

**Case No. 81293**

IN THE SUPREME COURT OF NEVADA

SFR INVESTMENTS POOL 1, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY,

Appellant,

vs.

U.S. BANK N.A., A NATIONAL  
BANKING ASSOCIATION; AND  
NATIONSTAR MORTGAGE, LLC, A  
FOREIGN LIMITED LIABILITY  
COMPANY,

Respondent.

Electronically Filed  
Jan 19 2021 02:30 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPEAL**

from the Eighth Judicial District Court, Clark County  
The Honorable GLORIA STURMAN, District Judge  
District Court Case No. A-14-705563-C

**JOINT APPENDIX VOLUME 1**

---

Respectfully submitted by:

JACQUELINE A. GILBERT, ESQ.  
Nevada Bar No. 10593  
E-mail: jackie@KGElegal.com

DIANA S. EBRON, ESQ.  
Nevada Bar No. 10580  
E-mail: diana@ KGElegal.com

KIM GILBERT EBRON  
7625 Dean Martin Drive, Suite 110  
Las Vegas, NV 89139  
Telephone: (702) 485-3300  
Facsimile: (702) 485-3301

*Attorneys for Appellant  
SFR Investments Pool 1, LLC*

# ALPHABETICAL INDEX

<b>Vol.</b>	<b>Tab</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
1	4	10/05/2015	Alessi & Koenig, LLC's Answer to U.S. Bank, N.A.'s Counterclaim	JA_0152
8	49	09/08/2020	Amended Case Appeal Statement	JA_1735
8	50	09/08/2020	Amended Notice of Appeal	JA_1742
7	36	10/22/2019	Amended Scheduling Order and Order Setting Civil Non-Jury Trial	JA_1514
6	30	01/14/2019	Appendix of Exhibits for Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment Pursuant to E.D.C.R. 2.27	JA_1246
2	13	06/29/2018	Appendix of Exhibits for Nationstar Mortgage, LLC's Motion for Summary Judgment Pursuant to E.D.C.R. 2.27	JA_0343
3	13	Continued	Appendix of Exhibits for Nationstar Mortgage...	JA_0479
7	30	Continued	Appendix of Exhibits for Nationstar Mortgage...	JA_1435
1	1	08/14/2014	Complaint in Interpleader	JA_0001
3	14	06/29/2018	Cross-Defendant Nationstar Mortgage, LLC's Motion for Summary Judgment	JA_0583
6	29	01/14/2019	Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1215
7	31	01/24/2019	Errata to Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1449
5	27	11/29/2018	Findings of Fact and Conclusions of Law in favor of SFR	JA_1180
8	43	04/30/2020	Findings of Fact, Conclusions of Law and Judgment	JA_1675

7	39	02/05/2020	Joint Pretrial Memorandum	JA_1527
8	48	08/12/2020	Nationstar Mortgage LLC and U.S. Bank National Association, as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Notice of Cross-Appeal	JA_1731
8	47	08/12/2020	Nationstar Mortgage LLC and U.S. Bank, National Association, as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Case Appeal Statement	JA_1725
2	10	03/21/2016	Nationstar Mortgage, LLC and U.S. Bank N.A. as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Answer to SFR Investments Pool 1, LLC's Third Party Counterclaims	JA_0324
1	2	11/17/2014	Nationstar Mortgage, LLC's Answer	JA_0032
6	28	12/26/2018	Notice of Entry of Findings of Fact and Conclusions of Law in favor of SFR	JA_1196
8	44	05/04/2020	Notice of Entry of Findings of Fact, Conclusions of Law and Judgment	JA_1684
7	34	06/28/2019	Notice of Entry of Order Granting Nationstar Mortgage, LLC's Motion for Reconsideration and to Alter/Amend Judgment	JA_1501
8	46	08/11/2020	Notice of Entry of Stipulation and Order to Certify the Findings of Fact, Conclusions of Law, and Judgment, Entered April 30, 2020 As to Nationstar Mortgage LLC, U.S. Bank, N.A. and SFR Investments Pool 1, LLC	JA_1709
2	11	06/20/2016	Notice of Voluntary Dismissal of Kristin Jordal, as Trustee for the JBWNO Revocable Living Trust, a Trust without Prejudice	JA_0335
7	38	01/13/2020	Objections to Amended Pre-Trial Disclosures	JA_1522
5	25	08/23/2018	Objections to Pre-Trial Disclosures	JA_1139
5	24	08/16/2018	Objections to SFR Investments Pool 1, LLC's Pretrial Disclosures	JA_1133

3	17	07/19/2018	Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment	JA_0704
4	17	Continued	Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment	JA_0718
2	8	02/25/2016	Order Denying SFR's Motion to Dismiss Plaintiff's Third-Party Complaint Pursuant to NRCP 12(b)(6)	JA_0297
2	12	03/22/2018	Order Granting Nationstar Mortgage LLC's Motion to Reopen Discovery and Continue Trial Date	JA_0339
7	35	06/28/2019	Order Granting Nationstar Mortgage, LLC's Motion for Reconsideration and to Alter/Amend Judgment	JA_1509
7	41	02/06/2020	Proposed Findings of Fact, Conclusions of Law and Judgment	JA_1551
7	42	02/28/2020	Recorder's Transcript of 2/10/2020 Bench Trial	JA_1561
8	42	Continued	Recorder's Transcript of 2/10/2020 Bench Trial	JA_1674
8	51	09/11/2020	Recorder's Transcript of 3/26/2019 Hearing on Pending Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1747
5	26	09/14/2018	Recorder's Transcript of Hearing: Cross-Defendant Nationstar Mortgage, LLC's Motion for Summary Judgment Counter Claimant SFR Investment Pool 1, LLC's Motion for Summary Judgment	JA_1144
5	22	08/07/2018	Reply in Support of Cross-Defendant Nationstar Mortgage, LLC's Motion for Summary Judgment	JA_1047
7	33	03/19/2019	Reply in Support of Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1476
3	15	06/29/2018	SFR Investments Pool 1 LLC's Motion for Summary Judgment	JA_0611



4	18	07/20/2018	SFR Investments Pool 1 LLC's Opposition to Cross-Defendant Nationstar Mortgage LLC's Motion for Summary Judgment and U.S. Bank, N.A. as Trustee for the Certificate holders of the LXS 2006-4N Trust Fund's Joinder to Nationstar Mortgage, LLC's Motion (Errata)	JA_0723
7	32	02/01/2019	SFR Investments Pool 1 LLC's Opposition to Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1454
5	18	Continued	SFR Investments Pool 1 LLC's Opposition to...	JA_0956
5	20	07/24/2020	SFR Investments Pool 1 LLC's Reply in Support of its Motion for Summary Judgment	JA_1029
7	40	02/05/2020	SFR Investments Pool 1, LLC Trial Brief	JA_1538
2	9	03/14/2016	SFR Investments Pool 1, LLC's Answer to Third-Party Complaint, Counterclaim and Cross-Claim	JA_0301
1	5	12/23/2015	SFR Investments Pool 1, LLC's Motion to Dismiss Plaintiff's Third-Party Complaint Pursuant to NRCP 12(b)(6)	JA_0176
5	21	08/02/2018	SFR Investments Pool 1, LLC's Pre-trial Disclosures	JA_1042
2	7	01/27/2016	SFR Investments Pool 1, LLC's Reply in Support of Motion to Dismiss for Failure to Join Indispensable Parties	JA_0290
8	45	07/17/2020	Stipulation and Order to Certify the Findings of Fact, Conclusions of Law and Judgment, Entered April 30, 2020 as to Nationstar Mortgage, LLC, U.S. Bank, N.A. and SFR Investments Pool 1, LLC	JA_1697
7	37	10/23/2019	Stipulation to Reopen Closed Case and Reset Trial Dates	JA_1518
8	53	02/10/2020	Trial Exhibit 19- Trustee's Deed Upon Sale (WFZ00148-WFZ00149)	JA_1798
8	54	02/10/2020	Trial Exhibit 26 – Alessi & Koenig File	JA_1801

9	54	Continued	Trial Exhibit 26 – Alessi & Koenig File	JA_1913
8	52	2/10/2020	Trial Exhibit 3- Deed of Trust (WFZ0094-WFZ00121)	JA_1771
9	55	02/10/2020	Trial Exhibit 33- Notice of Default and Election to Sell under Deed of Trust (SFR29-SFR30)	JA_2100
9	56	02/10/2020	Trial Exhibit 34- Rescission of Notice of Default and Election to Sell under Deed of Trust (SFR32)	JA_2103
1	6	12/24/2015	U.S. Bank National Association as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund, Erroneously Pled as U.S. Bank, N.A.’s Opposition to SFR Investment Pool 1, LLC’s Motion to Dismiss Pursuant to 12(b)(6)	JA_0184
2	6	Continued	U.S. Bank National Association as Trustee for the Certificateholders of the LXS 2006-4N...	JA_240
5	19	07/20/2018	U.S. Bank, N.A. as Trustee for the Certificate holders of the LXS 2006-4N Trust Fund’s Joinder to Nationstar Mortgage LLC’s Opposition to SFR Investments Pool 1, LLC’s Motion for Summary Judgment	JA_1025
3	16	07/02/2018	U.S. Bank, N.A. As Trustee for the Certificateholders of the LXS 2006-4N Trust Fund’s Joinder to Nationstar Mortgage LLC’s Motion for Summary Judgment	JA_0700
5	23	08/08/2018	U.S. Bank, N.A. as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund’s Joinder to Nationstar Mortgage LLC’s Reply in Support of Motion for Summary Judgment	JA_1129
1	3	08/18/2015	U.S. Bank, N.A.’s Answer, Counterclaim, and Third-Party Complaint	JA_0044

### CHRONOLOGICAL INDEX

<b>Vol.</b>	<b>Tab</b>	<b>Date Filed</b>	<b>Document</b>	<b>Bates Number</b>
1	1	08/14/2014	Complaint in Interpleader	JA_0001
1	2	11/17/2014	Nationstar Mortgage, LLC's Answer	JA_0032
1	3	08/18/2015	U.S. Bank, N.A.'s Answer, Counterclaim, and Third-Party Complaint	JA_0044
1	4	10/05/2015	Alessi & Koenig, LLC's Answer to U.S. Bank, N.A.'s Counterclaim	JA_0152
1	5	12/23/2015	SFR Investments Pool 1, LLC's Motion to Dismiss Plaintiff's Third-Party Complaint Pursuant to NRCP 12(b)(6)	JA_0176
1	6	12/24/2015	U.S. Bank National Association as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund, Erroneously Pled as U.S. Bank, N.A.'s Opposition to SFR Investment Pool 1, LLC's Motion to Dismiss Pursuant to 12(b)(6)	JA_0184
2	6	Continued	U.S. Bank National Association as Trustee for the Certificateholders of the LXS 2006-4N...	JA_240
2	7	01/27/2016	SFR Investments Pool 1, LLC's Reply in Support of Motion to Dismiss for Failure to Join Indispensable Parties	JA_0290
2	8	02/25/2016	Order Denying SFR's Motion to Dismiss Plaintiff's Third-Party Complaint Pursuant to NRCP 12(b)(6)	JA_0297
2	9	03/14/2016	SFR Investments Pool 1, LLC's Answer to Third-Party Complaint, Counterclaim and Cross-Claim	JA_0301
2	10	03/21/2016	Nationstar Mortgage, LLC and U.S. Bank N.A. as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Answer to SFR Investments Pool 1, LLC's Third Party Counterclaims	JA_0324

2	11	06/20/2016	Notice of Voluntary Dismissal of Kristin Jordal, as Trustee for the JBNWO Revocable Living Trust, a Trust without Prejudice	JA_0335
2	12	03/22/2018	Order Granting Nationstar Mortgage LLC's Motion to Reopen Discovery and Continue Trial Date	JA_0339
2	13	06/29/2018	Appendix of Exhibits for Nationstar Mortgage, LLC's Motion for Summary Judgment Pursuant to E.D.C.R. 2.27	JA_0343
3	13	Continued	Appendix of Exhibits for Nationstar Mortgage...	JA_0479
3	14	06/29/2018	Cross-Defendant Nationstar Mortgage, LLC's Motion for Summary Judgment	JA_0583
3	15	06/29/2018	SFR Investments Pool 1 LLC's Motion for Summary Judgment	JA_0611
3	16	07/02/2018	U.S. Bank, N.A. As Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Joinder to Nationstar Mortgage LLC's Motion for Summary Judgment	JA_0700
3	17	07/19/2018	Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment	JA_0704
4	17	Continued	Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment	JA_0718
4	18	07/20/2018	SFR Investments Pool 1 LLC's Opposition to Cross-Defendant Nationstar Mortgage LLC's Motion for Summary Judgment and U.S. Bank, N.A. as Trustee for the Certificate holders of the LXS 2006-4N Trust Fund's Joinder to Nationstar Mortgage, LLC's Motion (Errata)	JA_0723
5	18	Continued	SFR Investments Pool 1 LLC's Opposition to...	JA_0956
5	19	07/20/2018	U.S. Bank, N.A. as Trustee for the Certificate holders of the LXS 2006-4N Trust Fund's Joinder to Nationstar Mortgage LLC's Opposition to SFR Investments Pool 1, LLC's Motion for Summary Judgment	JA_1025

5	20	07/24/2020	SFR Investments Pool 1 LLC's Reply in Support of its Motion for Summary Judgment	JA_1029
5	21	08/02/2018	SFR Investments Pool 1, LLC's Pre-trial Disclosures	JA_1042
5	22	08/07/2018	Reply in Support of Cross-Defendant Nationstar Mortgage, LLC's Motion for Summary Judgment	JA_1047
5	23	08/08/2018	U.S. Bank, N.A. as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Joinder to Nationstar Mortgage LLC's Reply in Support of Motion for Summary Judgment	JA_1129
5	24	08/16/2018	Objections to SFR Investments Pool 1, LLC's Pretrial Disclosures	JA_1133
5	25	08/23/2018	Objections to Pre-Trial Disclosures	JA_1139
5	26	09/14/2018	Recorder's Transcript of Hearing: Cross-Defendant Nationstar Mortgage, LLC's Motion for Summary Judgment Counter Claimant SFR Investment Pool 1, LLC's Motion for Summary Judgment	JA_1144
5	27	11/29/2018	Findings of Fact and Conclusions of Law in favor of SFR	JA_1180
6	28	12/26/2018	Notice of Entry of Findings of Fact and Conclusions of Law in favor of SFR	JA_1196
6	29	01/14/2019	Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1215
6	30	01/14/2019	Appendix of Exhibits for Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment Pursuant to E.D.C.R. 2.27	JA_1246
7	30	Continued	Appendix of Exhibits for Nationstar Mortgage...	JA_1435
7	31	01/24/2019	Errata to Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1449

7	32	02/01/2019	SFR Investments Pool 1 LLC's Opposition to Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1454
7	33	03/19/2019	Reply in Support of Defendant Nationstar Mortgage, LLC's Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1476
7	34	06/28/2019	Notice of Entry of Order Granting Nationstar Mortgage, LLC's Motion for Reconsideration and to Alter/Amend Judgment	JA_1501
7	35	06/28/2019	Order Granting Nationstar Mortgage, LLC's Motion for Reconsideration and to Alter/Amend Judgment	JA_1509
7	36	10/22/2019	Amended Scheduling Order and Order Setting Civil Non-Jury Trial	JA_1514
7	37	10/23/2019	Stipulation to Reopen Closed Case and Reset Trial Dates	JA_1518
7	38	01/13/2020	Objections to Amended Pre-Trial Disclosures	JA_1522
7	39	02/05/2020	Joint Pretrial Memorandum	JA_1527
7	40	02/05/2020	SFR Investments Pool 1, LLC Trial Brief	JA_1538
7	41	02/06/2020	Proposed Findings of Fact, Conclusions of Law and Judgment	JA_1551
7	42	02/28/2020	Recorder's Transcript of 2/10/2020 Bench Trial	JA_1561
8	42	Continued	Recorder's Transcript of 2/10/2020 Bench Trial	JA_1674
8	43	04/30/2020	Findings of Fact, Conclusions of Law and Judgment	JA_1675
8	44	05/04/2020	Notice of Entry of Findings of Fact, Conclusions of Law and Judgment	JA_1684

8	45	07/17/2020	Stipulation and Order to Certify the Findings of Fact, Conclusions of Law and Judgment, Entered April 30, 2020 as to Nationstar Mortgage, LLC, U.S. Bank, N.A. and SFR Investments Pool 1, LLC	JA_1697
8	46	08/11/2020	Notice of Entry of Stipulation and Order to Certify the Findings of Fact, Conclusions of Law, and Judgment, Entered April 30, 2020 As to Nationstar Mortgage LLC, U.S. Bank, N.A. and SFR Investments Pool 1, LLC	JA_1709
8	47	08/12/2020	Nationstar Mortgage LLC and U.S. Bank, National Association, as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Case Appeal Statement	JA_1725
8	48	08/12/2020	Nationstar Mortgage LLC and U.S. Bank National Association, as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund's Notice of Cross-Appeal	JA_1731
8	49	09/08/2020	Amended Case Appeal Statement	JA_1735
8	50	09/08/2020	Amended Notice of Appeal	JA_1742
8	51	09/11/2020	Recorder's Transcript of 3/26/2019 Hearing on Pending Motion for Reconsideration and/or to Alter/Amend Judgment	JA_1747
8	52	2/10/2020	Trial Exhibit 3- Deed of Trust (WFZ0094-WFZ00121)	JA_1771
8	53	02/10/2020	Trial Exhibit 19- Trustee's Deed Upon Sale (WFZ00148-WFZ00149)	JA_1798
8	54	02/10/2020	Trial Exhibit 26 – Alessi & Koenig File	JA_1801
9	54	Continued	Trial Exhibit 26 – Alessi & Koenig File	JA_1913
9	55	02/10/2020	Trial Exhibit 33- Notice of Default and Election to Sell under Deed of Trust (SFR29-SFR30)	JA_2100
9	56	02/10/2020	Trial Exhibit 34- Rescission of Notice of Default and Election to Sell under Deed of Trust (SFR32)	JA_2103

# **TAB 1**



## CIVIL COVER SHEET

A- 14- 705563- C

CLARK County, Nevada

XX

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

**I. Party Information**

Plaintiff(s) (name/address/phone): Alessi &amp; Koenig, LLC

Attorney (name/address/phone): Huong Lam, Esq. / 9500 W.  
Flamingo Road, Suite 205; Las Vegas, Nevada 89147 / (702) 222-  
4033Defendant(s) (name/address/phone): Stacy Moore; Magnolia Gotera;  
JWBNO Revocable Living Trust; U.S. Bank, N.A.; Nationstar  
Mortgage, LLC; Republic Silver State Disposal, Inc., dba  
Republic Services

Attorney (Name/Address/Phone):

**II. Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence</b> <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input checked="" type="checkbox"/> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input checked="" type="checkbox"/> Other Civil Matters

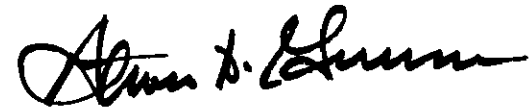
**III. Business Court Requested** (Please check applicable category; for Clark or Washoe Counties only.)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input type="checkbox"/> Enhanced Case Mgmt/Business  |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90)  | <input type="checkbox"/> Trademarks (NRS 600A)               |   |

Date

Signature of initiating party or representative

Nevada Bar No. 10916



CLERK OF THE COURT

**COMP**

Huong X. Lam, Esq.  
Nevada Bar No. 10916  
ALESSI & KOENIG, LLC  
9500 W. Flamingo, Suite 205  
Las Vegas, Nevada 89147  
Phone: (702) 222-4033  
Fax: (702) 222-4043  
huong@alessikoenig.com  
*Attorney for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

ALESSI & KOENIG, LLC, a Nevada  
limited liability company,

Plaintiff,

vs.

STACY MOORE, an individual; MAGNOLIA  
GOTERA, an individual; KRISTIN JORDAL,  
AS TRUSTEE FOR THE JBWNO  
REVOCABLE LIVING TRUST, a trust; U.S.  
BANK, N.A., a national banking association;  
NATIONSTAR MORTGAGE, LLC, a foreign  
limited liability company; REPUBLIC SILVER  
STATE DISPOSAL, INC., DBA REPUBLIC  
SERVICES, a domestic governmental entity;  
DOE INDIVIDUALS I through X, inclusive;  
and ROE CORPORATIONS XI through XX  
inclusive,

Defendants.

Case No. A- 14- 705563- C  
Dept. No. XX

**COMPLAINT IN INTERPLEADER**

**Arbitration Exemption Claimed:**  
**1) Declaratory Relief**

**COMPLAINT IN INTERPLEADER**

COMES NOW, ALESSI & KOENIG, LLC, by and through their attorney of record,  
Huong X. Lam, Esq. of ALESSI & KOENIG, LLC, and alleges the following Causes of Action  
against defendants STACY MOORE, an individual; MAGNOLIA GOTERA, an individual;

1 KRISTIN JORDAL, AS TRUSTEE FOR THE JBWNO REVOCABLE LIVING TRUST, a  
2 trust; U.S. BANK, N.A., a national banking association; NATIONSTAR MORTGAGE, LLC, a  
3 foreign limited liability company; and REPUBLIC SILVER STATE DISPOSAL, INC., DBA  
4 REPUBLIC SERVICES, a domestic governmental entity, as follows:

5 **THE PARTIES AND JURISDICTION**

- 6
- 7 1. At all times relevant herein, Plaintiff ALESSI & KOENIG, LLC (hereinafter "A&K")
- 8 was a domestic limited liability company authorized to conduct business in the State
- 9 of Nevada.
- 10 2. At all times relevant herein, Defendant STACY MOORE (hereinafter "MOORE") an
- 11 individual, was a resident of the County of Clark, State of Nevada.
- 12
- 13 3. At all times relevant herein, Defendant MAGNOLIA GOTERA (hereinafter
- 14 "GOTERA") an individual, was a resident of the County of Clark, State of Nevada.
- 15 4. At all times relevant herein, Defendant KRISTIN JORDAL, AS TRUSTEE FOR
- 16 THE JBWNO REVOCABLE LIVING TRUST, operated as a trust in the County of
- 17 Clark, State of Nevada.
- 18
- 19 5. At all times relevant herein, Defendant U.S. BANK, N.A. (hereinafter "U.S.
- 20 BANK"), was a national banking association doing business in the State of Nevada.
- 21 6. At all times relevant herein, Defendant NATIONSTAR MORTGAGE, LLC
- 22 (hereinafter "NATIONSTAR") was a foreign limited liability company doing
- 23 business in the State of Nevada.
- 24
- 25 7. At all times relevant herein REPUBLIC SILVER STATE DISPOSAL, INC., DBA
- 26 REPUBLIC SERVICES (hereinafter "REPUBLIC SERVICES") was a domestic
- 27 governmental entity doing business in the State of Nevada.
- 28

1 8. The names given to the Defendants sued herein as DOE INDIVIDUALS I through X  
2 and ROE CORPORATIONS XI through XX, inclusive, are fictitious names. Other  
3 parties unknown to Plaintiff may have caused Plaintiff to incur damages as pled  
4 herein or may have an interest in the Property. Plaintiff prays that if and when the  
5 true names of any said defendants, or any of them, and the nature of their alleged  
6 actions and/or interests are ascertained, that they may be inserted herein by proper  
7 amendment. Plaintiff has no knowledge of the addresses or places of residence of  
8 any fictitious defendants.  
9

10 9. Jurisdiction and venue are proper in this Court because this action concerns real  
11 property located in the County of Clark, State of Nevada, and the facts, acts, events  
12 and circumstances herein mentioned, alleged and described occurred in the County of  
13 Clark, State of Nevada.  
14

15 **THE UNDERLYING FORECLOSURE SALE**

16 10. Plaintiff hereby repeats, realleges, and incorporates by reference each and every  
17 preceding paragraph and allegation as if fully stated herein.  
18

19 11. On or about June 21, 2000, the Declaration of Covenants, Conditions, and  
20 Restrictions ("CC&Rs") for SHADOW MOUNTAIN RANCH COMMUNITY  
21 ASSOCIATION ("Shadow Mountain Ranch") was recorded in the public records  
22 with the Clark County Recorder.  
23

24 12. Article 18.3 of the CC&Rs provides, in pertinent part:

- 25 (a) The Association has a lien on a Unit for an assessment levied against the Unit  
26 or fines imposed against its Unit Owner from the time the assessment or fine  
27 becomes due. Fees, charges, late charges, fines and interest charged pursuant to  
28 the Act and the Documents are enforceable as assessments under this Section;  
provided, however, that unless otherwise permitted by law, the Association may  
not foreclose upon a lien for unpaid assessments which is comprised solely of

1 fines levied against an Owner for violation of the Documents unless the  
2 violation is of a type that threatens the health and welfare of the residents of  
3 the Project. If an assessment is payable in installments, the full amount of the  
assessment is a lien from the time the first installment becomes due.

- 4 (c) Recording of the Declaration constitutes record notice and perfection of the lien.  
5 Further recording of a claim of lien for assessment under this Section is not  
6 required.

7 See attached Exhibit "1."

- 8 13. On or about May 27, 2011, Defendant MOORE, an unmarried woman, became the  
9 title owner of certain real property commonly known as 5327 MARSH BUTTE  
10 STREET, LAS VEGAS, NEVADA 89148-4669, APN: 163-30-312-007, and legally  
11 described as:

12 Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as shown by Map  
13 thereof on File in Book 102 of Plats, Page 28 in the Office of the County Recorder of  
14 Clark County, Nevada

15 (the "Property"). See attached Exhibit "2."

- 16 14. MOORE acquired title to the property through a series of Grant Deeds recorded  
17 simultaneously without consideration in which the original title owner Defendant  
18 GOTERA conveyed title ownership of the property to JBWNO REVOCABLE  
19 LIVING TRUST. See attached Exhibit "3."

- 20 15. Defendant KRISTIN JORDAL, AS TRUSTEE FOR THE JBWNO REVOCABLE  
21 LIVING TRUST, then conveyed title ownership of the property to MOORE, as  
22 referenced above.  
23

- 24 16. Defendant GOTERA, a single woman, originally became the title owner of the  
25 subject property on or about November 21, 2005. See attached Exhibit "4."  
26  
27  
28

17. Pursuant to NRS Chapter 116, Defendant MOORE is governed by the requirements and obligations set forth in the CC&Rs and related governing documents.
18. The CC&Rs require homeowners within the community to pay regular assessments and comply with the requirements and obligations set forth in the CC&Rs and related governing documents.
19. Defendant MOORE failed to pay the regular assessments and further failed to comply with other requirements set forth in the CC&Rs and other related governing documents.
20. Nevada Revised Statute ("NRS") 116.3116 *et. seq.* specifically authorizes a homeowner's association to conduct a foreclosure sale of any lot that has become delinquent on its assessment payments.
21. As a result of Defendant MOORE's failure to comply with NRS 116 and Shadow Mountain Ranch's governing documents, Plaintiff A&K was retained to begin the foreclosure process pursuant to NRS 116.3116 *et. seq.*
22. Pursuant to the aforementioned statutory and CC&Rs provisions, Plaintiff A&K, on behalf of Shadow Mountain Ranch, foreclosed on the Property via auction on January 8, 2014. The final bid price was for \$59,000.00. See attached Exhibit "5."
23. The total amount due and owing to Shadow Mountain Ranch at the time of the foreclosure sale was \$8,499.11, including foreclosure fees and costs.
24. The total amount due and owing to A&K for its fees and costs to bring this interpleader action is \$6,000.00.
25. The excess proceeds are \$44,500.89.

- 1 26. Shadow Mountain Ranch is due and owing an additional \$15,970.57 in HOA  
2 Violations to be paid out of the excess proceeds, leaving a remaining balance of  
3 \$28,530.32 for distribution to the potential claimants.
- 4 27. Upon information and belief, Defendant MOORE, an individual, has a claim to the  
5 excess proceeds.
- 6 28. Upon information and belief, Defendant GOTERA, an individual, has a claim to the  
7 excess proceeds.
- 8 29. Upon information and belief, Defendant KRISTIN JORDAL, AS TRUSTEE FOR  
9 THE JBWNO REVOCABLE LIVING TRUST, a trust, has a claim to the excess  
10 proceeds.
- 11 30. Upon information and belief, Defendant U.S. BANK, a national banking association,  
12 has a claim to the excess proceeds.
- 13 31. Upon information and belief, Defendant NATIONSTAR, a foreign limited liability  
14 company, has a claim to the excess proceeds.
- 15 32. Upon information and belief, Defendant REPUBLIC SERVICES, a governmental  
16 entity, has a claim to the excess proceeds.
- 17 33. N.R.S. 116.31164 (c) provides a distribution priority for the proceeds (not just the  
18 *excess proceeds*) from any HOA foreclosure sale. This statute states that the proceeds  
19 of an HOA foreclosure sale shall be distributed pursuant to the following order:
- 20 (1) The reasonable expenses of sale;
- 21 (2) The reasonable expenses of securing possession before sale, holding,  
22 maintaining, and preparing the unit for sale, including payment of taxes  
23 and other governmental charges, premiums on hazard and liability  
24  
25  
26  
27  
28

insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

34. Plaintiff A&K will deposit excess proceeds with this court in the sum of \$28,530.32 representing the total proceeds at sale (\$59,000.00) minus the amount due Shadow Mountain Ranch (\$8,499.11), the fees and costs of this interpleader action (\$6,000.00), and the satisfaction of Shadow Mountain Ranch's HOA Violations Lien (\$15,970.57).

35. Given the Defendants' competing claims for the proceeds, Plaintiff cannot determine which of the Defendants in Interpleader are entitled to the proceeds.

36. As set forth above, Plaintiff has distributed funds from the HOA foreclosure sale under subsections (1), (2), and (3).

37. In order to distribute any funds pursuant to N.R.S. subsections (4) and (5), it must be determined which parties have a "subordinate claim of record" and what the respective priority of these subordinate claims is as to the subject property.

38. Plaintiff has been unable to make this determination and has thus brought the instant interpleader action.

///

///

///



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


**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants in Interpleader and each of them as follows:

1. That Defendants in Interpleader and each of them be required to interplead and litigate among themselves their claims to the proceeds described;
2. That the Court determine and enter an order setting forth the proper recipients of the proceeds;
3. That Plaintiff be dismissed from this action with prejudice following payment of the excess proceeds into the registry of the Court; and
4. For such other and further relief as the Court deems just and equitable under the circumstances.

DATED this 12<sup>th</sup> day of August, 2014.

ALESSI & KOENIG, LLC

  
\_\_\_\_\_  
Huong X. Lam, Esq.  
Nevada Bar No. 10916  
9500 W. Flamingo, Suite #205  
Las Vegas, Nevada 89147  
Phone: (702) 222-4033  
Fax: (702) 222-4043  
*Attorney for Plaintiff*

# Exhibit 1

# Exhibit 1

20000621  
01735

10  
When Recorded Mail To:

Pardee Construction Company  
10880 Wilshire Boulevard  
Suite 1900  
Los Angeles, CA 90024  
Attn: Barbara Bail

APN: 163-30-310-001  
through 163-30-310-003 and  
163-30-310-014  
through 163-30-310-016

75

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SHADOW MOUNTAIN RANCH

solely of fines levied against an Owner for violation of the Documents unless the violation is of a type that threatens the health and welfare of the residents of the Project. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due.

(b) Except to the extent permitted under the Act (NRS 116.3116(2)), a lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a first Security Interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection to the extent that the Common Expense assessments are based on the periodic budget adopted by the Association pursuant to Section 18.4 and 18.5 of this Article and would have become due in the absence of acceleration, during the six months immediately preceding institution of an action to enforce the Association's lien. This Subsection does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association.

(c) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessment under this Section is not required.

(d) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessment becomes due, except that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This Section does not prohibit an action to recover sums for which Subsection (a) of this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party.

(g) The Association's lien must be foreclosed by the same procedure set forth in NRS 116.31162 and NRS 116.31164.

(h) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due to that Owner from third parties prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments, based on a periodic budget adopted by the Association pursuant to Section 18.4 of this Declaration.

(i) If a holder of a first Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection (b) of this section of this Declaration. Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Owners, including the purchaser.

(j) A Request for Notice of Default and Sale recorded in accordance with NRS 107.090 shall apply to the foreclosure of an Association lien. The Request must identify the lien by stating the names of the Owner and the Project.

(k) In the case of foreclosure under NRS 116.31162 and NRS 116.31164, the Association shall give reasonable notice of its intent to foreclose to each lien holder of the affected Unit known to the Association.

(l) Any payments received by the Association in the discharge of an Owner's obligation may be applied to the oldest balance due; provided, however, that the Association may not apply any assessment, fee or other charge that is paid by an Owner toward a fine imposed against the Owner by the Association unless otherwise directed by the Owner or as permitted by law.

**Section 18.4 Budget Adoption and Ratification:** Each year the Board of Directors shall adopt a proposed budget of the Common Expenses of the Project, which shall include the budget for the daily operation of the Association and an adequate reserve for the repair, replacement and restoration of the major components of the Common Elements. Such budget must be adopted by the Board before the beginning of each Fiscal Year and distributed to the Members in accordance with the Bylaws and the Act. Within 30 days after adoption of a proposed budget for the Project, the Board of Directors shall provide the budget or a summary thereof to each Owner and shall set a date for a meeting of the Owners to consider ratification of the budget. The meeting shall be not less than 14 or more than 30 days after mailing of the summary. Unless at that meeting a Majority of Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners continues until the Owners ratify a subsequent budget proposed by the Board of Directors.

**Section 18.5 Capital Improvement Assessments:** If the Board of Directors votes to levy a Capital Improvement Assessment the Board of Directors shall submit the assessment to the Owners for ratification in the same manner as budget under Section 18.4. A Capital Improvement Assessment levied pursuant to this Section 18.5 shall include (i) an assessment not included in the current budget, other than one enumerated in Section 18.2 of this Declaration, in an amount greater than 15% of the current annual operating budget, or (ii) an assessment for the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements.

**Section 18.6 Certificate of Payment of Common Expense Assessments:** The Association, upon written request, shall furnish an Owner with a statement, in recordable form, setting out the

# Exhibit 2

# Exhibit 2

When Recorded mail Document  
and tax statement to:  
Stacy Moore  
5327 Marsh Butte St.  
Las Vegas, NV 89148

④ -1

Inst #: 201105270004011  
Fees: \$16.00 N/C Fee: \$0.00  
RPTT: \$0.00 Ex: #007  
05/27/2011 04:12:48 PM  
Receipt #: 792751  
Requestor:  
STACY MOORE  
Recorded By: SOL Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN: 163-30-312-007

---

## GRANT DEED

STATE OF NEVADA                    )  
  )ss  
COUNTY OF CLARK                 )

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Ten Dollars and zero Cents ( \$10.00 ) in hand paid to JBWNO revocable living trust (hereinafter called the Grantor), the receipt of whereof is hereby acknowledged, the Grantor, JBWNO revocable living trust hereby RELEASES, QUITCLAIMS, GRANTS, SELLS, AND CONVEYS to Stacy Moore, Stacy Moore, (hereinafter called Grantee), all of the Grantors' right, title, interest, and claim in or to the following described real estate, situated in Clark County, Nevada, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

**Exhibit A**

**Legal description as recorded on document number  
20051121-0005566**

**Also known as:**

**APN: 163-30-312-007**

**5327 MARSH BUTTE ST  
LAS VEGAS, NV 89148**

**Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as  
shown by map thereof on file in Book 102 of Plats, Page 28 in the  
Office of the County Recorder of Clark County, Nevada**



DATED:

State of Nevada

County of Clark

I hereby certify that Kristin Jordal whose name(s)  
are/is signed to the foregoing conveyance, and are known to me  
(or provided to me on the basis of Satisfactory evidence),  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, they executed the same voluntarily on  
the day the same bears date.

Kristin Jordal  
Kristin Jordal  
Grantor / Trustee

On MAY 27<sup>th</sup>, 2011 before me,

Kristin Jordal - Trustee  
(here insert name and title of the officer)

WITNESS my hand and official seal.

Signature

MAIL TAX STATEMENTS AS DIRECTED ABOVE



(Seal)

Exp 3-14-14  
Cert No 10-1531-1

**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

## 1. Assessor Parcel Number(s)

a. 163-30-312-007  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

## 2. Type of Property:

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

## FOR RECORDER'S OPTIONAL USE ONLY

Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: \_\_\_\_\_

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

\$ 0

## b. Deed in Lieu of Foreclosure Only (value of property)

( )

## c. Transfer Tax Value:

\$ 0

## d. Real Property Transfer Tax Due

\$ 0

## 4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section 7b. Explain Reason for Exemption: Transfer to or from a trust without consideration5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Kristin Jondal Capacity Trustee

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

**SELLER (GRANTOR) INFORMATION**  
**(REQUIRED)**

Print Name: JBWNO revocable living trust  
Address: 5327 Marsh Butte St  
City: Las Vegas  
State: NV Zip: 89148

**BUYER (GRANTEE) INFORMATION**  
**(REQUIRED)**

Print Name: Stacy Moore  
Address: 5327 Marsh Butte St.  
City: Las Vegas  
State: NV Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: \_\_\_\_\_ Escrow #: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

CCOR\_DV\_Form.pdf ~ 01/12/09

# Exhibit 3

# Exhibit 3

When Recorded mail Document  
and tax statement to:  
JBWNO revocable living trust  
5327 Marsh Butte St.  
Las Vegas, NV 89148

① A -1

Inst #: 201105270004010  
Fees: \$16.00 N/C Fee: \$25.00  
RPTT: \$0.00 Ex: #007  
05/27/2011 04:12:48 PM  
Receipt #: 792751  
Requestor:  
STACY MOORE  
Recorded By: SOL Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN: 163-30-312-007

uninsured Deed

---

## GRANT DEED

STATE OF NEVADA                    )  
  )ss  
COUNTY OF CLARK                 )

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Ten Dollars and zero Cents ( \$10.00 ) in hand paid to Gotera Magnolia (hereinafter called the Grantor), the receipt of whereof is hereby acknowledged, the Grantor, Gotera Magnolia hereby RELEASES, QUITCLAIMS, GRANTS, SELLS, AND CONVEYS to JBWNO revocable living trust, JBWNO revocable living trust, (hereinafter called Grantee), all of the Grantors' right, title, interest, and claim in or to the following described real estate, situated in Clark County, Nevada, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED:

State of Nevada

County of Clark

I hereby certify that Magnolia Gotera whose name(s)  
are/is signed to the foregoing conveyance, and are known to me  
(or provided to me on the basis of Satisfactory evidence),  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, they executed the same voluntarily on  
the day the same bears date.

Magnolia Gotera  
Grantor Magnolia Gotera

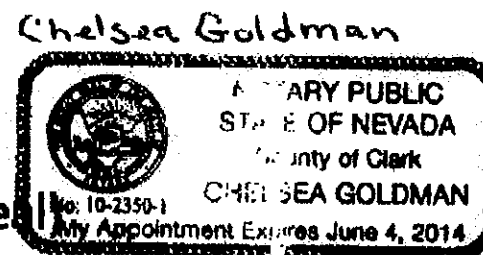
On May 27, 2011 before me,

Magnolia Gotera  
(here insert name and title of the officer)

WITNESS my hand and official seal. May 27, 2011

Signature Chelsea Goldman  
Chelsea Goldman, Notary Public

MAIL TAX STATEMENTS AS DIRECTED ABOVE



**Exhibit A**

**Legal description as recorded on document number  
20051121-0005566**

**Also known as:**

**APN: 163-30-312-007**

**5327 MARSH BUTTE ST  
LAS VEGAS, NV 89148**

**Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as  
shown by map thereof on file in Book 102 of Plats, Page 28 in the  
Office of the County Recorder of Clark County, Nevada**

**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

**1. Assessor Parcel Number(s)**

a. 163-30-312-007  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

**2. Type of Property:**

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

**FOR RECORDER'S OPTIONAL USE ONLY**  
Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: \_\_\_\_\_

**3. a. Total Value/Sales Price of Property**

\$ 0

**b. Deed in Lieu of Foreclosure Only (value of property)**

( \_\_\_\_\_ )

**c. Transfer Tax Value:**

\$ 0

**d. Real Property Transfer Tax Due**

\$ 0

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section 7

b. Explain Reason for Exemption: Transfer to or from a trust without consideration

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

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Kristen Jordal Capacity Trustee

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

**SELLER (GRANTOR) INFORMATION  
(REQUIRED)**

Print Name: Magnolia Gotera  
Address: 5327 Marsh Butte St.  
City: Las Vegas  
State: NV Zip: 89148

**BUYER (GRANTEE) INFORMATION  
(REQUIRED)**

Print Name: JBWNO revocable living trust  
Address: 5327 Marsh Butte St.  
City: Las Vegas  
State: NV Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: \_\_\_\_\_ Escrow #: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_


AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

CCOR\_DV\_Form.pdf ~ 01/12/09

# Exhibit 4

# Exhibit 4




  
20051121-0005566
**RECORDING REQUESTED BY:**

Fidelity National Title Agency of Nevada  
Escrow No. 05-191253-TH  
Title Order No. 00191253

**When Recorded Mail Document  
and Tax Statement To:**

Ms. Magnolia Gotera

1090 Twin Creeks Drive  
Salinas, CA. 93905

RPTT: 2,728.50  
APN: 163-30-312-007

Fee: \$15.00 RPTT: \$2,728.50  
N/C Fee: \$0.00

11/21/2005 14:38:39  
T20050211957

Requestor:

FIDELITY NATIONAL TITLE

Frances Deane JSB  
Clark County Recorder Pgs: 2

**GRANT, BARGAIN, SALE DEED**

THIS INDENTURE WITNESSETH: That Wei Hong Yang, An Unmarried Woman

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do(es) hereby Grant,  
Bargain, Sell and

Convey to **Magnolia Gotera, A Single Woman**

all that real property situated in the Clark County, State of Nevada, bounded and described as follows:

Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as shown by map thereof on file in Book  
102 of Plats, Page 28 in the Office of the County Recorder of Clark County, Nevada.

SUBJECT TO: 1. Taxes for the fiscal year 2005-06  
2. Covenants, Conditions, Reservations, Rights, Rights of Way and Easements  
now of record.

Together with all and singular tenements, hereditaments and appurtenances thereunto belonging or  
in anywise appertaining.

DATED: November 14, 2005

STATE OF NEVADA  
COUNTY OF Clark

This instrument was acknowledged before me  
on November 14, 2005

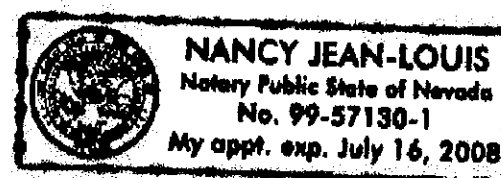
by

Wei Hong Yang

Signature Nancy Jean-Louis  
Notary Public

My Commission Expires: 7/16/08

Wei Hong Yang  
Wei Hong Yang



## STATE OF NEVADA DECLARATION OF VALUE

## 1. Assessor Parcel Number(s)

- a) 163-30-312-007  
 b) \_\_\_\_\_  
 c) \_\_\_\_\_  
 d) \_\_\_\_\_

## 2. Type of Property:

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

## FOR RECORDER'S OPTIONAL USE ONLY

Document/Instrument #: \_\_\_\_\_  
 Book: \_\_\_\_\_ Page: \_\_\_\_\_  
 Date of Recording: \_\_\_\_\_  
 Notes: \_\_\_\_\_

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

\$ 535,000.00

Deed in Lieu of Foreclosure Only (Value of Property) ( \_\_\_\_\_ )

Transfer Tax Value:

\$ 535,000.00

Real Property Transfer Tax Due

\$ 2,728.50

## 4. If Exemption Claimed:

- a. Transfer Tax Exemption per NRS 375.090, Section 0  
 b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Wei Hong YangCapacity Grantor

Signature \_\_\_\_\_

Capacity \_\_\_\_\_

**SELLER (GRANTOR) INFORMATION**  
 (REQUIRED)

**BUYER (GRANTEE) INFORMATION**  
 (REQUIRED)
Print Name: Wei Hong YangPrint Name: Magnolia GoteraAddress: 7201 Mission Hill DrAddress: 1090 Twin Creeks Dr.City, State, Zip: Las Vegas NV 89103City, State, Zip: SACRAMENTO, CA 95805
**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**
Print Name: Fidelity National Title Agency of NevadaEscrow #: 05-191253-THAddress: 5597 W. Spring Mountain RoadCity, State and Zip: Las Vegas, NV 89102

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

(declval.wpd)(04-05)

# Exhibit 5

# Exhibit 5

Inst #: 201401130001460  
Fees: \$17.00 N/C Fee: \$0.00  
RPTT: \$1619.80 Ex: #  
01/13/2014 01:10:44 PM  
Receipt #: 1899989  
Requestor:  
ALESSI & KOENIG, LLC  
Recorded By: SUO Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

When recorded mail to and  
Mail Tax Statements to:  
SFR Investments Pool 1, LLC  
5030 Paradise Road, B-214  
Las Vegas, NV 89119

A.P.N. No.163-30-312-007

TS No. 6601

### TRUSTEE'S DEED UPON SALE

The Grantee (Buyer) herein was: SFR Investments Pool 1, LLC  
The Foreclosing Beneficiary herein was: Shadow Mountain Ranch Community Association  
The amount of unpaid debt together with costs: \$8,499.11  
The amount paid by the Grantee (Buyer) at the Trustee's Sale: \$59,000.00  
The Documentary Transfer Tax: \$1,519.80  
Property address: 5327 MARSH BUTTE ST, LAS VEGAS, NV 89148-4669  
Said property is in [ ] unincorporated area: City of LAS VEGAS  
Trustor (Former Owner that was foreclosed on): STACY MOORE

Alessi & Koenig, LLC (herein called Trustee), as the duly appointed Trustee under that certain Notice of Delinquent Assessment Lien, recorded September 11, 2012 as instrument number 0002023, in Clark County, does hereby grant, without warranty expressed or implied to: SFR Investments Pool 1, LLC (Grantee), all its right, title and interest in the property legally described as: SECTION 30 R2-60 70 #5 LOT 7 BLOCK 1, as per map recorded in Book 102, Pages 28 as shown in the Office of the County Recorder of Clark County Nevada.

#### TRUSTEE STATES THAT:

This conveyance is made pursuant to the powers conferred upon Trustee by NRS 116 et seq., and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the office of the recorder of said county. All requirements of law regarding the mailing of copies of notices and the posting and publication of the copies of the Notice of Sale have been complied with. Said property was sold by said Trustee at public auction on January 8, 2014 at the place indicated on the Notice of Trustee's Sale.

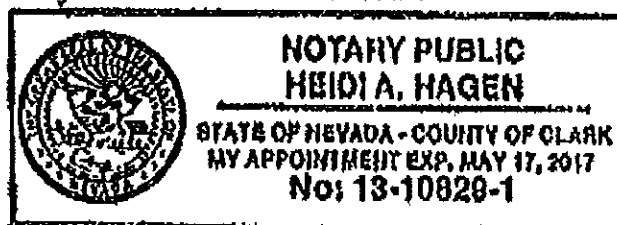
Huong Lam, Esq.

Signature of AUTHORIZED AGENT for Alessi & Koenig, Llc.

State of Nevada )  
County of Clark )

SUBSCRIBED and SWORN before me JAN 13 2014 by Huong Lam

WITNESS my hand and official seal.  
(Seal)



(Signature)

1 **IAFD**

2 Huong X. Lam, Esq.  
3 Nevada Bar No. 10916  
4 ALESSI & KOENIG, LLC  
5 9500 W. Flamingo, Suite 205  
6 Las Vegas, Nevada 89147  
7 Phone: (702) 222-4033  
8 Fax: (702) 222-4043  
9 huong@alessikoenig.com  
10 Attorney for Plaintiff

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

13 ALESSI & KOENIG, LLC, a Nevada  
14 limited liability company,

15 Plaintiff,

16 vs.

17 STACY MOORE, an individual; MAGNOLIA  
18 GOTERA, an individual; KRISTIN JORDAL,  
19 AS TRUSTEE FOR THE JBWNO  
20 REVOCABLE LIVING TRUST, a trust; U.S.  
21 BANK, N.A., a national banking association;  
22 NATIONSTAR MORTGAGE, LLC, a foreign  
23 limited liability company; REPUBLIC  
24 SILVER STATE DISPOSAL, INC., DBA  
25 REPUBLIC SERVICES, a domestic  
26 governmental entity; DOE INDIVIDUALS I  
27 through X, inclusive; and ROE  
28 CORPORATIONS XI through XX inclusive,

Defendants.

Case No. A- 14- 705563- C

Dept. No. XX

29 **INITIAL APPEARANCE FEE DISCLOSURE**

30 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for  
31 parties appearing in the above entitled action as indicated below:

32 ///

ALESSI & KOENIG, LLC, a Nevada  
limited liability company,

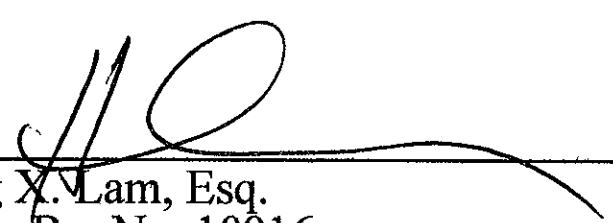
\$270.00

**TOTAL REMITTED: (Required)**

**\$270.00**

DATED this 12<sup>th</sup> day of August, 2014.

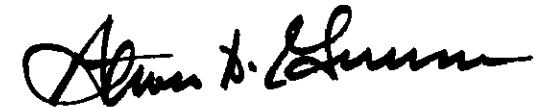
ALESSI & KOENIG, LLC



---

Huong X. Lam, Esq.  
Nevada Bar No. 10916  
9500 W. Flamingo, Suite #205  
Las Vegas, Nevada 89147  
Phone: (702) 222-4033  
Fax: (702) 222-4043  
*Attorney for Plaintiff*

# **TAB 2**



CLERK OF THE COURT

1 ANS  
2 WRIGHT, FINLAY & ZAK, LLP  
3 Dana Jonathon Nitz, Esq.  
4 Nevada Bar No. 0050  
5 Paterno C. Jurani, Esq.  
6 Nevada Bar No. 8136  
7 5532 South Fort Apache Road, Suite 110  
8 Las Vegas, NV 89148  
9 (702) 475-7964; Fax: (702) 946-1345  
10 pjurani@wrightlegal.net  
11 Attorney for Defendant,  
12 Nationstar Mortgage, LLC

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 ALESSI & KOENIG, LLC, a Nevada  
12 limited liability company,

13 Plaintiff,

14 vs.

15  
16 STACY MOORE, an individual; MAGNOLIA  
17 GOTERA, an individual; KRISTIN JORDAL,  
18 AS TRUSTEE FOR THE JBWNO  
19 REVOCABLE LIVING TRUST, a trust; U.S.  
20 BANK, N.A., a national banking association;  
21 NATIONSTAR MORTGAGE, LLC, a foreign  
22 limited liability company; REPUBLIC SILVER  
23 STATE DISPOSAL INC., DBA REPUBLIC  
24 SERVICES, a domestic governmental entity;  
DOE INDIVIDUALS I through X, inclusive;  
and ROE CORPORATIONS XI through XX  
inclusive,

Defendants.

Case No.: A-14-705563-C  
Dept. No.: XX

NATIONSTAR MORTGAGE, LLC'S  
ANSWER

Exemption for Arbitration:  
-(Title to Real Property)  
-(Amount in Controversy exceeds \$50,000)

25 COMES NOW, Defendant, NATIONSTAR MORTGAGE, LLC (hereinafter  
26 "Nationstar" or "Defendant") by and through its attorneys of record, Dana Jonathon Nitz, Esq.  
27  
28



1 and Paterno C. Jurani, Esq., of the law firm of Wright, Finlay & Zak, LLP, and hereby submits  
2 its Answer to the Complaint as follows:

3 **THE PARTIES AND JURISDICTION**

4 1. Defendant does not possess enough information to admit or deny the allegations in  
5 paragraph 1 of the Complaint; therefore, the Defendant denies the allegations.  
6

7 2. Defendant does not possess enough information to admit or deny the allegations in  
8 paragraph 2 of the Complaint; therefore, the Defendant denies the allegations.

9 3. Defendant does not possess enough information to admit or deny the allegations in  
10 paragraph 3 of the Complaint; therefore, the Defendant denies the allegations.  
11

12 4. Defendant does not possess enough information to admit or deny the allegations in  
13 paragraph 4 of the Complaint; therefore, the Defendant denies the allegations.

14 5. Defendant does not possess enough information to admit or deny the allegations in  
15 paragraph 5 of the Complaint; therefore, the Defendant denies the allegations.  
16

17 6. Defendant admits the allegations in paragraph 6 of the Complaint.

18 7. Defendant does not possess enough information to admit or deny the allegations in  
19 paragraph 7 of the Complaint; therefore, the Defendant denies the allegations.

20 8. Defendant does not possess enough information to admit or deny the allegations in  
21 paragraph 8 of the Complaint; therefore, the Defendant denies the allegations.  
22

23 9. Defendant admits the allegations in paragraph 9 of the Complaint.

24 **THE UNDERLYING FORECLOSURE SALE**

25 10. Answering paragraph 10, Defendant hereby repeats, re-alleges, and incorporates each of  
26 its admissions, denials, or other responses to the paragraphs referenced therein as if set forth at  
27  
28

1       **11.** Answering Paragraph 11 of the Complaint, Defendant admits that Covenants, Conditions  
2 and Restrictions (“CC&Rs”) were recorded in the Official Records of the Clark County Recorder  
3 as Book and Instrument Number 20000621.01735 on or about June 21, 2000. Defendant avers  
4 that the CC&Rs speak for themselves. To whatever extent a further response is required,  
5 Defendant denies the allegations in Paragraph 11.

6       **12.** Answering Paragraph 12 of the Complaint, Defendant admits that Covenants, Conditions  
7 and Restrictions (“CC&Rs”) were recorded in the Official Records of the Clark County Recorder  
8 as Book and Instrument Number 20000621.01735 on or about June 21, 2000. Defendant avers  
9 that the CC&Rs speak for themselves. To whatever extent a further response is required,  
10 Defendant denies the allegations in Paragraph 12.

11       **13.** Answering Paragraph 13 of the Complaint, Defendant admits that a Grant Deed was  
12 recorded in the Official Records of the Clark County Recorder as Book and Instrument Number  
13 201105270004011 on or about May 27, 2011. Defendant avers that the Grant Deed speaks for  
14 itself. To whatever extent a further response is required, Defendant denies the allegations in  
15 Paragraph 13.

16       **14.** Answering Paragraph 14 of the Complaint, Defendant admits that a Grant Deed was  
17 recorded in the Official Records of the Clark County Recorder as Book and Instrument Number  
18 201105270004010 on or about May 27, 2011. Defendant avers that the Grant Deed speaks for  
19 itself. To whatever extent a further response is required, Defendant denies the allegations in  
20 Paragraph 14.

21       **15.** Answering Paragraph 15 of the Complaint, Defendant admits that a Grant Deed was  
22 recorded in the Official Records of the Clark County Recorder as Book and Instrument Number  
23 201105270004011 on or about May 27, 2011. Defendant avers that the Grant Deed speaks for  
24 itself. To whatever extent a further response is required, Defendant denies the allegations in  
25 Paragraph 15.

26       **16.** Answering Paragraph 16 of the Complaint, Defendant admits that a Grant, Bargain, Sale  
27 Deed was recorded in the Official Records of the Clark County Recorder as Book and Instrument  
28 Number 20051121-0005566 on or about November 21, 2005. Defendant avers that the Grant,

1 Bargain, Sale Deed speaks for itself. To whatever extent a further response is required,  
2 Defendant denies the allegations in Paragraph 16.

3 17. Defendant avers that Paragraph 17 states legal conclusions for which no response is  
4 required; provided however, that to the extent Paragraph 17 does require a response, Defendant  
5 denies said allegations.

6 18. Defendant does not possess enough information to admit or deny the allegations in  
7 paragraph 18 of the Complaint; therefore, the Defendant denies the allegations.

8 19. Defendant does not possess enough information to admit or deny the allegations in  
9 paragraph 19 of the Complaint; therefore, the Defendant denies the allegations.

10 20. Defendant avers that Paragraph 20 states legal conclusions for which no response is  
11 required; provided however, that to the extent Paragraph 20 does require a response, Defendant  
12 denies said allegations.

13 21. Defendant does not possess enough information to admit or deny the allegations in  
14 paragraph 21 of the Complaint; therefore, the Defendant denies the allegations.

15 22. Answering Paragraph 22 of the Complaint, Defendant admits that a Trustee's Deed Upon  
16 Sale was recorded in the Official Records of the Clark County Recorder as Book and Instrument  
17 Number 201401130001460 on or about January 13, 2014. Defendant avers that the Trustee's  
18 Deed Upon Sale speaks for itself. To whatever extent a further response is required, Defendant  
19 denies the allegations in Paragraph 22.

20 23. Defendant does not possess enough information to admit or deny the allegations in  
21 paragraph 23 of the Complaint; therefore, the Defendant denies the allegations.

22 24. Defendant does not possess enough information to admit or deny the allegations in  
23 paragraph 24 of the Complaint; therefore, the Defendant denies the allegations.

24 25. Defendant does not possess enough information to admit or deny the allegations in  
25 paragraph 25 of the Complaint; therefore, the Defendant denies the allegations.

26 26. Defendant does not possess enough information to admit or deny the allegations in  
27 paragraph 26 of the Complaint; therefore, the Defendant denies the allegations.  
28

1       27. Defendant does not possess enough information to admit or deny the allegations in  
2 paragraph 27 of the Complaint; therefore, the Defendant denies the allegations.

3       28. Defendant does not possess enough information to admit or deny the allegations in  
4 paragraph 28 of the Complaint; therefore, the Defendant denies the allegations.

5       29. Defendant does not possess enough information to admit or deny the allegations in  
6 paragraph 29 of the Complaint; therefore, the Defendant denies the allegations.

7       30. Defendant does not possess enough information to admit or deny the allegations in  
8 paragraph 30 of the Complaint; therefore, the Defendant denies the allegations.

9       31. Defendant admits the allegations in paragraph 31 of the Complaint.

10       32. Defendant does not possess enough information to admit or deny the allegations in  
11 paragraph 32 of the Complaint; therefore, the Defendant denies the allegations.

12       33. Defendant avers that Paragraph 33 states legal conclusions for which no response is  
13 required; provided however, that to the extent Paragraph 33 does require a response, Defendant  
14 denies said allegations.

15       34. Defendant does not possess enough information to admit or deny the allegations in  
16 paragraph 34 of the Complaint; therefore, the Defendant denies the allegations.

17       35. Defendant does not possess enough information to admit or deny the allegations in  
18 paragraph 35 of the Complaint; therefore, the Defendant denies the allegations.

19       36. Defendant does not possess enough information to admit or deny the allegations in  
20 paragraph 36 of the Complaint; therefore, the Defendant denies the allegations.

21       37. Defendant admits the allegations in paragraph 37 of the Complaint.

22       38. Defendant does not possess enough information to admit or deny the allegations in  
23 paragraph 38 of the Complaint; therefore, the Defendant denies the allegations.

24       **DEFENDANT ASSERTS THE FOLLOWING AFFIRMATIVE DEFENSES:**

25                   **FIRST AFFIRMATIVE DEFENSE**

26               Upon information and belief, the Defendant's interest in the Property has priority over  
27 Plaintiff, Plaintiff's third party buyer and all other parties, without limitation, under N.R.S.  
28

1 116.3116 *et seq.*

2 **SECOND AFFIRMATIVE DEFENSE**

3 In the alternative, if the Defendant's interest in the Property is found to have been  
4 extinguished by or subordinate to that of Plaintiff's buyer, the Defendant is entitled to the  
5 entirety of the excess proceeds pursuant to N.R.S. 116.3116 *et seq.*  
6

7 **THIRD AFFIRMATIVE DEFENSE**

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

9 Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be  
10 granted.  
11

12 **FOURTH AFFIRMATIVE DEFENSE**

13 **(Priority)**

14 The buyer under Shadow Mountain Ranch Community Association's Trustee's Deed  
15 Upon Sale Plaintiff took title of the Property subject to Defendant's first priority Deed of Trust,  
16 thereby forestalling any enjoinder/extinguishment of Defendant's interest in the Property.  
17

18 **FIFTH AFFIRMATIVE DEFENSE**

19 **(Assumption of Risk)**

20 Plaintiff, at all material times, calculated, knew and understood the risks inherent in the  
21 situations, actions, omissions, and transactions upon which it now bases its various claims for  
22 relief, and with such knowledge, Plaintiff undertook and thereby assumed such risks and is  
23 consequently barred from all recovery by such assumption of risk.  
24

25 **SIXTH AFFIRMATIVE DEFENSE**

26 **(Commercial Reasonableness and Violation of Good Faith - NRS 116.1113)**

27 The HOA lien foreclosure sale by which Plaintiff took its interest was commercially  
28

1 unreasonable if it eliminated Defendant's Deed of Trust. The sales price, when compared to the  
2 outstanding balance of Defendant's Note and Deed of Trust and the fair market value of the  
3 Property, demonstrates that the sale was not conducted in good faith as a matter of law. The  
4 circumstances of sale of the property violated the HOA's obligation of good faith under NRS  
5 116.1113 and duty to act in a commercially reasonable manner.  
6

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 **(Equitable Doctrines)**

9 Defendant alleges that the Plaintiff's claims are barred by the equitable doctrines of  
10 laches, unclean hands, and failure to do equity.  
11

12 **EIGHTH AFFIRMATIVE DEFENSE**

13 **(Acceptance)**

14 Defendant asserts that any acceptance of any portion of the excess proceeds does not  
15 "satisfy" the amount due and owing on the Loan and would not constitute a waiver of its rights  
16 under the Loan and Deed of Trust, or statute.  
17

18 **NINTH AFFIRMATIVE DEFENSE**

19 **(Waiver and Estoppel)**

20 Defendant alleges that by reason of Plaintiff's acts and omissions, Plaintiff has waived its  
21 rights and is estopped from asserting its claims against Defendant.  
22

23 **TENTH AFFIRMATIVE DEFENSE**

24 **(Void for Vagueness)**

25 To the extent that Plaintiff's interpretation of NRS 116.3116 is accurate, the statute and  
26 Chapter 116 as a whole are void for vagueness as applied to this matter.  
27  
28

1 **ELEVENTH AFFIRMATIVE DEFENSE**

2 **(Due Process Violations)**

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

6 **TWELFTH AFFIRMATIVE DEFENSE**

7 **(Violation of Procedural Due Process)**

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

11 **THIRTEENTH AFFIRMATIVE DEFENSE**

12 **(Supremacy Clause)**

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

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 **(Property Clause)**

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

19 **FIFTEENTH AFFIRMATIVE DEFENSE**

20 **(Satisfaction of Super-Priority Lien)**

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

23 **SIXTEENTH AFFIRMATIVE DEFENSE**

24 **(Additional Affirmative Defenses)**

25 Defendant reserves the right to assert additional affirmative defenses in the event  
26 discovery or investigation indicate that additional affirmative defenses are applicable.

27 **PRAYER**

28 WHEREFORE, Defendant prays for judgment as follows:





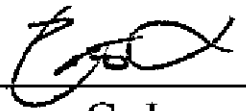
**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **NATIONSTAR MORTGAGE, LLC'S ANSWER** filed in Case No. A-14-705563-C **does not** contain the social security number of any person.

DATED this 17 day of November, 2014.

WRIGHT, FINLAY & ZAK, LLP

  
\_\_\_\_\_  
Paterno C. Jurani, Esq.  
Nevada Bar No. 8136  
5532 South Fort Apache Road, Suite 110  
Las Vegas, NV 89148  
*Attorney for Defendants,  
Nationstar Mortgage, LLC*


**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 17 day of November, 2014, I did cause a true copy of **NATIONSTAR MORTGAGE, LLC'S ANSWER** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9.

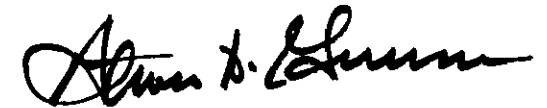
**Alessi & Koenig**

**Contact**  
A&K eserve

**Email**  
[eserve@alessikoenig.com](mailto:eserve@alessikoenig.com)

  
An Employee of WRIGHT, FINLAY & ZAK, LLP

# **TAB 3**



CLERK OF THE COURT

AACC

WRIGHT, FINLAY & ZAK, LLP

Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Paterno C. Jurani, Esq.

Nevada Bar No. 8136

7785 West Sahara Avenue, Suite 200

Las Vegas, NV 89117

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

dnitz@wrightlegal.net

pjurani@wrightlegal.net

*Attorneys for Defendant, Nationstar Mortgage, LLC and Defendant/Counterclaimant/Third-Party Defendant U.S. Bank, National Association, as Trustee for the Certificateholders of the LXS 2006-4N Trust Fund, erroneously pled as U.S. Bank, N.A.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ALESSI & KOENIG, LLC, a Nevada  
limited liability company,

Plaintiff,

vs.

STACY MOORE, an individual; MAGNOLIA  
GOTERA, an individual; KRISTIN JORDAL,  
AS TRUSTEE FOR THE JBWNO  
REVOCABLE LIVING TRUST, a trust; U.S.  
BANK, N.A., a national banking association;  
NATIONSTAR MORTGAGE, LLC, a foreign  
limited liability company; REPUBLIC SILVER  
STATE DISPOSAL INC., DBA REPUBLIC  
SERVICES, a domestic governmental entity;  
DOE INDIVIDUALS I through X, inclusive;  
and ROE CORPORATIONS XI through XX  
inclusive,

Defendants.

U.S. BANK, N.A.,

Counterclaimant,

Case No.: A-14-705563-C

Dept. No.: XX

**U.S. BANK, N.A.'S ANSWER,  
COUNTERCLAIM, AND THIRD-  
PARTY COMPLAINT**

**Exemption for Arbitration:  
-(Title to Real Property)**

1 vs.  
2 ALESSI & KOENIG, LLC, a Nevada limited  
3 liability company,  
4 Counter-Defendant.  
5  
6 U.S. BANK, N.A.,  
7 Third-Party Plaintiff,  
8 vs.  
9 SFR INVESTMENTS POOL 1, LLC, a Nevada  
10 limited liability company; INDIVIDUAL DOES  
11 I through X, inclusive; and ROE  
12 CORPORATIONS I through X, inclusive,  
13 Third-Party Defendant(s).

13 COMES NOW, Defendant/Counterclaimant/Third-Party Plaintiff, U.S. BANK,  
14 NATIONAL ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE  
15 LXS 2006-4N TRUST FUND, erroneously pled as U.S. BANK, N.A. (hereinafter "U.S. BANK  
16 TRUST" or "Defendant"), by and through its attorneys of record, Dana Jonathon Nitz, Esq. and  
17 Paterno C. Jurani, Esq., of the law firm of Wright, Finlay & Zak, LLP, and hereby submits its  
18 Answer to the Complaint as follows:  
19

20  
21 **THE PARTIES AND JURISDICTION**

22 1. Defendant does not possess enough information to admit or deny the allegations  
23 in paragraph 1 of the Complaint; therefore, the Defendant denies the allegations.

24 2. Defendant does not possess enough information to admit or deny the allegations  
25 in paragraph 2 of the Complaint; therefore, the Defendant denies the allegations.

26 3. Defendant does not possess enough information to admit or deny the allegations  
27 in paragraph 3 of the Complaint; therefore, the Defendant denies the allegations.  
28

1           4. Defendant does not possess enough information to admit or deny the allegations  
2 in paragraph 4 of the Complaint; therefore, the Defendant denies the allegations.

3           5. Defendant admits the allegations in paragraph 5 of the Complaint.

4           6. Defendant admits the allegations in paragraph 6 of the Complaint.

5           7. Defendant does not possess enough information to admit or deny the allegations  
6 in paragraph 7 of the Complaint; therefore, the Defendant denies the allegations.

7           8. Defendant does not possess enough information to admit or deny the allegations  
8 in paragraph 8 of the Complaint; therefore, the Defendant denies the allegations.

9           9. Defendant admits the allegations in paragraph 9 of the Complaint.

10                           **THE UNDERLYING FORECLOSURE SALE**

11           10. Answering paragraph 10, Defendant repeats, re-alleges, and incorporates each of  
12 its admissions, denials, or other responses to the previous paragraphs as if fully set forth herein.

13           11. Answering Paragraph 11 of the Complaint, Defendant admits that Covenants,  
14 Conditions and Restrictions ("CC&Rs") were recorded in the Official Records of the Clark  
15 County Recorder as Book and Instrument Number 20000621.01735 on or about June 21, 2000.  
16 Defendant avers that the CC&Rs speak for themselves. To whatever extent a further response is  
17 required, Defendant denies the allegations in Paragraph 11.

18           12. Answering Paragraph 12 of the Complaint, Defendant admits that Covenants,  
19 Conditions and Restrictions ("CC&Rs") were recorded in the Official Records of the Clark  
20 County Recorder as Book and Instrument Number 20000621.01735 on or about June 21, 2000.  
21 Defendant avers that the CC&Rs speak for themselves. To whatever extent a further response is  
22 required, Defendant denies the allegations in Paragraph 12.

23           13. Answering Paragraph 13 of the Complaint, Defendant admits that a Grant Deed  
24 was recorded in the Official Records of the Clark County Recorder as Book and Instrument  
25 Number 201105270004011 on or about May 27, 2011. Defendant avers that the Grant Deed  
26  
27  
28

1 speaks for itself. To whatever extent a further response is required, Defendant denies the  
2 allegations in Paragraph 13.

3       **14.**     Answering Paragraph 14 of the Complaint, Defendant admits that a Grant Deed  
4 was recorded in the Official Records of the Clark County Recorder as Book and Instrument  
5 Number 201105270004010 on or about May 27, 2011. Defendant avers that the Grant Deed  
6 speaks for itself. To whatever extent a further response is required, Defendant denies the  
7 allegations in Paragraph 14.

8       **15.**     Answering Paragraph 15 of the Complaint, Defendant admits that a Grant Deed  
9 was recorded in the Official Records of the Clark County Recorder as Book and Instrument  
10 Number 201105270004011 on or about May 27, 2011. Defendant avers that the Grant Deed  
11 speaks for itself. To whatever extent a further response is required, Defendant denies the  
12 allegations in Paragraph 15.

13       **16.**     Answering Paragraph 16 of the Complaint, Defendant admits that a Grant,  
14 Bargain, Sale Deed was recorded in the Official Records of the Clark County Recorder as Book  
15 and Instrument Number 20051121-0005566 on or about November 21, 2005. Defendant avers  
16 that the Grant, Bargain, Sale Deed speaks for itself. To whatever extent a further response is  
17 required, Defendant denies the allegations in Paragraph 16.

18       **17.**     Defendant avers that Paragraph 17 states legal conclusions for which no response  
19 is required; provided however, that to the extent Paragraph 17 does require a response,  
20 Defendant denies said allegations.

21       **18.**     Defendant does not possess enough information to admit or deny the allegations  
22 in paragraph 18 of the Complaint; therefore, the Defendant denies the allegations.

23       **19.**     Defendant does not possess enough information to admit or deny the allegations  
24 in paragraph 19 of the Complaint; therefore, the Defendant denies the allegations.

25       **20.**     Defendant avers that Paragraph 20 states legal conclusions for which no response  
26 is required; provided however, that to the extent Paragraph 20 does require a response,  
27 Defendant denies said allegations.

28

1           **21.** Defendant does not possess enough information to admit or deny the allegations  
2 in paragraph 21 of the Complaint; therefore, the Defendant denies the allegations.

3           **22.** Answering Paragraph 22 of the Complaint, Defendant admits that a Trustee's  
4 Deed Upon Sale was recorded in the Official Records of the Clark County Recorder as Book and  
5 Instrument Number 201401130001460 on or about January 13, 2014. Defendant avers that the  
6 Trustee's Deed Upon Sale speaks for itself. To whatever extent a further response is required,  
7 Defendant denies the allegations in Paragraph 22.

8           **23.** Defendant does not possess enough information to admit or deny the allegations  
9 in paragraph 23 of the Complaint; therefore, the Defendant denies the allegations.

10           **24.** Defendant does not possess enough information to admit or deny the allegations  
11 in paragraph 24 of the Complaint; therefore, the Defendant denies the allegations.

12           **25.** Defendant does not possess enough information to admit or deny the allegations  
13 in paragraph 25 of the Complaint; therefore, the Defendant denies the allegations.

14           **26.** Defendant does not possess enough information to admit or deny the allegations  
15 in paragraph 26 of the Complaint; therefore, the Defendant denies the allegations.

16           **27.** Defendant does not possess enough information to admit or deny the allegations  
17 in paragraph 27 of the Complaint; therefore, the Defendant denies the allegations.

18           **28.** Defendant does not possess enough information to admit or deny the allegations  
19 in paragraph 28 of the Complaint; therefore, the Defendant denies the allegations.

20           **29.** Defendant does not possess enough information to admit or deny the allegations  
21 in paragraph 29 of the Complaint; therefore, the Defendant denies the allegations.

22           **30.** Defendant admits the allegations in paragraph 30 of the Complaint.

23           **31.** Defendant admits the allegations in paragraph 31 of the Complaint.

24           **32.** Defendant does not possess enough information to admit or deny the allegations  
25 in paragraph 32 of the Complaint; therefore, the Defendant denies the allegations.

26           **33.** Defendant avers that Paragraph 33 states legal conclusions for which no response  
27 is required; provided however, that to the extent Paragraph 33 does require a response,  
28 Defendant denies said allegations.



1           34. Defendant does not possess enough information to admit or deny the allegations  
2 in paragraph 34 of the Complaint; therefore, the Defendant denies the allegations.

3           35. Defendant does not possess enough information to admit or deny the allegations  
4 in paragraph 35 of the Complaint; therefore, the Defendant denies the allegations.

5           36. Defendant does not possess enough information to admit or deny the allegations  
6 in paragraph 36 of the Complaint; therefore, the Defendant denies the allegations.

7           37. Defendant admits the allegations in paragraph 37 of the Complaint.

8           38. Defendant does not possess enough information to admit or deny the allegations  
9 in paragraph 38 of the Complaint; therefore, the Defendant denies the allegations.

10           **DEFENDANT ASSERTS THE FOLLOWING AFFIRMATIVE DEFENSES:**

11                           **FIRST AFFIRMATIVE DEFENSE**

12           Upon information and belief, the Defendant's interest in the Property has priority over  
13 Plaintiff, Plaintiff's third party buyer and all other parties, without limitation, under N.R.S.  
14 116.3116 *et seq.*

15                           **SECOND AFFIRMATIVE DEFENSE**

16           In the alternative, if the Defendant's interest in the Property is found to have been  
17 extinguished by or subordinate to that of Plaintiff's buyer, the Defendant is entitled to the  
18 entirety of the excess proceeds pursuant to N.R.S. 116.3116 *et seq.*

19                           **THIRD AFFIRMATIVE DEFENSE**

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

21           Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be  
22 granted.

23                           **FOURTH AFFIRMATIVE DEFENSE**

24                                   **(Priority)**

25           The buyer under Shadow Mountain Ranch Community Association's Trustee's Deed  
26  
27  
28

1 Upon Sale took title of the Property subject to Defendant's first priority Deed of Trust, thereby  
2 preventing any injunction/extinguishment of Defendant's interest in the Property.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 **(Assumption of Risk)**

5 Plaintiff, at all material times, calculated, knew and understood the risks inherent in the  
6 situations, actions, omissions, and transactions upon which it now bases its various claims for  
7 relief, and with such knowledge, Plaintiff undertook and thereby assumed such risks and is  
8 consequently barred from all recovery by such assumption of risk.  
9

10 **SIXTH AFFIRMATIVE DEFENSE**

11 **(Commercial Reasonableness and Violation of Good Faith - NRS 116.1113)**

12 The HOA lien foreclosure sale by which the buyer under Shadow Mountain Ranch  
13 Community Association's Trustee's Deed Upon Sale took its interest was commercially  
14 unreasonable if it eliminated Defendant's Deed of Trust. The sales price, when compared to the  
15 outstanding balance of Defendant's Note and Deed of Trust and the fair market value of the  
16 Property, demonstrates that the sale was not conducted in good faith as a matter of law. The  
17 circumstances of sale of the property violated the HOA's obligation of good faith under NRS  
18 116.1113 and duty to act in a commercially reasonable manner.  
19  
20

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 **(Equitable Doctrines)**

23 Defendant alleges that the Plaintiff's claims are barred by the equitable doctrines of  
24 laches, unclean hands, and failure to do equity.  
25

26 ///

27 ///

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

## 2

3  
4  
5  
6

## 7

## 8

9  
10

## 12

## 13

14

15

## 17

## 18

19  
20  
21

## 22

## 23

24  
25  
26  
27  
28

1 security interests prior to a deprivation of their property rights and because the statutes do not  
2 require the foreclosing party to take reasonable steps to ensure that actual notice is provided to  
3 interested parties who are reasonably ascertainable unless the interested party first requests  
4 notice.

5 **THIRTEENTH AFFIRMATIVE DEFENSE**

6 **(Supremacy Clause)**

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

9 **FOURTEENTH AFFIRMATIVE DEFENSE**

10 **(Property Clause)**

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

13 **FIFTEENTH AFFIRMATIVE DEFENSE**

14 **(Satisfaction of Super-Priority Lien)**

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

17 **SIXTEENTH AFFIRMATIVE DEFENSE**

18 **(Contracts Clause)**

19 The HOA sale is void or otherwise does not operate to extinguish the first Deed of Trust  
20 pursuant to the Contracts Clause of both the United States Constitution and the Nevada  
21 Constitution.

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 **(Additional Affirmative Defenses)**

24 Defendant reserves the right to assert additional affirmative defenses in the event  
25 discovery and/or investigation indicates that additional affirmative defenses are applicable.

26 **PRAYER**

27 WHEREFORE, Defendant prays for judgment as follows:  
28

- 1           1. That the Court make a judicial determination that the Deed of Trust held by the
- 2           Defendant is superior to all other interests and encumbrances, including the HOA lien
- 3           subject of the foreclosure sale resulting in the “excess proceeds” and remained the
- 4           superior encumbrance after the sale;
- 5           2. That the Court make a judicial determination that the Defendant’s Deed of Trust was
- 6           not a “subordinate lien” under NRS 116.3116 *et. seq.*;
- 7           3. That, in the alternative, if the Court determines that the Defendant’s Deed of Trust
- 8           was in fact a “subordinate lien” under NRS 116.3116 *et. seq.*, that the Court make a
- 9           judicial determination that amounts charged or retained by Plaintiff and/or Shadow
- 10          Mountain Ranch Community Association were excessive and cannot include
- 11          attorney’s fees and collections costs in their HOA lien amounts;
- 12          4. That, in the alternative, if the Court determines that the Defendant’s Deed of Trust
- 13          was in fact a “subordinate lien” under NRS 116.3116 *et. seq.*, that the Court make a
- 14          judicial determination regarding the priority in payment of the excess proceeds that
- 15          the Defendant’s Deed of Trust has priority over all other interests and encumbrances
- 16          and is entitled to all the excess proceeds up to the unpaid balance of the Deed of Trust
- 17          and the Note it secures;
- 18          5. For reasonable attorney’s fees and costs; and
- 19          6. For any such other and further relief as the Court may deem just and proper in the
- 20          case.

21           **U.S. BANK TRUST’S COUNTERCLAIM AND THIRD-PARTY COMPLAINT**

22           COMES NOW, Defendant/Counterclaimant/Third-Party Plaintiff, U.S. BANK,

23           NATIONAL ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE

24           LXS 2006-4N TRUST FUND, erroneously pled as U.S. BANK, N.A. (hereinafter “U.S. BANK

25           TRUST” or “Defendant”), by and through its attorneys of record, Dana Jonathon Nitz, Esq. and

26           Paterno C. Jurani, Esq., of the law firm of Wright, Finlay & Zak, LLP, and hereby submits its

27           Counterclaim against ALESSI & KOENIG, LLC (hereinafter “Counter-Defendant”) and Third-

28           Party Complaint against SFR INVESTMENTS POOL 1, LLC and INDIVIDUAL DOES I

1 through X, and ROE CORPORATIONS XI through XX (collectively, "Third-Party  
2 Defendants").

### 3 INTRODUCTION

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

7 2. The real property which is the subject of this civil action consists of a residence  
8 commonly known as 5327 Marsh Butte Street, Las Vegas, Nevada 89148; APN 163-30-312-007  
9 (hereinafter the "Property").

### 10 PARTIES

11 3. U.S. BANK TRUST is a national banking association organized under the laws of  
12 the United States.

13 4. U.S. BANK TRUST is now and at all times relevant, for the purposes of seeking  
14 declaratory relief and quiet title, the assigned Beneficiary under a Promissory Note and Deed of  
15 Trust signed by Magnolia Gotera (hereinafter the "Gotera"), and recorded on November 21,  
16 2005, (hereinafter "Gotera Deed of Trust"), which is secured by the Property.

17 5. Upon information and belief, Counter-Defendant, ALESSI & KOENIG, LLC  
18 (hereinafter "A&K" or "HOA Trustee") is a Nevada limited liability company with its principal  
19 place of business in Nevada.

20 6. Upon information and belief, Third-Party Defendant, SFR INVESTMENTS  
21 POOL 1, LLC (hereinafter "Buyer"), is a Nevada limited liability company with its principal  
22 place of business in Nevada.

23 7. Defendant does not know the true names, capacities or bases of liability of Third-  
24 Party Defendants sued as Individual Does I-X and Roe Corporations I-X. Each fictitiously  
25 named Third-Party Defendant is in some way liable to Defendant or claims some rights, title, or  
26 interest in the Subject Property that is subsequent to or subject to the interests of Defendant, or  
27 both. Defendant will amend this counterclaim and third-party complaint to reflect the true names  
28 of said Third-Party Defendants when the same have been ascertained.

1           8.       Upon information and belief, ALESSI & KOENIG, LLC and one or more  
2 fictitious Defendants are the agents of Shadow Mountain Ranch Community Association  
3 (hereinafter "Shadow Mountain" or "HOA"), and the HOA is responsible for their acts and  
4 omissions under the doctrine of respondeat superior.

5                               **JURISDICTION AND VENUE**

6           9.       Venue and jurisdiction are proper in this judicial district because Counter-  
7 Defendant/Third-Party Defendants reside in this district; a substantial part of the events or  
8 omissions giving rise to Defendant's claims occurred in this district; and the property that is the  
9 subject of this action is situated in this district, in Las Vegas, Clark County, Nevada.

10          10.      The Court has personal jurisdiction over HOA Trustee because this lawsuit arises  
11 out of and is connected with HOA Trustee's foreclosure of real property situated in the County  
12 of Clark, State of Nevada and, upon information and belief, HOA Trustee is a Nevada limited  
13 liability company.

14          11.      The Court has personal jurisdiction over Buyer because this lawsuit arises out of  
15 and is connected with Buyer's purposeful purchase of an interest in real property situated in the  
16 County of Clark, State of Nevada and, upon information and belief, Buyer is a Nevada limited  
17 liability company.

18                               **FACTUAL BACKGROUND**

19                   ***Gotera Loan Documents.***

20          12.      On or about November 14, 2005, the Property was conveyed to Magnolia Gotera  
21 ("Gotera").<sup>1</sup>

22          13.      The Deed of Trust executed by Gotera identified Countrywide Home Loans, Inc.  
23 as the Lender, CTC Real Estate Services as the Trustee, and Mortgage Electronic Registration  
24 Systems, Inc. ("MERS") as beneficiary acting solely as a nominee for Lender and Lender's  
25 successors and assigns, securing a loan in the amount \$508,250.00 (hereinafter the "Gotera  
26

---

27                   <sup>1</sup> A true and correct copy of the Grant, Bargain, Sale Deed recorded in the Clark County  
28 Recorder's Office as Book and Instrument Number 20051121-0005566 is attached hereto as  
**Exhibit 1.** All other recordings stated hereafter are recorded in the same manner.

1 Loan").<sup>2</sup>

2 14. On May 27, 2011, a Grant Deed was recorded wherein Gotera quitclaimed and  
3 conveyed all of her right, title, interest, and claim to the Property to JBWNO Revocable Living  
4 Trust for \$10.00.<sup>3</sup>

5 15. On May 27, 2011, a Grant Deed was recorded wherein JBWNO Revocable Living  
6 Trust quitclaimed and conveyed all of its right, title, interest, and claim to the Property to Stacy  
7 Moore for \$10.00.<sup>4</sup>

8 16. On November 2, 2011, an Assignment of Deed of Trust was recorded wherein  
9 MERS assigned all interest in the Deed of Trust to U.S. BANK, NATIONAL ASSOCIATION,  
10 AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE LXS 2006-4N TRUST FUND.<sup>5</sup>

11 17. On October 1, 2013, an Assignment of Deed of Trust was incorrectly recorded.<sup>6</sup>  
12 This assignment was ineffective as the assignor no longer had any interest under the Deed of  
13 Trust.

14 18. The Property is subject to a Declaration of Covenants, Conditions and  
15 Restrictions for Shadow Mountain Ranch (the "CC&Rs"). The CC&Rs were recorded in the  
16 Official Records of the Clark County Recorder on or about June 21, 2000 as Book and  
17 Instrument Number 20000621.01735.

18 ***HOA Lien Documents.***

19 19. On May 7, 2008, a Notice of Delinquent Assessment Lien was recorded against  
20 the Property on behalf of HOA.<sup>7</sup>

21 \_\_\_\_\_  
22 <sup>2</sup> A true and correct copy of the Deed of Trust recorded as Book and Instrument Number  
20051121-0005567 is attached hereto as **Exhibit 2**.

23 <sup>3</sup> A true and correct copy of the Grant Deed recorded as Book and Instrument Number  
201105270004010 is attached hereto as **Exhibit 3**.

24 <sup>4</sup> A true and correct copy of the Grant Deed recorded as Book and Instrument Number  
201105270004011 is attached hereto as **Exhibit 4**.

25 <sup>5</sup> A true and correct copy of the Assignment of Deed of Trust recorded as Book and Instrument  
26 Number 201111020000754 is attached hereto as **Exhibit 5**.

27 <sup>6</sup> A true and correct copy of the Assignment of Deed of Trust recorded as Book and Instrument  
Number 201310010002401 is attached hereto as **Exhibit 6**.

28 <sup>7</sup> A true and correct copy of the Notice of Delinquent Assessment Lien recorded as Book and  
Instrument Number 20080507-0001731 is attached hereto as **Exhibit 7**.



1           20.     On July 23, 2008, a Notice of Default and Election to Sell Under Homeowners  
2 Association Lien was recorded against the Property.<sup>8</sup>

3           21.     On April 30, 2009, a Notice of Default and Election to Sell Under Homeowners  
4 Association Lien was recorded against the Property.<sup>9</sup>

5           22.     On July 1, 2010, a Notice of Default and Election to Sell Under Homeowners  
6 Association Lien was recorded against the Property.<sup>10</sup>

7           23.     On January 26, 2011, a Notice of Sale was recorded against the Property.<sup>11</sup>

8           24.     On September 11, 2012, a second Notice of Delinquent Assessment Lien was  
9 recorded against the Property on behalf of HOA by its foreclosure trustee, A&K.<sup>12</sup>

10          25.     On June 13, 2013, a Notice of Default and Election to Sell Under Homeowners  
11 Association Lien was recorded against the Property.<sup>13</sup>

12          26.     On July 5, 2013, a Notice of Default and Election to Sell Under Homeowners  
13 Association Lien was recorded against the Property.<sup>14</sup>

14          27.     On December 10, 2013, a Notice of Sale was recorded against the Property.<sup>15</sup>

---

16           <sup>8</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
17 Association Lien recorded as Book and Instrument Number 20080723-0001378 is attached  
18 hereto as **Exhibit 8**.

19           <sup>9</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
20 Association Lien recorded as Book and Instrument Number 20090430-0003136 is attached  
21 hereto as **Exhibit 9**.

22           <sup>10</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
23 Association Lien recorded as Book and Instrument Number 201007010000190 is attached hereto  
24 as **Exhibit 10**.

25           <sup>11</sup> A true and correct copy of the Notice of Sale recorded as Book and Instrument Number  
26 201101260002852 is attached hereto as **Exhibit 11**.

27           <sup>12</sup> A true and correct copy of the Notice of Delinquent Assessment Lien recorded as Book and  
28 Instrument Number 201209110002023 is attached hereto as **Exhibit 12**.

<sup>13</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
Association Lien recorded as Book and Instrument Number 201306130001804 is attached hereto  
as **Exhibit 13**.

<sup>14</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
Association Lien recorded as Book and Instrument Number 201307050000950 is attached hereto  
as **Exhibit 14**.

<sup>15</sup> A true and correct copy of the Notice of Sale recorded as Book and Instrument Number  
201312100001308 is attached hereto as **Exhibit 15**.

1           **28.**     Upon information and belief, pursuant to that Notice of Sale, a non-judicial  
2 foreclosure sale occurred on January 8, 2014 (hereinafter the "HOA Sale").

3           **29.**     On January 13, 2014, a Trustee's Deed Upon sale was recorded wherein Buyer  
4 acquired its interest in the Property, if any, for \$59,000.00.<sup>16</sup>

5           ***U.S. BANK TRUST's Tender of the Super-Priority Amount, and the HOA's Rejection***  
6 ***of Same.***

7           **30.**     On or about September 23, 2010, U.S. BANK TRUST or its predecessors, agents,  
8 servicers or trustees, and its counsel attempted to obtain a payoff demand from HOA Trustee  
9 accurately identifying the super-priority amount owed to the HOA so that it could be paid.<sup>17</sup>  
10 However, HOA Trustee refused to provide a payoff demand indicating the amount of the super-  
11 priority lien.<sup>18</sup>

12           **31.**     As a result of HOA Trustee's refusal to provide a super-priority amount,  
13 Defendant and its counsel calculated the super-priority amount owed to the HOA as the sum of  
14 nine months of common assessments, as identified in the HOA's ledger.<sup>19</sup> Based upon the  
15 HOA's ledger, Defendant and its counsel calculated the super-priority amount as \$207.00 and  
16 tendered that amount to the HOA on or about September 30, 2010.<sup>20</sup> Upon information and  
17 belief, the HOA rejected Defendant's tender of super-priority funds.

18           ***HOA Lien Notices and HOA Foreclosure Sale.***

19           **32.**     The HOA Sale did not comply with NRS 116.3102 et seq. because none of the  
20 aforementioned notices identified above identified what portion of the claimed lien was for  
21 alleged late fees, interest, fines/violations, or collection fees/costs.

22  
23  
24 <sup>16</sup> A true and correct copy of the Trustee's Deed Upon Sale recorded as Book and Instrument  
Number 201401130001460 is attached hereto as **Exhibit 16**.

25 <sup>17</sup> See Correspondence from Miles, Bauer, Bergstrom & Winters, LLP, attached hereto as  
26 **Exhibit 17**. Please note this exhibit is a Word document that auto-populates the date.  
Consequently, the displayed date does not reflect the date the letter was sent.

27 <sup>18</sup> See Fax and attached Updated Ledger, dated September 13, 2010, attached hereto as **Exhibit**  
**18**.

28 <sup>19</sup> *Id.*

<sup>20</sup> See Letter and Check, dated September 30, 2010, attached hereto as **Exhibit 19**.

1           **33.**     The above-stated Notices of Default do not “describe the deficiency in payment”  
2 in violation of NRS 116 et seq.

3           **34.**     None of the aforementioned notices identified above specified what portion of the  
4 lien, if any, that the HOA claimed constituted a “super-priority” lien, specified whether the HOA  
5 was foreclosing on the “super-priority” portion of its lien, if any, or under the non-super-priority  
6 portion of the lien, or provided any notice of a right to cure by Plaintiff.

7           **35.**     Upon information and belief, the HOA and its foreclosure trustees, did not  
8 comply with all mailing and noticing requirements stated in NRS 116.31162 through NRS  
9 116.31168.

10          **36.**     Any attempt to tender an amount to the HOA and/or its agent prior to the HOA  
11 Sale would have been an exercise in futility due to the established policy and procedures of the  
12 HOA Trustee, A&K, at the time of the HOA Sale.

13          **37.**     NRS Chapter 116 is unconstitutional on its face as it lacks any express  
14 requirement for a homeowner’s association or its agents to provide notice of a foreclosure to the  
15 lender, beneficiary or holder of a first deed of trust or mortgage.

16          **38.**     NRS 116.31162 through NRS 116.31168 do not contain any provision requiring  
17 notice of a foreclosure to the lender, beneficiary or holder of a first mortgage or deed of trust,  
18 thus violating their constitutional right to due process.

19          **39.**     NRS Chapter 116 is unconstitutional on its face as it lacks any express right by  
20 the lender, beneficiary or holder, or their respective trustees, servicers, agents, or representatives,  
21 to obtain payoff information for the super-priority portion, if any, of the homeowner’s  
22 association lien or the express right to cure the default and protect the Deed of Trust, and it lacks  
23 an express obligation of a homeowner’s association or its agents to accept a tendered payoff and  
24 release the super-priority portion of the lien.

25          **40.**     NRS Chapter 116 is unconstitutional on its face due to vagueness and ambiguity.

26          **41.**     The HOA Sale was an invalid sale and could not have extinguished Plaintiff’s  
27 secured interest because of above-stated defects in the notices given to Defendant, or its  
28 predecessors, agents, servicers or trustees, if any.

1           ***HOA Sale Commercially Unreasonable.***

2           **42.**     A homeowner's association sale must be done in a commercially reasonable  
3 manner.

4           **43.**     At the time of the HOA Sale, the amount owed on the Gotera Loan exceeded  
5 \$525,000.00.

6           **44.**     Upon information and belief, at the time of the HOA Sale, the fair market value of  
7 the Property exceeded \$300,000.00.

8           **45.**     The HOA Sale is commercially unreasonable under NRS 116.1113 based on the  
9 above statements, the circumstances of the HOA Sale, and based on the sales price compared to  
10 the fair market value of the Property.

11                                   **FIRST CAUSE OF ACTION**

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

14           **46.**     U.S. BANK TRUST incorporates and re-alleges all previous paragraphs, as if  
15 fully set forth herein.

16           **47.**     Pursuant to NRS 30.010 et seq. and NRS 40.010, this Court has the power and  
17 authority to declare U.S. BANK TRUST's rights and interests in the Property and to resolve  
18 Counter-Defendants' adverse claims in the Property.

19           **48.**     Further, pursuant to NRS 30.010 et seq., this Court has the power and authority to  
20 declare the rights and interest of the parties following the acts and omissions of the HOA and  
21 HOA Trustee in foreclosing the Property.

22           **49.**     U.S. BANK TRUST's Deed of Trust is a first secured interest on the Property as  
23 intended by NRS 116.3116(2)(b).

24           **50.**     As the current beneficiary under the Deed of Trust and Gotera Loan, U.S. BANK  
25 TRUST's interest still encumbers the Property and retains its first position status in the chain of  
26 title and is superior to the interest, if any, acquired by Buyer, or held or claimed by any other  
27 party.

28           **51.**     Upon information and belief, Buyer claims an interest in the Property by way of a

1 Trustee's Deed Upon Sale recorded in the Clark County Recorder's Office as Book and  
2 Instrument Number 201401130001460 that is adverse to the U.S. BANK TRUST's interest.

3       **52.** Upon information and belief, the HOA and HOA's agent, A&K, did not comply  
4 with all mailing and noticing requirements stated in NRS 116.31162 through NRS 116.31168  
5 and the CC&Rs.

6       **53.** Based on the adverse claims being asserted by the parties, Defendant is entitled to  
7 a judicial determination regarding the rights and interests of the respective parties to the case.

8       **54.** For all the reasons set forth above and in the Factual Background, Defendant is  
9 entitled to a determination from this Court, pursuant to NRS 30.010 et seq. and NRS 40.010, that  
10 the HOA Sale is unlawful and void under NRS 116.3102 et seq.

11       **55.** Defendant is entitled to a determination from this Court, pursuant to NRS 30.010  
12 et seq. and NRS 40.010, that U.S. BANK TRUST is the beneficiary of a first position Deed of  
13 Trust which still encumbers the Property and is superior to the interest held by Buyer and all  
14 other parties, if any.

15       **56.** In the alternative, if it is found under state law that Defendant's interest could  
16 have been extinguished by the HOA Sale, for all the reasons set forth above and in the Factual  
17 Background, Defendant is entitled to a determination from this Court, pursuant to NRS 40.010,  
18 that the HOA Sale was unlawful and void.

19       **57.** Defendant has furthermore been required to retain counsel and is entitled to  
20 recover reasonable attorney's fees for having brought the underlying action.

## 21                                   **SECOND CAUSE OF ACTION**

### 22                                   **(Permanent and Preliminary Injunction versus Buyer)**

23       **58.** Defendant incorporates by reference the allegations of all previous paragraphs, as  
24 if fully set forth herein.

25       **59.** As set forth above, Buyer may claim an ownership interest in the Property that is  
26 adverse to Defendant.

27       **60.** Any sale, transfer or encumbrance of the Property, prior to a judicial  
28 determination concerning the respective rights and interests of the parties to the case, would be

1 invalid because Defendant's Deed of Trust still encumbers the Property in first position and was  
2 not extinguished by the HOA Sale.

3       **61.** Defendant has a reasonable probability of success on the merits of the Complaint,  
4 for which compensatory damages will not compensate Defendant for the irreparable harm of the  
5 loss of title to a bona fide purchaser or loss of the first position priority status secured by the  
6 Property.

7       **62.** Defendant has no adequate remedy at law due to the uniqueness of the Property  
8 involved in the case.

9       **63.** Defendant is entitled to a preliminary and permanent injunction prohibiting Buyer  
10 from conducting any sale, transfer or encumbrance of the Property if it is claimed to be superior  
11 to Defendant's Deed of Trust or not subject to that Deed of Trust.

12       **64.** Defendant is entitled to a preliminary injunction requiring Buyer to pay all taxes,  
13 insurance or homeowner's association assessments during the pendency of this action.

14       **65.** Defendant is entitled to a preliminary injunction requiring Buyer to segregate and  
15 deposit all rents with the Court or a Court-approved trust account over which Buyer has no  
16 control during the pendency of this action.

17       **66.** Defendant has been required to retain counsel to prosecute this action and is  
18 entitled to recover reasonable attorney's fees to prosecute this action.

19                                   **THIRD CAUSE OF ACTION**

20                   **(Wrongful Foreclosure/Statutorily Defective Foreclosure versus the HOA Trustee**  
21                                   **and the fictitious Third-Party Defendants)**

22       **67.** Defendant incorporates by reference the allegations of all previous paragraphs, as  
23 if fully set forth herein.

24       **68.** As set forth above and in the Factual Background, upon information and belief,  
25 the HOA, HOA Trustee, and all fictitious Third-Party Defendants did not comply with all  
26 mailing and noticing requirements stated in NRS 116.31162 through NRS 116.31168 or required  
27 by the CC&Rs.

28       **69.** As set forth above and in the Factual Background, the HOA, HOA Trustee and

1 fictitious Third-Party Defendants did not give Defendant, or its agents, servicers or predecessors  
2 in interest, the proper, adequate notice and the opportunity to cure the deficiency or default in the  
3 payment of the HOA's assessments required by Nevada statutes, the CC&R's and due process.

4       **70.** As set forth above and in the Factual Background, the HOA Sale was not  
5 commercially reasonable and should be set aside.

6       **71.** As set forth above and in the Factual Background, Defendant has suffered general  
7 and special damages in an amount not presently known proximately caused by the HOA, HOA  
8 Trustee and fictitious Third-Party Defendants. Defendant will seek leave of court to assert said  
9 amounts when they are determined.

10       **72.** If it is determined that Defendant's Deed of Trust has been extinguished by the  
11 HOA Sale, as a proximate result of HOA, HOA Trustee and fictitious Third-Party Defendants'  
12 wrongful foreclosure of the Property by the HOA Sale, Defendant has suffered special damages  
13 in the amount equal to the fair market value of the Property or the unpaid balance of the Gotera  
14 Loan, plus interest, at the time of the HOA Sale, whichever is greater.

15       **73.** Defendant has been required to retain counsel to prosecute this action and is  
16 entitled to recover reasonable attorney's fees to prosecute this action.

#### 17                                   **FOURTH CAUSE OF ACTION**

##### 18                   **(Negligence versus the HOA Trustee and the fictitious Third-Party Defendants)**

19       **74.** Defendant incorporates by reference the allegations of all previous paragraphs, as  
20 if fully set forth herein.

21       **75.** HOA, HOA Trustee, and fictitious Third-Party Defendants owed a duty to give  
22 Defendant, or its agents, servicers or predecessors in interest, the proper, adequate notice of the  
23 delinquent assessment, notice of default and election to sell and notice of sale, and the  
24 opportunity to cure the deficiency or default in the payment of the assessments required by  
25 Nevada statutes, the CC&R's and due process.

26       **76.** As set forth above and in the Factual Background, the HOA, HOA Trustee and  
27 fictitious Third-Party Defendants breached the duties owed to Defendant.

28       **77.** As a proximate result of HOA's and HOA Trustee's and the other Third-Party

Defendants' breaches of their duties, Defendant has incurred general and special damages in an amount in excess of \$10,000.00.

78. If Defendant is found to have lost its first secured interest in the Property, it was the proximate result of HOA's and HOA Trustee's and the other Third-Party Defendants' breach of their duties, and Defendant has thereby suffered general and special damages in an amount in excess of \$10,000.00.

79. Defendant has been required to retain counsel to prosecute this action and is entitled to recover reasonable attorney's fees to prosecute this action.

### FIFTH CAUSE OF ACTION

**(Negligence Per Se versus the HOA Trustee and the fictitious Third-Party Defendants)**

80. Defendant incorporates by reference the allegations of all previous paragraphs, as if fully set forth herein.

**81.** NRS Chapter 116 imposes a duty on HOAs to conduct their foreclosure sales in a manner that is consistent with their provisions.

**82.** The HOA and HOA Trustee, and the other Third-Party Defendants, violated the provisions of NRS Chapter 116.

83. Defendant is a member of the class of persons whom NRS Chapter 116 is intended to protect.

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

85. As set forth above and in the Factual Background, the HOA, HOA Trustee and fictitious Third-Party Defendants breached the duties owed to Defendant.

**86.** As a proximate result of HOA's and HOA Trustee's and the other Third-Party Defendants' breaches of their statutory duties, Defendant has incurred general and special damages in an amount in excess of \$10,000.00.

87. If Defendant is found to have lost its first secured interest in the Property, it was the proximate result of HOA's and HOA Trustee's and the other Third-Party Defendants' breach



1 of their statutory duties, and Defendant has thereby suffered general and special damages in an  
2 amount in excess of \$10,000.00.

3       **88.** Defendant has been required to retain counsel to prosecute this action and is  
4 entitled to recover reasonable attorney's fees to prosecute this action.

5                                   **SIXTH CAUSE OF ACTION**

6       **(Unjust Enrichment versus Buyer, HOA Trustee, and fictitious Third-Party Defendants)**

7       **89.** Defendant incorporates and re-alleges all previous paragraphs, as if fully set forth  
8 herein.

9       **90.** Defendant, or its predecessor, has been deprived of the benefit of its secured deed  
10 of trust by the actions of Buyer, HOA Trustee, and fictitious Third-Party Defendants.

11       **91.** Buyer, HOA Trustee, and fictitious Third-Party Defendants have benefitted from  
12 the unlawful HOA Sale and nature of the real property.

13       **92.** Buyer, HOA Trustee, and fictitious Third-Party Defendants have benefitted from  
14 Defendant's payment of taxes, insurance or homeowner's association assessments since the time  
15 of the HOA Sale.

16       **93.** Should Defendant's Counterclaim/Third-Party Complaint be successful in  
17 quieting title against Buyer and HOA Trustee and setting aside the HOA Sale, Buyer, HOA  
18 Trustee, and fictitious Third-Party Defendants will have been unjustly enriched by the HOA Sale  
19 and usage of the Property.

20       **94.** Defendant will have suffered damages if Buyer, HOA Trustee, and fictitious  
21 Third-Party Defendants are allowed to retain their interests in the Property and the funds  
22 received from the HOA Sale.

23       **95.** Defendant will have suffered damages if Buyer, HOA Trustee, and fictitious  
24 Third-Party Defendants are allowed to retain their interests in the Property and Defendant's  
25 payment of taxes, insurance or homeowner's association assessments since the time of the HOA  
26 Sale.

27       **96.** Defendant is entitled to general and special damages in excess of \$10,000.00.

28       **97.** Defendant has furthermore been required to retain counsel and is entitled to

1 recover reasonable attorney's fees for having brought the underlying action.

2 **SEVENTH CAUSE OF ACTION**

3 **(Breach of the Covenant of Good Faith and Fair Dealing versus HOA Trustee and**  
4 **the fictitious Third-Party Defendants)**

5 **98.** Defendant incorporates by reference the allegations of all previous paragraphs, as  
6 if fully set forth herein.

7 **99.** Implicit in every contract in the state of Nevada is an implied covenant of good  
8 faith and fair dealing.

9 **100.** Defendant was an intended beneficiary of the HOA's CC&Rs.

10 **101.** HOA, HOA Trustee, and fictitious Third-Party Defendants breached the duties,  
11 obligations, promises, covenants and conditions, express and implied, in the CC&Rs owed to  
12 Defendant by the circumstances under which they conducted the HOA Sale of the Property and  
13 failed to act in good faith.

14 **102.** HOA, HOA Trustee, and fictitious Third-Party Defendants' acts and omissions  
15 proximately caused Defendant general and special damages in an amount in excess of  
16 \$10,000.00.

17 **103.** Defendant has been required to retain counsel to prosecute this action and is  
18 entitled to recover reasonable attorney's fees to prosecute this action.

19 **PRAYER**

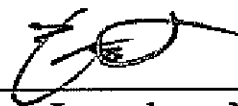
20 Wherefore, Defendant prays for judgment against the Counter-Defendants/Third-Party  
21 Defendants, jointly and severally, as follows:

- 22 1. For a declaration and determination that the HOA Sale was invalid to the extent it  
23 purports to convey the Property free and clear to Buyer;
- 24 2. For a declaration and determination that Defendant's interest still encumbers the  
25 Property, and that Defendant's first Deed of Trust was not extinguished by the  
26 HOA Sale;
- 27 3. For a declaration and determination that Defendant's interest is superior to the  
28 interest of Buyer and all other parties;

4. In the alternative, for a declaration and determination that the HOA Sale was invalid and conveyed no legitimate interest to Buyer;
5. For a preliminary and permanent injunction that Buyer, its successors, assigns, and agents are prohibited from conducting any sale, transfer or encumbrance of the Property that is claimed to be superior to Defendant's Deed of Trust or not subject to that Deed of Trust;
6. For a preliminary injunction that Buyer, its successors, assigns, and agents be required to pay all taxes, insurance and homeowner's association dues during the pendency of this action.
7. If it is determined that Defendant's Deed of Trust has been extinguished by the HOA Sale, for special damages in the amount of the fair market value of the Property or the unpaid balance of the Gotera Loan and Deed of Trust, at the time of the HOA Sale, whichever is greater;
8. For general and special damages in excess of \$10,000.00;
9. For attorney's fees;
10. For costs incurred herein, including post-judgment costs;

DATED this 18 day of August, 2015.

WRIGHT, FINLAY & ZAK, LLP



Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Paterno C. Jurani, Esq.

Nevada Bar No. 8136

7785 West Sahara Avenue, Suite 200

Las Vegas, Nevada 89117

*Attorneys for Defendant, Nationstar Mortgage, LLC  
and Defendant/Counterclaimant/Third-Party*

*Defendant U.S. Bank, National Association, as  
Trustee for the Certificateholders of the LXS 2006-  
4N Trust Fund, erroneously pled as U.S. Bank, N.A.*

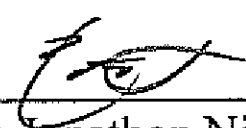
**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **U.S. BANK, N.A.'S ANSWER, COUNTERCLAIM, AND THIRD-PARTY COMPLAINT** filed in Case No. A-14-705563-C **does not** contain the social security number of any person.

DATED this 18 day of August, 2015.

WRIGHT, FINLAY & ZAK, LLP

  
\_\_\_\_\_  
Dana Jonathon Nitz, Esq.  
Nevada Bar No. 0050  
Paterno C. Jurani, Esq.  
Nevada Bar No. 8136  
7785 West Sahara Avenue, Suite 200  
Las Vegas, Nevada 89117  
*Attorneys for Defendant, Nationstar Mortgage, LLC  
and Defendant/Counterclaimant/Third-Party  
Defendant U.S. Bank, National Association, as  
Trustee for the Certificateholders of the LXS 2006-  
4N Trust Fund, erroneously pled as U.S. Bank, N.A.*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 10<sup>th</sup> day of August, 2015, I did cause a true copy of U.S. BANK, N.A.'S **ANSWER, COUNTERCLAIM, AND THIRD-PARTY COMPLAINT** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9.

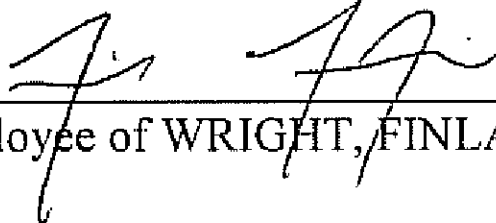
**Alessi & Koenig**

**Contact**

A&K eserve

**Email**


[eserve@alessikoenig.com](mailto:eserve@alessikoenig.com)

  
An Employee of WRIGHT, FINLAY & ZAK, LLP

## **Exhibit 1**

## **Exhibit 1**

## **Exhibit 1**

  
20051121-0005566

RECORDING REQUESTED BY:  
Fidelity National Title Agency of Nevada  
Escrow No. 05-191253-TH  
Title Order No. 00191253

When Recorded Mail Document  
and Tax Statement To:

Ms. Magnolia Gotera

1090 Twin Creeks Drive  
Salinas, CA. 93905

RPTT: 2,728.50  
APN: 163-30-312-007

Fee: \$15.00 RPTT: \$2,728.50  
N/C Fee: \$0.00

11/21/2005 14:38:39  
T20050211957

Requestor:  
FIDELITY NATIONAL TITLE

Frances Deane JSB  
Clark County Recorder Pgs: 2

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That Wei Hong Yang, An Unmarried Woman

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do(es) hereby Grant,  
Bargain, Sell and

Convey to Magnolia Gotera, A Single Woman

all that real property situated in the Clark County, State of Nevada, bounded and described as follows:

Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as shown by map thereof on file in Book  
102 of Plats, Page 28 in the Office of the County Recorder of Clark County, Nevada.

SUBJECT TO: 1. Taxes for the fiscal year 2005-06  
2. Covenants, Conditions, Reservations, Rights, Rights of Way and Easements  
now of record.

Together with all and singular tenements, hereditaments and appurtenances thereunto belonging or  
in anywise appertaining.

DATED: November 14, 2005

STATE OF NEVADA  
COUNTY OF Clark

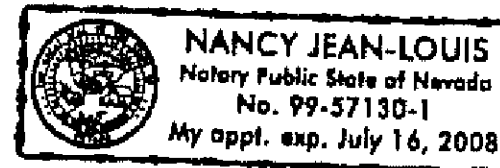
This instrument was acknowledged before me  
on November 14, 2005

by Wei Hong Yang

Signature Nancy Jean-Louis  
Notary Public

My Commission Expires: 7/16/08

Wei Hong Yang  
Wei Hong Yang



## STATE OF NEVADA DECLARATION OF VALUE

## 1. Assessor Parcel Number(s)

- a) 163-30-312-007  
 b) \_\_\_\_\_  
 c) \_\_\_\_\_  
 d) \_\_\_\_\_

## 2. Type of Property:

- a) ☐ Vacant Land      b) ☒ Single Fam. Res. 27  
 c) ☐ Condo/Twnhse      d) ☐ 2 - 4 Plex  
 e) ☐ Apt. Bldg.      f) ☐ Comm'l/Ind'l  
 g) ☐ Agricultural      h) ☐ Mobile Home  
☐ Other \_\_\_\_\_

## FOR RECORDER'S OPTIONAL USE ONLY

Document/Instrument #: \_\_\_\_\_  
 Book: \_\_\_\_\_ Page: \_\_\_\_\_  
 Date of Recording: \_\_\_\_\_  
 Notes: \_\_\_\_\_

3. Total Value/Sales Price of the Property \$ 535,000.00  
 Deed in Lieu of Foreclosure Only (Value of Property) ( \_\_\_\_\_ )  
 Transfer Tax Value: \$ 535,000.00  
 Real Property Transfer Tax Due \$ 2,728.50

## 4. If Exemption Claimed:

- a. Transfer Tax Exemption per NRS 375.090. Section 0  
 b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Wei Hong Yang Capacity Grantor

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

**SELLER (GRANTOR) INFORMATION**  
(REQUIRED)

**BUYER (GRANTEE) INFORMATION**  
(REQUIRED)

Print Name: Wei Hong YangPrint Name: Magnolia GoteraAddress: 7201 Mission Hill Dr. Address: 1090 Twin Creeks Dr.City, State, Zip: Las Vegas NV 89103 City, State, Zip: Salinas, CA 93905

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: Fidelity National Title Agency of Nevada Escrow #: 05-191253-THAddress: 5597 W. Spring Mountain RoadCity, State and Zip: Las Vegas, NV 89102

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

(declval.wpd)(04-05)



## **Exhibit 2**

## **Exhibit 2**

## **Exhibit 2**



20051121-0005567

Assessor's Parcel Number:  
16330312007  
After Recording Return To:  
COUNTRYWIDE HOME LOANS, INC.

Fee: \$39.00  
N/C Fee: \$0.00

11/21/2005 14:38:39  
T20050211957

Requestor:  
FIDELITY NATIONAL TITLE

Frances Deane JSB  
Clark County Recorder Pgs: 26

MS SV-79 DOCUMENT PROCESSING  
P.O.Box 10423  
Van Nuys, CA 91410-0423  
Prepared By:  
APRIL MESA  
Recording Requested By:  
J. KEPHART

COUNTRYWIDE HOME LOANS, INC.

650 WHITE DRIVE, STE 280  
LAS VEGAS  
NV 89119

[Space Above This Line For Recording Data]

0519191253 00012143406811005  
[Escrow/Closing #] [Doc ID #]

**DEED OF TRUST**

MIN 1000157-0006127350-0


**DEFINITIONS**

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

(A) "Security Instrument" means this document, which is dated NOVEMBER 10, 2005 , together with all Riders to this document.

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

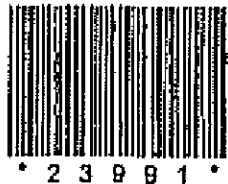
Page 1 of 16

 -6A(NV) (0307) CHL (07/03)(d)

VMP Mortgage Solutions - (800)521-7291

Initials: 

Form 3029 1/01



\* 2 3 9 9 1 \*



\* 1 2 1 4 3 4 0 6 8 0 0 0 0 1 0 0 6 A \*

DOC ID #: 00012143406811005

(B) "Borrower" is  
MAGNOLIA GOTERA, A SINGLE WOMAN

Borrower is the trustor under this Security Instrument.  
(C) "Lender" is  
COUNTRYWIDE HOME LOANS, INC.

Lender is a  
CORPORATION

organized and existing under the laws of NEW YORK  
P.O. Box 10219  
Van Nuys, CA 91410-0219  
(D) "Trustee" is  
CTC REAL ESTATE SERVICES

Lender's address is

400 COUNTRYWIDE WAY, MSN SV-88, SIMI VALLEY, CA 93065 , ,

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

(F) "Note" means the promissory note signed by Borrower and dated NOVEMBER 10, 2005 .  
The Note states that Borrower owes Lender  
FIVE HUNDRED EIGHT THOUSAND TWO HUNDRED FIFTY and 00/100

Dollars (U.S. \$ 508,250.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than DECEMBER 01, 2035 .

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


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

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

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

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

Initials: CL

 -6A(NV) (0307) CHL (07/03)

Page 2 of 16

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

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

#### TRANSFER OF RIGHTS IN THE PROPERTY

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

VMP-6A(NV) (0307) CHL (07/03)

Page 3 of 16

Initials: 

Form 3029 1/01

DOC ID #: 00012143406811005

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

[Type of Recording Jurisdiction]

CLARK :

[Name of Recording Jurisdiction]

LOT 7 IN BLOCK 1 OF FINAL MAP OF SECTION 30 R2-60/70 NO. 5,  
AS SHOWN BY MAP THEREOF ON FILE IN BOOK 102 OF PLATS, PAGE 28  
IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.  
ASSESSOR'S PARCEL NO: 163-30-312-007

which currently has the address of

5327 MARSH BUTTE STREET, LAS VEGAS

[Street/City]

Nevada 89148-4669 ("Property Address"):

[Zip Code]

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

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

VMP -6A(NV) (0307) CHL (07/03)

Page 4 of 16

Initials: 

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

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

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials:      
Form 3029 1/01

VMP -6A(NV) (0307) CHL (07/03)

Page 6 of 16

DOC ID #: 00012143406811005

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

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

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

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

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

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

Initials:       
Form 3029 1/01

VMP -6A(NV) (0307) CHL (07/03)

Page 7 of 16



DOC ID #: 00012143406811005

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

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

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

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

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

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

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

VMP-6A(NV) (0307) CHL (07/03)

Page 8 of 16

Initials: 

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials 

VMP-5A(NV) (0307) CHL (07/03)

Page 9 of 16

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

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

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

Initials: 

Form 3029 1/01

VMP -5A(NV) (0307) CHL (07/03)

Page 10 of 16

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials: 

VME -6A(NV) (0307) CHL (07/03)

Page 11 of 16

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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


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

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

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

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

Initials   
Form 3029 1/01

 -6A(NV) (0307) CHL (07/03)

Page 12 of 16

DOC ID #: 00012143406811005

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

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


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

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

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

VMP -5A(NV) (0307) CHL (07/03)

Page 13 of 16

 Initials   
 Form 3029 1/01

DOC ID #: 000121434068

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

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

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

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

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

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

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

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



-5A(NV) (0307) CHL (07/03)

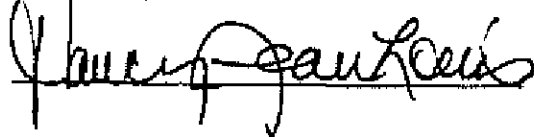
Page 14 of 16

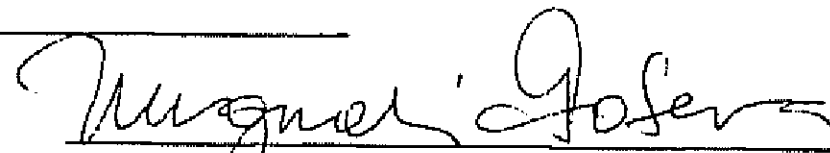
 Initials             
 Form 3029 1/01

DOC ID #: 00012143406811005

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

Witnesses:



  
MAGNOLIA GOTERA

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower



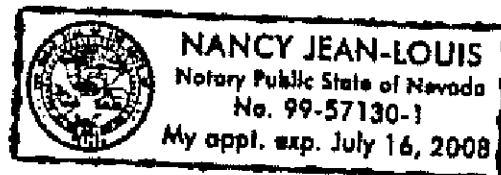
DOC ID #: 00012143406811005

STATE OF NEVADA  
COUNTY OF

*Clark*

This instrument was acknowledged before me on November 15, 2005 by

*Magnolia Gotera*



*Nancy Jean-Louis*

Mail Tax Statements To:  
TAX DEPARTMENT SV3-24

450 American Street  
Simi Valley CA, 93065

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

0519191253                      00012143406811005  
[Escrow/Closing #]                      [Doc ID #]

THIS ADJUSTABLE RATE RIDER is made this Tenth day of  
NOVEMBER, 2005, and is incorporated into and shall be deemed to amend and supplement  
the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by  
the undersigned ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to  
COUNTRYWIDE HOME LOANS, INC.

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

5327 MARSH BUTTE STREET  
LAS VEGAS, NV 89148-4669  
[Property Address]

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

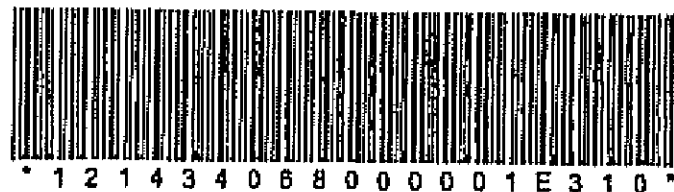
**ADDITIONAL COVENANTS:** In addition to the covenants and agreements made in the Security  
Instrument, Borrower and Lender further covenant and agrees as follows:

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

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

▪ PayOption MTA ARM Rider  
1E310-XX (12/04)(d)

Page 1 of 6



DOC ID #: 0001214340681

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

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 3.000 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7(B) of the Note.

**(B) Interest Rate Change Dates**

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

**(C) Index**

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

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

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

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE & 75/1000 percentage point(s) ( 3.075 %) ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

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

I will make a payment every month.

I will make my monthly payments on the FIRST day of each month beginning on January, 2006. I will make these payments every month until I have paid all the Principal and interest and any other charges described below that I may owe under the Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on DECEMBER 01, 2035, I still owe amounts under the Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 2 of 6

DOC ID #: 00012143406811005

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

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

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

Each of my initial monthly payments until the first Payment Change Date will be in the amount of  
U.S. \$ 2,142.80 , unless adjusted under Section 3 (F).

**(C) Payment Change Dates**

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

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

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

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of  
the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe  
at the Payment Change Date in full on the maturity date in substantially equal payments at the interest  
rate effective during the month preceding the Payment Change Date. The result of this calculation is  
called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment  
effective on a Payment Change Date, will not increase by more than 7.5% of my prior monthly  
payment. This 7.5% limitation is called the "Payment Cap." This Payment Cap applies only to the  
Principal and interest payment and does not apply to any escrow payments Lender may require under  
the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my  
Minimum Payment due the month preceding the Payment Change Date and multiplying it by the  
number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or  
3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the  
Limited Payment and the Full Payment. I also have the option to pay the Full Payment for my monthly  
payment.

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 3 of 6

DOC ID #: 00012143406811005

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

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

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

My unpaid Principal can never exceed the Maximum Limit equal to ONE HUNDRED FIFTEEN percent ( 115 %) of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the 7.5% Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

**(G) Required Full Payment**

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

**(H) Payment Options**

After the first Interest Rate Change Date, Lender may provide me with up to three (3) additional payment options that are **greater** than the Minimum Payment, which are called "Payment Options." I may be given the following Payment Options;

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

(ii) **Fully Amortized Payment:** the amount necessary to pay the loan off (Principal and interest) at the Maturity Date in substantially equal payments.

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

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 4 of 6

DOC ID #: 00012143406811005

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

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

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

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

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

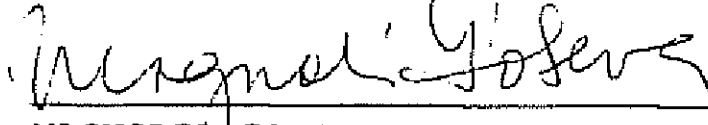
To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements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

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

DOC ID #: 00012143406811005

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

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



MAGNOLIA GOTERA

-Borrower

-Borrower

-Borrower

-Borrower

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 6 of 6

**PLANNED UNIT DEVELOPMENT RIDER**

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

PARCEL ID #:  
16330312007

Prepared By:  
APRIL MESA

0519191253  
[Escrow/Closing #]

00012143406811005  
[Doc ID #]

THIS PLANNED UNIT DEVELOPMENT RIDER is made this TENTH day of  
NOVEMBER, 2005, and is incorporated into and shall be deemed to amend and supplement the  
Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the

**MULTISTATE PUD RIDER - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT**

 -7R (0411)

CHL (11/04)(d)

Page 1 of 4

Initials 

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

Form 3150 1/01





DOC ID #: 00012143406811005

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

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

5327 MARSH BUTTE STREET  
LAS VEGAS, NV 89148-4669  
[Property Address]

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

(the "Declaration"). The Property is a part of a planned unit development known as  
SPRING VALLEY SECTION 30

[Name of Planned Unit Development]

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

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

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

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

Initials  -7R (0411)

CHL (11/04)

Page 2 of 4

Form 3150 1/01

DOC ID #: 00012143406811005

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

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


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


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

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

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

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

Initials   
Form 3150 1/01

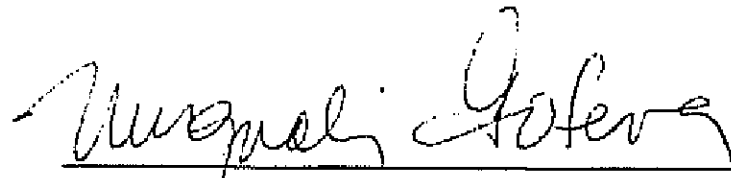
 -7R (0411)

CHL (11/04)

Page 3 of 4

DOC ID #: 00012143406811005

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



MAGNOLIA GOTERA

(Seal)  
- Borrower

(Seal)  
- Borrower

(Seal)  
- Borrower

(Seal)  
- Borrower

## **Exhibit 3**

## **Exhibit 3**

## **Exhibit 3**

When Recorded mail Document  
and tax statement to:  
JBWNO revocable living trust  
5327 Marsh Butte St.  
Las Vegas, NV 89148

Q (A) - 1

Inst #: 201105270004010  
Fees: \$16.00 N/C Fee: \$25.00  
RPTT: \$0.00 Ex: #007  
05/27/2011 04:12:48 PM  
Receipt #: 792751  
Requestor:  
STACY MOORE  
Recorded By: SQL Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN: 163-30-312-007

---

## GRANT DEED

STATE OF NEVADA                    )  
  )ss  
COUNTY OF CLARK                 )

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Ten Dollars and zero Cents ( \$10.00 ) in hand paid to Gotera Magnolia (hereinafter called the Grantor), the receipt of whereof is hereby acknowledged, the Grantor, Gotera Magnolia hereby RELEASES, QUITCLAIMS, GRANTS, SELLS, AND CONVEYS to JBWNO revocable living trust, JBWNO revocable living trust, (hereinafter called Grantee), all of the Grantors' right, title, interest, and claim in or to the following described real estate, situated in Clark County, Nevada, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED:

State of Nevada

County of Clark

I hereby certify that Magnolia Gotera whose name(s)  
are/is signed to the foregoing conveyance, and are known to me  
(or provided to me on the basis of Satisfactory evidence),  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, they executed the same voluntarily on  
the day the same bears date.

Magnolia Gotera  
Grantor

On May 27, 2011 before me,

Magnolia Gotera  
(here insert name and title of the officer)

WITNESS my hand and official seal. May 27, 2011

Signature



Chelsea Goldman, Notary Public

MAIL TAX STATEMENTS AS DIRECTED ABOVE

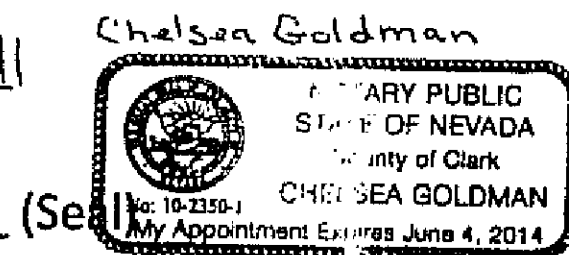


Exhibit A

Legal description as recorded on document number  
20051121-0005566

Also known as:

APN: 163-30-312-007

5327 MARSH BUTTE ST  
LAS VEGAS, NV 89148

Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as  
shown by map thereof on file in Book 102 of Plats, Page 28 in the  
Office of the County Recorder of Clark County, Nevada

**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

**1. Assessor Parcel Number(s)**

a. 163-30-312-007  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

**2. Type of Property:**

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

**FOR RECORDER'S OPTIONAL USE ONLY**

Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: \_\_\_\_\_

3. a. Total Value/Sales Price of Property \$ 0  
b. Deed in Lieu of Foreclosure Only (value of property) ( )  
c. Transfer Tax Value: \$ 0  
d. Real Property Transfer Tax Due \$ 0

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section 7  
b. Explain Reason for Exemption: Transfer to or from a trust  
without consideration

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Kristin Jordal Capacity Trustee

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

**SELLER (GRANTOR) INFORMATION  
(REQUIRED)**

Print Name: Magnolia Gotera  
Address: 5327 Marsh Butte St.  
City: Las Vegas  
State: NV Zip: 89148

**BUYER (GRANTEE) INFORMATION  
(REQUIRED)**

Print Name: JBWNO revocable living  
Address: 5327 Marsh Butte St  
City: Las Vegas  
State: NV Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: \_\_\_\_\_ Escrow #: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

CCOR\_NV\_Form.pdf ~ 01/12/09



## **Exhibit 4**

## **Exhibit 4**

## **Exhibit 4**

When Recorded mail Document  
and tax statement to:  
Stacy Moore  
5327 Marsh Butte St.  
Las Vegas, NV 89148

② -1

Inst #: 201105270004011  
Fees: \$16.00 N/C Fee: \$0.00  
RPTT: \$0.00 Ex: #007  
05/27/2011 04:12:48 PM  
Receipt #: 792751  
Requestor:  
STACY MOORE  
Recorded By: SOL Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN: 163-30-312-007

---

## GRANT DEED

STATE OF NEVADA                    )  
  )ss  
COUNTY OF CLARK                 )

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Ten Dollars and zero Cents ( \$10.00 ) in hand paid to JBWNO revocable living trust (hereinafter called the Grantor), the receipt of whereof is hereby acknowledged, the Grantor, JBWNO revocable living trust hereby RELEASES, QUITCLAIMS, GRANTS, SELLS, AND CONVEYS to Stacy Moore, Stacy Moore, (hereinafter called Grantee), all of the Grantors' right, title, interest, and claim in or to the following described real estate, situated in Clark County, Nevada, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Exhibit A

Legal description as recorded on document number  
20051121-0005566

Also known as:

APN: 163-30-312-007

5327 MARSH BUTTE ST  
LAS VEGAS, NV 89148

Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as  
shown by map thereof on file in Book 102 of Plats, Page 28 in the  
Office of the County Recorder of Clark County, Nevada

DATED:

State of Nevada

County of Clark

I hereby certify that Kristin Jordal whose name(s)  
are/is signed to the foregoing conveyance, and are known to me  
(or provided to me on the basis of Satisfactory evidence),  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, they executed the same voluntarily on  
the day the same bears date.

Kristin Jordal  
Kristin Jordal  
Grantor / Trustee

On MAY 27<sup>th</sup>, 2011 before me,

Kristin Jordal - Trustee  
(here insert name and title of the officer)

WITNESS my hand and official seal.

Signature

MAIL TAX STATEMENTS AS DIRECTED ABOVE



(Seal)

Exp 3-14-14  
Cert No 10-1531-1

**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

**1. Assessor Parcel Number(s)**

a. 163-30-312-007  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

**2. Type of Property:**

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

**FOR RECORDER'S OPTIONAL USE ONLY**  
Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: \_\_\_\_\_

3. a. Total Value/Sales Price of Property \$ 0  
b. Deed in Lieu of Foreclosure Only (value of property) ( \_\_\_\_\_ )  
c. Transfer Tax Value: \$ 0  
d. Real Property Transfer Tax Due \$ 0

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section 7  
b. Explain Reason for Exemption: Transfer to or from a trust  
without consideration

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Kristin Jordal Capacity Trustee

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

**SELLER (GRANTOR) INFORMATION**  
**(REQUIRED)**

Print Name: JBWNO revocable living trust  
Address: 5327 Marsh Butte St  
City: Las Vegas  
State: NV Zip: 89148

**BUYER (GRANTEE) INFORMATION**  
**(REQUIRED)**

Print Name: Stacy Moore  
Address: 5327 Marsh Butte St.  
City: Las Vegas  
State: NV Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: \_\_\_\_\_ Escrow #: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

CCOR\_DV\_Form.pdf ~ 01/12/09

## **Exhibit 5**

## **Exhibit 5**

## **Exhibit 5**

Recording Requested By:  
Bank of America  
Prepared By: Cecilia Rodriguez  
888-603-9011  
When recorded mail to:  
CoreLogic  
450 E. Boundary St.  
Attn: Release Dept.  
Chapin, SC 29036



DocID# 14612143406815262

Tax ID: 163-30-312-007

Property Address:

5327 Marsh Butte St

Las Vegas, NV 89148-4669

NV0-ADT 14727720 10/26/2011

Inst #: 201111020000754

Fees: \$18.00

N/C Fee: \$25.00

11/02/2011 08:02:44 AM

Receipt #: 965446

Requestor:

CORELOGIC

Recorded By: MSH Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

This space for Recorder's use

MIN #: 1000157-0006127350-0

MERS Phone #: 888-679-6377

**ASSIGNMENT OF DEED OF TRUST**

For Value Received, the undersigned holder of a Deed of Trust (herein "Assignor") whose address is 3300 S.W. 34th Avenue, Suite 101 Ocala, FL 34474 does hereby grant, sell, assign, transfer and convey unto U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE LXS 2006-4N TRUST FUND whose address is 10350 PARK MEADOWS DR, LITTLETON, CO 80124 all beneficial interest under that certain Deed of Trust described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Deed of Trust.

Original Lender: COUNTRYWIDE HOME LOANS, INC.

Made By: MAGNOLIA GOTERA, A SINGLE WOMAN

Trustee: CTC REAL ESTATE SERVICES

Date of Deed of Trust: 11/10/2005 Original Loan Amount: \$508,250.00

Recorded in Clark County,NV on: 11/21/2005, book N/A, page N/A and instrument number 20051121-0005567

I the undersigned hereby affirm that this document submitted for recording does not contain the social security number of any person or persons.

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Deed of Trust to be executed on

10/27/11

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.

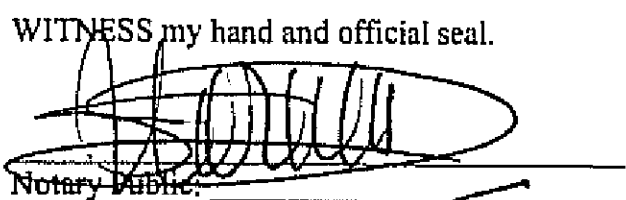
By: Christopher Herrera Assistant Secretary

State of California  
County of Ventura

On 10-27-2011 before me, Norma Rojas, Notary Public, personally appeared Christopher Herrera, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

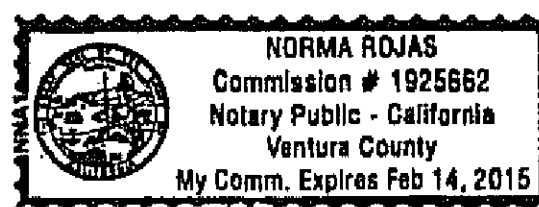
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(Seal)



DocID# 14612143406815262



## **Exhibit 6**

## **Exhibit 6**

## **Exhibit 6**

Recording Requested By:  
Bank of America, N.A.  
Prepared By: Marcus Jones

When recorded mail to:  
CoreLogic  
Mail Stop: ASGN  
1 CoreLogic Drive  
Westlake, TX 76262-9823



DocID# 18712143406842077

Tax ID: 163-30-312-007

Property Address:  
5327 Marsh Butte St  
Las Vegas, NV 89148-4669

NVD-ADT 26012666 7/1/2013 N50630A

Inst #: 201310010002401

Fees: \$18.00

N/C Fee: \$0.00

10/01/2013 01:29:41 PM

Receipt #: 1794477

Requestor:

CORELOGIC

Recorded By: MSH Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

This space for Recorder's use

### ASSIGNMENT OF DEED OF TRUST

For Value Received, the undersigned holder of a Deed of Trust (herein "Assignor") whose address is 1800 TAPO CANYON ROAD, SIMI VALLEY, CA 93063 does hereby grant, sell, assign, transfer and convey unto NATIONSTAR MORTGAGE, LLC whose address is 350 HIGHLAND DRIVE, LEWISVILLE, TX 75067 all beneficial interest under that certain Deed of Trust described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Deed of Trust.

Original Lender: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE  
FOR COUNTRYWIDE HOME LOANS, INC.

Made By: MAGNOLIA GOTERA, A SINGLE WOMAN

Trustee: CTC REAL ESTATE SERVICES

Date of Deed of Trust: 11/10/2005 Original Loan Amount: \$508,250.00

Recorded in Clark County, NV on: 11/21/2005, book N/A, page N/A and instrument number 20051121-0005567

I the undersigned hereby affirm that this document submitted for recording does not contain the social security number of any person or persons.

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Deed of Trust to be executed on

7/1/13

Bank of America, N.A.

By:

Kathleen Loera

Assistant Vice President

State of TX, County of DALLAS

On JUL 01 2013, before me, Wilayat Ali Sajjani, a Notary Public, personally appeared Kathleen Loera, Assistant Vice President of Bank of America, N.A. personally known to me to be the person(s) whose name(s) is are subscribed to the within document and acknowledged to me that he she they executed the same in his her their authorized capacity(ies), and that by his her their signature(s) on the document the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

  
Notary Public: Wilayat Ali Sajjani  
My Commission Expires: 10-03-2016



---

DocID# 18712143406842077

## **Exhibit 7**

## **Exhibit 7**

## **Exhibit 7**


  
20080507-0001731

When recorded return to:

ALESSI TRUSTEE CORPORATION  
9500 W. Flamingo Rd., Suite 100  
Las Vegas, Nevada 89147  
Phone: (702) 222-4033

www.alessitrustee.com

UN

Fee: \$14.00

N/C Fee: \$0.00

05/07/2008 12:02:42

T20080081618

Requestor:

NORTH AMERICAN TITLE COMPANY

Debbie Conway JJF

Clark County Recorder Pgs: 1

A.P.N. 163-30-312-007

Trustee Sale # SMR-5327-N

## NOTICE OF DELINQUENT ASSESSMENT (LIEN)

In accordance with Nevada Revised Statutes and the Association's Declaration of Covenants, Conditions and Restrictions (CC&Rs) recorded on **Pending**, as Instrument No: **pending**, of the official records of Clark County, Nevada, **Shadow Mountain Ranch HOA** has a lien on the following legally described property.

The property against which the lien is imposed is commonly referred to as **5327 Marsh Butte St. , Las Vegas, NV 89148** and more particularly legally described as: **Lot 7 Block 1 Book 102 Page 28** in the County of Clark.

The owner(s) of record as reflected on the public record as of today's date is (are): **Magnolia Gotera**

The mailing address(es) is: **1090 Twin Creeks Dr., Salinas, CA 93905**

The total amount due through today's date is: **\$957.00**. Of this total amount **\$570.00** represent Collection and/or Attorney fees and **\$50.00** represent collection costs, late fees, service charges and interest. Note: Additional monies shall accrue under this claim at the rate of the claimant's regular monthly or special assessments, plus permissible late charges, costs of collection and interest, accruing subsequent to the date of this notice.

Date: April 15, 2008

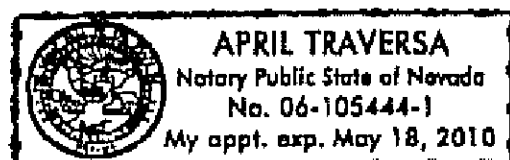
By:

Aileen Ruiz – Trustee Sale Officer

Alessi Trustee Corporation, on behalf of Shadow Mountain Ranch

SUBSCRIBED and SWORN before me April 15, 2008

(Seal)



(Signature)


  
NOTARY PUBLIC

## **Exhibit 8**

## **Exhibit 8**

## **Exhibit 8**



When recorded mail to:

**THE ALESSI TRUSTEE CORPORATION**  
9500 West Flamingo Rd., Ste 100  
Las Vegas, Nevada 89147  
Phone: 702-222-4033

[WWW.ALESSITRUSTEE.COM](http://WWW.ALESSITRUSTEE.COM)

07872

A.P.N. 163-30-312-007

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Fee: \$14.00**

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

07/23/2008 11:17:47

T20080152397

**Requestor :**

NORTH AMERICAN TITLE COMPANY

Debbie Conway JLB

Clark County Recorder Pgs: 1

Trustee Sale No. SMR-5327-N

**NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN**

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!** You may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default is recorded. The date of recordation appears on this notice. The amount due is **\$1,929.00** as of **6/21/2008** and will increase until your account becomes current. To arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact: **Shadow Mountain Ranch, c/o Alessi Trustee Corp., 9500 West Flamingo Road, Suite 100, Las Vegas, NV 89147.**

## Certificate

THIS NOTICE pursuant to that certain Assessment Lien, recorded on May 7, 2008 as document number 20080507-01731, of Official Records in the County of Clark, State of Nevada.

Owner(s): Magnolia Gotera

Of Lot 7 Block 1, as per map recorded in Book 102, Pages 28, as shown on the Condominium Plan, Recorded on as document number **pending** as shown on the Subdivision map recorded in Maps of the County of Clark, State of Nevada.

PROPERTY ADDRESS: 5327 Marsh Butte St., Las Vegas, NV 89148

If you have any questions, you should contact an attorney or the Association that maintains the right of assessment upon your property. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. **REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

NOTICE IS HEREBY GIVEN THAT The Alessi Trustee Corporation is appointed trustee agent under the above referenced lien, dated May 7, 2008, executed by Shadow Mountain Ranch to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions. A breach of, and default in, the obligation for which said Covenants, Conditions, and Restrictions as security has occurred in that the payment(s) have not been made of homeowners assessments due from and all subsequent homeowner's assessments, monthly or otherwise, less credits and offsets, plus late charges, interest, Association's fees and costs, trustee's fees and costs, and attorney's fees and costs.

**Dated: June 21, 2008**

April Traversa, Alessi Trustec Corporation on behalf of Shadow Mountain Ranch.

## **Exhibit 9**

## **Exhibit 9**

## **Exhibit 9**



  
20090430-0003136

Fee: \$14.00

N/C Fee: \$0.00

04/30/2009

12:43:36

T20090150302

Requestor:

JUNES LEGAL SERVICES

Debbie Conway

OSA

Clark County Recorder Pgs: 1

When recorded mail to:

THE ALESSI & KOENIG, LLC  
9500 West Flamingo Rd., Ste 100  
Las Vegas, Nevada 89147  
Phone: 702-222-4033

A.P.N. 163-30-312-007

Trustee Sale No. SMR-5327-N

## NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!** You may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default is recorded. The date of recordation appears on this notice. The amount due is **\$2,150.00** as of **April 14, 2009** and will increase until your account becomes current. To arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact: **Shadow Mountain Ranch**, c/o Alessi & Koenig, LLC, 9500 West Flamingo Road, Suite 100, Las Vegas, NV 89147.

THIS NOTICE pursuant to that certain Assessment Lien, recorded on **May 7, 2008** as document number **20080507-01731**, of Official Records in the County of **Clark**, State of Nevada.

Owner(s): **Magnolia Gotera**

Of **Lot 7 Block 1**, as per map recorded in Book **102**, Pages **28**, as shown on the Condominium Plan, Recorded on as document number **pending** as shown on the Subdivision map recorded in Maps of the County of **Clark**, State of Nevada.


PROPERTY ADDRESS: **5327 Marsh Butte St., Las Vegas, NV 89148**

If you have any questions, you should contact an attorney or the Association that maintains the right of assessment upon your property. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

**REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

NOTICE IS HEREBY GIVEN THAT The Alessi & Koenig is appointed trustee agent under the above referenced lien, dated **May 7, 2008**, executed by **Shadow Mountain Ranch** to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions. A breach of, and default in, the obligation for which said Covenants, Conditions, and Restrictions as security has occurred in that the payment(s) have not been made of homeowners assessments due from and all subsequent homeowner's assessments, monthly or otherwise, less credits and offsets, plus late charges, interest, Association's fees and costs, trustee's fees and costs, and attorney's fees and costs.

Dated: **April 14, 2009**

  
Tiffany Echols, Alessi & Koenig, LLC on behalf of Shadow Mountain Ranch.

## **Exhibit 10**

## **Exhibit 10**

## **Exhibit 10**

Inst #: 201007010000190

Fees: \$14.00

N/C Fee: \$0.00

07/01/2010 08:33:21 AM

Receipt #: 409704

Requestor:

JUNES LEGAL SERVICES

Recorded By: DXI Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

When recorded mail to:

**THE ALESSI & KOENIG, LLC**  
9500 West Flamingo Rd., Ste 100  
Las Vegas, Nevada 89147  
Phone: 702-222-4033

A.P.N. 163-30-312-007

Trustee Sale No. SMR-5327-N

**NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN**

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!** You may have the right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default recorded, which appears on this notice. The amount due is **\$3,140.00** as of **June 28, 2010** and will increase until your account becomes current. To arrange for payment to stop the foreclosure, contact: **Shadow Mountain Ranch**, c/o Alessi & Koenig, 9500 W. Flamingo Rd, Ste 100, Las Vegas, NV 89147.

THIS NOTICE pursuant to that certain Assessment Lien, recorded on **May 7, 2008** as document number **20080507-01731**, of Official Records in the County of Clark, State of Nevada. Owner(s): **Magnolia Gotera**, of **Lot 7 Block 1**, as per map recorded in Book 102, Pages 28, as shown on the Condominium Plan, Recorded on as document number **pending** as shown on the Subdivision map recorded in Maps of the County of Clark, State of Nevada. **PROPERTY ADDRESS: 5327 Marsh Butte St., Las Vegas, NV 89148.** If you have any questions, you should contact an attorney. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. **REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.** NOTICE IS HEREBY GIVEN THAT The Alessi & Koenig is appointed trustee agent under the above referenced lien, dated **May 7, 2008**, executed by **Shadow Mountain Ranch** to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions (CC&Rs). A default in the obligation for which said CC&Rs has occurred in that the payment(s) have not been made of homeowners assessments due from and all subsequent assessments, late charges, interest, collection and/or attorney fees and costs.

Dated: **June 28, 2010**

---

Miro Jetic, Alessi & Koenig, LLC on behalf of **Shadow Mountain Ranch**

## **Exhibit 11**

## **Exhibit 11**

## **Exhibit 11**

When recorded mail to:  
Alessi & Koenig, LLC  
9500 West Flamingo Rd., Suite 100  
Las Vegas, NV 89147  
Phone: 702-222-4033

APN: 163-30-312-007

TSN SMR-5327-N

Inst #: 201101260002852

Fees: \$14.00

N/C Fee: \$0.00

01/26/2011 09:05:00 AM

Receipt #: 654197

Requestor:

ALESSI &amp; KOENIG LLC (JUNES

Recorded By: KXC Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

### NOTICE OF TRUSTEE'S SALE

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL The Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.**

**NOTICE IS HEREBY GIVEN THAT:**

On March 9, 2011, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on May 7, 2008, as instrument number 20080507-01731, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIERS CHECK at: 4:00 P.M. at 930 S. 4th Street, Las Vegas Nevada 89101.

The street address and other common designation, if any, of the real property described above is purported to be: 5327 Marsh Butte St., Las Vegas, NV 89148. The owner of the real property is purported to be: Magnolia Gotera

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made, without covenant or warranty, expressed or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of a note, homeowner's assessment or other obligation secured by this lien, with interest and other sum as provided therein: plus advances, if any, under the terms thereof and interest on such advances, plus fees, charges, expenses, of the Trustee and trust created by said lien. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$5,757.00. Payment must be in cash, a cashier's check drawn on a state or national bank, a check drawn by a state bank or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state.

Date: December 16, 2010



---

By: Branko Jettic on behalf of Shadow Mountain Ranch Community Association

## **Exhibit 12**

## **Exhibit 12**

## **Exhibit 12**

Inst #: 201209110002023  
Fees: \$17.00  
N/C Fee: \$0.00  
09/11/2012 08:05:52 AM  
Receipt #: 1302455  
Requestor:  
ALESSI & KOENIG LLC  
Recorded By: DXI Pgs: 1  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

When recorded return to:

ALESSI & KOENIG, LLC  
9500 W. Flamingo Rd., Suite 205  
Las Vegas, Nevada 89147  
Phone: (702) 222-4033

A.P.N. 163-30-312-007

Trustee Sale # SMR-5327-N

**NOTICE OF DELINQUENT ASSESSMENT (LIEN)**

In accordance with Nevada Revised Statutes and the Association's Declaration of Covenants, Conditions and Restrictions (CC&Rs) of the official records of **Clark County, Nevada, Shadow Mountain Ranch Community Association** has a lien on the following legally described property.


The property against which the lien is imposed is commonly referred to as **5327 Marsh Butte St., Las Vegas, NV 89148** and more particularly legally described as: **SECTION 30 R2-60 70 #5 Lot 7 Block 1 Book 102 Page 28** in the County of **Clark**.

The owner(s) of record as reflected on the public record as of today's date is (are): **STACY MOORE**

The mailing address(es) is: **5327 MARSH BUTTE ST, LAS VEGAS, NV 89148**

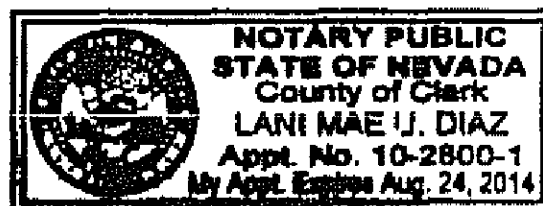
The total amount due through today's date is: **\$6,448.00**. Of this total amount **\$5,823.00** represent Collection and/or Attorney fees, assessments, interest, late fees and service charges. **\$625.00** represent collection costs. Note: Additional monies shall accrue under this claim at the rate of the claimant's regular monthly or special assessments, plus permissible late charges, costs of collection and interest, accruing subsequent to the date of this notice.

Date: **August 13, 2012**

By:   
Huong Lam, Esq. of Alessi & Koenig, LLC on behalf of **Shadow Mountain Ranch Community Association**

State of Nevada  
County of Clark  
SUBSCRIBED and SWORN before me August <sup>23</sup> 13, 2012

(Seal)



(Signature)

  
NOTARY PUBLIC

## **Exhibit 13**

## **Exhibit 13**

## **Exhibit 13**



Inst #: 201306130001804

Fees: \$17.00

N/C Fee: \$0.00

06/13/2013 08:48:38 AM

Receipt #: 1653904

Requestor:

ALESSI &amp; KOENIG LLC

Recorded By: RNS Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

When recorded mail to:

**THE ALESSI & KOENIG, LLC**  
9500 West Flamingo Rd., Ste 205  
Las Vegas, Nevada 89147  
Phone: 702-222-4033

A.P.N. 163-30-312-007

Trustee Sale No. 6601

**NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN**

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!** You may have the right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default recorded, which appears on this notice. The amount due is **\$6,631.41** as of the date of this notice and will increase until your account becomes current. To arrange for payment to stop the foreclosure, contact: **Shadow Mountain Ranch Community Association, c/o Alessi & Koenig, 9500 W. Flamingo Rd, Ste 205, Las Vegas, NV 89147, (702)222-4033.**

3

THIS NOTICE pursuant to that certain Notice of Delinquent Assessment Lien, recorded on **September 11, 2012** as document number **0002023**, of Official Records in the County of **Clark**, State of Nevada. Owner(s): **STACY MOORE**, of **SECTION 30 R2-60 70 #5 Lot 7 Block 1**, as per map recorded in Book **102**, Pages **28**, as shown on the Plan and Subdivision map recorded in the Maps of the County of **Clark**, State of Nevada. PROPERTY ADDRESS: **5327 MARSH BUTTE ST, LAS VEGAS, NV 89148-4669**. If you have any questions, you should contact an attorney. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. NOTICE IS HEREBY GIVEN THAT Alessi & Koenig, LLC is appointed trustee agent under the above referenced lien, dated **September 11, 2012**, on behalf of **Shadow Mountain Ranch Community Association** to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions (CC&Rs). A default in the obligation for which said CC&Rs has occurred in that the payment(s) have not been made of homeowners assessments due from **February 1, 2008** and all subsequent assessments, late charges, interest, collection and/or attorney fees and costs.

Dated:

JUN 03 2013



---

Huong Lam, Esq. of Alessi & Koenig, LLC on behalf of **Shadow Mountain Ranch Community Association**

## **Exhibit 14**

## **Exhibit 14**

## **Exhibit 14**

Inst #: 201307050000950

Fee: \$17.00

N/C Fee: \$0.00

07/05/2013 09:02:36 AM

Receipt #: 1681416

Requestor:

ALESSI &amp; KOENIG LLC

Recorded By: MAT Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

When recorded mail to:

THE ALESSI & KOENIG, LLC  
9500 West Flamingo Rd., Ste 205  
Las Vegas, Nevada 89147  
Phone: 702-222-4033

A.P.N. 163-30-312-007

Trustee Sale No. 6601

28

## NOTICE OF DEFAULT AND ELECTION TO SELL UNDER HOMEOWNERS ASSOCIATION LIEN

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!** You may have the right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account. The sale may not be set until ninety days from the date this notice of default recorded, which appears on this notice. The amount due is \$6,631.41 as of the date of this notice and will increase until your account becomes current. To arrange for payment to stop the foreclosure, contact: **Shadow Mountain Ranch Community Association, c/o Alessi & Koenig, 9500 W. Flamingo Rd, Ste 205, Las Vegas, NV 89147, (702)222-4033.**

THIS NOTICE pursuant to that certain Notice of Delinquent Assessment Lien, recorded on September 11, 2012 as document number 0002023, of Official Records in the County of Clark, State of Nevada. Owner(s): STACY MOORE, of SECTION 30 R2-60 70 #5 LOT 7 BLOCK 1, as per map recorded in Book 102, Pages 28, as shown on the Plan and Subdivision map recorded in the Maps of the County of Clark, State of Nevada. PROPERTY ADDRESS: 5327 MARSH BUTTE ST, LAS VEGAS, NV 89148-4669. If you have any questions, you should contact an attorney. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. REMEMBER YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. NOTICE IS HEREBY GIVEN THAT Alessi & Koenig, LLC is appointed trustee agent under the above referenced lien, dated September 11, 2012, on behalf of Shadow Mountain Ranch Community Association to secure assessment obligations in favor of said Association, pursuant to the terms contained in the Declaration of Covenants, Conditions, and Restrictions (CC&Rs). A default in the obligation for which said CC&Rs has occurred in that the payment(s) have not been made of homeowners assessments due from February 1, 2008 and all subsequent assessments, late charges, interest, collection and/or attorney fees and costs.

Dated:

JUL 01 2013

Huong Lam, Esq. of Alessi & Koenig, LLC on behalf of Shadow Mountain Ranch Community Association

## **Exhibit 15**

## **Exhibit 15**

## **Exhibit 15**

Inst #: 201312100001308

Fees: \$17.00

N/C Fee: \$0.00

12/10/2013 08:59:36 AM

Receipt #: 1867800

Requestor:

ALESSI &amp; KOENIG LLC

Recorded By: RNS Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

When recorded mail to:  
Alessi & Koenig, LLC  
9500 West Flamingo Rd., Suite 205  
Las Vegas, NV 89147  
Phone: 702-222-4033

APN: 163-30-312-007

TSN 6601

### NOTICE OF TRUSTEE'S SALE

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL ALESSI & KOENIG AT 702-222-4033. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY. 6926

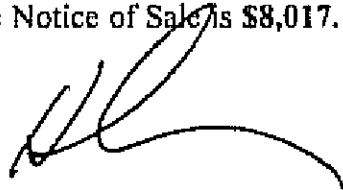
#### NOTICE IS HEREBY GIVEN THAT:

On January 8, 2014, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on September 11, 2012, as instrument number 0002023, of the official records of Clark County, Nevada, WILL SELL THE BELOW MENTIONED PROPERTY TO THE HIGHEST BIDDER FOR LAWFUL MONEY OF THE UNITED STATES, OR A CASHIERS CHECK at 2:00 p.m., at 9500 W. Flamingo Rd., Suite #205, Las Vegas, Nevada 89147 (Alessi & Koenig, LLC Office Building, 2<sup>nd</sup> Floor)

The street address and other common designation, if any, of the real property described above is purported to be: 5327 MARSH BUTTE ST, LAS VEGAS, NV 89148-4669. The owner of the real property is purported to be: STACY MOORE

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designations, if any, shown herein. Said sale will be made, without covenant or warranty, expressed or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of a note, homeowner's assessment or other obligation secured by this lien, with interest and other sum as provided therein: plus advances, if any, under the terms thereof and interest on such advances, plus fees, charges, expenses, of the Trustee and trust created by said lien. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$8,017.11. Payment must be in made in the form of certified funds.

Date: NOV 14 2013



By: Huong Lam, Esq. of Alessi & Koenig LLC on behalf of Shadow Mountain Ranch Community Association

## **Exhibit 16**

## **Exhibit 16**

## **Exhibit 16**

Inst #: 201401130001460

Fees: \$17.00 N/C Fee: \$0.00

RPTT: \$1519.80 Ex: #

01/13/2014 01:10:44 PM

Receipt #: 1899989

Requestor:

ALESSI &amp; KOENIG, LLC

Recorded By: SUO Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

When recorded mail to and  
Mail Tax Statements to:  
SFR Investments Pool 1, LLC  
5030 Paradise Road, B-214  
Las Vegas, NV 89119

A.P.N. No.163-30-312-007

TS No. 6601

**TRUSTEE'S DEED UPON SALE**

The Grantee (Buyer) herein was: SFR Investments Pool 1, LLC  
The Foreclosing Beneficiary herein was: Shadow Mountain Ranch Community Association  
The amount of unpaid debt together with costs: \$8,499.11  
The amount paid by the Grantee (Buyer) at the Trustee's Sale: \$59,000.00  
The Documentary Transfer Tax: \$1,519.80  
Property address: 5327 MARSH BUTTE ST, LAS VEGAS, NV 89148-4669  
Said property is in [ ] unincorporated area: City of LAS VEGAS  
Trustor (Former Owner that was foreclosed on): STACY MOORE

Alessi & Koenig, LLC (herein called Trustee), as the duly appointed Trustee under that certain Notice of Delinquent Assessment Lien, recorded September 11, 2012 as instrument number 0002023, in Clark County, does hereby grant, without warranty expressed or implied to: SFR Investments Pool 1, LLC (Grantee), all its right, title and interest in the property legally described as: SECTION 30 R2-60 70 #5 LOT 7 BLOCK 1, as per map recorded in Book 102, Pages 28 as shown in the Office of the County Recorder of Clark County Nevada.

**TRUSTEE STATES THAT:**

This conveyance is made pursuant to the powers conferred upon Trustee by NRS 116 et seq., and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the office of the recorder of said county. All requirements of law regarding the mailing of copies of notices and the posting and publication of the copies of the Notice of Sale have been complied with. Said property was sold by said Trustee at public auction on January 8, 2014 at the place indicated on the Notice of Trustee's Sale.

Huong Lam, Esq.

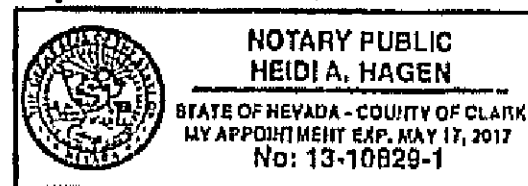
Signature of AUTHORIZED AGENT for Alessi &amp; Koenig, Llc.

State of Nevada )  
County of Clark )

SUBSCRIBED and SWORN before me JAN 13 2014 by Huong Lam

WITNESS my hand and official seal.

(Seal)



(Signature)

STATE OF NEVADA  
DECLARATION OF VALUE

## 1. Assessor Parcel Number(s)

a. 163-30-312-007

b. \_\_\_\_\_

c. \_\_\_\_\_

d. \_\_\_\_\_

## 2. Type of Property:

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

## FOR RECORDERS OPTIONAL USE ONLY

Book \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

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

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

\$ 59,000.00

b. Deed in Lieu of Foreclosure Only (value of property ( \_\_\_\_\_ ))

c. Transfer Tax Value:

\$ 297,577.00

d. Real Property Transfer Tax Due

\$ 1,519.804. If Exemption Claimed:

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

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

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Grantor

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

SELLER (GRANTOR) INFORMATION  
(REQUIRED)

Print Name: Alessi & Koenig, LLC  
Address: 9500 W. Flamingo Rd., Ste. 205  
City: Las Vegas  
State: NV Zip: 89147

BUYER (GRANTEE) INFORMATION  
(REQUIRED)

Print Name: SFR Investments Pool 1, LLC  
Address: 5030 Paradise Road, B-214  
City: Las Vegas  
State: NV Zip: 89119

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: Alessi & Koenig, LLC  
Address: 9500 W. Flamingo Rd., Ste. 205  
City: Las Vegas

Escrow # N/A Foreclosure  
State: NV Zip: 89147

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED



## **Exhibit 17**

## **Exhibit 17**

## **Exhibit 17**

DOUGLAS E. MILES \*  
Also Admitted in Nevada and Illinois  
RICHARD J. BAUER, JR. \*  
JEREMY T. BERGSTROM  
Also Admitted in Arizona  
FRED TIMOTHY WINTERS\*  
KEENAN E. McCLENAHAN\*  
MARK T. DOMEYER\*  
Also Admitted in District of  
Columbia & Virginia  
TAMI S. CROSBY\*  
L. BRYANT JAQUEZ \*  
DANIEL L. CARTER \*  
GINA M. CORENA  
WAYNE A. RASH \*  
ROCK K. JUNG  
VY T. PHAM \*  
KRISTA J. NIELSON  
MARK S. BRAUN  
Also Admitted in Iowa & Missouri  
HADI R. SEYED-ALI \*  
ROSEMARY NGUYEN \*  
JORY C. GARABEDIAN  
THOMAS M. MORLAN  
Admitted in California  
KRISTIN S. WEBB \*  
BRIAN H. TRAN \*  
ANNA A. GHAJAR \*



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

\* CALIFORNIA OFFICE  
1231 E. DYER ROAD  
SUITE 100  
SANTA ANA, CA 92705  
PHONE (714) 481-9100  
FACSIMILE (714) 481-9141

2200 Paseo Verde Parkway, Suite 250  
Henderson, NV 89052  
Phone: (702) 369-5960  
Fax: (702) 369-4955

August 18, 2015

Shadow Mountain Ranch  
c/o THE ALESSI & KOENIG, LLC  
9500 West Flamingo Rd., Ste 100  
Las Vegas, NV 89147

SENT VIA FIRST CLASS MAIL

Re: *Property Address: 5327 Marsh Butte Street, Las Vegas, NV 89148*  
*MBBW File No. 10-H1641*

Dear Sirs:

This letter is in response to your Notice of Default with regard to the HOA assessments purportedly owed on the above described real property. This firm represents the interests of MERS as nominee for BAC Home Loans Servicing, LP aka Countrywide Home Loans, Inc. (hereinafter "BAC") with regard to these issues. BAC is the beneficiary/servicer of the first deed of trust loan secured by the property.

As you know, NRS 116.3116 governs liens against units for assessments. Pursuant to NRS 116.3116:

The association has a lien on a unit for:

...

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

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

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

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

Subsection 2b of NRS 116.3116 clearly provides that an HOA lien "is prior to all other liens and encumbrances on a unit except: a first security interest on the unit..." But such a lien is prior to a first security interest to the extent of the assessments for common expenses which would have become due during the 9 months before institution of an action to enforce the lien.

Based on Section 2(b), a portion of your HOA lien is arguably senior to BAC's first deed of trust, specifically the nine months of assessments for common expenses incurred before the date of your notice of delinquent assessment dated June 28, 2010. For purposes of calculating the nine-month period, the trigger date is the date the HOA sought to enforce its lien. It is unclear, based upon the information known to date, what amount the nine months' of common assessments pre-dating the NOD actually are. That amount, whatever it is, is the amount BAC should be required to rightfully pay to fully discharge its obligations to the HOA per NRS 116.3102 and my client hereby offers to pay that sum upon presentation of adequate proof of the same by the HOA.

Please let me know what the status of any HOA lien foreclosure sale is, if any. My client does not want these issues to become further exacerbated by a wrongful HOA sale and it is my client's goal and intent to have these issues resolved as soon as possible. Please refrain from taking further action to enforce this HOA lien until my client and the HOA have had an opportunity to speak to attempt to fully resolve all issues.

Thank you for your time and assistance with this matter. I may be reached by phone directly at (702) 942-0412. Please fax the breakdown of the HOA arrears to my attention at (702) 942-0411. I will be in touch as soon as I've reviewed the same with BAC.

Sincerely,

*MILES, BAUER, BERGSTROM & WINTERS, LLP*

Rock K. Jung, Esq.

## **Exhibit 18**

## **Exhibit 18**

## **Exhibit 18**

DAVID ALESSI\*  
 THOMAS BAYARD\*  
 ROBERT KOENIG\*\*  
 RYAN KERBOW\*\*\*

\* Admitted to the California Bar  
 \*\* Admitted to the California, Nevada  
 and Colorado Bars  
 \*\*\* Admitted to the Nevada and California Bar



*A Multi-Jurisdictional Law Firm*  
 9500 W. Flamingo Road, Suite 100  
 Las Vegas, Nevada 89147  
 Telephone: 702-222-4033  
 Facsimile: 702-222-4043  
 www.alessikoenig.com

ADDITIONAL OFFICES IN

AGOURA HILLS, CA  
 PHONE: 818-735-9600

RENO NV  
 PHONE: 775-626-2323

&  
 DIAMOND BAR CA  
 PHONE: 909-861-8300

**FACSIMILE COVER LETTER**

To:	Alex Bhame	Re:	5327 Marsh Butte St./HO #6601
From:	Aileen Ruiz	Date:	Monday, September 13, 2010
Fax No.:		Pages:	1, including cover
		HO #:	6601

Dear Alex Bhame:

This cover will serve as an amended demand on behalf of Shadow Mountain Ranch for the above referenced escrow; property located at 5327 Marsh Butte St., Las Vegas, NV. The total amount due through October, 15, 2010 is \$3,554.00. The breakdown of fees, interest and costs is as follows:

Notice of Intent To Lien -- Nevada	\$95.00
Notice of Delinquent Assessment Lien -- Nevada	\$345.00
Notice of Default	\$395.00
9/13/2010 Demand Fee	\$100.00
<b>Total</b>	<b>\$935.00</b>
1. Attorney and/or Trustees fees:	\$935.00
2. Costs (Notary, Recording, Copies, Mailings, Publication and Posting)	\$550.00
3. Assessments Through October 15, 2010	\$1,284.00
4. Late Fees Through September 13, 2010	\$10.00
5. Fines Through September 13, 2010	\$0.00
6. Interest Through September 13, 2010	\$0.00
7. RPIR-GI Report	\$85.00
8. Title Research (10-Day Mailings per NRS 116.31163)	\$240.00
9. Management Company Audit Fee	\$200.00
10. Management Document Processing & Transfer Fee	\$250.00
11. Progress Payments:	\$0.00
<b>Sub-Total:</b>	<b>\$3,554.00</b>
<b>Less Payments Received:</b>	<b>\$0.00</b>
<b>Total Amount Due:</b>	<b>\$3,554.00</b>

Please have a check in the amount of \$3,554.00 made payable to the Alessi & Koenig, LLC and mailed to the below listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

Shadow Mountain Ranch  
8966 Spanish Ridge Ave #100  
Las Vegas, NV 89148

Magnolia Gotera  
1090 Twin Creeks Dr  
Salinas, CA 93905

Property Address: 5327 Marsh Butte St.  
Account #: 28100

Code	Date	Amount	Balance	Check#	Memo
FN	8/24/2009	100.00	100.00		
FN	8/31/2009	100.00	200.00		
FN	9/15/2009	100.00	300.00		
FN	9/29/2009	100.00	400.00		
FN	9/30/2009	100.00	500.00		
FN	10/14/2009	100.00	600.00		
FN	10/14/2009	100.00	700.00		
FN	10/26/2009	100.00	800.00		
FN	11/5/2009	100.00	900.00		
FN	11/5/2009	100.00	1,000.00		
FN	12/3/2009	100.00	1,100.00		
FN	12/3/2009	100.00	1,200.00		
FN	12/3/2009	100.00	1,300.00		
FN	12/3/2009	100.00	1,400.00		
FN	12/3/2009	100.00	1,500.00		
FN	12/3/2009	100.00	1,600.00		
FN	12/17/2009	100.00	1,700.00		
FN	12/17/2009	100.00	1,800.00		
FN	1/8/2010	100.00	1,900.00		
FN	1/8/2010	100.00	2,000.00		
FN	1/27/2010	100.00	2,100.00		
FN	1/27/2010	100.00	2,200.00		
FN	2/5/2010	100.00	2,300.00		
FN	2/5/2010	100.00	2,400.00		
FN	2/19/2010	100.00	2,500.00		
FN	2/18/2010	100.00	2,600.00		

Level Property Management | 8966 Spanish Ridge Ave #100 | Las Vegas, NV 89148 | 702.433.0149

**Make check payable to: Shadow Mountain Ranch Homeowners Association**

9/13/2010

Shadow Mountain Ranch  
8966 Spanish Ridge Ave #100  
Las Vegas, NV 89148

FN	3/11/2010	100.00	2,700.00
FN	3/11/2010	100.00	2,800.00
FN	3/11/2010	100.00	2,900.00
FN	3/11/2010	100.00	3,000.00
FN	3/11/2010	100.00	3,100.00
FN	3/18/2010	100.00	3,200.00
FN	3/24/2010	100.00	3,300.00
FN	4/6/2010	100.00	3,400.00
FN	4/6/2010	100.00	3,500.00
FN	4/26/2010	100.00	3,600.00
FN	4/26/2010	100.00	3,700.00
FN	4/26/2010	100.00	3,800.00
FN	4/26/2010	100.00	3,900.00
FN	5/6/2010	100.00	4,000.00
FN	5/6/2010	100.00	4,100.00
FN	5/19/2010	100.00	4,200.00
FN	5/19/2010	100.00	4,300.00
FN	5/19/2010	100.00	4,400.00
FN	5/19/2010	100.00	4,500.00
Fine	6/7/2010	100.00	4,600.00
Fine	6/7/2010	100.00	4,700.00
Fine	6/7/2010	100.00	4,800.00
Fine	6/7/2010	100.00	4,900.00
Fine	6/17/2010	100.00	5,000.00
Fine	6/17/2010	100.00	5,100.00
Fine	6/17/2010	100.00	5,200.00
Fine	6/17/2010	100.00	5,300.00
Fine	7/9/2010	100.00	5,400.00
Fine	7/9/2010	100.00	5,500.00
Fine	7/9/2010	100.00	5,600.00
Fine	7/9/2010	100.00	5,700.00
Fine	7/9/2010	100.00	5,800.00
Fine	7/9/2010	100.00	5,900.00
Fine	7/9/2010	100.00	6,000.00
Fine	7/9/2010	100.00	6,100.00
Fine	7/22/2010	100.00	6,200.00
Fine	7/22/2010	100.00	6,300.00

Level Property Management | 8966 Spanish Ridge Ave #100 | Las Vegas, NV 89148 | 702.433.0149

**Make check payable to: Shadow Mountain Ranch Homeowners Association**

9/13/2010

Shadow Mountain Ranch  
8966 Spanish Ridge Ave #100  
Las Vegas, NV 89148

Fine	7/22/2010	100.00	6,400.00	
Fine	7/22/2010	100.00	6,500.00	
Fine	8/4/2010	100.00	6,600.00	
Fine	8/4/2010	100.00	6,700.00	
Fine	8/18/2010	100.00	6,800.00	
Fine	8/18/2010	100.00	6,900.00	
Fine	8/18/2010	100.00	7,000.00	
Fine	8/18/2010	100.00	7,100.00	
Fine	8/18/2010	100.00	7,200.00	
Fine	8/18/2010	100.00	7,300.00	
Fine	8/20/2010	100.00	7,400.00	06/02/10: Maintenance & Repair
Fine	9/9/2010	100.00	7,500.00	
Fine	9/9/2010	100.00	7,600.00	
Fine	9/9/2010	100.00	7,700.00	
Fine	9/9/2010	100.00	7,800.00	
Fine	9/9/2010	100.00	7,900.00	
Fine	9/9/2010	100.00	8,000.00	
Fine	9/9/2010	100.00	8,100.00	06/02/10: Maintenance & Repair
Current	30 - 59 Days	60 - 89 Days	>90 Days	Balance: 8,100.00
1,400.00	600.00	1,200.00	4,900.00	

Level Property Management | 8966 Spanish Ridge Ave #100 | Las Vegas, NV 89148 | 702.433.0149  
Make check payable to: Shadow Mountain Ranch Homeowners Association

9/13/2010



Shadow Mountain Ranch  
8966 Spanish Ridge Ave #100  
Las Vegas, NV 89148

Magnolia Gotera  
1090 Twin Creeks Dr  
Salinas, CA 93905

Property Address: 5327 Marsh Butte St.  
Account #: 21103

Code	Date	Amount	Balance	Check#	Memo
Beg Bal	12/31/2008	588.00	588.00		Begin Balance
MA	1/1/2009	23.00	611.00		Monthly Assessment
LF	1/15/2009	10.00	621.00		
MA	2/1/2009	23.00	644.00		Monthly Assessment
LF	2/15/2009	10.00	654.00		
MA	3/1/2009	23.00	677.00		Monthly Assessment
MA	4/1/2009	23.00	700.00		Monthly Assessment
LF	4/16/2009	10.00	710.00		Late Fee Processed
MA	5/1/2009	23.00	733.00		Monthly Assessment
LF	5/16/2009	10.00	743.00		Late Fee Processed
MA	6/1/2009	23.00	766.00		Monthly Assessment
LF	6/16/2009	10.00	776.00		Late Fee Processed
MA	7/1/2009	23.00	799.00		Monthly Assessment
LF	7/16/2009	10.00	809.00		Late Fee Processed
MA	8/1/2009	23.00	832.00		Monthly Assessment
LF	8/16/2009	10.00	842.00		Late Fee Processed
MA	9/1/2009	23.00	865.00		Monthly Assessment
LF	9/16/2009	10.00	875.00		Late Fee Processed
MA	10/1/2009	23.00	898.00		Monthly Assessment
LF	10/16/2009	10.00	908.00		Late Fee Processed
MA	11/1/2009	23.00	931.00		Monthly Assessment
LF	11/16/2009	10.00	941.00		Late Fee Processed
MA	12/1/2009	23.00	964.00		Monthly Assessment
LF	12/16/2009	10.00	974.00		Late Fee Processed
MA	1/1/2010	23.00	997.00		Monthly Assessment
LF	1/16/2010	10.00	1,007.00		Late Fee Processed

Level Property Management | 8966 Spanish Ridge Ave #100 | Las Vegas, NV 89148 | 702.433.0149

**Make check payable to: Shadow Mountain Ranch Homeowners Association**

9/13/2010

Shadow Mountain Ranch  
8966 Spanish Ridge Ave #100  
Las Vegas, NV 89148

MA	2/1/2010	23.00	1,030.00	Monthly Assessment
LF	2/16/2010	10.00	1,040.00	Late Fee Processed
MA	3/1/2010	23.00	1,063.00	Monthly Assessment
LF	3/16/2010	10.00	1,073.00	Late Fee Processed
MA	4/1/2010	23.00	1,096.00	Monthly Assessment
LF	4/16/2010	10.00	1,106.00	Late Fee Processed
MA	5/1/2010	23.00	1,129.00	Monthly Assessment
LF	5/16/2010	10.00	1,139.00	Late Fee Processed
MA	6/1/2010	23.00	1,162.00	Monthly Assessment
Late Fee	6/16/2010	10.00	1,172.00	Late Fee Processed
Monthly Assessment	7/1/2010	23.00	1,195.00	Monthly Assessment
Late Fee	7/16/2010	10.00	1,205.00	Late Fee Processed
Monthly Assessment	8/1/2010	23.00	1,228.00	Monthly Assessment
Late Fee	8/16/2010	10.00	1,238.00	Late Fee Processed
Monthly Assessment	9/1/2010	23.00	1,261.00	Monthly Assessment

Current	30 - 59 Days	60 - 89 Days	>90 Days	Balance:	1,261.00
33.00	33.00	33.00	1,162.00		

Level Property Management | 8966 Spanish Ridge Ave #100 | Las Vegas, NV 89148 | 702.433.0149

**Make check payable to: Shadow Mountain Ranch Homeowners Association**

9/13/2010

## **Exhibit 19**

## **Exhibit 19**

## **Exhibit 19**

DOUGLAS E. MILES \*  
Also Admitted in Nevada and Illinois  
RICHARD J. BAUER, JR. \*  
JEREMY T. BERGSTROM  
Also Admitted in Arizona  
FRED TIMOTHY WINTERS \*  
KEENAN E. McCLENAHAN \*  
MARK T. DOMEYER \*  
Also Admitted in District of  
Columbia & Virginia  
TAMI S. CROSBY \*  
L. BRYANT JAQUEZ \*  
DANIEL L. CARTER \*  
GINA M. CORENA  
WAYNE A. RASH \*  
ROCK K. JUNG  
VY T. PHAM \*  
KRISTA J. NIELSON  
MARK S. BRAUN  
Also Admitted in Iowa & Missouri  
HADI R. SEYED-ALI \*  
ROSEMARY NGUYEN \*  
JORY C. GARABEDIAN  
THOMAS M. MORLAN  
Admitted in California  
KRISTIN S. WEBB \*  
BRIAN H. TRAN \*  
ANNA A. GHAJAR \*



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

2200 Pasco Verde Parkway, Suite 250  
Henderson, NV 89052  
Phone: (702) 369-5960  
Fax: (702) 369-4955

\* CALIFORNIA OFFICE  
1231 E. DYER ROAD  
SUITE 100  
SANTA ANA, CA 92705  
PHONE (714) 481-9100  
FACSIMILE (714) 481-9141

September 30, 2010

ALESSI & KOENIG, LLC  
9500 W. FLAMINGO ROAD, SUITE 100  
LAS VEGAS, NV 89147

Re: *Property Address:* 5327 Marsh Butte Street  
HO #: 6601  
LOAN #: [REDACTED]  
*MBBW File No.* 10-H1641

Dear Sir/Madame:

As you may recall, this firm represents the interests of BAC Home Loans Servicing, LP fka Countrywide Home Loans, Inc. (hereinafter "BAC") with regard to the issues set forth herein. We have received correspondence from your firm regarding our inquiry into the "Super Priority Demand Payoff" for the above referenced property. The Statement of Account provided by in regards to the above-referenced address shows a full payoff amount of \$3,554.00. BAC is the beneficiary/servicer of the first deed of trust loan secured by the property and wishes to satisfy its obligations to the HOA. Please bear in mind that:

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

The association has a lien on a unit for:

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

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

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent...

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

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

Our client has authorized us to make payment to you in the amount of \$207.00 to satisfy its obligations to the HOA as a holder of the first deed of trust against the property. Thus, enclosed you will find a cashier's check made out to Alessi & Koenig, LLC in the sum of \$207.00, which represents the maximum 9 months worth of delinquent assessments recoverable by an HOA. This is a non-negotiable amount and any endorsement of said cashier's check on your part, whether express or implied, will be strictly construed as an unconditional acceptance on your part of the facts stated herein and express agreement that BAC's financial obligations towards the HOA in regards to the real property located at 5327 Marsh Butte Street have now been "paid in full".

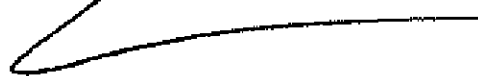
Thank you for your prompt attention to this matter. If you have any questions or concerns, I may be reached by phone directly at (702) 942-0412.

Sincerely,

*MILES, BAUER, BERGSTROM & WINTERS, LLP*



Rock K. Jung, Esq.



Miles, Bauer, Bergstrom & Winters, LLP Trust Acct  
 Payee: Alessi & Koenig, LLC  
 10-H1641  
 Date: 9/28/2010 Amount: 207.00  
 Initials: TLC  
 Check #: [REDACTED]

Inv. Date	Reference #	Description	Inv. Amount	Case #	Matter Description	Cost Amount
9/28/2010	[REDACTED]	To Cure HOA Deficiency	207.00			

MP

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

5169

Date: 9/28/2010

Amount \$\*\*\*\* 207.00

Loan # [REDACTED]

Check Void After 90 Days

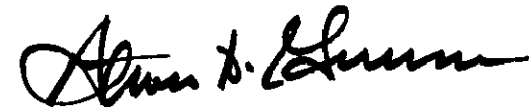
Pay \$\*\*\*\*\*Two Hundred Seven & No/100 Dollars  
 to the order of

Alessi & Koenig, LLC

[Handwritten Signature]

Security features. Details on back.

# **TAB 4**



CLERK OF THE COURT

1 **XCAN**

2 Vanessa S. Goulet, Esq.

3 Nevada Bar No. 13688

4 ALESSI & KOENIG, LLC

5 9500 W. Flamingo, Suite 205

6 Las Vegas, Nevada 89147

7 Phone: (702) 222-4033

8 Fax: (702) 222-4043

9 vanessa@alessikoenig.com

10 *Attorney for Plaintiff / Counter-Defendant*

11 ALESSI & KOENIG, LLC

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 ALESSI & KOENIG, LLC, a Nevada  
15 limited liability company,

16 Plaintiff,

17 vs.

18 STACY MOORE, an individual; MAGNOLIA  
19 GOTERA, an individual; KRISTIN JORDAL,  
20 AS TRUSTEE FOR THE JBNWO  
21 REVOCABLE LIVING TRUST, a trust; U.S.  
22 BANK, N.A., a national banking association;  
23 NATIONSTAR MORTGAGE, LLC, a foreign  
24 limited liability company; REPUBLIC  
25 SILVER STATE DISPOSAL, INC., DBA  
26 REPUBLIC SERVICES, a domestic  
27 governmental entity; DOE INDIVIDUALS I  
28 through X, inclusive; and ROE  
CORPORATIONS XI through XX inclusive,

Defendants.

Case No. A-14-705563-C

Dept. No. XX

**ALESSI & KOENIG, LLC'S ANSWER**  
**TO U.S. BANK, N.A.'S**  
**COUNTERCLAIM**



1 U.S. BANK, N.A.,

2 Counterclaimant,

3  
4 vs.

5 ALESSI & KOENIG, LLC, a Nevada limited  
6 liability company,

7 Counter-Defendant.

8 U.S. BANK, N.A.,

9 Third-Party Plaintiff,

10  
11 vs.

12 SFR INVESTMENTS POOL 1, LLC, a  
13 Nevada limited liability company;  
14 INDIVIDUAL DOES I through X, inclusive;  
15 and ROE CORPORATIONS I through X,  
16 inclusive,

17 Third-Party Defendant(s).

18 **ALESSI & KOENIG, LLC'S ANSWER TO U.S. BANK, N.A.,S COUNTERCLAIM**

19 COMES NOW, Plaintiff / Counter-Defendant ALESSI & KOENIG, LLC (hereinafter  
20 collectively to as "Counter-Defendant"), by and through their attorney of record, Vanessa S.  
21 Goulet, Esq. of Alessi & Koenig, LLC, and files their Answer to Defendant/Counter-  
22 Claimant/Third-Party Plaintiff U.S. BANK, N.A.'S (hereinafter referred to as  
23 "Counterclaimant") Counterclaim as follows:  
24

25 **INTRODUCTION**

26 1. Answering Paragraph 1 of the Counterclaim, Counter-Defendant lacks sufficient  
27 information or belief to admit or deny said allegations and, on that basis, generally and  
28

specifically denies said allegations.

2. Answering Paragraph 2 of the Counterclaim, Counter-Defendant admits the allegations contained therein.

**PARTIES**

3. Answering Paragraph 3 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

4. Answering Paragraph 4 of Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

5. Answering Paragraph 5 of the Counterclaim, Counter-Defendant admits the allegations contained therein.

6. Answering Paragraph 6 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

7. Answering Paragraph 7 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

8. Answering Paragraph 8 of the Counterclaim, Counter-Defendant avers that the allegations contained therein state legal conclusions for which no response is required by the answering counter-defendant; provided however, that to the extent said Paragraph does require a response, counter-defendant generally and specifically denies said allegations.

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

**JURISDICTION AND VENUE**

9. Answering Paragraph 9 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

10. Answering Paragraph 10 of the Counterclaim, Counter-Defendant admits the allegations contained therein.

11. Answering Paragraph 11 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

**FACTUAL BACKGROUND**

***Gotera Loan Documents***

12. Answering Paragraph 12 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

13. Answering Paragraph 13 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

14. Answering Paragraph 14 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

15. Answering Paragraph 15 of the Counterclaim, Counter-Defendant lacks sufficient information or belief to admit or deny said allegations and, on that basis, generally and specifically denies said allegations.

1           16.     Answering Paragraph 16 of the Counterclaim, Counter-Defendant lacks  
2 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
3 and specifically denies said allegations.

4           17.     Answering Paragraph 17 of the Counterclaim, Counter-Defendant lacks  
5 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
6 and specifically denies said allegations.  
7

8           18.     Answering Paragraph 18 of the Counterclaim, Counter-Defendant lacks  
9 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
10 and specifically denies said allegations.  
11

12           ***HOA Lien Documents***

13           19.     Answering Paragraph 19 of the Counterclaim, Counter-Defendant admits the  
14 allegations contained therein.

15           20.     Answering Paragraph 20 of the Counterclaim, Counter-Defendant admits the  
16 allegations contained therein.  
17

18           21.     Answering Paragraph 21 of the Counterclaim, Counter-Defendant admits the  
19 allegations contained therein.

20           22.     Answering Paragraph 22 of the Counterclaim, Counter-Defendant admits the  
21 allegations contained therein.  
22

23           23.     Answering Paragraph 23 of the Counterclaim, Counter-Defendant admits the  
24 allegations contained therein.

25           24.     Answering Paragraph 24 of the Counterclaim, Counter-Defendant admits the  
26 allegations contained therein.  
27

28           25.     Answering Paragraph 25 of the Counterclaim, Counter-Defendant admits the

1 allegations contained therein.

2 26. Answering Paragraph 26 of the Counterclaim, Counter-Defendant admits the  
3 allegations contained therein.

4 27. Answering Paragraph 27 of the Counterclaim, Counter-Defendant admits the  
5 allegations contained therein.

6 28. Answering Paragraph 28 of the Counterclaim, Counter-Defendant admits the  
7 allegations contained therein, and clarify that the sale was scheduled for January 8, 2014.

8 29. Answering Paragraph 29 of the Counterclaim, Counter-Defendant admits the  
9 allegations contained therein.

10  
11 ***U.S. BANK TRUST's Tender of the Super-Priority Amount, and the HOA's Rejection***  
12 ***of Same***

13  
14 30. Answering Paragraph 30 of the Counterclaim, Counter-Defendant admits the  
15 allegation contained therein that U.S. BANK TRUST attempted to obtain a payoff demand from  
16 HOA Trustee, and clarifies that said demand was received by HOA Trustee on September 9,  
17 2010; that U.S. BANK's intent was to accurately identify the super-priority amount so that it  
18 could be paid, answering Counter-Defendant lacks sufficient information or knowledge to admit  
19 or deny said allegation; that HOA Trustee refused to provide a payoff demand indicating the  
20 amount of the super-priority lien, answering Counter-Defendant specifically denies said  
21 allegation, and clarifies that a payoff demand was provided pursuant to U.S. BANK's request on  
22 September 13, 2010.

23  
24 31. Answering Paragraph 31 of the Counterclaim, Counter-Defendant lacks  
25 sufficient information or belief to admit or deny the allegations contained therein as to counsel's  
26 reasons for attempting to, and method to, calculate the super-priority amount, and, on that basis,  
27  
28

1 generally and specifically denies said allegations. As to the allegation that a payment in the  
2 amount of \$207.00 was provided to HOA Trustee and rejected, Counter-Defendant admits that a  
3 payment was received and rejected because it did not satisfy the super-priority lien amount.

4 ***HOA Lien Notices and HOA Foreclosure Sale.***

5 32. Answering Paragraph 32 of the Counterclaim, Counter-Defendant generally and  
6 specifically denies the allegations contained therein.  
7

8 33. Answering Paragraph 33 of the Counterclaim, Counter-Defendant generally and  
9 specifically denies the allegations contained therein.

10 34. Answering Paragraph 34 of the Counterclaim, Counter-Defendant generally and  
11 specifically denies the allegations contained therein, and clarifies that said specification was not  
12 required per statute.  
13

14 35. Answering Paragraph 35 of the Counterclaim, Counter-Defendant generally and  
15 specifically denies the allegations contained therein.

16 36. Answering Paragraph 36 of the Counterclaim, Counter-Defendant generally and  
17 specifically denies the allegations contained therein.  
18

19 37. Answering Paragraph 37 of the Counterclaim, Counter-Defendant avers that the  
20 allegations contained therein state legal conclusions for which no response is required by the  
21 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
22 response, counter-defendant generally and specifically denies said allegations.  
23

24 38. Answering Paragraph 38 of the Counterclaim, Counter-Defendant avers that the  
25 allegations contained therein state legal conclusions for which no response is required by the  
26 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
27 response, counter-defendant generally and specifically denies said allegations.  
28

1           39.     Answering Paragraph 39 of the Counterclaim, Counter-Defendant avers that the  
2     allegations contained therein state legal conclusions for which no response is required by the  
3     answering counter-defendant; provided however, that to the extent said Paragraph does require a  
4     response, counter-defendant generally and specifically denies said allegations.

5           40.     Answering Paragraph 40 of the Counterclaim, Counter-Defendant avers that the  
6     allegations contained therein state legal conclusions for which no response is required by the  
7     answering counter-defendant; provided however, that to the extent said Paragraph does require a  
8     response, counter-defendant generally and specifically denies said allegations.

9           41.     Answering Paragraph 41 of the Counterclaim, Counter-Defendant generally and  
10    specifically denies the allegations contained therein.

11           ***HOA Sale Commercially Unreasonable***

12           42.     Answering Paragraph 42 of the Counterclaim, Counter-Defendant avers that the  
13     allegations contained therein state legal conclusions for which no response is required by the  
14     answering counter-defendant; provided however, that to the extent said Paragraph does require a  
15     response, counter-defendant generally and specifically denies said allegations.

16           43.     Answering Paragraph 43 of the Counterclaim, Counter-Defendant lacks  
17     sufficient information or belief to admit or deny said allegations and, on that basis, generally  
18     and specifically denies said allegations.

19           44.     Answering Paragraph 44 of the Counterclaim, Counter-Defendant lacks  
20     sufficient information or belief to admit or deny said allegations and, on that basis, generally  
21     and specifically denies said allegations.

22           45.     Answering Paragraph 45 of the Counterclaim, Counter-Defendant avers that the  
23     allegations contained therein state legal conclusions for which no response is required by the  
24     answering counter-defendant; provided however, that to the extent said Paragraph does require a  
25     response, counter-defendant generally and specifically denies said allegations.

1 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
2 response, counter-defendant generally and specifically denies said allegations.

3 **FIRST CAUSE OF ACTION**  
4 **(Quiet Title/Declaratory Relief Pursuant to NRS 30.010 et seq. and NRS 40.010 et seq.**  
5 **versus all Parties)**

6 46. Answering Paragraph 46 of the Counterclaim, Counter-Defendant hereby restates  
7 and incorporates the answers to Paragraphs 1 through 45, inclusive, of the Counterclaim as  
8 though fully set forth herein.

9 47. Answering Paragraph 47 of the Counterclaim, Counter-Defendant avers that the  
10 allegations contained therein state legal conclusions for which no response is required by the  
11 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
12 response, counter-defendant generally and specifically denies said allegations.

13 48. Answering Paragraph 48 of the Counterclaim, Counter-Defendant generally and  
14 specifically denies the allegations contained therein as to the acts and omissions of A&K and  
15 the HOA; as to the remaining parties, Counter-Defendant avers that the allegations contained  
16 therein state legal conclusions for which no response is required by the answering counter-  
17 defendant; provided however, that to the extent said Paragraph does require a response, counter-  
18 defendant generally and specifically denies said allegations.

19 49. Answering Paragraph 49 of the Counterclaim, Counter-Defendant avers that the  
20 allegations contained therein state legal conclusions for which no response is required by the  
21 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
22 response, counter-defendant generally and specifically denies said allegations.

23 50. Answering Paragraph 50 of the Counterclaim, Counter-Defendant avers that the  
24 allegations contained therein state legal conclusions for which no response is required by the  
25  
26  
27  
28



1 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
2 response, counter-defendant generally and specifically denies said allegations.

3 51. Answering Paragraph 51 of the Counterclaim, Counter-Defendant avers that the  
4 allegations contained therein state legal conclusions for which no response is required by the  
5 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
6 response, counter-defendant generally and specifically denies said allegations.  
7

8 52. Answering Paragraph 52 of the Counterclaim, Counter-Defendant generally and  
9 specifically denies the allegations contained therein.

10 53. Answering Paragraph 53 of the Counterclaim, Counter-Defendant generally and  
11 specifically denies the allegations contained therein.  
12

13 54. Answering Paragraph 54 of the Counterclaim, Counter-Defendant re-  
14 incorporates and restates its responses to the allegations “for all the reasons set forth above and  
15 in the Factual Background,” and generally and specifically denies the allegations contained in  
16 Paragraph 54 of the Counterclaim.  
17

18 55. Answering Paragraph 55 of the Counterclaim, Counter-Defendant generally and  
19 specifically denies the allegations contained therein.

20 56. Answering Paragraph 56 of the Counterclaim, Counter-Defendant generally and  
21 specifically denies the allegations contained therein.

22 57 Answering Paragraph 57 of the Counterclaim, Counter-Defendant generally and  
23 specifically denies the allegations contained therein.  
24

25 **SECOND CAUSE OF ACTION**  
26 **(Permanent and Preliminary Injunction versus Buyer)**

27 58. Answering Paragraph 58 of the Counterclaim, Counter-Defendant hereby restates  
28 and incorporates the answers to Paragraphs 1 through 57, inclusive, of the Counterclaim as

1 though fully set forth herein.

2       59. Answering Paragraph 59 of the Counterclaim, Counter-Defendant lacks  
3 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
4 and specifically denies said allegations.

5       60. Answering Paragraph 60 of the Counterclaim, Counter-Defendant lacks  
6 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
7 and specifically denies said allegations.

8       61. Answering Paragraph 61 of the Counterclaim, Counter-Defendant lacks  
9 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
10 and specifically denies said allegations.

11       62. Answering Paragraph 62 of the Counterclaim, Counter-Defendant lacks  
12 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
13 and specifically denies said allegations.

14       63. Answering Paragraph 63 of the Counterclaim, Counter-Defendant lacks  
15 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
16 and specifically denies said allegations.

17       64. Answering Paragraph 64 of the Counterclaim, Counter-Defendant lacks  
18 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
19 and specifically denies said allegations.

20       65. Answering Paragraph 65 of the Counterclaim, Counter-Defendant lacks  
21 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
22 and specifically denies said allegations.

23       66. Answering Paragraph 66 of the Counterclaim, Counter-Defendant lacks  
24  
25  
26  
27  
28

1 sufficient information or belief to admit or deny said allegations and, on that basis, generally  
2 and specifically denies said allegations.

3 **THIRD CAUSE OF ACTION**  
4 **(Wrongful Foreclosure/Statutorily Defective Foreclosure versus the HOA Trustee and the**  
5 **Fictitious Third-Party Defendants)**

6 67. Answering Paragraph 67 of the Counterclaim, Counter-Defendant hereby restates  
7 and incorporates the answers to Paragraphs 1 through 66, inclusive, of the Counterclaim as  
8 though fully set forth herein.

9 68. Answering Paragraph 68 of the Counterclaim, Counter-Defendant generally and  
10 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
11 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
12 admit or deny said allegations and, on that basis, generally and specifically denies said  
13 allegations.  
14

15 69. Answering Paragraph 69 of the Counterclaim, Counter-Defendant generally and  
16 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
17 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
18 admit or deny said allegations and, on that basis, generally and specifically denies said  
19 allegations.  
20

21 70. Answering Paragraph 70 of the Counterclaim, Counter-Defendant generally and  
22 specifically denies the allegations contained therein.  
23

24 71. Answering Paragraph 71 of the Counterclaim, Counter-Defendant generally and  
25 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
26 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
27 admit or deny said allegations and, on that basis, generally and specifically denies said  
28

1 allegations.

2 72. Answering Paragraph 72 of the Counterclaim, Counter-Defendant generally and  
3 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
4 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
5 admit or deny said allegations and, on that basis, generally and specifically denies said  
6 allegations.  
7

8 73. Answering Paragraph 73 of the Counterclaim, Counter-Defendant generally and  
9 specifically denies the allegations contained therein.

10 **FOURTH CAUSE OF ACTION**  
11 **(Negligence versus the HOA Trustee and the Fictitious Third-Party Defendants)**

12 74. Answering Paragraph 74 of the Counterclaim, Counter-Defendant hereby restates  
13 and incorporates the answers to Paragraphs 1 through 73, inclusive, of the Counterclaim as  
14 though fully set forth herein.  
15

16 75. Answering Paragraph 75 of the Counterclaim, Counter-Defendant avers that the  
17 allegations contained therein state legal conclusions for which no response is required by the  
18 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
19 response, counter-defendant generally and specifically denies said allegations.  
20

21 76. Answering Paragraph 76 of the Counterclaim, Counter-Defendant avers that the  
22 allegations contained therein state legal conclusions for which no response is required by the  
23 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
24 response, counter-defendant generally and specifically denies said allegations.  
25

26 77. Answering Paragraph 77 of the Counterclaim, Counter-Defendant generally and  
27 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
28 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to

1 admit or deny said allegations and, on that basis, generally and specifically denies said  
2 allegations.

3 78. Answering Paragraph 78 of the Counterclaim, Counter-Defendant generally and  
4 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
5 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
6 admit or deny said allegations and, on that basis, generally and specifically denies said  
7 allegations.  
8

9 79. Answering Paragraph 79 of the Counterclaim, Counter-Defendant generally and  
10 specifically denies the allegations contained therein.  
11

12 **FIFTH CAUSE OF ACTION**  
13 **(Negligence Per Se versus the HOA Trustee and the Fictitious Third-Party Defendants)**

14 80. Answering Paragraph 80 of the Counterclaim, Counter-Defendant hereby restates  
15 and incorporates the answers to Paragraphs 1 through 79, inclusive, of the Counterclaim as  
16 though fully set forth herein.

17 81. Answering Paragraph 81 of the Counterclaim, Counter-Defendant admits the  
18 allegations contained therein.

19 82. Answering Paragraph 82 of the Counterclaim, Counter-Defendant generally and  
20 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
21 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
22 admit or deny the allegations contained therein and, on that basis, generally and specifically  
23 denies said allegations.  
24

25 83. Answering Paragraph 83 of the Counterclaim, Counter-Defendant avers that the  
26 allegations contained therein state legal conclusions for which no response is required by the  
27 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
28

1 response, counter-defendant generally and specifically denies said allegations.

2       84.     Answering Paragraph 84 of the Counterclaim, Counter-Defendant avers that the  
3 allegations contained therein state legal conclusions for which no response is required by the  
4 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
5 response, counter-defendant generally and specifically denies said allegations.  
6

7       85.     Answering Paragraph 85 of the Counterclaim, Counter-Defendant avers that the  
8 allegations contained therein state legal conclusions for which no response is required by the  
9 answering counter-defendant; provided however, that to the extent said Paragraph does require a  
10 response, counter-defendant generally and specifically denies said allegations.  
11

12       86.     Answering Paragraph 86 of the Counterclaim, Counter-Defendant generally and  
13 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
14 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
15 admit or deny the allegations contained therein and, on that basis, generally and specifically  
16 denies said allegations.  
17

18       87.     Answering Paragraph 87 of the Counterclaim, Counter-Defendant generally and  
19 specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
20 fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
21 admit or deny the allegations contained therein and, on that basis, generally and specifically  
22 denies said allegations.  
23

24       88.     Answering Paragraph 88 of the Counterclaim, Counter-Defendants generally and  
25 specifically denies the allegations contained therein.  
26

27 ///

28 ///

**SIXTH CAUSE OF ACTION**

**(Unjust Enrichment versus Buyer, HOA Trustee, and Fictitious Third-Party Defendants)**

89. Answering Paragraph 89 of the Counterclaim, Counter-Defendant hereby restates and incorporates the answers to Paragraphs 1 through 88, inclusive, of the Counterclaim as though fully set forth herein.

90. Answering Paragraph 90 of the Counterclaim, Counter-Defendant generally and specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the remaining parties, Counter-Defendant lacks sufficient information or belief to admit or deny the allegations contained therein, and on that basis, generally and specifically denies said allegations.

91. Answering Paragraph 91 of the Counterclaim, Counter-Defendant generally and specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the remaining parties, Counter-Defendant lacks sufficient information or belief to admit or deny the allegations contained therein, and on that basis, generally and specifically denies said allegations.

92. Answering Paragraph 92 of the Counterclaim, Counter-Defendant generally and specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the remaining parties, Counter-Defendant lacks sufficient information or belief to admit or deny the allegations contained therein, and on that basis, generally and specifically denies said allegations.

93. Answering Paragraph 93 of the Counterclaim, Counter-Defendant generally and specifically denies the allegations contained therein as to the HOA and HOA Trustee, and clarifies that HOA Trustee has no interest in the Property, and HOA's interest was extinguished when its lien was paid in full through the HOA foreclosure sale; as to the remaining parties,

1 Counter-Defendant lacks sufficient information or belief to admit or deny the allegations  
2 contained therein, and on that basis, generally and specifically denies said allegations.

3 94. Answering Paragraph 94 of the Counterclaim, Counter-Defendant generally and  
4 specifically denies the allegations contained therein as to the HOA and HOA Trustee, and  
5 clarifies that HOA Trustee has no interest in the Property, and HOA's interest was extinguished  
6 when its lien was paid in full through the HOA foreclosure sale; as to the remaining parties,  
7 Counter-Defendant lacks sufficient information or belief to admit or deny the allegations  
8 contained therein, and on that basis, generally and specifically denies said allegations.  
9

10 95. Answering Paragraph 95 of the Counterclaim, Counter-Defendant generally and  
11 specifically denies the allegations contained therein as to the HOA and HOA Trustee, and  
12 clarifies that HOA Trustee has no interest in the Property, and HOA's interest was extinguished  
13 when its lien was paid in full through the HOA foreclosure sale; as to the remaining parties,  
14 Counter-Defendant lacks sufficient information or belief to admit or deny the allegations  
15 contained therein, and on that basis, generally and specifically denies said allegations.  
16

17 96. Answering Paragraph 96 of the Counterclaim, Counter-Defendant generally and  
18 specifically denies the allegations contained therein.  
19

20 97. Answering Paragraph 97 of the Counterclaim, Counter-Defendant generally and  
21 specifically denies the allegations contained therein.  
22

23 **SEVENTH CAUSE OF ACTION**  
24 **(Breach of the Covenant of Good Faith and Fair Dealing versus HOA Trustee and the**  
25 **Fictitious Third-Party Defendants)**

26 98. Answering Paragraph 98 of the Counterclaim, Counter-Defendant hereby restates  
27 and incorporates the answers to Paragraphs 1 through 97, inclusive, of the Counterclaim as  
28 though fully set forth herein.



1           99.     Answering Paragraph 99 of the Counterclaim, Counter-Defendant avers that the  
2     allegations contained therein state legal conclusions for which no response is required by the  
3     answering counter-defendant; provided however, that to the extent said Paragraph does require a  
4     response, counter-defendant generally and specifically denies said allegations.

5           100.   Answering Paragraph 100 of the Counterclaim, Counter-Defendant avers that the  
6     allegations contained therein state legal conclusions for which no response is required by the  
7     answering counter-defendant; provided however, that to the extent said Paragraph does require a  
8     response, counter-defendant generally and specifically denies said allegations.

9           101.   Answering Paragraph 101 of the Counterclaim, Counter-Defendant avers that the  
10    allegations contained therein state legal conclusions for which no response is required by the  
11    answering counter-defendant; provided however, that to the extent said Paragraph does require a  
12    response, counter-defendant generally and specifically denies said allegations.

13           102.   Answering Paragraph 102 of the Counterclaim, Counter-Defendant generally and  
14    specifically denies the allegations contained therein as to the HOA and HOA Trustee; as to the  
15    fictitious Third-Party Defendants, Counter-Defendant lacks sufficient information or belief to  
16    admit or deny said allegations and, on that basis, generally and specifically denies said  
17    allegations.

18           103.   Answering Paragraph 103 of the Counterclaim, Counter-Defendant generally and  
19    specifically denies the allegations contained therein.

20                           **AFFIRMATIVE DEFENSES**

21           Counter-Defendant affirmatively alleges that they have not yet had a reasonable  
22    opportunity to complete discovery, and facts hereinafter may be discovered which may  
23    substantiate other affirmative defenses not listed below. By this Answer to Counterclaimant's

1 Counterclaim, Counter-Defendant does not waive any affirmative defenses and reserves the  
2 right to amend the Answer to insert any subsequently discovered affirmative defenses.

3 **FIRST AFFIRMATIVE DEFENSE**  
4 **(Statute of Limitations)**

5 Counter-Defendant alleges that Counterclaimant's claims are barred, in whole or in part,  
6 because the statute of limitations on said claims expired before the initiation of  
7 Counterclaimant's action against Counter-Defendant.

8 **SECOND AFFIRMATIVE DEFENSE**  
9 **(Failure to State a Claim)**

10 Counter-Defendant alleges that Counterclaimant has failed to state facts sufficient to  
11 constitute any cause of action against Counter-Defendant.

12 **THIRD AFFIRMATIVE DEFENSE**  
13 **(Failure to Mitigate Damages)**

14 Counter-Defendant alleges that Counterclaimant's claims are barred, in whole or in part,  
15 because of Counterclaimant's failure to take reasonable steps to mitigate the damages alleged in  
16 the Counterclaim, if any, even though Counterclaimant had the opportunity and means of doing  
17 so. In asserting this affirmative defense, Counter-Defendant does not admit liability for  
18 damages due to Counterclaimant's injury alleged in the Counterclaim, nor does Counter-  
19 Defendant admit that such damages exist.  
20

21 **FOURTH AFFIRMATIVE DEFENSE**  
22 **(Equitable Defense, Laches, Unclean Hands, Failure to Do Equity)**

23 Counter-Defendant alleges that Counterclaimant's claims are barred by the equitable  
24 doctrines of laches, unclean hands, and failure to do equity.  
25

26 **FIFTH AFFIRMATIVE DEFENSE**  
27 **(Breach of Contract)**

28 Counter-Defendant alleges that Counterclaimant substantially and materially breached

1 the obligations/contract complained of prior to commencement of this action, which conduct  
2 extinguishes the right to maintain this action.

3 **SIXTH AFFIRMATIVE DEFENSE**  
4 **(Bad Faith)**

5 Counter-Defendant alleges that Counterclaimant's Counterclaim is filed in bad faith and  
6 has no merit.

7 **SEVENTH AFFIRMATIVE DEFENSE**  
8 **(Counter-Defendant Acted in Good Faith)**

9 Counter-Defendant is excused from any and all liability under the facts alleged in  
10 Counterclaimant's claims for relief because at all material times, Counter-Defendant acted in  
11 good faith and conducted all material transactions in good faith.  
12

13 **EIGHTH AFFIRMATIVE DEFENSE**  
14 **(Counterclaimant Not Entitled to Relief)**

15 Counter-Defendant denies that Counterclaimant is entitled to any relief for which it  
16 prays.

17 **NINTH AFFIRMATIVE DEFENSE**  
18 **(Privilege)**

19 Counter-Defendant alleges that Counterclaimant's claims are barred, in whole or in part,  
20 on the ground that Counter-Defendant's conduct as alleged in Counterclaimant's Counterclaim  
21 was privileged.

22 **TENTH AFFIRMATIVE DEFENSE**  
23 **(Counterclaimant's Own Negligence)**

24 Counterclaimant is barred from recovery, or said recovery, if any, must be  
25 proportionately reduced, as any injury or damage allegedly suffered by Counterclaimant  
26 occurred as a proximate result of the negligence on its own part, in that Counterclaimant failed  
27 to exercise ordinary care on its own behalf at the time and place alleged.  
28

1                                   **ELEVENTH AFFIRMATIVE DEFENSE**  
2                                   **(Comparative Fault)**

3           Counter-Defendant alleges that Counterclaimant was careless and negligent with respect  
4 to all matters alleged by it in its Counterclaim and thus was comparatively at fault and  
5 proximately caused its own damages. Accordingly, any damages otherwise recoverable by  
6 Counterclaimant, if any, should be reduced in proportion to its own negligence or omission.

7                                   **TWELFTH AFFIRMATIVE DEFENSE**  
8                                   **(Assumption of Risk)**

9           Counterclaimant, at all material times, calculated, knew, and understood the risks  
10 inherent in the situations, actions, omissions, and transactions upon which it now bases its  
11 various claims for relief, and with such knowledge, Counterclaimant undertook and thereby  
12 assumed such risk and is consequently barred from all recovery by such assumption of risk.

13                                   **THIRTEENTH AFFIRMATIVE DEFENSE**  
14                                   **(No Proximate Cause)**

15           The acts or omissions of Counter-Defendant alleged in Counterclaimant's claims for  
16 relief were not a proximate cause of the loss or damage for which Counterclaimant seeks  
17 recovery.  
18

19                                   **FOURTEENTH AFFIRMATIVE DEFENSE**  
20                                   **(Suffered No Damages)**

21           Counter-Defendant alleges that Counterclaimant's claims are barred because  
22 Counterclaimant suffered no damages as a result of the allegations in the Counterclaim.  
23

24                                   **FIFTEENTH AFFIRMATIVE DEFENSE**  
25                                   **(Counterclaimant's Omissions)**

26           Counter-Defendant allege that, by reason of Counterclaimant's own acts and omissions,  
27 Counterclaimant has waived its right to assert the claims it has asserted against Counter-  
28 Defendant.

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

Defendant reserves the right to assert additional affirmative defenses in the event discovery and/or investigation disclose the existence of other affirmative defenses.

## PRAYER FOR RELIEF

**WHEREFORE**, Counter-Defendant prays for judgment as follows:

1. That Counterclaimant recovers nothing on account of the claims made in its Counterclaim against Counter-Defendant;
2. That Counterclaimant's entire Counterclaim against Counter-Defendant be dismissed with prejudice;
3. For reasonable attorney's fees and costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

DATED this 5<sup>TH</sup> day of October, 2015.

ALESSI & KOENIG, LLC

By:   
Vanessa S. Goulet, Esq.  
Nevada Bar No. 13688  
ALESSI & KOENIG, LLC  
9500 West Flamingo Road, Suite 205  
Las Vegas, Nevada 89147-5721  
Phone: (702) 222-4033  
Fax: (702) 222-4043  
E-Mail: [vanessa@allessikoenig.com](mailto:vanessa@allessikoenig.com)  
*Attorney for Plaintiff /Counter-Defendant*  
*Alessi & Koenig, LLC*

**CERTIFICATE OF SERVICE**

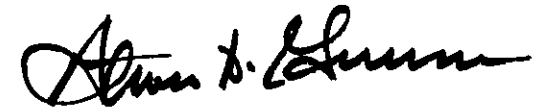
I hereby certify that on the 5<sup>th</sup> day of October, 2015, I caused service of a true and correct copy of the foregoing **ALESSI & KOENIG, LLC'S ANSWER TO U.S. BANK, N.A.'S COUNTERCLAIM** to be made by depositing the same in the United States Mail in Las Vegas, Nevada, postage prepaid, addressed as follows, as well as by the Court's mandatory electronic service system:

Paterno C. Jurani, Esq.  
WRIGHT, FINLAY & ZAK, LLP  
5532 S. Fort Apache Road, Suite 110  
Las Vegas, Nevada 89148  
Tel: (702) 475-7964  
Fax: (702) 946-1345  
[pjurani@wrightlegal.net](mailto:pjurani@wrightlegal.net)  
*Attorney for Nationstar Mortgage, LLC and  
U.S. Bank, N.A.*

Donald Williams, Esq.  
WILLIAMS & ASSOCIATES  
612 S. Tenth Street  
Las Vegas, Nevada 89101  
Tel: (702) 320-7755  
Fax: (702) 320-7760  
*Attorney for Republic Services*

  
an employee of ALESSI & KOENIG, LLC

# **TAB 5**



CLERK OF THE COURT

**MDSM**

DIANA CLINE EBRON, ESQ.  
Nevada Bar No. 10580  
E-mail: diana@KGElegal.com  
JACQUELINE A. GILBERT, ESQ.  
Nevada Bar No. 10593  
E-mail: jackie@KGElegal.com  
KAREN L. HANKS, ESQ.  
Nevada Bar No. 9578  
E-mail: karen@KGElegal.com  
KIM GILBERT EBRON  
fka HOWARD KIM & ASSOCIATES  
7625 Dean Martin Drive, Suite 110  
Las Vegas, Nevada 89139  
Telephone: (702) 485-3300  
Facsimile: (702) 485-3301  
Attorneys for SFR Investments Pool 1, LLC

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

ALESSI & KOENIG, LLC, a Nevada limited  
liability company,

Plaintiff,

vs.

STACY MOORE, an individual; MAGNOLIA  
GOTERA, an individual; KRISTIN JORDAL,  
AS TRUSTEE FOR THE JBWNO  
REVOCABLE LIVING TRUST, a trust; U.S.  
BANK, N.A., a national banking association;  
NATIONSTAR MORTGAGE, LLC, a foreign  
limited liability company; REPUBLIC  
SILVER STATE DISPOSAL, INC., DBA  
REPUBLIC SERVICES, a domestic  
governmental entity; DOE INDIVIDUALS I  
through X, inclusive; and ROE  
CORPORATIONS XI through XX inclusive,

Defendants.

Case No. A-15-705563-C  
Dept. No. XX

**SFR INVESTMENTS POOL 1, LLC'S  
MOTION TO DISMISS PLAINTIFF'S  
THIRD-PARTY COMPLAINT PURSUANT  
TO NRCP 12(b)(6)**



1 U.S. BANK, N.A.,  
2 Counterclaimant,  
3 vs.  
4 ALESSI & KOENIG, LLC, a Nevada limited  
5 liability company,  
6 Counter-Defendant.

---

7 U.S. BANK, N.A.,  
8 Third-Party Plaintiff,  
9 vs.  
10 SFR INVESTMENTS POOL 1, LLC, a  
11 Nevada limited liability company;  
12 INDIVIDUAL DOES I through X, inclusive;  
13 and ROE CORPORATIONS I through X,  
14 inclusive,  
15 Third-Party Defendants.

---

16 SFR INVESTMENTS POOL 1, LLC ("SFR") hereby respectfully requests this Court  
17 dismiss Third-Party Plaintiff, U.S. BANK, N.A., ("Third-Party Plaintiff" or "U.S. Bank" or "the  
18 Bank") Complaint against SFR due to Third Party Plaintiff's failure to join indispensable parties.

19 This Motion is based on the papers and pleadings on file herein, the following points and  
20 authorities, and such evidence/and oral argument as may be presented at the time of the hearing  
21 on this matter.

**NOTICE OF HEARING**

22 PLEASE TAKE NOTICE that on 03 day of February, 2016, in  
23 Department XX of the above-entitled Court, at the hour of 8 : 30 a.m./~~p.m.~~, or as soon

24 ///

25 ///

26 ///

27 ///

28 ///

thereafter as counsel may be heard, the undersigned will bring SFR's Motion to Dismiss Third-Party Plaintiff's Complaint.

DATED December 23rd, 2015.

**KIM GILBERT EBRON**

/s/ Diana Cline Ebron  
Diana Cline Ebron, Esq.  
Nevada Bar No. 10580  
7625 Dean Martin Drive, Suite 110  
Las Vegas, Nevada 89139  
Attorneys for SFR Investments Pool 1, LLC

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The Bank's Third-Party Complaint appears to be an attempt to side step statutory requirements and the Nevada Rules of Civil procedure. After failing to fully protect its security interest when its borrower failed to pay Association assessments, the Bank now seeks to have the Association foreclosure sale declared void based on alleged deficiencies in the conduct of the Association without naming the Association—a necessary party for the relief it seeks. Moreover, the Bank has not complied with NRS 30.130. Accordingly, the Bank's Third-Party Complaint should be dismissed pursuant to NRCP 12(b)(6).

**II. ALLEGATIONS IN THE THIRD-PARTY COMPLAINT**

This case arises from the Shadow Mountain Ranch Community Association ("Association") foreclosure of the real property located at 5327 Marsh Butte, Las Vegas, NV 89148; Parcel No. 163-30-312-007 (the "Property"), based on the former homeowner Magnolia Gotera's failure to pay the Association assessments. See Compl., at ¶ 24. Notices of Default and Election to Sell Property to satisfy Notice of Delinquent Assessment Lien were recorded against the Property on June 13, 2013, and July 5, 2013. Id. at ¶¶ 25 and 26. On December 10, 2013, a Notice of Foreclosure Sale was recorded against the Property on behalf of the Association. Id. at ¶ 27. On January 8, 2014, SFR purchased the Property at the publically held foreclosure auction, by placing the highest bid. Id. at ¶ 28. SFR paid the winning bid amount. Id.

1 The foreclosure sale was conducted by Alessi & Koenig, LLC, (“Alessi”) as authorized  
2 agent for the Association. *Id.* at ¶¶ 24, 26, 27, and 29. After the public auction, on January 13,  
3 2014, Alessi, on behalf of the Association, recorded a Trustee Deed upon Sale transferring title  
4 of the Property to SFR. *Id.* at ¶ 29.

5 On August 18, 2015, U.S. Bank filed a Third-Party Complaint against SFR for quiet title,  
6 declaratory relief, preliminary and permanent injunction, and unjust enrichment. U.S. Bank’s  
7 Third-Party Complaint did not name the Association, the entity responsible for the foreclosure  
8 sale, as a party. U.S. Bank alleges a claim for quiet title against SFR claiming that the  
9 Association foreclosure was invalid because the amounts stated in the notices were incorrect and  
10 the Association and its agent failed to provide it with adequate notice. *Id.* at ¶¶ 32, 33, 34, and 35.  
11 U.S. Bank also claims that the sale was not commercially reasonable and not performed in good  
12 faith. *Id.* at ¶ 45. In other words, U.S. Bank, by way of its Third-Party Complaint, seeks to have  
13 the Association foreclosure sale declared void (see Compl., Prayer for Relief), yet does not name  
14 the parties who are responsible for the sale itself, namely, the Association. The relief U.S. Bank  
15 seeks cannot be afforded without the inclusion of such parties.

### 16 **III. LEGAL ARGUMENT**

#### 17 **A. Failure to Join a Party Under Rule 19.**

18 NRCP 12(b)(6) states that a party may file a motion to dismiss for failure to join a party  
19 under Rule 19. Pursuant to NRCP 19(a), a party shall be joined where:

- 20 (1) In the person’s absence complete relief cannot be accorded among those already  
21 parties, or
- 22 (2) the person claims an interest relating to the subject of the action and is so situated  
23 that the disposition of the action in the person’s absence may (i) as a practical  
24 matter impair or impede the person’s ability to protect that interest or (ii) leave  
any of the persons already parties subject to a substantial risk of incurring double,  
multiple, or otherwise obligations by reason of the claimed interest.

25 NRCP 19(a).

26  
27 Applying the factors under NRCP 19(a), the Court should find that the Association is not  
28 only a necessary party, but is an indispensable party without whom this action cannot proceed.

1 Because the Association is not joined to this action, the claims brought by U.S. Bank cannot be  
2 adjudicated among the existing parties, and SFR suffers the substantial risk of incurring multiple  
3 and/or inconsistent results due to U.S. Bank's failure to join the Association as a party to this  
4 action.

5 Rule 19(b) lists the following four factors to assist a court in determining whether the  
6 case should proceed or be dismissed:

7  
8 (1) the extent to which a judgment rendered in the person's absence might be  
9 prejudicial to the absent person or to existing parties; (2) the extent to which, by  
10 protective provisions in judgment, by shaping the relief, or other measures, the  
11 prejudice can be lessened or avoided; (3) whether a judgment rendered in the  
12 person's absence is adequate; and (4) whether the plaintiff will have an adequate  
13 remedy if the action is dismissed for nonjoinder.

14 NRCP 19(b).

15 These factors "are not to be applied in any mechanical way" but rather in a "practical and  
16 pragmatic but equitable manner." Francis Oil & Gas, Inc. v. Exxon, Corp., 661 F.2d 873, 878  
17 (10th Cir. 1981). Here, this Court cannot render judgment in favor of U.S. Bank, because U.S.  
18 Bank has not named the necessary party(s) in order to effectuate that relief that it seeks, namely,  
19 having the Association foreclosure sale declared void. The relief it seeks is based on the actions  
20 of the Association, not SFR. Everything that led up to the foreclosure sale was performed by  
21 parties other than SFR.

22 U.S. Bank acts as if SFR was responsible for the Association foreclosure sale. It was not.  
23 Nothing in NRS 116.3116 places this burden on a purchaser at a public auction. In fact, just the  
24 opposite is true. Even if the Bank could prove some irregularity with the sale (which it cannot),  
25 the Legislature created a statutory scheme that entitles SFR to rely on the conclusive proof of the  
26 recitals of the Association foreclosure deed that the sale was conducted in a proper and lawful  
27 manner. For U.S. Bank to prevail, it must litigate its claims of improper foreclosure against the  
28 correct parties. Because it has refused to take the necessary steps to do so, U.S. Bank's Third-  
Party Complaint should be dismissed.

///

**B. U.S. Bank Failed to Name the Party Who Is Affected by the Declaratory Relief it Seeks in Derogation of NRS 30.130; Dismissal is Appropriate**

U.S. Bank's Third-Party Complaint should be dismissed because it violated NRS 30.130 when it failed to name the Association, whose interest in real property would certainly be affected by a declaration that its actions surrounding the sale were improper. Moreover, any voiding of the sale would affect the Association's lien interest in the Property.

According to NRS 30.130:

**Parties.** When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General shall also be served with a copy of the proceeding and be entitled to be heard.

NRS 30.130.

Here, U.S. Bank doesn't name the Association, the party responsible for the Association foreclosure process and sale even though it is seeking to have the Association foreclosure sale set aside as void. The declaratory relief it seeks is based on the actions of the Association and its agent. U.S. Bank needed to name these entities as parties in order to get the relief it is seeking. Further, since U.S. Bank is seeking declaratory relief (setting aside the sale as being void), such relief directly affects SFR, and the Association. Yet, U.S. Bank only names SFR, a party which had nothing to do with the Association foreclosure process or in the conducting of the sale.

**C. U.S. Bank Claims that NRS 116.3116 is Unconstitutional, But Didn't Notify the Attorney General in Violation of NRS 30.130; Dismissal is Appropriate**

U.S. Bank claims that NRS 116.3116 is unconstitutional, but failed to notify the Attorney General as required by statute.

According to NRS 30.130, "... if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General shall also be **served** with a copy of the proceeding and be entitled to be heard." (Emphasis added).

Here, U.S. Bank has not provided any evidence that it notified and served a copy of the Third-Party Complaint on the Attorney General as required by NRS 30.130. As such, dismissal with prejudice is warranted.

**IV. CONCLUSION**

Based upon the foregoing, SFR respectfully requests this Court dismiss U.S. Bank's Third-Party Complaint pursuant to NRCP 12(b)(6) and NRS 30.130.

DATED this 23rd day of December, 2015.

**KIM GILBERT EBRON**

/s/ Diana Cline Ebron  
Diana Cline Ebron, Esq.  
Nevada Bar No. 10580  
Jacqueline A. Gilbert, Esq.  
Nevada Bar No. 10593  
Karen L. Hanks, Esq.  
Nevada Bar No. 9578  
7625 Dean Martin Drive, Suite 110  
Las Vegas, Nevada 89139  
Phone: (702) 485-3300  
Fax: (702) 485-3301  
Attorneys for SFR Investments Pool 1, LLC

**CERTIFICATE OF SERVICE**

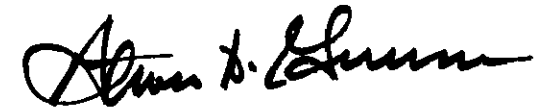
I HEREBY CERTIFY that on this 23rd day of December, 2015, pursuant to NRCP 5(b), I served via the Eighth Judicial District Court electronic filing system, the foregoing **SFR**

**INVESTMENTS POOL 1, LLC'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO NRCP 12(b)(6), to the following parties:**

<b>Alessi &amp; Koenig</b>			
<b>Name</b>	<b>Email</b>		<b>Select</b>
A&K eserve	<a href="mailto:eserve@alessikoenig.com">eserve@alessikoenig.com</a>		
<b>Wright Finlay &amp; Zak</b>			
<b>Name</b>	<b>Email</b>		<b>Select</b>
Dana J. Nitz	<a href="mailto:dnitz@wrightlegal.net">dnitz@wrightlegal.net</a>		
<b>Wright, Finlay &amp; Zak, LLP</b>			
<b>Name</b>	<b>Email</b>		<b>Select</b>
Christopher S. Connell, Esq.	<a href="mailto:cconnell@wrightlegal.net">cconnell@wrightlegal.net</a>		
Marissa Resnick	<a href="mailto:mresnick@wrightlegal.net">mresnick@wrightlegal.net</a>		

/s/ Alan G. Harvey  
An employee of Kim Gilbert Ebron

# **TAB 6**



CLERK OF THE COURT

1 **OMD**

2 **WRIGHT, FINLAY & ZAK, LLP**

3 Edgar C. Smith, Esq.

4 Nevada Bar No. 5506

5 Christopher S. Connell, Esq.

6 Nevada Bar No. 12720

7 7785 W. Sahara Ave., Suite 200

8 Las Vegas, NV 89117

9 (702) 475-7964; Fax: (702) 946-1345

10 esmith@wrightlegal.net

11 cconnell@wrightlegal.net

12 *Attorneys for Defendant, Nationstar Mortgage, LLC and Defendant/Counterclaimant/Third-*  
13 *Party Defendant U.S. Bank, National Association, as Trustee for the Certificateholders of the*  
14 *LXS 2006-4N Trust Fund, erroneously pled as U.S. Bank, N.A.*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 **ALESSI & KOENIG, LLC, a Nevada**  
18 **limited liability company,**

19 **Plaintiff,**

20 **vs.**

21 **STACY MOORE, an individual; MAGNOLIA**  
22 **GOTERA, an individual; KRISTIN JORDAL,**  
23 **AS TRUSTEE FOR THE JBWNO**  
24 **REVOCABLE LIVING TRUST, a trust; U.S.**  
25 **BANK, N.A., a national banking association;**  
26 **NATIONSTAR MORTGAGE, LLC, a foreign**  
27 **limited liability company; REPUBLIC SILVER**  
28 **STATE DISPOSAL INC., DBA REPUBLIC**  
**SERVICES, a domestic governmental entity;**  
**DOE INDIVIDUALS I through X, inclusive;**  
**and ROE CORPORATIONS XI through XX**  
**inclusive,**

**Defendants.**

**U.S. BANK, N.A.,**

**Counterclaimant,**

Case No.: A-14-705563-C

Dept. No.: XX

**U.S. BANK, NATIONAL ASSOCIATION**  
**AS TRUSTEE FOR THE**  
**CERTIFICATEHOLDERS OF THE LXS**  
**2006-4N TRUST FUND, ERRONEOUSLY**  
**PLED AS U.S. BANK, N.A.'S**  
**OPPOSITION TO SFR INVESTMENT**  
**POOL 1, LLC'S MOTION TO DISMISS**  
**PURSUANT TO 12(B)(6)**

Hearing Date: February 3, 2016

Hearing Time: 8:30 a.m.



1

2

3

5

6

7

+

10

1

1

1

11

11

11

10

11

1


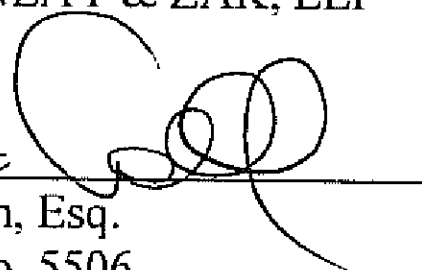
**i**

**1**

1 The Opposition is based on the attached Memorandum of Points and Authorities, all  
2 papers and pleadings on file herein, all judicially noticed facts, and on any oral or documentary  
3 evidence that may be submitted at a hearing on this matter.

4 DATED this 24<sup>th</sup> day of December, 2015.

6 WRIGHT, FINLAY & ZAK, LLP

7   
8 

Edgar C. Smith, Esq.

Nevada Bar No. 5506

Christopher S. Connell, Esq.

Nevada Bar No. 12720

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

12 Attorneys for Defendant, Nationstar Mortgage, LLC  
13 and Defendant/Counterclaimant/Third-Party  
14 Defendant U.S. Bank, National Association, as  
15 Trustee for the Certificateholders of the LXS 2006-  
4N Trust Fund, erroneously pled as U.S. Bank, N.A.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. INTRODUCTION**

18 **Motion to Dismiss**

19 Third-party Defendant SFR INVESTMENTS POOL 1, LLC (hereinafter referred to as  
20 "SFR" or "TPD") is a sophisticated investor who regularly buys distressed properties at  
21 homeowners' association foreclosure sales throughout Nevada. SFR alleges that U.S. BANK  
22 failed to join an indispensable party in this matter, however, U.S. BANK did not fail to join  
23 indispensable parties. U.S. BANK asserts the HOA Sale was made subject to the senior deed of  
24 trust, based upon, *inter alia*, the tender of payment and the unjustified refusal to accept it by the  
25 HOA Trustee; an absence of commercial reasonableness in the conduct and noticing of the sale  
26 and constitutional infirmities in the statutory scheme of the non-judicial foreclosure sale process.  
27 SFR is the only entity that claims an interest in the Property adverse to U.S. BANK. It would be  
28 improper to join other parties to a quiet title action where the HOA does not claim a disputed  
interest in the title to the Property.

1 U.S. BANK's decision on whom to name as defendants are guided by legal principles in  
2 *Hamm v. Arrow Creek Homeowners, Ass'n*, 124 Nev. 290, 183 P.3d 895 (2008) and *McKnight*  
3 *Family, LLP v. Adept Mgmt. Servs.* 310 P.3d 555 (2013). While the claims focus on the actions  
4 of the HOA and its sale trustee, the Defendant SFR confuses the necessity for discovery from the  
5 HOA with the necessity of its joinder to the action. Plaintiff determined that the Association  
6 should not be named in the operative Third-party Complaint/Counterclaim at this time.  
7 Moreover, the causes of action, have been interpreted by this and other courts to implicate the  
8 CC&R's, so that mediation must precede naming these parties to the suit. NRS 38.310 prohibits  
9 a party bringing suit over enforcement or interpretation of the CC&R's without satisfying the  
10 mediation process. For U.S. BANK to name the HOA in its Third-party  
11 Complaint/Counterclaim at this early juncture would ostensibly require the Court to interpret the  
12 CC&Rs to determine whether the HOA's assessments and notice were proper and invite a  
13 *McKnight* motion, which is, of course, the very reason SFR has brought this motion. Rather than  
14 getting to the merits, SFR wants to stall the process so as to ensure SFR recoups as much of its  
15 initial investment as possible through rental of the property. The court must reject this back door  
16 effort to thwart an otherwise entirely proper issue for adjudication, one that stands on its own  
17 without need for mediation. Accordingly, the motion should be denied.

## 18 II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

### 19 *Gotera Loan Documents.*

20 On or about November 14, 2005, the Property was conveyed to Magnolia Gotera  
21 ("Gotera").<sup>1</sup> The Deed of Trust executed by Gotera identified Countrywide Home Loans, Inc. as  
22 the Lender, CTC Real Estate Services as the Trustee, and Mortgage Electronic Registration  
23 Systems, Inc. ("MERS") as beneficiary acting solely as a nominee for Lender and Lender's  
24 successors and assigns, securing a loan in the amount \$508,250.00 (hereinafter the "Gotera  
25

---

26  
27 <sup>1</sup> A true and correct copy of the Grant, Bargain, Sale Deed recorded in the Clark County  
28 Recorder's Office as Book and Instrument Number 20051121-0005566 is attached hereto as  
**Exhibit 1**. All other recordings stated hereafter are recorded in the same manner.

1 Loan").<sup>2</sup> On May 27, 2011, a Grant Deed was recorded wherein Gotera quitclaimed and  
2 conveyed all of her right, title, interest, and claim to the Property to JBWNO Revocable Living  
3 Trust for \$10.00.<sup>3</sup> On May 27, 2011, a Grant Deed was recorded wherein JBWNO Revocable  
4 Living Trust quitclaimed and conveyed all of its right, title, interest, and claim to the Property to  
5 Stacy Moore for \$10.00.<sup>4</sup> On November 2, 2011, an Assignment of Deed of Trust was recorded  
6 wherein MERS assigned all interest in the Deed of Trust to U.S. BANK, NATIONAL  
7 ASSOCIATION, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE LXS 2006-4N  
8 TRUST FUND.<sup>5</sup> On October 1, 2013, an Assignment of Deed of Trust was incorrectly recorded.<sup>6</sup>  
9 This assignment was ineffective as the assignor no longer had any interest under the Deed of  
10 Trust. The Property is subject to a Declaration of Covenants, Conditions and Restrictions for  
11 Shadow Mountain Ranch (the "CC&Rs"). The CC&Rs were recorded in the Official Records of  
12 the Clark County Recorder on or about June 21, 2000 as Book and Instrument Number  
13 20000621.01735.

14 ***HOA Lien Documents.***

15 On May 7, 2008, a Notice of Delinquent Assessment Lien was recorded against the  
16 Property on behalf of HOA.<sup>7</sup> On July 23, 2008, a Notice of Default and Election to Sell Under  
17 Homeowners Association Lien was recorded against the Property.<sup>8</sup> On April 30, 2009, a Notice  
18

---

19 <sup>2</sup> A true and correct copy of the Deed of Trust recorded as Book and Instrument Number  
20 20051121-0005567 is attached hereto as **Exhibit 2**.

21 <sup>3</sup> A true and correct copy of the Grant Deed recorded as Book and Instrument Number  
22 201105270004010 is attached hereto as **Exhibit 3**.

23 <sup>4</sup> A true and correct copy of the Grant Deed recorded as Book and Instrument Number  
24 201105270004011 is attached hereto as **Exhibit 4**.

25 <sup>5</sup> A true and correct copy of the Assignment of Deed of Trust recorded as Book and Instrument  
26 Number 201111020000754 is attached hereto as **Exhibit 5**.

27 <sup>6</sup> A true and correct copy of the Assignment of Deed of Trust recorded as Book and Instrument  
28 Number 201310010002401 is attached hereto as **Exhibit 6**.

<sup>7</sup> A true and correct copy of the Notice of Delinquent Assessment Lien recorded as Book and  
Instrument Number 20080507-0001731 is attached hereto as **Exhibit 7**.

<sup>8</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
Association Lien recorded as Book and Instrument Number 20080723-0001378 is attached  
hereto as **Exhibit 8**.

1 of Default and Election to Sell Under Homeowners Association Lien was recorded against the  
2 Property.<sup>9</sup> On July 1, 2010, a Notice of Default and Election to Sell Under Homeowners  
3 Association Lien was recorded against the Property.<sup>10</sup> On January 26, 2011, a Notice of Sale was  
4 recorded against the Property.<sup>11</sup> On September 11, 2012, a second Notice of Delinquent  
5 Assessment Lien was recorded against the Property on behalf of HOA by its foreclosure trustee,  
6 A&K.<sup>12</sup> On June 13, 2013, a Notice of Default and Election to Sell Under Homeowners  
7 Association Lien was recorded against the Property.<sup>13</sup> On July 5, 2013, a Notice of Default and  
8 Election to Sell Under Homeowners Association Lien was recorded against the Property.<sup>14</sup> On  
9 December 10, 2013, a Notice of Sale was recorded against the Property.<sup>15</sup> Upon information and  
10 belief, pursuant to that Notice of Sale, a non-judicial foreclosure sale occurred on January 8,  
11 2014 (hereinafter the "HOA Sale"). On January 13, 2014, a Trustee's Deed Upon sale was  
12 recorded wherein Buyer acquired its interest in the Property, if any, for \$59,000.00.<sup>16</sup>

13 ///

14 ///

15  
16  
17 <sup>9</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
18 Association Lien recorded as Book and Instrument Number 20090430-0003136 is attached  
hereto as **Exhibit 9**.

19 <sup>10</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
20 Association Lien recorded as Book and Instrument Number 201007010000190 is attached hereto  
as **Exhibit 10**.

21 <sup>11</sup> A true and correct copy of the Notice of Sale recorded as Book and Instrument Number  
201101260002852 is attached hereto as **Exhibit 11**.

22 <sup>12</sup> A true and correct copy of the Notice of Delinquent Assessment Lien recorded as Book and  
Instrument Number 201209110002023 is attached hereto as **Exhibit 12**.

23 <sup>13</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
24 Association Lien recorded as Book and Instrument Number 201306130001804 is attached hereto  
as **Exhibit 13**.

25 <sup>14</sup> A true and correct copy of the Notice of Default and Election to Sell Under Homeowners  
Association Lien recorded as Book and Instrument Number 201307050000950 is attached hereto  
as **Exhibit 14**.

26 <sup>15</sup> A true and correct copy of the Notice of Sale recorded as Book and Instrument Number  
27 201312100001308 is attached hereto as **Exhibit 15**.

28 <sup>16</sup> A true and correct copy of the Trustee's Deed Upon Sale recorded as Book and Instrument  
Number 201401130001460 is attached hereto as **Exhibit 16**.

1 ***U.S. BANK's Tender of the Super-Priority Amount, and the HOA's Rejection of Same.***

2 On or about September 23, 2010, U.S. BANK or its predecessors, agents, servicers or  
3 trustees, and its counsel attempted to obtain a payoff demand from HOA Trustee accurately  
4 identifying the super-priority amount owed to the HOA so that it could be paid.<sup>17</sup> However,  
5 HOA Trustee refused to provide a payoff demand indicating the amount of the super-priority  
6 lien.<sup>18</sup> As a result of HOA Trustee's refusal to provide a super-priority amount, Defendant and its  
7 counsel calculated the super-priority amount owed to the HOA as the sum of nine months of  
8 common assessments, as identified in the HOA's ledger.<sup>19</sup> Based upon the HOA's ledger,  
9 Defendant and its counsel calculated the super-priority amount as \$207.00 and tendered that  
10 amount to the HOA on or about September 30, 2010.<sup>20</sup> Upon information and belief, the HOA  
11 rejected Defendant's tender of super-priority funds.

12 ***Procedural History***

13 On August 14, 2014, ALESSI & KOENIG filed a Complaint in Interpleader against  
14 STACY MOORE, MAGNOLIA GOTERA, KRISTIN JORDAL, AS TRUSTEE FOR THE  
15 JBWNO REVOCABLE LIVING TRUST, U.S. BANK, N.A., NATIONSTAR MORTGAGE,  
16 LLC, REPUBLIC SILVER STATE DISPOSAL, INC., D/B/A REPUBLIC SERVICES. On  
17 August 18, 2015, U.S. BANK filed its Amended Answer, Counterclaim, and Third-party  
18 Complaint against ALESSI & KOENIG, LLC and SFR INVESTMENTS POOL 1, LLC,  
19 respectively, for Quiet Title/Declaratory Relief Pursuant to NRS 30.010 et seq. and NRS 40.010,  
20 Permanent and Preliminary Injunction versus SFR, Wrongful Foreclosure against ALESSI &  
21 KOENIG, LLC, Negligence and Negligence Per Se against ALESSI & KOENIG, LLC, Unjust  
22 Enrichment against SFR and ALESSI & KOENIG, LLC, and a Breach of the Covenant of Good  
23

---

24 <sup>17</sup> See Correspondence from Miles, Bauer, Bergstrom & Winters, LLP, attached hereto as  
25 **Exhibit 17**. Please note this exhibit is a Word document that auto-populates the date.  
26 Consequently, the displayed date does not reflect the date the letter was sent.

27 <sup>18</sup> See Fax and attached Updated Ledger, dated September 13, 2010, attached hereto as **Exhibit**  
**18**.

28 <sup>19</sup> *Id.*

<sup>20</sup> See Letter and Check, dated September 30, 2010, attached hereto as **Exhibit 19**.

1 Faith and Fair Dealing against ALESSI & KOENIG, LLC.

2 ***Commencement of NRED Mediation Claim***

3 On November 19, 2015, U.S. BANK filed a Nevada Real Estate Division (NRED)  
4 Alternative Dispute Resolution Claim (hereinafter, "NRED Claim") regarding its claims against  
5 the HOA and the HOA Trustee pursuant to NRS 38.310.<sup>21</sup> The HOA and HOA Trustee were  
6 served on November 24, 2015.

7 **III. LEGAL ARGUMENT**

8 **A. SFR Misinterprets NRCP 19. The HOA is NOT an Indispensable Party and it is**  
9 **Not U.S. BANK's Responsibility To Join the HOA to this Action.**

10 Despite some creative arguments by SFR in an effort to reframe the issues and/or causes  
11 of action into something that SFR can use to support its Motion, the fact remains that U.S.  
12 BANK's suit is one for quiet title, and the only necessary parties are the Third-party Plaintiff as  
13 the trust deed beneficiary and the Third-party Defendant as record owner. If the court finds the  
14 sale was made subject to the deed of trust, no further relief is necessary. So NRCP 19 does not  
15 require joinder of any other parties and contrary to SFR's claims, the HOA is not a necessary  
16 party, at least from U.S. BANK's perspective. The HOA does not claim an interest in the  
17 property that is the subject of this dispute.

18 NRCP 19(a) shows there are only two situations where a party must be joined in a  
19 lawsuit, if joinder will not deprive a court of jurisdiction: (1) "in the person's absence complete  
20 relief cannot be accorded among those already parties; (2) where: "the person claims an interest  
21 relating to the subject of the action and is so situated that the disposition of the action in the  
22 person's absence may (i) as a practical matter impair or impede the person's ability to protect  
23 that interest or (ii) leave any of the persons already parties subject to a substantial risk of  
24 incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed  
25 interest."

26 In both scenarios, the court can afford U.S. BANK complete relief without joining the  
27

---

28 <sup>21</sup> See NRED Claim, attached hereto as **Exhibit 20**.

1 HOA. U.S. BANK claims an interest in the Property under its deed of trust; SFR claims to own  
2 the property free and clear of the deed of trust. Nothing on the face of this Motion shows that the  
3 HOA has a "claim of interest" in the Property adverse to U.S. BANK. Hence, the HOA is not a  
4 necessary party under NRCP Rule 19(a)(1) to this action. SFR, in numerous quiet title actions it  
5 has brought or defended, has used this principle to guide its own procedural steps, having failed  
6 to name the HOA or its sale trustee in countless prior suits, or to have opposed motions to  
7 dismiss filed by either one.

8 NRCP Rule 19(a)(2) presents a closer look, but the result is still the same. The Motion  
9 again fails to describe what "claim of interest" is held by the HOA. Despite being already  
10 included in the counterclaim, the HOA Trustee is the agent of the HOA and can adequately  
11 represent the interest of the HOA in the counterclaim. Notwithstanding this fact, it is settled law  
12 that agents need not be named to an action because they acted in their capacity as such. See  
13 *Milligan v. Anderson*, 522 F.2d 1202, 1204-05 (10<sup>th</sup> Cir. 1975); 7 C. Wright, A. Miller & M.  
14 Kane, Federal Practice and Procedure § 1623 (1986); See also *Nottingham v. Gen Am.*  
15 *Comm'ns Corp.*, 811 F.2d 873, 880-81 (5<sup>th</sup> Cir. 1987).

16 As to the HOA, U.S. BANK has in the past repeatedly named HOAs to actions that  
17 include claims for quiet title. But that does not mean these are indispensable parties. SFR's  
18 Motion fails to identify the nature of the "claim of interest" within the scope of NRCP 19(a)(2)  
19 mandates their joinder in this action, at this time. That is telling; it can be inferred that SFR  
20 cannot articulate that claim of interest because none exists that warrants a ruling finding that the  
21 HOA is an indispensable party.

22 SFR argues that the HOA and the HOA Trustee are the actual parties that are responsible  
23 for the HOA foreclosure sale. It is true that both were participants in the foreclosure sale process.  
24 But it takes a running leap to say that by virtue of participating in the foreclosure sale process,  
25 the HOA and its sale trustee "claim an interest" in the title to the property sold. There are no  
26 covenants that follow a trustee's deed upon sale, other than the oft-cited presumption by  
27 Defendant that the sale trustee discharged the duties required of it.

28 It is no less true that both the HOA and HOA Trustee have evidence that is relevant to the



1 issues raised in this case. Evidence can be gathered by subpoena and witnesses subpoenaed for  
2 trial, or through regular discovery methods as the HOA Trustee, ALESSI & KOENIG, LLC, is a  
3 party to the action. The fact that either could be a source of evidence does not make them  
4 “indispensable parties” within the scope of Rule 19.

5 In countless actions where SFR was the party initiating or defending the action, in none  
6 previously has SFR asserted that the HOA or the sale trustee were necessary parties. And it  
7 stretches memory to recall a case where SFR has named either as a third party defendant. But  
8 insofar as SFR has concerns about the manner in which the sale was conducted, and therefore is  
9 concerned about expanding the scope of remedies available to the court, SFR can join the HOA  
10 as a third party defendant so as to seek recoupment of its bid at the sale, and to possibly assert  
11 rescission of the sale.

12 Perhaps this motion was filed in this case because the Nevada Real Estate Division is so  
13 backlogged with cases at this point, arising out of countless *McKnight* motion rulings that  
14 obligate the foreclosing lender to mediate its dispute with the HOA, the statute of limitations  
15 may well run before the *McKnight* cycle plays out in this case: the court grants this motion, the  
16 HOA is named, the HOA moves to dismiss the action for lack of pre-suit mediation before  
17 NRED, and the case is stayed or dismissed until that is completed, possibly years from now,  
18 whilst SFR continues to collect rental income from the property, while U.S. BANK suffers from  
19 an absence of recourse of debt service on its loan.

20 Assuming SFR’s intentions are more noble, and not simply a dilatory tactic, then SFR’s  
21 concerns about the necessity of joining the HOA can be remedied by SFR naming the HOA as a  
22 third party defendant, and to assert rescission or other equitable relief if SFR has cause to believe  
23 the sale was improper, fraudulent or unfair as to SFR. Doing so could afford complete relief  
24 among all the parties to be sure, but it is not necessary for U.S. BANK to do so, at this time. U.S.  
25 BANK may still have recourse against the HOA and its sale trustee if the court fails to grant U.S.  
26 BANK the relief here. Those issues can be addressed in due course in the appropriate action for  
27 monetary damages, and need not be joined here, at least not before the NRED foreclosure  
28 mediation issue has run its course.

1 In summary, U.S. BANK may be afforded complete relief on its claim for quiet title,  
2 injunctive relief, and unjust enrichment, and SFR has failed to show otherwise in its Motion.

3 Insofar as SFR characterizes one or more claims as tort claims, then the HOA and its sale  
4 trustee are no more than joint tortfeasors with SFR. A plaintiff is entitled under the law to  
5 proceed against two or more tortfeasors for the same injury as encompassed in the law dealing  
6 with joint and several liability. Furthermore, it is without legal dispute that a plaintiff can  
7 proceed separately against each tortfeasor. *Mongeau v. Boutelle*, 407 N.E. 2d 352, 358  
8 (Mass.Ct.App. 1980) ("Even if the sellers are joint tortfeasors with the Respondent on the fraud  
9 claim...[it] does not require that joint tortfeasors be joined in one suit." Thus, a plaintiff may  
10 decide to sue each tortfeasors in different lawsuit and be allowed to since no joinder is required  
11 by law under such circumstances. While Defendant is correct that NRCP Rule 19(a) requires the  
12 joinder of indispensable parties, they fail to mention that joint tortfeasors are not even considered  
13 indispensable parties to begin with. *Willett v. Vitek*, 139 B.R. 723, 724 (D.Nev. 1992) ("If the  
14 parties are joint tortfeasors, neither party is indispensable"); accord *Casas Office Machs., Inc. v.*  
15 *Mita Copystar Am., Inc.*, 42 F.3d 668, 677 (1<sup>st</sup> Cir. 1994) (same); *Lockheed Martin Corp. v.*  
16 *Network Solutions, Inc.*, 1997 WL 381967, at \*3 (CD. CAL. 1992) ("Since joint tortfeasors are  
17 jointly and severally liable, the victim...may sue as many or as few of the alleged wrongdoers  
18 as he chooses; those left out of the lawsuit are not indispensable parties.") Rule 19 simply does  
19 not require the joinder of joint tortfeasors. See 7 Charles A. Wright, Arthur R. Miller, & Mary K.  
20 Kane, Federal Practice and Procedure, §1623 (3d ed.2001); *Temple v. Synthes Corp., Ltd*, 498  
21 U.S. 5, 7, 111 S.Ct. 315, 112 L.Ed.2d 263 (1990) (citing *Lawlor v. Nat'l Screen Serv. Corp.*, 349  
22 U.S. 322, 329-30, 75 S.Ct. 865, 99 L.Ed. 1122 (1955)); *Krieger v. Trane Co.*, 765 F.Supp. 756,  
23 763 (D.D.C.1991) (noting that it is well settled "that joint tortfeasors are not indispensable  
24 parties").

25 Joint tortfeasors are not required parties because "joint and several liability permits the  
26 plaintiff to recover full relief from any one of the responsible parties, which party then has the  
27 option of suing for contribution or indemnity." *City of New York v. Waterfront Airways, Inc.*, 620  
28 F.Supp. 411, 413 (S.D.N.Y. 1985). A potential right to contribution or indemnity does not make

1 the latter a required party under Rule 19. See *Gen. Refractories Co. v. First State Ins. Co.*, 500  
2 F.3d 306, 320 (3d Cir.2007) (citing *Janney Montgomery Scott, Inc. v. Shepard Niles, Inc.*, 11  
3 F.3d 399, 412 (3d Cir. 1993)). As the Third Circuit noted in *Gen. Refractories Co.*,  
4 “[D]efendants are free to pursue any claim for contribution or indemnification they might have  
5 against the absent insurers in a separate action. While ‘[w]e recognize that this is a less  
6 convenient remedy for [Respondent],’ it is nonetheless ‘a means of resolving [Respondent’s]  
7 claim of the risk of inconsistent obligations.’” *Id.* (citing *Gardiner v. Virgin Islands Water &  
8 Power Auth.*, 145 F.3d 635, 642 (3d Cir.1998)). None of the foregoing, however, is intended to  
9 suggest to the Court that the Plaintiff will not seek recovery against the joint tortfeasors, but such  
10 relief would be unnecessary if the court finds the sale was made subject to the deed of trust.

11 SFR seeks to place an obligation on U.S. BANK to act which falls outside the latter’s  
12 scope of responsibility. NRCP 14 states that if a party believes the HOA(s) may be liable, then  
13 that party simply has to bring in the HOA(s) as third party Defendants. In other words, it is not  
14 now nor has it ever been a complaintant’s responsibility to bring in additional parties under these  
15 circumstances to satisfy Rule 19. Rule 14 states:

16 (a) When Respondent May Bring in Third Party. At any time after  
17 commencement of the action a defending party, as a third-party plaintiff, may  
18 cause a summons and complaint to be served upon a person not a party to the  
19 action who is or may be liable to the third-party plaintiff for all or part of the  
20 plaintiff’s claim against the third-party plaintiff. The third-party plaintiff need  
21 not obtain leave to make the service if the third-party plaintiff files the third-  
22 party complaint not later than 10 days after serving the original answer.  
23 Otherwise the third-party plaintiff must obtain leave on motion upon notice to  
24 all parties to the action. The person served with the summons and third-party  
25 complaint, hereinafter called the third-party Respondent, shall make any  
26 defenses to the third-party plaintiff’s claim as provided in Rule 12 and any  
27 counterclaims against the third-party plaintiff and cross-claims against other  
28 third-party Respondents as provided in Rule 13. The third-party Respondent  
may assert against the plaintiff any defenses which the third-party plaintiff has  
to the plaintiff’s claim. The third-party Respondent may also assert any claim  
against the plaintiff arising out of the transaction or occurrence that is the  
subject matter of the plaintiff’s claim against the third-party plaintiff. The  
plaintiff may assert any claim against the third-party Respondent arising out  
of the transaction or occurrence that is the subject matter of the plaintiff’s  
claim against the third-party plaintiff, and the third-party Respondent  
thereupon shall assert any defenses as provided in Rule 12 and any

1 counterclaims and cross-claims as provided in Rule 13. Any party may move  
2 to strike the third-party claim, or for its severance or separate trial. A third-  
3 party Respondent may proceed under this rule against any person not a party  
4 to the action who is or may be liable to the third-party Respondent for all or  
5 part of the claim made in the action against the third-party Respondent.

6 Because the HOA is clearly not an indispensable party in a Quiet Title action based on common  
7 sense as well as the multitude of authorities, SFR's Motion to Dismiss must be denied. Simply  
8 put, it is SFR's responsibility and not U.S. BANK's to third party complain against any HOA(s)  
9 if that is what they desire.

10 **B. U.S. BANK has Plead a Proper Claim of Quiet Title.**

11 A quiet title action "may be brought by any persons against another who claims an estate  
12 or interest in real property, adverse to the person bringing the action, for the purpose of  
13 determining such adverse claim." NRS 40.010. The operative Third-party Complaint alleges,  
14 *inter alia*, that SFR "claims it is the current titleholder of the Property" having acquiring its  
15 interest in the Property through a Trustee's Deed Upon Sale that is adverse to U.S. BANK's  
16 interest. (See Third-party Complaint, para. 6). Furthermore, the Third-party Complaint sets forth  
17 U.S. BANK's superior right to title based on: (1) the Supremacy Clause and Property Clause of  
18 the U.S. Constitution; (2) inadequate notice of the HOA sale; (3) the commercial  
19 unreasonableness of the HOA sale; and (4) the Mortgagee Protection Clause. (See Third-party  
20 Complaint, paras. 46-57 ). These allegations clearly and sufficiently set forth quiet title claims  
21 for relief and correctly names the one and only indispensable party relating to a Quiet Title  
22 claim-SFR.

23 Also, it should be noted that NRS Chapter 116 sales are sold without warranty of title  
24 pursuant to NRS 116.31164(3)(a). Thus, as the current beneficiary under the Deed of Trust and  
25 subject Loan, U.S. BANK's Mortgage interest still encumbers the Property and must retain its  
26 first position status in the chain of title for the Property after the HOA sale and is superior to the  
27 interest, *if any*, acquired by the buyer SFR, or held or claimed by any other party. And since the  
28 HOA does not even claim a current interest to the Property, much less a superior interest, U.S.  
BANK was correct in not naming the HOA in their counterclaim given the underlying facts and

1 the *McKnight* case.

2 **C. Service to the Attorney General's Office**

3 Lastly, SFR claims that the Third-party Complaint for Quiet Title should be dismissed as to  
4 SFR because the Attorney General of Nevada was not served with the Third-party Complaint  
5 pursuant to NRS 30.130. NRS 30.130 does not provide that a claim shall be dismissed unless  
6 evidence is provided that the Attorney General's office has been served with the Complaint.  
7 However, the Answer, Counterclaim, and Third-party Complaint package was mailed to the  
8 Attorney General's office on December 24, 2015.<sup>22</sup> Therefore, this argument is without merit and  
9 further evidences SFR's dilatory motive in filing the Motion to Dismiss to begin with.

10 **IV. CONCLUSION**

11 In short, the HOA is not an indispensable party to U.S. BANK's Quiet Title action. A  
12 right of indemnity and contribution does not create indispensable parties as the case law makes  
13 abundantly clear. Defendant's Motion to Dismiss amounts to nothing more than a stall tactic  
14 hoping to capitalize on a technicality. U.S. BANK's Third-party Complaint should be allowed to  
15 proceed forward to allow discovery by the parties and have this Court rule on the actual merits of  
16 this case.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

---

27 <sup>22</sup> See, Bill of Lading from Nationwide to Attorney General's Office, attached hereto as **Exhibit**  
28 **21.**

1 Therefore, for the reasons herein stated it is respectfully requested that the Third-party  
2 Defendant's Motion to Dismiss be denied.

3 DATED this 24<sup>th</sup> day of December, 2015.

4 WRIGHT, FINLAY & ZAK, LLP

5 

6 Edgar C. Smith, Esq.

7 Nevada Bar No. 5506

8 Christopher S. Connell, Esq.

9 Nevada Bar No. 12720

10 7785 W. Sahara Ave., Suite 200


11 Las Vegas, NV 89117


12 *Attorneys for Defendant, Nationstar Mortgage, LLC*  
13 *and Defendant/Counterclaimant/Third-Party*  
14 *Defendant U.S. Bank, National Association, as*  
15 *Trustee for the Certificateholders of the LXS 2006-*  
16 *4N Trust Fund, erroneously pled as U.S. Bank, N.A.*

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

The undersigned does hereby affirm that the preceding **PLAINTIFF NATIONSTAR MORTGAGE, LLC'S OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO NRCP 12(B)(6) FOR FAILURE TO JOIN INDISPENSABLE PARTIES** filed in Case No. A-15-726803-C does not contain the social security number of any person.

WRIGHT, FINLAY & ZAK, LLP

  
Edgar C. Smith, Esq.  
Nevada Bar No. 5506

  
Christopher S. Connell, Esq.  
Nevada Bar No. 12720  
7785 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117

*Attorneys for Defendant, Nationstar Mortgage, LLC  
and Defendant/Counterclaimant/Third-Party  
Defendant U.S. Bank, National Association, as  
Trustee for the Certificateholders of the LXS 2006-  
4N Trust Fund, erroneously pled as U.S. Bank, N.A.*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 24 day of December, 2015, I did cause a true copy U.S. BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE LXS 2006-4N TRUSTE FUND, ERRONEOUSLY PLED AS U.S. BANK, N.A.'S OPPOSITION TO SFR INVESTMENT POOL 1, LLC'S MOTION TO DISMISS PURSUANT TO 12(B)(6) to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9.

**Alessi & Koenig**

**Name**

**Email**

A&K eserve

[eserve@alessikoenig.com](mailto:eserve@alessikoenig.com)

**Howard Kim & Associates**

**Name**

**Email**

Diana S. Cline

[diana@hkimlaw.com](mailto:diana@hkimlaw.com)

Tomas Valerio

[tomas@hkimlaw.com](mailto:tomas@hkimlaw.com)

**Howard Kim & Associates**

**Name**

**Email**

E-Service for Howard Kim

[eservice@hkimlaw.com](mailto:eservice@hkimlaw.com)


  
An Employee of WRIGHT, FINLAY & ZAK, LLP



## **Exhibit 1**

## **Exhibit 1**

## **Exhibit 1**


  
20051121-0005566

RECORDING REQUESTED BY:  
Fidelity National Title Agency of Nevada  
Escrow No. 05-191253-TH  
Title Order No. 00191253

Fee: \$15.00 RPTT: \$2,728.50  
N/C Fee: \$0.00

11/21/2005 14:38:39  
T20050211957

Requestor:  
FIDELITY NATIONAL TITLE

Frances Deane JSB  
Clark County Recorder Pgs: 2

When Recorded Mail Document  
and Tax Statement To:

Ms. Magnolia Gotera

1090 Twin Creeks Drive  
Salinas, CA. 93905

RPTT: 2,728.50  
APN: 163-30-312-007

### GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That Wei Hong Yang, An Unmarried Woman

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do(es) hereby Grant,  
Bargain, Sell and

Convey to Magnolia Gotera, A Single Woman

all that real property situated in the Clark County, State of Nevada, bounded and described as follows:

Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as shown by map thereof on file in Book  
102 of Plats, Page 28 in the Office of the County Recorder of Clark County, Nevada.

SUBJECT TO: 1. Taxes for the fiscal year 2005-06  
2. Covenants, Conditions, Reservations, Rights, Rights of Way and Easements  
now of record.

Together with all and singular tenements, hereditaments and appurtenances thereunto belonging or  
in anywise appertaining.

DATED: November 14, 2005

STATE OF NEVADA  
COUNTY OF Clark

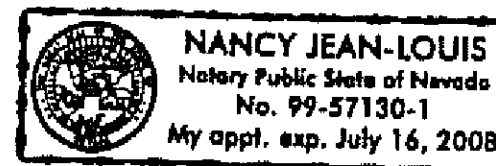
This instrument was acknowledged before me  
on November 14, 2005

by Wei Hong Yang

Signature Nancy Jean Louis  
Notary Public

My Commission Expires: 7/16/08

Wei Hong Yang  
Wei Hong Yang



# STATE OF NEVADA DECLARATION OF VALUE

## 1. Assessor Parcel Number(s)

a) 163-30-312-007  
 b) \_\_\_\_\_  
 c) \_\_\_\_\_  
 d) \_\_\_\_\_

## 2. Type of Property:

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

## FOR RECORDER'S OPTIONAL USE ONLY

Document/Instrument #: \_\_\_\_\_  
 Book: \_\_\_\_\_ Page: \_\_\_\_\_  
 Date of Recording: \_\_\_\_\_  
 Notes: \_\_\_\_\_

3. Total Value/Sales Price of the Property \$ 535,000.00  
 Deed in Lieu of Foreclosure Only (Value of Property) ( \_\_\_\_\_ )  
 Transfer Tax Value: \$ 535,000.00  
 Real Property Transfer Tax Due \$ 2,728.50

## 4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090. Section 0  
 b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Wei Hong Yang Capacity Grantor

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

**SELLER (GRANTOR) INFORMATION**  
 (REQUIRED)

**BUYER (GRANTEE) INFORMATION**  
 (REQUIRED)
Print Name: Wei Hong YangPrint Name: Magnolia GoteraAddress: 7201 Mission Hill DrAddress: 1090 Twin Creeks Dr.City, State, Zip: Las Vegas NV 89103City, State, Zip: SALINAS, CA. 93905

## COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: Fidelity National Title Agency of NevadaEscrow #: 05-191253-THAddress: 5597 W. Spring Mountain RoadCity, State and Zip: Las Vegas, NV 89102

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

(declval.wpd)(04-05)

## **Exhibit 2**

## **Exhibit 2**

## **Exhibit 2**


  
20051121-0005567

Assessor's Parcel Number:  
16330312007  
After Recording Return To:  
COUNTRYWIDE HOME LOANS, INC.

Fee: \$39.00  
N/C Fee: \$0.00

11/21/2005 14:38:39  
T20050211957

Requestor:  
FIDELITY NATIONAL TITLE

Frances Deane JSB  
Clark County Recorder Pgs: 26

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

COUNTRYWIDE HOME LOANS, INC.

650 WHITE DRIVE, STE 280  
LAS VEGAS  
NV 89119

[Space Above This Line For Recording Data]

0519191253 00012143406811005  
[Escrow/Closing #] [Doc ID #]

## DEED OF TRUST

MIN 1000157-0006127350-0


### DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated NOVEMBER 10, 2005 , together with all Riders to this document.

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

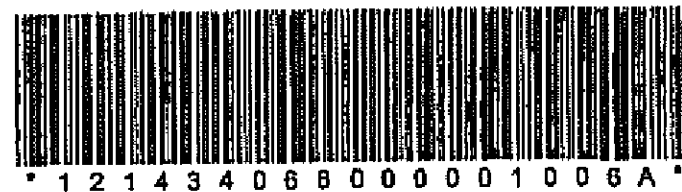
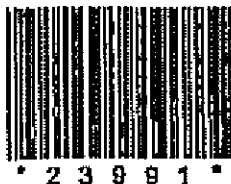
Page 1 of 16

 -6A(NV) (0307) CHL (07/03)(d)

VMP Mortgage Solutions - (800)521-7291

Initials: 

Form 3029 1/01



DOC ID #: 00012143406811005

(B) "Borrower" is  
MAGNOLIA GOTERA, A SINGLE WOMAN

Borrower is the trustor under this Security Instrument.  
(C) "Lender" is  
COUNTRYWIDE HOME LOANS, INC.

Lender is a  
CORPORATION

organized and existing under the laws of NEW YORK  
P.O. Box 10219  
Van Nuys, CA 91410-0219  
(D) "Trustee" is  
CTC REAL ESTATE SERVICES

. Lender's address is

400 COUNTRYWIDE WAY, MSN SV-88, SIMI VALLEY, CA 93065 , ,

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

(F) "Note" means the promissory note signed by Borrower and dated NOVEMBER 10, 2005  
The Note states that Borrower owes Lender  
FIVE HUNDRED EIGHT THOUSAND TWO HUNDRED FIFTY and 00/100

Dollars (U.S. \$ 508,250.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than DECEMBER 01, 2035 .

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

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

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

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

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

Initials:           

VMP® -6A(NV) (0307) CHL (07/03)

Page 2 of 16

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

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

#### TRANSFER OF RIGHTS IN THE PROPERTY

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

VMP -6A(NV) (0307) CHL (07/03)

Page 3 of 16

Initials:     

Form 3029 1/01

DOC ID #: 00012143406811005

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

[Type of Recording Jurisdiction]

CLARK

[Name of Recording Jurisdiction]

LOT 7 IN BLOCK 1 OF FINAL MAP OF SECTION 30 R2-60/70 NO. 5,  
AS SHOWN BY MAP THEREOF ON FILE IN BOOK 102 OF PLATS, PAGE 28  
IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.  
ASSESSOR'S PARCEL NO: 163-30-312-007

which currently has the address of

5327 MARSH BUTTE STREET, LAS VEGAS

[Street/City]

Nevada 89148-4669 ("Property Address");

[Zip Code]

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

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

Initials: 

Form 3029 1/01

VMP-6A(NV) (0307) CHL (07/03)

Page 4 of 16



DOC ID #: 00012143406811005

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

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

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


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


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

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

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

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

Initials:   
Form 3029 1/01

 -6A(NV) (0307) CHL (07/03)

Page 5 of 16

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials: 

VMP-6A(NV) (0307) CHL (07/03)

Page 6 of 16

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

Initials:   
Form 3029 1/01

VMP® -6A(NV) (0307) CHL (07/03)

Page 7 of 16

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials: 

Form 3029 1/01

VMP®-6A(NV) (0307) CHL (07/03)

Page 8 of 16

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials 

-6A(NV) (0307) CHL (07/03)

Page 9 of 16

Form 3029 1/01

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

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

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

Initials: 

Form 3029 1/01

VMP -6A(NV) (0307) CHL (07/03)

Page 10 of 16

DOC ID #: 00012143406811005

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

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

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

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

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

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

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

Initials: 

VMP -6A(NV) (0307) CHL (07/03)

Page 11 of 16

Form 3029 1/01



DOC ID #: 00012143406811005

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

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

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

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

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

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

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

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

Initials   
Form 3029 1/01

VMP -6A(NV) (0307) CHL (07/03)

Page 12 of 16



DOC ID #: 00012143406811005

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

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

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

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

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

Initials: 

Form 3029 1/01

VMP® -6A(NV) (0307) CHL (07/03)

Page 13 of 16

DOC ID #: 000121434068

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

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

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

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


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

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

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

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

Initials   
Form 3029 1/01

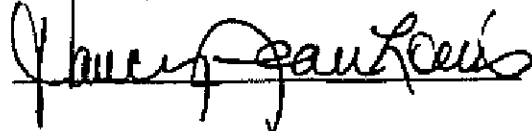
 -6A(NV) (0307) CHL (07/03)

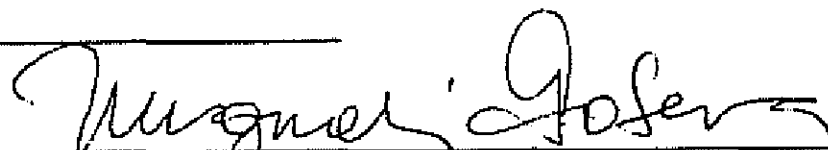
Page 14 of 16

DOC ID #: 00012143406811005

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

Witnesses:



  
MAGNOLIA GOTERA

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower



-6A(NV) (0307)

CHL (07/03)

Page 15 of 16

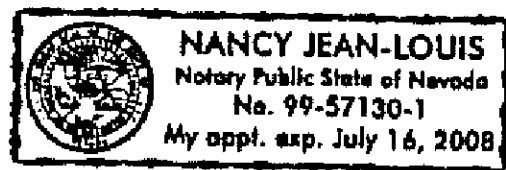
Form 3029 1/01

DOC ID #: 00012143406811005

STATE OF NEVADA  
COUNTY OF

*Clark*

This instrument was acknowledged before me on November 15, 2005 by  
*Magnolia Gotera*



*Nancy Jean-Louis*

Mail Tax Statements To:  
TAX DEPARTMENT SV3-24

450 American Street  
Simi Valley CA, 93065

Initials: *ML*  
Form 3029 1/01

VMP® -6A(NV) (0307) CHL (07/03) Page 16 of 16

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

0519191253                      00012143406811005  
[Escrow/Closing #]                      [Doc ID #]

THIS ADJUSTABLE RATE RIDER is made this TENTH                      day of  
NOVEMBER, 2005                      , and is incorporated into and shall be deemed to amend and supplement  
the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by  
the undersigned ("Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to  
COUNTRYWIDE HOME LOANS, INC.

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

5327 MARSH BUTTE STREET  
LAS VEGAS, NV 89148-4669  
[Property Address]

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

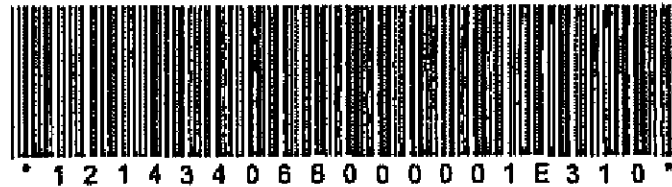
**ADDITIONAL COVENANTS:** In addition to the covenants and agreements made in the Security  
Instrument, Borrower and Lender further covenant and agrees as follows:

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

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

• PayOption MTA ARM Rider  
1E310-XX (12/04)(d)

Page 1 of 6



DOC ID #: 0001214340681

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

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 3.000 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7(B) of the Note.

**(B) Interest Rate Change Dates**

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

**(C) Index**

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

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

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

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding THREE & 75/1000 percentage point(s) ( 3.075 %) ("Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). This rounded amount will be my new interest rate until the next Interest Rate Change Date. My interest will never be greater than 9.950 %. Beginning with the first Interest Rate Change Date, my interest rate will never be lower than the Margin.

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

I will make a payment every month.

I will make my monthly payments on the FIRST day of each month beginning on January, 2006. I will make these payments every month until I have paid all the Principal and interest and any other charges described below that I may owe under the Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on DECEMBER 01, 2035, I still owe amounts under the Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 2 of 6

DOC ID #: 00012143406811005

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

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

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

Each of my initial monthly payments until the first Payment Change Date will be in the amount of  
U.S. \$ 2,142.80 , unless adjusted under Section 3 (F).

**(C) Payment Change Dates**

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

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

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

At least 30 days before each Payment Change Date, the Note Holder will calculate the amount of  
the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe  
at the Payment Change Date in full on the maturity date in substantially equal payments at the interest  
rate effective during the month preceding the Payment Change Date. The result of this calculation is  
called the "Full Payment." Unless Section 3(F) or 3(G) apply, the amount of my new monthly payment  
effective on a Payment Change Date, will not increase by more than 7.5% of my prior monthly  
payment. This 7.5% limitation is called the "Payment Cap." This Payment Cap applies only to the  
Principal and interest payment and does not apply to any escrow payments Lender may require under  
the Security Instrument. The Note Holder will apply the Payment Cap by taking the amount of my  
Minimum Payment due the month preceding the Payment Change Date and multiplying it by the  
number 1.075. The result of this calculation is called the "Limited Payment." Unless Section 3(F) or  
3(G) below requires me to pay a different amount, my new Minimum Payment will be the lesser of the  
Limited Payment and the Full Payment. I also have the option to pay the Full Payment for my monthly  
payment.

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 3 of 6

DOC ID #: 00012143406811005

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

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

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

My unpaid Principal can never exceed the Maximum Limit equal to ONE HUNDRED FIFTEEN percent ( 115 %) of the Principal amount I originally borrowed. My unpaid Principal could exceed that Maximum Limit due to Minimum Payments and interest rate increases. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. This means that my monthly payment may change more frequently than annually and such payment changes will not be limited by the 7.5% Payment Cap. The new Minimum Payment will be in an amount that would be sufficient to repay my then unpaid Principal in full on the Maturity Date in substantially equal payments at the current interest rate.

**(G) Required Full Payment**

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

**(H) Payment Options**

After the first Interest Rate Change Date, Lender may provide me with up to three (3) additional payment options that are **greater** than the Minimum Payment, which are called "Payment Options." I may be given the following Payment Options:

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

(ii) **Fully Amortized Payment:** the amount necessary to pay the loan off (Principal and interest) at the Maturity Date in substantially equal payments.

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

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 4 of 6



DOC ID #: 00012143406811005

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

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

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

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

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

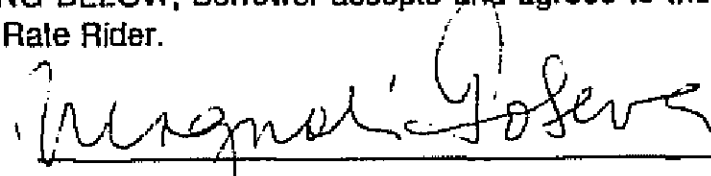
To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements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

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

DOC ID #: 00012143406811005

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

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

  
MAGNOLIA GOTERA

-Borrower

-Borrower

-Borrower

-Borrower

• PayOption MTA ARM Rider  
1E310-XX (12/04)

Page 6 of 6

**PLANNED UNIT DEVELOPMENT RIDER**

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

PARCEL ID #:  
16330312007

Prepared By:  
APRIL MESA

0519191253  
[Escrow/Closing #]

00012143406811005  
[Doc ID #]

THIS PLANNED UNIT DEVELOPMENT RIDER is made this TENTH day of  
NOVEMBER, 2005, and is incorporated into and shall be deemed to amend and supplement the  
Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the

MULTISTATE PUD RIDER - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

VMP -7R (0411)

CHL (11/04)(d)

Page 1 of 4

Initials *AM*

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

Form 3150 1/01



DOC ID #: 00012143406811005

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

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

5327 MARSH BUTTE STREET  
LAS VEGAS, NV 89148-4669  
[Property Address]

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

(the "Declaration"). The Property is a part of a planned unit development known as  
SPRING VALLEY SECTION 30

[Name of Planned Unit Development]

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

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

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

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

Initials 

-7R (0411)

CHL (11/04)

Page 2 of 4

Form 3150 1/01

DOC ID #: 00012143406811005

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

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

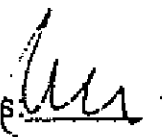
In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums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

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

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

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

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

Initials 

 -7R (0411)

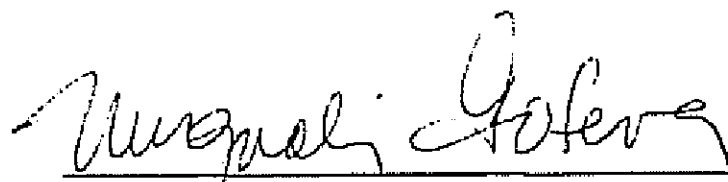
CHL (11/04)

Page 3 of 4

Form 3150 1/01

DOC ID #: 00012143406811005

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



MAGNOLIA GOTERA

(Seal)

- Borrower

(Seal)

- Borrower

(Seal)

- Borrower

(Seal)

- Borrower

## **Exhibit 3**

## **Exhibit 3**

## **Exhibit 3**

When Recorded mail Document  
and tax statement to:  
JBWNO revocable living trust  
5327 Marsh Butte St.  
Las Vegas, NV 89148

CO-A-1

Inst #: 201105270004010  
Fees: \$16.00 N/C Fee: \$25.00  
RPTT: \$0.00 Ex: #007  
05/27/2011 04:12:48 PM  
Receipt #: 792751  
Requester:  
STACY MOORE  
Recorded By: SOL Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN: 163-30-312-007

---

## GRANT DEED

STATE OF NEVADA                    )  
  )ss  
COUNTY OF CLARK                 )

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Ten Dollars and zero Cents ( \$10.00 ) in hand paid to Gotera Magnolia (hereinafter called the Grantor), the receipt of whereof is hereby acknowledged, the Grantor, Gotera Magnolia hereby RELEASES, QUITCLAIMS, GRANTS, SELLS, AND CONVEYS to JBWNO revocable living trust, JBWNO revocable living trust, (hereinafter called Grantee), all of the Grantors' right, title, interest, and claim in or to the following described real estate, situated in Clark County, Nevada, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF



DATED:

State of Nevada

County of Clark

I hereby certify that Magnolia Gotera whose name(s)  
are/is signed to the foregoing conveyance, and are known to me  
(or provided to me on the basis of Satisfactory evidence),  
acknowledged before me on this day, that, being informed of the  
contents of the conveyance, they executed the same voluntarily on  
the day the same bears date.

Magnolia Gotera  
Grantor

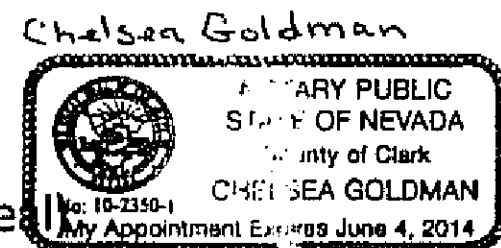
On May 27, 2011 before me,

Magnolia Gotera  
(here insert name and title of the officer)

WITNESS my hand and official seal. May 27, 2011

Signature Chelsea Goldman  
Chelsea Goldman, Notary Public

MAIL TAX STATEMENTS AS DIRECTED ABOVE



**Exhibit A**

**Legal description as recorded on document number  
20051121-0005566**

**Also known as:**

**APN: 163-30-312-007**

**5327 MARSH BUTTE ST  
LAS VEGAS, NV 89148**

**Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as  
shown by map thereof on file in Book 102 of Plats, Page 28 in the  
Office of the County Recorder of Clark County, Nevada**

**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

**1. Assessor Parcel Number(s)**

a. 163-30-312-007  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

**2. Type of Property:**

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

**FOR RECORDER'S OPTIONAL USE ONLY**  
Book: \_\_\_\_\_ Page: \_\_\_\_\_  
Date of Recording: \_\_\_\_\_  
Notes: \_\_\_\_\_

3. a. Total Value/Sales Price of Property \$ 0  
b. Deed in Lieu of Foreclosure Only (value of property) ( )  
c. Transfer Tax Value: \$ 0  
d. Real Property Transfer Tax Due \$ 0

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section 7  
b. Explain Reason for Exemption: Transfer to or from a trust  
without consideration

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Kristin Jorda Capacity Trustee

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

**SELLER (GRANTOR) INFORMATION  
(REQUIRED)**

Print Name: Magnolia Gotera  
Address: 5327 Marsh Butte St  
City: Las Vegas  
State: NV Zip: 89148

**BUYER (GRANTEE) INFORMATION  
(REQUIRED)**

Print Name: JBWNO revocable living  
Address: 5327 Marsh Butte St  
City: Las Vegas  
State: NV Zip: 89148

**COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)**

Print Name: \_\_\_\_\_ Escrow #: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

CCOR\_NV\_Form.pdf ~ 01/12/08

## **Exhibit 4**

## **Exhibit 4**

## **Exhibit 4**

When Recorded mail Document  
and tax statement to:  
Stacy Moore  
5327 Marsh Butte St.  
Las Vegas, NV 89148

② -1

Inst #: 201105270004011  
Fees: \$16.00 N/C Fee: \$0.00  
RPTT: \$0.00 Ex: #007  
05/27/2011 04:12:48 PM  
Receipt #: 792751  
Requestor:  
STACY MOORE  
Recorded By: SOL Pgs: 4  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

APN: 163-30-312-007

---

## GRANT DEED

STATE OF NEVADA                    )  
  )ss  
COUNTY OF CLARK                 )

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Ten Dollars and zero Cents ( \$10.00 ) in hand paid to JBWNO revocable living trust (hereinafter called the Grantor), the receipt of whereof is hereby acknowledged, the Grantor, JBWNO revocable living trust hereby RELEASES, QUITCLAIMS, GRANTS, SELLS, AND CONVEYS to Stacy Moore, Stacy Moore, (hereinafter called Grantee), all of the Grantors' right, title, interest, and claim in or to the following described real estate, situated in Clark County, Nevada, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Exhibit A

Legal description as recorded on document number  
20051121-0005566

Also known as:

APN: 163-30-312-007

5327 MARSH BUTTE ST  
LAS VEGAS, NV 89148

Lot 7 in Block 1 of Final Map of Section 30 R2-60/70 No. 5, as  
shown by map thereof on file in Book 102 of Plats, Page 28 in the  
Office of the County Recorder of Clark County, Nevada