

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE BANK OF NEW YORK MELLON,
F/K/A THE BANK OF NEW YORK, AS
TRUSTEE, FOR THE
CERTIFICATEHOLDERS OF CWABS,
INC. ASSET-BACKED CERTIFICATES,
SERIES 2006-25,

Appellant,

vs.

SFR INVESTMENTS POOL 1, LLC,

Respondent.

Supreme Court No. 81604

Electronically Filed
Jan 20 2021 03:22 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

District Court Case No.
A-19-790150-C

Appeal from the Eighth Judicial District
Court, Clark County, Nevada

APPELLANT'S APPENDIX

VOLUME I

Respectfully Submitted by:

ZBS LAW, LLP

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Nevada Bar No. 11310

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*Attorneys for Appellant, The Bank of New York Mellon fka The Bank of New York,
as Trustee for the Certificateholders of CWABS, Inc. Asset-Backed Certificates,
Series 2006-25*

| DOCUMENTS | VOLUME | PAGE NOS. |
|---|---------------|---------------------|
| Complaint | I | APP000079-APP000085 |
| Complaint for Quiet Title/ Declaratory Relief [28 U.S.C. §§ 2201,2202] | I | APP000001-APP000057 |
| Defendant The Bank of New York Mellon's Answer to SFR Investments Pool 1, LLC's Complaint | I | APP000086-APP000093 |
| Defendant's Motion for Summary Judgment | I | APP000094-APP000163 |
| Defendants' Opposition to SFR Investments Pool 1, LL's Motion for Summary Judgment | II | APP000279-APP000294 |
| Defendants' Reply in Support of Motion for Summary Judgment | II | APP000355-APP000367 |
| Docket from Case #A-19-790150-C | II | APP000415-APP000417 |
| Findings of Fact and Conclusions of Law and Judgment | II | APP000400-APP000404 |
| Notice of Appeal | II | APP000412-APP000414 |
| Notice of Entry of Findings of Fact and Conclusions of Law and Judgment | II | APP000405-APP000406 |
| Opposition to Defendant's Motion for Summary Judgment | II | APP000295-APP000345 |
| Order Granting Motion to Dismiss [ECF No. 16] | I | APP000073-APP000078 |

| DOCUMENTS | VOLUME | PAGE NOS. |
|--|---------------|---------------------|
| Reply in Support of Motion for summary Judgment | II | APP000346-APP000354 |
| SFR Investments Pool 1, LLC's Motion for Summary Judgment | II | APP000207-APP000278 |
| SFR Investments Pool 1, LLC's Motion to Dismiss Plaintiff's Complaint [ECF No. 1] Pursuant to FRCP 12(b)(6) and 12(b)(7) | I | APP000058-APP000072 |
| Supplemental Points and Authorities in Support of Defendants' Motion for Summary Judgment | II | APP000368-APP000393 |
| Sur-Reply in Support of Motion for Summary Judgment | II | APP000394-APP000399 |
| The Bank of New York Mellon's Request for Judicial Notice | I | APP000164-APP000206 |

VOLUME I

| DATE | DOCUMENT | VOLUME | PAGE NOS. |
|-------------|--|---------------|---------------------|
| 04/04/2018 | Complaint for Quiet Title/ Declaratory Relief [28 U.S.C. §§ 2201,2202] | I | APP000001-APP000057 |
| 06/11/2018 | SFR Investments Pool 1, LLC's Motion to Dismiss Plaintiff's Complaint [ECF No. 1] Pursuant to FRCP 12(b)(6) and 12(b)(7) | I | APP000058-APP000072 |

| DATE | DOCUMENT | VOLUME | PAGE NOS. |
|-------------|---|---------------|---------------------|
| 10/01/2018 | Order Granting Motion to Dismiss [ECF No. 16] | I | APP000073-APP000078 |
| 02/27/2019 | Complaint | I | APP000079-APP000085 |
| 05/22/2019 | Defendant The Bank of New York Mellon's Answer to SFR Investments Pool 1, LLC's Complaint | I | APP000086-APP000093 |
| 01/30/2020 | Defendant's Motion for Summary Judgment | I | APP000094-APP000163 |
| 01/30/2020 | The Bank of New York Mellon's Request for Judicial Notice | I | APP000164-APP000206 |

ZBS LAW, LLP

/s/J. Stephen Dolembro, Esq.

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PROOF OF SERVICE

I certify that I electronically filed on the 20th day of January, 2021, the foregoing **APPELLANT'S APPENDIX VOLUME I** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[] By placing a true copy enclosed in sealed envelope(s) addressed as follows:

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

KIM GILBERT EBRON
Jacqueline A. Gilbert, Esq.
7625 Dean Martin Drive, Suite 110
Las Vegas, NV 89139
Attorneys for SFR Investments Pool 1, LLC

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/Sara Hunsaker
An Employee of ZBS LAW, LLP

1 ZIEVE, BRODNAX & STEELE, LLP
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7 swade@zbslaw.com

8 Attorneys for Plaintiff The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for
9 the Certificateholders of CWABS, Inc., Asset-Backed Certificates, Series 2006-25

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 THE BANK OF NEW YORK MELLON
13 F/K/A THE BANK OF NEW YORK, AS
14 TRUSTEE FOR THE
15 CERTIFICATEHOLDERS OF CWABS,
16 INC., ASSET-BACKED CERTIFICATES,
17 SERIES 2006-25, a national bank,

18 Plaintiff,

19 vs.

20 SQUIRE VILLAGE AT SILVER SPRINGS
21 COMMUNITY ASSOCIATION, a Nevada
22 non-profit corporation; SFR INVESTMENTS
23 POOL 1, LLC, a Nevada limited liability
24 company,

25 Defendants.

CASE NO.:

DEPT. NO.:

**COMPLAINT FOR QUIET
TITLE/DECLARATORY RELIEF
[28 U.S.C. §§ 2201, 2202]**

26 Plaintiff, THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW
27 YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWABS, INC., ASSET-
28 BACKED CERTIFICATES, SERIES 2006-25, (“Plaintiff” or “BNYM”) alleges and complains
as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is and at all times was a national bank headquartered in New York State
for diversity purposes.

2. Defendant Squire Village at Silver Springs Community Association (“HOA”) is
and at all times mentioned herein was a Nevada non-profit corporation.

3. Defendant SFR Investments Pool 1, LLC (“Buyer”), is and at all times mentioned herein was a Nevada limited liability company.

4. The subject matter of this complaint is real property commonly known as 4946 Droubay Drive, Las Vegas, NV 89122 (the “Property”). The Property is located in Clark County, Nevada, and therefore both venue and jurisdiction are appropriate with this court.

FACTS

The Mortgage

1. On or about November 17, 2006, non-parties Nelson and Susan Pritz (collectively “Borrower”) executed and delivered to non-party Countrywide Home Loans, Inc. (“Lender”), a promissory note evidencing a \$232,200 loan (the “Loan”) funded to Borrower to purchase the Property.

2. On or about November 17, 2006, and as part of the same transaction, Borrower executed and delivered to Lender that certain Deed of Trust, which recorded as instrument number 0003799 (the “Deed of Trust”) in the Official Records of the Clark County Recorder’s Office (the “Official Records”) on November 22, 2006. A true and correct copy of the Deed of Trust is attached as **Exhibit 1**. The Deed of Trust encumbers the Property as security to ensure repayment of the Loan.

3. On information and belief, Borrowers subsequently defaulted on the Loan, and also defaulted in payment of the HOA dues.

4. On November 29, 2011, all beneficial interest in the Deed of Trust was assigned to Plaintiff by way of a recorded Assignment of Deed of Trust. *See Exhibit 2.*

The Homeowner's Association Foreclosure Sale

5. Plaintiff is informed and believes defendant HOA is a homeowner's association which generally manages and maintains the common unit amenities for the development in which the Property is located.

6. On or about September 19, 2012, HOA, through its agent, Alessi & Koenig, LLC. (“A&K”), sold the Property at auction (the “HOA Sale”), where it was purchased by Defendant SFR, for \$5,356.00. *See* Trustee’s Deed Upon Sale attached as **Exhibit 3**.

Tender of the Super-Priority Lien Amount

7. In or around January, 2010, MERS as nominee beneficiary of the Deed of Trust, through its attorneys, Miles, Bauer, Bergstrom & Winters, LLP (MBBW), requested a super-priority lien account statement from HOA and , for the express purpose of curing the portion of HOA's lien that may enjoy priority over its first Deed of Trust. *See Exhibit 4.*

8. HOA and A&K refused to provide a super-priority lien statement, but instead provided a full lien account statement showing a balance of \$4,626.00, indicating a monthly assessment amount of \$84.00. *See Exhibit 5.*

9. Based on the statement provided, MBBW calculated the super-priority lien amount consisting of nine months of assessments, pursuant to NRS 116.3116.

10. On February 18, 2010, MBBW tendered a cashier's check for the super-priority lien amount of \$756.00 (9 x \$84.00) to A&K, in order to cure the super-priority lien amount. *See Exhibit 6.*

11. The tender of the super-priority lien amount to A&K served to extinguish that portion of HOA's lien, leaving only the portion of HOA's lien which is junior to Plaintiff's first Deed of Trust.

FIRST CLAIM FOR RELIEF
QUIET TITLE / DECLARATORY RELIEF
(Against All Defendants)

12. Plaintiff incorporates all above paragraphs as though fully set forth herein.

13. Pursuant to 28 U.S.C. §§ 2201, 2202, this Court has jurisdiction to declare the rights and interests of Plaintiff and all defendants relative to the Property.

14. Plaintiff is informed and believes SFR asserts that Plaintiff's security interest in the Property as evidenced by the Deed of Trust was extinguished by the HOA Sale.

15. Plaintiff maintains that its first Deed of Trust was *not* extinguished at the Sale. These claims are necessarily adverse.

16. If the sale is declared void, HOA's lien rights will re-attach to the Property, making HOA a necessary party to the action. Plaintiff is not seeking damages from the HOA.

1 17. NRS Chapter 116 is facially unconstitutional because it fails to provide first
2 mortgagees such as Plaintiff with proper notice prior to extinguishment. The Sale is therefore
3 void.

4 18. Alternatively, if the HOA Sale is not void entirely, in any event Plaintiff's
5 security interest in the Property as evidenced by the Deed of Trust was not extinguished by the
6 HOA Sale.

7 19. The HOA Sale is also void as commercially unreasonable because the Property,
8 secured by a Deed of Trust ensuring the repayment of the Loan of \$232,200 sold for \$5,356.00.

9 20. Plaintiff is informed and believes the fair-market value of the Property exceeds
10 \$180,000.

11 21. The HOA Sale was commercially unreasonable because the manner in which it
12 was conducted, including the refusal to provide a super-priority lien payoff statement, the legal
13 uncertainty regarding the statute and the effect of the HOA Sale, and other circumstances in
14 which the Sale was conducted, were not calculated to promote an equitable sale price for the
15 Property to attract potential purchasers.

16 22. The HOA Sale was commercially unreasonable because the lien foreclosure
17 notices provided by HOA and its agent did not provide notice of the super-priority lien amount,
18 making it impossible for a security interest holder such as Plaintiff to calculate and pay the
19 super-priority lien amount in order to protect its interest.

20 23. The HOA Sale was commercially unreasonable because HOA failed to
21 accurately describe the "deficiency in payment" as required by NRS 116.31162(b) and thereby
22 deprived Plaintiff of any reasonable opportunity to satisfy the super-priority amount to protect
23 its security interest in the Property;

24 24. The HOA Sale was commercially unreasonable because any notice provided to
25 Plaintiff concerning the HOA Sale was insufficient to provide due process of law.

26 25. The HOA Sale was commercially unreasonable because HOA and its agents
27 refused to provide an accurate super-priority lien statement, and then refused to accept
28 Plaintiff's predecessor's payment of same.

1 26. The lien foreclosed at the HOA Sale did not include a super-priority lien because
 2 Plaintiff's predecessor tendered nine months of assessments to HOA, and the assessment lien
 3 did not contain any costs incurred in abating a nuisance on the Property.

4 27. The HOA Sale is void because NRS 116.3116 *et seq.* is facially unconstitutional
 5 due to the "opt in" provisions first requiring lenders to request notice in order to receive notice
 6 of the operative steps in the HOA foreclosure process. As such, the statute fails to require
 7 the HOA to take reasonable steps to ensure that actual notice is provided to interested parties
 8 who are reasonably ascertainable and is thus in violation of the Due Process Clause of the
 9 United States and Nevada Constitutions.

10 28. The Nevada legislature's passage of the HOA lien foreclosure statutes
 11 constitutes state action, as the HOA's lien foreclosure rights are purely a creation of statute, and
 12 not of any contract or agreement between Plaintiff and HOA.

13
 14 **SECOND CLAIM FOR RELIEF**
 15 **Unjust Enrichment - Assignment of Rents**
 (Against SFR)

16 29. Plaintiff incorporates all above paragraphs as though fully set forth herein.

17 30. Plaintiff's Deed of Trust is an enforceable security instrument creating a security
 18 interest as set forth in NRS 107A.160 - 170.

19 31. Plaintiff is informed and believes that SFR is collecting rents derived from the
 20 Property.

21 32. As a result of its enforceable security instrument, Plaintiff has a statutory
 22 assignment of rents derived from the Property, as set forth in NRS Chapter 107A.

23 33. SFR has been conferred a benefit at Plaintiff's expense due to its retention of any
 24 and all rents derived from the Property, which remains subject to Plaintiff's security instrument.

25 34. SFR's retention of the rents has deprived Plaintiff of the benefit of its security
 26 instrument.

27 35. Plaintiff is entitled to general and special damages in the amount of the retained
 28 rents.

36. Plaintiff has furthermore been required to retain counsel and is entitled to recover reasonable attorney's fees for having brought the underlying action.

PRAYER FOR RELIEF

1. An order from this Court declaring the HOA Sale void ab initio, with no legal effect or consequence;

2. Alternatively, an order indicating that Plaintiff's security interest in the Property was not extinguished at the HOA Sale, and remains an enforceable lien on title to the Property;

3. For an order requiring restitution of all rents collected by SFR be paid to Plaintiff.

4. Attorney's fees and costs;

5. Any other relief this court deems just and proper.

DATED: April 4, 2018

ZIEVE, BRODNAX & STEELE, LLP

By: /s/ Shadd A. Wade

Shadd A. Wade, Esq.

Nevada Bar No. 11310

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swade@zbslaw.com

Attorneys for Plaintiff

EXHIBIT LOG

| <u>EXHIBIT NO.</u> | <u>DESCRIPTION</u> |
|--------------------|--------------------------------|
| 1. | Deed of Trust |
| 2. | Assignment of Deed of Trust |
| 3. | Trustee's Deed Upon Sale |
| 4. | MBBW Letter to Alessi & Koenig |
| 5. | Alessi & Koenig Payoff |
| 6. | MBBW priority payment |

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the Certificateholders of CWABS, Inc., Asset-Backed Certificates, Series 2006-25

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Zieve, Brodnax & Steele, LLP, c/o Shadd A. Wade, Esq.
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169

DEFENDANTS

SQUIRE VILLAGE AT SILVER SPRINGS COMMUNITY ASSOCIATION; SFR INVESTMENTS POOL 1, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|---|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332; 28 U.S.C. § 1331

Brief description of cause:

Quiet Title/Declaratory Relief

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/04/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/Shadd Wade, Esq.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MA

APP000008

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

APP000009

EXHIBIT 1

DEED OF TRUST

EXHIBIT 1

DEED OF TRUST

EXHIBIT 1

Assessor's Parcel Number:
16126111133
After Recording Return To:
COUNTRYWIDE HOME LOANS, INC.

MS SV-79 DOCUMENT PROCESSING
P.O.Box 10423
Van Nuys, CA 91410-0423
Prepared By:
NATALIA GENOV
~~Recording Requested By:~~
I. Sandler

COUNTRYWIDE HOME LOANS, INC.

5613 DTC PARKWAY, SUITE 700
GREENWOOD VILLAGE
CO 80111

20061122-0003799

Fee: \$39.00
N/C Fee: \$25.00

11/22/2006 14:51:13
T20060206942

Requestor:
FIDELITY NATIONAL TITLE

Charles Harvey BGN
Clark County Recorder Pas: 26

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PRITZ 00015355520211006
[Escrow/Closing #] [Doc ID #]

DEED OF TRUST

MIN 1000157-0007499627-9

DEFINITIONS

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

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

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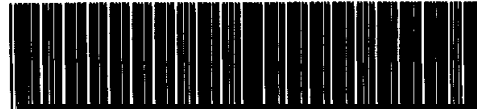
-6A(NV) (0507) CHL (11/05)(d)

VMP Mortgage Solutions, Inc.

Form 3029 1/01



* 2 3 9 9 1 *



DOC ID #: 00015355520211006

(A) "Security Instrument" means this document, which is dated NOVEMBER 17, 2006 , together with all Riders to this document.

(B) "Borrower" is

NELSON M PRITZ, AND SUSAN PRITZ, HUSBAND AND WIFE AS JOINT TENANTS

Borrower is the trustor under this Security Instrument.

(C) "Lender" is

COUNTRYWIDE HOME LOANS, INC.

Lender is a

CORPORATION

organized and existing under the laws of NEW YORK
4500 Park Granada MSN# SVB-314
Calabasas, CA 91302-1613

Lender's address is

(D) "Trustee" is

RECON TRUST

225 WEST HILLCREST DRIVE

THOUSAND OAKS, NV 89801

(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 17, 2006 .

The Note states that Borrower owes Lender

TWO HUNDRED THIRTY TWO THOUSAND TWO HUNDRED and 00/100

Dollars (U.S. \$ 232,200.00) 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, 2046 .

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

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

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

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

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

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

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

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

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

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

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

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

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

TRANSFER OF RIGHTS IN THE PROPERTY

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

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

[Type of Recording Jurisdiction]

CLARK :

[Name of Recording Jurisdiction]

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

which currently has the address of

4946 DROUBAY DRIVE, LAS VEGAS

[Street/City]

Nevada 89122 ("Property Address"):

{Zip Code}

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



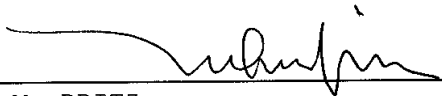
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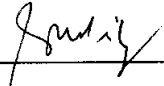
Form 3029 1/01

DOC ID #: 00015355520211006

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.



NELSON M. PRITZ (Seal)
-Borrower



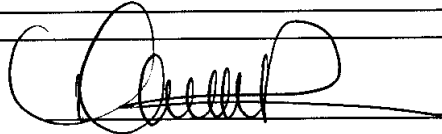
SUSAN PRITZ (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

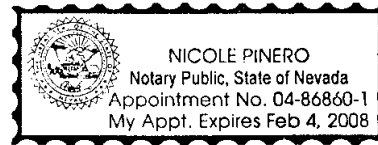
DOC ID #: 00015355520211006

STATE OF NEVADA

COUNTY OF ClarkThis instrument was acknowledged before me on 11-17-06 byNelson M. Pritz and Susan Pritz

Mail Tax Statements To:

TAX DEPARTMENT SV3-24

450 American Street
Simi Valley CA, 93065

-6A(NV) (0507)

CHL (11/05)

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Prepared by: NATALIA GENOV

COUNTRYWIDE HOME LOANS, INC.

Branch #: 0009164
5613 DTC PARKWAY, SUITE 700
GREENWOOD VILLAGE, CO 80111
Phone: (720)200-6000
Br Fax No.: (720)200-7217

DATE: 11/17/2006

CASE #:

DOC ID #: 00015355520211006

BORROWER: NELSON M. PRITZ

PROPERTY ADDRESS: 4946 DROUBAY DRIVE
LAS VEGAS, NV 89122

LEGAL DESCRIPTION EXHIBIT A

FHA/VA/CONV

- Legal Description Exhibit A
- 1D955-NV (07/03)(d)

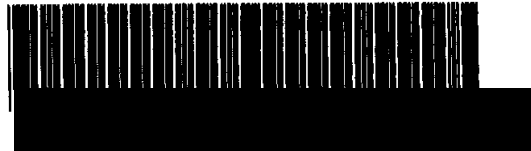


EXHIBIT "ONE"**Parcel I:**

Lot 168 of Final Map Of Silver Springs - Unit A, as shown by map thereof on file in Book 91 of Plats, Page 36, and as amended by Certificate of Amendment recorded April 27, 2001 in Book 20010427 as Document No. 00272, in the Office of the County Recorder of Clark County, Nevada.

Parcel II:

A non-exclusive easement for ingress, egress, and enjoyment upon and over that portion of said subdivision delineated on the plat as "Private Street and P.U.E." and "Common Elements Lots" and as further described in the Covenants, Conditions, and Restrictions recorded September 17, 2001 in Book 20010917 as Document No. 01331 of Official Records, and as same may be amended from time to time.

Assessor's Parcel No: 161-26-111-133

DOC ID #: 00015355520211006

PLANNED UNIT DEVELOPMENT RIDER

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

4946 DROUBAY DRIVE
LAS VEGAS, NV 89122

[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
SILVER SPRINGS

[Name of Planned Unit Development]

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

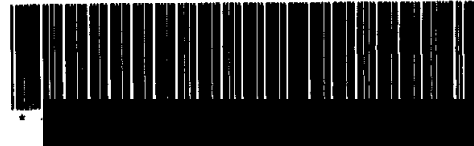
VMP -7R (0411)

CHL (12/05)(d)

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VMP Mortgage Solutions, Inc.

Form 3150 1/01



DOC ID #: 00015355520211006

(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.

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.

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CHL (12/05)

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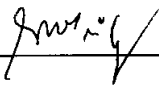
E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial 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.

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



NELSON M. PRITZ (Seal)
- Borrower



SUSAN PRITZ (Seal)
- Borrower

(Seal)
- Borrower

(Seal)
- Borrower

Prepared by: NATALIA GENOV

COUNTRYWIDE HOME LOANS, INC.

DATE: 11/17/2006
BORROWER: NELSON M. PRITZ
CASE #:
LOAN #: XXXXXXXXXX
PROPERTY ADDRESS: 4946 DROUBAY DRIVE
LAS VEGAS, NV 89122

Branch #: 0009164
5613 DTC PARKWAY, SUITE 700
GREENWOOD VILLAGE, CO 80111
Phone: (720)200-6000
Br Fax No.: (720)200-7217

DISCLOSURE STATEMENT ABOUT MERS

Mortgage Electronic Registration Systems, Inc. (MERS) is named on your mortgage as the mortgagee in a nominee capacity for COUNTRYWIDE HOME LOANS, INC.

(Lender). MERS is a company separate from your lender that operates an electronic tracking system for mortgage rights. MERS is not your lender; it is a company that provides an alternative means of registering the mortgage lien in the public records. MERS maintains a database of all the loans registered with it, including the name of the lender on each loan. Your lender has elected to name MERS as the mortgagee in a nominee capacity and record the mortgage in the public land records to protect its lien against your property.

Naming MERS as the mortgagee and registering the mortgage on the MERS electronic tracking system does not affect your obligation to your Lender, under the Promissory Note.

FHA/VA/CONV
● MERS Disclosure Statement
1D5421US: (12/99).01(d)

DOC ID #: 00015355520211006

ADJUSTABLE RATE RIDER
(LIBOR Index - Rate Caps)

THIS ADJUSTABLE RATE RIDER is made this SEVENTEENTH day of NOVEMBER, 2006, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument") of the same date given by the 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:

4946 DROUBAY DRIVE, LAS VEGAS, NV 89122

[Property Address]

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE AMOUNT THE BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

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

MULTISTATE ADJUSTABLE RATE RIDER - LIBOR INDEX - Single Family

CONV

• BC - ARM Rider

1U193-US (12/05)(d)

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DOC ID #: 00015355520211006

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 8.450 %. The Note provides for changes in the interest rate and the monthly payments, as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**(A) Change Dates**

The interest rate I will pay may change on the first _____ day of DECEMBER, 2008, and on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each 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.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding SIX & 65/100 percentage point(s) (6.650 %) 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%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the maturity date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 9.950 % or less than 8.450 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE & ONE-HALF percentage point(s) (1.500 %) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 15.450 % or less than 8.450 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

CONV

• BC - ARM Rider
1U193-US (12/05)

Page 2 of 4

DOC ID #: 00015355520211006

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

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

Uniform Covenant 18 of the Security Instrument 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 a 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 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.

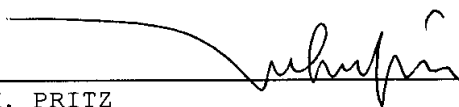
CONV

•BC - ARM Rider
1U193-US (12/05)

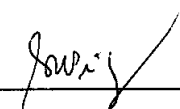
Page 3 of 4

DOC ID #: 00015355520211006

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



NELSON M. PRITZ (Seal)
- Borrower



SUSAN PRITZ (Seal)
- Borrower

(Seal)
- Borrower

(Seal)
- Borrower

CONV

• BC - ARM Rider
1U193-US (12/05)

Page 4 of 4

EXHIBIT 2

ASSIGNMENT OF DEED OF TRUST

EXHIBIT 2

ASSIGNMENT OF DEED OF TRUST

EXHIBIT 2

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



DocID# 20815355520216690

Tax ID: 161-26-111-133

Property Address:

4946 Droubay Dr**Las Vegas, NV 89122-8132**

NV0-ADT 15718968 11/21/2011

Inst #: 201111290000514

Fees: \$18.00

N/C Fee: \$25.00

11/29/2011 08:05:59 AM

Receipt #: 990403

Requestor:

CORELOGIC

Recorded By: OSA Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

This space for Recorder's use

MIN #: 1000157-0007499627-9

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 **THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-25** whose address is **101 BARCLAY ST - 4W, NEW YORK, NY 10286** 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: **MERS, INC., AS NOMINEE FOR COUNTRYWIDE HOME LOANS, INC.**Made By: **NELSON M PRITZ, AND SUSAN PRITZ, HUSBAND AND WIFE AS JOINT TENANTS**Trustee: **RECON TRUST**Date of Deed of Trust: **11/17/2006** Original Loan Amount: **\$232,200.00**Recorded in **Clark County, NV** on: **11/22/2006**, book **20061122**, page **0003799** and instrument number **N/A**

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

11/22/11

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.**

By: Edward Gallegos Assistant Secretary.

State of California
County of Ventura

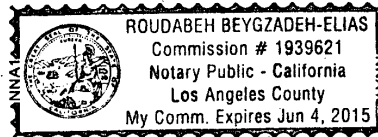
On NOV 22 2011 before me, Roudabeh Beygzadeh-Elias, Notary Public, personally appeared Edward Gallegos, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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: Roudabeh Beygzadeh-Elias
My Commission Expires: June 4, 2015

(Seal)



DocID# 20815355520216690

EXHIBIT 3

TRUSTEE'S DEED UPON SALE

EXHIBIT 3

TRUSTEE'S DEED UPON SALE

EXHIBIT 3

Inst #: 201210090001817

Fees: \$17.00 N/C Fee: \$0.00

RPTT: \$28.05 Ex: #

10/09/2012 02:09:10 PM

Receipt #: 1336821

Requestor:

ALESSI & KOENIG LLC

Recorded By: SAO Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

②
-1

When recorded mail to and
Mail Tax Statements to:
SFR Investments Pool I, LLC
2920 N. Green Valley Parkway
Building 5, St 525
Henderson, NV 89014

A.P.N. No.161-26-111-133

TS No. 13855-4946

TRUSTEE'S DEED UPON SALEThe Grantee (Buyer) herein was: **SFR Investments Pool I, LLC**The Foreclosing Beneficiary herein was: **Squire Village at Silver Springs Community Association**The amount of unpaid debt together with costs: **\$5,356.00**The amount paid by the Grantee (Buyer) at the Trustee's Sale: **\$5,358.00**The Documentary Transfer Tax: **\$28.05**Property address: **4946 Droubay Dr, Las Vegas, NV 89122**Said property is in [] unincorporated area: City of **Las Vegas**Trustor (Former Owner that was foreclosed on): **Nelson & Susan Pritz**

Alessi & Koenig, LLC (herein called Trustee), as the duly appointed Trustee under that certain Notice of Delinquent Assessment Lien, recorded **February 6, 2009** as instrument number **00299**, in **Clark** County, does hereby grant, without warranty expressed or implied to: **SFR Investments Pool I, LLC** (Grantee), all its right, title and interest in the property legally described as: **Lot 168**, as per map recorded in Book **91**, Pages **36** 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 **September 19, 2012** at the place indicated on the Notice of Trustee's Sale.

Ryan Kerbow, Esq.

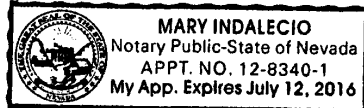
Signature of AUTHORIZED AGENT for **Alessi&Koenig, LLC**

State of Nevada)
County of **Clark**)

SUBSCRIBED and SWORN to before me 09/26, 12

WITNESS my hand and official seal.

(Seal)



(Signature)

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 161-26-111-133
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 RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property \$ 5,358.00
b. Deed in Lieu of Foreclosure Only (value of property (_____)
c. Transfer Tax Value: \$ 5,358.00
d. Real Property Transfer Tax Due \$ 28.05

4. **If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the 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 205
City: Las Vegas
State: NV Zip: 89147

BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: SFR Investment Pool I, LLC
Address: 2920 N. Green Valley P.B5, St525
City: Henderson
State: NV Zip: 89014

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

Print Name: Alessi&Koenig, LLC
Address: 9500 W Flamingo 205
City: Las Vegas

Escrow # N/A Foreclosure
State: NV Zip: 89147

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 4

MBBW LETTER TO AK

EXHIBIT 4

MBBW LETTER TO AK

EXHIBIT 4

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*

MATTHEW D. TOKARZ *

L. BRYANT JAQUEZ *

DANIEL L. CARTER *

BRIAN H. TRAN*

RYAN W. STOCKING *

GINA M. CORENA

ROBIN L. LEWIS

Also Admitted in California

WAYNE A. RASH *

ROCK K. JUNG

VY T. PHAM *

SCOTT B. OLIFANT

Also Admitted in California



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

* CALIFORNIA OFFICE
1665 SCENIC AVENUE
SUITE 200
COSTA MESA, CA 92626
PHONE (714) 481-9100
FACSIMILE (714) 481-9141

Of Counsel
JOHN W. LISH
Admitted in Utah

2200 Paseo Verde Parkway, Suite 250

Henderson, NV 89052

Phone: (702) 369-5960

Fax: (702) 369-4955

January 12, 2010

Squire Village

Alessi & Koenig, LLC

9500 W. Flamingo Rd., Suite 100

Las Vegas, NV 89147

SENT VIA FIRST CLASS MAIL

Re: *Property Address: 4946 Droubay Dr., Las Vegas, NV 89122*
MBBW File No. 10-H0045

Dear Sirs:

This letter is in response to your Notice of Sale 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.

APP000044

4946 Droubay Dr., Las Vegas, NV 89122

Page two of two

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.

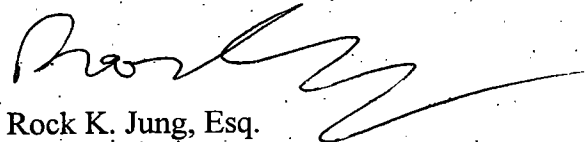
Based on Section 2(b), a portion of your HOA lien is arguably senior to BAC's first deed of trust, specifically the nine months of assessments for common expenses incurred before the date of your notice of delinquent assessment. For purposes of calculating the nine-month period, the trigger date is the 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 the status of the Foreclosure sale that is scheduled for January 13, 2010. 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.

APP000045

EXHIBIT 5

AK PAYOFF

EXHIBIT 5

AK PAYOFF

EXHIBIT 5

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 Bar

**** 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: 909-843-6590

Nevada Licensed Qualified Collection
 Manager

AMANDA LOWER

FACSIMILE COVER LETTER

| | | | |
|-----------------|-------------------------|---------------|-----------------------------|
| To: | Alexander Bhamé | Re: | 4946 Droubay Dr/HO #13855 |
| From: | Stephanie Knickerbocker | Date: | Thursday, February 11, 2010 |
| Fax No.: | 702-942-0443 | Pages: | 1, including cover |
| | | HO #: | 13855 |

Dear Alexander Bhamé:

This cover will serve as an amended demand on behalf of Squire Village for the above referenced escrow; property located at 4946 Droubay Dr, Las Vegas, NV. The total amount due through March, 15, 2010 is \$4,626.00. The breakdown of fees, interest and costs is as follows:

| | | |
|--------------|--|-------------------|
| 1/29/2009 | Notice of Delinquent Assessment Lien -- Nevada | \$295.00 |
| 5/1/2009 | Notice of Default | \$395.00 |
| 12/18/2009 | Notice of Trustee's Sale | \$395.00 |
| 8/21/2009 | Pre-Notice of Trustee's Sale | \$150.00 |
| 12/18/2009 | Trustees Fees | \$420.00 |
| 1/11/2010 | Postponement of Trustees Sale | \$150.00 |
| 2/11/2010 | P.U.D. 1 Demand | \$75.00 |
| Total | | \$1,880.00 |

| | |
|--|-------------------|
| 1. Attorney and/or Trustees fees: | \$1,880.00 |
| 2. Costs (Notary, Recording, Copies, Mailings, Publication and Posting) | \$510.00 |
| 3. Interest Through March, 15, 2010 | \$0.00 |
| 4. Title Research (10-Day Mailings per NRS 116.31163) | \$240.00 |
| 5. Management Company Advanced Audit Fee | \$175.00 |
| 6. Management Document Processing & Transfer Fee | \$0.00 |
| 7. Late Fees Through March, 15, 2010 | \$10.00 |
| 8. Fines Through February, 11, 2010 | \$0.00 |
| 9. Assessments Through March, 15, 2010 @ \$84.00 per month | \$1,726.00 |
| 10. Progress Payments: | \$0.00 |
| 12. RPIR-GI Report | \$85.00 |
| Sub-Total: | \$4,626.00 |
| Less Payments Received: | \$0.00 |
| Total Amount Due: | \$4,626.00 |

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.

APP000047

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 Bar

**** 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: 909-843-6590

Nevada Licensed Qualified Collection
Manager

AMANDA LOWER

FACSIMILE COVER LETTER

Please have a check in the amount of \$4,626.00 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.

APP000048

RUN DATE: 02/11/2010

SQUIRE VILLAGE HOA
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2009 TO 02/28/2010
SINGLE OWNER

PAGE: 1

000067-01 PRITZ, NELSON & SUSAN

STOP PAYMENT

4946 Snowbay Dr.

| TRX DATE | DESCRIPTION | CHARGES | CREDITS | BALANCE |
|------------|--------------------|---------|---------|----------|
| 12/31/2008 | BEGINNING BALANCE | | | 336.00 |
| 01/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 420.00 |
| 01/16/2009 | LATE CHARGES | 10.00 | | 430.00 |
| 02/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 514.00 |
| 02/16/2009 | LATE CHARGES | 10.00 | | 524.00 |
| 03/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 608.00 |
| 03/16/2009 | LATE CHARGES | 10.00 | | 618.00 |
| 04/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 702.00 |
| 04/16/2009 | LATE CHARGES | 10.00 | | 712.00 |
| 05/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 796.00 |
| 05/16/2009 | LATE CHARGES | 10.00 | | 806.00 |
| 06/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 890.00 |
| 06/16/2009 | LATE CHARGES | 10.00 | | 900.00 |
| 07/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 984.00 |
| 07/16/2009 | LATE CHARGES | 10.00 | | 994.00 |
| 08/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,078.00 |
| 08/16/2009 | LATE CHARGES | 10.00 | | 1,088.00 |
| 09/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,172.00 |
| 09/16/2009 | LATE CHARGES | 10.00 | | 1,182.00 |
| 10/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,266.00 |
| 10/16/2009 | LATE CHARGES | 10.00 | | 1,276.00 |
| 11/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,360.00 |
| 11/16/2009 | LATE CHARGES | 10.00 | | 1,370.00 |
| 12/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,454.00 |
| 12/16/2009 | LATE CHARGES | 10.00 | | 1,464.00 |
| 01/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,548.00 |
| 01/16/2010 | LATE CHARGES | 10.00 | | 1,558.00 |
| 02/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,642.00 |

1 OWNERS -

REPORT BALANCE AS OF: 02/28/2010

1,642.00

APP000049

EXHIBIT 6

MBBW PRIORITY PAYMENT

EXHIBIT 6

MBBW PRIORITY PAYMENT

EXHIBIT 6

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 *
 MATTHEW D. TOKARZ *
 L. BRYANT JAQUEZ *
 DANIEL L. CARTER *
 BRIAN H. TRAN *
 RYAN W. STOCKING *
 GINA M. CORENA
 ROBIN L. LEWIS
 Also Admitted in California
 WAYNE A. RASH *
 ROCK K. JUNG
 VY T. PHAM *
 SCOTT B. OLIFANT
 Also Admitted in California



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

* CALIFORNIA OFFICE
 1665 SCENIC AVENUE
 SUITE 200
 COSTA MESA, CA 92626
 PHONE (714) 481-9100
 FACSIMILE (714) 481-9141

Of Counsel
 JOHN W. LISH
 Admitted in Utah

2200 Paseo Verde Parkway, Suite 250
 Henderson, NV 89052
 Phone: (702) 369-5960
 Fax: (702) 369-4955

February 18, 2010

ALESSI & KOENIG, LLC
 9500 W. FLAMINGO ROAD, SUITE 100
 LAS VEGAS, NV 89147

Re: *Property Address:* 4946 Droubay Dr.
 HOA #: 13855
 LOAN #: [REDACTED]
MBBW File No. 10-H0045

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 \$4,626.00. 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...

APP000051

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.

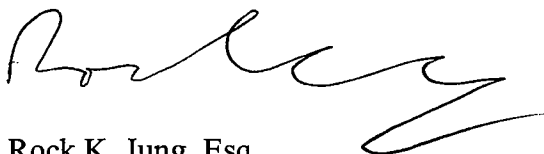
Based on Section 2(b), a portion of your HOA lien is arguably prior to BAC's first deed of trust, specifically the nine months of assessments for common expenses incurred before the date of your notice of delinquent assessment. As stated above, the payoff amount stated by you includes many fees that 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 \$756.00 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 \$756.00, 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 4946 Droubay Dr. 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

A handwritten signature in black ink, appearing to read "Rock K. Jung", with a stylized flourish at the end.

Rock K. Jung, Esq.

Miles, Bauer, Bergstrom & Winters, LLP Trust Acct
 Payee: Alessi & Koenig, LLC
 10-H0045
 Initials: TLC
 Date: 2/18/2010 Amount: 756.00
 Check #: 2763

| Inv. Date | Reference # | Description | Inv. Amount | Case # | Matter Description | Cost Amount |
|-----------|-------------|------------------------|-------------|--------|--------------------|-------------|
| 2/18/2010 | #13855 | To Cure HOA Deficiency | 756.00 | | | |

Miles, Bauer, Bergstrom & Winters, LLP
 Trust Account
 1665 Scenic Avenue - Suite 200
 Costa Mesa, CA 92626
 Phone: (714) 481-9100

Bank of America
 1100 N. Green Valley Parkway
 Henderson, NV 89074
 16-66/1220
 1020
 10-H0045

Loan #

Pay \$*****Seven Hundred Fifty-Six & No/100 Dollars

to the
 order
 of

Alessi & Koenig, LLC

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2763

Date: 2/18/2010

Amount \$**** 756.00

Check Void After 90 Days

Security Features Included.

Details on back.

11# 276311

District of Nevada

Defendant(s)

Civil Action No.

APP000054

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

APP000055

District of Nevada

APP000056

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

APP000057

KIM GILBERT EBRON
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LAS VEGAS, NEVADA 89139
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Telephone: (702) 485-3300
Facsimile: (702) 485-3301
Attorneys for SFR Investments Pool 1, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, AS
TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS, INC.,
ASSET-BACKED CERTIFICATES, SERIES
2006-25, a national bank,

Plaintiff,

vs.

SQUIRE VILLAGE AT SILVER SPRINGS
COMMUNITY ASSOCIATION, a Nevada
non-profit corporation; SFR INVESTMENTS
POOL 1, LLC, a Nevada limited liability
company,

Defendants.

Case No.: 2:18-cv-00599-APG-CWH

**SFR INVESTMENTS POOL 1, LLC’S
MOTION TO DISMISS PLAINTIFF’S
COMPLAINT [ECF No. 1] PURSUANT TO
FRCP 12(b)(6) and 12(b)(7)**

SFR INVESTMENTS POOL 1, LLC (“SFR”), hereby files its Motion to Dismiss Plaintiff,
THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK, AS TRUSTEE
FOR THE CERTIFICATEHOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES,
SERIES 2006-25’s (“Plaintiff” or “the Bank”) Complaint (ECF No. 1) against SFR with prejudice

1 due to the Bank's failure to state a claim upon which relief can be granted pursuant to Federal Rule
2 of Civil Procedure 12(b)(6) and 12(b)(7).

3 This Motion is based on the papers and pleadings on file herein, the following points and
4 authorities, and such evidence/and oral argument as may be presented at the time of the hearing
5 on this matter.

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **I. INTRODUCTION**

8 The Bank's claims must be dismissed with prejudice because they are time-barred. The
9 sale of the Property took place on September 19, 2012, and the Trustee's Deed Upon Sale vesting
10 title in SFR was recorded on October 9, 2012. *See* Complaint [ECF No. 1], at ¶ 6. The Bank waited
11 ***more than five years***, until April 4, 2018, to file its complaint. Its claims are barred by the three-
12 year statute of limitations set forth under NRS 11.190 relating to actions upon liability created by
13 statute. The Bank misleadingly titles its cause of action "Quiet Title/Declaratory Relief."
14 However, the term "quiet title" is an overly used slang term that is not even mentioned in NRS
15 Chapter 11. Because the Bank is barred from asserting any interest in the Property, its claims fall
16 flat. The due process allegations are similarly limited because they allege violation under NRS
17 116. Even if this court were to apply NRS 11.220, the four year "catch all" limitation period to be
18 applied to causes of action not otherwise provided for under Chapter 11, the Bank's claims still
19 fail.¹ The Bank's unjust enrichment claim is also barred as a matter of law. This is true since the
20 trigger date for all of the Bank's claims, at the very latest, is the September 19, 2012 foreclosure
21 sale. Accordingly, the Bank's complaint should be dismissed with prejudice pursuant to FRCP
22 12(b)(6).

23
24 ¹ Even though SFR's position is that the statute of limitations for the Bank's claims is three years, this Court
25 found a statute of limitations of four years (*Bank of America, N.A. v. Country Gardens Owners*
26 *Association*, Case No. 2:17-cv-01850-APG-CWH, 2018 WL 1336721 (D. Nev. March 14, 2018)),
27 and has outright rejected five years as being the applicable statute of limitations. Further, another judge
28 recently rejected the five-year statute of limitation and ruled that the statute of limitations on the
Bank's claim are at most four years under the catch-all category of NRS 11.220. According to
Judge Dorsey, "with no squarely applicable limitation statute, I am left with the catch-all four-year
deadline in NRS 11.220." *Ocwen Loan Servicing, LLC v. SFR Investments Pool 1, LLC*, Case No.
2:17-cv-01757-JAD-VCF, (D. Nev. May 18, 2018) at 8-9.

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Further, the Bank's Complaint appears to be an attempt to side step statutory requirements and the Federal Rules of Civil procedure. After failing to fully protect its security interest when its borrowers 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 Borrowers— necessary parties for the relief it seeks. Moreover, the Bank has not complied with NRS 30.130. Accordingly, the Bank's Complaint should be dismissed pursuant to FRCP 12(b)(7). Alternatively, the Bank should be required to amend its complaint to name the Borrowers as necessary parties to this litigation.

II. ALLEGATIONS IN THE COMPLAINT

As set forth in the Complaint, this case arises from the Squire Village at Springs Community Association ("Association") foreclosure of the real property located at 4946 Droubay Drive, Las Vegas, NV 89122; Parcel No. 161-26-111-133 (the "Property"), based on the former homeowners Nelson Pritz's and Susan Pritz's ("the Pritzes") failure to pay the Association assessments. *See* Complaint, ECF No. 1, ¶¶ 4, 3[sic] 6. On or about September 19, 2012, SFR purchased the Property at the publicly held foreclosure auction, by placing the highest bid. *Id.* at ¶ 6. On October 19, 2012, the Trustee's Deed Upon Sale transferring title of the Property to SFR was recorded. *Id.* The foreclosure sale was conducted Alessi & Koenig, LLC ("Alessi") as authorized agent for the Association. *Id.*

On April 4, 2018, *more than five years* after the Association foreclosure sale, the Bank filed its Complaint against SFR allegedly seeking quiet title and declaratory relief alleging that the Association foreclosure was invalid because the notices failed to describe the lien in sufficient detail, and the Bank lacked sufficient notice and that NRS 116 is unconstitutional. *Id.* at ¶¶ 5-36.

III. LEGAL ARGUMENT

A. Legal Standard for Motion to Dismiss

Pursuant to F.R.C.P. Rule 12(b)(6), "failure to state a claim upon which relief can be granted," is a basis to dismiss a Complaint where the moving party can demonstrate beyond doubt that the non-moving party cannot provide a set of facts in support of his claim which would entitle them to relief, such that this Motion to Dismiss should be granted. *Puckett v. Park Place*

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1 *Entertainment Corp.*, 332 F. Supp. 2d 1349, 1352 (D. Nev. 2004). In making a determination, the
 2 allegations made in the Complaint are generally taken as true and viewed in the light most favorable
 3 to the non-moving party. *Id.* While the Court should typically take the allegations as alleged in the
 4 Complaint as true, “[c]ourts do not assume the truth of legal conclusions merely because they are
 5 cast in the form of factual allegations.” *Puckett*, 332 F. Supp. 2d at 1352 (*quoting*, *Western Mining*
 6 *Counsel v. Watt*, 643 F.2d 618,624 (9th Cir. 1981)). It has specifically been held that “conclusory
 7 allegations of law and unwanted inferences are insufficient to defend a Motion to Dismiss for failure
 8 to state a claim.” *In re Stac Electronics Securities Litigation*, 89 F.3d 1399, 1403 (9th Cir. 1996)
 9 (*quoting*, *In re VeriFone Securities Litigation*, 11 F.3d 865,868 (9th Cir. 1993)).

10 Furthermore, the Supreme Court recently clarified the pleadings obligation of F.R.C.P.
 11 8(a)(2) in *Bell Atlantic Corp. v. Twombly* by holding that:

12 A Petitioner's obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’
 13 requires more than labels and conclusions, and a formulaic recitation of the
 14 elements of a cause of action will not do Factual allegations must be enough to
 15 raise the right to relief above the speculative level.

16 *127 S. Ct. 1955, 1964 (2007); see also: Oaktree Capital Mgmt., L.P. v. KPMG*, 963 F.Supp.2d
 17 1064, 1073 (D. Nev. 2013); *Welder v. Univ. of Southern Nevada*, 833 F.Supp.2d 1240, 1243
 18 (D.Nev. 2011).

19 “Determining whether a complaint states a plausible claim for relief ... [is] a context
 20 specific task that requires the reviewing court to draw on its judicial experience and common sense.
 21 But where the well-pleaded facts do not permit the court to infer more than the mere possibility of
 22 misconduct, the Complaint has alleged—but it has not ‘show[n]’—‘that the pleader is entitled to
 23 relief.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678-679, 129 S. Ct. 1937, 1950 (2009) (*quoting* Fed. R.
 24 Civ. P. 8(a)(2)) (citations omitted).

25 Although “a complaint need not contain detailed factual allegations,” *Clemens v.*
 26 *DaimlerChrysler Corp.*, 534 F.3d 1017, 1022 (9th Cir. 2008) (*quoting Twombly*, 127 S. Ct. at
 27 1974), the court will not assume that the plaintiff can prove facts different from those alleged in
 28 the complaint. *Associated Gen. Contractors of Cal. v. Cal. State Council of Carpenters*, 459 U.S.

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519, 526, 103 S. Ct. 897, 74 L.Ed.2d 723 (1983); *Jack Russell Terrier Network of N. Cal. v. Am. Kennel Club, Inc.*, 407 F.3d 1027, 1035 (9th Cir. 2005). Similarly, legal conclusions couched as factual allegations are not given a presumption of truthfulness, and “conclusory allegations of law and unwarranted inferences are not sufficient to defeat a motion to dismiss.” *Pareto v. F.D.I.C.*, 139 F.3d 696, 699 (9th Cir. 1998). A court may dismiss as a frivolous complaint, a complaint which recites bare legal conclusions with no suggestion of supporting facts, or postulating events, and the complaint merely states circumstances of a wholly fanciful kind. *Crisafi v. Holland*, 655 F.2d 1305, 1307-08 (D.C.Cir.1981) (per curiam).

FRCP 12(b)(7) states that a party may file a motion to dismiss for failure to join a party under Rule 19. Pursuant to FRCP 19(a), a party shall be joined where:

(1) **Required Party.** A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) **Joinder by Court Order.** If a person has not been joined as required, the court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

FRCP 19(a).

Here, the Bank fails to state a claim upon which relief may be granted because it is time-barred by the statute of limitations and has failed to name necessary and indispensable parties and thus cannot survive a motion to dismiss under FRCP 12(b)(6) and 12(b)(7).

B. “Quiet Title” is an Overly Broad Slang Term That is Not Even Mentioned in NRS Chapter 11 and Any Five-Year Statute of Limitations Based on Seisin (NRS 11.070/11.080) is Irrelevant to the Bank’s Claims

Nowhere in Chapter 11 is the term “quiet title” ever mentioned. Yet, somehow the Bank has hijacked this overly used slang term to distort its true claim, which is nothing more than a

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1 declaratory relief claim that its purported lien still remains on the Property. Neither the Bank nor
 2 its predecessors had legal title (i.e. possession) to, or even a claim of legal title to, the Property;
 3 rather, it has only ever had a purported lien interest.

4 NRS § 11.070 provides the limitation period for actions related to actual title of real property.
 5 Pursuant to that statute,

6 No cause of action or defense to an action, founded upon the title to real property,.
 7 . . . shall be effectual, unless it appears that **the person prosecuting the action or**
 8 **making the defense**, or under whose title the action is prosecuted or the defense is
 9 made, . . . **was seized or possessed of the premises in question within 5 years**
 before the committing of the act in respect to which said action is prosecuted or
 defense made.

10 NRS 11.070. Similarly, NRS § 11.080 requires possession or seisin, stating:

11 No action for the recovery of real property, or for the recovery of possession thereof
 12 . . . shall be maintained, unless it appears that the plaintiff . . . **was seized or**
 13 **possessed** of the premises within 5 years before the commencement thereof.

14 NRS 11.080 (emphasis added).

15 Bank cannot possibly suggest it had possession of the property or that it is attempting to
 16 recovery the actual real property based on some possession. Here, under no set of circumstances
 17 can the five-year statute of limitation apply to the Bank's claim as it does not, nor has it ever had
 18 legal title/possessory interest in the Property. Additionally, the Bank's invocation of the words
 19 "quiet title" to describe its claim does not morph it into a seisin claim as this claim only applies to
 20 a person who has legal title or possession. In fact, every case that has dealt with the five-year
 21 statute of limitation in the context of a quiet title action involved the homeowner, i.e. the person
 22 with legal title. In that regard, the very nomenclature of "quiet title" is a red herring when it comes
 23 to the Bank, and its purported lien interest in the Property. Addressing a nearly-identical five-year
 statute of limitation under California law, the Ninth Circuit aptly addressed the issue:

24 The language of § 318, California Code of Civil Procedure, **requires that the**
 25 **plaintiff be seised or possessed of the property within five years of the**
 26 **commencement of the action.** Appellants admittedly do not satisfy the possession
 27 requirement. **Were they seised of the property within five years of the**
 28 **commencement of the action?**

Appellants urge a construction of the statute whereby if appellants could establish in court that they have a right to recover possession and title, they have seisin. **If a right established on the merits to recover title and/or possession were sufficient to establish seisin, the statute of limitations of § 318 would never be a bar.** Each case would be decided on the merits of whether the plaintiff was entitled to recover title and/or possession. **We refuse to adopt a construction which would render the statute of limitations meaningless.** We have not been cited to, nor have we found, any authority contrary to our conclusion.

At the same time, there is no question that if appellants still have legal title, they have seisin.

Kasey v. Molybdenum Corp. of Am., 336 F.2d 560, 566 (9th Cir. 1964).

Any five-year limitation period simply do not apply here, because the Bank was not “seized or possessed of the premises in question.” The Bank is not asserting a seisin claim and, therefore, the five-year statute of limitations does not apply to the Bank’s claim. Instead, as detailed in SFR’s motion, the three-year statute of limitations applies the Bank’s claim, which is now time-barred.

C. The Bank’s Claims are Barred By a Three-Year Statute of Limitations.

The Bank’s claims fail as a matter of law under the relevant statute of limitations.

NRS 11.190 Periods of limitation.

3. (Within 3 years):

- (a) An action upon a liability created by statute, other than a penalty or forfeiture.

NRS 11.190(3)(a) provides for a three-year statute of limitation for an action upon liability created by statute. “The phrase ‘liability created by statute’ means a liability which would not exist but for the statute.” *Torrealba v. Kesmetis*, 124 Nev. 95, 178 P.3d 716, 722 (2008). Regardless of how the allegations and causes of action are labeled, “it is the nature of the grievance rather than the form of the pleadings that determines the character of the action.” *Id.* at 723. Here, a brief review of the Plaintiff’s Complaint demonstrates that the “character of the action” is that of liability drawn from NRS 116.3116 *et seq.* and the Association’s purported acts in conducting the foreclosure sale under these statutes. *See, e.g.*, Complaint [ECF No. 1]. at ¶ 23 (“The HOA Sale was commercially unreasonable because HOA failed to accurately describe the “deficiency in payment” as required by NRS 116.3116(2)(b) and thereby deprived Plaintiff of any reasonable opportunity to satisfy the super-priority amount to protect its security interest in the Property.”)

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Other allegations go directly to conduct of the sale that the Bank claims infected the sale process: ¶ 24 (“The HOA Sale was commercially unreasonable because any notice provided to Plaintiff concerning the HOA Sale was insufficient to provide due process of law.”); ¶ 25 (“The HOA Sale was commercially unreasonable because HOA and its agents refused to provide an accurate super-priority lien statement, and then refused to accept Plaintiffs predecessor's payment of same.”); ¶ 26 (“The lien foreclosed at the HOA Sale did not include a super-priority lien because Plaintiff's predecessor tendered nine months of assessments to HOA, and the assessment lien did not contain any costs incurred in abating a nuisance on the Property.”). The examples given are not meant to be exhaustive but to illustrate that the Bank is merely challenging the sale based on non-compliance with the statute, or lack of authority to foreclose its interest. *See, e.g., id.*, generally.

As the Nevada Supreme Court explained in *Nationstar Mortgage, LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*, “the relevant statutory scheme curtails an HOA’s ability to dictate the method, manner, time, place, and terms of its foreclosure sale, an HOA has little autonomy in taking extra-statutory efforts to increase the winning bid at the sale.” *Shadow Canyon*, 405 P.3d 641, 645 (Nev. 2017) (holding that “HOA foreclosure sales of real property are ill suited for evaluation under Article 9’s commercial reasonableness standard.”) Since the Association “has little autonomy” in the foreclosure process, any purported violation would be created by the statute itself. Each of the Bank’s allegations about the Association foreclosure sale arise directly from the statute and are barred by the three-year statute of limitations.

Even the Bank’s due process allegations based on NRS Chapter 116 are pre-empted – as this claim arose in 2006, upon lending of money in the State of Nevada for the Property that was subject to NRS Chapter 116. Thus, any claim relying on the constitutional due process issue has been time-barred since November 17, 2009. All these claims and allegations are inextricably intertwined to the liability arising under NRS Chapter 116 and are similarly time-barred.

Here, the Association foreclosure sale took place on September 19, 2012 pursuant to NRS 116.3116, which operated as a matter of law to extinguish the operant deed of trust and created the basis for the Bank's claim. As a result, the Bank had three years from the date of the Association foreclosure sale to file its Complaint alleging failure of the Association to properly conduct the foreclosure sale under NRS 116.3116 *et seq.* However, the Bank failed to do so, filing its Complaint on April 4, 2018, *more than five years* after the foreclosure sale. As such, the Bank's claims are time barred.

D. Even under NRS 11.220—the “Catch-All” provision, the Bank’s claims are beyond the statute of limitations.

As set forth above, the applicable statute of limitations is three years under NRS 11.190(3) because this is unequivocally an action upon a liability created by statute, i.e., the provisions of NRS Chapter 116. Any attempt by the Bank to bootstrap a longer period is doomed to fail. Even though SFR's position is that the statute of limitations for the Bank's claims is three years, at least **two** of the Courts in this District, including this Court, concluded a statute of limitations of four years and has outright rejected five years as being the applicable statute of limitations.

Other courts within the district have rejected the five-year statute of limitation and ruled that the statute of limitations on the Bank's claim are at most four years under the catch-all category of NRS 11.220. As one court noted, “with no squarely applicable limitation statute, I am left with the catch-all four-year deadline in NRS 11.220.” *Ocwen Loan Servicing, LLC v. SFR Investments Pool 1, LLC*, Case No. 2:17-cv-01757-JAD-VCF, (D. Nev. May 18, 2018) at 8-9. Similarly, reversing its prior decision that there was a five-year statute of limitations, this Court concluded the four year catch-all statute of limitations applied after “closer inspection of the statutory language and the basis for [the Bank's] claim. . . .” *Bank of America, N.A. v. Country Gardens Owners Association*, Case No. 2:17-cv-01850-APG-CWH, 2018 WL 1336721 (D. Nev. March 14, 2018).

As discussed above despite what the bank calls its claims, it brings them too late. Here, the foreclosure sale took place on September 19, 2012. The Bank filed its complaint on April 4,

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2018, *more than five years* after the Association foreclosure sale. Thus, the Bank's claims are time-barred even under a four-year statute of limitations.

E. Declaratory Relief is Not an Independent Cause of Action

The Bank's first cause of action is for declaratory relief. *See* Compl., ECF No. 1. However, a claim for declaratory relief is not a substantive cause of action, but merely a prayer for a remedy. *See Stock West, Inc. v. Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1225 (9th Cir. 1989); *see also Aguilar v. WMC Mortgage Corp.*, No. 2:09-cv-1416-ECR-PAL, 2010 WL 185951, at *4 (D.Nev. Jan. 15, 2010) (stating that declaratory relief is not an independent cause of action.) Therefore, the Bank's declaratory judgment claim, is tied to its claims which are truly that of wrongful foreclosure and/or liability arising from statute.

In order to obtain such a "judgment," the Bank is launching a direct attack on the underlying sale and the foreclosure deed presumptively giving SFR title free and clear of all liens junior to the Association's lien, including the subject deed of trust. Ability to enforce the deed of trust is a whole different issue that requires the Bank prove a number of facts, including proper possession of the underlying note, proper assignments, and a variety of other facts that remain at issue even if the Bank could somehow prove the deed of trust survived the foreclosure sale. As the Bank's declaratory relief claim is tied to what is truly a wrongful foreclosure claim or liability arising from a statute, and said claim is subject to a three-year statute of limitations. The complaint should be dismissed.

F. The Bank's Unjust Enrichment Claim is Also Time-Barred and Fails as a Matter of Law.

Here, the Bank asserts, "SFR has been conferred a benefit at Plaintiffs expense due to its retention of any and all rents derived from the Property, which remains subject to Plaintiffs security instrument." ECF No. 1, ¶ 33. Unfortunately for the Bank this argument falls flat.

Under Nevada law, in order to prevail on an unjust enrichment claim, the Bank must show that SFR retained the money or property of the Bank against fundamental principles of justice or equity and good conscience. *Asphalt Products v. All Star Ready Mix*, 111 Nev. 799, 802, 898 P.2d 699, 701 (1995). Here, the subject Property was *never property belonging to the Bank*.

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1 Instead, the Property merely represented collateral that secured the first deed of trust until that
 2 security interest was extinguished by the Association foreclosure sale. As such, SFR has not
 3 retained property belonging to the Bank. *See JPMorgan*, 200 F. Supp. 3d at 1178 (*quoting NAS*,
 4 338 P.3d at 1256-57) (“While a lien creates a security interest in property, a lien right alone does
 5 not give the lienholder right and title to property. Instead, title, which constitutes the legal right to
 6 control and dispose of property, remains with the property owner until the lien is enforced through
 7 foreclosure proceedings.”)

8 Moreover, the Bank’s claims are tied to its “Quiet Title/Declaratory Relief” claims, which
 9 are actually wrongful foreclosure based on liability created by a statute which as already
 10 discussed above carries a three-year statute of limitations. Thus, the Bank’s unjust enrichment
 11 claim cannot succeed as it is time-barred. Therefore, the Bank’s claim for unjust enrichment
 12 should be dismissed with prejudice.

13 **G. Failure to Join a Party Under Rule 19.**

14 FRCP 12(b)(7) states that a party may file a motion to dismiss for failure to join a party
 15 under Rule 19. Pursuant to FRCP 19(a), a party shall be joined where:

16 (1) **Required Party.** A person who is subject to service of process and whose
 17 joinder will not deprive the court of subject-matter jurisdiction must be joined
 18 as a party if:

18 (A) in that person's absence, the court cannot accord complete relief among
 19 existing parties; or

19 (B) that person claims an interest relating to the subject of the action and is
 20 situated that disposing of the action in the person's absence may:

20 (i) as a practical matter impair or impede the person's ability to protect
 21 the interest; or

21 (ii) leave an existing party subject to a substantial risk of incurring
 22 double, multiple, or otherwise inconsistent obligations because of the
 23 interest.

22 (2) **Joinder by Court Order.** If a person has not been joined as required, the
 23 court must order that the person be made a party. A person who refuses to join
 24 as a plaintiff may be made either a defendant or, in a proper case, an
 25 involuntary plaintiff.

25 FRCP 19(a).

26 Applying the factors under FRCP 19(a), the Court should find that the Borrowers are not
 27 only necessary parties but are indispensable parties without whom this action cannot proceed.
 28 Because the Borrowers are not joined to this action, the claims brought by the Bank cannot be

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1 adjudicated among the existing parties, and SFR suffers the substantial risk of incurring multiple
 2 and/or inconsistent results due to the Bank's failure to join them as parties to this action.

3 Rule 19(b) lists the following four factors to assist a court in determining whether the case
 4 should proceed or be dismissed:

5
 6 (1) the extent to which a judgment rendered in the person's absence might be
 7 prejudicial to the absent person or to existing parties; (2) the extent to which, by
 8 protective provisions in judgment, by shaping the relief, or other measures, the
 9 prejudice can be lessened or avoided; (3) whether a judgment rendered in the
 10 person's absence is adequate; and (4) whether the plaintiff will have an adequate
 11 remedy if the action is dismissed for nonjoinder.

12 FRCP 19(b).

13 These factors "are not to be applied in any mechanical way" but rather in a "practical and
 14 pragmatic but equitable manner." *Francis Oil & Gas, Inc. v. Exxon, Corp.*, 661 F.2d 873, 878
 15 (10th Cir. 1981). Here, this Court cannot render judgment in favor of the Bank, because the Bank
 16 has not named the necessary party(s) in order to effectuate that relief that it seeks, namely, having
 17 the Association foreclosure sale declared void. Everything that led up to the foreclosure sale was
 18 performed by parties other than SFR.

19 The Bank acts as if SFR was responsible for the Association foreclosure sale. It was not.
 20 Nothing in NRS 116.3116 places this burden on a purchaser at a public auction. In fact, just the
 21 opposite is true. Even if the Bank could prove some irregularity with the sale (which it cannot),
 22 the Legislature created a statutory scheme that entitles SFR to rely on the conclusive proof of the
 23 recitals of the Association foreclosure deed that the sale was conducted in a proper and lawful
 24 manner. For the Bank to prevail, it must litigate its claims of improper foreclosure against the
 25 correct party. Because it has refused to take the necessary steps to do so, the Bank's Complaint
 26 should be dismissed.

27 **H. The Bank Failed to Name the Parties Who are Affected by the Declaratory Relief it**
 28 **Seeks in Derogation of NRS 30.130; Dismissal is Appropriate**

The Bank's Complaint should be dismissed because it violated NRS 30.130 when it failed
 to name the Borrowers, title 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 Borrowers' title to 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, the Bank doesn't name the Borrowers, the parties whose title interest is affected if the sale is declared void. The declaratory relief it seeks is based on the actions of the Association and its agent. The Bank needed to name the Borrowers as parties in order to get the relief it is seeking. Further, since the Bank is seeking declaratory relief (setting aside the sale as being void), such relief directly affects the Borrowers. Yet, the Bank only names the Association and SFR, a party which had nothing to do with the Association foreclosure process or in the conducting of the sale.

I. The Bank Claims That NRS 116.3116 is Unconstitutional, But Didn't Notify the Attorney General in Violation of FRCP 5.1; Dismissal is Appropriate

The Bank claims that NRS 116.3116 is unconstitutional (*see* Compl., ECF No. 1, ¶ 27), but appears to have failed to notify the Attorney General.

According to FRCP 5.1,

(a) NOTICE BY A PARTY. A party that files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute must promptly:

(1) file a notice of constitutional question stating the question and identifying the paper that raises it, if:

(A) a federal statute is questioned and the parties do not include the United States, one of its agencies, or one of its officers or employees in an official capacity; or

(B) a state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity; and

1 (2) serve the notice and paper on the Attorney General of the United States if a federal
2 statute is questioned—or on the state attorney general if a state statute is questioned—either by
3 certified or registered mail or by sending it to an electronic address designated by the attorney
4 general for this purpose.

5 Here, Plaintiff has not provided any evidence that it notified and served a copy of the
6 complaint on the Attorney General as required by FRCP 5.1. As such, dismissal with prejudice is
7 warranted.

8 IV. CONCLUSION

9 Based upon the foregoing, SFR respectfully requests this Court dismiss the Bank's
10 Complaint with prejudice pursuant to FRCP 12(b)(6) and 12(b)(7).

11 DATED June 11th, 2018.

KIM GILBERT EBRON

/s/ Diana S. Ebron

DIANA S. EBRON, ESQ.

Nevada Bar No. 10580

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KIM GILBERT EBRON

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I hereby certify that on the 11th day of June, 2018, pursuant to FRCP 5(b)(2)(E), I caused service of a true and correct copy of the foregoing **SFR INVESTMENTS POOL 1, LLC'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT [ECF No. 1] PURSUANT TO FRCP 12(b)(6) and 12(b)(7)** to be made electronically via the U.S. District Court's Case Management/Electronic Case Files (CM/ECF) system upon the following parties at the e-mail addresses listed below:

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Squire Village at Silver Springs Community Association

/s/ Andrew M. David

An employee of KIM GILBERT EBRON

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, as
4 Trustee for the Certificateholders of CWABS,
Inc., Asset-Backed Certificates, Series 2006-
5 25,

6 Plaintiff

7 v.

8 SQUIRE VILLAGE AT SILVER SPRINGS
COMMUNITY ASSOCIATION and SFR
9 INVESTMENTS POOL 1, LLC,

10 Defendants

Case No.: 2:18-cv-00599-APG-CWH

Order Granting Motion to Dismiss

[ECF No.16]

11 Plaintiff The Bank of New York Mellon (BONY) sues to determine whether a non-
12 judicial foreclosure sale conducted by a homeowners association (HOA) extinguished its deed of
13 trust. Defendant SFR Investments Pool 1, LLC (SFR) purchased the property at the foreclosure
14 sale. SFR moves to dismiss, arguing that BONY's quiet title/declaratory relief claim is untimely
15 because it is really one for liability based on statutory violations and thus is subject to a three-
16 year limitation period. Alternatively, SFR argues that even if the claim is subject to the four-year
17 catchall limitation period, it is still untimely. SFR asserts the unjust enrichment claim is also
18 untimely and fails as a matter of law. According to SFR, BONY has failed to name the
19 borrowers, who are necessary parties. Finally, SFR asserts that BONY failed to notify the
20 Nevada Attorney General of a constitutional challenge as required by Federal Rule of Civil
21 Procedure 5.1.

22 BONY responds that its quiet title/declaratory relief claim is not dependent on a violation
23 of a statute so the three-year limitation period does not apply. BONY argues both of its claims

1 are subject to a five-year limitation period that does not begin to run until it discovered the harm.
2 BONY contends it did not discover its harm until the Supreme Court of Nevada issued its
3 decision in *SFR Investments Pool 1 v. U.S. Bank*, 334 P.3d 408 (Nev. 2014) (en banc). BONY
4 also argues its quiet title/declaratory relief claim is viable under the Ninth Circuit’s decision in
5 *Bourne Valley Court Tr. v. Wells Fargo Bank, NA*, 832 F.3d 1154 (9th Cir. 2016). BONY
6 disputes that the borrowers are necessary parties. BONY asserts it has notified the Nevada
7 Attorney General of the case as required. Finally, BONY requests the motion be denied so that
8 discovery may be conducted.

9 In considering a motion to dismiss, “all well-pleaded allegations of material fact are taken
10 as true and construed in a light most favorable to the non-moving party.” *Wylar Summit P’ship v.*
11 *Turner Broad. Sys., Inc.*, 135 F.3d 658, 661 (9th Cir. 1998). However, I do not necessarily
12 assume the truth of legal conclusions merely because they are cast in the form of factual
13 allegations in the complaint. *See Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th
14 Cir. 1994). A plaintiff must make sufficient factual allegations to establish a plausible
15 entitlement to relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). Such allegations
16 must amount to “more than labels and conclusions, [or] a formulaic recitation of the elements of
17 a cause of action.” *Id.* at 555.

18 “A claim may be dismissed as untimely pursuant to a 12(b)(6) motion only when the
19 running of the statute of limitations is apparent on the face of the complaint.” *United States ex*
20 *rel. Air Control Techs., Inc. v. Pre Con Indus., Inc.*, 720 F.3d 1174, 1178 (9th Cir. 2013)
21 (alteration and quotation omitted). A limitation period begins to run “from the day the cause of
22 action accrued.” *Clark v. Robison*, 944 P.2d 788, 789 (Nev. 1997). A cause of action generally
23 accrues “when the wrong occurs and a party sustains injuries for which relief could be sought.”

1 *Petersen v. Bruen*, 792 P.2d 18, 20 (Nev. 1990); *see also State ex rel. Dep't of Transp. v. Pub.*
 2 *Emps.' Ret. Sys. of Nev.*, 83 P.3d 815, 817 (Nev. 2004) (en banc) (“A cause of action ‘accrues’
 3 when a suit may be maintained thereon.” (quotation omitted)). Nevada has adopted the
 4 discovery rule, and thus time limits generally “do not commence and the cause of action does not
 5 ‘accrue’ until the aggrieved party knew, or reasonably should have known, of the facts giving
 6 rise to the damage or injury.” *G & H Assocs. v. Ernest W. Hahn, Inc.*, 934 P.2d 229, 233 (Nev.
 7 1997).

8 According to the complaint, the HOA foreclosure sale took place on September 19, 2012.
 9 ECF No. 1 at 4. SFR bought the property at the sale and the trustee’s deed upon sale was
 10 recorded on October 9, 2012. ECF No. 1-4. BONY filed this lawsuit on April 4, 2018.
 11 Consequently, it is apparent from the face of the complaint that BONY’s claims are time-barred
 12 if a statute of limitations of five years or less applies.

13 **A. Quiet Title/Declaratory Relief**

14 I have previously ruled that the four-year catchall limitation in Nevada Revised Statutes
 15 § 11.220 applies to claims such as the one BONY asserts in this case. *See Bank of Am., N.A. v.*
 16 *Country Garden Owners Ass’n*, No. 2:17-cv-01850-APG-CWH, 2018 WL 1336721, at *2 (D.
 17 Nev. Mar. 14, 2018). I have also previously rejected the argument that lenders like BONY did
 18 not know their deeds of trust were in jeopardy until the Supreme Court of Nevada issued the *SFR*
 19 decision. *See id.* at *6. “Simply reading the statute that grants HOAs a superpriority lien would
 20 have put BONY on notice of the possibility that its deed of trust was in jeopardy.” *Id.* Indeed, its
 21 own allegations show the *SFR* decision was not unanticipated, nor did banks assume that the
 22 superpriority lien was not triggered until the deed of trust holder foreclosed, because BONY
 23 alleges that its predecessor attempted to pay off the superpriority amount. ECF No. 1 at 3.

1 Further, *SFR* “did not create new law or overrule existing precedent; rather, that decision
2 declared what NRS 116.3116 has required since the statute’s inception.” *K&P Homes v.*
3 *Christiana Tr.*, 398 P.3d 292, 295 (Nev. 2017) (en banc). The limitation period started running
4 on the date the trustee’s deed upon sale was recorded because BONY knew or should have
5 known of its injury at that time. *Job’s Peak Ranch Cmty. Ass’n, Inc. v. Douglas Cty.*, No. 55572,
6 2015 WL 5056232, at *3 (Nev. Aug. 25, 2015) (“If the facts giving rise to the cause of action are
7 matters of public record then the public record gave notice sufficient to start the statute of
8 limitations running.” (quotation and alteration omitted)).

9 Finally, to the extent BONY is asserting the *Bourne Valley* decision somehow makes its
10 claim timely, I disagree. See *Bank of New York for Certificateholders of CWALT, Inc. v. S.*
11 *Highlands Cmty. Ass’n*, No. 2:17-cv-02699-APG-PAL, 2018 WL 4305761, at *4 (D. Nev. Sept.
12 7, 2018) (“BONY cites no authority for its argument that if the sale was conducted pursuant to an
13 unconstitutional statute, no limitation period applies.”). The Supreme Court of Nevada has
14 applied a statute of limitations to a claim alleging that tax revenues were unevenly distributed
15 pursuant to an unconstitutional statute. See *City of Fernley v. State, Dep’t of Tax*, 366 P.3d 699,
16 707 (Nev. 2016). The Supreme Court of Nevada thus applies statutes of limitations to acts taken
17 pursuant to an allegedly unconstitutional statute. Moreover, *Bourne Valley* is no longer binding
18 authority. See *U.S. Bank National Ass’n v. Saticoy Bay LLC Series 3930 Swenson*, No. 2:17-cv-
19 00463-APG-GWF, 2018 WL 4604455, at *2 (D. Nev. Sept. 25, 2018).

20 BONY’s quiet title/declaratory relief claim is untimely. Consequently, I grant SFR’s
21 motion to dismiss this claim.

22 ////

23 ////

B. Unjust Enrichment

BONY did not respond to SFR's motion to dismiss regarding the unjust enrichment claim other than to state that "SFR's Motion to Dismiss must be denied because the five-year statute of limitations has not yet expired on its claims for Quiet Title or Unjust Enrichment." ECF No. 20 at 7. However, the "statute of limitation for an unjust enrichment claim is four years." *In re Amerco Derivative Litig.*, 252 P.3d 681, 703 (Nev. 2011) (en banc) (citing Nev. Rev. Stat. § 11.190(2)(c)). BONY's meager response (and an incorrect one at that) constitutes consent to granting SFR's motion as to untimeliness. LR 7-2(d). To the extent BONY is relying on the same arguments discussed above to contend its unjust enrichment claim is timely, those arguments are unavailing. I therefore grant SFR's motion to dismiss the unjust enrichment claim.¹

C. Rule 56(d) Request

BONY acknowledges that Federal Rule of Civil Procedure 56(d) does not apply to motions to dismiss but nevertheless requests that SFR's motion be denied so discovery may be conducted. However, BONY does not explain how any of the discovery it wants to conduct would bear on the timeliness of its claims. I therefore deny BONY's request.

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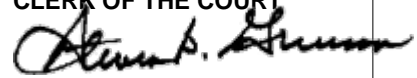
¹ Although I am granting SFR's motion, it appears from SFR's argument in its motion that it did not read the substantive allegations in BONY's unjust enrichment claim. I know these parties have numerous similar cases and so they copy and paste arguments for efficiency's sake. But not all of these cases are identical. The parties must take care to actually read and understand the other side's allegations and arguments and then present developed arguments to this court that are responsive to the other side's papers if they want me to be able to rule on the issues they raise.

1 **D. Conclusion**

2 IT IS THEREFORE ORDERED that defendant SFR Investments Pool 1, LLC's motion
3 to dismiss **(ECF No. 16)** is **GRANTED**.

4 DATED this 1st day of October, 2018.

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7 _____
8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
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DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL 1, LLC, a
Nevada limited liability company,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON, FKA
THE BANK OF NEW YORK, AS TRUSTEE,
FOR THE CERTIFICATEHOLDERS OF
CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES 2006-25; SABLES,
LLC,

Defendants.

Case No. A-19-790150-C

Dept. No. Department 29

COMPLAINT

Arbitration Exemption:

1. Action Concerning Real Property

SFR Investments Pool 1, LLC hereby files its complaint against Defendants as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, SFR Investments Pool 1, LLC ("SFR"), at all relevant times stated herein, is and was a Nevada limited liability company with its principal place of business in Clark County, Nevada.

2. Upon information and belief, Defendant, Bank of New York Mellon f/k/a The Bank of New York ("BNY Mellon"), as Trustee for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25, ("Trust"), at all relevant times stated herein, is and was a Delaware corporation with its headquarters in New York.

3. Upon information and belief, Defendant, Sables, LLC, at all relevant times stated herein is and was a Nevada limited liability company.

GENERAL ALLEGATIONS

4. On or about September 25, 2002, Susan Pritz and Nelson Pritz ("Pritz") purchased real property located at 4946 Droubay Drive, Las Vegas, Nevada 89122, Parcel No. 161-26-111-133 (the "Property").

5. On November 22, 2006, a deed of trust that was purportedly executed by Pritz, and which identified Countrywide Home Loans, Inc. ("Countrywide") as the Lender, and Mortgage Electronic Registrations Systems, Inc. ("MERS") as beneficiary, was recorded against the Property as Instrument No. 20061122-0003799 ("Deed of Trust").

6. Upon information and belief, the loan underlying the Deed of Trust was a cash-out refinance.

7. Paragraph 22 of the Deed of Trust states that "Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument...The notice shall specify...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."

8. On April 24, 2008, Recontrust Company as Trustee for MERS recorded a Notice of Default/Election to Sell Under Deed of Trust ("NOD") against the Property as Instrument No. 20080429-0004556 ("NOD #1). The NOD #1 indicates that Pritz became delinquent on or about January 1, 2008. The NOD #1 further states that the beneficiary "has declared and does hereby declare all sums secured thereby immediately due and payable..."

9. On November 29, 2011, a document titled "Assignment of Deed of Trust" was recorded against the Property as Instrument No. 201111290000514 ("Assignment"). The Assignment states that MERS grants, sells, assigns, transfers and conveys all beneficial interest in the Deed of Trust to BNY Mellon as Trustee for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25 (the "Trust").

1 10. Upon information and belief, Edward Gallegos, the individual who executed the
2 Assignment was really an employee/agent of BNY Mellon rather than the originating lender.

3 11. According to the Pooling and Servicing Agreement (“PSA”) the closing date of the Trust
4 was December 29, 2006 and this is the date all loans must be transferred into the Trust.

5 12. On September 19, 2012, SFR acquired the Property by successfully bidding on the
6 Property at a publicly-held foreclosure auction in accordance with NRS Chapter 116.

7 13. On October 9, 2012, the resulting Foreclosure Deed was recorded against the Property as
8 Instrument No. 201210090001817.

9 14. BNY Mellon as trustee for the Trust failed to timely challenge the validity and effect of
10 the Association foreclosure sale. As such, on October 1, 2018, District Court Judge Andrew
11 Gordon dismissed BNY Mellon’s complaint against SFR ruling that any claims challenging the
12 Association sale were time-barred. *See* ECF No. 25, Case No. 2:18-cv-00599-APG-CWH. On
13 January 23, 2019, the Order Granting Motion to Dismiss was recorded against the Property as
14 Instrument No. 201901230000186.

15 15. On January 15, 2019, Sables, LLC, as trustee for BNY Mellon recorded a second Notice
16 of Breach and Default and Election to Sell the Real Property Under Deed of Trust as Instrument
17 No. 20190116-0000389 (“NOD #2”).

18 16. On or about January 22, 2019, SFR received a copy of the NOD #2 from its tenant.

19 17. Upon information and belief, at no time within the ten years after acceleration, did BNY
20 Mellon/the Trust or any other entity claiming an interest in the Deed of Trust, or their agents, take
21 any clear and unequivocal affirmative act necessary to decelerate the loan.

22 **FIRST CAUSE OF ACTION**
23 **(Cancellation of Written Instrument – NOD #1 and #2)**

24 18. SFR repeats and re-alleges the allegations of paragraphs 1-16 as though fully set forth
25 herein and incorporates that same by reference.

26 19. At origination, the Note and Deed of Trust were split.

27 20. Upon information and belief, BNY Mellon/the Trust do not have possession of the original
28 wet-ink promissory note.

1 21. BNY Mellon/the Trust are not entitled to enforce the Deed of Trust.

2 22. The Trust was never properly transferred the Note and/or Deed of Trust as the closing date
3 of the Trust was December 29, 2006 and the Assignment was not executed and recorded until
4 2011.

5 23. The Trust was never properly transferred the Note and/or Deed of Trust as Edward
6 Gallegos, the individual who executed the Assignment was really an employee/agent of BNY
7 Mellon rather than the originating lender.

8 24. Based on the foregoing, BNY Mellon/the Trust lack the authority to foreclose, and
9 therefore the NOD # and #2 are invalid/void.

10 25. SFR is entitled to a cancellation of the of both the NOD #1 and NOD #2, and if left
11 outstanding, SFR will suffer serious injury. BNY Mellon/the Trust is pursuing foreclosure, and if
12 permitted to continue such foreclosure efforts, a sale can take place as early as May 15, 2019.
13 Failure to cancel both the NOD #1 and #2 may result in damages, including, but not limited to,
14 loss of the Property.

15
16 **SECOND CAUSE OF ACTION**
(Cancellation of Written Instrument – Deed of Trust)

17 26. SFR repeats and re-alleges the allegations of paragraphs 1-25 as though fully set forth
18 herein and incorporates that same by reference.

19 27. Currently recorded against the Property is the Deed of Trust as Instrument No. 20061122-
20 0003799.

21 28. BNY Mellon as trustee for the Trust, is the purported beneficiary of the Deed of Trust.

22 29. Between January 1, 2008, but no later than April 24, 2008, the loan was accelerated via
23 the NOD #1 making all sums under the Note wholly due and immediately payable.

24 30. Upon information and belief, after default on January 1, 2008, Pritz made no further
25 payments.

26 31. At no time within the ten years after acceleration did BNY Mellon/the Trust or any other
27 entity claiming an interest in the Deed of Trust, or their agents, take any clear and unequivocal
28 affirmative act necessary to decelerate the loan.

1 32. By virtue of the acceleration, pursuant to NRS 106.240, the Deed of Trust was
2 terminated/discharged as early as January 1, 2018, but no later than April 24, 2018.

3 33. SFR is entitled to a cancellation of the Deed of Trust, and if left outstanding, SFR will
4 suffer serious injury. BNY Mellon/the Trust is pursuing foreclosure, and if permitted to continue
5 such foreclosure efforts, a sale can take place as early as May 15, 2019. Failure to cancel the Deed
6 of Trust may result in damages, including, but not limited to, loss of the Property.

7 **THIRD CAUSE OF ACTION**
8 **(Violation of NRS 107.028)**

9 34. SFR repeats and re-alleges the allegations of paragraphs 1-33 as though fully set forth
10 herein and incorporates that same by reference.

11 35. On January 22, 2019, SFR's counsel, Kim Gilbert Ebron, emailed Zieve, Brodnax &
12 Steele, LLP, counsel of BNY Mellon asking if the recording of the NOD #2 was a mistake in light
13 of the prior dismissal of BNY Mellon's complaint in federal court based on the statute of
14 limitations.

15 36. On January 28, 2019, BNY Mellon's counsel, Shadd Wade, Esq. of Zieve, Brodnax &
16 Steele, LLP responded and indicated the recording was intentional, and as a result refused to
17 withdraw it.

18 37. According to the Nevada Secretary of State, Les Zieve of Zieve, Brodnax & Steele, LLP
19 is a manager of Sables, LLC.

20 38. According to the Nevada Secretary of State, Shadd Wade is the registered agent of Sables,
21 LLC.

22 COUNT 1

23 39. Pursuant to NRS 107.028, Sables, LLC shall act impartially with respect to the deed of
24 trust.

25 40. The manager of Sables, LLC is also the named partner of the law firm that represents BNY
26 Mellon, and as such, Sables, LLC is not acting impartially. Instead, Sables, LLC is only acting in
27 the interest of BNY Mellon.
28

COUNT 2

41. Pursuant NRS 107.028, Sables, LLC shall act in good faith. In light of the NOD #1 which provides the Note was accelerated at the latest on April 24, 2008, Sables, LLC knows or should know that the statute of repose has expired and the Deed of Trust was terminated/discharged. Pursuing foreclosure is in bad faith.

COUNT 3

42. In light of the prior dismissal of BNY Mellon's complaint in federal court based on the statute of limitations, Sables, LLC is acting in bad faith by failing to withdraw the NOD #2. Because BNY Mellon failed to timely challenge the conclusive recitals and failed to timely rebut the presumptive validity of the Association sale and SFR's deed, Sables, LLC knows or should know the Deed of Trust was extinguished as a result of the Association foreclosure sale.

COUNT 4

43. Pursuant NRS 107.028, Sables, LLC shall act in accordance with the law of this State. In light of the NOD #1 which provides the Note was accelerated at the latest on April 24, 2008, Sables, LLC knows or should know that the statute of repose has expired and the Deed of Trust was terminated/discharged. Pursuing foreclosure is not in accordance with the laws of this State.

44. As a direct and proximate cause of Sables, LLC's multiple violations of NRS 107.028, pursuant to NRS 107.028(7), SFR is entitled to mandatory damages as follows:

- (a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;
- (b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and
- (c) Reasonable attorney's fees and costs.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

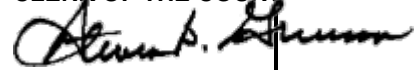
1. That the Notice of Default recorded as Instrument No. 20080429-0004556 be declared void;

- 1 2. That the Notice of Default recorded as Instrument No. 20190116-0000389 be declared
- 2 void;
- 3 3. That the Deed of Trust recorded as Instrument No. 20061122-0003799 be declared
- 4 terminated/discharged;
- 5 4. That Defendant BNY Mellon record and deliver a reconveyance of the Deed of Trust to
- 6 the clerk of the court for cancellation;
- 7 5. For damages in excess of \$15,000 or treble the amount of actual damages;
- 8 6. For an injunction enjoining the exercise of the power of sale;
- 9 7. For reasonable attorneys' fees;
- 10 8. For costs; and
- 11 9. For such other and further relief the Court deems proper.

12 Dated this 27th day of February, 2019.

KIM GILBERT EBRON

/s/ Karen L. Hanks
KAREN L. HANKS, ESQ.
Nevada Bar No. 9578
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*Attorneys for Defendants The Bank of New York Mellon, FKA The Bank of New York, as Trustee,
for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25 and Sables,
LLC*

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

SFR INVESTMENTS POOL 1, LLC, a Nevada
limited liability company,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON, FKA
THE BANK OF NEW YORK, AS TRUSTEE,
FOR THE CERTIFICATEHOLDERS OF
CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2006-25, a national
bank; SABLES, LLC, a foreign limited liability
company,

Defendants.

**CASE NO.: A-19-790150-C
DEPT NO.: XXIX**

**DEFENDANT THE BANK OF NEW
YORK MELLON'S ANSWER TO SFR
INVESTMENTS POOL 1, LLC'S
COMPLAINT**

**DEFENDANT THE BANK OF NEW YORK MELLON'S ANSWER TO SFR
INVESTMENTS POOL 1, LLC'S COMPLAINT**

COMES NOW, Defendant, The Bank of New York Mellon, FKA The Bank of New York,
as Trustee, for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25
("BNYM" or "Defendant") answers the Complaint of Plaintiff SFR Investments Pool 1, LLC
("SFR" or "Plaintiff"), as follows:

PARTIES, JURISDICTION AND VENUE

1. Answering paragraph 1 of the Complaint, Defendant does not possess enough information
to admit or deny the allegations contained therein and therefore denies each of the allegations and

1 the whole thereof on that basis.

2 2. Answering paragraphs 2 and 3 of the Complaint, Defendant admits to the allegations
3 contained therein.

4 **GENERAL ALLEGATIONS**

5 3. Answering paragraph 4 of the Complaint, Defendant admits the allegations contained
6 therein.

7 4. Answering paragraph 5 of the Complaint, Defendant admits that a Deed of Trust was
8 recorded against the property as Book and Instrument No. 20061122-0003799.

9 5. Answering paragraph 6 of the Complaint, Defendant does not possess enough information
10 to admit or deny the allegations contained therein and therefore denies each of the allegations and
11 the whole thereof on that basis.

12 6. Answering paragraphs 7 and 8 of the Complaint, Defendant responds that the documents
13 speak for themselves.

14 7. Answering paragraph 9 of the Complaint, Defendant admits that an Assignment of Deed
15 of Trust was recorded against the property as Book and Instrument No. 20111129-0000514.

16 8. Answering paragraphs 10, 11, and 12 of the Complaint, Defendant does not possess enough
17 information to admit or deny the allegations contained therein and therefore denies each of the
18 allegations and the whole thereof on that basis.

19 9. Answering paragraph 13 of the Complaint, Defendant admits that a Foreclosure Deed was
20 recorded against the property as Book and Instrument No. 20121009-0001817.

21 10. Answering paragraph 14 of the Complaint, Defendant admits that Case No. 2:18-cv-00599-
22 APG-CWH was dismissed on October 1, 2018. To the extent, if any, Plaintiff alleges the dismissal
23 constitutes a judicial determination as to the effect of the HOA foreclosure sale on Defendant's
24 deed of trust, Defendant denies the allegations contained therein.

25 11. Answering paragraph 15 of the Complaint, Defendant admits that a Notice of Breach and
26 Default and Election to Sell the Real Property Under Deed of Trust was recorded against the
27 property as Book and Instrument No. 20190116-0000389.

28 12. Answering paragraphs 16 and 17 of the Complaint, Defendant does not possess enough
information to admit or deny the allegations contained therein and therefore denies each of the

1 allegations and the whole thereof on that basis.

2
3 **FIRST CAUSE OF ACTION**
4 **(Cancellation of Written Instrument – NOD #1 AND #2)**

5 **13.** Answering paragraph 18 of the Complaint, Defendant hereby repeats, realleges, and
6 incorporates by reference each of its admissions, denials, or other responses to the paragraphs
7 referenced herein as if set forth at length and in full.

8 **14.** Answering paragraph 19 of the Complaint, Defendant does not possess enough information
9 to admit or deny the allegations contained therein and therefore denies each of the allegations and
10 the whole thereof on that basis.

11 **15.** Answering paragraphs 20, 21, 22, 23, and 24 of the Complaint, Defendant denies the
12 allegations contained therein.

13 **16.** Paragraph 25 is a recitation of the relief that Plaintiff is requesting and no answer is
14 required. To the extent that an answer is required, Defendant denies each and every allegation
15 contained in paragraph 25.

16 **SECOND CAUSE OF ACTION**
17 **(Cancellation of Written Instrument – Deed of Trust)**

18 **17.** Answering paragraph 26 of the Complaint, Defendant hereby repeats, realleges, and
19 incorporates by reference each of its admissions, denials, or other responses to the paragraphs
20 referenced herein as if set forth at length and in full.

21 **18.** Answering paragraphs 27 and 28 of the Complaint, Defendant admits the allegations
22 contained therein.

23 **19.** Answering paragraphs 29, 30, and 31 of the Complaint, Defendant does not possess enough
24 information to admit or deny the allegations contained therein and therefore denies each of the
25 allegations and the whole thereof on that basis.

26 **20.** Answering paragraph 32 of the Complaint, Defendant denies the allegations contained
27 therein.

28 **21.** Paragraph 33 is a recitation of the relief that SFR is requesting and no answer is required.
To the extent that an answer is required, Defendant denies each and every allegation contained in
paragraph 33.

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THIRD CAUSE OF ACTION
(Violation of NRS 107.028)

22. Answering paragraph 34 of the Complaint, Defendant hereby repeats, realleges, and incorporates by reference each of its admissions, denials, or other responses to the paragraphs referenced herein as if set forth at length and in full.

23. Answering paragraphs 35, 36, 37 and 38 of the Complaint, Defendant admits the allegations contained therein.

COUNT 1

24. Answering paragraph 39 of the Complaint, to the extent the allegations contained therein consist of SFR's legal conclusions or an attempt to summarize this lawsuit, no response is required.

25. Answering paragraph 40 of the Complaint, admit to the extent that a manager of Sables, LLC is also a named partner of the law firm that represents Defendant. To the extent a response is required, Defendant denies each of the allegations and the whole thereof on that basis.

COUNT 2

26. Answering paragraph 41 of the Complaint, to the extent the allegations contained therein consist of SFR's legal conclusions or an attempt to summarize this lawsuit, no response is required. To the extent a response is required, Defendant denies each of the allegations and the whole thereof on that basis.

COUNT 3

27. Answering paragraph 42 of the Complaint, Defendant denies each of the allegations and the whole thereof on that basis.

COUNT 4

28. Answering paragraphs 43 and 44 of the Complaint, to the extent the allegations contained therein consist of SFR's legal conclusions or an attempt to summarize this lawsuit, no response is required. To the extent a response is required, Defendant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

Plaintiff fails to state a claim on which relief can be granted.

1 **SECOND AFFIRMATIVE DEFENSE**
2 **(Statute of Limitations)**

3 All causes of action alleged by Plaintiff are barred by the applicable statute of limitations.

4 **THIRD AFFIRMATIVE DEFENSE**
5 **(Waiver)**

6 All causes of action alleged by Plaintiff are barred by the doctrine of waiver, laches, and
7 estoppel.

8 **FOURTH AFFIRMATIVE DEFENSE**
9 **(Unclean Hands)**

10 All causes of action alleged by Plaintiff are barred by the doctrine of unclean hands.

11 **FIFTH AFFIRMATIVE DEFENSE**
12 **(Statute of Frauds)**

13 All causes of action alleged by Plaintiff are barred by the applicable statute of frauds.

14 **SIXTH AFFIRMATIVE DEFENSE**
15 **(Equitable Estoppel)**

16 The conduct of Plaintiff bars any relief under the principles of equitable estoppel.

17 **SEVENTH AFFIRMATIVE DEFENSE**
18 **(Attorney's Fees and Costs)**

19 There is no basis for recovery of attorney's fees or costs from the Plaintiff.

20 **EIGHTH AFFIRMATIVE DEFENSE**
21 **(Reduction of Damages Based on Third Party Fault)**

22 The Defendant is entitled to have any award against it reduced or eliminated to the extent
23 that the negligence, carelessness, or defect resulted from the acts/omissions or comparative fault
24 of other persons that contributed to Plaintiff's damages, if any.

25 **NINTH AFFIRMATIVE DEFENSE**
26 **(No Standing)**

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

28 **TENTH AFFIRMATIVE DEFENSE**
 (Plaintiff is Not Entitled to Relief)

 The Defendant denies that Plaintiff is entitled to any relief for which it prays.

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1 **ELEVENTH AFFIRMATIVE DEFENSE**
2 **(Failure to Do Equity)**

3 The Defendant avers the affirmative defense of failure to do equity.

4 **TWELFTH AFFIRMATIVE DEFENSE**
5 **(Payment)**

6 The Defendant tendered the superpriority lien amount to the Association's agent prior to
7 the Association's lien foreclosure sale.

8 **THIRTEENTH AFFIRMATIVE DEFENSE**
9 **(Reservation of Rights)**

10 All affirmative defenses may not be listed here because facts may exist unknown to the
11 Defendant at this time. The Defendant reserves the right to amend its answer to add such
12 affirmative defenses in the event further information or investigation warrants it.

13 **PRAYER**

14 WHEREFORE, Defendant prays for judgment as follows:

- 15 **1.** That the Court make a judicial determination that Defendant's Deed of Trust is
16 superior to Plaintiff's claim of title to the Subject Property;
- 17 **2.** That the Court make a judicial determination that Defendant's Deed of Trust
18 survived the HOA Sale for the Subject Property;
- 19 **3.** That the Court make a judicial determination that Plaintiff took title subject to
20 Defendant's Deed of Trust on the Subject Property;
- 21 **4.** For reasonable attorney's fees and costs; and

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

DATED this 22nd day of May, 2019

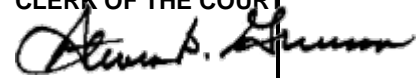
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Certificates, Series 2006-25 and Sables, LLC*

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LLC*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL 1, LLC, a Nevada
limited liability company,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON, FKA
THE BANK OF NEW YORK, AS TRUSTEE,
FOR THE CERTIFICATEHOLDERS OF
CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2006-25, a national
bank; SABLES, LLC, a foreign limited liability
company,

Defendants.

CASE NO.: A-19-790150-C
DEPT NO.: XXIX

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

[HEARING REQUESTED]

COMES NOW, Defendants The Bank of New York Mellon, FKA The Bank of New York,
as Trustee, for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25
and Sables, LLC, and hereby submits thier Motion for Summary Judgment as to Plaintiff's
Complaint.

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1 This Motion is based on the attached Memorandum of Points and Authorities, the Exhibits
2 and Declaration filed herewith, all papers and pleadings on file herein, all judicially noticed facts,
3 and any oral or documentary evidence that may be submitted at a hearing on this matter.

4 DATED this 30th day of January, 2020.

5
6 ZBS LAW, LLP

7 /s/J, Stephen Dolembro, Esq.

8 J. Stephen Dolembro, Esq.

9 Nevada Bar No. 9795

10 9435 West Russell Road, Suite 120

11 Las Vegas, NV 89148

12 sdolembro@zbslaw.com

13 Attorneys for Defendant The Bank of New York
14 Mellon, FKA The Bank of New York, as Trustee,
15 for the Certificateholders of CWABS, Inc. Asset-
16 Backed Certificates, Series 2006-25 and Sables,
17 LLC

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. INTRODUCTION**

20 This is an action for quiet title and declaratory relief concerning real property known as
21 4946 Droubay Drive, Las Vegas, NV 89122 (APN: 161-26-111-133) (the “Property”) following a
22 homeowner association lien foreclosure sale conducted on September 19, 2012 (“Lien Sale”).
23 Non-party Alessi & Koenig, LLC (“A&K”) conducted the Lien Sale on behalf of non-party Squire
24 Village Homeowners Association (“HOA” or “Squire Village”).

25 Defendant, The Bank of New York Mellon, FKA The Bank of New York, as Trustee, for
26 the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25 (“BNYM” or
27 “Defendant”), is the holder of a first Deed of Trust on the Property and is seeking a declaration
28 that its Deed of Trust was not extinguished by the Lien Sale. Plaintiff SFR Investments Pool 1,
LLC (“SFR” or “Plaintiff”) purchased the Property at the Lien Sale for just \$5,258.00.

On April 4, 2018, BNYM filed a complaint for quiet title in the United States District
Court, District of Nevada (Case No. 2:18-cv-00599-APG-CWH). In that matter, SFR moved to
dismiss, contending that BNYM’s claim was time-barred. The district court ultimately agreed and

1 on October 1, 2018, issued an order dismissing the action as untimely. *See*, October 1, 2018 Order,
2 attached hereto as **Exhibit A**. In the order, the district court made no determination as to the effect
3 of the Lien Sale on BNYM's deed of trust.

4 Following receipt of that order, BNYM commenced foreclosure proceedings through its
5 foreclosure trustee, Sables, LLC ("Sables"), pursuant to the Note and Deed of Trust. BNYM is
6 entitled to do so, because prior to the HOA's Lien Sale, Miles Bauer Bergstrom & Winters, LLP
7 ("MBBW"), counsel for BNYM's predecessor-in-interest, tendered the super-priority portion of
8 the HOA Lien to the HOA's foreclosure trustee, A&K. While A&K wrongfully rejected it, the
9 effect of the tender means that the HOA did not foreclose on a super-priority lien, and thus the
10 Lien Sale did not extinguish the Deed of Trust. In addition to the MBBW tender, the former
11 titleholders made payments to the A&K, on behalf of the HOA, in an amount which exceeded the
12 maximum statutory superpriority lien. After paying its own fees and costs, A&K remitted the
excess to the HOA, which applied the funds to the superpriority lien amount.

13 On February 27, 2019, Plaintiff filed the instant action for: 1) Cancellation of Written
14 Instrument relating to an April 24, 2008 Notice of Default and a January 15, 2019 Notice of
15 Default, both recorded pursuant to the Deed of Trust; 2) Cancellation of Written Instrument as to
16 the Deed of Trust, and 3) Violation of NRS 107.028 as to Sables.¹

17 For the reasons set forth below, BNYM respectfully requests that this Court enter summary
18 judgment in its favor as to each cause of action contained in SFR's complaint and declare that the
19 first Deed of Trust was not extinguished by the Lien Sale.

20 **II. STATEMENT OF UNDISPUTED FACTS**

Pritz Loan Documents

- 21 1. On or about November 17, 2006, Nelson and Susan Pritz ("Borrowers") executed and delivered
22 to non-party Countrywide Home Loans, Inc. ("Countrywide"), a promissory note evidencing
23 a \$232,200.00 loan (the "Loan") funded to the Borrowers for the purchase of real property
24 located at 4946 Droubay Drive, Las Vegas, NV 89122. (the "Property").²

25 ¹ On May 28, 2019, Sables filed a Declaration of Non-Monetary Status which SFR did not object
26 to. As such, Sables is not required to participate under NRS 107.029. As such, summary judgment
as to Plaintiff's third cause of action is appropriate at this time.

27 ² *See* Deed of Trust, attached as **Exhibit 1** to Defendant's Request for Judicial Notice ("RFN"),
28 filed concurrently herewith.

- 1 2. On or about November 17, 2006, the Borrower executed a deed of trust listing Mortgage
2 Electronic Registration Systems, Inc. (“MERS”) as beneficiary, which was recorded on
3 November 22, 2006 in the Official Records of the Clark County Recorder’s Office (the
4 “Official Records”) as Book and Instrument number 20061122-0003799 (the “Deed of Trust”).
5 The Deed of Trust grants the beneficiary a security interest in the Property to secure the
6 repayment of the Loan.³
- 7 3. On April 29, 2008, Countrywide recorded a Notice of Default and Election to Sell Under Deed
8 of Trust in the Official Records as Book and Instrument No. 20080429-0004556. *See*,
9 Countrywide Notice of Default, attached hereto as **Exhibit B**.
- 10 4. On or about November 29, 2011, all beneficial interest in the Deed of Trust was assigned to
11 Plaintiff by way of a recorded Assignment of Deed of Trust.⁴

12 **The Lien Sale and SFR’s Acquisition of the Property**

- 13 5. Squire Village is a community association that generally manages and maintains the
14 development in which the Property is located.
- 15 6. Borrowers stopped paying their monthly dues owing to the HOA and, as a result, on February
16 6, 2009, non-party Alessi & Koenig, LLC (“A&K”), as agent for the HOA, recorded that
17 certain Notice of Delinquent Assessment Lien (“Notice of Lien”) as Book and Instrument
18 number 20090206-0000299 in the Official Records.⁵
- 19 7. On May 1, 2009, A&K, as agent for the HOA, recorded that certain Notice of Default and
20 Election to Sell Under Homeowners Association Lien (“Notice of Default”) as Book and
21 Instrument number 20090501-0003709 in the Official Records.⁶
- 22 8. On December 18, 2009, A&K, as agent for the HOA, recorded that certain Notice of Trustee’s
23 Sale in the Official Records as Book and Instrument No. 20091218-0002859.⁷
- 24 9. On January 12, 2010, Miles, Bauer, Bergstrom & Winters, LLP (“MBBW”), counsel for
25 Countrywide, issued correspondence to A&K, requesting a payoff ledger detailing the super-

26 ³ *Id.*

27 ⁴ *See*, RFN, **Exhibit 2**.

28 ⁵ *See*, RFN, **Exhibit 3**.

⁶ *See*, RFN, **Exhibit 4**.

⁷ *See*, RFN, **Exhibit 5**.

1 priority amount of the HOA's lien by providing a breakdown of nine months of HOA
2 assessments. *See*, Affidavit of Douglas E. Miles, attached hereto as **Exhibit C**.

3 10. On February 11, 2010, A&K provided the payoff demand to MBBW. *Id.*

4 11. On February 16, 2010, the Borrowers remitted payment to A&K in the amount of \$3,000.00.
5 *See*, Pritz Payment, attached hereto as **Exhibit D**.⁸

6 12. The above-referenced Statement of Account from A&K indicated that at or around the time
7 the Lien for Delinquent Assessments was recorded, the HOA's monthly assessments were
8 \$84.00. *See*, **Exhibit C** at p. 13.

9 13. On February 18, 2010, MBBW, on behalf of Countrywide, tendered a check to A&K in the
10 amount of \$756.00 to satisfy the super-priority portion of the HOA's lien as well as for an
11 estimation of reasonable collection costs. *Id.* at p. 15-17.

12 14. On March 2, 2010 – after paying itself its own fees and costs – A&K remitted \$1,110.00, the
13 remainder of the Pritz Payment, to the HOA which applied it directly to the past due assessment
14 balance. *See*, HOA Report Balance as of May 30, 2010, attached hereto as **Exhibit F**.

15 15. A&K rejected the aforementioned tender and returned the \$756.00 check to Miles Bauer on or
16 about March 22, 2010. *See*, **Exhibit C** at p. 6.

17 16. On October 15, 2010, the Borrowers filed a Chapter 7 Bankruptcy Petition (Case No. 10-2950-
18 mkn), temporarily halting foreclosure under both the Deed of Trust and the HOA's lien for
19 delinquent assessments. *See*, Bankruptcy Docket, attached hereto as **Exhibit G**.

20 17. The Borrowers' bankruptcy was terminated on March 11, 2011. *Id.*

21 18. On August 21, 2012, A&K, as agent for the HOA, recorded that certain Notice of Foreclosure
22 Sale ("Notice of Sale") as Book and Instrument number 20120821-0001940 in the Official
23 Records.⁹

24 19. On September 19, 2012, A&K, on behalf of the HOA, conducted a lien foreclosure sale of the
25 Property, where SFR was the highest bidder, purchasing the property for \$5,356.00.¹⁰

26 ⁸ **Exhibit D** was obtained through A&K's collection file and disclosed in this matter by way of
27 BNYM's Second Supplemental NRCP 16.1 disclosure on September 6, 2019. Mr. Alessi's
28 custodian of record affidavit and the bankruptcy court order mandating the affidavit's format are
attached hereto as **Exhibit E**.

⁹ *See*, RFN, **Exhibit 6**.

¹⁰ *See*, RFN, **Exhibit 7**.

20. On October 9, 2012, A&K recorded that certain Trustee's Deed Upon Sale as Book and Instrument number 20121009-0001817 in the Official Records.¹¹

21. On September 17, 2013, BNYM's loan servicer, Specialized Loan Servicing LLC sent the Borrowers correspondence indicating that their "[f]ailure to pay the total amount due under the terms and conditions of your Deed of Trust/Mortgage by 10/20/13 may result in acceleration of the entire balance outstanding under the note, including, but not limited to, the principal, interest and all other outstanding charges and costs, and commencement of foreclosure of the Trust Deed/Mortgage which is security for your Note. See, September 17, 2013 correspondence, attached hereto as **Exhibit H**.

III. PROCEDURAL HISTORY

On September 8, 2017, BNYM filed its Complaint for Quiet Title and Declaratory Relief naming LV Real Estate, the Borrowers and the HOA as Defendants. [ECF No. 1]. On October 13, 2017, the HOA filed its Answer to BNYM's Complaint. [ECF No. 11]. On October 30, 2017, LV Real Estate filed its Answer to BNYM's Complaint. [ECF No. 17]. On January 16, 2018, the HOA was dismissed from this matter by way of stipulation and order [ECF No. 29]. On January 16, 2018, the parties filed a Stipulation and Order to Stay Case Pending Conclusion of Settlement Negotiations. [ECF No. 31]. On March 14, 2018, BNYM voluntarily dismissed its claims against the Borrowers. [ECF No. 34]. Following unsuccessful settlement negotiations, BNYM filed a Motion to Lift Stay on July 13, 2018 [ECF No. 36].

IV. STANDARD OF REVIEW

In evaluating a motion for summary judgment, courts must view all facts and draw all inferences in the light most favorable to the nonmoving party. See *Amerson v. Clark Cnty.*, 995 F. Supp. 2d 1155, 1159 (D. Nev. 2014) (citing *Kaiser Cement Corp. v. Fischbach & Moore, Inc.*, 793 F.2d 1100, 1103 (9th Cir. 1986)). Summary judgment shall be granted if the moving party demonstrates that the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. See *Zoslow v. MCA Distrib. Corp.*, 693 F.2d 870, 883 (9th Cir. 1982).

¹¹ *Id.*

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V. ARGUMENT

A. SFR'S CLAIMS FOR CANCELLATION OF INSTRUMENT HAVE NO MERIT AND ARE NOT CONTEMPLATED UNDER NRS 106.240.

SFR's causes of action for cancellation of written instrument assert that NRS 106.240 serves to extinguish BNYM's deed of trust because the loan was allegedly accelerated over ten years ago by language contained in the Countrywide Notice of Default. However, a plain reading of the statute does not support SFR's contention. NRS 106.240 provides:

The lien heretofore or hereafter created of any mortgage or deed of trust upon any real property, appearing of record, and not otherwise satisfied and discharged of record, shall at the expiration of 10 years after the debt secured by the mortgage or deed of trust according to the terms thereof or any recorded written extension thereof become wholly due, terminate, and it shall be conclusively presumed that the debt has been regularly satisfied and the lien discharged.

NRS 106.240.

The Nevada Supreme Court has weighed in on this issue in *Pro-Max Corp. v. Feenstra*, 117 Nev. 90, 16 P.3d 1074, (2001). In that case, the Nevada Supreme Court considered the effect of this statute on notes executed on May 11, 1982, with a maturity date of May 14, 1984 - two years later. In its ruling, the Court held: "it is undisputed that no written agreements to extend the notes and deeds of trust were ever executed or recorded. Therefore, under the plain language of the statute, the deeds of trust were conclusively presumed to have been satisfied in 1994, which is ten years after the notes became due." *Id.*, at 94, 1077.

The Court ruled that the notes were extinguished by operation of statute on May 14, 1994 – ten years after the maturity date stated in the terms of the note instruments. Importantly, the statute and the Court's holding refer only to "written agreements to extend the maturity of the notes and deed of trust," but the statute is silent as to notice of acceleration outside the loan documents, and the Court did not make any ruling pertaining to notices of acceleration.

In its decision, the Nevada Supreme Court noted, "Where the language of a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself." *Id.*, at 95, 1077. Notably, the statute provides for discharge of the debt and lien "at the expiration of 10 years after

1 the debt secured by the mortgage or deed of trust **according to the terms thereof** ... become
2 wholly due.” (emphasis added). A plain reading of the qualifier “according to the terms thereof”
3 leads one to refer to the loan documents for terms setting the maturity date of the loan. The statute
4 accounts for written extension of the maturity date, but does not refer to anything else outside of
5 the terms of the note or deed of trust. Here, the deed of trust evidences a loan maturity date of
6 December 1, 2046. See, RFN, **Exhibit 1** at p. 2. BNYM has not executed, agreed, or recorded
7 anything to alter the terms of the loan instruments, or the maturity date set forth therein. Therefore,
8 according to the terms of the loan instruments, NRS 106.240 does not serve to extinguish the deed
9 of trust until ten years after the maturity date as set forth in the note – December 1, 2056.

10 SFR’s contention focuses on a reading of NRS 106.240, which eviscerates key language
11 from the statute’s text and simply defies logic. To illustrate, SFR’s claims¹² (and entire complaint)
12 fail unless only the italicized words below are read as being law:

13 *The lien heretofore or hereafter created of any mortgage or deed of trust upon any*
14 *real property, appearing of record, and not otherwise satisfied and discharged of*
15 *record, shall at the expiration of 10 years after the debt secured by the mortgage*
16 *or deed of trust according to the terms thereof or any recorded written extension*
17 *thereof become wholly due, terminate, and it shall be conclusively presumed that*
18 *the debt has been regularly satisfied and the lien discharged.*

19 Interestingly, assuming SFR’s reading to be the correct one (which it clearly is not), the
20 Borrower’s loan balance in this case had not been accelerated as of at least October 19, 2013, as
21 clearly established by documents produced by BNYM during discovery. See, **Exhibit H**. As such,
22 even with SFR’s strained reading of NRS 106.240, the debt at issue here would not be presumed
23 to be discharged until October 20, 2023, *at the earliest*. Because SFR improperly attempts to
24 extinguish BNYM’s lien without any controlling guidance to support that conclusion, BNYM is
25 entitled to summary judgment as to SFR’s cause of action seeking cancellation of the Deed of
26 Trust.

27 ¹² SFR’s complaint also includes a cause of action for cancellation instrument relating to
28 Countrywide’s April 2008 Notice of Default and BNYM’s January, 2019 Notice of Default. In its
complaint, SFR includes no legal authority for this cause of action and as the holder of both the
Note and Deed of Trust, BNYM has authority to enforce the terms thereof pursuant to *Edelstein v.*
Bank of New York Mellon, 128 Nev. 505, 521 (2012).

1 **B. THE CONCLUSIVE PRESUMPTION UNDER NRS 106.240 MAY BE**
2 **CHALLENGED IN EQUITY.**

3 A reasonable interpretation of NRS 106.240 is that it was meant to provide a means to clear
4 old, unreleased liens from title where a debt has been satisfied, or otherwise is not being pursued
5 by a creditor. The provision in the statute for a lien being extinguished ten years after the debt
6 becomes wholly due *according to the terms thereof*, leads to this reasonable interpretation, that the
7 statute is intended as a mechanism for clearing relic liens from title long after a debt was wholly
8 due. Such is not the case at hand, where BNYM can establish that the debt has not been satisfied.
9 BNYM has not been sitting idly, but has been and still is actively pursuing its remedy of
10 foreclosure. In fact, BNYM's predecessor, Countrywide, was pursuing foreclosure in 2009 but
11 was unable to proceed due to the Borrowers' filing for bankruptcy protection.

12 Equity demands that no such conclusive presumption under the statute apply under these
13 circumstances. The Nevada Supreme Court has held that parties can challenge statutory
14 conclusive presumptions in equity. When analyzing the conclusive presumption of recitals in
15 foreclosure deeds pursuant to NRS Chapters 107 and 116, the Nevada Supreme Court held "the
16 Legislature, through NRS 116.31166's enactment, did not eliminate the equitable authority of the
17 courts to consider quiet title actions when an HOA's foreclosure deed contains conclusive recitals."
18 *Shadow Wood HOA v. N.Y. Cmty. Bancorp.*, 132 Nev. Adv. Op. 5, 366 P.3d 1105, 1112 (2016).
19 In its decision, the Court referred to other case law and noted "cases elsewhere to have addressed
20 comparable conclusive-or presumptive-effect recital statutes confirm that such recitals do not
21 defeat equitable relief in a proper case; rather, such recitals are "conclusive, *in the absence of*
22 *grounds for equitable relief.*" *Id.* at 1111-12, citing *Holland v. Pendleton Mortg. Co.*, 61
23 Cal.App.2d 570, 143 P.2d 493, 496 (1943). The same principles should apply to the instant case,
24 especially where the debt has not been satisfied, as it is actively being pursued by BNYM.

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1 **C. THE HOA DID NOT FORECLOSE A SUPER-PRIORITY LIEN, SO THE LIEN**
2 **SALE DID NOT DISTURB THE DEED OF TRUST.**

3 The HOA's pre-sale account ledger for this homeowners association at the time the
4 February 6, 2009 Notice of Lien was recorded, establish that the super-priority portion of the HOA
5 lien was satisfied prior to the Lien Sale.

6 NRS 116.3116(2) defines the super-priority portion of the HOA lien which is prior to a
7 first deed of trust, providing in relevant part:

8 The lien is also prior to all security interest described in paragraph (b) to the extent
9 of any charges incurred by the association on a unit pursuant to NRS
10 116.310312 and to the extent of the assessments for common expenses based
11 on the periodic budge adopted by the association pursuant to NRS 116.3115 which
12 would have become due in the absence of acceleration during the 9 months
 immediately *preceding the institution of an action to enforce the lien* unless federal
 regulations adopted by the Federal Home Loan Mortgage Corporation or the
 Federal National Mortgage Association require a shorter period of priority for the
 lien. (emphasis added).

13 The super-priority lien may consist of up to nine months of assessments prior to the Notice
14 of Lien being recorded, plus maintenance and nuisance abatement charges, but does not include
15 collection costs. The Nevada Supreme Court confirmed this in its decision in *Horizons at Seven*
16 *Hills Homeowners Association v. Ikon Holdings, LLC*, 132 Nev. Adv. Op. 35, 373 P.3d 66, 67
17 (Nev., 2016) ("Ikon"), clarifying that "the super-priority lien granted by NRS 116.3116(2) does
18 not include an amount for collection fees and foreclosure costs incurred."

19 The HOA ledger provides that during the nine months preceding the Notice of Lien, the
20 HOA collected monthly assessments equaling \$84.00 per month. *See*, HOA Ledger, attached as
21 **Exhibit I**. As a result, 9 months of assessments - the maximum super-priority lien amount –
22 equaled \$756.00 in this case. The HOA's pre-sale ledger which provides a breakdown of the
23 amounts constituting the HOA lien, establishes that no nuisance or abatement charges were
24 included in the HOA lien, so the super-priority lien was at most \$756.00. *Id.* A&K recorded the
25 Notice of Lien on February 6, 2009, which is the first action to enforce the lien. *Saticoy Bay LLC*
26 *Series 2021 Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 388 P.3d 226, 231 (Nev., 2017)
27 ("Saticoy Bay Gray Eagle"). With a monthly assessment rate of \$84.00, or \$756.00 per nine
28 months, Miles Bauer's February 18, 2010 tender of \$756.00 satisfied the \$756.00 super-priority
 lien accruing immediately prior to the Notice of Lien. *See*, **Exhibit C**. As the \$756.00 tender

1 towards the HOA lien satisfied the super-priority lien amount of \$756.00, no super-priority lien
2 was foreclosed at the Lien Sale.

3 On September 13, 2018, the Nevada Supreme Court confirmed this conclusion in *Bank of*
4 *America, N.A. Successor by Merger to BAC Home Loans Servicing, LP v. SFR Investments Pool*
5 *1, LLC*, 134 Nev., Adv. Op 72 (2018). In that case, the court held, “that a first deed of trust holder’s
6 unconditional tender of the superpriority amount due results in the buyer at foreclosure taking the
7 property subject to the deed of trust,” *Id.* at 2. In reaching this conclusion, the court analyzed the
8 same 9-month calculation by Miles Bauer, the same Miles Bauer cover letter and tender, and the
9 same wrongful rejection as is presented here. The court ultimately found the following:

10 Because Bank of America’s valid tender discharged the superpriority portion of the
11 HOA’s lien, the HOA’s foreclosure on the entire lien resulted in a void sale as to
12 the superpriority portion. Accordingly, the HOA could not convey full title to the
13 property, as Bank of America’s first deed of trust remained after foreclosure.

14 *Id.* at 13-14.

15 For the reasons set forth above, a declaration that the Deed of Trust was not extinguished
16 by the Lien Sale is warranted under Nevada law.

17 **D. THE BORROWERS’ POST-NOTICE OF LIEN PAYMENTS TO THE**
18 **ASSOCIATION WERE SUFFICIENT TO EXTINGUISH THE STATUTORY**
19 **SUPERPRIORITY LIEN.**

20 **1. The Borrowers’ Post-Notice of Lien Payments To The Association And Its Agent**
21 **Satisfied The Maximum Statutory Superpriority Lien Amount.**

22 As detailed above, the Nevada Supreme Court has clarified that an HOA’s super-priority
23 lien may consist of up to nine months of assessments prior to the Notice of Lien being recorded,
24 plus maintenance and nuisance abatement charges, but does not include collection costs. *Ikon* at
25 67.

26 The Nevada Supreme Court has acknowledged that a lender may preserve its interest by
27 determining “the precise super priority amount” and tendering it “in advance of the sale.” *SFR* at
28 418. The same holds true for payments made by the homeowner in certain situations, as is the
case is here. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank*, 408 P.3d 558
(Table), 2017 WL 6597154 (Nev. 2017) (Unpublished) (“*Golden Hill*”); *See also*, *SFR*

1 *Investments Pool 1, LLC v. Wells Fargo Bank, N.A.*, 432 P.3d 172 (Table), 2018 WL 6609670
2 (Nev. 2018) (Unpublished). There is no dispute that the Association's superpriority lien was
3 limited to nine months of assessments which would have become due preceding the institution of
4 an action to enforce the lien. The Nevada Supreme Court confirmed this, explaining that prior to
5 the 2015 amendments, "[a] super-priority lien pursuant to NRS 116.3116(2) does not include an
6 additional amount for the collection fees and foreclosure costs that an HOA incurs preceding a
7 sale; rather, it is limited to an amount equal to nine months of common expense assessments."
8 *Ikon* at 72.

9 Here, the Notice of Lien was recorded on February 6, 2009, which is the first action to
10 enforce the lien. *Saticoy Bay Gray Eagle* at 231. Thus, pursuant to NRS 116.3116(2), the nine
11 months of assessments coming due immediately prior to the recording of the Notice of Lien
12 constitute the super-priority lien amount. In this case, during the nine months preceding the
13 Notice of Lien being recorded, the Association's monthly assessments did not exceed \$84.00,
14 making the maximum superpriority lien amount \$756.00 (9 x \$84.00 = \$756.00). *See, Exhibit I*.
Moreover, there were no nuisance abatement or maintenance fees for this Property. *Id*.

15 Once the Notice of Lien was recorded, the Borrower made payments to the Association's
16 agent, A&K in the amount of \$3,000.00, which exceeded the maximum superpriority lien amount.
17 *See, Exhibit D*. Further, the Association did not record a subsequent Notice of Delinquent
18 Assessment Lien, so there could not have been a new superpriority lien foreclosed upon at the
19 association's Lien Sale. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank*, 408
20 P.3d 558 (Table), 2017 WL 6597154 (Nev. 2017) (Unpublished) ("Golden Hill"); *See also, Bank*
21 *of America, N.A. v. Thomas Jessup, LLC*, 135 Nev. Adv. Op. 7 (March 7, 2019) at FN 3.

22 **2. The Borrowers' Post-Notice Of Lien Payments Were Applied By The Association** 23 **To Past Due Assessments.**

24 After the HOA's Notice of Lien was recorded, the Borrower's made a single payment to
25 A&K in the amount of \$3,000. *See, Exhibit D*. After paying its own fees and costs, A&K
26 remitted the remaining \$1,110.00 to the HOA, which applied it to the Borrowers' past due
27 assessments on March 2, 2010. Accordingly, as of the March 2, 2010 application of the
28 Borrowers' payment, the Association's superpriority lien had been extinguished. Further, since

1 the Association did not record a second Notice of Delinquent Assessment Lien, there could not
2 have been a second superpriority lien involved at the Lien Sale. This very premise was considered
3 and affirmed on appeal by the Nevada Supreme Court in *SFR Investments Pool 1, LLC v. Wells*
4 *Fargo Bank, N.A.*, 432 P.3d 172 (Table), 2018 WL 6609670 (Nev. 2018) (Unpublished). In that
5 case, the Nevada Supreme Court held that the homeowner's payments could satisfy the default as
6 to the superpriority portion of an association's lien if the association allocated the homeowner's
7 payments to assessments, which is what happened here.

8 The Association did not foreclose upon a superpriority lien because such a portion did not
9 exist as of March 2, 2010. Further, the association did not commence a second action to enforce
10 a new defaulted portion of its lien by recording a second Notice of Delinquent Assessment Lien
11 prior to the Lien Sale.

12 As a result of the payments made by the Borrowers which were applied by the Association
13 to monthly assessments, the Association did not have a super-priority lien to foreclose upon.
14 There is no evidence to the contrary, and as a result, this Court can conclude that: 1) no super-
15 priority lien was foreclosed upon at the Lien Sale; and 2) the first deed of trust was not
16 extinguished by the sub-priority lien foreclosure. Simply put, SFR took title subject to BNYM's
17 deed of trust.

18 Thus, a declaration that the Deed of Trust was not extinguished by the HOA foreclosure
19 sale is warranted under Nevada law. Summary judgment in this regard is appropriately
20 established by the record and should be granted in favor of BNYM.

21 **E. THE BORROWERS' PAYMENT OF THE SUPERPRIORITY LIEN AND**
22 **BNYM'S PRE-LIEN SALE TENDER RENDERS SFR's *BONA FIDE***
23 **PURCHASER ARGUMENTS IRRELEVANT.**

24 While not alleged in SFR's complaint, BNYM anticipates SFR will contend that it is a
25 bona fide purchaser of this property. This is not true. BNYM's pre-sale tender satisfied the
26 Association's superpriority lien as a matter of law on February 18, 2010. If there was any doubt,
27 the Borrowers payments satisfied it a second time two weeks later, on March 2, 2010. These
28 undisputable facts render SFR's *bona fide* purchaser claims irrelevant, as confirmed by the
Nevada Supreme Court. *Saticoy Bay, LLC Series 2141 Golden Hill v. JPMorgan Chase Bank,*
N.A., No. 71246, 2017 WL 6597154 (Nev. Dec. 22, 2017) (unpublished). There, the Court noted

1 the purchaser had not explained “how its putative BFP status could have revived the already-
2 satisfied component of the HOA’s lien.” *Id.* at *1.

3 The *bona fide* purchaser rule is concerned with whether a purchaser takes title unaffected
4 by “latent equity” “of which he has no notice, constructive or actual.” *Shadow Wood*
5 *Homeowners Ass’n, Inc. v. New York Community Bancorp, Inc.*, 366 P.3d 1105, 1116 (Nev. 2016)
6 (quoting *Moore v. De Bernardi*, 220 P. 544, 547 (Nev. 1923)). It has no nexus to this case.
7 BNYM’s deed of trust survived because of its pre-Lien Sale tender and because the Borrowers’
8 satisfied the superpriority lien, not because of any principles sounding in equity.

9 Here, BNYM’s tender, in addition to the Borrower’s payments, as applied to assessments
10 by the Association, discharged the statutory super-priority lien as a matter of law. Equitable
11 principles are irrelevant and BNYM is entitled to summary judgment as to each cause of action
12 contained in SFR’s complaint as well as a declaration that BNYM’s deed of trust remains as a
13 valid and enforceable lien on the Property that can be foreclosed up on pursuant to Nevada law.

14 VI. CONCLUSION

15 For the reasons set forth above, BNYM respectfully requests that the Court grant Summary
16 Judgment in its favor and declare that the Lien Sale did not extinguish the Deed of Trust and that
17 the Deed of Trust continues to encumber the Property as an enforceable lien.

18 Dated this 30th day of January, 2020

ZBS LAW, LLP

19
20 /s/ J. Stephen Dolembro, Esq.

J. Stephen Dolembro, Esq.

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24 *Attorneys for Defendant The Bank of New*
25 *York Mellon, FKA The Bank of New York, as*
26 *Trustee, for the Certificateholders of*
CWABS, Inc. Asset-Backed Certificates,
Series 2006-25 and Sables, LLC

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/s/Sara Hunsaker
An employee of ZBS LAW, LLP

EXHIBIT “A”

EXHIBIT “A”

EXHIBIT “A”

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 THE BANK OF NEW YORK MELLON
F/K/A THE BANK OF NEW YORK, as
4 Trustee for the Certificateholders of CWABS,
Inc., Asset-Backed Certificates, Series 2006-
5 25,

6 Plaintiff

7 v.

8 SQUIRE VILLAGE AT SILVER SPRINGS
COMMUNITY ASSOCIATION and SFR
9 INVESTMENTS POOL 1, LLC,

10 Defendants

Case No.: 2:18-cv-00599-APG-CWH

Order Granting Motion to Dismiss

[ECF No.16]

11 Plaintiff The Bank of New York Mellon (BONY) sues to determine whether a non-
12 judicial foreclosure sale conducted by a homeowners association (HOA) extinguished its deed of
13 trust. Defendant SFR Investments Pool 1, LLC (SFR) purchased the property at the foreclosure
14 sale. SFR moves to dismiss, arguing that BONY's quiet title/declaratory relief claim is untimely
15 because it is really one for liability based on statutory violations and thus is subject to a three-
16 year limitation period. Alternatively, SFR argues that even if the claim is subject to the four-year
17 catchall limitation period, it is still untimely. SFR asserts the unjust enrichment claim is also
18 untimely and fails as a matter of law. According to SFR, BONY has failed to name the
19 borrowers, who are necessary parties. Finally, SFR asserts that BONY failed to notify the
20 Nevada Attorney General of a constitutional challenge as required by Federal Rule of Civil
21 Procedure 5.1.

22 BONY responds that its quiet title/declaratory relief claim is not dependent on a violation
23 of a statute so the three-year limitation period does not apply. BONY argues both of its claims

1 are subject to a five-year limitation period that does not begin to run until it discovered the harm.
2 BONY contends it did not discover its harm until the Supreme Court of Nevada issued its
3 decision in *SFR Investments Pool 1 v. U.S. Bank*, 334 P.3d 408 (Nev. 2014) (en banc). BONY
4 also argues its quiet title/declaratory relief claim is viable under the Ninth Circuit’s decision in
5 *Bourne Valley Court Tr. v. Wells Fargo Bank, NA*, 832 F.3d 1154 (9th Cir. 2016). BONY
6 disputes that the borrowers are necessary parties. BONY asserts it has notified the Nevada
7 Attorney General of the case as required. Finally, BONY requests the motion be denied so that
8 discovery may be conducted.

9 In considering a motion to dismiss, “all well-pleaded allegations of material fact are taken
10 as true and construed in a light most favorable to the non-moving party.” *Wyer Summit P’ship v.*
11 *Turner Broad. Sys., Inc.*, 135 F.3d 658, 661 (9th Cir. 1998). However, I do not necessarily
12 assume the truth of legal conclusions merely because they are cast in the form of factual
13 allegations in the complaint. *See Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th
14 Cir. 1994). A plaintiff must make sufficient factual allegations to establish a plausible
15 entitlement to relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). Such allegations
16 must amount to “more than labels and conclusions, [or] a formulaic recitation of the elements of
17 a cause of action.” *Id.* at 555.

18 “A claim may be dismissed as untimely pursuant to a 12(b)(6) motion only when the
19 running of the statute of limitations is apparent on the face of the complaint.” *United States ex*
20 *rel. Air Control Techs., Inc. v. Pre Con Indus., Inc.*, 720 F.3d 1174, 1178 (9th Cir. 2013)
21 (alteration and quotation omitted). A limitation period begins to run “from the day the cause of
22 action accrued.” *Clark v. Robison*, 944 P.2d 788, 789 (Nev. 1997). A cause of action generally
23 accrues “when the wrong occurs and a party sustains injuries for which relief could be sought.”

1 *Petersen v. Bruen*, 792 P.2d 18, 20 (Nev. 1990); *see also State ex rel. Dep't of Transp. v. Pub.*
 2 *Emps.' Ret. Sys. of Nev.*, 83 P.3d 815, 817 (Nev. 2004) (en banc) (“A cause of action ‘accrues’
 3 when a suit may be maintained thereon.” (quotation omitted)). Nevada has adopted the
 4 discovery rule, and thus time limits generally “do not commence and the cause of action does not
 5 ‘accrue’ until the aggrieved party knew, or reasonably should have known, of the facts giving
 6 rise to the damage or injury.” *G & H Assocs. v. Ernest W. Hahn, Inc.*, 934 P.2d 229, 233 (Nev.
 7 1997).

8 According to the complaint, the HOA foreclosure sale took place on September 19, 2012.
 9 ECF No. 1 at 4. SFR bought the property at the sale and the trustee’s deed upon sale was
 10 recorded on October 9, 2012. ECF No. 1-4. BONY filed this lawsuit on April 4, 2018.
 11 Consequently, it is apparent from the face of the complaint that BONY’s claims are time-barred
 12 if a statute of limitations of five years or less applies.

13 **A. Quiet Title/Declaratory Relief**

14 I have previously ruled that the four-year catchall limitation in Nevada Revised Statutes
 15 § 11.220 applies to claims such as the one BONY asserts in this case. *See Bank of Am., N.A. v.*
 16 *Country Garden Owners Ass’n*, No. 2:17-cv-01850-APG-CWH, 2018 WL 1336721, at *2 (D.
 17 Nev. Mar. 14, 2018). I have also previously rejected the argument that lenders like BONY did
 18 not know their deeds of trust were in jeopardy until the Supreme Court of Nevada issued the *SFR*
 19 decision. *See id.* at *6. “Simply reading the statute that grants HOAs a superpriority lien would
 20 have put BONY on notice of the possibility that its deed of trust was in jeopardy.” *Id.* Indeed, its
 21 own allegations show the *SFR* decision was not unanticipated, nor did banks assume that the
 22 superpriority lien was not triggered until the deed of trust holder foreclosed, because BONY
 23 alleges that its predecessor attempted to pay off the superpriority amount. ECF No. 1 at 3.

1 Further, *SFR* “did not create new law or overrule existing precedent; rather, that decision
2 declared what NRS 116.3116 has required since the statute’s inception.” *K&P Homes v.*
3 *Christiana Tr.*, 398 P.3d 292, 295 (Nev. 2017) (en banc). The limitation period started running
4 on the date the trustee’s deed upon sale was recorded because BONY knew or should have
5 known of its injury at that time. *Job’s Peak Ranch Cmty. Ass’n, Inc. v. Douglas Cty.*, No. 55572,
6 2015 WL 5056232, at *3 (Nev. Aug. 25, 2015) (“If the facts giving rise to the cause of action are
7 matters of public record then the public record gave notice sufficient to start the statute of
8 limitations running.” (quotation and alteration omitted)).

9 Finally, to the extent BONY is asserting the *Bourne Valley* decision somehow makes its
10 claim timely, I disagree. See *Bank of New York for Certificateholders of CWALT, Inc. v. S.*
11 *Highlands Cmty. Ass’n*, No. 2:17-cv-02699-APG-PAL, 2018 WL 4305761, at *4 (D. Nev. Sept.
12 7, 2018) (“BONY cites no authority for its argument that if the sale was conducted pursuant to an
13 unconstitutional statute, no limitation period applies.”). The Supreme Court of Nevada has
14 applied a statute of limitations to a claim alleging that tax revenues were unevenly distributed
15 pursuant to an unconstitutional statute. See *City of Fernley v. State, Dep’t of Tax*, 366 P.3d 699,
16 707 (Nev. 2016). The Supreme Court of Nevada thus applies statutes of limitations to acts taken
17 pursuant to an allegedly unconstitutional statute. Moreover, *Bourne Valley* is no longer binding
18 authority. See *U.S. Bank National Ass’n v. Saticoy Bay LLC Series 3930 Swenson*, No. 2:17-cv-
19 00463-APG-GWF, 2018 WL 4604455, at *2 (D. Nev. Sept. 25, 2018).

20 BONY’s quiet title/declaratory relief claim is untimely. Consequently, I grant SFR’s
21 motion to dismiss this claim.

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23 ////

1 **B. Unjust Enrichment**

2 BONY did not respond to SFR's motion to dismiss regarding the unjust enrichment claim
 3 other than to state that "SFR's Motion to Dismiss must be denied because the five-year statute of
 4 limitations has not yet expired on its claims for Quiet Title or Unjust Enrichment." ECF No. 20
 5 at 7. However, the "statute of limitation for an unjust enrichment claim is four years." *In re*
 6 *Amerco Derivative Litig.*, 252 P.3d 681, 703 (Nev. 2011) (en banc) (citing Nev. Rev. Stat.
 7 § 11.190(2)(c)). BONY's meager response (and an incorrect one at that) constitutes consent to
 8 granting SFR's motion as to untimeliness. LR 7-2(d). To the extent BONY is relying on the
 9 same arguments discussed above to contend its unjust enrichment claim is timely, those
 10 arguments are unavailing. I therefore grant SFR's motion to dismiss the unjust enrichment
 11 claim.¹

12 **C. Rule 56(d) Request**

13 BONY acknowledges that Federal Rule of Civil Procedure 56(d) does not apply to
 14 motions to dismiss but nevertheless requests that SFR's motion be denied so discovery may be
 15 conducted. However, BONY does not explain how any of the discovery it wants to conduct
 16 would bear on the timeliness of its claims. I therefore deny BONY's request.

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 21 ¹ Although I am granting SFR's motion, it appears from SFR's argument in its motion
 22 that it did not read the substantive allegations in BONY's unjust enrichment claim. I know these
 23 parties have numerous similar cases and so they copy and paste arguments for efficiency's sake.
 But not all of these cases are identical. The parties must take care to actually read and
 understand the other side's allegations and arguments and then present developed arguments to
 this court that are responsive to the other side's papers if they want me to be able to rule on the
 issues they raise.

1 **D. Conclusion**

2 IT IS THEREFORE ORDERED that defendant SFR Investments Pool 1, LLC's motion
3 to dismiss **(ECF No. 16)** is **GRANTED**.

4 DATED this 1st day of October, 2018.

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7 _____
8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
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EXHIBIT “B”

EXHIBIT “B”

EXHIBIT “B”

②

20080429-0004556

RECORDING REQUESTED BY:
WHEN RECORDED MAIL TO:
RECONTRUST COMPANY
2380 Performance Dr, RGV-D7-450
Richardson, TX 75082

Fee: \$15.00
N/C Fee: \$0.00

04/29/2008 13:53:29
T20080074109

Requestor:
FIDELITY NATIONAL DEFAULT SOLUTIONS TL
Debbie Conway JLB
Clark County Recorder Pgs: 2

35

Attn:
TS No. 08-41793
Title Order No. G831827
Investor/Insurer No. 153555202
APN No. 16126111133

NEVADA IMPORTANT NOTICE
NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

NOTICE IS HEREBY GIVEN THAT: RECONTRUST COMPANY, is acting as an agent for the Beneficiary under a Deed of Trust dated 11/17/2006, executed by NELSON M PRITZ, AND SUSAN PRITZ, HUSBAND AND WIFE AS JOINT TENANTS as Trustor, to secure certain obligations in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. as beneficiary recorded 11/22/2006, as Instrument No. 0003799 (or Book 20061122, Page) of Official Records in the Office of the County Recorder of Clark County, Nevada. Said obligation including ONE NOTE FOR THE ORIGINAL sum of \$232,200.00. That a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of:

FAILURE TO PAY THE INSTALLMENT OF PRINCIPAL, INTEREST AND IMPOUNDS WHICH BECAME DUE ON 01/01/2008 AND ALL SUBSEQUENT INSTALLMENTS OF PRINCIPAL, INTEREST AND IMPOUNDS, TOGETHER WITH ALL LATE CHARGES, PLUS ADVANCES MADE AND COSTS INCURRED BY THE BENEFICIARY, INCLUDING FORECLOSURE FEES AND COSTS AND/OR ATTORNEYS' FEES. IN ADDITION, THE ENTIRE PRINCIPAL AMOUNT WILL BECOME DUE ON 12/01/2046 AS A RESULT OF THE MATURITY OF THE OBLIGATION ON THAT DATE.

That by reason thereof, the present beneficiary under such deed of trust has executed and delivered to RECONTRUST COMPANY a written Declaration of Default and Demand for sale, and has deposited with RECONTRUST COMPANY such deed of trust and all documents evidencing obligations secured thereby, and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed Of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, if the default is not cured within 35 days following recording and mailing of this Notice to Trustor or Trustor's successor in interest, the right of reinstatement will terminate and the property may there after be sold. The Trustor may have the right to bring court action to assert the non existence of a default or any other defense of Trustor to acceleration and sale. To determine if reinstatement is possible and the amount, if any, to cure the default, contact: Countrywide Home Loans, Inc, c/o RECONTRUST COMPANY, 2380 Performance Dr, RGV-D7-450, Richardson, TX 75082, PHONE: (800) 281-8219

APP000117

RECONTRUST COMPANY, as agent for the Beneficiary
By: FIDELITY DEFUALT SOLUTIONS, as Agent

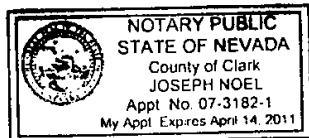
By: Jesse Bewley

State of Nevada
County of Clark

On APR 29 2008 before me, Joseph Noel, Notary Public, personally appeared Jesse Bewley, 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.

WITNESS my hand and official seal.

Signature Joseph Noel (Seal)



Joseph Noel
Exp - 4-14-2011

APP000118

EXHIBIT “C”

EXHIBIT “C”

EXHIBIT “C”

MILES, BERGSTROM & WINTERS, LLP AFFIDAVIT

State of California }
 }ss.
Orange County }

Affiant being first duly sworn, deposes and says:

1. I am a managing partner with the law firm of Miles, Bergstrom & Winters, LLP formerly known as Miles, Bauer, Bergstrom & Winters, LLP (**Miles Bauer**) in Costa Mesa, California. I am authorized to submit this affidavit on behalf of Miles Bauer.

2. I am over 18 years of age, of sound mind, and capable of making this affidavit.

3. Miles Bauer uses ProLaw software to record and track all documents prepared and correspondence sent in connection to a particular file. ProLaw is recognized in the legal industry as a standard software platform for electronic document management and retention. Miles Bauer creates a separate electronic folder on ProLaw for each of its files. Within the folder, Miles Bauer maintains record of communications with its clients and third parties, including, but not limited to, borrowers and homeowners' associations. Miles Bauer also creates and records notes in its ProLaw folders, documenting the status and progress of the related files.

4. The information in this affidavit is taken from Miles Bauer's business records, including records maintained in ProLaw. I have personal knowledge of Miles Bauer's procedures for creating these records. They are: (a) made at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (b) kept in the course of Miles Bauer's regularly conducted business activities; and (c) it is the regular practice of Miles Bauer to make such records. I have personal knowledge of Miles Bauer's procedures for creating and maintaining these business records. I personally confirmed that the information in this affidavit is accurate by reading

the affidavit and attachments, and checking that the information in this affidavit matches Miles Bauer's records available to me.

5. Bank of America, N.A. (**BANA**) retained Miles Bauer to tender payments to homeowners associations (**HOA**) to satisfy super-priority liens in connection with the following loan:

Loan Number: [REDACTED] 5202

Borrower(s): Nelson Pritz and Susan Pritz

Property Address: 4946 Droubay Drive, Las Vegas, Nevada 89122

6. Attached hereto as **Exhibit 1** is a true and correct copy of the ProLaw screenshot of the folder created for this particular loan and borrower. This screenshot is taken directly from ProLaw and reflects Miles Bauer's activity for this particular loan and borrower. I have personal knowledge of Miles Bauer's procedures for creating ProLaw folders. They are: (a) made before or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information stored therein, or from information transmitted by persons with personal knowledge; (b) kept in the course of Miles Bauer's regularly conducted business activities; and (c) it is the regular practice of Miles Bauer to make such ProLaw folders to store and organize all Miles Bauer records for individual files. I have personal knowledge of Miles Bauer's procedures for creating and maintaining these business records. I personally confirmed the information in the ProLaw screenshot is an accurate representation of Miles Bauer's activity by reading the screenshot, and checking that the screenshot information matches Miles Bauer's records available to me.

7. Miles Bauer maintains records for the loan in connection with tender payments to HOA. As part of my job responsibilities for Miles Bauer, I am familiar with the type of records maintained by Miles Bauer in connection with the loan.

8. Based on Miles Bauer's business records, attached as **Exhibit 2** is a copy of a January 12, 2010 letter from Rock K. Jung, Esq., an attorney with Miles Bauer, to Squire Village, care of Alessi & Koenig, LLC.

9. Based on Miles Bauer's business records, attached as **Exhibit 3** is a copy of a Statement of Account from Alessi & Koenig, LLC received by Miles Bauer in response to the letter identified above.

10. Based on Miles Bauer's business records, attached as **Exhibit 4** is a copy of a February 18, 2010 letter from Mr. Jung to Alessi & Koenig, LLC enclosing a check for \$756.00. Based on Miles Bauer's established business practices, the February 18, 2010 letter enclosing the check for \$756.00 was hand delivered to Alessi & Koenig, LLC.

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11. Based on Miles Bauer's business records, Alessi & Koenig, LLC rejected the \$756.00 check to Miles Bauer. A copy of a screenshot containing the relevant case management note confirming the check was rejected is attached as **Exhibit 1**.

FURTHER DECLARANT SAYETH NOT.

Date: 5/31/18



Declarant Douglas E. Miles

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

Subscribed and sworn to (or affirmed) before me on this 31st day of May, 2018,

by Douglas E. Miles, proved to me on the basis of satisfactory evidence to be
(Name of Signer)

the person who appeared before me.

Signature Amanda Maria Mendoza (Seal)
(Signature of Notary Public)

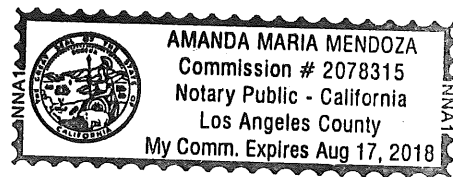


Exhibit 1

| | | | |
|---|--|--|--|
| Matter ID: 10-H0045 | | Desc.: Pritz, Nelson & Susan BAC v. Pritz HOA | |
| Client Sort: BANK OF AMERICA, N.A. (CFP) | | | |
| <div style="display: flex; justify-content: space-between; font-size: small;"> General Notes Billing Contacts Matters Events Inquiry Settlement Civil Contract Info Custom Deed Info New Invoice </div> | | | |
| <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div style="border: 1px solid black; padding: 2px;">Date</div> <div style="margin-left: 10px;">(all)</div> </div> | | <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> </div> | |
| 1/1/2004 | | 8/23/2004 | |
| <div style="border: 1px solid black; padding: 5px;"> <div style="background-color: #f0f0f0; padding: 2px; margin-bottom: 5px;"> <input checked="" type="checkbox"/> 1/12/2010: RCVD REFERRAL: OPENED 1/12/10 </div> <div style="margin-bottom: 5px;"> <input checked="" type="checkbox"/> 1/12/2010: 1/12 EMT CLIENT WITH INITIAL LETTERS ATTACHED; </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 1/12/2010: EMF JB re: New Referral </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 1/12/2010: FW Initial Letters re: 10-H0045 153555202 4946 Droubay Dr </div> <div style="margin-bottom: 5px;"> <input checked="" type="checkbox"/> 1/30/2010: 1/30 EMT CLIENT RE HOA UPDATE BUT NO PO; FU 2/12 </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 1/30/2010: FW 1743 10-H0045 153555202 4946 Droubay Dr Antonio </div> <div style="margin-bottom: 5px;"> <input checked="" type="checkbox"/> 2/14/2010: 2/14 EMT CLIENT RE HOA UPDATE WITH PO ATTACHED; </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 2/14/2010: FW 1986 10-H0045 153555202 4946 Droubay Dr Antonio </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 2/23/2010: EMF RKJ re: Status of Payoff Funds re: 10-H0045 153555202 </div> <div style="margin-bottom: 5px;"> <input checked="" type="checkbox"/> 3/8/2010: 2/19 CHECK SENT TO HOA; F/U 3/19 SEE IF CHECK WAS </div> <div style="margin-bottom: 5px;"> <input checked="" type="checkbox"/> 3/22/2010: 3/22 CHECK RETURNED; F/U 8/13 MONITOR EX PARTE </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 3/23/2010: EMF RKJ re: Status of Payoff Funds (Rejected) </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 2/8/2011: EMT CLT RE INVS </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 3/28/2011: COLLECTIONS EMAIL </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 5/2/2011: EMT client re collection </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 5/27/2011: EMT client re collection </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 6/8/2011: EMT CLT re: Collections </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 6/30/2011: EMTC re: Collection </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 7/28/2011: EMTC Robert Conley and Linda Spears, regarding payment of Invoices. </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 10/11/2012: 10-h0045 - Signed Letters, Scanned Items.PDF </div> <div style="margin-bottom: 5px;"> <input checked="" type="checkbox"/> 10/29/2012: PROPERTY SOLD TO 3RD PARTY AT HOA SALE; F/U 10/30 </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 10/30/2012: EMF RKJ re: closing file (prop sold at HOA sale) </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 11/12/2012: EMT CLNT w/closing invoices and spreadsheet attached. </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 12/19/2012: EMT CLNT (Keith Goforth) re: resent Rebilled Part 2, Nov. & Dec. </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 1/7/2013: EMT CLNT re: status of outstanding invoice payment </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 1/14/2013: EMF CLNT re: invoice submitted for payment processing </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 1/18/2013: EMF Jane Cashel (MRT) re: pls provide 2 spreadsheets - Bulk Loan & non </div> <div style="margin-bottom: 5px;"> <input type="checkbox"/> 2/22/2013: EMT Jane Cashel w/2 spreadsheets (Bulk & non-Bulk) attached </div> </div> | | <div style="border: 1px solid black; padding: 5px;"> <div style="display: flex; justify-content: space-between; font-size: small;"> Docket Ren </div> <div style="margin-bottom: 5px;"> <div style="display: flex; justify-content: space-between;"> Date: 1/12/2 </div> </div> <div style="margin-bottom: 5px;"> <div style="display: flex; justify-content: space-between;"> Type: ATY </div> </div> <div style="margin-bottom: 5px;"> <div style="display: flex; justify-content: space-between;"> Place: </div> </div> <div style="margin-bottom: 5px;"> <div style="display: flex; justify-content: space-between;"> Loc.: </div> </div> <div style="margin-top: 20px;"> <div style="display: flex; justify-content: space-between;"> Notes: RCVD </div> </div> </div> | |

Exhibit 2

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 *
MATTHEW D. TOKARZ *
L. BRYANT JAQUEZ *
DANIEL L. CARTER *
BRIAN H. TRAN *
RYAN W. STOCKING *
GINA M. CORENA
ROBIN L. LEWIS

Also Admitted in California
WAYNE A. RASH *
ROCK K. JUNG
VY T. PHAM *
SCOTT B. OLIFANT
Also Admitted in California



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

* CALIFORNIA OFFICE
1665 SCENIC AVENUE
SUITE 200
COSTA MESA, CA 92626
PHONE (714) 481-9100
FACSIMILE (714) 481-9141

Of Counsel
JOHN W. LISH
Admitted in Utah

2200 Paseo Verde Parkway, Suite 250
Henderson, NV 89052
Phone: (702) 369-5960
Fax: (702) 369-4955

January 12, 2010

Squire Village
Alessi & Koenig, LLC
9500 W. Flamingo Rd., Suite 100
Las Vegas, NV 89147

SENT VIA FIRST CLASS MAIL

Re: *Property Address: 4946 Droubay Dr., Las Vegas, NV 89122*
MBBW File No. 10-H0045

Dear Sirs:

This letter is in response to your Notice of Sale 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.

APP0000127

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.

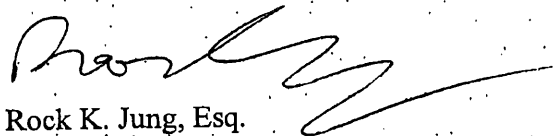
Based on Section 2(b), a portion of your HOA lien is arguably senior to BAC's first deed of trust, specifically the nine months of assessments for common expenses incurred before the date of your notice of delinquent assessment. For purposes of calculating the nine-month period, the trigger date is the 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 the status of the Foreclosure sale that is scheduled for January 13, 2010. 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 3

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 Bar

**** 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: 909-843-6590

Nevada Licensed Qualified Collection
Manager

AMANDA LOWER

FACSIMILE COVER LETTER

| | | | |
|-----------------|-------------------------|---------------|-----------------------------|
| To: | Alexander Bhame | Re: | 4946 Droubay Dr/HO #13855 |
| From: | Stephanie Knickerbocker | Date: | Thursday, February 11, 2010 |
| Fax No.: | 702-942-0443 | Pages: | 1, including cover |
| | | HO #: | 13855 |

Dear Alexander Bhame:

This cover will serve as an amended demand on behalf of Squire Village for the above referenced escrow; property located at 4946 Droubay Dr, Las Vegas, NV. The total amount due through March, 15, 2010 is \$4,626.00. The breakdown of fees, interest and costs is as follows:

| | | |
|--------------------------------|--|-------------------|
| 1/29/2009 | Notice of Delinquent Assessment Lien -- Nevada | \$295.00 |
| 5/1/2009 | Notice of Default | \$395.00 |
| 12/18/2009 | Notice of Trustee's Sale | \$395.00 |
| 8/21/2009 | Pre-Notice of Trustee's Sale | \$150.00 |
| 12/18/2009 | Trustees Fees | \$420.00 |
| 1/11/2010 | Postponement of Trustees Sale | \$150.00 |
| 2/11/2010 | P.U.D. 1 Demand | \$75.00 |
| Total | | \$1,880.00 |
| 1. | Attorney and/or Trustees fees: | \$1,880.00 |
| 2. | Costs (Notary, Recording, Copies, Mailings, Publication and Posting) | \$510.00 |
| 3. | Interest Through March, 15, 2010 | \$0.00 |
| 4. | Title Research (10-Day Mailings per NRS 116.31163) | \$240.00 |
| 5. | Management Company Advanced Audit Fee | \$175.00 |
| 6. | Management Document Processing & Transfer Fee | \$0.00 |
| 7. | Late Fees Through March, 15, 2010 | \$10.00 |
| 8. | Fines Through February, 11, 2010 | \$0.00 |
| 9. | Assessments Through March, 15, 2010 @ \$84.00 per month | \$1,726.00 |
| 10. | Progress Payments: | \$0.00 |
| 12. | RPIR-GI Report | \$85.00 |
| Sub-Total: | | \$4,626.00 |
| Less Payments Received: | | \$0.00 |
| Total Amount Due: | | \$4,626.00 |

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.

APP000138

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 Bar

**** Admitted to the Nevada and California Bar



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PHONE: 775-626-2323
&
DIAMOND BAR CA
PHONE: 909-843-6590

Nevada Licensed Qualified Collection
Manager

AMANDA LOWER

FACSIMILE COVER LETTER

Please have a check in the amount of \$4,626.00 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.

APP000131

RUN DATE: 02/11/2010

SQUIRE VILLAGE HOA
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2009 TO 02/28/2010
SINGLE OWNER

PAGE: 1

4946 Browway Dr.

000067-01 PRITZ, NRELEON & SUSAN

STOP PAYMENT

| TRX DATE | DESCRIPTION | CHARGES | CREDITS | BALANCE |
|------------|--------------------|---------|---------|----------|
| 12/31/2008 | BEGINNING BALANCE | | | 336.00 |
| 01/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 420.00 |
| 01/16/2009 | LATE CHARGES | 10.00 | | 430.00 |
| 02/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 514.00 |
| 02/16/2009 | LATE CHARGES | 10.00 | | 524.00 |
| 03/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 608.00 |
| 03/16/2009 | LATE CHARGES | 10.00 | | 618.00 |
| 04/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 702.00 |
| 04/16/2009 | LATE CHARGES | 10.00 | | 712.00 |
| 05/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 796.00 |
| 05/16/2009 | LATE CHARGES | 10.00 | | 806.00 |
| 06/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 890.00 |
| 06/16/2009 | LATE CHARGES | 10.00 | | 900.00 |
| 07/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 984.00 |
| 07/16/2009 | LATE CHARGES | 10.00 | | 994.00 |
| 08/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,078.00 |
| 08/16/2009 | LATE CHARGES | 10.00 | | 1,088.00 |
| 09/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,172.00 |
| 09/16/2009 | LATE CHARGES | 10.00 | | 1,182.00 |
| 10/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,266.00 |
| 10/16/2009 | LATE CHARGES | 10.00 | | 1,276.00 |
| 11/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,360.00 |
| 11/16/2009 | LATE CHARGES | 10.00 | | 1,370.00 |
| 12/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,454.00 |
| 12/16/2009 | LATE CHARGES | 10.00 | | 1,464.00 |
| 01/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,548.00 |
| 01/16/2010 | LATE CHARGES | 10.00 | | 1,558.00 |
| 02/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,642.00 |

1 OWNERS -

REPORT BALANCE AS OF: 02/28/2010

1,642.00

Exhibit 4

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*
MATTHEW D. TOKARZ *
L. BRYANT JAQUEZ *
DANIEL L. CARTER *
BRIAN H. TRAN*
RYAN W. STOCKING *
GINA M. CORENA
ROBIN L. LEWIS
Also Admitted in California
WAYNE A. RASH *
ROCK K. JUNG
VY T. PHAM *
SCOTT B. OLIFANT
Also Admitted in California



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

2200 Paseo Verde Parkway, Suite 250
Henderson, NV 89052
Phone: (702) 369-5960
Fax: (702) 369-4955

PRITZ

* CALIFORNIA OFFICE
1665 SCENIC AVENUE
SUITE 200
COSTA MESA, CA 92626
PHONE (714) 481-9100
FACSIMILE (714) 481-9141

Of Counsel
JOHN W. LISH
Admitted in Utah

February 18, 2010

ALESSI & KOENIG, LLC
9500 W. FLAMINGO ROAD, SUITE 100
LAS VEGAS, NV 89147

Re: *Property Address:* 4946 Droubay Dr.
HOA #: 13855
LOAN #: [REDACTED] 5202
MBBW File No. 10-H0045

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 \$4,626.00. 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...

APP000134

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 \$756.00 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 \$756.00, 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 4946 Droubay Dr. 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

A handwritten signature in black ink, appearing to read 'Rock K. Jung', written over a horizontal line.

Rock K. Jung, Esq.

10-H0045 Initials: TLC
 Date: 2/18/2010 Amount: 756.00

Miles, Bauer, Bergstrom & Winters, LLP Trust Acct
 Payee: Alessi & Koenig, LLC Check #: 2763

| Inv. Date | Reference # | Description | Inv. Amount | Case # | Matter Description | Cost Amount |
|-----------|-------------|------------------------|-------------|--------|--------------------|-------------|
| 2/18/2010 | #13855 | To Cure HOA Deficiency | 756.00 | | | |

Miles, Bauer, Bergstrom & Winters, LLP
 Trust Account
 1665 Scenic Avenue - Suite 200
 Costa Mesa, CA 92626
 Phone: (714) 481-9100

Bank of America
 1100 N. Green Valley Parkway
 Henderson, NV 89074

16-66/1220
 1020
 10-H0045
 Loan # 5202

2763

Date: 2/18/2010

Amount: \$**** 756.00

Check Void After 90 Days

Pay \$*****Seven Hundred Fifty-Six & No/100 Dollars

to the
 order
 of

Alessi & Koenig, LLC

⑈ 2763 ⑈ ⑆ 22400724⑆ 501006876973 ⑈

APP000136

Details on back. Security Features Included.

EXHIBIT “D”

EXHIBIT “D”

EXHIBIT “D”

00395 11-24
Office AU # 1210(8)
Operator I.D.: ren00216

OFFICIAL CHECK

0039508561

February 16, 2010

PAY TO THE ORDER OF ***ALESSI & KOENIG***

Three thousand dollars and no cents

\$3,000.00

WELLS FARGO & COMPANY ISSUER
420 MONTGOMERY STREET
SAN FRANCISCO, CA 94163
PAYABLE AT WELLS FARGO BANK, N.A.
FOR INQUIRIES CALL (480) 394-3122

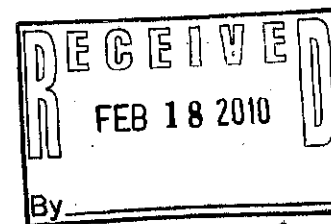
VOID IF OVER US \$ 3,000.00

Richard Koenig
CONTROLLER

⑈0039508561⑈ ⑆121000248⑆4861 505477⑈

| | | |
|--|---|--------------------------|
| Alessi & Koenig, LLC 9500 W Flamingo Rd Ste 100 Las Vegas, NV 89147 Phone: 702-222-4033 Fax: 702-222-4043 | | NO. 2881 DATE 2-16-10 |
| RECEIVED FROM | Susan Pritz | \$ 3,000.00 |
| FOR | Threethousand 0/100 4946 Droubay DR #104 13855 | |
| AMOUNT OF ACCOUNT | \$ | |
| AMOUNT PAID | \$ 3,000.00 | |
| BALANCE DUE | \$ | |
| BY <i>RK</i> | | Thank You! |

DOLLARS
☐ CASH
☒ CHECK
☐ M.O.
☐ CREDIT CARD



13855

APP0000158

EXHIBIT “E”

EXHIBIT “E”

EXHIBIT “E”

I, DAVID ALESSI, do swear and affirm the following:

1. I am the holder and custodian of records for Alessi & Koenig, LLC and HOA Lawyers Group, and as such have access to the records and data maintained by these entities in the regular course of business.
2. Alessi & Koenig, LLC was licensed in the State of Nevada at the time the business records in this affidavit were created. Alessi & Koenig, LLC filed dissolution paperwork with the State of Nevada on or about September 28, 2016.
3. HOA Lawyers Group, LLC filed Articles of Organization with the State of Nevada on April 22, 2016.
4. I hereby certify that it was and is a regular practice of Alessi & Koenig, LLC and HOA Lawyers Group to make and keep records of the acts, events, conditions, and opinions of these entities in the ordinary course of its business, hereafter referred to as "collection files."
5. Alessi & Koenig, LLC has received a subpoena or other request calling for the production of the collection file.
6. I have examined the original collection file and have made or caused to be made a true and exact copy of them, and have placed or caused them to be in a "dropbox," consistent with the procedures established in Case No. BK-S-16-16593-ABL. I hereby certify that the documents in the "dropbox" are being provided in accordance with applicable law and discovery rules, are true and correct copies and uploads of all of the records in my files that pertain to the Case (except as set forth in a Privilege Log, if applicable) that are in my possession and control as a holder and custodian of such records. The documents in the "dropbox" have not been tampered with, destroyed, or otherwise altered by me or any person or party associated with me.
7. I further certify that the original collection file, from which the documents in the "dropbox" were uploaded as of the date the "dropbox" was created, were made by the

1 personnel of the above described entities at or near the time of the transactions, by or
2 from information transmitted by, a person of knowledge of those matters.

3 8. I hereby declare under the penalty of perjury under the laws of the State of Nevada that
4 the foregoing is true and correct.

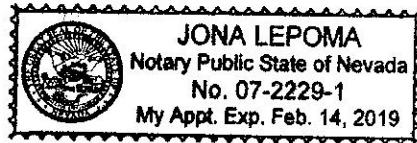
5 DATED this 7th day of September, 2017.

6
7 By: [Signature]
8 DAVID ALESSI, ESQ.

9
10 STATE of NEVADA }
11 } ss.
12 COUNTY of CLARK }

13 SUBSCRIBED and SWORN to before me
14 By: DAVID ALESSI, ESQ. this
15 7th day of September, 2017

16 [Signature]
17 NOTARY PUBLIC in and for said County and State
18
19 My Commission Expires: 2/14/19
20
21
22
23
24
25
26
27
28



Honorable August B. Landis
United States Bankruptcy Judge



Entered on Docket
April 24, 2017

Jeanette E. McPherson, Esq., NV Bar No. 5423
Schwartzter & McPherson Law Firm
2850 South Jones Blvd., Suite 1
Las Vegas NV 89146-5308
Telephone: (702) 228-7590
Facsimile: (702) 892-0122
E-Mail: bkfilings@s-mlaw.com
Attorneys for Shelley D. Krohn, Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
Alessi & Koenig, LLC,

Debtor.

Case No. BK-S-16-16593-ABL

Chapter 7

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
ORDER AUTHORIZING PROCEDURES
FOR: 1) DISPOSITION OF EXCESS
PROCEEDS, 2) REVIEW OF DEBTOR'S
BOOKS AND RECORDS, AND 3) RELIEF
FROM THE AUTOMATIC STAY**

Date: April 5, 2017

Hearing Time: 9:30 a.m.

The Motion For Order Authorizing Procedures For: 1) Disposition Of Excess Proceeds, 2) Review Of Debtor's Books And Records, And 3) Relief From The Automatic Stay ("Motion")¹ having come before this Court on April 5, 2017; Shelley D. Krohn, the Chapter 7 Trustee (the "Trustee") appearing individually and by and through her counsel, Jeanette E. McPherson, Esq., and other appearances having been made on the record, the Court having reviewed the Motion and all related pleadings, the Court having found that notice was proper, the Court having made its

¹ All capitalized terms have the meanings ascribed them in the Motion.

findings of fact and conclusions of law upon the record, which are incorporated herein pursuant to Fed.R.Bankr. P. 7052 and 9014, and set forth below in part, and for good cause shown, it is hereby

ORDERED that the Motion is granted in part and denied in part.

ORDERED that the Motion is denied to the extent it requests approval of the procedures pertaining to the Excess Proceeds.

ORDERED that the Discovery Procedures relating to the Files And Records are granted in that:

1) the Files And Records Procedures will supersede any prior arrangements between the Trustee and any party and will be deemed to satisfy any existing requirements or duties of the Trustee under applicable law;

2) the Trustee will not be required to respond to or comply with any requests related to the Files And Records;

3) the Debtor's Files And Records are and shall be maintained and serviced by the Debtor's representative, David Alessi ("Alessi"), and Alessi shall certify and ensure that the Files And Records are properly maintained and preserved;

4) Alessi shall bear all expenses with the maintenance of the Files And Records;

5) Alessi shall upload the Files And Records that are discoverable into Dropbox so that an interested party may review and download all relevant documents ("Dropbox File");

6) Alessi shall also place in the Dropbox File a certificate of acknowledgment stating that the documents were provided in accordance with applicable law and discovery rules, are true and correct copies of the documents related to the relevant matter, and were uploaded as of the date the Dropbox File was created. The certification shall further provide that the Dropbox File contains the records relating to the specific Litigation for all pertinent periods and that the Files And Records have not been tampered with, destroyed, or otherwise altered by Alessi or any person or party associated with Alessi. In the event that Alessi withholds production of a document based on the claim of attorney-client privilege or the attorney work product doctrine, Alessi shall produce a privilege log to the requesting party identifying the withheld document with reasonable particularity to support a motion to compel. The certification shall be sufficient to establish the

1 authenticity of the origin of the documents under Federal Rule of Evidence 901 or any equivalent
2 evidentiary rule, and no party may challenge such authentication on the basis that it is not a true
3 and correct copy of the documents as it was originally maintained. All other evidentiary
4 objections with respect to the documents uploaded by Alessi are hereby reserved. The certification
5 shall be in the form attached hereto as **Exhibit 1**;

6 7) In connection with the maintenance of the Dropbox File, Alessi shall charge any
7 party requesting to review the Files And Records the amount of \$50.00, which sum must be paid
8 prior to access to the Dropbox File;

9 8) The Dropbox File must be established by Alessi no later than thirty days after entry
10 of an order approving this Motion ("Dropbox Deadline"), and shall be maintained by Alessi for up
11 to two years from the date of an order authorizing this Motion, which time may be continued if
12 agreed upon by the Trustee (if necessary) and Alessi;

13 9) Nothing in this Motion shall be construed as altering Alessi's or his colleagues'
14 obligations to comply with applicable law, including without limitation, the Nevada Rules of
15 Professional Conduct requiring the maintenance of client files;

16 10) If Alessi fails to establish the Dropbox File by the Dropbox Deadline, the affected
17 party may seek sanctions in this Court for violation of the order granting this Motion;

18 11) Notwithstanding anything to the contrary herein, the Trustee has the right to
19 determine, in her sole discretion, which, if any, and for how long, specific Files And Records are
20 retained by Alessi for the administration of the Debtor's estate;

21 12) Notwithstanding anything to the contrary herein, by providing the Files And
22 Records, the Trustee is not waiving or releasing any rights or claims she might hold against any
23 person or entity including, without limitation, attorneys' liens for non-payment;

24 13) The Debtor's and Alessi's compliance with the Discovery Procedures set forth in
25 this Order shall not excuse them from any obligation to comply with any discovery request or trial
26 subpoena. For the avoidance of doubt, the Trustee shall not have such obligations;

27 14) Alessi shall act as the deponent for the Debtor pursuant to FRBP 30(b)(6), prepare
28 on all topics as required by Rule 30(b)(6), and be the responsible person for the Debtor and

1 comply with all other related requirements of the rule. Notwithstanding, this Order does not
 2 prohibit any party from obtaining testimony from any witness with knowledge;

3 15) Notwithstanding any provisions of this Order, the Debtor shall maintain and
 4 preserve all of its documents and records, including, without limitation, bank statements, files,
 5 loan documents, contracts, agreements, invoices and receipts;

6 16) the Files And Records Procedures are fair and equitable, within the sound business
 7 judgment of the Trustee, and in the best interests of the estate, are appropriate under the
 8 circumstances, comply with applicable law and any existing obligations in the pending Litigation,
 9 and do not constitute a violation of any potential ethical, professional or other obligations of the
 10 Trustee or the Debtor in respect to the Files And Records.

11 ORDERED that the Files And Records Procedures set forth herein remain valid and
 12 binding upon the Debtor and Alessi despite the entry of an order in this case authorizing the
 13 Trustee to abandon the Debtor's Files And Records. For the avoidance of doubt, this Order shall
 14 not serve to preclude the entry of an order allowing the Trustee to abandon the Debtor's Files And
 15 Records or any other property.

16 ORDERED that the automatic stay under 11 U.S.C. § 362 is hereby terminated for all
 17 purposes with the exception that collection of a judgment obtained against the Debtor may only be
 18 pursued against the Debtor in this Court.

19 Submitted by:

Approved / Disapproved by:

20 /s/ Jeanette E. McPherson
 21 Jeanette E. McPherson, Esq.

See Attached
 Evan Jones, Esq.

22 Approved / Disapproved by:

Approved / Disapproved by:

23 See Attached
 24 Christina Miller, Esq.

Waived Signature at Hearing
 Darren Brenner, Esq.

25 Approved / Disapproved by:

Approved / Disapproved by:

26 Waived Signature at Hearing
 27 Michael Wixom, Esq.

See Attached
 Andrew A. Bao, Esq.

SCHWARTZER & MCPHERSON LAW FIRM

2850 South Jones Boulevard, Suite 1

Las Vegas, Nevada 89146-5308

Tel: (702) 228-7590 • Fax: (702) 892-0122

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20 /s/ Jeanette E. McPherson

21 Jeanette E. McPherson, Esq.

Approved / Disapproved by:

Evan Jones, Esq.

22 Approved / Disapproved by:

23 Christina Miller, Esq.

24 Approved / Disapproved by:

25 Waived Signature at Hearing

26 Michael Wixom, Esq.

Approved / Disapproved by:

Waived Signature at Hearing

Darren Brenner, Esq.

Approved / Disapproved by:

Andrew A. Bao, Esq.

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19 Submitted by:

Approved / Disapproved by:


20 /s/ Jeanette E. McPherson

21 Jeanette E. McPherson, Esq.

Evan Jones, Esq.

22 Approved / Disapproved by:

Approved / Disapproved by:

23 
24 Christina Miller, Esq. NV BW #12448

Waived Signature at Hearing
Darren Brenner, Esq.

25 Approved / Disapproved by:

Approved / Disapproved by:

26 Waived Signature at Hearing
27 Michael Wixom, Esq.

Andrew A. Bao, Esq.

SCHWARTZ & MCPHERSON LAW FIRM

2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Tel: (702) 228-7590 • Fax: (702) 892-0122

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18 pursued against the Debtor in this Court.

19 Submitted by:

Approved / Disapproved by:

20 /s/ Jeanette E. McPherson
21 Jeanette E. McPherson, Esq.

Evan Jones, Esq.

22 Approved / Disapproved by:

Approved / Disapproved by:

23 Christina Miller, Esq.

Waived Signature at Hearing
24 Darren Brenner, Esq.

25 Approved / Disapproved by:

Approved / Disapproved by:

26 Waived Signature at Hearing
27 Michael Wixom, Esq.

Andrew A. Bao, Esq.

Approved / Disapproved by:

Waived Signature at Hearing

Peter Goetz, Esq.

Approved / Disapproved by:

Waived Signature at Hearing

Robert Larson, Esq.

Approved / Disapproved by:

/s/ Diana Ebron

Diana Ebron, Esq.

Approved / Disapproved by:

Waived Signature at Hearing

David Rothenberg, Esq.

Approved / Disapproved by:

Did not respond

Ryan Alexander, Esq.

Approved / Disapproved by:

Waived Signature at Hearing

James Shea, Esq.

Approved / Disapproved by:

/s/ James Greene

James Greene, Esq.

RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the Order accurately reflects the court's ruling and that (check one):

☒ The court has waived the requirement set forth in LR 9021(b)(1).

☐ No party appeared at the hearing or filed an objection to the motion.

☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated above.

☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

/s/ Jeanette E. McPherson

Jeanette E. McPherson, Esq.

Schwartz & McPherson Law Firm

2850 South Jones Blvd., Suite 1

Las Vegas, NV 89146

Attorneys for Trustee

###

APP000149

EXHIBIT “1”

I, David Alessi, do swear and affirm the following:

1. I am the holder and custodian of records for Alessi & Koenig, LLC and HOA Law Group and as such have access to the records and data maintained by these entities in the regular course of business.
2. Alessi & Koenig, LLC was licensed in the State of Nevada at the time the business records described in this affidavit were created. Alessi & Koenig, LLC filed dissolution paperwork with the State of Nevada on or about September 28, 2016.
3. HOA Lawyers Group, LLC filed Articles of Organization with the State of Nevada on April 22, 2016.
4. I hereby certify that it was and is a regular practice of Alessi & Koenig, LLC and HOA Law Group to make and keep records of the acts, events, conditions, and opinions of these entities in the ordinary course of its business, hereafter referred to as "collection files."
5. On the ____ day of the month of ____ of the year ____, I received a subpoena or other request calling for the production of the collection file.
6. I have examined the original collection file and have made or caused to be made a true and exact copy of them, and have placed or caused them to be in a Dropbox, consistent with the procedures established in Case No. BK-S-16-16593-ABL. I hereby certify that the documents in the Dropbox are being provided in accordance with applicable law and discovery rules, are true and correct copies and uploads of all of the records in my files that pertain to the Case (except as set forth in a privilege log) that are in my possession and control as a holder and custodian of such records. The documents in the Dropbox have not been tampered with, destroyed, or otherwise altered by me or any person or party associated with me.
7. I further certify that the original collection file, from which the documents in the Dropbox were uploaded as of the date the Dropbox was created, were made by the personnel of the above described entities at or near the time of the transactions, by or from information transmitted by, a person of knowledge of those matters.
8. I hereby declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

EXHIBIT “F”

EXHIBIT “F”

EXHIBIT “F”

To: Stephanie

RUN DATE: 04/30/2010

SQUIRE VILLAGE
ACCOUNT HISTORY REPORT
FOR THE PERIOD 02/01/2009 TO 05/30/2010
SINGLE OWNER

PAGE: 1

000067-01 PRITZ, NELSON & SUSAN

STOP PAYMENT

4946 Dronbay

| TRX DATE | DESCRIPTION | CHARGES | CREDITS | BALANCE |
|------------|---------------------------|---------|----------|----------|
| 01/31/2009 | BEGINNING BALANCE | | | 430.00 |
| 02/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 514.00 |
| 02/16/2009 | LATE CHARGES | 10.00 | | 524.00 |
| 03/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 608.00 |
| 03/16/2009 | LATE CHARGES | 10.00 | | 618.00 |
| 04/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 702.00 |
| 04/16/2009 | LATE CHARGES | 10.00 | | 712.00 |
| 05/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 796.00 |
| 05/16/2009 | LATE CHARGES | 10.00 | | 806.00 |
| 06/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 890.00 |
| 06/16/2009 | LATE CHARGES | 10.00 | | 900.00 |
| 07/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 984.00 |
| 07/16/2009 | LATE CHARGES | 10.00 | | 994.00 |
| 08/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,078.00 |
| 08/16/2009 | LATE CHARGES | 10.00 | | 1,088.00 |
| 09/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,172.00 |
| 09/16/2009 | LATE CHARGES | 10.00 | | 1,182.00 |
| 10/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,266.00 |
| 10/16/2009 | LATE CHARGES | 10.00 | | 1,276.00 |
| 11/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,360.00 |
| 11/16/2009 | LATE CHARGES | 10.00 | | 1,370.00 |
| 12/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 1,454.00 |
| 12/16/2009 | LATE CHARGES | 10.00 | | 1,464.00 |
| 01/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,548.00 |
| 01/16/2010 | LATE CHARGES | 10.00 | | 1,558.00 |
| 02/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,642.00 |
| 02/16/2010 | LATE CHARGES | 10.00 | | 1,652.00 |
| 03/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 1,736.00 |
| 03/02/2010 | PAYMENT TRUSTEE CK: 29211 | | 1,110.00 | 626.00 |
| 03/16/2010 | LATE CHARGES | 10.00 | | 636.00 |
| 04/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 720.00 |
| 04/16/2010 | LATE CHARGES | 10.00 | | 730.00 |
| 05/01/2010 | MONTHLY ASSESSMENT | 84.00 | | 814.00 |

1 OWNERS -

REPORT BALANCE AS OF: 05/30/2010

814.00

APP0000133

EXHIBIT “G”

EXHIBIT “G”

EXHIBIT “G”

2:10-bk-29550 | NELSON M. PRITZ and SUSAN PRITZ

Docket Header Last Updated: 06/12/2019 11:44 am

BAPCPA, MEANSNO, CLOSED

U.S. Bankruptcy Court
District of Nevada (Las Vegas)
Bankruptcy Petition #: 10-29550-mkn

Assigned to: MIKE K. NAKAGAWA

Chapter 7

Voluntary

No asset

Date filed: 10/15/2010*Date terminated:* 03/11/2011*Debtor discharged:* 01/24/2011*Joint debtor discharged:* 01/24/2011*Debtor disposition:* Standard Discharge*Joint debtor disposition:* Standard Discharge*341 meeting:* 11/29/2010*Deadline for objecting to discharge:* 01/21/2011***Debtor*****NELSON M. PRITZ**

4946 DROUBAY DRIVE

LAS VEGAS, NV 89122-8132

CLARK-NV

SSN / ITIN: xxx-xx-2495

represented by

MONICA T. CENTENO

330 E. WARM SPRINGS RD, #18

LAS VEGAS, NV 89119

(702) 966-0688

Fax : (702) 789-1047

Email: mcenteno@mcentenolaw.com***Joint Debtor*****SUSAN PRITZ**

4946 DROUBAY DRIVE

LAS VEGAS, NV 89122-8132

CLARK-NV

SSN / ITIN: xxx-xx-3630

represented by

MONICA T. CENTENO

(See above for address)

Trustee**LENARD E. SCHWARTZER**

2850 S. JONES BLVD., #1

LAS VEGAS, NV 89146

(702) 307-2022

U.S. Trustee**U.S. TRUSTEE - LV - 7****APP000155**

300 LAS VEGAS BOULEVARD, SO.
SUITE 4300
LAS VEGAS, NV 89101

| Date Filed | # | Docket Text |
|------------|-----------|--|
| 04/27/2011 | 25 | Trustee Voucher Amount Paid: \$60.00 Voucher Number: 11464800631 (admin) (Entered: 04/28/2011) Update/Redact |
| 03/11/2011 | 24 | Final Decree, Discharge of Trustee and Closing of Chapter 7 Case (Admin.) (Entered: 03/11/2011) Update/Redact |
| 03/11/2011 | 23 | Change Case from Asset to No Asset (had) (Entered: 03/11/2011) Update/Redact |
| 03/10/2011 | 22 | <i>Documentation in Support of No Asset Report</i> Filed by LENARD E. SCHWARTZER on behalf of LENARD E. SCHWARTZER (Related document(s) 21 Chapter 7 Trustee's Report of No Distribution) (SCHWARTZER, LENARD) (Entered: 03/10/2011) Update/Redact |
| 03/10/2011 | 21 | Chapter 7 Trustee's Report of No Distribution: I, LENARD E. SCHWARTZER, having been appointed trustee of the estate of the above-named debtor(s), report that I have neither received any property nor paid any money on account of this estate; that I have made a diligent inquiry into the financial affairs of the debtor(s) and the location of the property belonging to the estate; and that there is no property available for distribution from the estate over and above that exempted by law. Pursuant to Fed R Bank P 5009, I hereby certify that the estate of the above-named debtor(s) has been fully administered. I request that I be discharged from any further duties as trustee. Key information about this case as reported in schedules filed by the debtor(s) or otherwise found in the case record: This case was pending for 5 months. Assets Abandoned (without deducting any secured claims): \$ 88054.85, Assets Exempt: \$ 32899.57, Claims Scheduled: \$ 277460.54, Claims Asserted: Not Applicable, Claims scheduled to be discharged without payment (without deducting the value of collateral or debts excepted from discharge): \$ 277460.54. (SCHWARTZER, LENARD) (Entered: 03/10/2011) Update/Redact |
| 02/04/2011 | 20 | Change of Address of HOUSEHOLD BANK Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 02/04/2011) Update/Redact |
| 01/26/2011 | 19 | BNC Certificate of Mailing (Related document(s) 18 Order Discharging Debtor (BNC)) No. of Notices: 20. Service Date 01/26/2011. (Admin.) (Entered: 01/26/2011) Update/Redact |
| 01/24/2011 | 18 | Order Discharging Debtor (Admin.) (Entered: 01/24/2011) Update/Redact |
| 12/22/2010 | 17 | |

APP000156

| Date Filed | # | Docket Text | |
|------------|-----------|--|---------------|
| | | Amended Schedule[s] B, Personal Property Amount: \$ 32248.42, C, Amount \$32899.57, Declaration Concerning Debtor[s] Schedules, Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 12/22/2010) | Update/Redact |
| 12/15/2010 | 16 | Amended Schedule[s] B, Personal Property Amount: \$ 32248.42, C, Amount \$32899.57, Declaration Concerning Debtor[s] Schedules, Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 12/15/2010) | Update/Redact |
| 12/01/2010 | 15 | Change Case from No Asset to Asset (had) (Entered: 12/01/2010) | Update/Redact |
| 11/30/2010 | 14 | Initial Asset Report (SCHWARTZER, LENARD) (Entered: 11/30/2010) | Update/Redact |
| 11/23/2010 | 13 | 341 Meeting Continued on 11/29/2010 at 01:30 PM at 341s - Foley Bldg,Rm 1500 (SCHWARTZER, LENARD) (Entered: 11/23/2010) | Update/Redact |
| 11/12/2010 | 12 | Amendment to List of Creditors Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) Modified on 11/15/2010 to Reflect Document Unsigned (Lakas, WM). (Entered: 11/12/2010) | Update/Redact |
| 11/12/2010 | 11 | Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management. Filed by MONICA T. CENTENO on behalf of SUSAN PRITZ (CENTENO, MONICA) (Entered: 11/12/2010) | Update/Redact |
| 11/12/2010 | 10 | Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management. Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ (CENTENO, MONICA) (Entered: 11/12/2010) | Update/Redact |
| 10/20/2010 | 9 | BNC Certificate of Mailing. (Related document(s) 7 Order Determining Debtor's Compliance with Filing Requirements of 11 U.S.C. Section 521(a)(1) (BNC)) No. of Notices: 18. Service Date 10/20/2010. (Admin.) (Entered: 10/20/2010) | Update/Redact |
| 10/20/2010 | 8 | BNC Certificate of Mailing (Related document(s) 6 Meeting of Creditors Chapter 7 No Asset (BNC)) No. of Notices: 17. Service Date 10/20/2010. (Admin.) (Entered: 10/20/2010) | Update/Redact |
| 10/18/2010 | 7 | Order Determining Debtor's Compliance with Filing Requirements of 11 U.S.C. Section 521 (a)(1) (scl) (Entered: 10/18/2010) | Update/Redact |
| 10/15/2010 | 6 | Meeting of Creditors and Notice of Appointment of Trustee LENARD E. SCHWARTZER. 341 meeting to be held on 11/22/2010 at 12:30 PM at 341s - Foley Bldg,Rm 1500. Objections to Discharge due by 01/21/2011 . (Entered: 10/15/2010) | Update/Redact |
| 10/15/2010 | 5 | | |

APP000157

| Date Filed | # | Docket Text | |
|------------|----------|--|-------------------------------|
| | | Receipt of Filing Fee for Voluntary Petition 7(10-29550) [misc,volp7pb] (299.00). Receipt number 9551891, fee amount \$ 299.00. (U.S. Treasury) (Entered: 10/15/2010) | Update/Redact |
| 10/15/2010 | 4 | Chapter 7 Statement of Current Monthly Income and Means Test Calculation - Form 22A . Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 10/15/2010) | Update/Redact |
| 10/15/2010 | 3 | Declaration Re: Electronic Filing Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 10/15/2010) | Update/Redact |
| 10/15/2010 | 2 | Statement of Social Security Number(s). This document contains sensitive information and cannot be viewed by the public. Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 10/15/2010) | Update/Redact |
| 10/15/2010 | 1 | Chapter 7 Voluntary Petition. Fee Amount \$299. Filed by MONICA T. CENTENO on behalf of NELSON M. PRITZ, SUSAN PRITZ (CENTENO, MONICA) (Entered: 10/15/2010) | Update/Redact |

| PACER Service Center | |
|----------------------|--|
| Receipt: | 06/12/2019 11:44:20 |
| User: | User's PACER account |
| Client: | |
| Description: | Docket Report 10-29550-mkn Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html Page counts for documents: included |
| Pages: | 2 (\$0.20) |

EXHIBIT “H”

EXHIBIT “H”

EXHIBIT “H”

+ 0446024 000006320 09SFC2 0068404

NELSON M PRITZ
SUSAN PRITZ
3118 BELVEDERE DR
HENDERSON NV 89014-3126



September 17, 2013

Re: SLS Loan Number: [REDACTED] 7013
Property Address: 4946 Droubay Dr
Las Vegas, NV 89122

Notice of Default and Notice of Intent to Foreclose

Dear Nelson M Pritz & Susan Pritz,

The Note on the above referenced loan is now in default as a result of your failure to pay the 05/01/09 payment and the payments due each month thereafter, as provided for in said Note. You are hereby notified that to cure such default you are required to pay to this office all past due payments plus late charges and any payments that may become due between the date of this notice and the date the default is cured. The amount required to cure the arrears as of 09/17/13 is \$113,902.34. You have thirty-three (33) days from the date of this letter to cure the default. We urge you to immediately upon receipt of this letter contact our Customer Assistance Department at the number provided below to obtain the amount required to reinstate your loan.

Failure to pay the total amount due under the terms and conditions of your Deed of Trust/Mortgage by 10/20/13 may result in acceleration of the entire balance outstanding under the Note including, but not limited to, the principal, interest and all other outstanding charges and costs, and commencement of foreclosure of the Trust Deed/Mortgage which is security for your Note. Please be advised that any extension of time or forbearance in the exercising of any right or remedy as provided for in the Deed of Trust/Mortgage shall not constitute a waiver of or preclude the exercising of any right or remedy.

You have the right to reinstate the Note after acceleration as provided by law and you have the right to bring court action to assert the nonexistence of default or any other defense you have to acceleration and sale.

If your loan is not brought current, inspections of your property will be made and you will be assessed fees for that purpose as permitted under state law. Additionally, if your property is found to be vacant and unsecured, the mortgage holder will have it secured and will charge you for the cost of securing. You may also be liable for reasonable attorney fees and costs incurred in connection with any proceedings on the Note and Trust Deed and such other costs as may be allowed by law. In addition, you may be liable for any deficiency that may be established as a result of the foreclosure action unless precluded by a bankruptcy discharge.



APP000020

In accordance with the Fair Debt Collection Practices Act, you are hereby given notice of the following:

1. Although you are not required to pay the total debt (or balance) of the Account prior to its maturity or acceleration, federal law requires Specialized Loan Servicing to provide you with the amount of the debt. As of 09/17/13, the amount of the unpaid principal balance is \$248,180.44. This letter is in no way intended as a payoff statement and you must not rely upon this letter for purposes of paying off your mortgage.
2. Specialized Loan Servicing LLC is the current creditor to whom the debt is owed. If you request in writing within 30 days after you receive this notice, we will provide you with the name and address of the original creditor if different than the current creditor.
3. Unless within 30 days after you receive this notice you dispute the validity of the debt or a portion thereof, the debt will be assumed to be valid. If you notify us in writing within 30 days after you receive this notice that you dispute the debt or a portion thereof, we will obtain and mail to you verification of the debt.
4. Please be advised that we are attempting to collect a debt and any information obtained will be used for that purpose.

If you are a customer in bankruptcy or a customer who has received a bankruptcy discharge of this debt, please be advised that this letter constitutes neither a demand for payment of the captioned debt nor a notice of personal liability to any recipient hereof who might have received a discharge of such debt in accordance with applicable bankruptcy laws or who might be subject to the automatic stay of Section 362 of the United States Bankruptcy Code.

If you believe that you are entitled to the benefits as outlined in the Servicemembers' Civil Relief Act, you should promptly provide us with evidence of your active duty status.

Specialized would like you to be aware that if you are unable to make payments or resume payments within a reasonable period of time due to a reduction in your income resulting from a loss or reduction in your employment, you may be eligible for Homeownership Counseling. Please contact the HUD toll free number (800-569-4287) to obtain a list of HUD approved nonprofit organizations serving your area.

If you have any questions, regarding this letter, please contact Specialized Loan Servicing, LLC at 800-306-6062 Monday through Friday, from 6:00 a.m. to 6:00 p.m. (MT). TDD number - 800-268-9419 Monday through Friday, from 8:00 a.m. to 5:00 p.m. (MT).

Specialized requests that all payments be made in **certified funds, cashier's check or money order(s)** payable to and mailed to Specialized Loan Servicing LLC, **Attention: Customer Assistance Department** to one of the below addresses **(always include Loan Number with your payment)** :

VIA Regular Mail

Specialized Loan Servicing, LLC
PO Box 105219
Atlanta, GA 30348-5219

VIA Over Night Address

Specialized Loan Servicing, LLC
8742 Lucent Blvd, Suite 300
Highlands Ranch, CO 80129

VIA Western Union Quick Collect

Code City: PAYSL
Code State: CO
Reference: Loan Number

The matters discussed herein are of extreme importance. We trust you will give them appropriate attention. It is the practice and policy of SLS is to work with customers that have experienced a hardship. We have many alternative programs available to assist customers in avoiding a foreclosure action. Please visit our website address www.sls.net for options or feel free to contact our Customer Assistance area at 800-306-6062 where one of our experienced and skilled Agents may assist you. Do not delay. There is help available for most customers. We cannot assist you if you do not contact us. We are committed to providing you with professional and courteous service. We respect our customers, especially those that are having difficulties and will always strive to treat you with the dignity you deserve.

SPECIALIZED LOAN SERVICING, LLC
Customer Assistance Department

APP000022

EXHIBIT “I”

EXHIBIT “I”

EXHIBIT “I”

RUN DATE: 05/21/2009

SQUIRE VILLAGE HOA
ACCOUNT HISTORY REPORT
FOR THE PERIOD 01/01/2008 TO 06/30/2009
SINGLE OWNER

PAGE: 1

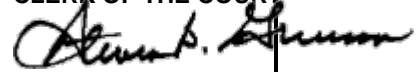
000067-01 PRITZ, NELSON & SUSAN

STOP PAYMENTS!

| TRX DATE | DESCRIPTION | CHARGES | CREDITS | BALANCE |
|------------|-------------------------------|---------|----------|----------|
| | BEGINNING BALANCE | | | 430.00 |
| 01/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 514.00 |
| 01/16/2008 | LATE CHARGES | 10.00 | | 524.00 |
| 02/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 608.00 |
| 02/16/2008 | LATE CHARGES | 10.00 | | 618.00 |
| 03/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 702.00 |
| 03/16/2008 | LATE CHARGES | 10.00 | | 712.00 |
| 04/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 796.00 |
| 04/16/2008 | LATE CHARGES | 10.00 | | 806.00 |
| 05/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 890.00 |
| 05/16/2008 | LATE CHARGES | 10.00 | | 900.00 |
| 06/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 984.00 |
| 06/16/2008 | LATE CHARGES | 10.00 | | 994.00 |
| 07/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 1,078.00 |
| 07/16/2008 | LATE CHARGES | 10.00 | | 1,088.00 |
| 08/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 1,172.00 |
| 08/16/2008 | LATE CHARGES | 10.00 | | 1,182.00 |
| 09/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 1,266.00 |
| 09/02/2008 | TRUSTEE CHECK-ALESSI CK: 5170 | | 1,257.00 | 9.00 |
| 10/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 93.00 |
| 10/16/2008 | LATE CHARGES | 10.00 | | 103.00 |
| 11/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 187.00 |
| 11/16/2008 | LATE CHARGES | 10.00 | | 197.00 |
| 12/01/2008 | MONTHLY ASSESSMENT | 84.00 | | 281.00 |
| 12/16/2008 | LATE CHARGES | 10.00 | | 291.00 |
| 12/23/2008 | PRE-LIEN | 45.00 | | 336.00 |
| 01/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 420.00 |
| 01/16/2009 | LATE CHARGES | 10.00 | | 430.00 |
| 02/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 514.00 |
| 02/16/2009 | LATE CHARGES | 10.00 | | 524.00 |
| 03/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 608.00 |
| 03/16/2009 | LATE CHARGES | 10.00 | | 618.00 |
| 04/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 702.00 |
| 04/16/2009 | LATE CHARGES | 10.00 | | 712.00 |
| 05/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 796.00 |
| 05/16/2009 | LATE CHARGES | 10.00 | | 806.00 |
| 06/01/2009 | MONTHLY ASSESSMENT | 84.00 | | 890.00 |
| | ENDING BALANCE | | | 890.00 |

1 OWNERS - REPORT BALANCE AS OF 06/30/2009

890.00



RFJN
ZBS LAW, LLP
J. Stephen Dolembro, Esq.
Nevada Bar No. 9795
9435 West Russell Road, Suite 120
Las Vegas, Nevada 89148
Tel: (702) 948-8565
Fax: (702) 446-9898
sdolembro@zbslaw.com

*Attorneys for Defendants The Bank of New York Mellon, FKA The Bank of New York, as Trustee,
for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25 and Sables,
LLC*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL 1, LLC, a Nevada
limited liability company,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON, FKA
THE BANK OF NEW YORK, AS TRUSTEE,
FOR THE CERTIFICATEHOLDERS OF
CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2006-25, a national
bank; SABLES, LLC, a foreign limited liability
company,

Defendants.

CASE NO.: A-19-790150-C
DEPT NO.: XXIX

**THE BANK OF NEW YORK MELLON'S
REQUEST FOR JUDICIAL NOTICE**

TO THE CLERK OF THE EIGHTH JUDICIAL DISTRICT COURT:

PLEASE TAKE NOTICE that, in connection with its Motion for Summary Judgment,
Defendant THE BANK OF NEW YORK MELLON, FKA THE BANK OF NEW YORK, AS
TRUSTEE, FOR THE CERTIFICATEHOLDERS OF CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2006-25, by and through its attorneys of record, J. Stephen Dolembro,
Esq., of the law firm of ZBS LAW, LLP, respectfully requests that this Court take judicial notice
of the following:

- 1) A Deed of Trust recorded in the Clark County Recorder's Office (the "Official
Records") as Book and Instrument Number 20061122-0003799, a true and correct copy

of which is attached hereto as **Exhibit “1.”**

- 2) An Assignment of Deed of Trust recorded in the Official Records as Book and Instrument Number 20111129-0000514, a true and correct copy of which is attached hereto as **Exhibit “2.”**
- 3) A Notice of Delinquent Assessment (Lien) recorded in the Official Records as Book and Instrument Number 20090206-0000299, a true and correct copy of which is attached hereto as **Exhibit “3.”**
- 4) A Notice of Default and Election to Sell Under Homeowners Association Lien recorded in the Official Records as Book and Instrument Number 20090501-0003709, a true and correct copy of which is attached hereto as **Exhibit “4.”**
- 5) A Notice of Trustee’s Sale recorded in the Official Records as Book and Instrument Number 20091218-0002859, a true and correct copy of which is attached hereto as **Exhibit “5.”**
- 6) A Notice of Trustee’s Sale recorded in the Official Records as Book and Instrument Number 20120821-0001940, attached hereto as **Exhibit “6.”**
- 7) A Trustee’s Deed Upon Sale recorded in the Official Records as Book and Instrument Number 20121009-0001817, a true and correct copy of which is attached hereto as **Exhibit “7.”**

DATED this 30th day of January, 2020.

ZBS LAW, LLP

By: /s/ J. Stephen Dolembro
J. Stephen Dolembro, Esq.
Nevada Bar No. 9795
9435 West Russell Rd, Suite 120
Las Vegas, Nevada 89148
Tel: (702) 948-8565
Fax: (702) 446-9898
*Attorneys for Defendant, Sables,
LLC*

1
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that I am an employee of ZBS LAW, LLP, and that on
4 this 30th day of January, 2020, I did cause a true copy of **THE BANK OF NEW YORK**
5 **MELLON'S REQUEST FOR JUDICIAL NOTICE** to be e-filed and e-served through the
6 Eighth Judicial District EFP system pursuant to NEFR 9 and/or by depositing a true copy of same
7 in the United States Mail, at Las Vegas, Nevada, addressed as follows:

8 Diana S. Ebron diana@kgelegal.com

9
10 KGE E-Service List eservice@kgelegal.com

11 KGE Legal Staff staff@kgelegal.com

12 Michael L. Sturm mike@kgelegal.com
13 Attorneys for Plaintiff SFR Investments Pool 1, LLC

14
15 /s/Sara Hunsaker
16 An employee of ZBS LAW, LLP

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

Assessor's Parcel Number:
16126111133
After Recording Return To:
COUNTRYWIDE HOME LOANS, INC.

MS SV-79 DOCUMENT PROCESSING
P.O.Box 10423
Van Nuys, CA 91410-0423
Prepared By:
NATALIA GENOV
~~Recording Requested By:~~
I. Sandler

COUNTRYWIDE HOME LOANS, INC.

5613 DTC PARKWAY, SUITE 700
GREENWOOD VILLAGE
CO 80111

20061122-0003799

Fee: \$39.00
N/C Fee: \$25.00

11/22/2006 14:51:13
T20060206942

Requestor:
FIDELITY NATIONAL TITLE

Charles Harvey BGN
Clark County Recorder Pas: 26

[Space Above This Line For Recording Data]

PRITZ 00015355520211006
[Escrow/Closing #] [Doc ID #]

DEED OF TRUST

MIN 1000157-0007499627-9

DEFINITIONS

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

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

Page 1 of 16

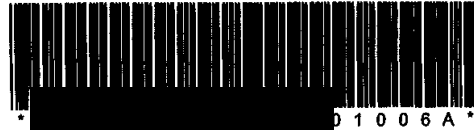
VMP -6A(NV) (0507) CHL (11/05)(d)

VMP Mortgage Solutions, Inc.

Form 3029 1/01



* 2 3 9 9 1 *



* 0 1 0 0 6 A *

DOC ID #: 00015355520211006

(A) "Security Instrument" means this document, which is dated NOVEMBER 17, 2006 , together with all Riders to this document.

(B) "Borrower" is

NELSON M PRITZ, AND SUSAN PRITZ, HUSBAND AND WIFE AS JOINT TENANTS

Borrower is the trustor under this Security Instrument.

(C) "Lender" is

COUNTRYWIDE HOME LOANS, INC.

Lender is a

CORPORATION

organized and existing under the laws of NEW YORK
4500 Park Granada MSN# SVB-314
Calabasas, CA 91302-1613

Lender's address is

(D) "Trustee" is

RECON TRUST

225 WEST HILLCREST DRIVE

THOUSAND OAKS, NV 89801

(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 17, 2006 .

The Note states that Borrower owes Lender

TWO HUNDRED THIRTY TWO THOUSAND TWO HUNDRED and 00/100

Dollars (U.S. \$ 232,200.00) 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, 2046 .

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

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

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

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

DOC ID #: 00015355520211006

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

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

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

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

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

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

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

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

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

TRANSFER OF RIGHTS IN THE PROPERTY

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

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

[Type of Recording Jurisdiction]

CLARK :

[Name of Recording Jurisdiction]

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

which currently has the address of

4946 DROUBAY DRIVE, LAS VEGAS

[Street/City]

Nevada 89122 ("Property Address"):

{Zip Code}

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



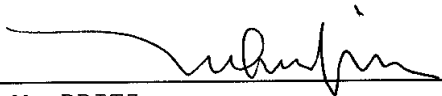
-6A(NV) (0507) CHL (11/05)

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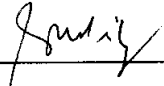
Form 3029 1/01

DOC ID #: 00015355520211006

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.



NELSON M. PRITZ (Seal)
-Borrower



SUSAN PRITZ (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower



-6A(NV) (0507)

CHL (11/05)

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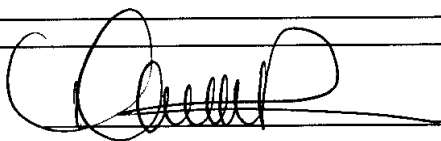
STATE OF NEVADA

COUNTY OF Clark

This instrument was acknowledged before me on

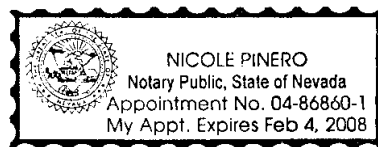
11-17-06

by

Nelson M. Pritz and Susan Pritz

Mail Tax Statements To:

TAX DEPARTMENT SV3-24

450 American Street
Simi Valley CA, 93065

Prepared by: NATALIA GENOV

COUNTRYWIDE HOME LOANS, INC.

Branch #: 0009164
5613 DTC PARKWAY, SUITE 700
GREENWOOD VILLAGE, CO 80111
Phone: (720)200-6000
Br Fax No.: (720)200-7217

DATE: 11/17/2006

CASE #:

DOC ID #: 00015355520211006

BORROWER: NELSON M. PRITZ

PROPERTY ADDRESS: 4946 DROUBAY DRIVE
LAS VEGAS, NV 89122

LEGAL DESCRIPTION EXHIBIT A

FHA/VA/CONV

- Legal Description Exhibit A
- 1D955-NV (07/03)(d)



EXHIBIT "ONE"**Parcel I:**

Lot 168 of Final Map Of Silver Springs - Unit A, as shown by map thereof on file in Book 91 of Plats, Page 36, and as amended by Certificate of Amendment recorded April 27, 2001 in Book 20010427 as Document No. 00272, in the Office of the County Recorder of Clark County, Nevada.

Parcel II:

A non-exclusive easement for ingress, egress, and enjoyment upon and over that portion of said subdivision delineated on the plat as "Private Street and P.U.E." and "Common Elements Lots" and as further described in the Covenants, Conditions, and Restrictions recorded September 17, 2001 in Book 20010917 as Document No. 01331 of Official Records, and as same may be amended from time to time.

Assessor's Parcel No: 161-26-111-133

DOC ID #: 00015355520211006

PLANNED UNIT DEVELOPMENT RIDER

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

4946 DROUBAY DRIVE
LAS VEGAS, NV 89122

[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
SILVER SPRINGS

[Name of Planned Unit Development]

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

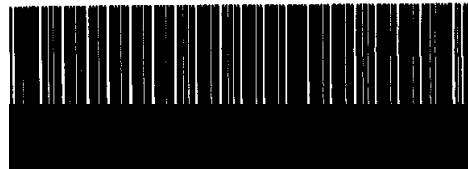
VMP -7R (0411)

CHL (12/05)(d)

Page 1 of 3

VMP Mortgage Solutions, Inc.

Form 3150 1/01



DOC ID #: 00015355520211006

(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.

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.

VMP® -7R (0411)

CHL (12/05)

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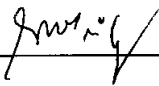
E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial 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.

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



NELSON M. PRITZ (Seal)
- Borrower



SUSAN PRITZ (Seal)
- Borrower

(Seal)
- Borrower

(Seal)
- Borrower

Prepared by: NATALIA GENOV

COUNTRYWIDE HOME LOANS, INC.

DATE: 11/17/2006
BORROWER: NELSON M. PRITZ
CASE #:
LOAN #:
PROPERTY ADDRESS: 4946 DROUBAY DRIVE
LAS VEGAS, NV 89122

Branch #: 0009164
5613 DTC PARKWAY, SUITE 700
GREENWOOD VILLAGE, CO 80111
Phone: (720)200-6000
Br Fax No.: (720)200-7217

DISCLOSURE STATEMENT ABOUT MERS

Mortgage Electronic Registration Systems, Inc. (MERS) is named on your mortgage as the mortgagee in a nominee capacity for COUNTRYWIDE HOME LOANS, INC.

(Lender). MERS is a company separate from your lender that operates an electronic tracking system for mortgage rights. MERS is not your lender; it is a company that provides an alternative means of registering the mortgage lien in the public records. MERS maintains a database of all the loans registered with it, including the name of the lender on each loan. Your lender has elected to name MERS as the mortgagee in a nominee capacity and record the mortgage in the public land records to protect its lien against your property.

Naming MERS as the mortgagee and registering the mortgage on the MERS electronic tracking system does not affect your obligation to your Lender, under the Promissory Note.

FHA/VA/CONV
● MERS Disclosure Statement
1D5421US: (12/99).01(d)

DOC ID #: 00015355520211006

ADJUSTABLE RATE RIDER
(LIBOR Index - Rate Caps)

THIS ADJUSTABLE RATE RIDER is made this SEVENTEENTH day of NOVEMBER, 2006, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument") of the same date given by the 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:

4946 DROUBAY DRIVE, LAS VEGAS, NV 89122

[Property Address]

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE AMOUNT THE BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

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

MULTISTATE ADJUSTABLE RATE RIDER - LIBOR INDEX - Single Family

CONV

• BC - ARM Rider

1U193-US (12/05)(d)

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DOC ID #: 00015355520211006

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 8.450 %. The Note provides for changes in the interest rate and the monthly payments, as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**(A) Change Dates**

The interest rate I will pay may change on the first day of DECEMBER, 2008, and on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each 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.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding SIX & 65/100 percentage point(s) (6.650 %) 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%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the maturity date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 9.950 % or less than 8.450 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE & ONE-HALF percentage point(s) (1.500 %) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 15.450 % or less than 8.450 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

CONV

• BC - ARM Rider
1U193-US (12/05)

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DOC ID #: 00015355520211006

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

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

Uniform Covenant 18 of the Security Instrument 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 a 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 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.

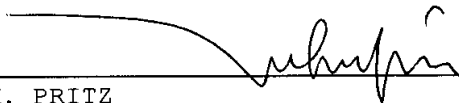
CONV

•BC - ARM Rider
1U193-US (12/05)

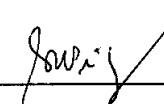
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DOC ID #: 00015355520211006

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



NELSON M. PRITZ (Seal)
- Borrower



SUSAN PRITZ (Seal)
- Borrower

(Seal)
- Borrower

(Seal)
- Borrower

CONV
• BC - ARM Rider
1U193-US (12/05)

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EXHIBIT 2

EXHIBIT 2

EXHIBIT 2

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



DocID# 20815355520216690

Tax ID: 161-26-111-133

Property Address:

4946 Droubay Dr**Las Vegas, NV 89122-8132**

NV0-ADT 15718968 11/21/2011

Inst #: 201111290000514

Fees: \$18.00

N/C Fee: \$25.00

11/29/2011 08:05:59 AM

Receipt #: 990403

Requestor:

CORELOGIC

Recorded By: OSA Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

This space for Recorder's use

MIN #: 1000157-0007499627-9

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 **THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-25** whose address is **101 BARCLAY ST - 4W, NEW YORK, NY 10286** 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: **MERS, INC., AS NOMINEE FOR COUNTRYWIDE HOME LOANS, INC.**Made By: **NELSON M PRITZ, AND SUSAN PRITZ, HUSBAND AND WIFE AS JOINT TENANTS**Trustee: **RECON TRUST**Date of Deed of Trust: **11/17/2006** Original Loan Amount: **\$232,200.00**Recorded in **Clark County, NV** on: **11/22/2006**, book **20061122**, page **0003799** and instrument number **N/A**

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

11/22/11

**MORTGAGE ELECTRONIC REGISTRATION
 SYSTEMS, INC.**

By: 

Edward Gallegos Assistant Secretary.

State of California
County of Ventura

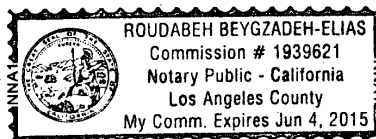
On NOV 22 2011 before me, Roudabeh Beygzadeh-Elias, Notary Public, personally appeared Edward Gallegos, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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: Roudabeh Beygzadeh-Elias
My Commission Expires: June 4, 2015

(Seal)



DocID# 20815355520216690

EXHIBIT 3

EXHIBIT 3

EXHIBIT 3



20090206-0000299

Fee: \$14.00

N/C Fee: \$0.00

02/06/2009

08:54:37

T20090041517

Requestor:

JUNES LEGAL SERVICES

Debbie Conway

SCA

Clark County Recorder Pgs: 1

When recorded return to:

ALESSI & KOENIG, LLC

9500 W. Flamingo Rd., Suite 100

Las Vegas, Nevada 89147

Phone: (702) 222-4033

A.P.N. 161-26-111-133

Trustee Sale # 13855-4946

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, **Squire Village HOA** has a lien on the following legally described property.

The property against which the lien is imposed is commonly referred to as **4946 Droubay Dr , Las Vegas, NV 89122** and more particularly legally described as: **Lot 168 Book 91 Page 36** in the County of **Clark**.

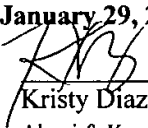
The owner(s) of record as reflected on the public record as of today's date is (are): **Nelson & Susan Pritz**

The mailing address(es) is: **4946 Droubay Dr, Las Vegas, NV 89122**

The total amount due through today's date is: **\$1,138.00**. Of this total amount **\$470.00** 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: **January 29, 2009**

By:

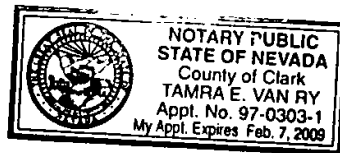

Kristy Diaz – New Account ProcessorAlessi & Koenig, LLC on behalf of **Squire Village**

State of Nevada

County of Clark

SUBSCRIBED and SWORN before me **January 29, 2009**

(Seal)



(Signature)

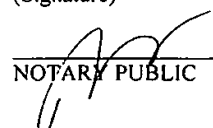

NOTARY PUBLIC

EXHIBIT 4

EXHIBIT 4

EXHIBIT 4



20090501-0003709

Fee: \$14.00

N/C Fee: \$0.00

05/01/2009

15:21:04

T20090152858

Requestor:

JUNES LEGAL SERVICES

Debbie Conway

BGN

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. 161-26-111-133

Trustee Sale No. 13855-4946

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 **\$1,737.00** as of **April 9, 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: **Squire Village, 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 **February 6, 2009** as document number **20090206-00299**, of Official Records in the County of **Clark**, State of Nevada.

Owner(s): **Nelson & Susan Pritz**

Of **Lot 168**, as per map recorded in Book **91**, Pages **36**, 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: 4946 Droubay Dr, Las Vegas, NV 89122

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 **February 6, 2009**, executed by **Squire Village** 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 9, 2009**

Angie Antonio, Alessi & Koenig, LLC on behalf of **Squire Village**.

EXHIBIT 5

EXHIBIT 5

EXHIBIT 5

Inst #: 200912180002859

Fees: \$14.00

N/C Fee: \$0.00

12/18/2009 02:27:04 PM

Receipt #: 167117

Requestor:

JUNES LEGAL SERVICES

Recorded By: CYV Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

When recorded mail to:

Alessi & Koenig, LLC

9500 West Flamingo Rd., Suite 100

Las Vegas, NV 89147

Phone: 702-222-4033

APN: 161-26-111-133

Title No. 042209-9-J TSN 13855-4946 Space above for Recorder's Use**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 January 13, 2010, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on February 6, 2009, as instrument number 00299, 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: 4946 Droubay Dr, Las Vegas, NV 89122. The owner of the real property is purported to be: Nelson & Susan Pritz

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 **\$4,034.00**. 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: November 18, 2009



By: Branko Jettip on behalf of Squire Village

EXHIBIT 6

EXHIBIT 6

EXHIBIT 6

Inst #: 201208210001940

Fees: \$17.00

N/C Fee: \$0.00

08/21/2012 11:39:38 AM

Receipt #: 1279083

Requestor:

ALESSI & KOENIG LLC

Recorded By: CYV 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: 161-26-111-133

TSN 13855-4946

NOTICE OF TRUSTEE'S SALE

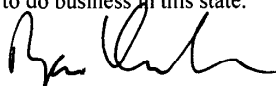
WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL Alessi & Koenig at 702-222-4033. IF YOU NEED ASSISTANCE,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

NOTICE IS HEREBY GIVEN THAT:

On **September 19, 2012**, Alessi & Koenig as duly appointed Trustee pursuant to a certain lien, recorded on **February 6, 2009**, as instrument number **00299**, 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, 2nd Floor)

The street address and other common designation, if any, of the real property described above is purported to be: **4946 Droubay Dr, Las Vegas, NV 89122**. The owner of the real property is purported to be: **Nelson & Susan Pritz**

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 **\$1,100.00**. 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: **August 13, 2012**

By: Ryan Kerbow, Esq. of Alessi & Koenig LLC on behalf of Squire Village at Silver Springs Community Association

EXHIBIT 7

EXHIBIT 7

EXHIBIT 7

Inst #: 201210090001817

Fees: \$17.00 N/C Fee: \$0.00

RPTT: \$28.05 Ex: #

10/09/2012 02:09:10 PM

Receipt #: 1336821

Requestor:

ALESSI & KOENIG LLC

Recorded By: SAO Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

②
-1

When recorded mail to and
Mail Tax Statements to:
SFR Investments Pool I, LLC
2920 N. Green Valley Parkway
Building 5, St 525
Henderson, NV 89014

A.P.N. No.161-26-111-133

TS No. 13855-4946

TRUSTEE'S DEED UPON SALEThe Grantee (Buyer) herein was: **SFR Investments Pool I, LLC**The Foreclosing Beneficiary herein was: **Squire Village at Silver Springs Community Association**The amount of unpaid debt together with costs: **\$5,356.00**The amount paid by the Grantee (Buyer) at the Trustee's Sale: **\$5,358.00**The Documentary Transfer Tax: **\$28.05**Property address: **4946 Droubay Dr, Las Vegas, NV 89122**Said property is in [] unincorporated area: City of **Las Vegas**Trustor (Former Owner that was foreclosed on): **Nelson & Susan Pritz**

Alessi & Koenig, LLC (herein called Trustee), as the duly appointed Trustee under that certain Notice of Delinquent Assessment Lien, recorded **February 6, 2009** as instrument number **00299**, in **Clark** County, does hereby grant, without warranty expressed or implied to: **SFR Investments Pool I, LLC** (Grantee), all its right, title and interest in the property legally described as: **Lot 168**, as per map recorded in Book **91**, Pages **36** 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 **September 19, 2012** at the place indicated on the Notice of Trustee's Sale.

Ryan Kerbow, Esq.

Signature of AUTHORIZED AGENT for **Alessi&Koenig, LLC**

State of Nevada)
County of **Clark**)

SUBSCRIBED and SWORN to before me 09/26, 12

WITNESS my hand and official seal.

(Seal)



(Signature)