreement ("JHPC
2 Agreement) with JHPC to provide certain plumbing related materials and supplies to the Property
3 located in Clark County, Nevada (the "JHPC Supplies")

4 15. HD Supply furnished the JHPC Supplies for the benefit of and at the specific
5 instance and request of the JHPC.
6

7 16. Pursuant to the JHPC Agreement, HD Supply was to be paid an amount in excess
8 of Ten Thousand Dollars (\$10,000.00) (hereinafter "JHPC Outstanding Balance") for the JHPC
9 Supplies.

10 17. HD Supply furnished the JHPC Supplies and has otherwise performed its duties
11 and obligations as required by the JHPC Agreement.

12 18. JHPC has breached the JHPC Agreement by, among other things:

13 a. Failing and/or refusing to pay the monies owed to HD Supply for the JHPC
14 Supplies;
15

16 b. Failing to adjust the JHPC Agreement price to account for extra and/or
17 changed work, as well as suspensions and delays of JHPC Supplies caused or ordered by the
18 Defendants and/or their representatives;

19 c. Failing to promptly recognize and grant time extensions to reflect additional
20 time allowable under the JHPC Agreement and permit related adjustments in scheduled
21 performance; and
22

23 d. Failing and/or refusing to comply with the JHPC Agreement and Nevada law.

24 19. HD Supply is owed an amount in excess of Ten Thousand Dollars (\$10,000.00) for
25 the JHPC Supplies.
26
27
28

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1 20. HD Supply has been required to engage the services of an attorney to collect the
2 JHPC Outstanding Balance, and HD Supply is entitled to recover its reasonable costs, attorney's
3 fees and interest therefore.

4 **SECOND CAUSE OF ACTION**
5 **(Breach of Contract – E&E Credit Agreement)**

6 21. HD Supply repeats and realleges each and every allegation contained in the
7 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
8 alleges as follows:

9 22. In or around December 2008 HD Supply entered into a Credit Agreement with
10 E&E (the "E&E Agreement") to provide certain piping, valves and related materials and supplies
11 to the Property located in Clark County, Nevada (the "E&E Supplies")

12 23. HD Supply furnished the E&E Supplies for the benefit of and at the specific
13 instance and request of E&E.

14 24. Pursuant to the E&E Agreement, HD Supply was to be paid an amount in excess
15 of Ten Thousand Dollars (\$10,000.00) (hereinafter "E&E Outstanding Balance") for the E&E
16 Supplies.

17 25. HD Supply furnished the E&E Supplies and has otherwise performed its duties
18 and obligations as required by the E&E Agreement.

19 26. E&E has breached the E&E Agreement by, among other things:

20 a. Failing and/or refusing to pay the monies owed to HD Supply for the E&E
21 Supplies;

22 b. Failing to adjust the E&E Agreement price to account for extra and/or changed
23 work, as well as suspensions and delays of E&E Supplies caused or ordered by the Defendants
24 and/or their representatives;

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1 c. Failing to promptly recognize and grant time extensions to reflect additional
2 time allowable under the E&E Agreement and permit related adjustments in scheduled
3 performance; and

4 d. Failing and/or refusing to comply with the E&E Agreement and Nevada law.

5
6 27. HD Supply is owed an amount in excess of Ten Thousand Dollars (\$10,000.00) for
7 the E&E Supplies.

8 28. HD Supply has been required to engage the services of an attorney to collect the
9 E&E Outstanding Balance, and HD Supply is entitled to recover its reasonable costs, attorney's
10 fees and interest therefore.

11 **THIRD CAUSE OF ACTION**

12 **(Breach of Implied Covenant of Good Faith & Fair Dealing Against JHPC)**

13 29. HD Supply repeats and realleges each and every allegation contained in the
14 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
15 alleges as follows:

16 30. There is a covenant of good faith and fair dealing implied in every agreement,
17 including the JHPC Agreement.

18
19 31. JHPC breached its duty to act in good faith by performing the JHPC Agreement in
20 a manner that was unfaithful to the purpose of the JHPC Agreement, thereby denying HD
21 Supply's justified expectations.

22 32. Due to the actions of JHPC, HD Supply has suffered damages in an amount to be
23 determined at trial for which HD Supply is entitled to judgment plus interest.

24 33. HD Supply has been required to engage the services of an attorney to collect the
25 JHPC Outstanding Balance, and HD Supply is entitled to recover its reasonable costs, attorney's
26 fees and interest therefore.
27
28

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FOURTH CAUSE OF ACTION
(Breach of Implied Covenant of Good Faith & Fair Dealing Against E&E)

34. HD Supply repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

35. There is a covenant of good faith and fair dealing implied in every agreement, including the E&E Agreement.

36. E&E breached its duty to act in good faith by performing the E&E Agreement in a manner that was unfaithful to the purpose of the E&E Agreement, thereby denying HD Supply's justified expectations.

37. Due to the actions of E&E, HD Supply has suffered damages in an amount to be determined at trial for which HD Supply is entitled to judgment plus interest.

38. HD Supply has been required to engage the services of an attorney to collect the E&E Outstanding Balance, and HD Supply is entitled to recover its reasonable costs, attorney's fees and interest therefore.

FIFTH CAUSE OF ACTION
(Unjust Enrichment or in the Alternative Quantum Meruit – Against All Defendants)

39. HD Supply repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

40. HD Supply furnished the JHPC Supplies and E&E Supplies for the benefit of and at the specific instance and request of the Defendants.

41. As to JHPC and E&E, this cause of action is being pled in the alternative.

42. The Defendants accepted, used and enjoyed the benefit of the JHPC Supplies and E&E Supplies.

43. The Defendants knew or should have known that HD Supply expected to be paid for the JHPC Supplies and E&E Supplies.

SIXTH CAUSE OF ACTION
(Foreclosure of Mechanic's Lien – JHPC Lien)

48. HD Supply repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

49. The provision of the JHPC Supplies was at the special instance and request of the Defendants for the Property.

50. As provided at NRS 108.245 and common law, the Defendants had knowledge of HD Supply's delivery of the JHPC Supplies to the Property or HD Supply provided a Notice of Right to Lien.

51. HD Supply demanded payment of an amount in excess of Ten Thousand and no/100 Dollars (\$10,000.00), which amount remains past due and owing.

52. On or about December 29, 2008, HD Supply timely recorded a Notice of Lien in Book 20081229 of the Official Records of Clark County, Nevada, as Instrument No. 0000767 (the "JHPC Original Lien").

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1 53. On or about February 4, 2009, HD Supply timely recorded an Amended Notice of
2 Lien in Book 20090204 of the Official Records of Clark County, Nevada, as Instrument No.
3 0004357 (the "JHPC Amended Lien").

4 54. The JHPC Original Lien and JHPC Amended Lien are collectively hereinafter
5 referred to as the "JHPC Liens."
6

7 55. The JHPC Liens were in writing and were recorded against the Property for the
8 outstanding balance due to HD Supply in the amount of Twenty-Five Thousand Four Hundred
9 Forty-One and 40/100 Dollars (\$25,441.40).

10 56. The JHPC Liens were served upon the Owner and/or its authorized agents, as
11 required by law.

12 57. HD Supply is entitled to an award of reasonable attorney's fees, costs and interest
13 on the JHPC Outstanding Balance, as provided in Chapter 108 of the Nevada Revised Statutes.
14

15 **SEVENTH CAUSE OF ACTION**
16 **(Foreclosure of Mechanic's Lien – E&E Lien)**

17 58. HD Supply repeats and realleges each and every allegation contained in the
18 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
19 alleges as follows:

20 59. The provision of the E&E Supplies was at the special instance and request of the
21 Defendants for the Property.

22 60. As provided at NRS 108.245 and common law, the Defendants had knowledge of
23 HD Supply's delivery of the E&E Supplies to the Property or HD Supply provided a Notice of
24 Right to Lien.
25

26 61. HD Supply demanded payment of an amount in excess of Ten Thousand and
27 no/100 Dollars (\$10,000.00), which amount remains past due and owing.
28

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1 62. On or about February 3, 2009, HD Supply timely recorded a Notice of Lien in
2 Book 20090203 of the Official Records of Clark County, Nevada, as Instrument No. 0004359
3 (the "E&E Lien").

4 63. The E&E Lien was in writing and was recorded against the Property for the
5 outstanding balance due to HD Supply in the amount of One Hundred Fifty-Nine Thousand Four
6 Hundred Seventy-Eight and 55/100 Dollars (\$159,478.55).

7 64. The E&E Lien was served upon the Owner and/or its authorized agents, as
8 required by law.
9

10 65. HD Supply is entitled to an award of reasonable attorney's fees, costs and interest
11 on the E&E Outstanding Balance, as provided in Chapter 108 of the Nevada Revised Statutes.

12 **EIGHTH CAUSE OF ACTION**
13 **(Claim of Priority)**

14 66. HD Supply repeats and realleges each and every allegation contained in the
15 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
16 alleges as follows:

17 67. HD Supply is informed and believes and therefore alleges that construction on the
18 Property commenced before the recording of any deed(s) of trust and/or other interest(s) in the
19 Property, including the deeds of trust recorded by SFC.

20 68. HD Supply is informed and believes and therefore alleges that even if a deed(s) of
21 trust and/or other interest(s) in the Property were recorded before construction on the Property
22 commenced, those deed(s) of trust, including SFC's, were thereafter expressly subordinated to
23 HD Supply's statutory mechanics' lien thereby elevating HD Supply's statutory mechanics' lien
24 to a position superior to those deed(s) of trust and/or other interests(s) in the Property.
25

26 69. HD Supply's claim against the Property is superior to the claim(s) of SFC, any
27 other defendant, and/or any Loe Lender.
28

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- HD Supply Waterworks\037 - E & E Fire
Protection [Manhattan West]\P\X\Originals\090622

1 70. HD Supply has been required to engage the services of an attorney to collect the
2 JHPC Outstanding Balance due and owing for the JHPC Supplies and the E&E Outstanding
3 Balance due and owing for the E&E Supplies, and HD Supply is entitled to recover its reasonable
4 costs, attorney's fees and interest therefore.
5

6 **NINTH CAUSE OF ACTION**
7 **(Claim Against Bond – CPCC Surety)**

8 71. HD Supply repeats and realleges each and every allegation contained in the
9 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
10 alleges as follows:

11 72. Prior to the events giving rise to this Amended Complaint, the CPCC Surety issued
12 License Bond No. 8739721 (hereinafter the "Bond") in the sum of Fifty Thousand Dollars
13 (\$50,000.00).
14

15 73. CPCC is named as principal and CPCC Surety is named as surety on the Bond.

16 74. The Bond was provided pursuant to the requirements of NRS 624.270, which
17 Bond was in force during all times relevant to this action.

18 75. HD Supply furnished the E&E Supplies as stated herein and has not been paid for
19 the same. HD Supply therefore claims payment on said Bond.

20 76. The CPCC Surety is obligated to pay HD Supply the sums due.

21 77. Demand for the payment of the sums due to HD Supply has been made, but CPCC
22 and the CPCC Surety have failed, neglected and refused to pay the same to HD Supply.

23 78. CPCC and the CPCC Surety owe HD Supply the penal sum of the Bond.

24 79. HD Supply was required to engage the services of an attorney to collect the E&E
25 Outstanding Balance due and owing to HD Supply and HD Supply is entitled to recover its
26 reasonable attorney's fees and costs therefore.
27
28

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TENTH CAUSE OF ACTION
(Claim Against Bond – JHPC Surety)

80. HD Supply repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

81. Prior to the events giving rise to this Amended Complaint, the JHPC Surety issued License Bond No. 1225706 (hereinafter the "Bond") in the sum of Five Thousand Dollars (\$5,000.00).

82. JHPC is named as principal and JHPC Surety is named as surety on the Bond.

83. The Bond was provided pursuant to the requirements of NRS 624.270, which Bond was in force during all times relevant to this action.

84. HD Supply furnished the JHPC Supplies as stated herein and has not been paid for the same. HD Supply therefore claims payment on said Bond.

85. The JHPC Surety is obligated to pay HD Supply the sums due.

86. Demand for the payment of the sums due to HD Supply has been made, but JHPC and the JHPC Surety have failed, neglected and refused to pay the same to HD Supply.

87. JHPC and the JHPC Surety owe HD Supply the penal sum of the Bond.

88. HD Supply was required to engage the services of an attorney to collect the JHPC Outstanding Balance due and owing to HD Supply and HD Supply is entitled to recover its reasonable attorney's fees and costs therefore.

ELEVENTH CAUSE OF ACTION
(Claim Against Bond – E&E Surety)

89. HD Supply repeats and realleges each and every allegation contained in the preceding paragraphs of this Amended Complaint, incorporates them by reference, and further alleges as follows:

1 90. Prior to the events giving rise to this Amended Complaint, the E&E Surety issued
2 License Bond No. 41104547 (hereinafter the "Bond") in the sum of Fifty Thousand Dollars
3 (\$50,000.00).

4 91. E&E is named as principal and E&E Surety is named as surety on the Bond.

5 92. The Bond was provided pursuant to the requirements of NRS 624.270, which
6 Bond was in force during all times relevant to this action.

7 93. HD Supply furnished the E&E Supplies as stated herein and has not been paid for
8 the same. HD Supply therefore claims payment on said Bond.

9 94. The E&E Surety is obligated to pay HD Supply the sums due.

10 95. Demand for the payment of the sums due to HD Supply has been made, but E&E
11 and the E&E Surety have failed, neglected and refused to pay the same to HD Supply.

12 96. E&E and the E&E Surety owe HD Supply the penal sum of the Bond.

13 97. HD Supply was required to engage the services of an attorney to collect the E&E
14 Outstanding Balance due and owing to HD Supply and HD Supply is entitled to recover its
15 reasonable attorney's fees and costs therefor.

16 **TWELFTH CAUSE OF ACTION**
17 **(Declaratory Judgment)**

18 98. HD Supply repeats and realleges each and every allegation contained in the
19 preceding paragraphs of this Amended Complaint, incorporates them by reference, and further
20 alleges as follows:

21 99. Upon information and belief, Owner is the Trustor and SFC is the beneficiary
22 under the following deeds of trust covering the real property at issue:

- 23 a. Senior Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book
24 20060705, Instrument No. 0004264;
25 b. Junior Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book
26 20060705, Instrument No. 0004265;

1 c. Third Deed of Trust dated June 26, 2006, and recorded July 5, 2006, at Book
2 20060705, Instrument No. 0004266; and,

3 d. Senior Debt Deed of Trust dated and recorded February 7, 2008, at Book
4 20080207, Instrument No. 01482.

5 100. On February 7, 2008, SFC executed a Mezzanine Deeds of Trust Subordination
6 Agreement that expressly subordinated the Senior, Junior, and Third Deeds of Trust to the Senior
7 Debt Deed of Trust "in all respects", "for all purposes", and, " regardless of any priority
8 otherwise available to SFC by law or agreement".

9
10 101. The Mezzanine Deeds of Trust Subordination Agreement contains a provision that
11 it shall not be construed as affecting the priority of any other lien or encumbrances in favor of
12 SFC. Thus, no presumptions or determinations are to be made in SFC's favor concerning the
13 priority of competing liens or encumbrances on the property, such as HD Supply's mechanics'
14 lien.

15 102. Pursuant to the a Mezzanine Deeds of Trust Subordination Agreement, SFC was to
16 cause the Senior, Junior, and Third Deeds of Trust to contain specific statements thereon that they
17 were expressly subordinated to the Senior Debt Deed of Trust and SFC was to mark its books
18 conspicuously to evidence the subordination of the Senior, Junior, and Third Deeds of Trust to the
19 Senior Debt Deed of Trust.
20

21 103. HD Supply is informed and believes and therefore alleges that construction on the
22 Property commenced at least before the recording of the Senior Debt Deed of Trust and that by
23 law, all mechanics' liens, including HD Supply's, enjoy a position of priority over the Senior
24 Debt Deed of Trust.
25

26 104. Because the Mezzanine Deeds of Trust Subordination Agreement renders the
27 Senior, Junior, and Third Deeds of Trust expressly subordinate to the Senior Debt Deed of Trust,
28

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1 it also renders, as a matter of law, the Senior, Junior, and Third Deeds of Trust expressly
2 subordinate to all mechanics' liens, including HD Supply's.

3 105. A dispute has arisen, and an actual controversy now exists over the priority issue
4 of HD Supply's mechanics' lien over other encumbrances on the property.

5 106. HD Supply is entitled to a court order declaring that its mechanics' lien has a
6 superior lien position on the Property over any other lien or encumbrance created by or for the
7 benefit of SFC or any other entity.

8
9 **WHEREFORE**, HD Supply prays that this Honorable Court:

10 1. Enters judgment against the Defendants, and each of them, jointly and severally, in
11 the JHPC Outstanding Balance and E&E Outstanding Balance amounts;

12 2. Enters a judgment against Defendants, and each of them, jointly and severally, for
13 HD Supply's reasonable costs and attorney's fees incurred in the collection of the JHPC
14 Outstanding Balance and E&E Outstanding Balance, as well as an award of interest thereon;

15 3. Enter a judgment declaring that HD Supply has valid and enforceable mechanic's
16 liens against the Property, with priority over all Defendants, in an amount of the JHPC
17 Outstanding Balance and E&E Outstanding Balance;

18 4. Adjudge a lien upon the Property for the JHPC Outstanding Balance and E&E
19 Outstanding Balance, plus reasonable attorneys fees, costs and interest thereon, and that this
20 Honorable Court enter an Order that the Property, and improvements, such as may be necessary,
21 be sold pursuant to the laws of the State of Nevada, and that the proceeds of said sale be applied
22 to the payment of sums due HD Supply herein;

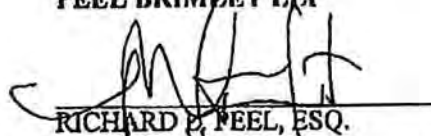
23 5. Enter a judgment declaring that Accuracy's mechanics' lien enjoys a position of
24 priority superior to any lien or encumbrance created by or for the benefit of SFC or any other
25 entity; and
26
27
28

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1 6. For such other and further relief as this Honorable Court deems just and proper in
2 the premises.

3 Dated this 22 day of June 2009.

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**APCO's Answer to Amended Statement of
Facts Constituting Notice of Lien and Third-
Party Complaint**


CLERK OF THE COURT

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

12 APCO CONSTRUCTION, a Nevada
13 corporation,

14 Plaintiff,

15 vs.

16 GEMSTONE DEVELOPMENT WEST, INC.,
17 a Nevada corporation; NEVADA
18 CONSTRUCTION SERVICES, a Nevada
19 corporation; SCOTT FINANCIAL
20 CORPORATION, a North Dakota
21 corporation; COMMONWEALTH LAND
22 TITLE INSURANCE COMPANY; FIRST
23 AMERICAN TITLE INSURANCE
24 COMPANY; and DOES I through X,

25 Defendants.

26 HD SUPPLY WATERWORKS, LP, a Florida
27 limited partnership,

28 Lien Claimant/Intervenor,

vs.

APCO CONSTRUCTION, a Nevada

CASE NO.: 08-A-571228
DEPT. NO.: XIII

Consolidated with: A574391, A574792,
A577623, A583289, A584730, A587168,
A580889 and A589195

**APCO CONSTRUCTION'S ANSWER TO
HD SUPPLY WATERWORKS'
AMENDED STATEMENT OF FACTS
CONSTITUTING A NOTICE OF LIEN
AND THIRD-PARTY COMPLAINT**

1 corporation; CAMCO PACIFIC
2 CONSTRUCTION COMPANY, INC., a
3 California corporation; GEMSTONE
4 DEVELOPMENT WEST, INC., a Nevada
5 corporation; JEFF HEIT PLUMBING CO.,
6 LLC, a Nevada limited liability company;
7 E&E FIRE PROTECTION, LLC, a Nevada
8 limited liability company; FIDELITY AND
9 DEPOSIT COMPANY OF MARYLAND;
10 OLD REPUBLIC SURETY; PLATTE RIVER
11 INSURANCE COMPANY; SCOTT
12 FINANCIAL CORPORATION, a North
13 Dakota corporation; DOES I through X; ROE
14 CORPORATIONS I through X; BOE
15 BONDING COMPANIES I through X; LOE
16 LENDERS I through X, inclusive

17 Respondents.

18 AND ALL RELATED CASES AND
19 MATTERS.

20
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**APCO CONSTRUCTION'S ANSWER TO
HD SUPPLY WATERWORKS' AMENDED STATEMENT OF FACTS
CONSTITUTING LIEN**

APCO CONSTRUCTION ("APCO"), by and through its attorneys, Gwen Rutar Mullins, Esq. and Wade B. Gochnour, Esq., of the law firm of Howard and Howard Attorneys PLLC, hereby files this Answer to HD Supply Waterworks' Amended Statement of Facts Constituting a Notice of Lien and Third Party Complaint (hereinafter "Complaint") and hereby responds and alleges as follows:

THE PARTIES

1. Answering Paragraph 1, 5, 6, 7, 8, 9, 10, 11. and 12 of the Complaint, APCO does not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained therein, and upon said grounds, denies each and every allegation contained therein.

2. Answering Paragraphs 2, 3 and 4 of the Complaint, APCO admits the allegations contained therein.

FIRST CAUSE OF ACTION

(Breach of Contract – JHPC Credit Agreement)

3. Answering Paragraph 13 of the Complaint, APCO repeats and realleges each and every allegation contained in paragraphs 1 and 2 of this Answer to the Complaint as though fully set forth herein.

4. Answering Paragraphs 14, 15, 16, 17, 18, 19, and 20 of the Complaint, APCO does not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained therein, and upon said grounds, denies each and every allegation contained therein on those basis.

SECOND CAUSE OF ACTION

(Breach of Contract – E&E Credit Agreement)

5. Answering Paragraph 21 of the Complaint, APCO repeats and realleges each and every allegation contained in paragraphs 1 through 4 of this Answer to the Complaint as though fully set forth herein.

6. Answering Paragraphs 22, 23, 24, 25, 26, 27, and 28 of the Complaint, APCO does not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained therein, and upon said grounds, denies each and every allegation contained therein on those basis.

THIRD CAUSE OF ACTION

(Breach of Implied Covenant of Good Faith & Fair Dealing Against JHPC)

7. Answering Paragraph 29 of the Complaint, APCO repeats and realleges each and every allegation contained in paragraphs 1 through 6 of this Answer to the Complaint as though fully set forth herein..

8. Answering Paragraphs 30, 31, 32, and 33 of the Complaint, APCO does not have sufficient knowledge or information upon which to base a belief as to the truth of the

1 allegations contained therein, and upon said grounds, denies each and every allegation
2 contained therein on those basis.

3 **FOURTH CAUSE OF ACTION**

4 **(Breach of Implied Covenant of Good Faith & Fair Dealing Against E&E)**

5 9. Answering Paragraph 34 of the Complaint, APCO repeats and realleges each
6 and every allegation contained in paragraphs 1 through 8 of this Answer to the Complaint as
7 though fully set forth herein.

8 10. Answering Paragraphs 35, 36, 37, and 38 of the Complaint, APCO does not
9 have sufficient knowledge or information upon which to base a belief as to the truth of the
10 allegations contained therein, and upon said grounds, denies each and every allegation
11 contained therein on those basis.

12 **FIFTH CAUSE OF ACTION**

13 **(Unjust Enrichment or in the Alternative Quantum Meruit – Against All Defendants)**

14 11. Answering Paragraph 39 of the Complaint, APCO repeats and realleges each
15 and every allegation contained in paragraphs 1 through 10 of this Answer to the Complaint as
16 though fully set forth herein.

17 12. Answering Paragraphs 40, 41, 42, 43, 44, 45, 46, and 47 of the Complaint,
18 APCO denies all the allegations as they pertain to, or as they are alleged against, APCO. With
19 respect to any allegations that have been asserted against the remaining Defendants, APCO
20 does not have sufficient knowledge or information upon which to base a belief as to the truth of
21 the allegations contained therein, and upon said grounds, denies each and every allegation
22 contained therein.

23 **SIXTH CAUSE OF ACTION**

24 **(Foreclosure of Mechanic's Lien – JHPC Lien)**

25 13. Answering Paragraph 48 of the Complaint, APCO repeats and realleges each
26 and every allegation contained in paragraphs 1 through 12 of this Answer to the Complaint as
27 though fully set forth herein.
28