

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUPERPUMPER, INC., an Arizona corporation; EDWARD BAYUK, individually and as Trustee of the EDWARD BAYUK LIVING TRUST; SALVATORE MORABITO, an individual; and SNOWSHOE PETROLEUM, INC., a New York corporation,

Petitioners,

vs.

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE CONNIE J. STEINHEIMER,

Respondents,

and

WILLIAM A. LEONARD, Trustee for the Bankruptcy Estate of Paul Anthony Morabito,

Real Party in Interest.

Case No.

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PETITIONERS' APPENDIX,

VOLUME 26

(Nos. 4323-4484)

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6	September 23, 2010 email between Garry M. Graber and P. Morabito	Vol. 12, 1855–1857
7	September 20, 2010 email between Yalamanchili and Eileen Crotty RE: Morabito Wire	Vol. 12, 1858–1861
8	September 20, 2010 email between Yalamanchili and Garry M. Graber RE: All Mortgage Balances as of 9/20/2010	Vol. 12, 1862–1863
9	September 20, 2010 email from Garry M. Graber RE: Call	Vol. 12, 1864–1867
10	September 20, 2010 email from P. Morabito to Dennis and Yalamanchili RE: Attorney client privileged communication	Vol. 12, 1868–1870
11	September 20, 2010 email string RE: Attorney client privileged communication	Vol. 12, 1871–1875
12	Appraisal of Real Property: 370 Los Olivos, Laguna Beach, CA, as of Sept. 24, 2010	Vol. 12, 1876–1903
13	Excerpted Transcript of March 21, 2016 Deposition of P. Morabito	Vol. 12, 1904–1919
14	P. Morabito Redacted Investment and Bank Report from Sept. 1 to Sept. 30, 2010	Vol. 12, 1920–1922
15	Excerpted Transcript of June 25, 2015 Deposition of 341 Meeting of Creditors	Vol. 12, 1923–1927
16	Excerpted Transcript of December 5, 2015 Deposition of P. Morabito	Vol. 12, 1928–1952

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
17	Purchase and Sale Agreement between Arcadia Trust and Bayuk Trust entered effective as of Sept. 27, 2010	Vol. 12, 1953–1961
18	First Amendment to Purchase and Sale Agreement between Arcadia Trust and Bayuk Trust entered effective as of Sept. 28, 2010	Vol. 12, 1962–1964
19	Appraisal Report providing market value estimate of real property located at 8355 Panorama Drive, Reno, NV as of Dec. 7, 2011	Vol. 12, 1965–1995
20	An Appraisal of a vacant .977± Acre Parcel of Industrial Land Located at 49 Clayton Place West of the Pyramid Highway (State Route 445) Sparks, Washoe County, Nevada and a single-family residence located at 8355 Panorama Drive Reno, Washoe County, Nevada 89511 as of October 1, 2010 a retrospective date	Vol. 13, 1996–2073
21	APN: 040-620-09 Declaration of Value (dated 12/31/2012)	Vol. 14, 2074–2075
22	Sellers Closing Statement for real property located at 8355 Panorama Drive, Reno, NV 89511	Vol. 14, 2076–2077
23	Bill of Sale for real property located at 8355 Panorama Drive, Reno, NV 89511	Vol. 14, 2078–2082
24	Operating Agreement of Baruk Properties LLC	Vol. 14, 2083–2093
25	Edward Bayuk, as trustee of the Edward William Bayuk Living Trust's Answer to Plaintiff's First Set of Interrogatories (dated 09/14/2014)	Vol. 14, 2094–2104
26	Summary Appraisal Report of real property located at 1461 Glenneyre Street, Laguna Beach, CA 92651, as of Sept. 25, 2010	Vol. 14, 2105–2155

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
27	Appraisal of Real Property as of Sept. 23, 2010: 1254 Mary Fleming Circle, Palm Springs, CA 92262	Vol. 15, 2156–2185
28	Appraisal of Real Property as of Sept. 23, 2010: 1254 Mary Fleming Circle, Palm Springs, CA 92262	Vol. 15, 2186–2216
29	Membership Interest Transfer Agreement between Arcadia Trust and Bayuk Trust entered effective as of Oct. 1, 2010	Vol. 15, 2217–2224
30	PROMISSORY NOTE [Edward William Bayuk Living Trust (“Borrower”) promises to pay Arcadia Living Trust (“Lender”) the principal sum of \$1,617,050.00, plus applicable interest] (dated 10/01/2010)	Vol. 15, 2225–2228
31	Certificate of Merger dated Oct. 4, 2010	Vol. 15, 2229–2230
32	Articles of Merger Document No. 20100746864-78 (recorded date 10/04/2010)	Vol. 15, 2231–2241
33	Excerpted Transcript of September 28, 2015 Deposition of Edward William Bayuk	Vol. 15, 2242–2256
34	Grant Deed for real property 1254 Mary Fleming Circle, Palm Springs, CA 92262; APN: 507-520-015 (recorded 11/04/2010)	Vol. 15, 2257–2258
35	General Conveyance made as of Oct. 31, 2010 between Woodland Heights Limited (“Vendor”) and Arcadia Living Trust (“Purchaser”)	Vol. 15, 2259–2265
36	Appraisal of Real Property as of Sept. 24, 2010: 371 El Camino Del Mar, Laguna Beach, CA 92651	Vol. 15, 2266–2292

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
37	Excerpted Transcript of December 6, 2016 Deposition of P. Morabito	Vol. 15, 2293–2295
38	Page intentionally left blank	Vol. 15, 2296–2297
39	Ledger of Edward Bayuk to P. Morabito	Vol. 15, 2298–2300
40	Loan Calculator: Payment Amount (Standard Loan Amortization)	Vol. 15, 2301–2304
41	Payment Schedule of Edward Bayuk Note in Favor of P. Morabito	Vol. 15, 2305–2308
42	November 10, 2011 email from Vacco RE: Baruk Properties, LLC/P. Morabito/Bank of America, N.A.	Vol. 15, 2309–2312
43	May 23, 2012 email from Vacco to Steve Peek RE: Formal Settlement Proposal to resolve the Morabito matter	Vol. 15, 2313–2319
44	Excerpted Transcript of March 12, 2015 Deposition of 341 Meeting of Creditors	Vol. 15, 2320–2326
45	Shareholder Interest Purchase Agreement between P. Morabito and Snowshoe Petroleum, Inc. (dated 09/30/2010)	Vol. 15, 2327–2332
46	P. Morabito Statement of Assets & Liabilities as of May 5, 2009	Vol. 15, 2333–2334
47	March 10, 2010 email from Naz Afshar, CPA to Darren Takemoto, CPA RE: Current Personal Financial Statement	Vol. 15, 2335–2337
48	March 10, 2010 email from P. Morabito to Jon RE: ExxonMobil CIM for Florida and associated maps	Vol. 15, 2338–2339

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
49	March 20, 2010 email from P. Morabito to Vacco RE: proceed with placing binding bid on June 22nd with ExxonMobil	Vol. 15, 2340–2341
50	P. Morabito Statement of Assets & Liabilities as of May 30, 2010	Vol. 15, 2342–2343
51	June 28, 2010 email from P. Morabito to George R. Garner RE: ExxonMobil Chicago Market Business Plan Review	Vol. 15, 2344–2345
52	Plan of Merger of Consolidated Western Corp. with and into Superpumper, Inc. (dated 09/28/2010)	Vol. 15, 2346–2364
53	Page intentionally left blank	Vol. 15, 2365–2366
54	BBVA Compass Proposed Request on behalf of Superpumper, Inc. (dated 12/15/2010)	Vol. 15, 2367–2397
55	Business Valuation Agreement between Matrix Capital Markets Group, Inc. and Superpumper, Inc. (dated 09/30/2010)	Vol. 15, 2398–2434
56	Expert report of James L. McGovern, CPA/CFF, CVA (dated 01/25/2016)	Vol. 16, 2435–2509
57	June 18, 2014 email from Sam Morabito to Michael Vanek RE: SPI Analysis	Vol. 17, 2510–2511
58	Declaration of P. Morabito in Support of Opposition to Motion of JH, Inc., Jerry Herbst, and Berry-Hinckley Industries for Order Prohibiting Debtor from Using, Acquiring, or Disposing of or Transferring Assets Pursuant to 11 U.S.C. §§ 105 and 303(f) Pending Appointment of Trustee; Case No. BK-N-13-51237 (filed 07/01/2013)	Vol. 17, 2512–2516

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
59	State of California Secretary of State Limited Liability Company – Snowshoe Properties, LLC; File No. 201027310002 (filed 09/29/2010)	Vol. 17, 2517–2518
60	PROMISSORY NOTE [Snowshoe Petroleum (“Maker”) promises to pay P. Morabito (“Holder”) the principal sum of \$1,462,213.00] (dated 11/01/2010)	Vol. 17, 2519–2529
61	PROMISSORY NOTE [Superpumper, Inc. (“Maker”) promises to pay Compass Bank (the “Bank” and/or “Holder”) the principal sum of \$3,000,000.00] (dated 08/13/2010)	Vol. 17, 2530–2538
62	Excerpted Transcript of October 21, 2015 Deposition of Salvatore R. Morabito	Vol. 17, 2539–2541
63	Page intentionally left blank	Vol. 17, 2542–2543
64	Edward Bayuk’s Answers to Plaintiff’s First Set of Interrogatories (dated 09/14/2014)	Vol. 17, 2544–2557
65	October 12, 2012 email from Stan Bernstein to P. Morabito RE: 2011 return	Vol. 17, 2558–2559
66	Page intentionally left blank	Vol. 17, 2560–2561
67	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 17, 2562–2564
68	Snowshoe Petroleum, Inc.’s letter of intent to set out the framework of the contemplated transaction between: Snowshoe Petroleum, Inc.; David Dwelle, LP; Eclipse Investments, LP; Speedy Investments; and TAD Limited Partnership (dated 04/21/2011)	Vol. 17, 2565–2572

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
69	Excerpted Transcript of July 10, 2017 Deposition of Dennis C. Vacco	Vol. 17, 2573–2579
70	April 15, 2011 email from P. Morabito to Christian Lovelace; Gregory Ivancic; Vacco RE: \$65 million loan offer from Cerberus	Vol. 17, 2580–2582
71	Email from Vacco to P. Morabito RE: \$2 million second mortgage on the Reno house	Vol. 17, 2583–2584
72	Email from Vacco to P. Morabito RE: Tim Haves	Vol. 17, 2585–2586
73	Settlement Agreement, Loan Agreement Modification & Release dated as of Sept. 7, 2012, entered into by Bank of America and P. Morabito	Vol. 17, 2587–2595
74	Page intentionally left blank	Vol. 17, 2596–2597
75	February 10, 2012 email from Vacco to Paul Wells and Timothy Haves RE: 1461 Glenneyre Street, Laguna Beach – Sale	Vol. 17, 2598–2602
76	May 8, 2012 email from P. Morabito to Vacco RE: Proceed with the corporate set-up with Ray, Edward and P. Morabito	Vol. 17, 2603–2604
77	September 4, 2012 email from Vacco to Edward Bayuk RE: Second Deed of Trust documents	Vol. 17, 2605–2606
78	September 18, 2012 email from P. Morabito to Edward Bayuk RE: Deed of Trust	Vol. 17, 2607–2611
79	October 3, 2012 email from Vacco to P. Morabito RE: Term Sheet on both real estate deal and option	Vol. 17, 2612–2614
80	March 14, 2013 email from P. Morabito to Vacco RE: BHI Hinckley	Vol. 17, 2615–2616
81	Page intentionally left blank	Vol. 17, 2617–2618

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Statement of Undisputed Facts (cont.)		
82	November 11, 2011 email from Vacco to P. Morabito RE: Trevor's commitment to sign	Vol. 17, 2619–2620
83	November 28, 2011 email string RE: Wiring \$560,000 to Lippes Mathias	Vol. 17, 2621–2623
84	Page intentionally left blank	Vol. 17, 2624–2625
85	Page intentionally left blank	Vol. 17, 2626–2627
86	Order for Relief Under Chapter 7; Case No. BK-N-13-51236 (filed 12/22/2014)	Vol. 17, 2628–2634
87	Report of Undisputed Election (11 U.S.C § 702); Case No. BK-N-13-51237 (filed 01/23/2015)	Vol. 17, 2635–2637
88	Amended Stipulation and Order to Substitute a Party to NRCP 17(a) (filed 06/11/2015)	Vol. 17, 2638–2642
89	Membership Interest Purchase Agreement, entered into as of Oct. 6, 2010 between P. Morabito and Edward Bayuk	Vol. 17, 2643–2648
90	Complaint; Case No. BK-N-13-51237 (filed 10/15/2015)	Vol. 17, 2649–2686
91	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/2010)	Vol. 17, 2687–2726
Objection to Recommendation for Order filed August 17, 2017 (filed 08/28/2017)		Vol. 18, 2727–2734
Exhibit to Objection to Recommendation for Order		
Exhibit	Document Description	
1	Plaintiff's counsel's Jan. 24, 2017, email memorializing the discovery dispute agreement	Vol. 18, 2735–2736

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Opposition to Objection to Recommendation for Order filed August 17, 2017 (filed 09/05/2017)		Vol. 18, 2737–2748
Exhibit to Opposition to Objection to Recommendation for Order		
Exhibit	Document Description	
A	Declaration of Teresa M. Pilatowicz, Esq., in Support of Opposition to Objection to Recommendation for Order (filed 09/05/2017)	Vol. 18, 2749–2752
Reply to Opposition to Objection to Recommendation for Order filed August 17, 2017 (dated 09/15/2017)		Vol. 18, 2753–2758
Defendants’ Opposition to Plaintiff’s Motion for Partial Summary Judgment (filed 09/22/2017)		Vol. 18, 2759–2774
Defendants’ Separate Statement of Disputed Facts in Support of Opposition to Plaintiff’s Motion for Partial Summary Judgment (filed 09/22/2017)		Vol. 18, 2775–2790
Exhibits to Defendants’ Separate Statement of Disputed Facts in Support of Opposition to Plaintiff’s Motion for Partial Summary Judgment		
Exhibit	Document Description	
1	Judgment in <i>Consolidated Nevada Corp., et al v. JH. et al.</i> ; Case No. CV07-02764 (filed 08/23/2011)	Vol. 18, 2791–2793
2	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 18, 2794–2810
3	Order Denying Motion to Dismiss Involuntary Chapter 7 Petition and Suspending Proceedings Pursuant to 11 U.S.C §305(a)(1); Case No. BK-N-13-51237 (filed 12/17/2013)	Vol. 18, 2811–2814

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Defendants' Separate Statement of Disputed Facts (cont.)		
4	Excerpted Transcript of March 21, 2016 Deposition of P. Morabito	Vol. 18, 2815–2826
5	Excerpted Transcript of September 28, 2015 Deposition of Edward William Bayuk	Vol. 18, 2827–2857
6	Appraisal	Vol. 18, 2858–2859
7	Budget Summary as of Jan. 7, 2016	Vol. 18, 2860–2862
8	Excerpted Transcript of March 24, 2016 Deposition of Dennis Banks	Vol. 18, 2863–2871
9	Excerpted Transcript of March 22, 2016 Deposition of Michael Sewitz	Vol. 18, 2872–2879
10	Excerpted Transcript of April 27, 2011 Deposition of Darryl Noble	Vol. 18, 2880–2883
11	Copies of cancelled checks from Edward Bayuk made payable to P. Morabito	Vol. 18, 2884–2892
12	CBRE Appraisal of 14th Street Card Lock Facility (dated 02/26/2010)	Vol. 18, 2893–2906
13	Bank of America wire transfer from P. Morabito to Salvatore Morabito in the amount of \$146,127.00; and a wire transfer from P. Morabito to Lippes for \$25.00 (date 10/01/2010)	Vol. 18, 2907–2908
14	Excerpted Transcript of October 21, 2015 Deposition of Christian Mark Lovelace	Vol. 18, 2909–2918
15	June 18, 2014 email from Sam Morabito to Michael Vanek RE: Analysis of the Superpumper transaction in 2010	Vol. 18, 2919–2920
16	Excerpted Transcript of October 21, 2015 Deposition of Salvatore R. Morabito	Vol. 18, 2921–2929

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Defendants' Separate Statement of Disputed Facts (cont.)		
17	PROMISSORY NOTE [Snowshoe Petroleum ("Maker") promises to pay P. Morabito ("Holder") the principal sum of \$1,462,213.00] (dated 11/01/2010)	Vol. 18, 2930–2932
18	TERM NOTE [P. Morabito ("Borrower") promises to pay Consolidated Western Corp. ("Lender") the principal sum of \$939,000.00, plus interest] (dated 09/01/2010)	Vol. 18, 2933–2934
19	SUCCESSOR PROMISSORY NOTE [Snowshoe Petroleum ("Maker") promises to pay P. Morabito ("Holder") the principal sum of \$492,937.30, plus interest] (dated 02/01/2011)	Vol. 18, 2935–2937
20	Edward Bayuk's wire transfer to Lippes in the amount of \$517,547.20 (dated 09/29/2010)	Vol. 18, 2938–2940
21	Salvatore Morabito Bank of Montreal September 2011 Wire Transfer	Vol. 18, 2941–2942
22	Declaration of Salvatore Morabito (dated 09/21/2017)	Vol. 18, 2943–2944
23	Edward Bayuk bank wire transfer to Superpumper, Inc., in the amount of \$659,000.00 (dated 09/30/2010)	Vol. 18, 2945–2947
24	Edward Bayuk checking account statements between 2010 and 2011 funding the company with transfers totaling \$500,000	Vol. 18, 2948–2953
25	Salvatore Morabito's wire transfer statement between 2010 and 2011, funding the company with \$750,000	Vol. 18, 2954–2957
26	Payment Schedule of Edward Bayuk Note in Favor of P. Morabito	Vol. 18, 2958–2961

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Defendants' Separate Statement of Disputed Facts (cont.)		
27	September 15, 2010 email from Vacco to Yalamanchili and P. Morabito RE: Follow Up Thoughts	Vol. 18, 2962–2964
Reply in Support of Motion for Partial Summary Judgment (dated 10/10/2017)		Vol. 19, 2965–2973
Order Regarding Discovery Commissioner's Recommendation for Order dated August 17, 2017 (filed 12/07/2017)		Vol. 19, 2974–2981
Order Denying Motion for Partial Summary Judgment (filed 12/11/2017)		Vol. 19, 2982–2997
Defendants' Motions in Limine (filed 09/12/2018)		Vol. 19, 2998–3006
Exhibits to Defendants' Motions in Limine		
Exhibit	Document Description	
1	Plaintiff's Second Supplement to Amended Disclosures Pursuant to NRCP 16.1(A)(1) (dated 04/28/2016)	Vol. 19, 3007–3016
2	Excerpted Transcript of March 25, 2016 Deposition of William A. Leonard	Vol. 19, 3017–3023
3	Plaintiff, Jerry Herbst's Responses to Defendant Snowshoe Petroleum, Inc.'s Set of Interrogatories (dated 02/11/2015); and Plaintiff, Jerry Herbst's Responses to Defendant, Salvatore Morabito's Set of Interrogatories (dated 02/12/2015)	Vol. 19, 3024–3044
Motion in Limine to Exclude Testimony of Jan Friederich (filed 09/20/2018)		Vol. 19, 3045–3056

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Motion in Limine to Exclude Testimony of Jan Friederich		
Exhibit	Document Description	
1	Defendants' Rebuttal Expert Witness Disclosure (dated 02/29/2016)	Vol. 19, 3057–3071
2	Condensed Transcript of March 29, 2016 Deposition of Jan Friederich	Vol. 19, 3072–3086
Opposition to Defendants' Motions in Limine (filed 09/28/2018)		Vol. 19, 3087–3102
Exhibits to Opposition to Defendants' Motions in Limine		
Exhibit	Document Description	
A	Declaration of Teresa M. Pilatowicz, Esq. in Support of Opposition to Defendants' Motions in Limine (filed 09/28/2018)	Vol. 19, 3103–3107
A-1	Plaintiff's February 19, 2016, Amended Disclosures Pursuant to NRCP 16.1(A)(1)	Vol. 19, 3108–3115
A-2	Plaintiff's January 26, 2016, Expert Witnesses Disclosures (without exhibits)	Vol. 19, 3116–3122
A-3	Defendants' January 26, 2016, and February 29, 2016, Expert Witness Disclosures (without exhibits)	Vol. 19, 3123–3131
A-4	Plaintiff's August 17, 2017, Motion for Partial Summary Judgment (without exhibits)	Vol. 19, 3132–3175
A-5	Plaintiff's August 17, 2017, Statement of Undisputed Facts in Support of his Motion for Partial Summary Judgment (without exhibits)	Vol. 19, 3176–3205
Defendants' Reply in Support of Motions in Limine (filed 10/08/2018)		Vol. 20, 3206–3217

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibit to Defendants' Reply in Support of Motions in Limine		
Exhibit	Document Description	
1	Chapter 7 Trustee, William A. Leonard's Responses to Defendants' First Set of Interrogatories (dated 05/28/2015)	Vol. 20, 3218–3236
Defendants' Opposition to Plaintiff's Motions in Limine to Exclude the Testimony of Jan Friederich (filed 10/08/2018)		Vol. 20, 3237–3250
Exhibits to Defendants' Opposition to Plaintiff's Motions in Limine to Exclude the Testimony of Jan Friederich		
Exhibit	Document Description	
1	Excerpt of Matrix Report (dated 10/13/2010)	Vol. 20, 3251–3255
2	Defendants' Rebuttal Expert Witness Disclosure (dated 02/29/2016)	Vol. 20, 3256–3270
3	November 9, 2009 email from P. Morabito to Daniel Fletcher; Jim Benbrook; Don Whitehead; Sam Morabito, etc. RE: Jan Friederich entered consulting agreement with Superpumper	Vol. 20, 3271–3272
4	Excerpted Transcript of March 29, 2016 Deposition of Jan Friederich	Vol. 20, 3273–3296
Defendants' Objections to Plaintiff's Pretrial Disclosures (filed 10/12/2018)		Vol. 20, 3297–3299
Objections to Defendants' Pretrial Disclosures (filed 10/12/2018)		Vol. 20, 3300–3303
Reply to Defendants' Opposition to Plaintiff's Motion in Limine to Exclude the Testimony of Jan Friederich (filed 10/12/2018)		Vol. 20, 3304–3311

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Minutes of September 11, 2018, Pre-trial Conference (filed 10/19/2018)		Vol. 20, 3312
Stipulated Facts (filed 10/29/2018)		Vol. 20, 3313–3321
Defendants’ Points and Authorities RE: Objection to Admission of Documents in Conjunction with the Depositions of P. Morabito and Dennis Vacco (filed 10/30/2018)		Vol. 20, 3322–3325
Plaintiff’s Points and Authorities Regarding Authenticity and Hearsay Issues (filed 10/31/2018)		Vol. 20, 3326–3334
Clerk’s Trial Exhibit List (filed 02/28/2019)		Vol. 21, 3335–3413
Exhibits to Clerk’s Trial Exhibit List		
Exhibit	Document Description	
1	Certified copy of the Transcript of September 13, 2010 Judge’s Ruling; Case No. CV07-02764	Vol. 21, 3414–3438
2	Findings of Fact, Conclusions of Law, and Judgment; Case No. CV07-02764 (filed 10/12/2010)	Vol. 21, 3439–3454
3	Judgment; Case No. CV07-0767 (filed 08/23/2011)	Vol. 21, 3455–3456
4	Confession of Judgment; Case No. CV07-02764 (filed 06/18/2013)	Vol. 21, 3457–3481
5	November 30, 2011 Settlement Agreement and Mutual Release	Vol. 22, 3482–3613
6	March 1, 2013 Forbearance Agreement	Vol. 22, 3614–3622

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
8	Order Denying Motion to Dismiss Involuntary Chapter 7 Petition and Suspending Proceedings, Case 13-51237. ECF No. 94, (filed 12/17/2013)	Vol. 22, 3623–3625
19	Report of Undisputed Election– Appointment of Trustee, Case No. 13-51237, ECF No. 220	Vol. 22, 3626–3627
20	Stipulation and Order to Substitute a Party Pursuant to NRCP 17(a), Case No. CV13-02663, May 15, 2015	Vol. 22, 3628–3632
21	Non-Dischargeable Judgment Regarding Plaintiff's First and Second Causes of Action, Case No. 15-05019-GWZ, ECF No. 123, April 30, 2018	Vol. 22, 3633–3634
22	Memorandum & Decision; Case No. 15-05019-GWZ, ECF No. 124, April 30, 2018	Vol. 22, 3635–3654
23	Amended Findings of Fact, Conclusions of Law in Support of Judgment Regarding Plaintiff's First and Second Causes of Action; Case 15-05019-GWZ, ECF No. 122, April 30, 2018	Vol. 22, 3655–3679
25	September 15, 2010 email from Yalamanchili to Vacco and P. Morabito RE: Follow Up Thoughts	Vol. 22, 3680–3681
26	September 18, 2010 email from P. Morabito to Vacco	Vol. 22, 3682–3683
27	September 20, 2010 email from Vacco to P. Morabito RE: Spirit	Vol. 22, 3684–3684
28	September 20, 2010 email between Yalamanchili and Crotty RE: Morabito -Wire	Vol. 22, 3685–3687
29	September 20, 2010 email from Yalamanchili to Graber RE: Attorney Client Privileged Communication	Vol. 22, 3688–3689

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
30	September 21, 2010 email from P. Morabito to Vacco and Cross RE: Attorney Client Privileged Communication	Vol. 22, 3690–3692
31	September 23, 2010 email chain between Graber and P. Morabito RE: Change of Primary Residence from Reno to Laguna Beach	Vol. 22, 3693–3694
32	September 23, 2010 email from Yalamanchili to Graber RE: Change of Primary Residence from Reno to Laguna Beach	Vol. 22, 3695–3696
33	September 24, 2010 email from P. Morabito to Vacco RE: Superpumper, Inc.	Vol. 22, 3697–3697
34	September 26, 2010 email from Vacco to P. Morabito RE: Judgment for a fixed debt	Vol. 22, 3698–3698
35	September 27, 2010 email from P. Morabito to Vacco RE: First Amendment to Residential Lease executed 9/27/2010	Vol. 22, 3699–3701
36	November 7, 2012 emails between Vacco, P. Morabito, C. Lovelace RE: Attorney Client Privileged Communication	Vol. 22, 3702–3703
37	Morabito BMO Bank Statement – September 2010	Vol. 22, 3704–3710
38	Lippes Mathias Trust Ledger History	Vol. 23, 3711–3716
39	Fifth Amendment & Restatement of the Trust Agreement for the Arcadia Living Trust dated September 30, 2010	Vol. 23, 3717–3755
42	P. Morabito Statement of Assets & Liabilities as of May 5, 2009	Vol. 23, 3756–3756

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
43	March 10, 2010 email chain between Afshar and Takemoto RE: Current Personal Financial Statement	Vol. 23, 3757–3758
44	Salazar Net Worth Report (dated 03/15/2011)	Vol. 23, 3759–3772
45	Purchase and Sale Agreement	Vol. 23, 3773–3780
46	First Amendment to Purchase and Sale Agreement	Vol. 23, 3781–3782
47	Panorama – Estimated Settlement Statement	Vol. 23, 3783–3792
48	El Camino – Final Settlement Statement	Vol. 23, 3793–3793
49	Los Olivos – Final Settlement Statement	Vol. 23, 3794–3794
50	Deed for Transfer of Panorama Property	Vol. 23, 3795–3804
51	Deed for Transfer for Los Olivos	Vol. 23, 3805–3806
52	Deed for Transfer of El Camino	Vol. 23, 3807–3808
53	Kimmel Appraisal Report for Panorama and Clayton	Vol. 23, 3809–3886
54	Bill of Sale – Panorama	Vol. 23, 3887–3890
55	Bill of Sale – Mary Fleming	Vol. 23, 3891–3894
56	Bill of Sale – El Camino	Vol. 23, 3895–3898
57	Bill of Sale – Los Olivos	Vol. 23, 3899–3902
58	Declaration of Value and Transfer Deed of 8355 Panorama (recorded 12/31/2012)	Vol. 23, 3903–3904
60	Baruk Properties Operating Agreement	Vol. 23, 3905–3914
61	Baruk Membership Transfer Agreement	Vol. 24, 3915–3921
62	Promissory Note for \$1,617,050 (dated 10/01/2010)	Vol. 24, 3922–3924

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
63	Baruk Properties/Snowshoe Properties, Certificate of Merger (filed 10/04/2010)	Vol. 24, 3925–3926
64	Baruk Properties/Snowshoe Properties, Articles of Merger	Vol. 24, 3927–3937
65	Grant Deed from Snowshoe to Bayuk Living Trust; Doc No. 2010-0531071 (recorded 11/04/2010)	Vol. 24, 3938–3939
66	Grant Deed – 1461 Glenneyre; Doc No. 2010000511045 (recorded 10/08/2010)	Vol. 24, 3940–3941
67	Grant Deed – 570 Glenneyre; Doc No. 2010000508587 (recorded 10/08/2010)	Vol. 24, 3942–3944
68	Attorney File re: Conveyance between Woodland Heights and Arcadia Living Trust	Vol. 24, 3945–3980
69	October 24, 2011 email from P. Morabito to Vacco RE: Attorney Client Privileged Communication	Vol. 24, 3981–3982
70	November 10, 2011 email chain between Vacco and P. Morabito RE: Baruk Properties, LLC/Paul Morabito/Bank of America, N.A.	Vol. 24, 3983–3985
71	Bayuk First Ledger	Vol. 24, 3986–3987
72	Amortization Schedule	Vol. 24, 3988–3990
73	Bayuk Second Ledger	Vol. 24, 3991–3993
74	Opposition to Motion for Summary Judgment and Declaration of Edward Bayuk; Case No. 13-51237, ECF No. 146 (filed 10/03/2014)	Vol. 24, 3994–4053
75	March 30, 2012 email from Vacco to Bayuk RE: Letter to BOA	Vol. 24, 4054–4055

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
76	March 10, 2010 email chain between P. Morabito and jon@aim13.com RE: Strictly Confidential	Vol. 24, 4056–4056
77	May 20, 2010 email chain between P. Morabito, Vacco and Michael Pace RE: Proceed with placing a Binding Bid on June 22nd with ExxonMobil	Vol. 24, 4057–4057
78	Morabito Personal Financial Statement May 2010	Vol. 24, 4058–4059
79	June 28, 2010 email from P. Morabito to George Garner RE: ExxonMobil Chicago Market Business Plan Review	Vol. 24, 4060–4066
80	Shareholder Interest Purchase Agreement	Vol. 24, 4067–4071
81	Plan of Merger of Consolidated Western Corporation with and Into Superpumper, Inc.	Vol. 24, 4072–4075
82	Articles of Merger of Consolidated Western Corporation with and Into Superpumper, Inc.	Vol. 24, 4076–4077
83	Unanimous Written Consent of the Board of Directors and Sole Shareholder of Superpumper, Inc.	Vol. 24, 4078–4080
84	Unanimous Written Consent of the Directors and Shareholders of Consolidated Western Corporation	Vol. 24, 4081–4083
85	Arizona Corporation Commission Letter dated October 21, 2010	Vol. 24, 4084–4091
86	Nevada Articles of Merger	Vol. 24, 4092–4098
87	New York Creation of Snowshoe	Vol. 24, 4099–4103
88	April 26, 2012 email from Vacco to Afshar RE: Ownership Structure of SPI	Vol. 24, 4104–4106
90	September 30, 2010 Matrix Retention Agreement	Vol. 24, 4107–4110

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
91	McGovern Expert Report	Vol. 25, 4111–4189
92	Appendix B to McGovern Report – Source 4 – Budgets	Vol. 25, 4190–4191
103	Superpumper Note in the amount of \$1,462,213.00 (dated 11/01/2010)	Vol. 25, 4192–4193
104	Superpumper Successor Note in the amount of \$492,937.30 (dated 02/01/2011)	Vol. 25, 4194–4195
105	Superpumper Successor Note in the amount of \$939,000 (dated 02/01/2011)	Vol. 25, 4196–4197
106	Superpumper Stock Power transfers to S. Morabito and Bayuk (dated 01/01/2011)	Vol. 25, 4198–4199
107	<i>Declaration of P. Morabito in Support of Opposition to Motion of JH, Inc., Jerry Herbst, and Berry- Hinckley Industries for Order Prohibiting Debtor from Using, Acquiring or Transferring Assets Pursuant to 11 U.S.C. §§ 105 and 303(f) Pending Appointment of Trustee, Case 13-51237, ECF No. 22 (filed 07/01/2013)</i>	Vol. 25, 4200–4203
108	October 12, 2012 email between P. Morabito and Bernstein RE: 2011 Return	Vol. 25, 4204–4204
109	Compass Term Loan (dated 12/21/2016)	Vol. 25, 4205–4213
110	P. Morabito – Term Note in the amount of \$939,000.000 (dated 09/01/2010)	Vol. 25, 4214–4214
111	Loan Agreement between Compass Bank and Superpumper (dated 12/21/2016)	Vol. 25, 4215–4244
112	Consent Agreement (dated 12/28/2010)	Vol. 25, 4245–4249
113	Superpumper Financial Statement (dated 12/31/2007)	Vol. 25, 4250–4263

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
114	Superpumper Financial Statement (dated 12/31/2009)	Vol. 25, 4264–4276
115	Notes Receivable Interest Income Calculation (dated 12/31/2009)	Vol. 25, 4277–4278
116	Superpumper Inc. Audit Conclusions Memo (dated 12/31/2010)	Vol. 25, 4279–4284
117	Superpumper 2010 YTD Income Statement and Balance Sheets	Vol. 25, 4285–4299
118	March 12, 2010 Management Letter	Vol. 25, 4300–4302
119	Superpumper Unaudited August 2010 Balance Sheet	Vol. 25, 4303–4307
120	Superpumper Financial Statements (dated 12/31/2010)	Vol. 25, 4308–4322
121	Notes Receivable Balance as of September 30, 2010	Vol. 26, 4323
122	Salvatore Morabito Term Note \$2,563,542.00 as of December 31, 2010	Vol. 26, 4324–4325
123	Edward Bayuk Term Note \$2,580,500.00 as of December 31, 2010	Vol. 26, 4326–4327
125	April 21, 2011 Management letter	Vol. 26, 4328–4330
126	Bayuk and S. Morabito Statements of Assets & Liabilities as of February 1, 2011	Vol. 26, 4331–4332
127	January 6, 2012 email from Bayuk to Lovelace RE: Letter of Credit	Vol. 26, 4333–4335
128	January 6, 2012 email from Vacco to Bernstein	Vol. 26, 4336–4338
129	January 7, 2012 email from Bernstein to Lovelace	Vol. 26, 4339–4343
130	March 18, 2012 email from P. Morabito to Vacco	Vol. 26, 4344–4344

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Exhibits to Clerk's Trial Exhibit List (cont.)		
131	April 21, 2011 Proposed Acquisition of Nella Oil	Vol. 26, 4345–4351
132	April 15, 2011 email chain between P. Morabito and Vacco	Vol. 26, 4352
133	April 5, 2011 email from P. Morabito to Vacco	Vol. 26, 4353
134	April 16, 2012 email from Vacco to Morabito	Vol. 26, 4354–4359
135	August 7, 2011 email exchange between Vacco and P. Morabito	Vol. 26, 4360
136	August 2011 Lovelace letter to Timothy Halves	Vol. 26, 4361–4365
137	August 24, 2011 email from Vacco to P. Morabito RE: Tim Haves	Vol. 26, 4366
138	November 11, 2011 email from Vacco to P. Morabito RE: Getting Trevor's commitment to sign	Vol. 26, 4367
139	November 16, 2011 email from P. Morabito to Vacco RE: Vacco's litigation letter	Vol. 26, 4368
140	November 28, 2011 email chain between Vacco, S. Morabito, and P. Morabito RE: \$560,000 wire to Lippes Mathias	Vol. 26, 4369–4370
141	December 7, 2011 email from Vacco to P. Morabito RE: Moreno	Vol. 26, 4371
142	February 10, 2012 email chain between P. Morabito Wells, and Vacco RE: 1461 Glenneyre Street - Sale	Vol. 26, 4372–4375
143	April 20, 2012 email from P. Morabito to Bayuk RE: BofA	Vol. 26, 4376
144	April 24, 2012 email from P. Morabito to Vacco RE: SPI Loan Detail	Vol. 26, 4377–4378

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
145	September 4, 2012 email chain between Vacco and Bayuk RE: Second Deed of Trust documents	Vol. 26, 4379–4418
147	September 4, 2012 email from P. Morabito to Vacco RE: Wire	Vol. 26, 4419–4422
148	September 4, 2012 email from Bayuk to Vacco RE: Wire	Vol. 26, 4423–4426
149	December 6, 2012 email from Vacco to P. Morabito RE: BOA and the path of money	Vol. 26, 4427–4428
150	September 18, 2012 email chain between P. Morabito and Bayuk	Vol. 26, 4429–4432
151	October 3, 2012 email chain between Vacco and P. Morabito RE: Snowshoe Properties, LLC	Vol. 26, 4433–4434
152	September 3, 2012 email from P. Morabito to Vacco RE: Wire	Vol. 26, 4435
153	March 14, 2013 email chain between P. Morabito and Vacco RE: BHI Hinckley	Vol. 26, 4436
154	Paul Morabito 2009 Tax Return	Vol. 26, 4437–4463
155	Superpumper Form 8879-S tax year ended December 31, 2010	Vol. 26, 4464–4484
156	2010 U.S. S Corporation Tax Return for Consolidated Western Corporation	Vol. 27, 4485–4556
157	Snowshoe form 8879-S for year ended December 31, 2010	Vol. 27, 4557–4577
158	Snowshoe Form 1120S 2011 Amended Tax Return	Vol. 27, 4578–4655
159	September 14, 2012 email from Vacco to P. Morabito	Vol. 27, 4656–4657

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Exhibits to Clerk's Trial Exhibit List (cont.)		
160	October 1, 2012 email from P. Morabito to Vacco RE: Monday work for Dennis and Christian	Vol. 27, 4658
161	December 18, 2012 email from Vacco to P. Morabito RE: Attorney Client Privileged Communication	Vol. 27, 4659
162	April 24, 2013 email from P. Morabito to Vacco RE: BHI Trust	Vol. 27, 4660
163	Membership Interest Purchases, Agreement – Watch My Block (dated 10/06/2010)	Vol. 27, 4661–4665
164	Watch My Block organizational documents	Vol. 27, 4666–4669
174	October 15, 2015 Certificate of Service of copy of Lippes Mathias Wexler Friedman's Response to Subpoena	Vol. 27, 4670
175	Order Granting Motion to Compel Responses to Deposition Questions ECF No. 502; Case No. 13- 51237-gwz (filed 02/03/2016)	Vol. 27, 4671–4675
179	Gursey Schneider LLP Subpoena	Vol. 28, 4676–4697
180	Summary Appraisal of 570 Glenneyre	Vol. 28, 4698–4728
181	Appraisal of 1461 Glenneyre Street	Vol. 28, 4729–4777
182	Appraisal of 370 Los Olivos	Vol. 28, 4778–4804
183	Appraisal of 371 El Camino Del Mar	Vol. 28, 4805–4830
184	Appraisal of 1254 Mary Fleming Circle	Vol. 28, 4831–4859
185	Mortgage – Panorama	Vol. 28, 4860–4860
186	Mortgage – El Camino	Vol. 28, 4861
187	Mortgage – Los Olivos	Vol. 28, 4862
188	Mortgage – Glenneyre	Vol. 28, 4863

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Exhibits to Clerk's Trial Exhibit List (cont.)		
189	Mortgage – Mary Fleming	Vol. 28, 4864
190	Settlement Statement – 371 El Camino Del Mar	Vol. 28, 4865
191	Settlement Statement – 370 Los Olivos	Vol. 28, 4866
192	2010 Declaration of Value of 8355 Panorama Dr	Vol. 28, 4867–4868
193	Mortgage – 8355 Panorama Drive	Vol. 28, 4869–4870
194	Compass – Certificate of Custodian of Records (dated 12/21/2016)	Vol. 28, 4871–4871
196	June 6, 2014 Declaration of Sam Morabito – Exhibit 1 to Snowshoe Reply in Support of Motion to Dismiss Complaint for Lack of Personal Jurisdiction – filed in Case No. CV13-02663	Vol. 28, 4872–4874
197	June 19, 2014 Declaration of Sam Morabito – Exhibit 1 to Superpumper Motion to Dismiss Complaint for Lack of Personal Jurisdiction – filed in Case No. CV13-02663	Vol. 28, 4875–4877
198	September 22, 2017 Declaration of Sam Morabito – Exhibit 22 to Defendants' SSOF in Support of Opposition to Plaintiff's MSJ – filed in Case No. CV13-02663	Vol. 28, 4878–4879
222	Kimmel – January 21, 2016, Comment on Alves Appraisal	Vol. 28, 4880–4883
223	September 20, 2010 email from Yalamanchili to Morabito	Vol. 28, 4884
224	March 24, 2011 email from Naz Afshar RE: telephone call regarding CWC	Vol. 28, 4885–4886
225	Bank of America Records for Edward Bayuk (dated 09/05/2012)	Vol. 28, 4887–4897

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
226	June 11, 2007 Wholesale Marketer Agreement	Vol. 29, 4898–4921
227	May 25, 2006 Wholesale Marketer Facility Development Incentive Program Agreement	Vol. 29, 4922–4928
228	June 2007 Master Lease Agreement – Spirit SPE Portfolio and Superpumper, Inc.	Vol. 29, 4929–4983
229	Superpumper Inc 2008 Financial Statement (dated 12/31/2008)	Vol. 29, 4984–4996
230	November 9, 2009 email from P. Morabito to Bernstein, Yalaman RE: Jan Friederich – entered into Consulting Agreement	Vol. 29, 4997
231	September 30, 2010, Letter from Compass to Superpumper, Morabito, CWC RE: reducing face amount of the revolving note	Vol. 29, 4998–5001
232	October 15, 2010, letter from Quarles & Brady to Vacco RE: Revolving Loan Documents and Term Loan Documents between Superpumper and Compass Bank	Vol. 29, 5002–5006
233	BMO Account Tracker Banking Report October 1 to October 31, 2010	Vol. 29, 5007–5013
235	August 31, 2010 Superpumper Inc., Valuation of 100 percent of the common equity in Superpumper, Inc on a controlling marketable basis	Vol. 29, 5014–5059
236	June 18, 2014 email from S. Morabito to Vanek (WF) RE: Analysis of Superpumper Acquisition in 2010	Vol. 29, 5060–5061
241	Superpumper March 2010 YTD Income Statement	Vol. 29, 5062–5076

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244	Assignment Agreement for \$939,000 Morabito Note	Vol. 29, 5077–5079
247	July 1, 2011 Third Amendment to Forbearance Agreement Superpumper and Compass Bank	Vol. 29, 5080–5088
248	Superpumper Cash Contributions January 2010 thru September 2015 – Bayuk and S. Morabito	Vol. 29, 5089–5096
252	October 15, 2010 Letter from Quarles & Brady to Vacco RE: Revolving Loan documents and Term Loan documents between Superpumper Prop. and Compass Bank	Vol. 29, 5097–5099
254	Bank of America – S. Morabito SP Properties Sale, SP Purchase Balance	Vol. 29, 5100
255	Superpumper Prop. Final Closing Statement for 920 Mountain City Hwy, Elko, NV	Vol. 29, 5101
256	September 30, 2010 Raffles Insurance Limited Member Summary	Vol. 29, 5102
257	Equalization Spreadsheet	Vol. 30, 5103
258	November 9, 2005 Grant, Bargain and Sale Deed; Doc #3306300 for Property Washoe County	Vol. 30, 5104–5105
260	January 7, 2016 Budget Summary – Panorama Drive	Vol. 30, 5106–5107
261	Mary 22, 2006 Compilation of Quotes and Invoices Quote of Valley Drapery	Vol. 30, 5108–5116
262	Photos of 8355 Panorama Home	Vol. 30, 5117–5151
263	Water Rights Deed (Document #4190152) between P. Morabito, E. Bayuk, Grantors, RCA Trust One Grantee (recorded 12/31/2012)	Vol. 30, 5152–5155

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Exhibits to Clerk's Trial Exhibit List (cont.)		
265	October 1, 2010 Bank of America Wire Transfer –Bayuk – Morabito \$60,117	Vol. 30, 5156
266	October 1, 2010 Check #2354 from Bayuk to P. Morabito for \$29,383 for 8355 Panorama funding	Vol. 30, 5157–5158
268	October 1, 2010 Check #2356 from Bayuk to P. Morabito for \$12,763 for 370 Los Olivos Funding	Vol. 30, 5159–5160
269	October 1, 2010 Check #2357 from Bayuk to P. Morabito for \$31,284 for 371 El Camino Del Mar Funding	Vol. 30, 5161–5162
270	Bayuk Payment Ledger Support Documents Checks and Bank Statements	Vol. 31, 5163–5352
271	Bayuk Superpumper Contributions	Vol. 31, 5353–5358
272	May 14, 2012 email string between P. Morabito, Vacco, Bayuk, and S. Bernstein RE: Info for Laguna purchase	Vol. 31, 5359–5363
276	September 21, 2010 Appraisal of 8355 Panorama Drive Reno, NV by Alves Appraisal	Vol. 32, 5364–5400
277	Assessor's Map/Home Comparisons for 8355 Panorama Drive, Reno, NV	Vol. 32, 5401–5437
278	December 3, 2007 Case Docket for CV07-02764	Vol. 32, 5438–5564
280	May 25, 2011 Stipulation Regarding the Imposition of Punitive Damages; Case No. CV07-02764 (filed 05/25/2011)	Vol. 33, 5565–5570
281	Work File for September 24, 2010 Appraisal of 8355 Panorama Drive, Reno, NV	Vol. 33, 5571–5628
283	January 25, 2016 Expert Witness Report Leonard v. Superpumper Snowshoe	Vol. 33, 5629–5652

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
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284	February 29, 2016 Defendants' Rebuttal Expert Witness Disclosure	Vol. 33, 5653–5666
294	October 5, 2010 Lippes, Mathias Wexler Friedman, LLP, Invoices to P. Morabito	Vol. 33, 5667–5680
295	P. Morabito 2010 Tax Return (dated 10/16/2011)	Vol. 33, 5681–5739
296	December 31, 2010 Superpumper Inc. Note to Financial Statements	Vol. 33, 5740–5743
297	December 31, 2010 Superpumper Consultations	Vol. 33, 5744
300	September 20, 2010 email chain between Yalmanchili and Graber RE: Attorney Client Privileged Communication	Vol. 33, 5745–5748
301	September 15, 2010 email from Vacco to P. Morabito RE: Tomorrow	Vol. 33, 5749–5752
303	Bankruptcy Court District of Nevada Claims Register Case No. 13-51237	Vol. 33, 5753–5755
304	April 14, 2018 email from Allen to Krausz RE: Superpumper	Vol. 33, 5756–5757
305	Subpoena in a Case Under the Bankruptcy Code to Robison, Sharp, Sullivan & Brust issued in Case No. BK-N-13-51237-GWZ	Vol. 33, 5758–5768
306	August 30, 2018 letter to Mark Weisenmiller, Esq., from Frank Gilmore, Esq.,	Vol. 34, 5769
307	Order Granting Motion to Compel Compliance with the Subpoena to Robison, Sharp, Sullivan & Brust filed in Case No. BK-N-13-51237-GWZ	Vol. 34, 5770–5772
308	Response of Robison, Sharp, Sullivan & Brust's to Subpoena filed in Case No. BK-N-13-51237-GWZ	Vol. 34, 5773–5797

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Clerk's Trial Exhibit List (cont.)		
309	Declaration of Frank C. Gilmore in support of Robison, Sharp, Sullivan & Brust's Opposition to Motion for Order Holding Robison in Contempt filed in Case No. BK-N-13-51237-GWZ	Vol. 34, 5798–5801
Minutes of October 29, 2018, Non-Jury Trial, Day 1 (filed 11/08/2018)		Vol. 35, 5802–6041
Transcript of October 29, 2018, Non-Jury Trial, Day 1		Vol. 35, 6042–6045
Minutes of October 30, 2018, Non-Jury Trial, Day 2 (filed 11/08/2018)		Vol. 36, 6046–6283
Transcript of October 30, 2018, Non-Jury Trial, Day 2		Vol. 36, 6284–6286
Minutes of October 31, 2018, Non-Jury Trial, Day 3 (filed 11/08/2018)		Vol. 37, 6287–6548
Transcript of October 31, 2018, Non-Jury Trial, Day 3		Vol. 37, 6549–6552
Minutes of November 1, 2018, Non-Jury Trial, Day 4 (filed 11/08/2018)		Vol. 38, 6553–6814
Transcript of November 1, 2018, Non-Jury Trial, Day 4		Vol. 38, 6815–6817
Minutes of November 2, 2018, Non-Jury Trial, Day 5 (filed 11/08/2018)		Vol. 39, 6818–7007
Transcript of November 2, 2018, Non-Jury Trial, Day 5		Vol. 39, 7008–7011
Minutes of November 5, 2018, Non-Jury Trial, Day 6 (filed 11/08/2018)		Vol. 40, 7012–7167
Transcript of November 5, 2018, Non-Jury Trial, Day 6		Vol. 40, 7168–7169

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Minutes of November 6, 2018, Non-Jury Trial, Day 7 (filed 11/08/2018)		Vol. 41, 7170–7269
Transcript of November 6, 2018, Non-Jury Trial, Day 7		Vol. 41, 7270–7272 Vol. 42, 7273–7474
Minutes of November 7, 2018, Non-Jury Trial, Day 8 (filed 11/08/2018)		Vol. 43, 7475–7476
Transcript of November 7, 2018, Non-Jury Trial, Day 8		Vol. 43, 7477–7615
Minutes of November 26, 2018, Non-Jury Trial, Day 9 (filed 11/26/2018)		Vol. 44, 7616
Transcript of November 26, 2018, Non-Jury Trial – Closing Arguments, Day 9		Vol. 44, 7617–7666 Vol. 45, 7667–7893
Plaintiff’s Motion to Reopen Evidence (filed 01/30/2019)		Vol. 46, 7894–7908
Exhibits to Plaintiff’s Motion to Reopen Evidence		
Exhibit	Document Description	
1	Declaration of Gabrielle A. Hamm, Esq. in Support of Plaintiff’s Motion to Reopen	Vol. 46, 7909–7913
1-A	September 21, 2017 Declaration of Salvatore Morabito	Vol. 46, 7914–7916
1-B	Defendants’ Proposed Findings of Fact, Conclusions of Law, and Judgment (Nov. 26, 2018)	Vol. 46, 7917–7957
1-C	Judgment on the First and Second Causes of Action; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 123 (April 30, 2018)	Vol. 46, 7958–7962

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Plaintiff's Motion to Reopen Evidence (cont.)		
1-D	Amended Findings of Fact and Conclusions of Law in Support of Judgment Regarding Plaintiffs' First and Second Causes of Action; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 126 (April 30, 2018)	Vol. 46, 7963–7994
1-E	Motion to Compel Compliance with the Subpoena to Robison Sharp Sullivan Brust; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 191 (Sept. 10, 2018)	Vol. 46, 7995–8035
1-F	Order Granting Motion to Compel Compliance with the Subpoena to Robison Sharp Sullivan Brust; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 229 (Jan. 3, 2019)	Vol. 46, 8036–8039
1-G	Response of Robison, Sharp, Sullivan & Brust[] To Subpoena (including RSSB_000001 – RSSB_000031) (Jan. 18, 2019)	Vol. 46, 8040–8067
1-H	Excerpts of Deposition Transcript of Sam Morabito as PMK of Snowshoe Petroleum, Inc. (Oct. 1, 2015)	Vol. 46, 8068–8076
Errata to: Plaintiff's Motion to Reopen Evidence (filed 01/30/2019)		Vol. 47, 8077–8080
Exhibit to Errata to: Plaintiff's Motion to Reopen Evidence		
Exhibit	Document Description	
1	Plaintiff's Motion to Reopen Evidence	Vol. 47, 8081–8096

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Ex Parte Motion for Order Shortening Time on Plaintiff's Motion to Reopen Evidence and for Expedited Hearing (filed 01/31/2019)		Vol. 47, 8097–8102
Order Shortening Time on Plaintiff's Motion to Reopen Evidence and for Expedited Hearing (filed 02/04/2019)		Vol. 47, 8103–8105
Supplement to Plaintiff's Motion to Reopen Evidence (filed 02/04/2019)		Vol. 47, 8106–8110
Exhibits to Supplement to Plaintiff's Motion to Reopen Evidence		
Exhibit	Document Description	
1	Supplemental Declaration of Gabrielle A. Hamm, Esq. in Support of Plaintiff's Motion to Reopen Evidence (filed 02/04/2019)	Vol. 47, 8111–8113
1-I	Declaration of Frank C. Gilmore in Support of Robison, Sharp Sullivan & Brust's Opposition to Motion for Order Holding Robison in Contempt; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 259 (Jan. 30, 2019)	Vol. 47, 8114–8128
Defendants' Response to Motion to Reopen Evidence (02/06/2019)		Vol. 47, 8129–8135
Plaintiff's Reply to Defendants' Response to Motion to Reopen Evidence (filed 02/07/2019)		Vol. 47, 8136–8143
Minutes of February 7, 2019 hearing on Motion to Reopen Evidence (filed 02/28/2019)		Vol. 47, 8144
Rough Draft Transcript of February 8, 2019 hearing on Motion to Reopen Evidence		Vol. 47, 8145–8158

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
[Plaintiff's Proposed] Findings of Fact, Conclusions of Law, and Judgment (filed 03/06/2019)		Vol. 47, 8159–8224
[Defendants' Proposed Amended] Findings of Fact, Conclusions of Law, and Judgment (filed 03/08/2019)		Vol. 47, 8225–8268
Minutes of February 26, 2019 hearing on Motion to Continue ongoing Non-Jury Trial (Telephonic) (filed 03/11/2019)		Vol. 47, 8269
Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)		Vol. 48, 8270–8333
Notice of Entry of Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)		Vol. 48, 8334–8340
Memorandum of Costs and Disbursements (filed 04/11/2019)		Vol. 48, 8341–8347
Exhibit to Memorandum of Costs and Disbursements		
Exhibit	Document Description	
1	Ledger of Costs	Vol. 48, 8348–8370
Application for Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 04/12/2019)		Vol. 48, 8371–8384
Exhibits to Application for Attorneys' Fees and Costs Pursuant to NRCP 68		
Exhibit	Document Description	
1	Declaration of Teresa M. Pilatowicz In Support of Plaintiff's Application for Attorney's Fees and Costs Pursuant to NRCP 68 (filed 04/12/2019)	Vol. 48, 8385–8390
2	Plaintiff's Offer of Judgment to Defendants (dated 05/31/2016)	Vol. 48, 8391–8397

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
3	Defendant's Rejection of Offer of Judgment by Plaintiff (dated 06/15/2016)	Vol. 48, 8398–8399
4	Log of time entries from June 1, 2016 to March 28, 2019	Vol. 48, 8400–8456
5	Plaintiff's Memorandum of Costs and Disbursements (filed 04/11/2019)	Vol. 48, 8457–8487
Motion to Retax Costs (filed 04/15/2019)		Vol. 49, 8488–8495
Plaintiff's Opposition to Motion to Retax Costs (filed 04/17/2019)		Vol. 49, 8496–8507
Exhibits to Plaintiff's Opposition to Motion to Retax Costs		
Exhibit	Document Description	
1	Declaration of Teresa M. Pilatowicz In Support of Opposition to Motion to Retax Costs (filed 04/17/2019)	Vol. 49, 8508–8510
2	Summary of Photocopy Charges	Vol. 49, 8511–8523
3	James L. McGovern Curriculum Vitae	Vol. 49, 8524–8530
4	McGovern & Greene LLP Invoices	Vol. 49, 8531–8552
5	Buss-Shelger Associates Invoices	Vol. 49, 8553–8555
Reply in Support of Motion to Retax Costs (filed 04/22/2019)		Vol. 49, 8556–8562
Opposition to Application for Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 04/25/2019)		Vol. 49, 8563–8578
Exhibit to Opposition to Application for Attorneys' Fees and Costs Pursuant to NRCP 68		

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibit	Document Description	
1	Plaintiff's Bill Dispute Ledger	Vol. 49, 8579–8637
	Defendants, Salvatore Morabito, Snowshoe Petroleum, Inc., and Superpumper, Inc.'s Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 04/25/2019)	Vol. 49, 8638–8657
	Defendant, Edward Bayuk's Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 04/26/2019)	Vol. 50, 8658–8676
	Exhibits to Edward Bayuk's Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60	
Exhibit	Document Description	
1	February 27, 2019 email with attachments	Vol. 50, 8677–8768
2	Declaration of Frank C. Gilmore in Support of Edward Bayuk's Motion for New Trial (filed 04/26/2019)	Vol. 50, 8769–8771
3	February 27, 2019 email from Marcy Trabert	Vol. 50, 8772–8775
4	February 27, 2019 email from Frank Gilmore to eturner@Gtg.legal RE: Friday Trial	Vol. 50, 8776–8777
	Plaintiff's Reply in Support of Application of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 04/30/2019)	Vol. 50, 8778–8790
	Exhibit to Plaintiff's Reply in Support of Application of Attorneys' Fees and Costs Pursuant to NRCP 68	
Exhibit	Document Description	
1	Case No. BK-13-51237-GWZ, ECF Nos. 280, 282, and 321	Vol. 50, 8791–8835

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Plaintiff's Opposition to Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 05/07/2019)		Vol. 51, 8836–8858
Defendants, Salvatore Morabito, Snowshoe Petroleum, Inc., and Superpumper, Inc.'s Reply in Support of Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 05/14/2019)		Vol. 51, 8859–8864
Declaration of Edward Bayuk Claiming Exemption from Execution (filed 06/28/2019)		Vol. 51, 8865–8870
Exhibits to Declaration of Edward Bayuk Claiming Exemption from Execution		
Exhibit	Document Description	
1	Copy of June 22, 2019 Notice of Execution and two Write of Executions	Vol. 51, 8871–8896
2	Declaration of James Arthur Gibbons Regarding his Attestation, Witness and Certification on November 12, 2005 of the Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 06/25/2019)	Vol. 51, 8897–8942
Notice of Claim of Exemption from Execution (filed 06/28/2019)		Vol. 51, 8943–8949
Edward Bayuk's Declaration of Salvatore Morabito Claiming Exemption from Execution (filed 07/02/2019)		Vol. 51, 8950–8954
Exhibits to Declaration of Salvatore Morabito Claiming Exemption from Execution		
Exhibit	Document Description	
1	Las Vegas June 22, 2019 letter	Vol. 51, 8955–8956
2	Writs of execution and the notice of execution	Vol. 51, 8957–8970

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Minutes of June 24, 2019 telephonic hearing on Decision on Submitted Motions (filed 07/02/2019)		Vol. 51, 8971–8972
Salvatore Morabito’s Notice of Claim of Exemption from Execution (filed 07/02/2019)		Vol. 51, 8973–8976
Edward Bayuk’s Third Party Claim to Property Levied Upon NRS 31.070 (filed 07/03/2019)		Vol. 51, 8977–8982
Order Granting Plaintiff’s Application for an Award of Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)		Vol. 51, 8983–8985
Order Granting in part and Denying in part Motion to Retax Costs (filed 07/10/2019)		Vol. 51, 8986–8988
Plaintiff’s Objection to (1) Claim of Exemption from Execution and (2) Third Party Claim to Property Levied Upon, and Request for Hearing Pursuant to NRS 21.112 and 31.070(5) (filed 07/11/2019)		Vol. 52, 8989–9003
Exhibits to Plaintiff’s Objection to (1) Claim of Exemption from Execution and (2) Third Party Claim to Property Levied Upon, and Request for Hearing Pursuant to NRS 21.112 and 31.070(5)		
Exhibit	Document Description	
1	Declaration of Gabrielle A. Hamm, Esq.	Vol. 52, 9004–9007
2	11/30/2011 Tolling Agreement – Edward Bayuk	Vol. 52, 9008–9023
3	11/30/2011 Tolling Agreement – Edward William Bayuk Living Trust	Vol. 52, 9024–9035
4	Excerpts of 9/28/2015 Deposition of Edward Bayuk	Vol. 52, 9036–9041

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Plaintiff's Objection (cont.)		
5	Edward Bayuk, as Trustee of the Edward William Bayuk Living Trust's Responses to Plaintiff's First Set of Requests for Production, served 9/24/2015	Vol. 52, 9042–9051
6	8/26/2009 Grant Deed (Los Olivos)	Vol. 52, 9052–9056
7	8/17/2018 Grant Deed (El Camino)	Vol. 52, 9057–9062
8	Trial Ex. 4 (Confession of Judgment)	Vol. 52, 9063–9088
9	Trial Ex. 45 (Purchase and Sale Agreement, dated 9/28/2010)	Vol. 52, 9089–9097
10	Trial Ex. 46 (First Amendment to Purchase and Sale Agreement, dated 9/29/2010)	Vol. 52, 9098–9100
11	Trial Ex. 51 (Los Olivos Grant Deed recorded 10/8/2010)	Vol. 52, 9101–9103
12	Trial Ex. 52 (El Camino Grant Deed recorded 10/8/2010)	Vol. 52, 9104–9106
13	Trial Ex. 61 (Membership Interest Transfer Agreement, dated 10/1/2010)	Vol. 52, 9107–9114
14	Trial Ex. 62 (\$1,617,050.00 Promissory Note)	Vol. 52, 9115–9118
15	Trial Ex. 65 (Mary Fleming Grant Deed recorded 11/4/2010)	Vol. 52, 9119–9121
Notice of Entry of Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 07/16/2019)		Vol. 52, 9122–9124

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibit to Notice of Entry of Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment		
Exhibit	Document Description	
1	Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 07/10/2019)	Vol. 52, 9125–9127
Notice of Entry of Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/16/2019)		Vol. 52, 9128–9130
Exhibit to Notice of Entry of Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68		
Exhibit	Document Description	
1	Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)	Vol. 52, 9131–9134
Notice of Entry of Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/16/2019)		Vol. 52, 9135–9137
Exhibit to Notice of Entry of Order Granting in Part and Denying in Part Motion to Retax Costs		
Exhibit	Document Description	
1	Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/10/2019)	Vol. 52, 9138–9141
Plaintiff's Objection to Notice of Claim of Exemption from Execution Filed by Salvatore Morabito and Request for Hearing (filed 07/16/2019)		Vol. 52, 9142–9146
Reply to Objection to Claim of Exemption and Third Party Claim to Property Levied Upon (filed 07/17/2019)		Vol. 52, 9147–9162

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Reply to Objection to Claim of Exemption and Third Party Claim to Property Levied Upon		
Exhibit	Document Description	
1	March 3, 2011 Deposition Transcript of P. Morabito	Vol. 52, 9163–9174
2	Mr. Bayuk’s September 23, 2014 responses to Plaintiff’s first set of requests for production	Vol. 52, 9175–9180
3	September 28, 2015 Deposition Transcript of Edward Bayuk	Vol. 52, 9181–9190
Reply to Plaintiff’s Objection to Notice of Claim of Exemption from Execution (filed 07/18/2019)		Vol. 52, 9191–9194
Declaration of Service of Till Tap, Notice of Attachment and Levy Upon Property (filed 07/29/2019)		Vol. 52, 9195
Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/2019)		Vol. 52, 9196–9199
Exhibits to Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim		
Exhibit	Document Description	
1	Plaintiff’s Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 52, 9200–9204
2	Bayuk and the Bayuk Trust’s proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 52, 9205–9210
3	July 30, 2019 email evidencing Bayuk, through counsel Jeffrey Hartman, Esq., requesting until noon on July 31, 2019 to provide comments.	Vol. 52, 9211–9212

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Notice of Submission of Disputed Order (cont.)		
4	July 31, 2019 email from Teresa M. Pilatowicz, Esq. Bayuk failed to provide comments at noon on July 31, 2019, instead waiting until 1:43 p.m. to send a redline version with proposed changes after multiple follow ups from Plaintiff's counsel on July 31, 2019	Vol. 52, 9213–9219
5	A true and correct copy of the original Order and Bayuk Changes	Vol. 52, 9220–9224
6	A true and correct copy of the redline run by Plaintiff accurately reflecting Bayuk's proposed changes	Vol. 52, 9225–9229
7	Email evidencing that after review of the proposed revisions, Plaintiff advised Bayuk, through counsel, that Plaintiff agree to certain proposed revisions, but the majority of the changes were unacceptable as they did not reflect the Court's findings or evidence before the Court.	Vol. 52, 9230–9236
Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/2019)		Vol. 53, 9237–9240
Exhibits to Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim		
Exhibit	Document Description	
1	Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 53, 9241–9245
2	Defendant's comments on Findings of Fact	Vol. 53, 9246–9247
3	Defendant's Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 53, 9248–9252

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Minutes of July 22, 2019 hearing on Objection to Claim for Exemption (filed 08/02/2019)		Vol. 53, 9253
Order Denying Claim of Exemption (filed 08/02/2019)		Vol. 53, 9254–9255
Bayuk’s Case Appeal Statement (filed 08/05/2019)		Vol. 53, 9256–9260
Bayuk’s Notice of Appeal (filed 08/05/2019)		Vol. 53, 9261–9263
Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.’s, Case Appeal Statement (filed 08/05/2019)		Vol. 53, 9264–9269
Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.’s, Notice of Appeal (filed 08/05/2019)		Vol. 53, 9270–9273
Exhibits to Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.’s, Notice of Appeal		
Exhibit	Document Description	
1	Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)	Vol. 53, 9274–9338
2	Order Denying Defendants’ Motions for New Trial and/or to Alter or Amend Judgment (filed 07/10/2019)	Vol. 53, 9339–9341
3	Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/10/2019)	Vol. 53, 9342–9345
4	Order Granting Plaintiff’s Application for an Award of Attorneys’ Fees and Costs Pursuant to NRCF 68 (filed 07/10/2019)	Vol. 53, 9346–9349

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Plaintiff's Reply to Defendants' Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim		Vol. 53, 9350–9356
Order Denying Claim of Exemption and Third-Party Claim (08/09/2019)		Vol. 53, 9357–9360
Notice of Entry of Order Denying Claim of Exemption and Third-Party Claim (filed 08/09/2019)		Vol. 53, 9361–9364
Exhibit to Notice of Entry of Order Denying Claim of Exemption and Third-Party Claim		
Exhibit	Document Description	
1	Order Denying Claim of Exemption and Third-Party Claim (08/09/2019)	Vol. 53, 9365–9369
Notice of Entry of Order Denying Claim of Exemption (filed 08/12/2019)		Vol. 53, 9370–9373
Exhibit to Notice of Entry of Order Denying Claim of Exemption		
Exhibit	Document Description	
1	Order Denying Claim of Exemption (08/02/2019)	Vol. 53, 9374–9376
Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration (filed 08/19/2019)		Vol. 54, 9377–9401
Exhibits to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration		
Exhibit	Document Description	
1	Order Denying Claim of Exemption and Third Party Claim (filed 08/09/19)	Vol. 54, 9402–9406

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Motion to Make Amended (cont.)		
2	Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 11/12/05)	Vol. 54, 9407–9447
3	Spendthrift Trust Agreement for the Arcadia Living Trust (dated 10/14/05)	Vol. 54, 9448–9484
4	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/10)	Vol. 54, 9485–9524
5	P. Morabito's Supplement to NRCP 16.1 Disclosures (dated 03/01/11)	Vol. 54, 9525–9529
6	Transcript of March 3, 2011 Deposition of P. Morabito	Vol. 55, 9530–9765
7	Documents Conveying Real Property	Vol. 56, 9766–9774
8	Transcript of July 22, 2019 Hearing	Vol. 56, 9775–9835
9	Tolling Agreement JH and P. Morabito (partially executed 11/30/11)	Vol. 56, 9836–9840
10	Tolling Agreement JH and Arcadia Living Trust (partially executed 11/30/11)	Vol. 56, 9841–9845
11	Excerpted Pages 8–9 of Superpumper Judgment (filed 03/29/19)	Vol. 56, 9846–9848
12	Petitioners' First Set of Interrogatories to Debtor (dated 08/13/13)	Vol. 56, 9849–9853
13	Tolling Agreement JH and Edward Bayuk (partially executed 11/30/11)	Vol. 56, 9854–9858
14	Tolling Agreement JH and Bayuk Trust (partially executed 11/30/11)	Vol. 56, 9859–9863
15	Declaration of Mark E. Lehman, Esq. (dated 03/21/11)	Vol. 56, 9864–9867

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Motion to Make Amended (cont.)		
16	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 56, 9868–9871
17	Assignment and Assumption Agreement (dated 07/03/07)	Vol. 56, 9872–9887
18	Order Denying Morabito’s Claim of Exemption (filed 08/02/19)	Vol. 56, 9888–9890
Errata to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration (filed 08/20/2019)		Vol. 57, 9891–9893
Plaintiff’s Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 08/30/2019)		Vol. 57, 9894–9910
Errata to Plaintiff’s Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 08/30/2019)		Vol. 57, 9911–9914
Exhibits to Errata to Plaintiff’s Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085		
Exhibit	Document Description	
1	Declaration of Gabrielle A. Hamm, Esq.	Vol. 57, 9915–9918
2	Plaintiff’s Amended NRCP 16.1 Disclosures (February 19, 2016)	Vol. 57, 9919–9926

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to Errata (cont.)		
3	Plaintiff's Fourth Supplemental NRCP 16.1 Disclosures (November 15, 2016)	Vol. 57, 9927–9930
4	Plaintiff's Fifth Supplemental NRCP 16.1 Disclosures (December 21, 2016)	Vol. 57, 9931–9934
5	Plaintiff's Sixth Supplemental NRCP 16.1 Disclosures (March 20, 2017)	Vol. 57, 9935–9938
Reply in Support of Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs (filed 09/04/2019)		Vol. 57, 9939–9951
Exhibits to Reply in Support of Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs		
Exhibit	Document Description	
19	Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/19)	Vol. 57, 9952–9993
20	Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/19)	Vol. 57, 9994–10010
Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/2019)		Vol. 57, 10011–10019
Bayuk's Case Appeal Statement (filed 12/06/2019)		Vol. 57, 10020–10026

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Bayuk's Notice of Appeal (filed 12/06/2019)		Vol. 57, 10027–10030
Exhibits to Bayuk's Notice of Appeal		
Exhibit	Document Description	
1	Order Denying [Morabito's] Claim of Exemption (filed 08/02/19)	Vol. 57, 10031–10033
2	Order Denying [Bayuk's] Claim of Exemption and Third Party Claim (filed 08/09/19)	Vol. 57, 10034–10038
3	Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/19)	Vol. 57, 10039–10048
Notice of Entry of Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 12/23/2019)		Vol. 57, 10049–10052
Exhibit to Notice of Entry of Order		
Exhibit	Document Description	
A	Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/19)	Vol. 57, 10053–10062

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
District Court Docket Case No. CV13-02663		Vol. 57, 10063–10111
Notice of Claim of Exemption and Third-Party Claim to Property Levied Upon, Case No. CV13-02663 (filed 08/25/2020)		Vol. 58, 10112–10121
Exhibits to Notice of Claim of Exemption and Third-Party Claim to Property Levied Upon		
Exhibit	Document Description	
1	Writ of Execution, Case No. CV13-02663 (filed 07/21/2020)	Vol. 58, 10123–10130
2	Superior Court of California, Orange County Docket, Case No. 30-2019-01068591-CU-EN-CJC	Vol. 58, 10131–10139
3	Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 11/12/2005)	Vol. 58, 10140–10190

**Superpumper, Inc.
Notes Receivable Balance as of 9/30/2010**

Account #	Description	Amount
01-0000-1210-00	A/R - Interest on N/R	\$564,033.00
01-0000-1210-03	A/R - PAMAZ	1,611,138.72
01-0000-1210-04	A/R - PAM	623,021.37
01-0000-1210-05	Due fr BMH	689,107.25
01-0000-1210-06	Due fr CWC/Snowshoe	5,667,331.28
TOTAL		<u><u>\$9,154,631.62</u></u>

TERM NOTE

\$2,563,542.00

_____, Arizona
As of December 31, 2010

FOR VALUE RECEIVED, intending to be legally bound, the undersigned, Salvatore Morabito, an individual ("Borrower"), promises to pay to the order of Superpumper, Inc., an Arizona corporation, ("Lender") on the dates set forth below, the principal sum of Two Million Five Hundred and Sixty Three Thousand Five Hundred Forty Two Dollars and 00/100 (\$2,563,542.00) (the "Principal") plus interest as agreed below and all fees and costs (including without limitation attorneys' fees and disbursements) the Lender incurs in order to collect any amount due under this Note ("Expenses").

The unpaid Principal of this Note shall earn interest calculated on the basis of a 360-day year for the actual number of days of each year (365 or 366) from and including the date the proceeds of this Note were disbursed to, but not including, the date all amounts hereunder are paid in full, at a rate per year which shall on each day be Four Percent (4%). It is the intent of the Lender and Borrower that in no event shall interest be payable at a rate in excess of the maximum rate permitted by applicable law (the "Maximum Legal Rate"). Solely to the extent necessary to prevent interest under this Note from exceeding the Maximum Legal Rate, any amount that would be treated as excessive under a final judicial interpretation of applicable law shall be deemed to have been a mistake and automatically canceled, and, if received by the Lender, shall be refunded to Borrower.

The Maturity Date of this Note is December 31, 2020. Borrower shall pay interest only in nine (9) consecutive monthly installments commencing on December 31, 2011 and on the 31st day of each December thereafter with ONE (1) FINAL INSTALLMENT on the Maturity Date in an amount equal to the yearly interest plus the outstanding Principal together with all other amounts outstanding hereunder including, without limitation, accrued interest, costs and Expenses. Payments shall be made in immediately available United States funds.

Borrower shall have the right to prepay the outstanding balance of this Note in whole, at any time, or in part, from time to time, without premium or penalty, but with accrued interest on the principal being paid to the date of prepayment.

Upon written request delivered on or before December 30th of any year during which this Note shall be outstanding, Borrower shall have the right in its absolute discretion to require Lender to offset the annual interest payment due by Borrower hereunder by reducing the amount of the Borrower's salary, bonus, distributions or other compensation owed to Borrower by Lender in an amount equal to the annual interest payment.

This Note shall be governed by the law of the State of Arizona without regard to principals of conflicts of laws.

Superpumper 001280

4324

In the event that there is a sale, assignment or other transfer of the majority of the issued and outstanding shares of capital stock or other equity interests of the Lender or any transfer, issuance or division of any shares of the Lender, including, but not limited to the issuance of warrants or other securities convertible into equity interest of the Lender (each a "Transfer"), the result of which being that Snowshoe Petroleum, Inc. ceases to be the majority shareholder of the Lender, the Lender agrees that all amounts due pursuant to this Note, including any accrued but unpaid interest, at the time of the Transfer shall be forgiven by Lender, any successor or assignee of Lender and the Borrower shall be released from any further liability in connection with this Note.


Salvatore Morabito

The Lender hereby agrees and acknowledges its consent to the last paragraph of this Note this 31st day of December, 2010.

SUPERPUMPER, INC.

By: 
Edward Bayuk, President

Superpumper 001281

4325

TERM NOTE

\$2,580,500.00

California
As of December 31, 2010

FOR VALUE RECEIVED, intending to be legally bound, the undersigned, Edward Bayuk, an individual ("Borrower"), promises to pay to the order of Superpumper, Inc., an Arizona corporation, ("Lender") on the dates set forth below, the principal sum of Two Million Five Hundred Eighty Thousand Five Hundred Dollars and 00/100 (\$2,580,500.00) (the "Principal") plus interest as agreed below and all fees and costs (including without limitation attorneys' fees and disbursements) the Lender incurs in order to collect any amount due under this Note ("Expenses").

The unpaid Principal of this Note shall earn interest calculated on the basis of a 360-day year for the actual number of days of each year (365 or 366) from and including the date the proceeds of this Note were disbursed to, but not including, the date all amounts hereunder are paid in full, at a rate per year which shall on each day be Four Percent (4%). It is the intent of the Lender and Borrower that in no event shall interest be payable at a rate in excess of the maximum rate permitted by applicable law (the "Maximum Legal Rate"). Solely to the extent necessary to prevent interest under this Note from exceeding the Maximum Legal Rate, any amount that would be treated as excessive under a final judicial interpretation of applicable law shall be deemed to have been a mistake and automatically canceled, and, if received by the Lender, shall be refunded to Borrower.

The Maturity Date of this Note is December 31, 2020. Borrower shall pay interest only in nine (9) consecutive monthly installments commencing on December 31, 2011 and on the 31st day of each December thereafter with ONE (1) FINAL INSTALLMENT on the Maturity Date in an amount equal to the yearly interest plus the outstanding Principal together with all other amounts outstanding hereunder including, without limitation, accrued interest, costs and Expenses. Payments shall be made in immediately available United States funds.

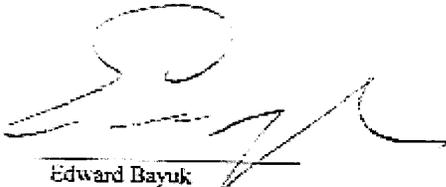
Borrower shall have the right to prepay the outstanding balance of this Note in whole, at any time, or in part, from time to time, without premium or penalty, but with accrued interest on the principal being paid to the date of prepayment.

Upon written request delivered on or before December 30th of any year during which this Note shall be outstanding, Borrower shall have the right in its absolute discretion to require Lender to offset the annual interest payment due by Borrower hereunder by reducing the amount of the Borrower's salary, bonus, distributions or other compensation owed to Borrower by Lender in an amount equal to the annual interest payment.

This Note shall be governed by the law of the State of Arizona without regard to principals of conflicts of laws.

Superpumper 001282

In the event that there is a sale, assignment or other transfer of the majority of the issued and outstanding shares of capital stock or other equity interests of the Lender or any transfer, issuance or division of any shares of the Lender, including, but not limited to the issuance of warrants or other securities convertible into equity interest of the Lender (each a "Transfer"), the result of which being that Snowshoe Petroleum, Inc. ceases to be the majority shareholder of the Lender, the Lender agrees that all amounts due pursuant to this Note, including any accrued but unpaid interest, at the time of the Transfer shall be forgiven by Lender, any successor or assignee of Lender and the Borrower shall be released from any further liability in connection with this Note.

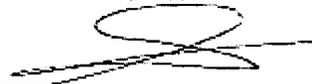


Edward Bayuk

The Lender hereby agrees and acknowledges its consent to the last paragraph of this Note this 31st day of December, 2010.

SUPERPUMPER, INC.

By:



Salvatore Morabito, Secretary

Superpumper 001283

4327



www.superpumpet.com

Corporate Offices

14631 N. Scottsdale Rd. Suite 125 (480) 596-0090
Scottsdale, AZ 85254 Fax: (480) 596-3355

April 21, 2011

Gursey | Schneider LLP
1888 Century Park East, Suite 900
Los Angeles, CA 90067

We are providing this letter in connection with your audit of the balance sheet of Superpumper, Inc. as of December 31, 2010, and the related statements of operations, stockholders' equity and cash flows for the year then ended for the purpose of expressing an opinion as to whether the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of Superpumper, Inc. in conformity with U.S. generally accepted accounting principles.

We confirm that we are responsible for the fair presentation in the financial statements of financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. We are also responsible for adopting sound accounting policies, establishing and maintaining internal control, and preventing and detecting fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm, to the best of our knowledge and belief, the following representations made to you during your audit.

1. The financial statements referred to above are fairly presented in conformity with U.S. generally accepted accounting principles.
2. We have made available to you all—
 - a. Financial records and related data.
 - b. Minutes of the meetings of stockholders, directors, and committees of directors, or summaries of actions of recent meetings for which minutes have not yet been prepared.
3. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.

Superpumper

www.superpumper.com

- There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.
5. We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud.
 6. We have no knowledge of any fraud or suspected fraud affecting the company involving—
 - a. Management,
 - b. Employees who have significant roles in internal control, or
 - c. Others where the fraud could have a material effect on the financial statements.
 7. We have no knowledge of any allegations of fraud or suspected fraud affecting the company received in communications from employees, former employees, regulators, or others.
 8. The company has no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.
 9. The following have been properly recorded or disclosed in the financial statements:
 - a. Related party transactions and related accounts receivable or payable, including sales, purchases, loans, transfers, leasing arrangements, and guarantees.
 - b. Guarantees, whether written or oral, under which the company is contingently liable.
 10. There are no estimates that may be subject to a material change in the near term that have not been properly disclosed in the financial statements. We understand that near term means the period within one year of the date of the financial statements. In addition, we have no knowledge of concentrations existing at the date of the financial statements that make the company vulnerable to the risk of severe impact that have not been properly disclosed in the financial statements.
 11. There are no:
 - a. Violations or possible violations of laws or regulations whose effect should be considered for disclosure in the financial statements or as a basis for recording a loss contingency.
 - b. Unasserted claims or assessments that our lawyer has advised us are probable of assertion and must be disclosed in accordance with FASB *Accounting Standards Codification* 450, *Contingencies* (formerly *Statement of Financial Accounting Standards No. 5*).

- 14. We have reviewed long-lived assets and certain identifiable intangible assets to be held and used for impairment whenever events or changes in circumstances have indicated that the carrying amount of assets might not be recoverable and have appropriately recorded the adjustment.
- 15. Receivables recorded in the financial statements represent valid claims against debtors for sales and other charges arising on or before the balance sheet date and have been reduced to their estimated net realizable value.
- 16. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances, lines of credit, or similar arrangements have been properly disclosed.
- 17. There are no material losses contingencies that are probable of assertion from environmental remediation liabilities associated with any of our store sites.
- 18. The financial statements disclosed all significant terms for the amounts Due from Affiliates, including principal amounts loaned, interest rate, maturity date and other terms. We believe these amounts to be fully recoverable.

No events have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustment to, or disclosure in, the financial statements.

Superpumper, Inc.



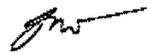
Edward Bayuk



Salvatore Morabito



Don Whitehead



Paul Morabito

Salvatore R. Mirabito
Statement of Assets & Liabilities
as of February 1st, 2011

Assets	Liabilities
<p>Personal Items 1289 Vendugo Road, Palm Springs, California (note 1) furnishings and personal effects 2010 Range Rover</p> <p>Cash or Cash Equivalent Bank of Montreal Toronto, Ontario TD Bank, St. Catharines, Ontario Bank of America, The Private Bank, Palm Desert, California</p> <p>Investments & Miscellaneous loan to Superpumper Inc. 50% Snowshoe Petroleum, Inc. 100% 774901 Ontario Inc. 2010 Range Rover 2011 Dodge Ram Pick-Up</p> <p>Assets Total</p>	<p>Loan Balances Bank of America Mortgage HELOC Chase Bank Finance</p> <p>Other Outstanding Debt VISA</p> <p>loan on 774901 Ontario Inc.</p> <p>Liabilities Total</p>
<p>\$ 1,150,000 \$ 200,000 \$ 7,250,000 \$ 1,742,500 \$ 2,820,000 \$ 300,000 \$ 3,220,000 \$ 500,000 \$ 4,513,889 \$ 250,000 \$ 75,000 \$ 38,000 \$ 5,375,889 \$ 10,021,889</p>	<p>\$ 650,000 \$ 75,000 \$ 45,000 \$ 895,000 \$ 20,000 \$ 180,000 \$ 200,000 \$ 895,000</p>
<p>excess of assets over liabilities</p>	<p>\$9,126,889</p>

I certify the attached to be true to the best of my direct knowledge:



Salvatore R. Mirabito
Scottsdale, Arizona
February 1st, 2011

STRICTLY CONFIDENTIAL

Edward W. Bayuk
Statement of Assets & Liabilities
as of February 1st, 2011

Assets	Liabilities
Personal Items	Loan Balances
371 El Camino Del Mar, Laguna Beach, California	Bank of America Mortgage
370 Los Olivos, Laguna Beach, California	Bank of America Mortgage
1254 Mary Fleming Circle, Palm Springs, California	mortgage
personal affects	
2007 Mercedes S550	
2006 Range Rover	
Cash or Cash Equivalent	Other Outstanding Debt
Fidelity Investments (note B)	American Express Centurion
Bank of America, The Private Bank, Palm Desert, California	
Wells Fargo	
Bank of America, Account # 2776	
Comerica Bank, account #9537	
Comerica Bank, account #9529	
MetLife Insurance	
Investments & Miscellaneous	
100% Iaktomyblok, Inc., a Delaware Corporation	
50% Showehoe Petroleum, Inc., a New York corporation	
1461 Glenneyre, Laguna Beach, California	
570 Glenneyre, Laguna Beach, California	
Assets Total	Liabilities Total
\$ 18,416,324	\$ 3,637,308
excess of assets over liabilities	
\$ 14,779,018	

12/31/10 Fidelity \$508,165
4/18/11 Wells \$2,753,253

STRICTLY CONFIDENTIAL

From: Edward Bayuk [ebayuk@superpumper.com]
Sent: Friday, January 06, 2012 3:24 PM
To: Christian Lovelace; Dennis Vacco; 'morabito.pa@gmail.com'; 'DDarata@darata.com'; 'stan@bernstein-cpabiz.com'
CC: Sam Morabito
Subject: Fw: Very Important Message---FW: Raffles Insurance - Share Transfer - Consolidated Western Corporation
Attachment(s): "Archived"

Christian / Dennis / Dave / Stan :

So the letter of credit name will have to change as well once Christian, Dave and Stan decide what name the shares should be in Snowshoe Petroleum Inc or Superpumper Inc ?

Edward

From: CMurphy@kensington.ky [mailto:CMurphy@kensington.ky]
Sent: Friday, January 06, 2012 01:02 PM
To: Edward Bayuk
Cc: ganderson@kensington.ky <ganderson@kensington.ky>
Subject: Re: Very Important Message---FW: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Ed,
Please see attached as requested. Can you also ask them to amend the name to be Snowshoe Petroleum Inc as they will be the new common shareholder.
Thanks
Catherine

From: Edward Bayuk <ebayuk@superpumper.com>
To: "CMurphy@kensington.ky" <CMurphy@kensington.ky>
Cc: "ganderson@kensington.ky" <ganderson@kensington.ky>
Date: 01/06/2012 02:43 PM
Subject: Very Important Message---FW: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Hi Catherine

Can you please forward a PDF copy of the most recent letter of credit referencing the FACT that the letter of credit has been adjusted down to approximately \$82,000. Again, like last year we are having problems with BofA releasing the money on hand in the account.

Thank you
Edward Bayuk
Cell 949-607-7625

From: ganderson@kensington.ky [mailto:ganderson@kensington.ky]
Sent: Thursday, January 05, 2012 12:56 PM
To: Edward Bayuk

LMWF_SUPP_068551
4333

Cc: CMurphy@kensington.ky

Subject: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Dear Mr. Bayuk,

Please find attached the necessary documentation that is required for the share transfer:

Please return the original share certificate **#556 & #556A**. Please complete the reverse side of the certificate. In the event, that you cannot find the share certificate either because is lost, damaged or for any other reason, please let us know, and we will email a lost stock certificate form.

Once documents are completed, we would ask that they be scanned and emailed to my attention for review before you send the ORIGINALS of all documents via courier to the following address:

Kensington Management Group, Ltd.
2nd Floor, Genesis Building
George Town
Grand Cayman
CAYMAN ISLANDS
For Attn of: Catherine Murphy
Tel: (345) 946- 2100

Should you have any questions, please do not hesitate to contact us.

Kind Regards,

Gilma Anderson
Account Administrator
Kensington Management Group Ltd.
2nd FL Genesis Bldg, GT
P.O. Box # 10027
Grand Cayman KY1-1001
Cayman Island
Ph: (345) 814-7008
Fax: (345) 946-2110

From: Catherine Murphy/Kensington
To: Edward Bayuk <ebayuk@superpumper.com>
Cc: Gilma Anderson/Kensington
Date: 01/03/2012 01:06 PM
Subject: Re: Important Message....Consolidated Western Corporation

Hi Ed,

Please find attached as requested In order for this to happen going forward we will need to complete a share transfer.

I will have Gilma prepare the documents and sent them to you for completion, we will also need share certificates 556 and 556A in the name of Consolidate Western Corporation returned to us.

LMWF_SUPP_068552
4334

Regards
Catherine

Catherine Murphy ACA
Senior Vice President - Senior Account Executive
Kensington Management Group, Ltd
2nd Floor, Genesis Building, George Town
PO Box 10027, Grand Cayman KY1-1001
Cayman Islands

Tel: (345) 814 7024 (Direct)
Tel: (345) 946 2100 (Main)
Fax: (345) 946 2110
www.kensingtonmanagement.ky

From: Edward Bayuk <ebayuk@superpumper.com>
To: "CMurphy@kensington.ky" <CMurphy@kensington.ky>
Date: 12/23/2011 01:35 PM
Subject: Important Message....Consolidated Western Corporation

Hi Catherine

Can you call me sometime next week to discuss changing the Form #5471 to "Snowshoe Petroleum Inc". Consolidated Western Corporation was consolidated into Snowshoe Petroleum Inc and would like to correct this form for 2011 tax year.

Address:
Snowshoe Petroleum Inc
P.O. Box 158
Buffalo, NY 14205

Best Wishes and a very Merry Christmas and a very Happy, Healthy 2012.

Edward Bayuk
Cell 949-607-7625

[attachment "20111222131248.pdf" deleted by Catherine Murphy/Kensington] [attachment "039 - Snowshoe Petroleum, Inc. 3-31-11 5471.pdf" deleted by Catherine Murphy/Kensington] [attachment "Snowshoe Share Transfer.doc" deleted by Catherine Murphy/Kensington] [attachment "Appendix A - Member Profile SnowShoe.pdf" deleted by Catherine Murphy/Kensington] [attachment "EXHIBIT E - Raffles Shareholder Agreement SnowShoe pdf.pdf" deleted by Catherine Murphy/Kensington] [attachment "Exhibit Ha-Raffles NonBifurcated Subscription Agreement SnowShoe...pdf" deleted by Catherine Murphy/Kensington]

LMWF_SUPP_068553
4335

From: Dennis Vacco
Sent: Friday, January 06, 2012 3:22 PM
To: Stan Bernstein; 'Edward Bayuk'; Christian Lovelace
CC: David D'Arata; Paul Morabito; 'Sam Morabito'
Subject: Re: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Are there any tax consequences associated with placing Raffles in Snowshoe?
Sent from my Verizon Wireless BlackBerry

From: "Stan Bernstein" <stan@bernstein-cpabiz.com>
Date: Fri, 6 Jan 2012 12:09:54 -0800
To: 'Edward Bayuk' <ebayuk@superpumper.com>; <clovelace@lippes.com>
Cc: 'Accountant--Dave D'Arata' <DDarata@darata.com>; <dvacco@lippes.com>; 'paul morabito 2' <morabito.pa@gmail.com>; 'Sam Morabito' <smorabito@superpumper.com>
Subject: RE: Raffles Insurance - Share Transfer - Consolidated Western Corporation

I am out of the office, but Raffles has previously been owned by a holding company. In the past either CNC or CWC owned the Raffles interest.

Since CWC was merged into Superpumper, I believe that the Raffles asset belonged in this company, but as of 12/31/2010 audited statement, the asset never appeared in this company. Since the ownership of Superpumper and Snowshoe Petroleum Inc are the same, I believe it would be best if the asset was to end up in Snowshoe Petroleum Inc.

I welcome everyone's comments.

Stanton R. Bernstein An Accountancy Corporation
Mailing address: 6320 Canoga Ave., 15th Floor, Woodland Hills, CA 91367
phone: (818) 596-2139 & fax: (818) 222-5180
* e-mail: stan@bernstein-cpabiz.com
website: bernstein-cpabiz.com

To ensure compliance with the requirements imposed by the Treasury Department Regulations (Internal Revenue Service), Stanton R. Bernstein, An Accountancy Corporation, informs you that any tax advice in this written or electronic communication was not intended or written to be used, and it cannot be used, by a client or any other person or entity for the purpose of avoiding penalties that may be imposed on any taxpayer.

This email contains information that may be privileged and confidential. The information is intended for the use of the addressee(s) only. If you are not an addressee, note that any disclosure, copying, distribution, or use of the contents of this e-mail is prohibited. If you have received this e-mail in error, please contact my office at (818) 596-2139.

From: Edward Bayuk [mailto:ebayuk@superpumper.com]
Sent: Friday, January 06, 2012 11:03 AM
To: clovelace@lippes.com
Cc: 'Stan Bernstein'; Accountant--Dave D'Arata (DDarata@darata.com); dvacco@lippes.com; paul morabito 2 (morabito.pa@gmail.com); Sam Morabito
Subject: FW: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Christian/ Dennis

Here is that other email I received yesterday.

Please have a discussion with Stan and Dave regarding what company name should actually be on these new share certificates, Snowshoe Petroleum Inc or Superpumper Inc. so we can finalize the tax form for 2011.

Also, I need to answer both Raffles people because I do not have the share certificates.

Edward

LMWF_SUPP_090409
4336

From: ganderson@kensington.ky [mailto:ganderson@kensington.ky]
Sent: Thursday, January 05, 2012 12:56 PM
To: Edward Bayuk
Cc: CMurphy@kensington.ky
Subject: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Dear Mr. Bayuk,

Please find attached the necessary documentation that is required for the share transfer:

Please return the original share certificate #556 & #556A. Please complete the reverse side of the certificate. In the event, that you cannot find the share certificate either because is lost, damaged or for any other reason, please let us know, and we will email a lost stock certificate form.

Once documents are completed, we would ask that they be scanned and emailed to my attention for review before you send the ORIGINALS of all documents via courier to the following address:

Kensington Management Group, Ltd.
2nd Floor, Genesis Building
George Town
Grand Cayman
CAYMAN ISLANDS
For Attn of: Catherine Murphy
Tel: (345) 946- 2100

Should you have any questions, please do not hesitate to contact us.

Kind Regards,

Gilma Anderson
Account Administrator
Kensington Management Group Ltd.
2nd FL Genesis Bldg, GT
P.O. Box # 10027
Grand Cayman KY1-1001
Cayman Island
Ph: (345) 814-7008
Fax: (345) 946-2110

From: Catherine Murphy/Kensington
To: Edward Bayuk <ebayuk@superpumper.com>
Cc: Gilma Anderson/Kensington
Date: 01/03/2012 01:06 PM
Subject: Re: Important Message...Consolidated Western Corporation

LMWF_SUPP_090410
4337

Hi Ed,

Please find attached as requested In order for this to happen going forward we will need to complete a share transfer.

I will have Gilma prepare the documents and sent them to you for completion, we will also need share certificates 556 and 556A in the name of Consolidate Western Corporation returned to us.

Regards
Catherine

Catherine Murphy ACA
Senior Vice President - Senior Account Executive
Kensington Management Group, Ltd
2nd Floor, Genesis Building, George Town
PO Box 10027, Grand Cayman KY1-1001
Cayman Islands

Tel: (345) 814 7024 (Direct)
Tel: (345) 946 2100 (Main)
Fax: (345) 946 2110
www.kensingtonmanagement.ky

From: Edward Bayuk <ebayuk@superpumper.com>
To: "CMurphy@kensington.ky" <CMurphy@kensington.ky>
Date: 12/23/2011 01:35 PM
Subject: Important Message....Consolidated Western Corporation

Hi Catherine

Can you call me sometime next week to discuss changing the Form #5471 to "Snowshoe Petroleum Inc". Consolidated Western Corporation was consolidated into Snowshoe Petroleum Inc and would like to correct this form for 2011 tax year.

Address:
Snowshoe Petroleum Inc
P.O. Box 158
Buffalo, NY 14205

Best Wishes and a very Merry Christmas and a very Happy, Healthy 2012.

Edward Bayuk
Cell 949-607-7625

[attachment "20111222131248.pdf" deleted by Catherine Murphy/Kensington]

LMWF_SUPP_090411
4338

From: Stan Bernstein [stan@bernstein-cpabiz.com]
Sent: Saturday, January 07, 2012 10:45 AM
To: Christian Lovelace
CC: 'David J. Darata'; Dennis Vacco; 'EWB Bayuk'; morabito.pa@gmail.com; 'Sam Morabito'
Subject: RE: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Christian,

I do not believe there are any tax ramifications to these entities, but since I do not do either the Superpumper or Snowshoe Petroleum returns, you should double check with Dave's office. By the way, it was my understanding that PAMAZ was the holding company of Superpumper prior to merger not PAMCO, please confirm. I have seen this before, and want to make certain that we all are in agreement and the legal documents concur with this statement.

Our office was unaware of the treatment of the Raffles asset, and how it was/wasn't valued in the SPI/CWC merger/sale.

What I do know is that wherever this asset ends up, the income from Raffles needs to be included by that entity. I believe that CWC may have received a distribution from Raffles in 2011 and since CWC is no longer active, I do not know if and how the check was cashed? You will need to get this answered and how it will be treated or disclosed on the reporting entities tax return..

If there was a distribution to one or both of the owners (Ed & Sam), they need to make certain there is not a disproportionate distribution in the S corporation. If the money went to someone other than Ed & Sam, then that person should receive a 1099 for the money they received from the entity that is reporting the income.

Hope this helps!

Stanton R. Bernstein An Accountancy Corporation
Mailing address: 6320 Canoga Ave., 15th Floor, Woodland Hills, CA 91367
phone: (818) 596-2139 & fax: (818) 222-5180
* e-mail: stan@bernstein-cpabiz.com
website: bernstein-cpabiz.com

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This email contains information that may be privileged and confidential. The information is intended for the use of the addressee(s) only. If you are not an addressee, note that any disclosure, copying, distribution, or use of the contents of this e-mail is prohibited. If you have received this e-mail in error, please contact my office at (818) 596-2139.

From: Christian Lovelace [mailto:clovelace@lippes.com]
Sent: Saturday, January 07, 2012 7:13 AM
To: Stan Bernstein
Cc: David J. Darata; Dennis Vacco; EWB Bayuk; morabito.pa@gmail.com; Sam Morabito
Subject: RE: Raffles Insurance - Share Transfer - Consolidated Western Corporation

Stan,

Here are my thoughts on this that I need your input on:

Snowshoe was formed on September 29, 2010 and the merger of CWC into SPI was also on September 29, 2010, so we don't have to put the Raffles asset into SPI if we don't want to. We can do an assignment from CWC to Snowshoe as of 9/29/10, however, I am not sure of the tax implications of that assignment from CWC which on 9/29/10 was owned by PAMCO (80%), Ed (10%), and Sam (10%) to Snowshoe which is Ed and Sam 50/50. This may be the only way to do this if we want it in Snowshoe because the asset wasn't in SPI when we did the valuation for the sale from Paul to Ed and Sam.

LMWF_SUPP_090404
4339

The sale of Paul's interest to Ed and Sam happened 9/30/10. An assignment on 9/30 would probably be easiest from a tax point of view, but as I stated before the Raffles asset was never factored into the SPI valuation and in 2010 was a considerable asset.

Thanks,

Christian M. Lovelace

Lippes Mathias Wexler Friedman LLP

665 Main Street, Suite 300

Buffalo, New York 14203

P: (716) 853-5100

F: (716) 853-5199

clovelace@lippes.com

www.lippes.com

From: Stan Bernstein [<mailto:stan@bernstein-cpabiz.com>]

Sent: Friday, January 06, 2012 3:10 PM

To: 'Edward Bayuk'; Christian Lovelace

Cc: 'Accountant--Dave D'Arata'; Dennis Vacco; 'paul morabito 2'; 'Sam Morabito'

Subject: RE: Raffles Insurance - Share Transfer - Consolidated Western Corporation

I am out of the office, but Raffles has previously been owned by a holding company. In the past either CNC or CWC owned the Raffles interest.

Since CWC was merged into Superpumper, I believe that the Raffles asset belonged in this company, but as of 12/31/2010 audited statement, the asset never appeared in this company. Since the ownership of Superpumper and Snowshoe Petroleum Inc are the same, I believe it would be best if the asset was to end up in Snowshoe Petroleum Inc.

I welcome everyone's comments.

Stanton R. Bernstein An Accountancy Corporation

Mailing address: 6320 Canoga Ave., 15th Floor, Woodland Hills, CA 91367

phone: (818) 596-2139 & fax: (818) 222-5180

* e-mail: stan@bernstein-cpabiz.com

website: bernstein-cpabiz.com

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From: Edward Bayuk [<mailto:ebayuk@superpumper.com>]

Sent: Friday, January 06, 2012 11:03 AM

To: clovelace@lippes.com

Cc: 'Stan Bernstein'; Accountant--Dave D'Arata (DDarata@darata.com); dvacco@lippes.com; paul morabito 2 (morabito.pa@gmail.com); Sam Morabito

Subject: FW: Raffles Insurance - Share Transfer - Consolidated Western Corporation

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Edward

From: ganderson@kensington.ky [<mailto:ganderson@kensington.ky>]
Sent: Thursday, January 05, 2012 12:56 PM
To: Edward Bayuk
Cc: CMurphy@kensington.ky
Subject: Raffles Insurance - Share Transfer - Consolidated Western Corporation

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Kensington Management Group, Ltd.
2nd Floor, Genesis Building
George Town
Grand Cayman
CAYMAN ISLANDS
For Attn of: Catherine Murphy
Tel: (345) 946- 2100

Should you have any questions, please do not hesitate to contact us.

Kind Regards,

Gilma Anderson
Account Administrator
Kensington Management Group Ltd.
2nd FL Genesis Bldg, GT
P.O. Box # 10027
Grand Cayman KY1-1001

LMWF_SUPP_090406
4341

Cayman Island
Ph: (345) 814-7008
Fax: (345) 946-2110

From: Catherine Murphy/Kensington
To: Edward Bayuk <ebayuk@superpumper.com>
Cc: Gilma Anderson/Kensington
Date: 01/03/2012 01:06 PM
Subject: Re: Important Message....Consolidated Western Corporation

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Regards
Catherine

Catherine Murphy ACA
Senior Vice President - Senior Account Executive
Kensington Management Group, Ltd
2nd Floor, Genesis Building, George Town
PO Box 10027, Grand Cayman KY1-1001
Cayman Islands

Tel: (345) 814 7024 (Direct)
Tel: (345) 946 2100 (Main)
Fax: (345) 946 2110
www.kensingtonmanagement.ky

From: Edward Bayuk <ebayuk@superpumper.com>
To: "CMurphy@kensington.ky" <CMurphy@kensington.ky>
Date: 12/23/2011 01:35 PM
Subject: Important Message....Consolidated Western Corporation

Hi Catherine

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Address:
Snowshoe Petroleum Inc
P.O. Box 158
Buffalo, NY 14205

LMWF_SUPP_090407
4342

Best Wishes and a very Merry Christmas and a very Happy, Healthy 2012.

Edward Bayuk
Cell 949-607-7625

[attachment "20111222131248.pdf" deleted by Catherine Murphy/Kensington]

From: Paul Morabito [morabito.pa@gmail.com]
Sent: Sunday, March 18, 2012 10:08 PM
To: Dennis Vacco
CC: <ebayuk@superpumper.com>; Richard Scherer; Stephanie Canastraro
Subject: Re: RAFFLES

Edward will be in Chicago with you tomorrow. Address is then.

Paul Morabito
Chief Executive Officer
USHFCC / Paraderas Specialty Risk Limited / Snowshoe Capital LLC
tel/text: (310) 339-0475 - fax:
(480) 222-1062 - UK: 0-777-0 385385

On Mar 18, 2012, at 9:06 PM, "Dennis Vacco" <dvacco@lippes.com> wrote:

Edward,

I hope you had a great weekend. Tomorrow I need your help concerning Raffles. We need a letter from Raffles, addressed to Dave Mairoella at Bank of America indicating that only \$88,000 in security is needed to maintain the asset and that any other proceeds which secure the Royal Bank LOC can be released. I need a similar letter from Royal Bank which relieves all but \$88,000 in the LOC account. In addition we need Raffles to agree to assign any future dividends to BOA. I am in the office in the morning but have to leave by 11:00 to catch a flight. If we don't talk in the morning, I will reach you in the afternoon. Thanks for your help.

DENNIS C. VACCO, Esq.
Lippes Mathias Wexler Friedman LLP
665 Main Street, Suite 300
Buffalo, New York 14203
716-853-5100 (office)
716-853-5199 (fax)
716-713-1679 (cell)
DVacco@Lippes.com

Circular 230 Disclosure. Any federal tax advice included in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding US federal tax-related penalties or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

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SNOWSHOE PETROLEUM, INC.

P. O. Box 158, Buffalo, New York 14205
telephone: (949) 607-7625 • fax: (480) 222-1063

Thursday, April 21st, 2011

Walt Dwelle
c/o Nella Oil Company and Affiliates
9301 Airport Road
Visalia, California
93277

re: Proposed Acquisition of Nella Oil Company, Nella Oil Company, LLC,
Flyers, LLC, including its wholly-owned subsidiary, Flyers Beacon, LLC
Flyers Transportation, LLC & Western Energetix, LLC
*(The combination of the above entities is collectively referred to as "Nella Oil Company and
Affiliates" or "the Company").*

Dear Walt:

This letter of intent ("Letter") is intended to set out the framework of the contemplated transaction between:

Snowshoe Petroleum, Inc. ("SPI" or the "Purchaser") a New York corporation, or its assignee in whole or in part;

AND David Dwelle, LP, Eclipse Investments, LP, Speedy Investments, LP, and TAD Limited Partnership (collectively referred to as the "Seller"), each having equal ownership interests. The partnerships are owned by the family trusts of four individuals; Stephen B. Dwelle, Walter and Lynn Dwelle, Thomas A. Dwelle, and David W. Dwelle (collectively referred to as the "Principals") with regard to the acquisition of all of the real property, transportation, retail and wholesale assets of the Seller (the "Purchased Business").

SPI is a New York Corporation whose principal business through its subsidiary Superpumper Inc., is the ownership and operation of eleven Shell branded retail gas stations in Arizona.

Save and except for Sections 9, 10, 11 and 12, which will be legally binding on the parties, it is understood that this Letter is not intended by the parties to create any legally binding obligations between them. No party will have any liability to any other party based upon, arising from, or relating to this Letter, including any termination hereof, except in respect of a breach of any of the enumerated Sections. A binding agreement, other than with respect to the enumerated Sections, is subject to the execution of the Purchase Agreement (as defined below).

While the parties anticipate that the matters set forth in this Letter will form the basis of definitive agreements relating to the proposed transaction (collectively, the "**Purchase Agreement**"), the parties acknowledge that further negotiations and the conduct of due diligence may result in issues being raised that require the following matters to be supplemented, amended or qualified.

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SNOWSHOE PETROLEUM, INC.

Walt Dwelle
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The framework contemplated by the parties to date is as follows:

1. Transaction Terms Summary

It is proposed that SPI would acquire substantially all of the assets of Seller (the "Assets"), including without limitation, 22 fee Real Property included within the 35 service stations (defined below), the entire wholesale fuel business, assume all leases, and ground leases, acquire the Real Property at the aforementioned 22 fee sites as well as the office building in Auburn, California and terminal facility in Reno, Nevada, and all other assets of the company including but not limited to the card lock operations and transportation assets. [The ethanol and solar operations of Seller are specifically excluded from this transaction.]

Purchase Price: Based on the available information on the Purchased Business that we have reviewed to date, the purchase price (the "**Purchase Price**") for the Assets would be \$160,000,000 payable as follows:

- (a) **\$100,000,000** cash at Closing.
- (b) Assumption (and) pay-off at Closing of approximately **\$35,000,000** in term debt and **\$10,000,000** in short term debt.
- (c) a Promissory Note of **\$5,000,000** would be entered into by SPI and Seller, as to interest at seven per cent (7%) and a term and amortization of seven years, with payments of Principal and Interest beginning at the first month after Closing. The note will be wholly subordinate to the bank and other financing outlined herein.
- (d) A thirty per cent (30%) equity interest in the limited liability corporation ("NewCo LLC") set up by Purchaser to acquire Seller and SPI's subsidiary Superpumper, Inc, valued at \$10,000,000.
- (e) The Purchaser will assume the Seller's bond and/or Letter of Credit with the States of California and Nevada and/or local counties to collect and remit State and/or County fuel taxes and fees.

Coming in? <

The Purchase Price allocation as between different groups of assets is subject to further review and discussion between the parties. The Purchase Price amount assumes that all of the assets are free and clear of all encumbrances other than the aforementioned term and short term debt of \$45,000,000, and that the Seller delivers free and clear title to all Property;

2. Employees

SPI intends to offer employment or cause, as the case may be, to offer continued employment to substantially all key employees of the Purchased Business. Terms of employment will be negotiated between the parties. The Seller will endeavor to retain for SPI all employees of the Purchased Business that SPI wishes to retain, and Seller will prior to the closing terminate the employment of all other employees of the Purchased Business and be responsible for all severance pay and other liabilities to or in respect of any person whose employment is so terminated.

Rick Teske will enter into a mutually agreeable three (3) year employment contract with Purchaser to serve as it's President and Chief Operating Officer. All key executives identified

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by Seller, and with the approval of Purchaser, will enter into like mutually agreeable employment agreements of at least one (1) year in term.

3. Non-Competition/Non-Solicitation

The Seller and such shareholders and employees of Seller as may be reasonably requested by SPI, will enter into non-competition and non-solicitation agreements in a form satisfactory to SPI. Such agreements would be for the longer of: (i) 5 years calculated from the Closing Date; or (ii) twenty-four (24) months from the date the person ceases to be in the employ of the Seller or acting as a consultant for the Seller, and would be for the Northern California and Nevada trading area.

4. Due Diligence

SPI has a \$65 million proposal from Cerberus California LLC to finance its short and long term debt, and anticipates that a bank will partner with them to service the line of credit. Getty Realty Inc. has an expression of interest to acquire the retail and cardlock Real Property of the Seller for approximately \$70 million. All three parties will participate with Purchaser in the Due Diligence process and require full access to whatever information is normally required in transactions of this nature.

SPI's proposal to acquire the Assets is conditional, among other things, on its being satisfied with the results of full financial, business, legal, environmental and other due diligence investigations. The Seller will:

- (a) grant to SPI, and to its officers, employees, legal counsel, accountants and other authorized representatives including but not limited to Cerberus California LLC, Getty Realty, Inc., BMO Harris Bank and BBVA Compass Bank (collectively, the "**SPI Representatives**") the right to inspect the assets, properties, books and records of the Seller relating to the Purchased Business and to consult with the officers, employees, legal counsel, accountants and other authorized representatives (collectively, the "**Seller Representatives**") of the Seller concerning the Assets and the Purchased Business;
- (b) The Seller will immediately provide to SPI documentary evidence from the banks and/or lenders, satisfactory to the Purchaser in its sole opinion, that the obligations outlined in section 1(b), as well as any and all third party ground, property and other leases as referenced in section 1, as well as supplier, utility and/or vendor contracts etc., can be assumed by the Purchaser on terms consistent with section 1 and elsewhere in this Letter.
- (c) use every effort to allow SPI and the SPI Representatives to consult with the Seller's suppliers, customers, creditors, agents, banks, trustees and those third parties with which the Seller has material contracts;
- (d) direct the Seller Representatives to provide information to SPI as reasonably requested.

SPI will be under no obligation to continue with its due diligence investigations or with negotiations regarding the Purchase Agreement, or to enter into a Purchase Agreement if, at any time, the results of its diligence investigations are not satisfactory to it in its sole discretion.

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5. Closing Date

Subject to the provisions of Sections 1, 2, 3, 4, 6, 7, 8 and 9, the parties agree to work in good faith towards signing a Purchase Agreement no later than Wednesday, June 1st, 2011 and closing the purchase and sale of the Assets the week of Monday, August 1st, 2011 or such other date as mutually agreed upon by the parties (the "**Closing Date**"). The parties agree that SPI shall be responsible for preparing the first draft of the Purchase Agreement.

6. The Purchase Agreement

Subject to the provisions of Sections 1, 3, 4, 5, 7 and 9, the parties will proceed in good faith with the negotiation of the terms and conditions of the Purchase Agreement and related agreements. The Purchase Agreement will contain such terms, conditions precedent, agreements, covenants, warranties, and representations as are customarily included in agreements involving transactions similar to that contemplated hereby so as to reflect the matters set forth in this letter of intent and/or such other matters as may be subsequently negotiated between the parties.

7. Conditions

The parties acknowledge that the execution of a Purchase Agreement is subject to the following conditions:

- (a) SPI arranging financing satisfactory to it;
- (b) SPI being satisfied with the results of its due diligence referred to in Section 4;
- (c) the obtaining of all necessary governmental, vendor, supplier, bank, lender, landlord, ground landlord and third party consents, board approvals, shareholder approvals and regulatory approvals in all applicable jurisdictions;
- (d) SPI conducting Phase 1 environmental reports on any of the 35 stations and 110 cardlocks upon which Seller believes such reports are reasonable and necessary, and, in the event of any findings of contamination at or above California and/or Nevada established action levels, entering into a mutually agreeable remediation plan, fully funded by the Seller and/or the States of California and Nevada, which addresses any and all issues raised in the reports. The Purchaser shall be solely responsible to settle the matter with Chartis Insurance regarding the Truckee card lock site.

8. Publicity

Except to the extent required by law, no press release, public statement or announcement or other public disclosure with respect to the proposed business relationship, this letter of intent, the existence of discussions regarding this Letter or the transactions contemplated hereby may be made except with the prior written consent and joint approval of the Seller and SPI. Where such disclosure is required by law, the party required to make the disclosure will use its best efforts to obtain the approval of the other party as to the form, nature and extent of the disclosure.

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Walt Dwelle
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9. Exclusive Negotiations

For a period of one hundred and twenty (120) days from the date of acceptance of this Letter, the Seller will not, directly or indirectly,

- (a) solicit, initiate or entertain inquiries or proposals from, or provide non-public information to, any person with respect to, or
- (b) participate in any negotiations or discussions, directly or indirectly, regarding, or otherwise cooperate in any way with or assist or participate in or take any steps to bring about the direct or indirect acquisition of the Assets and/or the Purchased Business by any person other than SPI, including, without limitation, by way of the acquisition of the outstanding shares of the Seller or any of its affiliates.

10. Confidentiality of Negotiations

Except (a) for disclosure to employees, officers and directors of SPI and Seller, as necessary; (b) for disclosure to accountants, investment bankers, legal counsel, consultants, agents or financing sources as contemplated herein, (c) as required by law, or (d) as the parties agree in writing in connection with ongoing due diligence, all information and documents provided by either party to the other and all matters pertaining to this letter of intent will be kept strictly confidential, and neither SPI nor the Seller shall disclose the negotiations regarding the proposed transaction or any of the terms and conditions thereof.

To the extent that disclosure becomes legally required, SPI or Seller, as the case may be, will be given a reasonable opportunity to review such proposed disclosure and the other party will maintain confidentiality to the greatest extent permissible under such law.

11. Transaction Costs

Each of the parties will bear its own costs in connection with the transactions contemplated by this letter of intent, including, without limitation, all legal, accounting, auditing, and other professional fees and no such costs will be reflected in the financial statements or position of the Purchased Business.

12. Governing Law & Notices

This Letter is governed by and will be construed in accordance with the laws of the State of New York and the federal laws of the United States of America applicable therein, with jurisdiction in the City of Buffalo and Erie County. All notices and other communications hereunder shall be in writing and shall be furnished by FedEx Priority Next Day Delivery, with signature required for delivery to the intended party, with an original executed copy sent by United States First Class Mail to the parties at the addresses set forth below.

Any such notice shall be duly given upon the date it is delivered to the addresses shown below, addressed as follows:

If to SPI: Hon. Dennis C. Vacco, Esq.
Lippes Mathias Wexler Friedman LLP

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Walt Dwelle
Nella Oil Company and Affiliates
Thursday, April 21st, 2011
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665 Main Street, Suite 300
Buffalo, New York 14203
716-853-5100 fax: 716-853-5199
e-mail: dvacco@lippes.com

and a copy to: Edward Bayuk
President
Snowshoe Petroleum, Inc.
P. O. Box 158,
Buffalo, New York 14205
(949) 607-7625 • fax: (480) 222-1063
e-mail: edwardbayuk@gmail.com

If to Seller: Walt Dwelle
c/o Nella Oil Company and Affiliates
9301 Airport Road
Visalia, California
93277
(559) 651-0210, ext. 8415; fax (530) 885-5851
e-mail: wdwelle@nellaoil.com

and a copy to: Seller's attorney

13. Equity Interest

The Sellers will have a thirty per cent (30%) equity interest in Purchaser. Rick Teske shall serve as the senior operating executive of Purchaser, reporting to a Board of Directors led by Walt Dwelle, as Chairman, and two nominees of Purchaser's controlling shareholders. Teske and his management team will submit an annual plan and budget for the operating companies, and upon approval of the Board, will operate the day to day business of Purchaser.

Expiry

If you agree to the foregoing, please return a signed copy of this letter to the undersigned by facsimile to (480) 222-1063, (per §12, above) no later than 12:00PM noon (Pacific Time), **Thursday, April 28th, 2011** which time this letter will expire if not so accepted. Then, please send a fully executed original the next day by the delivery mechanisms provided under the Notice provision herein.

Snowshoe Petroleum Florida, Inc.

Edward Bayuk

By: _____
Edward W. Bayuk
President

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SNOWSHOE PETROLEUM, INC.

Walt Dwelle
Nella Oil Company and Affiliates
Thursday, April 21st, 2011
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ACKNOWLEDGEMENT & SIGNATURE PAGE TO FOLLOW

ACKNOWLEDGED AND AGREED in Visalia, California on this ____ day of April, 2011

Nella Oil Company

By: _____
It's President

Flyers, LLC

By: _____
It's President

Flyers Transportation, LLC

By: _____
It's President

David Dwelle, LP

By: _____
David Dwelle
Managing Partner

Speedy Investments, LP

By: _____
It's Managing Partner

Nella Oil Company, LLC

By: _____
It's President

Flyers Beacon, LLC

By: _____
It's President

Western Energetix, LLC

By: _____
It's President

Eclipse Investments, LP

By: _____
It's Managing Partner

TAD Limited Partnership

By: _____
Thomas A. Dwelle
Managing Partner

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Christian Lovelace

From: Paul Morabito [pagm88@gmail.com]
Sent: Friday, April 15, 2011 1:30 PM
To: Christian Lovelace; Gregory Ivancic; Dennis Vacco
Cc: Gerald Lippes
Subject: Fwd: Nella Oil financing proposal
Follow Up Flag: Follow up
Flag Status: Red
Attachments: Nella Corp 12-31-06.pdf; ATT172018.htm; CalCo AZCo RATIOS.pdf; ATT172019.htm; Nella Proposal Letter April 2011.docx; ATT172020.htm

Gentlemen

Attached is an initial \$65 million loan offer from Cerberus - they made it out to CWC but I am having it changed to Snowshoe Petroleum Inc. This loan, coupled with a \$72.7 million sale lease back from Getty Realty REIT, would allow SPI to acquire Nella Oil Co. (there 2006 audit, pre-acquiring Berry-Hinckley Industries wholesale division, is attached). The transaction requires (a) SPI to contribute Superpumper, Inc., and get 40% of NewCo LLC; (b) Nella to contribute \$10 million of their \$160 million purchase to equity (30%) and hold a \$5 million subordinate note; (c) \$10 million in NEW cash equity, which will get 30% of NewCo LLC - the cash on cash ROE (based on flat 2010 sales results) is 52%. I anticipate having all \$10 million raised shortly - it hasn't been all that hard to do with this historic ROE.

Because Cerberus is asking for a 75% cash sweep, the loan would be paid off in less than three years. I have reduced their interest rate from 13% to 12%, and their fees from 4% to 3%. I would also stagger their cash sweep to year 1 25%, year 2 50% and year 3 and thereafter 75%. We would also have to be allowed minimum executive salaries and a distribution. The company would have "free cashflow" of \$17 million annually.

I am expecting a letter of interest from Getty Realty on the real estate by Tuesday. My goal would be to submit a Letter of Intent to Nella Oil by Wednesday or Thursday. I will circulate the first draft.

4/18/2011

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4352

Christian Lovelace

From: Paul Morabito [pagm88@gmail.com]
Sent: Tuesday, April 05, 2011 12:09 PM
To: Dennis Vacco
Cc: Christian Lovelace; Kevin Cross
Subject: Attorney Client Privileged Communication
Follow Up Flag: Follow up
Flag Status: Red
Attachments: CalCo AZCo RATIOS.pdf; ATT330500.htm

Dennis

I had a conversation with Chris Hebble at Cerberus on Friday, and am following up with him today. Kevin Shea from Getty Realty is seeing me in Laguna for dinner on Wednesday night. It would appear that both pieces of finance will be offered to Snowshoe by late this week in term sheet form - so that a credible \$150 million offer can be made. Management would retain 24% of the company.

4/14/2011

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From: Dennis Vacco
Sent: Monday, April 16, 2012 9:15 AM
To: Paul Morabito
Subject: FW: VERY HIGH PRIORITY: Outstanding questions/paperwork-Laguna
Attachment(s): "Archived"

Paul,

I hate to bother you while you are trying to enjoy a few brief hours of vacation, but I am trying to assist Tim in moving along the Pacific Bank application. The attached documents need to be completed and signed. The schedules for debt and real estate should be easy since Snowshoe Capital, LLC presently has no debt nor owns any real estate. The request for tax related documents should be handled by Stan.

Thanks.

From: Tim@petroleumrealtygroup.com [mailto:Tim@petroleumrealtygroup.com]
Sent: Friday, April 13, 2012 11:17 AM
To: Dennis Vacco
Cc: Paul Morabito
Subject: Re: VERY HIGH PRIORITY: Outstanding questions/paperwork-Laguna

Dennis

As discussed this morning here is a copy of the paperwork .

I have also received further questions that are below.

1. **2010 personal returns reflect a Schedule E personal loss of <\$2,771,3669>. Please provide evidence for your statement that all of Paul Morabito's 2010 personal losses are "non-cash;**
2. **Detailed breakdown of all of Paul Morabito's year 2011, and 2012 personal income sources, and amount received by Paul Morabito personally. Please be sure to detail all non-taxable disbursements and/or non-taxable income from entities, by line item;**
3. **Confirmation that Paul Morabito, Snowshoe Capital LLC, and/or any other of Paul Morabito's enterprises, will not receive any amount of loan proceeds from the loan being offered**
4. **2011 Personal Tax Returns of Paul Morabito;**
5. **2008, 2009, 2010, 2011 K-1s for all companies owned by Paul Morabito, including K-1s for Schedule 4797;**
6. **2009, 2010 & 2011 W-2(s) for all outside income reflected on 2010, or if 2011 personal tax returns of Paul Morabito are provided, 2011;**
7. **Last 3 years of business tax returns, year-end financials, 2012 YTD P&L and Balance Sheet (GAAP format), and Debt Schedules for USHC Communications, Snowshoe Capital LLC, and Master Tenant, Snowshoe Capital LP;**
8. **Last 3 year's business tax returns and year-end P&L's, and Debt Schedules for all affiliate companies owned by Paul Morabito where his ownership interest is greater than 20%, including Superpumper Properties LLC, Rosemont Solebury Co-Investment, Consolidated Western Corporation, Consolidated Nevada Corporation, Baruk Properties LLC. Please see Schedule E, Statement 6 of Paul Morabito's 2010 1040 for a list of all affiliate companies owned by Paul Morabito. If 2011 1040 for Paul Morabito is provided, please use**

list of 2011 Schedule E entities instead.

9. **Should Mr. Morabito no longer own any of the listed entities, please provide the legal documentation to prove this.**

And

[Snowshoe Capital, LLC](#)

- 1) When was this business established?
- 2) What are the annual revenues for the business?
- 3) Has the business been profitable the last two years?
- 4) Where does the business currently bank and what are the average balances?

Timothy Haves
President
Petroleum Realty Group
4695 MacArthur Court, suite 1100
Newport Beach CA 92651
Tel 949-798-5791 Cel 949-636-3961

CA License # 01233336

From: Dennis Vacco <dvacco@lippes.com>
Date: Fri, 13 Apr 2012 09:46:20 -0400
To: Timothy Haves <Tim@PetroleumRealtyGroup.com>
Cc: Stephanie Canastraro <SCanastraro@lippes.com>
Subject: FW: VERY HIGH PRIORITY: Outstanding questions/paperwork-Laguna

From: Paul Morabito [<mailto:morabito.pa@gmail.com>]
Sent: Wednesday, April 11, 2012 10:34 AM
To: Stan Bernstein; Dennis Vacco
Cc: Virginia Pool; EWB Bayuk
Subject: VERY HIGH PRIORITY: Outstanding questions/paperwork-Laguna

On Tue, Apr 10, 2012 at 6:29 PM, Tim@petroleumrealtygroup.com <Tim@petroleumrealtygroup.com> wrote:
Paul

Here are all the forms and questions that need to be answered. Benchmark Capital (loan broker) have told me they will work with your CPA to get this information if it will help

Upon execution of the attached agreements, overnight the check to for the requested expense check along with an original signature copy of the Term Sheet and Placement and Fee Agreement. please make the check payable to **Pacific Alliance Bank for \$7,500.00.** Mailed To: **Larry Hudson Tel: [760-621-0056](tel:760-621-0056) - Benchmark Capital, 8130 La-Mesa Blvd. Ste 24 La-Mesa, CA 91941.**

The following is an updated list of items necessary to close this loan and provide a bank commitment letter:

1. Signature accepting the banks Offer with the required expense deposit: (the expense deposit will be held by the bank until a Pacific Alliance Bank LOI is issued and accepted by Paul Morabito; OK
2. Signature accepting the BCS Fee & Placement Agreement OK
3. Pacific Alliance Bank Loan Application; OK
4. Merged Credit Report for Paul Morabito, and/or a signed Pacific Alliance Bank

LMWF_SUPP_068535
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Credit Authorization form; OK

5. A Detailed, current Personal Financial Statement for Paul Morabito, including names of each company that Paul Morabito has any percentage ownership interest in and the percentage including interest owned in each, and a detailed Schedule of Real Estate Owned; ALREADY GIVEN
6. Copies of most recent mortgage statements for each real estate property owned by Paul Morabito (20% +); VIRGINIA WILL GET YOU MORTGAGE STATEMENT ON PANORAMA DRIVE
7. Global Cash Flow Analysis will be conducted by the banks underwriter evidencing proposed Pacific Alliance Bank loan will meet required minimum DSCR of 1.25:1, exclusive of the subject property's Master Lease and/or Proforma Rent Roll. OK
8. 2010 personal returns reflect a Schedule E personal loss of <\$2,771,3669>. Please provide evidence for your statement that all of Paul Morabito's 2010 personal losses are "non-cash; STAN BERNSTEIN CAN PROVIDE
9. Detailed breakdown of all of Paul Morabito's year 2011, and 2012 personal income sources, and amount received by Paul Morabito personally. Please be sure to detail all non-taxable disbursements and/or non-taxable income from entities, by line item; STAN BERNSTEIN CAN PROVIDE
10. Seller, Edward Baruk is the owner of Snowshoe Properties LLC and Paul Morabito is the owner of Snowshoe Capital LLC. However, we will still require a written statement from Paul Morabito explaining the relationship between him and Edward Baruk. With both companies having the same initial name (Snowshoe), with no Listing Agreement with a real estate broker company, with no brokerage acquisition fees being paid, and with Baruk Properties LLC listed as an entity owned by Paul Morabito on his year 2010, 1040 Schedule E, Statement 6, this transaction will definitely be categorized as a "Non-Arms Length" transaction. Therefore, it will be imperative that Mr. Morabito provide satisfactory, detailed answers to Pacific Alliance Bank to the following questions/comments:

§ What is Paul Morabito's current ownership percentage in Baruk Properties LLC? ZERO

§ Does Paul Morabito currently own any percentage of Edward Baruk's enterprises, other than Baruk Properties LLC? NONE

§ What is Paul Morabito's future relationship projected to be with Edward Baruk subsequent to subject transaction close? EDWARD IS MY FORMER LONG TIME COMPANION BUT WE HAVE A VERY STRONG PERSONAL RELATIONSHIP AND HE IS MY FAMILY AND WILL BE THE CENTRAL PERSON IN MY LIFE FOR THE REST OF MY LIFE

§ Does Edward Baruk currently have any ownership interest, no matter how small the ownership percentage is, in any of Paul Morabito's enterprises? YES HE OWNS 20% OF VIRSENET

§ If Edward Bayuk currently has, or in the past had, no ownership interest in the buying entity, Snowshoe Capital LLC, and by the same token, if Paul Morabito has, or in the past had, no ownership interest in the selling entity, Snowshoe Properties LLC, as has been indicated, what type of documentation can be provided to prove this? I HAD AN INTEREST IN THE PAST (50%) IN BARUK - DCV CAN ATTEST

§ Confirmation that Paul Morabito, Snowshoe Capital LLC, and/or any other of Paul Morabito's enterprises, no matter how small, will not receive any amount of loan proceeds from the loan being offered by Pacific Alliance Bank. EDWARD HAS A NOTE TO ME FOR \$1.7 MILLION THAT HE IS PAYING OFF

11. Source of down payment and verification of equity injection required (35%); CASH
12. Proforma Rent Roll for subject property as it will be after transaction close. Please include USHC office and amount of sq. ft. to be occupied, the name of Paul Morabito's Insurance Company office that is scheduled to owner occupy, and amount of sq.ft. to be occupied, and each of the current tenants that will be remaining and sq. ft. of each; DCV CAN PROVIDE
13. Who owns Snowshoe Capital LP and why is this entity named as tenant in the Master Lease, instead of Snowshoe Capital LLC? WE CHANGED LP TO LLC FOR TAX
14. Copy of fully executed Master Lease; OK
15. Copy of fully executed Purchase Agreement; OK
16. 2011 Personal Tax Returns of Paul Morabito; ON EXTENSION
17. 2009, 2010, 2011 K-1s for all companies owned by Paul Morabito, including K-1s for Schedule 4797; STAN CAN PROVIDE
18. 2010 & 2011 W-2(s) for all outside income reflected on 2010, or if 2011 personal tax returns of Paul Morabito are provided, 2011; STAN CAN PROVIDE
19. Last 3 years of business tax returns, year-end financials, 2012 YTD P&L and Balance Sheet (GAAP format), and Debt Schedules for USHC Communications, Snowshoe Capital LLC, and Master Tenant, Snowshoe Capital LP; BRAND NEW COMPANIES
20. Last 3 year's business tax returns and year-end P&L's, and Debt Schedules for all affiliate companies owned by Paul Morabito where his ownership interest is greater than 20%, including Superpumper Properties LLC, Rosemont Solebury Co-Investment, Consolidated Western Corporation, Consolidated Nevada Corporation, Baruk Properties LLC. Please see Schedule E, Statement 6 of Paul Morabito's 2010 1040 for a list of all affiliate companies owned by Paul Morabito. If 2011 1040 for Paul Morabito is provided, please use list of 2011 Schedule E entities instead. Should Mr. Morabito no longer own any of the listed entities, please provide documentation to prove this. STAN/DCV PLEASE ASSEMBLE ASAP

Timothy Haves
President
Petroleum Realty Group
4695 MacArthur Court, suite 1100
Newport Beach CA 92651
Tel [949-798-5791](tel:949-798-5791) Cel [949-636-3961](tel:949-636-3961)

CA License # 01233336

From: Paul Morabito <morabito.pa@gmail.com>
Date: Tue, 10 Apr 2012 16:57:45 -0700
To: Timothy Haves <Tim@PetroleumRealtyGroup.com>
Subject: Fwd: Shipment Notification from The UPS Store #2961

LMWF_SUPP_068537
4357

Paul Morabito
Chief Executive Officer
Virsenet LLC / Snowshoe Capital LLC
tel/text: [\(310\) 339-0475](tel:3103390475) - fax:
[\(480\) 222-1062](tel:4802221062) - UK: 0-777-0 385385

Begin forwarded message:

From: <iShip_Services@iship.com>
Date: April 10, 2012 4:13:11 PM PDT
To: <morabito.pa@gmail.com>
Subject: Shipment Notification from The UPS Store #2961

A carrier shipping label has been generated for the shipment to City Escrow Services Inc and is at The UPS Store #2961 awaiting carrier pickup.

It will be picked up from The UPS Store #2961 by UPS on Tuesday, April 10, 2012.

=====
SHIPMENT INFORMATION
=====

SENDER
Superpumper Properties LLC
--
(Sender's street address omitted intentionally from this email)
US, CA

RECIPIENT
City Escrow Services Inc
Patricia Cusick, Escrow Officer
(Recipient's street address omitted intentionally from this email)
SEAL BEACH, CA 90740-2755 US

SHIPPED THROUGH
The UPS Store #2961
[\(310\) 289-5952](tel:3102895952)

MESSAGE FROM SENDER
--

CARRIER & SERVICE
UPS Next Day Air

TRACKING & REFERENCE
Carrier Trk: 1Z33W1400107901667
Shipment ID: MMSTMKNDS7J2H
Order/Item #: --
Reference #: sb

SHIP DATE
Tuesday, April 10, 2012

EXPECTED DELIVERY DATE
Wednesday, April 11, 2012 10:30 AM

=====
TRACKING INFORMATION
=====

To get complete tracking information, click the following link:

https://iship.com/trackit/track.aspx?t=1&Track=MMSTMKNDS7J2H&src=_e

NOTE: Tracking information may not be available until several hours after the carrier picks up the packages. Carriers normally pick up in the late afternoon.

=====
QUESTIONS OR CONCERNS ABOUT THIS SHIPMENT?
=====

If you have questions regarding this shipment, contact the facility listed in the SHIPPED THROUGH section above.

=====
DO NOT REPLY DIRECTLY TO THIS E-MAIL
=====

Questions or Comments: <mailto:customerrelations@mbe.com>
Technical Support: <mailto:customerrelations@mbe.com>

On-Line manifesting and tracking technologies powered by iShip(r).
Shipping Insight.(r)

Tuesday, April 10, 2012 04:11 PM Pacific Daylight Time

--

Paul A. Morabito
Chief Executive Officer
Virsenet LLC / USHFCC / Snowshoe Capital LLC
tel/text: (310) 339-0475 - fax: (480) 222-1062 - UK: 0-777-0 385385
e-mail: morabito.pa@gmail.com paul.morabito@ushfcc.com

CONFIDENTIALITY: This e-mail message (including attachments, if any) is confidential and is intended only for the addressee. Any unauthorized use or disclosure is strictly prohibited. Disclosure of this e-mail to anyone other than the intended addressee does not constitute waiver of privilege. If you have received this communication in error, please notify us immediately and delete this. Thank you for your cooperation.

From: Dennis Vacco
Sent: Sunday, August 07, 2011 8:56 AM
To: Paul Morabito
Subject: Re: Attorney Client Privileged Communication

Happy birthday to Sam. Sounds like you are having a good time. I am in Washington again to pick up Alex. Campus tours tomorrow. Nella made minor changes to agreement. Plan is to go to escrow tomorrow.

Sent from my Verizon Wireless BlackBerry

From: Paul Morabito <morabito.pa@gmail.com>
Date: Sat, 6 Aug 2011 08:07:21 -0700
To: Dennis Vacco <dvacco@lippes.com>
Subject: Attorney Client Privileged Communication

I am just north of Algeria today (Saturday) at sea. Tomorrow (my brother Sam's birthday - he turns 50) we are in Tunis. Monday in Naples. Tuesday in Sardinia. Wednesday in Rome and then Thursday fly back to LAX from Rome.

I'm hoping things are lining up with Nella without any issues. I would like to put a \$2 million second mortgage on the Reno house - I will CALL YOU WITH DETAILS on Monday.

Plan on being in Toronto on the 23rd, 24th or 25th to meet the Chairman of Canada Post.

Christian M. Lovelace
Associate
clovelace@lippes.com

August __, 2011

Via e-mail & Regular Mail

Timothy K. Haves, Vice President
Grubb & Ellis Company
4675 MacArthur Court, Suite 1600
Newport Beach, CA 92660
Timothy.k.haves@grubb-ellis.com

Re: *Consulting Agreement between Superpumper Properties, LLC^{Inc.}
and Grubb & Ellis Company dated August __, 2011*

Dear Tim:

At the request of our client, Superpumper Properties, LLC^{Inc.} (the "Company"), we have prepared the enclosed Consulting Agreement for your review and comment. As we discussed, this Consulting Agreement was prepared as a courtesy to the Company and we strongly urge you to seek California legal counsel to review the Consulting Agreement because we are not licensed to practice law in California and we make no representation as to its validity or enforceability under California law.

Very truly yours,

LIPPES MATHIAS WEXLER FRIEDMAN LLP

By:

Christian M. Lovelace

CML/mlj

cc: Dennis C. Vacco, Esq.

Terms and objectives of
the

Lippes.PAM0002925

4361

Acknowledged and agreed to
this __ day of August, 2011:

GRUBB & ELLIS COMPANY

By: _____
Timothy K. Haves, Vice President

Acknowledged and agreed to
this __ day of August, 2011:

Timothy K. Haves

CONSULTING AGREEMENT

This CONSULTING AGREEMENT (the "Agreement") is made as of this 1st day of August, 2011, (the "Effective Date") by and between Superpumper Properties, LLC, an Arizona limited liability company with an address at 8581 Santa Monica Blvd., Ste 708, West Hollywood, CA 90069 ("Superpumper") and Grubb & Ellis Company, a [redacted] corporation, with an address at 4675 MacArthur Court, Suite 1600, Newport Beach, CA 92660 (the "Consultant").

RECITALS:

WHEREAS, Superpumper and the Consultant desire to set forth in writing the terms and conditions upon which the Consultant or an affiliate thereof, will provide consulting services to Superpumper.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the parties hereto agree and contract as follows:

1. Consulting Services. During the term of this Agreement and in consideration of the Payment (as hereinafter defined), the Consultant shall provide consulting and related services (the "Consulting Services") in connection with: (i) time spent and services rendered by the Consultant for issues related to properties owned by Superpumper or an affiliate entity of Superpumper or prospective properties that Superpumper or an affiliated entity of Superpumper may decide to purchase or sell, (ii) analytics related to feasibility of certain possible transactions, including, but not limited to, valuation studies and growth strategies, and (iii) general business and property consultation services related to the operations of Superpumper.

2. Term and Termination. The term of this Agreement and the Consulting Services to be provided by the Consultant hereunder shall be one (1) year from the Effective Date (the "Term").

3. Consulting Fees and Expenses. Superpumper shall pay to the Consultant for the Consulting Services provided hereunder a payment (the "Payment") of Fifty Eight Thousand and 00/100 (US \$58,000.00), that shall be paid to Consultant in one lump sum payment during the Term on a date to be determined in the sole discretion of Superpumper.

4. No Agency. The Consultant will render services hereunder as an independent contractor. The manner in which the Consultant renders the Consulting Services will be in the sole control and discretion of the Consultant, although the Consultant agrees to cooperate with Superpumper personnel and use commercially reasonable efforts on behalf of Superpumper within the scope of the Consulting Services. The Consultant hereby acknowledges and agrees that any employees of the Consultant are not entitled to any benefits or wages from Superpumper and are not subject to or entitled to any benefits or wages from Superpumper and are not subject to or entitled to the benefits of any terms or conditions of employment which are made available to employees of Superpumper.

5. Indemnification. Consultant shall at all times indemnify and hold harmless the Superpumper and each of his affiliates and principals, officers, directors, agents, employees or other representatives of his affiliates, from and against any and all losses, damages, costs, expenses or fees (including reasonable attorney fees) arising from or related to any allegation, or claim which constitutes negligence or misconduct relating to this Agreement.

6. Governing Law. This Agreement shall be governed by the laws of the State of New York, without giving effect to its conflicts of law provisions. Each party hereby agrees that any claims, demands, lawsuits, proceedings and controversies arising from or relating to this Agreement shall be brought and heard in federal or state courts located in the State of New York, County of Erie, and each party hereby consents to the subject matter and personal jurisdiction of such courts in respect thereof.

7. Assignment. Neither party may assign this Agreement or any of its rights hereunder nor delegate or otherwise transfer any of its obligations in connection herewith without the, prior written consent of the other party hereto.

8. Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all previous communications or agreements, either oral or written, between the parties. There are no understandings, representations or warranties of any kind whatsoever, except as expressly set forth herein.

9. Severability. If any term or provision of this Agreement is held or deemed to be invalid or unenforceable, in whole or in part, by a court or competent jurisdiction, this Agreement shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement.

10. Notice. All notices, requests, demands, reports, statements or other communications required to be given hereunder or relating to this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served on the party to whom notice is given, or on the date of receipt if mailed to the party to whom notice is to be given, by first class mail, registered or certified, return receipt requested, postage prepaid, or by overnight mail, and properly addressed to the other party at the address for such other party first set forth above. Either party may at any time direct in writing that all communications or particular communications or particular types of communications be delivered to specific designees other than those specified herein by notifying the other party in the manner specified herein.

11. Enforceability. The terms and conditions of this Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all previous communications or agreements, either oral or written, between the parties. There are no understandings, representations or warranties of any kind whatsoever, except as expressly set forth herein.

12. No Waiver. The failure of any party to enforce at any time any of the provisions of this Agreement shall not be construed to be a waiver of any such provisions, nor in any way affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce any such provisions. No waiver of any requirement of this Agreement or any breach of this Agreement shall be deemed a waiver of any other or subsequent requirement breach, whether of the same provision or otherwise.

13. Headings. All headings, captions or titles used in this Agreement are for convenience or reference only and shall not affect its construction or interpretation.

14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

15. Consultant Acknowledgment. By Consultant's execution of this Agreement, the Consultant hereby acknowledges that Lippes Mathias Wexler Friedman LLP ("LMWF") has represented Superpumper only and acknowledges and agrees that LMWF has advised Consultant that he should have independent legal counsel review this Agreement. Further, Consultant hereby waives, releases and forever discharges LMWF or any partner or associate of LMWF, from any claim, demand or suit of any kind that any party has or may have for any matter arising out of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

SUPERPUMPER PROPERTIES, ~~LLC~~ 

By: 
Paul A. Morabito, Manager


GRUBB & ELLIS COMPANY

By: _____
Timothy K. Haves, Vice President

From: Dennis Vacco
Sent: Wednesday, August 24, 2011 12:02 PM
To: Paul Morabito
Subject: Tim Haves

In order to protect TH from being reached in an enforcement action by the Herbst, I recommend that his agreement be with Superpumper Inc. SPI will need to pay him \$58,000 without any corresponding reimbursement from SPPLLC. If he is paid from Flyer's proceeds, H will go after that money and the fact he is not broker in NV will be revealed. He has consulted for SPI so it is logical that he be under contract with that entity.

Please advise.

DENNIS C. VACCO, Esq.
Lippes Mathias Wexler Friedman LLP
665 Main Street, Suite 300
Buffalo, New York 14203
716-853-5100 (office)
716-853-5199 (fax)
716-713-1679 (cell)
DVacco@Lippes.com

Circular 230 Disclosure. Any federal tax advice included in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding US federal tax-related penalties or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

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From: Dennis Vacco
Sent: Friday, November 11, 2011 9:06 AM
To: Paul Morabito
Subject: Re: ATTORNEY CLIENT PRIVILEGED COMMUNICATION



Ok.

-----Original Message-----

From: Paul Morabito
To: DCV Vacco
Subject: ATTORNEY CLIENT PRIVILEGED COMMUNICATION
Sent: Nov 10, 2011 11:40 PM

Dennis

Tell Sam he has to wire you \$1 million by the 21st.

Please get Trevor's commitment to sign - call Edward tomorrow and tell him to HOLD any payments to him until he signs. I will guaranty you that he will delay this process. Edward will absolutely cut him off if he does but requiring him to sign is a huge risk. Speak to Edward and plan on personally driving over to Niagara to get a signature.

Sent from my Verizon Wireless BlackBerry

LMWF SUPP 076609

4367

From: Paul Morabito [morabito.pa@gmail.com]
Sent: Wednesday, November 16, 2011 10:11 AM
To: Dennis Vacco
Subject: Attorney Client Privileged Communication IMPORTANT

Dennis

For many years I would dread coming home because I knew that Edward was upset over something and all of the calm rational conversation in the world would not abate his anger. I have worked very hard to get him past that and to look at things rationally.

Last night I revisited those days. Whatever you wrote in that litigation letter - which neither Edward or myself were privy to in advance, has set him off. He saw it as a huge invasion of his privacy and that you said things that didn't need to be said. Whether or not that is true or not, that's how he feels. The result of that was a degree of anger aimed at me that I haven't experienced in years. On a day that should have been fantastic - signing Herbst, BBVA and OC D - I ended it discouraged, depressed and very very lonely.

I need you to understand that Edward has an intense need to protect me as well as himself - and things that get done without his input or approval that affects both of us drive him nuts. This is absolutely one of those times.

The sad part for me is I didn't see it coming and know that now there is nothing I can do to fix it.



LMWF SUPP 029579

4368

From: Dennis Vacco
Sent: Monday, November 28, 2011 6:56 PM
To: Sam Morabito; 'morabito.pa@gmail.com'
CC: Stephanie Canastraro
Subject: RE: IMPORTANT

ok

-----Original Message-----

From: Sam Morabito [mailto:smorabito@superpumper.com]
Sent: Monday, November 28, 2011 6:58 PM
To: Dennis Vacco; 'morabito.pa@gmail.com'
Cc: Stephanie Canastraro
Subject: Re: IMPORTANT

Please confirm to me when it hits your bank.

Sam

----- Original Message -----

From: Dennis Vacco [mailto:dvacco@lippes.com]
Sent: Monday, November 28, 2011 04:49 PM
To: Sam Morabito; morabito.pa@gmail.com <morabito.pa@gmail.com>
Cc: Stephanie Canastraro <SCanastraro@lippes.com>
Subject: RE: IMPORTANT

Great, thanks.

-----Original Message-----

From: Sam Morabito [mailto:smorabito@superpumper.com]
Sent: Monday, November 28, 2011 6:51 PM
To: Dennis Vacco; 'morabito.pa@gmail.com'
Cc: Stephanie Canastraro
Subject: Re: IMPORTANT

Yes I sent it out today

----- Original Message -----

From: Dennis Vacco [mailto:dvacco@lippes.com]
Sent: Monday, November 28, 2011 04:46 PM
To: Sam Morabito; morabito.pa@gmail.com <morabito.pa@gmail.com>
Cc: Stephanie Canastraro <SCanastraro@lippes.com>
Subject: RE: IMPORTANT

Sam,

Thanks for your prompt attention to this request. Can you confirm that the wire transfer has been initiated?

Dennis

-----Original Message-----

From: Sam Morabito [mailto:smorabito@superpumper.com]

Sent: Monday, November 28, 2011 2:16 PM
To: 'morabito.pa@gmail.com'
Cc: Dennis Vacco; Stephanie Canastraro
Subject: Re: IMPORTANT

Ok
Wire instructions?

----- Original Message -----

From: Paul Morabito [mailto:morabito.pa@gmail.com]
Sent: Monday, November 28, 2011 12:13 PM
To: Sam Morabito
Cc: DCV Vacco <dvacco@lippes.com>; Stephanie Canastraro
<SCanastraro@lippes.com>
Subject: IMPORTANT

Sam
Please wire \$560,000 to Lippes Mathias TODAY

From: Dennis Vacco
Sent: Wednesday, December 07, 2011 11:31 AM
To: 'Paul Morabito'
Subject: RE:

Yes I will do it today, but I need your attention today on Moreno. Can we speak at 9:00AM your time?

As to the Business Plan, I have been advising you for two months that you need to be careful with the preparation of this. Your decision to send it to the printer was made without an opinion from me. Last week you seemed clearly indicated to me that you were going to separate yourself from the actual production of documents to avoid Herbst like circumstances in the future. The more prudent path is for you to delegate the production of "work product". Once in draft form you should edit and ultimately in an email ask me to sign off on it. But to simply send an email telling George to release the final draft to me and Ross in PDF because you are releasing in the morning is not enough to protect your interests. Emails like that were not helpful in the Herbst case. You may not like my push back, but at the end of the day there are only a few people, and maybe only one lawyer who takes seriously the responsibility of watching your back.

Can we speak at noon my time?

-----Original Message-----

From: Paul Morabito [mailto:morabito.pa@gmail.com]
Sent: Tuesday, December 06, 2011 11:29 PM
To: Dennis Vacco
Subject:

Dennis

We need that FTB opinion done THIS WEEK PLEASE. I can't keep getting extensions without a basis. Can we focus on this ASAP ?

From: Dennis Vacco
Sent: Friday, February 10, 2012 2:51 PM
To: Paul Wells; Haves, Timothy
CC: Stephanie Canastraro; Paul Morabito; Marcia Zgoda
Subject: RE: 1461 Glenneyre St Laguna Beach- Sale

Please let Stephanie know when on Monday you are available so we can schedule a call with Tim. Thanks.

From: Paul Wells
Sent: Friday, February 10, 2012 1:30 PM
To: Haves, Timothy
Cc: Dennis Vacco; Stephanie Canastraro; Paul Morabito; Marcia Zgoda
Subject: Re: 1461 Glenneyre St Laguna Beach- Sale

I am out of the office but will circle back with Paul and/or Tim to discuss this transaction on Monday.

Best,

Paul

Paul F. Wells

Sent from my iPhone

On Feb 10, 2012, at 1:25 PM, "Haves, Timothy" <Timothy.K.Haves@Grubb-Ellis.com> wrote:

Dennis

Please note that there a desire from Snowshoe Properties LLC to sell the property with a buy back provision after 10 years.

We can discuss the details of this at a later date. It may or may not be something a buyer would be interested in.

Regards

Timothy.K.Haves
Director, Vice President
Petroleum Services Group
Grubb & Ellis Company
License # 00812184
4675 MacArthur Court, Suite 1600, Newport Beach, CA 92660
Direct: 949.608.2027 • Fax: 949.608.2003 • Cell: 949.636.3961 • Skype ID GasManUSA.com
CA Salesperson License # 01233336
[Click here to visit available properties](#)

[<image001.png>](#) [<image002.png>](#) [<image003.png>](#) [<image004.png>](#) [<image005.png>](#)

From: Paul Morabito [<mailto:morabito.pa@gmail.com>]
Sent: Friday, February 10, 2012 10:02 AM
To: Paul Wells; Dennis Vacco
Cc: Haves, Timothy; Stephanie Canastraro
Subject: Fwd: 1461 Glenneyre St Laguna Beach

LMWF_SUPP_075549
4372

Paul Morabito
Chairman
Snowshoe Capital LP
8581 Santa Monica Blvd., Ste. 708
Los Angeles, California 90069-4120
tel/text: (310) 339-0475 - fax: (480) 222-1062 - UK: 0-777-0 385385

Begin forwarded message:

From: "Haves, Timothy" <Timothy.K.Haves@Grubb-Ellis.com>
Date: February 10, 2012 9:51:27 AM PST
To: "Dennis Vacco" <dvacco@lippes.com>
Cc: "Christian Lovelace" <clovelace@lippes.com>, "Paul Morabito" <morabito.pa@gmail.com>
Subject: 1461 Glenneyre St Laguna Beach

Dennis

As you are aware we are gearing up to sell the above property for Snowshoe Properties LLC.

Currently they own the property and lease two units out to Barry Didato and Blip Toys.

Please could you prepare a draft master lease for Snowshoe Capital LP to be given to a new buyer. I have attached some indicative terms that we might expect to help the drafting process.

Also, we will have to amend the current leases to Didato and Blip to make them sub leases. The remainder of the building will be occupied by Snowshoe Capital LP.

Regards

Timothy.K.Haves
Director, Vice President
Petroleum Services Group
Grubb & Ellis Company
License # 00812184
4675 MacArthur Court, Suite 1600, Newport Beach, CA 92660
Direct: 949.608.2027 • Fax: 949.608.2003 • Cell: 949.636.3961 • Skype ID GasManUSA.com
CA Salesperson License # 01233336
[Click here to visit available properties](#)

<(null)><(null)> <(null)> <(null)> <(null)>

From: Dennis Vacco [<mailto:dvacco@lippes.com>]
Sent: Thursday, February 09, 2012 4:26 PM
To: Haves, Timothy
Cc: Christian Lovelace; Paul Morabito
Subject: RE: NDA-AZ Portfolio

Tim,

Regarding the Laguna property, I will put one of our real estate lawyers on this tomorrow. We will reach out to you with any questions.

Thanks.

From: Haves, Timothy [<mailto:Timothy.K.Haves@Grubb-Ellis.com>]
Sent: Tuesday, February 07, 2012 3:39 PM
To: Dennis Vacco
Cc: Christian Lovelace; Paul Morabito
Subject: FW: NDA-AZ Portfolio

Dennis

We sent 7-Eleven an NDA, here are the comments please advise

Regards

Timothy.K.Haves

Director, Vice President
Petroleum Services Group
Grubb & Ellis Company
License # 00812184
4675 MacArthur Court, Suite 1600, Newport Beach, CA 92660
Direct: 949.608.2027 • Fax: 949.608.2003 • Cell: 949.636.3961 • Skype ID
GasManUSA.com
CA Salesperson License # 01233336
[Click here to visit available properties](#)

[<\(null\)><\(null\)>](#) [<\(null\)>](#) [<\(null\)>](#) [<\(null\)>](#)

From: Oliver, Stephen [<mailto:Stephen.Oliver@7-11.com>]
Sent: Tuesday, February 07, 2012 11:46 AM
To: Haves, Timothy
Cc: Barrow, Edward
Subject: FW: NDA-AZ Portfolio

Tim

Good to hear from you. I hope all is all.

Attached is redline version of the NDA and the executed clean copy of the redline.

I look forward to working with you.

Stephen Oliver
Regional Development Director

5600 S Quebec
Suite 200C
Greenwood Village, CO 80111

Cell: 303 808-5636
Office: 972 828-4257
Fax: 303 740-7262

LMWF_SUPP_075551
4374

Note: New Office Phone number

From: Haves, Timothy [<mailto:Timothy.K.Haves@Grubb-Ellis.com>]
Sent: Friday, February 03, 2012 11:43 AM
To: Barrow, Edward
Subject: NDA-AZ Portfolio

Edward

Please sign and return

Timothy.K.Haves

Director, Vice President

Petroleum Services Group

Grubb & Ellis Company

License # 00812184

4675 MacArthur Court, Suite 1600, Newport Beach, CA 92660

Direct: 949.608.2027 • Fax: 949.608.2003 • Cell: 949.636.3961 • Skype ID

GasManUSA.com

CA Salesperson License # 01233336

[Click here to visit available properties](#)

[<\(null\)><\(null\)> <\(null\)> <\(null\)> <\(null\)>](#)

From: Paul Morabito [morabito.pa@gmail.com]
Sent: Friday, April 20, 2012 12:38 PM
To: Edward Bayuk
CC: Dennis Vacco
Subject: Re: BofA

NO NO NO NO

Paul Morabito
Chief Executive Officer
Virsenet LLC / Snowshoe Capital LLC
tel/text: (310) 339-0475 - fax:
(480) 222-1062 - UK: 0-777-0 385385

On Apr 20, 2012, at 1:16 PM, Edward Bayuk <ebayuk@superpumper.com> wrote:

Dennis

I am met the BofA appraiser this morning at 570 Glenneyre which was requested by David Maiorella of BofA but indirectly by a different department of BofA.

The appraiser today asked me for the tenant improvement expenses, a copy of existing lease and a copy of the building drawings. I am very reluctant to give him all this information at this point in time.

I know this is a process with BofA but would like to know from you if I should pay off BofA existing mortgage. It is set up with Wells Fargo and I could do it for the month of May.

Please call me when you have a minute today.

Edward

Dennis Vacco

From: Paul Morabito [morabito.pa@gmail.com]
Sent: Tuesday, April 24, 2012 3:27 PM
To: Paul Mitchell; Dennis Vacco
Subject: Fwd: 121:30PST CALL TOPICS
Attachments: SPI Loan Detail in GL.pdf

(888) 346-3950, dial 961325#

MY POSITION IS BELOW - PLEASE MAKE IT HAPPEN

----- Forwarded message -----

From: Paul Morabito <morabito.pa@gmail.com>
Date: Tue, Apr 24, 2012 at 12:10 PM
Subject: 121:30PST CALL TOPICS
To: Edward Bayuk <ebayuk@superpumper.com>, Stan Bernstein <stan@bernstein-cpabiz.com>, Dennis Vacco <dvacco@lippes.com>

On your 12:30PST call please address EACH OF THESE ISSUES ... Thanks.

----- Forwarded message -----

From: Gary Krausz, CPA/CFF <garyk@gursey.com>
Date: Tue, Apr 24, 2012 at 11:40 AM
Subject: FW: SPI / Affiliate Loans
To: "morabito.pa@gmail.com" <morabito.pa@gmail.com>, Edward Bayuk <ebayuk@superpumper.com>, Sam Morabito <smorabito@superpumper.com>
Cc: "Naz Afshar, CPA/CFF" <nafshar@gursey.com>

Dear Paul, Edward and Sam –

Thank you for speaking with Naz and me this morning. As of 12/31/2011 – SPI's books reflect \$7.4 million of notes receivable from shareholders / affiliates. Below is the email we sent to Edward, Sam and discussed on the phone with David D'arata @ Snowshoe's CPA firm in Buffalo. Also, attached is summary of what is currently recorded in SPI's books related to these loans. See attached. To summarize – our issues are:

Ownership-level issues to address:

- 1) Stan informed us that the notes receivable from Paul to SPI were written off / forgiven. Don's books reflect them being transferred to Snowshoe. We would like to understand the disposition of Paul's notes to SPI and, obtain related agreements related to this transaction. THEY WERE WRITTEN OFF AS PART OF MY SALE OF MY INTEREST BUT THEIR QUESTION IS - WHEN ? I TOLD THEM MARCH 2011
- 2) Repayment / collectability of notes – David D'arata represented that Snowshoe does not have the ability to repay the notes. We need to be satisfied as to valuation of the notes receivable. I TOLD THEM THAT I WILL PERSONALLY GUARANTY THE REPAYMENT OF THE SNOWSHOE NOTES

3) Accrued interest – SPI’s GL does not reflect the accrual of interest on the notes according to the agreements. We would need to record adjustment for interest that should be accrued. INTEREST SHOULD BE ACCRUED

4) Repayments – the terms of the notes require Edward, Sam and Snowshoe to commence repayment of interest on the notes. It is our understanding repayment of interest has not commenced. Have there been modifications to the original notes? REPAYMENT WILL OCCUR BY CONTRIBUTION OF CASH, KIND OR POTENTIALLY AN OPTION

5) Conflicting ownership of SPI – Dennis Vacco informed us SPI was 80% owned by Snowshoe, 10% Sam and 10% Edward; David D’arata informed us that SPI was owned 100% by Snowshoe (and that Edward and Sam each own 50% of Snowshoe). Can you please provide stock the SPI stock ownership records as of 1/1/2011 and 12/31/2011 (and any changes if any, in the interim). IT SHOULD BE 100% SNOWSHOE

6) Updated legal letter from general counsel (good standing letter like last year) – and missing two contingent liability legal letters (Dennis Vacco and Brian Sirower) - PLEASE ARRANGE ASAP

Other opens audit issues:

1) Engagement letter signed / returned EDWARD WILL DO

2) Don owes us December inventory reconciliation PDI to Rob Johannek’s count sheets EDWARD WILL GET FROM DON

3) Update U/L search after year-end and subsequent events testing EDWARD/SAM

4) Review materials Don recently provided us – 2-3 days of organizing records and following up with Don OK

5) Small adjusting entries needed to be recorded (depreciation update, straight-line rent accrual, interest accrual, etc.) OK

6) Will update as needed

Please let me know re: items from above.

PLEASE MAKE THIS A PRIORITY STAN, DENNIS ET AL

Thanks,

Gk

From: Dennis Vacco
Sent: Tuesday, September 04, 2012 7:01 PM
To: 'Edward Bayuk'
CC: 'Paul Morabito'; Stephanie Canastraro
Subject: SECOND DEED OF TRUST DOCUMENTS
Attachment(s): "Second Deed of Trust (8-24-12).pdf", "Third Modification Agreement (8-30-12).pdf", "Limited Guaranty (8-30-12).pdf", "Certificate of LLC (Authorization to Pledge Assets) (8-24-12).pdf"

Edward,

Attached please find various documents which need to be executed by you to fulfill the collateral for the note Paul agreed to in order to settle the BOA litigation. I have reviewed and approved all documents. Please execute these documents and return them to me via PDF before Friday and then over night the originals to me. Please sign in blue ink.

Thanks.

Dennis

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**CERTIFICATE OF LIMITED LIABILITY COMPANY
(AUTHORIZATION TO GUARANTY AND TO PLEDGE ASSETS)**

The undersigned hereby certifies to Bank of America, N.A. (the "Bank") that:

1. Snowshoe Properties, LLC (the "Company"), a limited liability company organized under the laws of California, is managed by one or more managers.
2. The undersigned executing this Certificate is the sole member and sole manager of the Company.
3. A true and complete copy of the Articles of Organization and Operating Agreement of the Company, with any amendments, have been delivered to the Bank, or will be delivered promptly upon the Bank's request. Whether or not the Bank has received a copy of these documents, the Bank is authorized to rely on this Certificate without review of such documents, and has no obligation to undertake any such review.
4. The Bank is unwilling to extend or continue to extend certain financial and/or settlement accommodations to Paul Morabito ("Borrower"), unless such obligations are guaranteed by the Company. It is of a business benefit to the Company that such financial and/or settlement accommodations be extended to Borrower, and that the required guaranty be executed.
5. Edward Bayuk, the sole manager of the Company, acting alone (the "Authorized Signer"), has full power and authority to, and are hereby authorized, on behalf of the Company, to:
 - (a) execute and deliver to the Bank, and the Bank is requested to accept, the guaranty in such form as may be agreed upon by the Authorized Signer and the Bank;
 - (b) grant to the Bank a security interest in or lien on any real or personal property belonging to or under the control of the Company as security for any and all obligations of the Company to the Bank under the guaranty;
 - (c) enter into and execute any and all security agreements, deeds of trust, mortgages, financing statements, fixture filings or other instruments, agreements, and documents with respect to any security interest or lien to be given in favor of the Bank in such form as may be agreed upon by the Authorized Signer and the Bank;
 - (d) enter into and execute any and all other documents, instruments and agreements as the Bank may require and the Authorized Signer may approve; and
 - (e) take such actions as may be deemed necessary or desirable to fully exercise the power and authority given hereunder.

The instruments, agreements, and documents referred to above may contain such provisions as the Bank may require and the Authorized Signer may approve, and the execution of such instruments, agreements, and documents by such Authorized Signer shall be conclusive evidence of such approval.

6. The authority granted hereunder shall be deemed retroactive. All acts authorized hereunder and performed prior to the date of this Certificate are hereby ratified and affirmed. The Bank is authorized to rely upon this Certificate until written notice to the contrary, executed by each of the undersigned, is received by the Bank. The authority of the Authorized Signer shall apply with equal force and effect to its successors in office. The Bank shall be entitled to act in reliance upon the matters contained herein, notwithstanding anything to the contrary contained in the Operating Agreement or other

formation documents of the Company or in any other document. This Certificate may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which taken together shall be deemed to be one and the same document. If the Company customarily adopts resolutions of its members, managers, officers or other governing body, then the undersigned certify that any such required resolutions have been adopted as required by law or the Company's formation documents.

7. The undersigned agrees to indemnify and hold the Bank harmless against any and all claims that the person authorized under Paragraph 5 above lacked the authority to bind the Company under any document executed by such persons.

IN WITNESS WHEREOF, the undersigned have caused this Certificate to be duly executed as of the date set forth below.

Dated: September ____, 2012

Edward Bayuk, Sole Member & Manager

BORROWER: Paul Morabito, individually and as Trustee of The Arcadia Living Trust

GUARANTOR: Snowshoe Properties, LLC

LIMITED GUARANTY

To: Bank of America, N.A.

1. The Guaranty. For valuable consideration, the undersigned (“Guarantor”) hereby unconditionally guarantees and promises to pay promptly to Bank of America, N.A., its subsidiaries and affiliates (collectively, “Bank”), or order, in lawful money of the United States, any and all Indebtedness of Paul Morabito, individually and as Trustee of The Arcadia Living Trust (“Borrower”), to Bank when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, subject to such limitations on Guarantor’s liability as are set forth below. This Guaranty is cumulative and does not supersede any other outstanding guaranties, and the liability of Guarantor under this Guaranty is exclusive of Guarantor’s liability under any other guaranties signed by Guarantor.

The liability of Guarantor under this Guaranty for the principal amount of the Indebtedness shall not exceed at any one time Eight Hundred Seventy-Six Thousand Seven Hundred Fifty-Two and 01/100 Dollars (\$876,752.01). Guarantor shall also be liable for all interest, fees, indemnities, and other costs and expenses relating to or arising out of the Indebtedness guaranteed hereunder by Guarantor. The liability of Guarantor is continuing and relates to any Indebtedness, including that arising under successive transactions which shall either continue the Indebtedness or from time to time renew it after it has been satisfied.

2. Definitions.

(a) “Borrower” shall mean the individual or the entity named in Paragraph 1 of this Guaranty and, if more than one, then any one or more of them.

(b) “Guarantor” shall mean the entity signing this Guaranty.

(c) “Indebtedness” shall mean any and all debts, liabilities, and obligations of Borrower to Bank arising out of the Settlement Agreement, now or hereafter existing, whether voluntary or involuntary, whether direct or indirect or acquired by Bank by assignment, succession, or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, held or to be held by Bank for its own account or as agent for another or others, whether Borrower may be liable individually or jointly with others, whether recovery upon such debts, liabilities, and obligations may be or hereafter become barred by any statute of limitations, and whether such debts, liabilities, and obligations may be or hereafter become otherwise unenforceable. Indebtedness includes, without limitation, any and all obligations of Borrower to Bank for attorneys’ fees and all other costs and expenses incurred by Bank (i) in the collection or enforcement of any debts, liabilities, and obligations of Borrower to Bank under the Settlement Agreement, or (ii) in the preservation, protection, or enforcement of any rights of Bank in any case commenced by or against Borrower under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute.

(d) "Settlement Agreement" shall mean that certain Settlement Agreement, Loan Agreement Modification & Release dated as of September ____, 2012, between Borrower and Bank, as now in effect and as hereafter amended, restated, renewed, or superseded.

3. Obligations Independent. The obligations hereunder are independent of the obligations of Borrower or any other guarantor, and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against Borrower or any other guarantor or whether Borrower or any other guarantor be joined in any such action or actions. Anyone executing this Guaranty shall be bound by its terms without regard to execution by anyone else.

4. Rights of Bank. Guarantor authorizes Bank, without notice or demand and without affecting its liability hereunder, from time to time to:

(a) renew, compromise, extend, accelerate, or otherwise change the time for payment, or otherwise change the terms, of the Indebtedness or any part thereof, including increase or decrease of the rate of interest thereon, or otherwise change the terms of the Settlement Agreement;

(b) receive and hold security for the payment of this Guaranty or any Indebtedness and exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any such security;

(c) apply such security and direct the order or manner of sale thereof as Bank in its discretion may determine;

(d) release or substitute any Guarantor or any one or more of any endorsers or other guarantors of any of the Indebtedness; and

(e) permit the Indebtedness to exceed Guarantor's liability under this Guaranty, and Guarantor agrees that any amounts received by Bank from any source other than Guarantor shall be deemed to be applied first to any portion of the Indebtedness not guaranteed by Guarantor.

5. Guaranty to be Absolute. Guarantor agrees that until the Indebtedness has been paid in full and any commitments of Bank or facilities provided by Bank with respect to the Indebtedness have been terminated, Guarantor shall not be released by or because of the taking, or failure to take, any action that might in any manner or to any extent vary the risks of Guarantor under this Guaranty or that, but for this paragraph, might discharge or otherwise reduce, limit, or modify Guarantor's obligations under this Guaranty. Guarantor waives and surrenders any defense to any liability under this Guaranty based upon any such action, including but not limited to any action of Bank described in the immediately preceding paragraph of this Guaranty. It is the express intent of Guarantor that Guarantor's obligations under this Guaranty are and shall be absolute and unconditional.

6. Guarantor's Waivers of Certain Rights and Certain Defenses. Guarantor waives:

(a) any right to require Bank to proceed against Borrower, proceed against or exhaust any security for the Indebtedness, or pursue any other remedy in Bank's power whatsoever;

(b) any defense arising by reason of any disability or other defense of Borrower, or the cessation from any cause whatsoever of the liability of Borrower;

(c) any defense based on any claim that Guarantor's obligations exceed or are more burdensome than those of Borrower; and

(d) the benefit of any statute of limitations affecting Guarantor's liability hereunder.

No provision or waiver in this Guaranty shall be construed as limiting the generality of any other waiver contained in this Guaranty.

7. Waiver of Subrogation. Until the Indebtedness has been paid in full and any commitments of Bank or facilities provided by Bank with respect to the Indebtedness have been terminated, even though the Indebtedness may be in excess of Guarantor's liability hereunder, Guarantor waives to the extent permitted by applicable law any right of subrogation, reimbursement, indemnification, and contribution (contractual, statutory, or otherwise) including, without limitation, any claim or right of subrogation under the Bankruptcy Code (Title 11, United States Code) or any successor statute, arising from the existence or performance of this Guaranty, and Guarantor waives to the extent permitted by applicable law any right to enforce any remedy that Bank now has or may hereafter have against Borrower, and waives any benefit of, and any right to participate in, any security now or hereafter held by Bank.

8. Waiver of Notices. Guarantor waives all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of intent to accelerate, notices of acceleration, notices of any suit or any other action against Borrower or any other person, any other notices to any party liable on the Settlement Agreement, notices of acceptance of this Guaranty, notices of the existence, creation, or incurring of new or additional Indebtedness to which this Guaranty applies or any other Indebtedness of Borrower to Bank, and notices of any fact that might increase Guarantor's risk.

9. General Partner Liability and Waivers of Other Rights and Defenses.

(a) If Borrower is a partnership and Guarantor is a general partner of that partnership, then Guarantor shall not be liable under this Guaranty for any portion of the Indebtedness that is secured by real property; provided, however, that Guarantor shall remain liable under partnership law for all the Indebtedness.

(b) Guarantor waives any rights and defenses that are or may become available to Guarantor by reason of Sections 2787 to 2855, inclusive, of the California Civil Code.

(c) Guarantor waives all rights and defenses that Guarantor may have because any of the Indebtedness is secured by real property. This means, among other things:

(i) Bank may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by Borrower; and

(ii) if Bank forecloses on any real property collateral pledged by Borrower: (1) the amount of the Indebtedness may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (2) Bank may collect from Guarantor even if Bank, by foreclosing on the real property collateral, has destroyed any right Guarantor may have to collect from Borrower; and

(iii) if Bank consents to a sale of the real property for less than the remaining amount of the Indebtedness due at the time of sale, the amount of Guarantor's obligation for Indebtedness guaranteed hereunder shall be reduced only by the amount of sales proceeds applied against the Indebtedness, even if such consent destroyed rights Guarantor may have to collect from Borrower, and notwithstanding Section 580e of the California Code of Civil Procedure or any other statute.

This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have

because any of the Indebtedness is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, 580e or 726 of the California Code of Civil Procedure.

(d) Guarantor waives any right or defense it may have at law or equity, including California Code of Civil Procedure Section 580a, to a fair market value hearing or action to determine a deficiency judgment after a foreclosure.

10. Security. Guarantor's obligations hereunder shall be secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date herewith encumbering the property commonly known as 570 Glenneyre Street, Laguna Beach, California 92651.

11. Subordination. Any obligations of Borrower to Guarantor, now or hereafter existing, including but not limited to any obligations to Guarantor as subrogee of Bank or resulting from Guarantor's performance under this Guaranty, are hereby subordinated to the Indebtedness. In addition to Guarantor's waiver of any right of subrogation as set forth in this Guaranty with respect to any obligations of Borrower to Guarantor as subrogee of Bank, Guarantor agrees that, if Bank so requests, Guarantor shall not demand, take, or receive from Borrower, by setoff or in any other manner, payment of any other obligations of Borrower to Guarantor until the Indebtedness has been paid in full and any commitments of Bank or facilities provided by Bank with respect to the Indebtedness have been terminated. If any payments are received by Guarantor in violation of such waiver or agreement, such payments shall be received by Guarantor as trustee for Bank and shall be paid over to Bank on account of the Indebtedness, but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty. Any security interest, lien, or other encumbrance that Guarantor may now or hereafter have on any property of Borrower is hereby subordinated to any security interest, lien, or other encumbrance that Bank may have on any such property.

12. Revocation of Guaranty.

(a) This Guaranty may be revoked at any time by Guarantor in respect to future transactions. Such revocation shall be effective upon actual receipt by Bank, at the address shown below or at such other address as may have been provided to Guarantor by Bank, of written notice of revocation. Revocation shall not affect any of Guarantor's obligations or Bank's rights with respect to transactions committed or entered into prior to Bank's receipt of such notice, nor shall it affect Guarantor's obligations with respect to any indemnities, including indemnities regarding hazardous wastes, executed prior to Bank's receipt of such notice; regardless of whether or not the Indebtedness related to such transactions, before or after revocation, has been incurred, renewed, compromised, extended, accelerated, or otherwise changed as to any of its terms, including time for payment or increase or decrease of the rate of interest thereon, and regardless of any other act or omission of Bank authorized hereunder. Revocation by Guarantor shall not affect any obligations of any other guarantor.

(b) In the event of the death of a Guarantor, the liability of the estate of the deceased Guarantor shall continue in full force and effect as to (i) the Indebtedness existing at the date of death, and any renewals or extensions thereof, and (ii) loans or advances made to or for the account of Borrower after the date of the death of the deceased Guarantor pursuant to a commitment made by Bank to Borrower prior to the date of such death. As to all surviving Guarantors, this Guaranty shall continue in full force and effect after the death of a Guarantor, not only as to the Indebtedness existing at that time, but also as to the Indebtedness thereafter incurred by Borrower to Bank.

(c) Guarantor acknowledges and agrees that this Guaranty may be revoked only in accordance with the foregoing provisions of this paragraph and shall not be revoked simply as a result of any change in name, location, or composition or structure of Borrower, the dissolution of Borrower, or the termination, increase, decrease, or other change of any personnel or owners of Borrower.

13. Reinstatement of Guaranty. If this Guaranty is revoked, returned, or canceled, and subsequently any payment or transfer of any interest in property by Borrower to Bank is rescinded or must be returned by Bank to Borrower, this Guaranty shall be reinstated with respect to any such payment or transfer, regardless of any such prior revocation, return, or cancellation; and any guaranty of any indemnities, including indemnities regarding hazardous wastes, shall survive any termination of this Guaranty.

14. Stay of Acceleration. In the event that acceleration of the time for payment of any of the Indebtedness is stayed upon the insolvency, bankruptcy, or reorganization of Borrower or otherwise, all such Indebtedness guaranteed by Guarantor shall nonetheless be payable by Guarantor immediately if requested by Bank.

15. No Setoff or Deductions; Taxes.

(a) Guarantor represents and warrants that it is organized and resident in the United States of America. All payments by Guarantor hereunder shall be paid in full, without setoff or counterclaim or any deduction or withholding whatsoever, including, without limitation, for any and all present and future taxes. If Guarantor must make a payment under this Guaranty, Guarantor represents and warrants that it will make the payment from one of its U.S. resident offices to Bank so that no withholding tax is imposed on the payment. Notwithstanding the foregoing, if Guarantor makes a payment under this Guaranty to which withholding tax applies or if any taxes (other than taxes on net income (i) imposed by the country or any subdivision of the country in which Bank's principal office or actual lending office is located and (ii) measured by the United States taxable income Bank would have received if all payments under or in respect of this Guaranty were exempt from taxes levied by Guarantor's country) are at any time imposed on any payments under or in respect of this Guaranty including, but not limited to, payments made pursuant to this paragraph, Guarantor shall pay all such taxes to the relevant authority in accordance with applicable law such that Bank receives the sum it would have received had no such deduction or withholding been made (or, if Guarantor cannot legally comply with the foregoing, Guarantor shall pay to Bank such additional amounts as will result in Bank receiving the sum it would have received had no such deduction or withholding been made). Further, Guarantor shall also pay to Bank, on demand, all additional amounts that Bank specifies as necessary to preserve the after-tax yield Bank would have received if such taxes had not been imposed.

(b) Guarantor shall promptly provide Bank with an original receipt or certified copy issued by the relevant authority evidencing the payment of any such amount required to be deducted or withheld.

16. Information Relating to Borrower. Guarantor acknowledges and agrees that it has made such independent examination, review, and investigation of the Settlement Agreement as Guarantor deems necessary and appropriate, including, without limitation, any covenants pertaining to Guarantor contained therein, and shall have sole responsibility to obtain from Borrower any information required by Guarantor about any modifications thereto. Guarantor further acknowledges and agrees that it shall have the sole responsibility for, and has adequate means of, obtaining from Borrower such information concerning Borrower's financial condition or business operations as Guarantor may require, and that Bank has no duty, and Guarantor is not relying on Bank, at any time to disclose to Guarantor any information relating to the business operations or financial condition of Borrower.

17. Borrower's Authorization. Where Borrower is a corporation, partnership, or limited liability company, it is not necessary for Bank to inquire into the powers of Borrower or of the officers, directors, partners, members, managers, or agents acting or purporting to act on its behalf, and any Indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder, subject to any limitations on Guarantor's liability set forth herein.

18. Guarantor Information: Reporting to Credit Bureaus. Guarantor authorizes Bank to verify or check any information given by Guarantor to Bank, check Guarantor's credit references, verify employment, and obtain credit reports. Guarantor shall provide such financial statements and other financial information about Guarantor as Bank may request from time to time. Guarantor agrees that Bank shall have the right at all times to disclose and report to credit reporting agencies and credit rating agencies such information pertaining to the Indebtedness and/or Guarantor as is consistent with Bank's policies and practices from time to time in effect. Guarantor acknowledges and agrees that the authorizations provided in this paragraph apply to any individual general partner of Guarantor and to Guarantor's spouse and any such general partner's spouse if Guarantor or such general partner is married and lives in a community property state.

19. Change of Status. Any Guarantor that is a business entity shall not enter into any consolidation, merger, or other combination unless Guarantor is the surviving business entity. Further, Guarantor shall not change its legal structure unless (a) Guarantor obtains the prior written consent of Bank and (b) all Guarantor's obligations under this Guaranty are assumed by the new business entity.

20. Remedies. If Guarantor fails to fulfill its duty to pay all Indebtedness guaranteed hereunder, Bank shall have all of the remedies of a creditor and, to the extent applicable, of a secured party, under all applicable law. Without limiting the foregoing to the extent permitted by law, Bank may, at its option and without notice or demand:

(a) declare any Indebtedness due and payable at once and take possession of any collateral pledged by Borrower or Guarantor, wherever located, and sell, resell, assign, transfer, and deliver all or any part of the collateral at any public or private sale or otherwise dispose of any or all of the collateral in its then condition, for cash or on credit or for future delivery, and in connection therewith Bank may impose reasonable conditions upon any such sale. Further, Bank, unless prohibited by law the provisions of which cannot be waived, may purchase all or any part of the collateral to be sold, free from and discharged of all trusts, claims, rights of redemption and equities of Borrower or Guarantor whatsoever. Guarantor acknowledges and agrees that the sale of any collateral through any nationally recognized broker-dealer, investment banker, or any other method common in the securities industry shall be deemed a commercially reasonable sale under the Uniform Commercial Code or any other equivalent statute or federal law, and expressly waives notice thereof except as provided herein; and

(b) set off and apply any and all Deposits of Guarantor held by Bank or its affiliates against any and all obligations of Guarantor owing to Bank. The set-off may be made irrespective of whether or not Bank shall have made demand under this Guaranty, and although such obligations may be contingent or unmatured or denominated in a currency different from that of the applicable Deposits and without regard for the availability or adequacy of other collateral. If exercised by Bank, Bank shall be deemed to have exercised such right of setoff and to have made a charge against any such money immediately upon the occurrence of such default although made or entered on the books subsequent thereto. Any Deposits may be converted, sold or otherwise liquidated at prevailing market prices in order to effect such set-off. For the purposes of this paragraph, "Deposits" means any deposits (general or special, time or demand, provisional or final, individual or joint) as well as any money, instruments, securities, credits, claims, demands, income or other property, rights or interests owned by Guarantor which come into the possession or custody or under the control of Bank or its affiliates.

21. Notices. All notices required under this Guaranty shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses on the signature page of this Guaranty, or sent by facsimile to the fax numbers listed on the signature page, or to such other addresses as Bank and Guarantor may specify from time to time in writing. Notices sent by (a) first class mail shall be deemed delivered on the earlier of actual receipt or on the fourth business day after deposit in the U.S. mail, postage prepaid, (b) overnight courier shall be deemed delivered on the next business day, and (c) telecopy shall be deemed delivered when transmitted.

22. Successors and Assigns. This Guaranty (a) binds Guarantor and Guarantor's executors, administrators, successors, and assigns, provided that Guarantor may not assign its rights or obligations under this Guaranty without the prior written consent of Bank, and (b) inures to the benefit of Bank and Bank's indorsees, successors, and assigns. Bank may, without notice to Guarantor and without affecting Guarantor's obligations hereunder, sell, assign, grant participations in, or otherwise transfer to any other person, firm, or corporation the Indebtedness and this Guaranty, in whole or in part. Guarantor agrees that Bank may disclose to any assignee or purchaser, or any prospective assignee or purchaser, of all or part of the Indebtedness any and all information in Bank's possession concerning Guarantor, this Guaranty, and any security for this Guaranty.

23. Amendments, Waivers, and Severability. No provision of this Guaranty may be amended or waived except in writing. No failure by Bank to exercise, and no delay in exercising, any of its rights, remedies, or powers shall operate as a waiver thereof, and no single or partial exercise of any such right, remedy, or power shall preclude any other or further exercise thereof or the exercise of any other right, remedy, or power. The unenforceability or invalidity of any provision of this Guaranty shall not affect the enforceability or validity of any other provision of this Guaranty.

24. Costs and Expenses. Guarantor agrees to pay all reasonable attorneys' fees, including allocated costs of Bank's in-house counsel to the extent permitted by applicable law, and all other costs and expenses that may be incurred by Bank (a) in the enforcement of this Guaranty or (b) in the preservation, protection, or enforcement of any rights of Bank in any case commenced by or against Guarantor under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute.

25. Representations and Warranties. When Guarantor signs this Guaranty, and until the Indebtedness is repaid in full and any commitments or facilities provided by Bank with respect to the Indebtedness have been terminated, Guarantor makes the following representations and warranties:

(a) If Guarantor is anything other than a natural person, it is duly formed and existing under the laws of the state or other jurisdiction where organized.

(b) This Guaranty, and any instrument or agreement required hereunder, are within Guarantor's powers, have been duly authorized, and do not conflict with any of its organizational papers.

(c) In each state in which Guarantor does business, it is properly licensed, in good standing, and, where required, in compliance with fictitious name statutes.

(d) All financial and other information that has been or will be supplied to Bank is sufficiently complete to give Bank accurate knowledge of Guarantor's financial condition, including all material contingent liabilities. Since the date of the most recent financial statement provided to Bank, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of Guarantor. If Guarantor is comprised of the trustees of a trust, the foregoing representations shall also pertain to the trustor(s) of the trust.

(e) There is no lawsuit, tax claim or other dispute pending or threatened against Guarantor which, if lost, would impair Guarantor's financial condition or ability to repay the Indebtedness, except as have been disclosed in writing to Bank.

(f) Guarantor is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation, except as have been disclosed in writing to Bank.

(g) Guarantor has no knowledge of any pending assessments or adjustments of its income tax for any year and all taxes due have been paid, except as have been disclosed in writing to Bank.

(h) There is no event which is, or with notice or lapse of time or both would be, a default by Guarantor under this Guaranty or under any other instrument or agreement executed in connection with the Indebtedness or this Guaranty.

(i) Guarantor will not be rendered insolvent by the execution, delivery, and performance of its obligations under this Guaranty.

(j) Guarantor, if a natural person, has obtained any spousal or other consents or waivers which may be required by applicable law.

(k) All collateral pledged by Guarantor to secure the Indebtedness or this Guaranty is owned by Guarantor free of any title defects or any liens or interests of others, except those which have been approved by Bank in writing.

26. Governing Law and Jurisdiction. This Guaranty is governed by and shall be interpreted according to federal law and the laws of California. If state or local law and federal law are inconsistent, or if state or local law is preempted by federal law, federal law governs. If Bank has greater rights or remedies under federal law, whether as a national bank or otherwise, this paragraph shall not be deemed to deprive Bank of such rights and remedies as may be available under federal law. Jurisdiction and venue for any action or proceeding to enforce this Guaranty shall be the forum appropriate for such action or proceeding against Borrower, to which jurisdiction Guarantor irrevocably submits and to which venue Guarantor waives to the fullest extent permitted by law any defense asserting an inconvenient forum in connection therewith. It is provided, however, that if Guarantor owns property in another state, notwithstanding that the forum for enforcement action is elsewhere, Bank may commence a collection proceeding in any state in which Guarantor owns property for the purpose of enforcing provisional remedies against such property. Service of process by Bank in connection with such action or proceeding shall be binding on Guarantor if sent to Guarantor by registered or certified mail at its address specified below.

27. Dispute Resolution Provision. This paragraph, including the subparagraphs below, is referred to as the "Dispute Resolution Provision." This Dispute Resolution Provision is a material inducement for the parties entering into this agreement.

(a) This Dispute Resolution Provision concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this agreement (including any renewals, extensions or modifications); or (ii) any document related to this agreement (collectively a "Claim"). For the purposes of this Dispute Resolution Provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of the Bank involved in the servicing, management or administration of any obligation described or evidenced by this agreement.

(b) At the request of any party to this agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though this agreement provides that it is governed by the law of a specified state.

(c) Arbitration proceedings will be determined in accordance with the Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, the Bank may designate another arbitration organization with similar procedures to serve as the provider of arbitration.

(d) The arbitration shall be administered by AAA and conducted, unless otherwise required by law, in any U.S. state where real or tangible personal property collateral for this credit is located or if there is no such collateral, in the state specified in the governing law section of this agreement. All Claims shall be determined by one arbitrator; however, if Claims exceed Five Million Dollars (\$5,000,000), upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and have judgment entered and enforced.

(e) Except as waived by Guarantor in this Guaranty, the arbitrator(s) will give effect to statutes of limitation in determining any Claim and shall dismiss the arbitration if the Claim is barred under the applicable statutes of limitation. For purposes of the application of any statutes of limitation, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s), except as set forth at subparagraph (j) of this Dispute Resolution Provision. The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this agreement.

(f) The procedure described above will not apply if the Claim, at the time of the proposed submission to arbitration, arises from or relates to an obligation to the Bank secured by real property. In this case, all of the parties to this agreement must consent to submission of the Claim to arbitration.

(g) To the extent any Claims are not arbitrated, to the extent permitted by law the Claims shall be resolved in court by a judge without a jury, except any Claims which are brought in California state court shall be determined by judicial reference as described below.

(h) Any Claim which is not arbitrated and which is brought in California state court will be resolved by a general reference to a referee (or a panel of referees) as provided in California Code of Civil Procedure Section 638. The referee (or presiding referee of the panel) shall be a retired Judge or Justice. The referee (or panel of referees) shall be selected by mutual written agreement of the parties. If the parties do not agree, the referee shall be selected by the Presiding Judge of the Court (or his or her representative) as provided in California Code of Civil Procedure Section 638 and the following related sections. The referee shall determine all issues, whether of fact or law, in accordance with existing California law and the California rules of evidence and civil procedure. The referee shall be empowered to enter equitable as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The award that results from the decision of the referee(s) will be entered as a judgment in the court that appointed the referee, in accordance with the provisions of California Code of Civil Procedure Sections 644(a) and 645. The parties reserve the right to seek appellate review of any judgment or order, including but not limited to, orders pertaining to class certification, to the same extent permitted in a court of law.

(i) This Dispute Resolution Provision does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non-judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies. The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration or judicial reference.

(j) Any arbitration or court trial (whether before a judge or jury or pursuant to judicial reference) of any Claim will take place on an individual basis without resort to any form of class or representative action (the "Class Action Waiver"). The Class Action Waiver precludes any party from participating in or being represented in any class or representative action regarding a Claim. Regardless of anything else in this Dispute Resolution Provision, the validity and effect of the Class Action Waiver may be determined only by a court or referee and not by an arbitrator. The parties to this agreement acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from the agreement to arbitrate Claims. If the Class Action Waiver is limited, voided or found unenforceable, then the parties' agreement to arbitrate shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver. **The Parties acknowledge and agree that under no circumstances will a class action be arbitrated.**

(k) By agreeing to binding arbitration or judicial reference, the parties irrevocably and voluntarily waive any right they may have to a trial by jury as permitted by law in respect of any Claim. Furthermore, without intending in any way to limit this Dispute Resolution Provision, to the extent any Claim is not arbitrated or submitted to judicial reference, the parties irrevocably and voluntarily waive any right they may have to a trial by jury to the extent permitted by law in respect of such Claim. This waiver of jury trial shall remain in effect even if the Class Action Waiver is limited, voided or found unenforceable. **WHETHER THE CLAIM IS DECIDED BY ARBITRATION, BY JUDICIAL REFERENCE, OR BY TRIAL BY A JUDGE, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**

28. Limitation on Liability. Guarantor shall not be personally liable for amounts due under this Guaranty; provided, however, the foregoing shall not be deemed to be a waiver of any right which Bank may have under Sections 506(a), 506(b), 1111(b) or any other provision of the United States Bankruptcy Code, as such sections may be amended, or corresponding or superseding sections of the Bankruptcy Amendments and Federal Judgeship Act of 1984, to file a claim for the full amount due to Bank under the Settlement Agreement or to require that all collateral shall continue to secure the amounts due under the Settlement Agreement.

29. FINAL AGREEMENT. BY SIGNING THIS DOCUMENT EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS DOCUMENT REPRESENTS THE FINAL AGREEMENT BETWEEN PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF, (B) THIS DOCUMENT SUPERSEDES ANY COMMITMENT LETTER, TERM SHEET, OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS RELATING TO THE SUBJECT MATTER HEREOF, UNLESS SUCH COMMITMENT LETTER, TERM SHEET, OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS EXPRESSLY PROVIDES TO THE CONTRARY, (C) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES, AND (D) THIS DOCUMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.

Executed as of September ____, 2012.

SNOWSHOE PROPERTIES, LLC,
a California limited liability company

By: _____
Name: Edward Bayuk
Title: Manager

Address for notices to Bank:
Bank of America, N.A.
201 East Washington Street, 20th Floor
Collier Center
AZ1-200-20-30
Phoenix, Arizona 85004
Attn: David P. Maiorella

Address for notices to Guarantor:
Snowshoe Properties, LLC
668 North Pacific Coast Highway, Suite 517
Laguna Beach, California 92651

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Bank of America, N.A.
201 East Washington Street, 20th Floor
Collier Center
AZ1-200-20-30
Phoenix, Arizona 85004
Attn: David P. Maiorella

Space above this line for Recorder's Use

**DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

This Deed of Trust is made as of September ____, 2012, by Snowshoe Properties, LLC, a California limited liability company, as trustor ("Trustor"), to PRLAP, Inc., as trustee ("Trustee"), for the benefit of Bank of America, N.A., a national banking association, as beneficiary ("Beneficiary").

1. GRANT IN TRUST.

1.1 The Property. For the purpose of securing payment and performance of the Secured Obligations defined in Section 2 below, Trustor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Trustor now has or may later acquire in the following property (all or any part of such property, or any interest in all or any part of it, together with the Personalty (as hereinafter defined) being hereinafter collectively referred to as the "Property"):

(a) The real property located in the County of Orange, State of California, as described in Exhibit A hereto (the "Land");

(b) All buildings, structures, improvements, fixtures and appurtenances now or hereafter placed on the Land, and all apparatus and equipment now or hereafter attached in any manner to the Land or any building on the Land, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment (collectively, the "Improvements");

(c) All easements and rights of way appurtenant to the Land; all crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all development rights or credits and air rights; all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which affect the Land; all minerals, oil, gas, and other hydrocarbon substances and rights thereto in, on, under, or upon the Land;

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land or the Improvements, and any and all guaranties and other agreements relating to or made in connection with any of the foregoing;

(e) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Beneficiary, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or the other property described above or any part of them; and

(f) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

1.2 Fixture Filing. This Deed of Trust constitutes a financing statement filed as a fixture filing under Section 9502(c) of the California Uniform Commercial Code, as amended or recodified from time to time, covering any Property which now is or later may become a fixture attached to the Land or any building located thereon.

2. THE SECURED OBLIGATIONS.

2.1 Purpose of Securing. Trustor makes the grant, conveyance, transfer and assignment set forth in Section 1, makes the irrevocable and absolute assignment set forth in Section 3, and grants the security interest set forth in Section 4, all for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Beneficiary may choose:

(a) Payment of all obligations of Snowshoe Properties, LLC, a California limited liability company ("Obligor"), to Beneficiary arising under the following instrument(s) or agreement(s) (collectively, the "Debt Instrument"):

A certain Limited Guaranty dated as of September ____, 2012, given by Obligor for the benefit of Beneficiary which provides for, among other things, a guaranty in a principal amount of Eight Hundred Seventy-Six Thousand Seven Hundred Fifty-Two and 01/100 Dollars (\$876,752.01).

This Deed of Trust also secures payment of all obligations of Obligor under the Debt Instrument which arise after the Debt Instrument is extended, renewed, modified or amended pursuant to any written agreement between Obligor and Beneficiary, and all obligations of Obligor under any successor agreement or instrument which restates and supersedes the Debt Instrument in its entirety;

(b) Payment and performance of all obligations of Trustor under this Deed of Trust; and

(c) Payment and performance of all future advances and other obligations that Trustor (or any successor in interest to Trustor) or Obligor (if different from Trustor) may agree to pay and/or perform (whether as principal, surety or guarantor) to or for the benefit of Beneficiary, when a writing signed by Trustor (or any successor in interest to Trustor) evidences said parties' agreement that such advance or obligation be secured by this Deed of Trust.

This Deed of Trust does not secure any obligation which expressly states that it is unsecured, whether contained in the foregoing Debt Instrument or in any other document, agreement or instrument. Without limiting the foregoing, this Deed of Trust does not secure, not shall it be deemed to secure, any obligations arising under that certain Continuing and Unconditional Guaranty dated as of December 1,

2009, executed by Paul A. Morabito as Trustee of The Arcadia Living Trust under Trust Instrument dated August 25, 1998, for the benefit of Beneficiary, or any obligations of Paul Morabito, individually or as Trustee of The Arcadia Living Trust, arising under that certain Settlement Agreement, Loan Agreement Modification & Release dated as of September ____, 2012, among Paul Morabito, individually and as Trustee of The Arcadia Living Trust and Beneficiary.

2.2 Terms of Secured Obligations. All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Debt Instrument described in Paragraph 2.1(a) and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. These terms include any provisions in the Debt Instrument which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

3. ASSIGNMENT OF RENTS.

3.1 Assignment. Trustor hereby irrevocably, absolutely, presently and unconditionally assigns to Beneficiary all rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (collectively, the "Rents"), and confers upon Beneficiary the right to collect such Rents with or without taking possession of the Property. In the event that anyone establishes and exercises any right to develop, bore for or mine for any water, gas, oil or mineral on or under the surface of the Property, any sums that may become due and payable to Trustor as bonus or royalty payments, and any damages or other compensation payable to Trustor in connection with the exercise of any such rights, shall also be considered Rents assigned under this Paragraph. THIS IS AN ABSOLUTE ASSIGNMENT, NOT AN ASSIGNMENT FOR SECURITY ONLY.

3.2 Grant of License. Notwithstanding the provisions of Paragraph 3.1, Beneficiary hereby confers upon Trustor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Paragraph 6.2, shall exist and be continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of the security for the Secured Obligations.

4. GRANT OF SECURITY INTEREST.

4.1 Grant of Security Interest. Trustor grants to Beneficiary a security interest in, and pledges and assigns to Beneficiary, all of Trustor's right, title and interest now or hereafter acquired in and to all of the following described personal property (collectively, the "Personalty"):

(a) All tangible personal property of every kind and description, whether stored on the Land or elsewhere, including, without limitation, all goods, materials, supplies, tools, books, records, chattels, furniture, fixtures, equipment, and machinery, and which in all cases is (i) used or useful or acquired in connection with any construction undertaken on the Land or the maintenance of the Land and the Improvements, or (ii) affixed or installed, or to be affixed or installed, in any manner on the Land or the Improvements;

(b) All crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which affect the Land; and all architectural and engineering plans, specifications and drawings, and as-built drawings which arise from or relate to the Land or the Improvements;

(c) All general intangibles and rights relating to the Property, including, without limitation, all permits, licenses and claims to or demands for the voluntary or involuntary conversion of any of the Land, Improvements, or other Property into cash or liquidated claims, proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Beneficiary, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or other Property or any part of them;

(d) All deposit accounts from which Trustor may from time to time authorize Beneficiary to debit payments due on the Secured Obligations; all rights and interests under all Swap Contracts, including all rights to the payment of money from Beneficiary under any such Swap Contracts; and all accounts, deposit accounts, and general intangibles, including payment intangibles, described in any such Swap Contracts;

(e) All substitutions, replacements, additions, accessions and proceeds for or to any of the foregoing, and all books, records and files relating to any of the foregoing, including, without limitation, computer readable memory and data and any computer software or hardware reasonably necessary to access and process such memory and data.

5. RIGHTS AND DUTIES OF THE PARTIES.

5.1 Representations and Warranties. Trustor represents and warrants that Trustor lawfully possesses and holds fee simple title to all of the Land and the Improvements, unless Trustor's present interest in the Land and the Improvements is described in Exhibit A as a leasehold interest, in which case Trustor lawfully possesses and holds a leasehold interest in the Land and the Improvements as stated in Exhibit A.

5.2 Taxes, Assessments, Liens and Encumbrances. Trustor shall pay prior to delinquency all taxes, levies, charges and assessments, including assessments on appurtenant water stock, imposed by any public or quasi-public authority or utility company which are (or if not paid, may become) a lien on all or part of the Property or any interest in it, or which may cause any decrease in the value of the Property or any part of it. Trustor shall immediately discharge any lien on the Property which Beneficiary has not consented to in writing, and shall also pay when due each obligation secured by or reducible to a lien, charge or encumbrance which now or hereafter encumbers or appears to encumber all or part of the Property, whether the lien, charge or encumbrance is or would be senior or subordinate to this Deed of Trust.

5.3 Damages and Insurance and Condemnation Proceeds.

(a) Trustor hereby absolutely and irrevocably assigns to Beneficiary, and authorizes the payor to pay to Beneficiary, the following claims, causes of action, awards, payments and rights to payment (collectively, the "Claims"):

(i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the Property or any interest in it;

(ii) all other awards, claims and causes of action, arising out of any breach of warranty or misrepresentation affecting all or any part of the Property, or for damage or injury to, or defect in, or decrease in value of all or part of the Property or any interest in it;

(iii) all proceeds of any insurance policies payable because of loss sustained to all or part of the Property, whether or not such insurance policies are required by Beneficiary; and

(iv) all interest which may accrue on any of the foregoing.

(b) Trustor shall immediately notify Beneficiary in writing if:

(i) any damage occurs or any injury or loss is sustained to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced; or

(ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property.

If Beneficiary chooses to do so, it may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on breach of warranty or misrepresentation, or for damage or injury to, defect in, or decrease in value of all or part of the Property, and it may make any compromise or settlement of the action or proceeding. Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join Trustor in adjusting any loss covered by insurance.

(c) All proceeds of the Claims assigned to Beneficiary under this Paragraph shall be paid to Beneficiary. In each instance, Beneficiary shall apply those proceeds first toward reimbursement of all of Beneficiary's costs and expenses of recovering the proceeds, including attorneys' fees. Trustor further authorizes Beneficiary, at Beneficiary's option and in Beneficiary's sole discretion, and regardless of whether there is any impairment of the Property, (i) to apply the balance of such proceeds, or any portion of them, to pay or prepay some or all of the Secured Obligations in such order or proportion as Beneficiary may determine, or (ii) to hold the balance of such proceeds, or any portion of them, in an interest-bearing account to be used for the cost of reconstruction, repair or alteration of the Property, or (iii) to release the balance of such proceeds, or any portion of them, to Trustor. If any proceeds are released to Trustor, neither Beneficiary nor Trustee shall be obligated to see to, approve or supervise the proper application of such proceeds. If the proceeds are held by Beneficiary to be used to reimburse Trustor for the costs of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing. Beneficiary may, at Beneficiary's option, condition disbursement of the proceeds on Beneficiary's approval of such plans and specifications prepared by an architect satisfactory to Beneficiary, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage of completion of construction, application of payments, and satisfaction of liens as Beneficiary may reasonably require.

5.4 Insurance. Trustor shall provide and maintain in force at all times all risk property damage insurance (including without limitation windstorm coverage, and hurricane coverage as applicable) on the Property and such other type of insurance on the Property as may be required by Beneficiary in its reasonable judgment. At Beneficiary's request, Trustor shall provide Beneficiary with a counterpart original of any policy, together with a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. Each such policy of insurance shall be in an amount, for a term, and in form and content satisfactory to Beneficiary, and shall be written only by companies approved by Beneficiary. In addition, each policy of hazard insurance shall include a Form 438BFU or equivalent loss payable endorsement in favor of Beneficiary.

5.5 Maintenance and Preservation of Property.

(a) Trustor shall keep the Property in good condition and repair and shall not commit or allow waste of the Property. Trustor shall not remove or demolish the Property or any part of it, or alter, restore or add to the Property, or initiate or allow any change in any zoning or other land use classification which affects the Property or any part of it, except with Beneficiary's express prior written consent in each instance.

(b) If all or part of the Property becomes damaged or destroyed, Trustor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices, regardless of whether or not Beneficiary agrees to disburse insurance proceeds or other sums to pay costs of the work of repair or reconstruction under Paragraph 5.3.

(c) Trustor shall not commit or allow any act upon or use of the Property which would violate any applicable law or order of any governmental authority, whether now existing or later to be enacted and whether foreseen or unforeseen, or any public or private covenant, condition, restriction or equitable servitude affecting the Property. Trustor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Trustor on the Property or any part of it under this Deed of Trust.

(d) If Trustor's interest in the Property is a leasehold interest, Trustor shall observe and perform all obligations of Trustor under any lease or leases and shall refrain from taking any actions prohibited by any lease or leases. Trustor shall preserve and protect the leasehold estate and its value.

(e) If the Property is agricultural, Trustor shall farm the Property in a good and husbandlike manner. Trustor shall keep all trees, vines and crops on the Property properly cultivated, irrigated, fertilized, sprayed and fumigated, and shall replace all dead or unproductive trees or vines with new ones. Trustor shall prepare for harvest, harvest, remove and sell any crops growing on the Property. Trustor shall keep all buildings, fences, ditches, canals, wells and other farming improvements on the Property in first class condition, order and repair.

(f) Trustor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.6 Releases, Extensions, Modifications and Additional Security. Without affecting the personal liability of any person, including Trustor (or Obligor, if different from Trustor), for the payment of the Secured Obligations or the lien of this Deed of Trust on the remainder of the Property for the unpaid amount of the Secured Obligations, Beneficiary and Trustee are respectively empowered as follows:

(a) Beneficiary may from time to time and without notice:

(i) release any person liable for payment of any Secured Obligation;

(ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;

(iii) accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security; or

(iv) alter, substitute or release any property securing the Secured Obligations.

(b) Trustee may perform any of the following acts when requested to do so by Beneficiary in writing:

(i) consent to the making of any plat or map of the Property or any part of it;

(ii) join in granting any easement or creating any restriction affecting the Property;

(iii) join in any subordination or other agreement affecting this Deed of Trust or the lien of it; or

(iv) reconvey the Property or any part of it without any warranty.

5.7 Reconveyance. When all of the Secured Obligations have been paid in full and no further commitment to extend credit continues, Trustee shall reconvey the Property, or so much of it as is then held under this Deed of Trust, without warranty to the person or persons legally entitled to it. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance.

5.8 Compensation and Reimbursement of Costs and Expenses.

(a) Trustor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Beneficiary and Trustee when the law provides no maximum limit, for any services that Beneficiary or Trustee may render in connection with this Deed of Trust, including Beneficiary's providing a statement of the Secured Obligations or Trustee's rendering of services in connection with a reconveyance. Trustor shall also pay or reimburse all of Beneficiary's and Trustee's costs and expenses which may be incurred in rendering any such services.

(b) Trustor further agrees to pay or reimburse Beneficiary for all costs, expenses and other advances which may be incurred or made by Beneficiary or Trustee to protect or preserve the Property or to enforce any terms of this Deed of Trust, including the exercise of any rights or remedies afforded to Beneficiary or Trustee or both of them under Paragraph 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Deed of Trust, including attorneys' fees and other legal costs, costs of any sale of the Property and any cost of evidence of title.

(c) Trustor shall pay all obligations arising under this Paragraph immediately upon demand by Trustee or Beneficiary. Each such obligation shall be added to, and considered to be part of, the principal of the Secured Obligations, and shall bear interest from the date the obligation arises at the rate provided in any instrument or agreement evidencing the Secured Obligations. If more than one rate of interest is applicable to the Secured Obligations, the highest rate shall be used for purposes hereof.

5.9 Exculpation and Indemnification.

(a) Beneficiary shall not be directly or indirectly liable to Trustor or any other

person as a consequence of any of the following:

- (i) Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to it in this Deed of Trust;
- (ii) Beneficiary's failure or refusal to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust;
- (iii) Beneficiary's failure to produce Rents from the Property or to perform any of the obligations of the lessor under any lease covering the Property;
- (iv) any waste committed by lessees of the Property or any other parties, or any dangerous or defective condition of the Property; or
- (v) any loss sustained by Trustor or any third party resulting from any act or omission of Beneficiary in operating or managing the Property upon exercise of the rights or remedies afforded Beneficiary under Paragraph 6.3, unless the loss is caused by the willful misconduct and bad faith of Beneficiary.

Trustor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Beneficiary.

(b) Trustor agrees to indemnify Trustee and Beneficiary against and hold them harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which either may suffer or incur in performing any act required or permitted by this Deed of Trust or by law or because of any failure of Trustor to perform any of its obligations. This agreement by Trustor to indemnify Trustee and Beneficiary shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release and/or reconveyance of this Deed of Trust.

5.10 Defense and Notice of Claims and Actions. At Trustor's sole expense, Trustor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee created under it, against all adverse claims. Trustor shall give Beneficiary and Trustee prompt notice in writing if any claim is asserted which does or could affect any of these matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.11 Substitution of Trustee. From time to time, Beneficiary may substitute a successor to any Trustee named in or acting under this Deed of Trust in any manner now or later to be provided at law, or by a written instrument executed and acknowledged by Beneficiary and recorded in the office of the recorder of the county where the Property is situated. Any such instrument shall be conclusive proof of the proper substitution of the successor Trustee, who shall automatically upon recordation of the instrument succeed to all estate, title, rights, powers and duties of the predecessor Trustee, without conveyance from it.

5.12 Representation and Warranty Regarding Hazardous Substances. Before signing this Deed of Trust, Trustor researched and inquired into the previous uses and ownership of the Property. Based on that due diligence, Trustor represents and warrants that to the best of its knowledge, no hazardous substance has been disposed of or released or otherwise exists in, on, under or onto the Property, except as Trustor has disclosed to Beneficiary in writing. Trustor further represents and warrants that Trustor has complied, and will comply and cause all occupants of the Property to comply, with all current and future laws, regulations and ordinances or other requirements of any governmental

authority relating to or imposing liability or standards of conduct concerning protection of health or the environment or hazardous substances ("Environmental Laws"). Trustor shall promptly, at Trustor's sole cost and expense, take all reasonable actions with respect to any hazardous substances or other environmental condition at, on, or under the Property necessary to (i) comply with all applicable Environmental Laws; (ii) allow continued use, occupation or operation of the Property; or (iii) maintain the fair market value of the Property. Trustor acknowledges that hazardous substances may permanently and materially impair the value and use of the Property. "Hazardous substance" means any substance, material or waste that is or becomes designated or regulated as "toxic," "hazardous," "pollutant," or "contaminant" or a similar designation or regulation under any current or future federal, state or local law (whether under common law, statute, regulation or otherwise) or judicial or administrative interpretation of such, including without limitation petroleum or natural gas.

5.13 Site Visits, Observation and Testing. Beneficiary and its agents and representatives shall have the right at any reasonable time, after giving reasonable notice to Trustor, to enter and visit the Property for the purposes of performing appraisals, observing the Property, taking and removing environmental samples, and conducting tests on any part of the Property. Trustor shall reimburse Beneficiary on demand for the costs of any such environmental investigation and testing. Beneficiary will make reasonable efforts during any site visit, observation or testing conducted pursuant this Paragraph to avoid interfering with Trustor's use of the Property. Beneficiary is under no duty, however, to visit or observe the Property or to conduct tests, and any such acts by Beneficiary will be solely for the purposes of protecting Beneficiary's security and preserving Beneficiary's rights under this Deed of Trust. No site visit, observation or testing or any report or findings made as a result thereof ("Environmental Report") (i) will result in a waiver of any default of Trustor; (ii) impose any liability on Beneficiary; or (iii) be a representation or warranty of any kind regarding the Property (including its condition or value or compliance with any laws) or the Environmental Report (including its accuracy or completeness). In the event Beneficiary has a duty or obligation under applicable laws, regulations or other requirements to disclose an Environmental Report to Trustor or any other party, Trustor authorizes Beneficiary to make such a disclosure. Beneficiary may also disclose an Environmental Report to any regulatory authority, and to any other parties as necessary or appropriate in Beneficiary's judgment. Trustor further understands and agrees that any Environmental Report or other information regarding a site visit, observation or testing that is disclosed to Trustor by Beneficiary or its agents and representatives is to be evaluated (including any reporting or other disclosure obligations of Trustor) by Trustor without advice or assistance from Beneficiary.

5.14 Additional Provisions Relating to Condominiums. If the Property is subject to a condominium declaration of conditions, covenants and restrictions recorded in the official records of the county in which the Property is located (the "Declaration"), the following provisions shall apply.

(a) The provisions contained in this Deed of Trust are obligations of Trustor in addition to Trustor's obligations under the Declaration with respect to similar matters, and shall not restrict or limit Trustor's duties and obligations to keep and perform promptly all of its obligations as unit owner under the Declaration.

(b) Trustor shall at all times fully perform and comply with all the agreements, covenants, terms and conditions imposed upon unit owners under the Declaration, and if Trustor fails to do so, Beneficiary may (but shall not be obligated to) take any action Beneficiary deems necessary or desirable to prevent or cure any default thereunder. Beneficiary may also take such action as it deems necessary or desirable to cure a default under the Declaration by Trustor or any other party occupying the unit(s) (a "Unit Occupant") encumbered by this Deed of Trust, upon receipt by Beneficiary from the condominium association under the Declaration (the "Association") of written notice of such default, even though the existence of such default or the nature thereof may be questioned or denied by Trustor or by any party on behalf of Trustor. Beneficiary may pay and expend such sums of money as Beneficiary in its sole discretion deems necessary to prevent or cure any default by Trustor or a Unit Occupant, and Trustor hereby agrees to pay to Beneficiary, immediately and without demand, all such sums so paid and

expended by Beneficiary, together with interest thereon from the date of each such payment at the rate (the "Demand Rate") of two percent (2%) in excess of the then current rate of interest under the Debt Instrument. All sums so paid and expended by Beneficiary, and the interest thereon, shall be added to and be secured by the lien of this Deed of Trust. At Beneficiary's request, Trustor will submit satisfactory evidence of payment of all of its monetary obligations under the Declaration (including but not limited to rents, taxes, assessments, insurance premiums and operating expenses).

(c) At Beneficiary's request, Trustor will submit satisfactory evidence of payment of all of its monetary obligations under the Declaration (including but not limited to rents, taxes, assessments, insurance premiums and operating expenses).

(d) Trustor shall advise Beneficiary in writing of the giving of any notice to Trustor by the Association under the Declaration of any default by Trustor as unit owner or by a Unit Occupant thereunder in the performance or observance of any of the terms, conditions and covenants to be performed or observed by Trustor or such Unit Occupant thereunder, and Trustor shall deliver to Beneficiary a true copy of each such notice.

(e) If any action, proceeding, motion or notice shall be commenced or filed in respect of the Association in connection with any case (including a case commenced or filed under the Bankruptcy Code), Beneficiary shall have the option, to the exclusion of Trustor, exercisable upon notice from Beneficiary to Trustor, to conduct and control any such litigation with counsel of Beneficiary's choice. Beneficiary may proceed in its own name or in the name of Trustor in connection with any such litigation, and Trustor agrees to execute any and all powers, authorizations, consents or other documents required by Beneficiary in connection therewith. Trustor shall, upon demand, pay to Beneficiary all costs and expenses (including attorneys' fees) paid or incurred by Beneficiary in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Trustor as aforesaid shall be secured by the lien of this Deed of Trust and shall be added to the principal amount of the indebtedness secured hereby. Trustor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Declaration in any such case without the prior written consent of Beneficiary.

(f) Trustor will use its best efforts to obtain and deliver to Beneficiary within twenty (20) days after written request by Beneficiary, an estoppel certificate from the Association setting forth (i) the name of the unit owner, (ii) that the Declaration has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the amount of common expenses and other assessments payable by Trustor as unit owner under the Declaration, (iv) the date to which all common expenses and other assessments have been paid by Trustor as unit owner under the Declaration, (v) whether there are any alleged defaults by Trustor or a Unit Occupant under the Declaration and, if so, setting forth the nature thereof in reasonable detail, and (vi) as to such other matters as Beneficiary may reasonably request.

(g) Trustor represents and warrants to Beneficiary that as of the date hereof, no default under the Declaration has occurred and is continuing.

(h) Trustor shall take such actions as may be reasonable to insure that the Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Beneficiary.

(i) Trustor shall not, except after notice to Beneficiary and with Beneficiary's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the condominium(s) encumbered by this Deed of Trust, 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 Declaration, the Association's bylaws or articles or any rules and regulations promulgated by the Association;

(iii) termination of professional management and assumption of self-management of the Association; or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Association unacceptable to Beneficiary.

6. ACCELERATING TRANSFERS, DEFAULT AND REMEDIES.

6.1 Accelerating Transfers

(a) "Accelerating Transfer" means any sale, contract to sell, conveyance, encumbrance, or other transfer, whether voluntary, involuntary, by operation of law or otherwise, of all or any material part of the Property or any interest in it, including any transfer or exercise of any right to drill for or to extract any water (other than for Trustor's own use), oil, gas or other hydrocarbon substances or any mineral of any kind on or under the surface of the Property. If Trustor is a corporation, "Accelerating Transfer" also means any transfer or transfers of shares possessing, in the aggregate, more than fifty percent (50%) of the voting power. If Trustor is a partnership, "Accelerating Transfer" also means withdrawal or removal of any general partner, dissolution of the partnership under applicable law, or any transfer or transfers of, in the aggregate, more than fifty percent (50%) of the partnership interests. If Trustor is a limited liability company, "Accelerating Transfer" also means withdrawal or removal of any managing member, termination of the limited liability company or any transfer or transfers of, in the aggregate, more than fifty percent (50%) of the voting power or in the aggregate more than fifty percent of the ownership of the economic interest in the Trustor.

(b) Trustor agrees that Trustor shall not make any Accelerating Transfer, unless the transfer is preceded by Beneficiary's express written consent to the particular transaction and transferee. Beneficiary may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Beneficiary in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Beneficiary and Trustee may invoke any rights and remedies provided by Paragraph 6.3 of this Deed of Trust.

6.2 Events of Default. The occurrence of any one or more of the following events, at the option of Beneficiary, shall constitute an event of default ("Event of Default") under this Deed of Trust:

(a) Obligor fails to make any payment, when due, under the Debt Instrument (after giving effect to any applicable grace period), or any other default occurs under and as defined in the Debt Instrument or in any other instrument or agreement evidencing any of the Secured Obligations and such default continues beyond any applicable cure period;

(b) Trustor fails to make any payment or perform any obligation which arises under this Deed of Trust;

(c) Trustor makes or permits the occurrence of an Accelerating Transfer in violation of Paragraph 6.1;

(d) Any representation or warranty made in connection with this Deed of Trust or the Secured Obligations proves to have been false or misleading in any material respect when

made;

(e) Any default occurs under any other deed of trust on all or any part of the Property, or under any obligation secured by such deed of trust, whether such deed of trust is prior to or subordinate to this Deed of Trust; or

(f) An event occurs which gives Beneficiary the right or option to terminate any Swap Contract secured by this Deed of Trust.

6.3 Remedies. At any time after the occurrence of an Event of Default, Beneficiary and Trustee shall be entitled to invoke any and all of the rights and remedies described below, as well as any other rights and remedies authorized by law. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Beneficiary may declare any or all of the Secured Obligations to be due and payable immediately, and may terminate any Swap Contract secured by this Deed of Trust in accordance with its terms.

(b) Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property.

(c) Beneficiary, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and in its own name or in the name of Trustor sue for or otherwise collect any and all Rents, including those that are past due, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: entering into, enforcing, modifying, or canceling leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; completing any unfinished construction; contracting for and making repairs and alterations; performing such acts of cultivation or irrigation as necessary to conserve the value of the Property; and preparing for harvest, harvesting and selling any crops that may be growing on the property. Trustor hereby irrevocably constitutes and appoints Beneficiary as its attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Trustor's name on any instruments. Trustor agrees to deliver to Beneficiary all books and records pertaining to the Property, including computer-readable memory and any computer hardware or software necessary to access or process such memory, as may reasonably be requested by Beneficiary in order to enable Beneficiary to exercise its rights under this Paragraph.

(d) Either Beneficiary or Trustee may cure any breach or default of Trustor, and if it chooses to do so in connection with any such cure, Beneficiary or Trustee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary or Trustee under, this Deed of Trust; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Beneficiary's or Trustee's sole judgment is or may be senior in priority to this Deed of Trust, such judgment of Beneficiary or Trustee to be conclusive as among the parties to this Deed of Trust; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under this Deed of Trust; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary or Trustee. Beneficiary and Trustee may take any of the actions permitted hereunder either with or without

giving notice to any person.

(e) Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Deed of Trust.

(f) Beneficiary may cause the Property which consists solely of real property to be sold by Trustee as permitted by applicable law. Before any such trustee's sale, Beneficiary or Trustee shall give such notice of default and election to sell as may then be required by law. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee shall sell the Property, either as a whole or in separate parcels, and in such order as Trustee may determine, at a public auction to be held at the time and place specified in the notice of sale. Neither Trustee nor Beneficiary shall have any obligation to make demand on Trustor before any trustee's sale. From time to time in accordance with then applicable law, Trustee may, and in any event at Beneficiary's request shall, postpone any trustee's sale by public announcement at the time and place noticed for that sale. At any trustee's sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States. Any person, including Trustor, Trustee or Beneficiary, may purchase at the trustee's sale. Trustee shall execute and deliver to the purchaser(s) a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any trustee's sale, shall be conclusive proof of their truthfulness. Any such deed shall be conclusive against all persons as to the facts recited in it.

(g) Beneficiary may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee may sell the Personalty at a public sale to be held at the time and place specified in the notice of sale. It shall be deemed commercially reasonable for the Trustee to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties. Alternatively, Beneficiary may choose to dispose of some or all of the Property, in any combination consisting of both personal property and real property, in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code. Trustor agrees that such a sale of personal property together with real property constitutes a commercially reasonable sale of the personal property.

6.4 Application of Sale Proceeds and Rents.

(a) Beneficiary and Trustee shall apply the proceeds of any sale of the Property in the following manner: first, to pay the portion of the Secured Obligations attributable to the costs, fees and expenses of the sale, including costs of evidence of title in connection with the sale; and, second, to pay all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose. The remainder, if any, shall be remitted to the person or persons entitled thereto.

(b) Beneficiary shall apply any and all Rents collected by it, and any and all sums other than proceeds of any sale of the Property which Beneficiary may receive or collect under Paragraph 6.3, in the following manner: first, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Trustee, Beneficiary or any receiver; and, second, to pay all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose. The remainder, if any,

shall be remitted to the person or persons entitled thereto. Beneficiary shall have no liability for any funds which it does not actually receive.

7. MISCELLANEOUS PROVISIONS

7.1 No Waiver or Cure.

(a) Each waiver by Beneficiary or Trustee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Beneficiary or Trustee to take action on account of any default of Trustor. Consent by Beneficiary or Trustee to any act or omission by Trustor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's or Trustee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not cure or waive any breach, Event of Default or notice of default under this Deed of Trust or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed); or impair the security of this Deed of Trust; or prejudice Beneficiary, Trustee or any receiver in the exercise of any right or remedy afforded any of them under this Deed of Trust; or be construed as an affirmation by Beneficiary of any tenancy, lease or option, or a subordination of the lien of this Deed of Trust:

(i) Beneficiary, its agent or a receiver takes possession of all or any part of the Property;

(ii) Beneficiary collects and applies Rents, either with or without taking possession of all or any part of the Property;

(iii) Beneficiary receives and applies to any Secured Obligation proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Beneficiary under this Deed of Trust;

(iv) Beneficiary makes a site visit, observes the Property and/or conducts tests thereon;

(v) Beneficiary receives any sums under this Deed of Trust or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations;

(vi) Beneficiary, Trustee or any receiver performs any act which it is empowered or authorized to perform under this Deed of Trust or invokes any right or remedy provided under this Deed of Trust.

7.2 Powers of Beneficiary and Trustee.

(a) Trustee shall have no obligation to perform any act which it is empowered to perform under this Deed of Trust unless it is requested to do so in writing and is reasonably indemnified against loss, cost, liability and expense.

(b) Beneficiary may take any of the actions permitted under Paragraphs 6.3(b) and/or 6.3(c) regardless of the adequacy of the security for the Secured Obligations, or whether

any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Deed of Trust.

(c) From time to time, Beneficiary or Trustee may apply to any court of competent jurisdiction for aid and direction in executing the trust and enforcing the rights and remedies created under this Deed of Trust. Beneficiary or Trustee may from time to time obtain orders or decrees directing, confirming or approving acts in executing this trust and enforcing these rights and remedies.

7.3 Nonborrower Trustor.

(a) If any Trustor ("Nonborrower Trustor") is not the Obligor under the Debt Instrument described in Paragraph 2.1(a), such Nonborrower Trustor authorizes Beneficiary to perform any of the following acts at any time, all without notice to Nonborrower Trustor and without affecting Beneficiary's rights or Nonborrower Trustor's obligations under this Deed of Trust:

(i) Beneficiary may alter any terms of the Debt Instrument or any part of it, including renewing, compromising, extending or accelerating, or otherwise changing the time for payment of, or increasing or decreasing the rate of interest on, the Debt Instrument or any part of it;

(ii) Beneficiary may take and hold security for the Debt Instrument, accept additional or substituted security for the Debt Instrument, and subordinate, exchange, enforce, waive, release, compromise, fail to perfect, sell or otherwise dispose of any such security;

(iii) Beneficiary may apply any security now or later held for the Debt Instrument in any order that Beneficiary in its sole discretion may choose, and may direct the order and manner of any sale of all or any part of it and bid at any such sale;

(iv) Beneficiary may release Obligor of its liability for the Debt Instrument or any part of it;

(v) Beneficiary may substitute, add or release any one or more guarantors or endorsers of the Debt Instrument; and

(vi) Beneficiary may extend other credit to Obligor, and may take and hold security for the credit so extended, whether or not such security also secures the Debt Instrument.

(b) Nonborrower Trustor waives:

(i) Any right it may have to require Beneficiary to proceed against Obligor, proceed against or exhaust any security held from Obligor, or pursue any other remedy in Beneficiary's power to pursue;

(ii) Any defense based on any legal disability of Obligor, any discharge or limitation of the liability of Obligor to Beneficiary, whether consensual or arising by operation of law or any bankruptcy, reorganization, receivership, insolvency, or debtor-relief proceeding, or from any other cause, or any claim that Nonborrower Trustor's obligations exceed or are more burdensome than those of Obligor;

(iii) All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Deed of Trust and of the existence, creation, or incurring of new or additional indebtedness of Obligor, and demands and notices of every kind;

(iv) Any defense based on or arising out of any defense that Obligor may have to the payment or performance of the Debt Instrument or any part of it; and

(v) Until the Secured Obligations have been paid and performed in full, all rights of subrogation, reimbursement, indemnification and contribution (contractual, statutory or otherwise), including any claim or right of subrogation under the Bankruptcy Code (Title 11 of the U.S. Code) or any successor statute, all rights to enforce any remedy that the Beneficiary may have against Obligor, and all rights to participate in any security now or later to be held by Beneficiary for the Debt Instrument.

(c) Nonborrower Trustor waives any rights or defenses that are or may become available to Nonborrower Trustor by reason of Sections 2787 to 2855, inclusive, of the California Civil Code.

(d) Nonborrower Trustor waives all rights and defenses that Nonborrower Trustor may have because the Debt Instrument may be secured by real property other than the Property hereby encumbered. This means, among other things: (i) Beneficiary may collect from Nonborrower Trustor (including enforcing this Deed of Trust against Nonborrower Trustor) without first foreclosing on any real or personal property collateral securing the Debt instrument; and (ii) if Beneficiary forecloses on any real property collateral securing the Debt Instrument: (A) the amount of the Debt Instrument may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (B) Beneficiary may collect from Nonborrower Trustor (including enforcing this Deed of Trust against Nonborrower Trustor) even if Beneficiary, by foreclosing on the real property collateral, has destroyed any right Nonborrower Trustor may have to collect from Obligor. This is an unconditional and irrevocable waiver of any rights and defenses Nonborrower Trustor may have because the Debt Instrument may be secured by real property other than the Property hereby encumbered. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

(e) Nonborrower Trustor waives any right or defense it may have at law or equity, including California Code of Civil Procedure Section 580a, to a fair market value hearing or action to determine a deficiency judgment after a foreclosure of any real property other than the Property hereby encumbered.

(f) Nonborrower Trustor assumes full responsibility for keeping informed of Obligor's financial condition and business operations and all other circumstances affecting Obligor's ability to pay and perform its obligations to Beneficiary, and agrees that Beneficiary shall have no duty to disclose to Nonborrower Trustor any information which Beneficiary may receive about Obligor's financial condition, business operations, or any other circumstances bearing on its ability to perform.

(g) No provision or waiver in this Deed of Trust shall be construed as limiting the generality of any other provision or waiver contained in this Deed of Trust.

(h) For purposes of this Paragraph 7.3, all references to the Debt Instrument shall also include any instrument or agreement executed by Obligor subsequent to the date of this Deed of Trust which is secured by this Deed of Trust in accordance with the provisions of Paragraphs 2.1(c) and 2.1(d).

7.4 Merger. No merger shall occur as a result of Beneficiary's acquiring any other estate in or any other lien on the Property unless Beneficiary consents to a merger in writing.

7.5 Joint and Several Liability. If Trustor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Trustor's obligations under this Deed of Trust.

7.6 Applicable Law. This Deed of Trust shall be governed by California law.

7.7 Successors in Interest. The terms, covenants and conditions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Paragraph does not waive the provisions of Paragraph 6.1.

7.8 Dispute Resolution Provision. This paragraph, including the subparagraphs below, is referred to as the "Dispute Resolution Provision." This Dispute Resolution Provision is a material inducement for the parties entering into this agreement.

(a) This Dispute Resolution Provision concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this agreement (including any renewals, extensions or modifications); or (ii) any document related to this agreement (collectively a "Claim"). For the purposes of this Dispute Resolution Provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of Beneficiary involved in the servicing, management or administration of any obligation described or evidenced by this agreement.

(b) At the request of any party to this agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though this agreement provides that it is governed by the law of a specified state.

(c) Arbitration proceedings will be determined in accordance with the Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, Beneficiary may designate another arbitration organization with similar procedures to serve as the provider of arbitration.

(d) The arbitration shall be administered by AAA and conducted, unless otherwise required by law, in any U.S. state where real or tangible personal property collateral for this credit is located or if there is no such collateral, in the state specified in the governing law section of this agreement. All Claims shall be determined by one arbitrator; however, if Claims exceed Five Million Dollars (\$5,000,000), upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and have judgment entered and enforced.

(e) The arbitrator(s) will give effect to statutes of limitation in determining any

Claim and shall dismiss the arbitration if the Claim is barred under the applicable statutes of limitation. For purposes of the application of any statutes of limitation, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s), except as set forth at subparagraph (j) of this Dispute Resolution Provision. The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this agreement.

(f) The procedure described above will not apply if the Claim, at the time of the proposed submission to arbitration, arises from or relates to an obligation to Beneficiary secured by real property. In this case, all of the parties to this agreement must consent to submission of the Claim to arbitration.

(g) To the extent any Claims are not arbitrated, to the extent permitted by law the Claims shall be resolved in court by a judge without a jury, except any Claims which are brought in California state court shall be determined by judicial reference as described below.

(h) Any Claim which is not arbitrated and which is brought in California state court will be resolved by a general reference to a referee (or a panel of referees) as provided in California Code of Civil Procedure Section 638. The referee (or presiding referee of the panel) shall be a retired Judge or Justice. The referee (or panel of referees) shall be selected by mutual written agreement of the parties. If the parties do not agree, the referee shall be selected by the Presiding Judge of the Court (or his or her representative) as provided in California Code of Civil Procedure Section 638 and the following related sections. The referee shall determine all issues, whether of fact or law, in accordance with existing California law and the California rules of evidence and civil procedure. The referee shall be empowered to enter equitable as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The award that results from the decision of the referee(s) will be entered as a judgment in the court that appointed the referee, in accordance with the provisions of California Code of Civil Procedure Sections 644(a) and 645. The parties reserve the right to seek appellate review of any judgment or order, including but not limited to, orders pertaining to class certification, to the same extent permitted in a court of law.

(i) This Dispute Resolution Provision does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non-judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies. The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration or judicial reference.

(j) Any arbitration or court trial (whether before a judge or jury or pursuant to judicial reference) of any Claim will take place on an individual basis without resort to any form of class or representative action (the "Class Action Waiver"). The Class Action Waiver precludes any party from participating in or being represented in any class or representative action regarding a Claim. Regardless of anything else in this Dispute Resolution Provision, the validity and effect of the Class Action Waiver may be determined only by a court or referee and not by an arbitrator. The parties to this agreement acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from the agreement to arbitrate Claims. If the Class Action Waiver is limited, voided or found unenforceable, then the parties' agreement to arbitrate shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver. **The Parties acknowledge and agree that under no circumstances will a class action be arbitrated.**

(k) By agreeing to binding arbitration or judicial reference, the parties irrevocably and voluntarily waive any right they may have to a trial by jury as permitted by law in respect of any Claim. Furthermore, without intending in any way to limit this Dispute Resolution Provision, to the extent any Claim is not arbitrated or submitted to judicial reference, the parties irrevocably and voluntarily waive any right they may have to a trial by jury to the extent permitted by law in respect of such Claim. This waiver of jury trial shall remain in effect even if the Class Action Waiver is limited, voided or found unenforceable. **WHETHER THE CLAIM IS DECIDED BY ARBITRATION, BY JUDICIAL REFERENCE, OR BY TRIAL BY A JUDGE, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**

7.9 Interpretation. Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Deed of Trust are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions. No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Deed of Trust. The Exhibits to this Deed of Trust are hereby incorporated in this Deed of Trust.

7.10 In-House Counsel Fees. Whenever Trustor is obligated to pay or reimburse Beneficiary or Trustee for any attorneys' fees, those fees shall include the allocated costs for services of in-house counsel.

7.11 Waiver of Marshaling. Trustor waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to direct the order in which any of the Property will be sold in the event of any sale under this Deed of Trust, including any rights provided by California Civil Code Sections 2899 and 3433, as such Sections may be amended from time to time. Each successor and assign of Trustor, including any holder of a lien subordinate to this Deed of Trust, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.12 Severability. If any provision of this Deed of Trust should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and in no way affect the validity of this Deed of Trust except that if such provision relates to the payment of any monetary sum, then Beneficiary may, at its option, declare all Secured Obligations immediately due and payable.

7.13 Notices. Trustor hereby requests that a copy of notice of default and notice of sale be mailed to it at the address set forth below. That address is also the mailing address of Trustor as debtor under the Uniform Commercial Code. Beneficiary's address given below is the address for Beneficiary as secured party under the Uniform Commercial Code.

Addresses for Notices to Trustor:	Snowshoe Properties, LLC 668 North Pacific Coast Highway, Suite 517 Laguna Beach, California 92651
-----------------------------------	--

Address for Notices to Beneficiary:

Bank of America, N.A.
201 East Washington Street, 20th Floor
Collier Center
AZ1-200-20-30
Phoenix, Arizona 85004
Attn: David P. Maiorella

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date first above written.

TRUSTOR:

SNOWSHOE PROPERTIES, LLC,
a California limited liability company

By: _____
Name: Edward Bayuk
Its: Manager

EXHIBIT A TO DEED OF TRUST

Exhibit A to DEED OF TRUST executed as of September ____, 2012, by Snowshoe Properties, LLC as "Trustor" to PRLAP, Inc. as "Trustee" for the benefit of Bank of America, N.A., a national banking association, as "Beneficiary."

Description of Property

Real property in the City of Laguna Beach, County of Orange, State of California, described as follows:

PARCEL 1:

Lot 159 of Laguna Beach, as per Map recorded in Book 1, Page 78, of Miscellaneous Maps, Records of said County, together with that portion of the Southwesterly 10.00 feet of Goff Street, adjoining said Lot 159 on the Northeast abandoned by order of the City of Laguna Beach, California, on April 03, 1929, which is included between the Northeasterly prolongation of the Northwesterly and Southeasterly lines of said Lot 159.

PARCEL 2:

Lot 160 of Laguna Beach, as per Map recorded in Book 1, Page 78, of Miscellaneous Maps, Records of said County, together with that portion of the Southwesterly 10.00 feet of Goff Street, adjoining said Lot 160 on the Northeast, abandoned by order of the City of Laguna Beach, California, on April 03, 1929, which is included between the Northeasterly prolongation of the Northwesterly and Southeasterly line of said Lot 160.

AND BEING the same property conveyed to Baruk Properties, LLC, a Nevada limited liability company from Charles L. Howell, a single man, as to an undivided 50% interest; and Katherine Whitman, a married woman, as her sole and separate property, as to an undivided 50% interest, as heir of William C. Kalepp and Rose A. Kalepp by Grant Deed dated August 27, 2004 and recorded October 18, 2004 in Instrument No. 2004000938979; AND FURTHER CONVEYED to Snowshoe Properties, LLC, a California limited liability company from Baruk Properties, LLC, a Nevada limited liability company by Grant Deed dated October 06, 2010 and recorded October 08, 2010 in Instrument No. 2010000508587.

Tax Parcel No. 644-012-08

Street Address of Property:

570 Glenneyre Street
Laguna Beach, California 92651

THIRD MODIFICATION AGREEMENT

This Third Modification Agreement (this "Modification") dated as of September ____, 2012, is between Bank of America, N.A. (the "Bank"), on the one hand, and Snowshoe Properties, LLC, a California limited liability company, successor-by-merger with Baruk Properties LLC, a Nevada limited liability company (the "Borrower"), on the other hand.

RECITALS

A. The Bank and the Borrower entered into a certain Standing Loan Agreement dated as of October 7, 2004, as modified by that certain Extension and Modification Agreement dated as of October 7, 2009, and by that certain Second Extension and Modification of Loan Documents Agreement dated as of May 1, 2010 (as modified, the "Loan Agreement"), pursuant to which the Bank made a loan to Borrower (the "Loan"). The outstanding principal balance of the Loan as of the date hereof is \$1,241,212.45.

B. The Loan is evidenced by an Amended and Restated Promissory Note dated as of May 11, 2010, executed by the Borrower in favor of the Bank (the "Note").

C. The Note is secured by, among other things, a Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing (as amended to date, the "Deed of Trust") dated as of October 7, 2004, executed by the Borrower, as Trustor, to PRLAP, Inc., as Trustee, in favor the Bank, as Beneficiary, which encumbers certain real property commonly known as 570 Glenneyre Street, Laguna Beach, California 92651 (the "Property"). The Deed of Trust was recorded October 18, 2004, as Instrument or Document No. 2004000938980, in the Official Records of the County of Orange, State of California (the "Official Records").

D. As used herein, the term "Loan Documents" means the Loan Agreement, Note, Deed of Trust, and any other documents executed in connection with the Loan, including those which evidence, guaranty, secure or modify the Loan, as any or all of them may have been amended to date.

E. The Bank and the Borrower desire to further modify the Loan Documents.

AGREEMENT

1. Definitions. Capitalized terms used but not defined in this Modification shall have the meaning given to them in the Agreement.

2. Modification of Note. The language of Paragraph 3(c) of the Note is deleted in its entirety and is replaced by the following language:

"(c) The prepayment fee shall be in amount sufficient to compensate the Bank for any loss, cost or expense incurred by it as a result of the prepayment, including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain the Loan or from fees payable to terminate the deposits from which such funds were obtained (collectively, the "Prepayment Fee"); provided, however, in the event of a prepayment in whole resulting from the refinance of

the Loan prior to the Maturity Date, the Prepayment Fee shall be reduced by one-half (50.0%). In addition to the Prepayment Fee (or reduced Prepayment Fee, as the case may be), Borrower shall also pay any customary administrative fees charged by Bank in connection with the foregoing. For purposes of this paragraph, Bank shall be deemed to have funded the Loan by a matching deposit or other borrowing in the applicable interbank market, whether or not the Loan was in fact so funded.”

3. Waiver and Additional Modifications. The Bank acknowledges that the Borrower has breached Paragraph 6.1 of the Deed of Trust and Paragraphs 2.12(a) and 2.13(e) of the Loan Agreement as a result of Baruk Properties LLC’s merger into Snowshoe Properties, LLC and transfer of the Property to Snowshoe Properties, LLC. The Bank hereby waives the breach of the above covenants for the merger and transfer. The waiver set forth above has been granted solely for the merger and transfer on a one-time basis. No other approval, consent, waiver, modification or amendment to the Deed of Trust or the Loan Agreement is implied or granted, including without limitation a waiver of any breach of Paragraph 6.1 of the Deed of Trust or Paragraphs 2.12(a) or 2.13(e) of the Loan Agreement other than for the previous merger and transfer. The parties further agree that all references to the “Borrower” or to “Baruk Properties LLC” in the Loan Documents hereafter shall be deemed to be references to Snowshoe Properties, LLC.

4. Representations and Warranties. When the Borrower signs this Modification, the Borrower represents and warrants to the Bank that: (a) there is no event which is, or with notice or lapse of time or both would be, a default under the Loan Documents except those events, if any, that have been disclosed in writing to the Bank or waived in writing by the Bank; (b) the representations and warranties in the Agreement are true as of the date of this Modification as if made on the date of this Modification; (c) this Modification does not conflict with any law, agreement, or obligation by which the Borrower is bound; (d) if the Borrower is a business entity or a trust, this Modification is within the Borrower’s powers, has been duly authorized, and does not conflict with any of the Borrower’s organizational papers; and (e) that certain lease agreement dated as of April 17, 2000 with Baruk Management Inc., a California corporation, has been terminated and there are no leases with any affiliates of the Borrower for any portion of the Property that are currently in effect. The Borrower further reaffirms all of its obligations under the Loan Documents.

5. Conditions. This Modification will be effective when the Bank receives the following items, in form and content acceptable to the Bank:

5.1 The Borrower shall have executed and delivered to the Bank this Modification, and all guarantors shall have executed and delivered to the Bank the Consent and Reaffirmation attached hereto.

5.2 Paul Morabito, individually and as Trustee of The Arcadia Living Trust, shall have executed and delivered to the Bank that certain Settlement Agreement, Loan Agreement Modification & Release dated as of September ____, 2012.

5.3 The Borrower shall have executed and delivered to the Bank that certain Limited Guaranty of even date herewith.

5.4 The Borrower shall have executed and delivered to the Bank that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date herewith in recordable form (the “Second Deed of Trust”).

5.5 The Bank shall have received evidence of recordation of the Second Deed of Trust in the Official Records.

5.6 The Bank shall have obtained (at the Borrower's sole cost and expense) an ALTA lender's title insurance policy from a title company acceptable to the Bank, for at least \$876,752.01, insuring the Second Deed of Trust as a second-position lien on the Property, with only such exceptions as may be approved by the Bank and together with such endorsements as the Bank may require.

5.7 If the Borrower or any guarantor is anything other than a natural person, evidence that the execution, delivery and performance by the Borrower and/or such guarantor of this Modification and any instrument or agreement required under this Modification have been duly authorized.

5.8 Payment by the Borrower of all costs, expenses and attorneys' fees (including allocated costs for in-house legal services) incurred by the Bank in connection with this Modification.

6. Effect of Modification. Except as provided in this Modification, all of the terms and conditions of the Loan Agreement, Note and Deed of Trust shall remain in full force and effect.

7. Counterparts. This Modification may be executed in counterparts, each of which when so executed shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

8. **FINAL AGREEMENT.** BY SIGNING THIS DOCUMENT EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS DOCUMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF; (B) THIS DOCUMENT SUPERSEDES ANY COMMITMENT LETTER, TERM SHEET OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS RELATING TO THE SUBJECT MATTER HEREOF, UNLESS SUCH COMMITMENT LETTER, TERM SHEET OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS EXPRESSLY PROVIDES TO THE CONTRARY; (C) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES; AND (D) THIS DOCUMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.

This Modification is executed as of the date stated at the beginning of this Modification.

Bank of America, N.A.

Snowshoe Properties, LLC,
a California limited liability company

By: _____
Name: David Maiorella
Its: Senior Vice President

By: _____
Name: Edward Bayuk
Its: Manager

CONSENT AND REAFFIRMATION OF GUARANTORS

Each of the undersigned, as a guarantor of the Borrower's obligations to the Bank under the Loan Agreement and Note, hereby (i) acknowledges and consents to the foregoing Modification, (ii) reaffirms its obligations under its respective guaranty in favor of the Bank and under any agreement under which it has granted to the Bank a lien or security interest in any of its real or personal property, and (iii) confirms that such guaranty and other agreements (if any) remain in full force and effect, without defense, offset, or counterclaim. (Capitalized terms used herein shall have the meanings specified in the foregoing Modification.)

Although each of the undersigned has been informed of the terms of the Modification, each understands and agrees that the Bank has no duty to so notify it or any other guarantor or to seek this or any future acknowledgment, consent or reaffirmation, and nothing contained herein shall create or imply any such duty as to any transactions, past or future.

Dated as of September ____, 2012.

Paul A. Morabito

Paul A. Morabito, as Trustee of the
Arcadia Living Trust, as amended and
restated on February 1, 2010

Edward William Bayuk

Edward William Bayuk, as Trustee of the
Edward William Bayuk Living Trust u/d/t
dated June 18, 2008

From: Paul Morabito [morabito.pa@gmail.com]
Sent: Tuesday, September 04, 2012 6:37 PM
To: Dennis Vacco
CC: Edward Bayuk; Stephanie Canastraro
Subject: Re: Morabito

Wire DCV as instructed

Paul Morabito
Chairman
US HF Cellular Communications LLC / Snowshoe Capital LLC
tel/text: (310) 339-0475
SatCell: 011-881622479740
email: paul.morabito@ushfcc.com

On Sep 4, 2012, at 7:27 PM, "Dennis Vacco" <dvacco@lippes.com> wrote:

Edward,

As a follow up to my earlier email, please see more specific instructions from Dave Maiorella. The total due on September 7th is **\$351,626.82**. This amount is greater than the amount originally quoted to Paul because it includes all fees and increased attorney fees for the law firm in CA which worked on the real estate documents. It does include the first principal payment of \$50,000.

I recommend that in order to not make your involvement in this settlement, that you first send the proceeds to LMWF and we will then initiate the payment wire from here. If you agree with me on this path, please initiate your wire to LMWF so that we receive the proceeds not later than Thursday, September 6th. I have attached wire instructions to send this amount to LMWF. Call me if you have any questions.

In a separate email, I will send you the documents you need to execute and return to me regarding the Second Deed of Trust. Thanks.

From: Maiorella, David P [mailto:david.p.maiorella@bankofamerica.com]
Sent: Tuesday, September 04, 2012 7:11 PM
To: Dennis Vacco
Cc: Masterson, Dave -Legal; Steve Peek; Christian Lovelace; Marcus Bagley
Subject: Morabito

Dennis,

If you would prefer (in order to keep it simple), you can send one wire to Bank of America for the closing on 9/7/2012. Wire instructions are below, and the total is as follows:

Accrued Interest to 9/7/12: \$148,286.77
Initial Principal Payment: \$50,000.00
Legal Fees/Costs: \$149,143.05
Title Fees/Costs: \$4,197.00 (excludes recording fees, which can be reimbursed to the Bank at a later date once they are determined)

Total Wire for Closing: \$351,626.82

Wire Instructions

Bank Name: Bank of America, N.A.
ABA: 026009593
Acct Name: Bank of America, N.A., Boston, MA
Acct No.: 136621-1001000
Attn: D. Hollins 602-523-2009
Reference: Morabito Loan No. 16-506149-42

Let us know if you have any questions.

Thank You,

David Maiorella
Bank of America

From: Marcus Bagley [<mailto:marcusb@amlegalgroup.com>]
Sent: Tuesday, September 04, 2012 2:42 PM
To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

The title company's fees should be wired directly to Chicago Title by Friday. Please contact Karl Daly at Chicago Title directly to obtain any recording fees and for wiring instructions. Please refer to his order no. 12020203 X59.

Chicago Title
Karl Daly
Asst. V.P., Senior Title Officer Commercial/Industrial
700 South Flower Street, Suite 800
Los Angeles, CA 90017
karl.daly@ctt.com
Phone 213 612-4157
Fax 213 488-4385

Thank you.

Mark

From: Dennis Vacco [<mailto:dvacco@lippes.com>]
Sent: Tuesday, September 04, 2012 2:25 PM
To: Marcus Bagley
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

Mark,

Thanks for the clarification. I didn't know what to make of the handwritten notes labeled "endorsements" but the total adds up to the additional \$1654. When is the total amount due?

From: Marcus Bagley [<mailto:marcusb@amlegalgroup.com>]
Sent: Tuesday, September 04, 2012 5:11 PM
To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

I believe these are additional (Steve, please correct me if that is incorrect)—these are the title costs to be paid pursuant to Paragraph 5.6 of the Third Modification Agreement. The \$2,543.00 is for the base premium. The remainder is for the endorsements (please see the second page of the title company's pricing sheet which sets forth the amounts for each endorsement).

Thank you.

Mark

From: Dennis Vacco [<mailto:dvacco@lippes.com>]
Sent: Tuesday, September 04, 2012 1:34 PM
To: Marcus Bagley
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

Mark,

Are the fees you referenced already calculated in the settlement agreement wherein costs are listed as \$6744.25 (see attached copy of agreement) or are these additional costs? The Fidelity National invoice attached to your email indicates the cost of the title policy at \$2543.00. Please explain the additional \$1654. Thanks.

From: Marcus Bagley [<mailto:marcusb@amlegalgroup.com>]
Sent: Tuesday, September 04, 2012 2:24 PM
To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

Dennis:

Please note that we have removed the Subordination Agreement pursuant to my conversation with Christian in which he informed me that the lease described therein is no longer in effect. Accordingly, Chicago Title will require that the owner complete and execute an owner's affidavit (attached) in order to remove the lease as an exception to the Bank's title policy for the second deed of trust.

Also attached, please find the title company's charges for the lender's policy, which will be approximately \$4,197 plus recording fees.

Thank you.

Mark

From: Steve Peek [<mailto:S.Peek@hollandhart.com>]
Sent: Tuesday, September 04, 2012 9:39 AM
To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Marcus Bagley
Subject: 5729778_3

Dennis, attached is an executable copy of the Settlement Agreement with the final calculation for attorneys' fees. Please have Paul execute and return to me. Payment of accrued interest, attorneys' fees and costs is due this Friday so please have Paul make arrangements for payment. I trust that you and Marcus have come close to finalizing the guaranty and the second deed of trust. Let me know if you need anything more.

This message w/attachments (message) is intended solely for the use of the intended recipient(s) and may contain information that is privileged, confidential or proprietary. If you are not an intended recipient, please notify the sender, and then please delete and destroy all copies and attachments, and be advised that any review or dissemination of, or the taking of any action in reliance on, the information contained in or attached to this message is prohibited.

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The laws of the country of each sender/recipient may impact the handling of EC, and EC may be archived, supervised and produced in countries other than the country in which you are located. This message cannot be guaranteed to be secure or free of errors or viruses.

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4421

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From: Edward Bayuk [ebayuk@superpumper.com]
Sent: Tuesday, September 04, 2012 7:19 PM
To: Dennis Vacco
CC: Paul Morabito; Stephanie Canastraro
Subject: RE: Morabito

I will wire the money tomorrow to LMWF account.

Edward

From: Dennis Vacco [mailto:dvacco@lippes.com]
Sent: Tuesday, September 04, 2012 4:28 PM
To: Edward Bayuk
Cc: Paul Morabito; Stephanie Canastraro
Subject: FW: Morabito

Edward,

As a follow up to my earlier email, please see more specific instructions from Dave Maiorella. The total due on September 7th is **\$351,626.82**. This amount is greater than the amount originally quoted to Paul because it includes all fees and increased attorney fees for the law firm in CA which worked on the real estate documents. It does include the first principal payment of \$50,000.

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Cc: Masterson, Dave -Legal; Steve Peek; Christian Lovelace; Marcus Bagley
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Acct No.: 136621-1001000
Attn: D. Hollins 602-523-2009
Reference: Morabito Loan No. 16-506149-42

Let us know if you have any questions.

LMWF_SUPP_086881
4423

Thank You,

David Maiorella
Bank of America

From: Marcus Bagley [<mailto:marcusb@amlegalgroup.com>]
Sent: Tuesday, September 04, 2012 2:42 PM
To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

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Chicago Title
Karl Daly
Asst. V.P., Senior Title Officer Commercial/Industrial
700 South Flower Street, Suite 800
Los Angeles, CA 90017
karl.daly@ctt.com
Phone 213 612-4157
Fax 213 488-4385

Thank you.

Mark

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Sent: Tuesday, September 04, 2012 2:25 PM
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Subject: RE: 5729778_3

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Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

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Mark

From: Dennis Vacco [<mailto:dvacco@lippes.com>]
Sent: Tuesday, September 04, 2012 1:34 PM

LMWF_SUPP_086882
4424

To: Marcus Bagley
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

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To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Steve Peek; Christian Lovelace
Subject: RE: 5729778_3

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Thank you.

Mark

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Sent: Tuesday, September 04, 2012 9:39 AM
To: Dennis Vacco
Cc: Maiorella, David P; Masterson, Dave -Legal; Marcus Bagley
Subject: 5729778_3

Dennis, attached is an executable copy of the Settlement Agreement with the final calculation for attorneys' fees. Please have Paul execute and return to me. Payment of accrued interest, attorneys' fees and costs is due this Friday so please have Paul make arrangements for payment. I trust that you and Marcus have come close to finalizing the guaranty and the second deed of trust. Let me know if you need anything more.

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From: Dennis Vacco
Sent: Thursday, December 06, 2012 2:51 PM
To: 'Paul Morabito'
Subject: RE: Morabito Payoff

Because I wanted the path of the money to follow the same stream that it took in getting to BOA. BOA knew where this money was coming from.

From: Paul Morabito [mailto:morabito.pa@gmail.com]
Sent: Thursday, December 06, 2012 2:43 PM
To: Dennis Vacco
Subject: Fwd: Morabito Payoff

WHY would Chris send Edwards info for my refund ?

Paul Morabito
Executive Vice President
Virsenet LLC / USHFCC
tel/text: (310) 339-0475
email: pmorabito@HF911.org

Begin forwarded message:

From: "Maiorella, David P" <david.p.maiorella@bankofamerica.com>
Date: December 6, 2012, 11:35:01 AM PST
To: "Hollins, Deborah E" <deborah.e.hollins@baml.com>
Cc: Paul Morabito <morabito.pa@gmail.com>, Christopher Berardi <cberardi@lippes.com>, Dennis Vacco <dvacco@lippes.com>
Subject: FW: Morabito Payoff

Deborah,

Wire instructions for the Morabito overpayment are attached.

Thanks,

David

From: Christopher Berardi [mailto:cberardi@lippes.com]
Sent: Thursday, December 06, 2012 11:11 AM
To: Dennis Vacco; Maiorella, David P
Subject: RE: Morabito Payoff

David:

Attached please find wire instructions for the overpayment referenced below.

Are you the correct party with whom we should be interfacing with respect to the releases associated with the payoff?

Chris Berardi
Associate
Lippes Mathias Wexler Friedman LLP
665 Main Street
Suite 300
Buffalo, NY 14203
(Tel): 716-853-5100 ext. 364
(Fax): 716-853-5199

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4427

(Email): cberardi@lippes.com
www.lippes.com

From: Maiorella, David P [[mailto:david.p.maiorella@bankofamerica.com](mailto: david.p.maiorella@bankofamerica.com)]
Sent: Thursday, December 06, 2012 12:09 PM
To: Dennis Vacco; Paul Morabito
Cc: Marcus Bagley; Hollins, Deborah E; blimas@ltic.com
Subject: Morabito Payoff

Paul,

We received an overpayment of \$2,750.23 with the payoff yesterday. Could you please provide wire instructions so we can remit the funds back to you?

Thanks,

David

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From: Paul Morabito [morabito.pa@gmail.com]
Sent: Tuesday, September 18, 2012 6:01 PM
To: Edward Bayuk
CC: Dennis Vacco; Mark Lehman; Christian Lovelace
Subject: Re: Deed of Trust

Correct

Paul Morabito
Chairman
US HF Cellular Communications
tel/text: (310) 339-0475
email: paul.morabito@ushfcc.com

On Sep 18, 2012, at 4:05 PM, Edward Bayuk <ebayuk@superpumper.com> wrote:

Dennis Mark

Please do not involve Snowshoe Properties with Mary Fleming.

The house is not owned by a LLC. It is owned by an individual.

Thank you
Edward

From: dvacco@lippes.com [mailto:dvacco@lippes.com]
Sent: Tuesday, September 18, 2012 3:54 PM
To: Edward Bayuk; Mark Lehman; Paul Morabito
Cc: Christian Lovelace
Subject: Re: Deed of Trust

Mark, the SDT on Mary Fleming Drive is to secure a note from a company which EWB is a member.

Sent from my Verizon Wireless BlackBerry

From: Edward Bayuk <ebayuk@superpumper.com<mailto:ebayuk@superpumper.com>>
Date: Tue, 18 Sep 2012 22:19:12 +0000
To:
'Mark@MarkLehmanEsq.com'<Mark@MarkLehmanEsq.com<mailto:Mark@MarkLehmanEsq.com>>;
Paul Morabito<morabito.pa@gmail.com<mailto:morabito.pa@gmail.com>>
Cc: 'clovelace@lippes.com'<clovelace@lippes.com<mailto:clovelace@lippes.com>>;
'dvacco@lippes.com'<dvacco@lippes.com<mailto:dvacco@lippes.com>>
Subject: Re: Deed of Trust

Let's just make this simple, I think Paul wants to put a second trust deed in place on Mary Fleming house if so, than just let me sign for the second trust deed.

Edward

From: Mark Lehman [mailto:mark@marklehmanesq.com]
Sent: Tuesday, September 18, 2012 03:09 PM
To: Paul Morabito
Cc: Christian Lovelace <clovelace@lippes.com<mailto:clovelace@lippes.com>>; Edward Bayuk; Dennis Carmen Vacco <DVAcCo@lippes.com<mailto:DVAcCo@lippes.com>>
Subject: Re: Deed of Trust

Paul:

I stand corrected. Attached is the last deed recorded against Mary Fleming with Edward's trust as the title holder.

Virsenet, LLC is then owned by Edward as well?

Mark E. Lehman
Law Offices of Mark E. Lehman
9200 Sunset Blvd., PH 2
West Hollywood, CA 90069
Phone: (310) 276-2670
Fax: (310) 276-2513
E-mail: Mark@MarkLehmanEsq.com<<mailto:Mark@MarkLehmanEsq.com>>
www.MarkLehmanEsq.com<<http://www.marklehmanesq.com/>>

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On Tue, Sep 18, 2012 at 3:04 PM, Paul Morabito
<morabito.pa@gmail.com<<mailto:morabito.pa@gmail.com>>> wrote:
Edward said the property is in EDWARD WILLIAM BAYUK LIVING TRUST
On Tue, Sep 18, 2012 at 3:00 PM, Mark Lehman
<mark@marklehmanesq.com<<mailto:mark@marklehmanesq.com>>> wrote:
Christian and Dennis:

So I understand, the deed of trust will be on the Mary Fleming property in Palm Springs; however title to that property is with Snowshoe Properties, LLC (not Virsenet the borrower). How is that disconnect being handled?

As per my records, the only member of Snowshoe Properties, LLC is Edward in his capacity as trustee of his trust.

Sorry for this question but I'm late to this game.

Mark

Mark E. Lehman
Law Offices of Mark E. Lehman
9200 Sunset Blvd., PH 2
West Hollywood, CA 90069
Phone: (310) 276-2670<<tel:%28310%29%20276-2670>>
Fax: (310) 276-2513<<tel:%28310%29%20276-2513>>
E-mail: Mark@MarkLehmanEsq.com<<mailto:Mark@MarkLehmanEsq.com>>

www.MarkLehmanEsq.com<http://www.marklehmanesq.com/>

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On Tue, Sep 18, 2012 at 2:40 PM, Christian Lovelace <clovelace@lippes.com<mailto:clovelace@lippes.com>> wrote:
Mark,

I am attaching the note where Ray is lending Virsenet roughly \$2.4M that the second deed of trust will secure. A condition of the loan is that the Palm Springs property be mortgaged as security in an amount of \$800,000 that the Deed of Trust will secure even though the principal amount of the note is much higher. Other than basic terms, the Deed of Trust automatically defaults if the First Deed of Trust gets foreclosed upon. Mark give me a call if you have any questions. My cell is 716-998-0979<tel:716-998-0979>.

Thanks,

Christian M. Lovelace
Lippes Mathias Wexler Friedman LLP
665 Main Street, Suite 300
Buffalo, New York 14203
P: (716) 853-5100<tel:%28716%29%20853-5100>
F: (716) 853-5199<tel:%28716%29%20853-5199>
clovelace@lippes.com<mailto:clovelace@lippes.com>
www.lippes.com<http://www.lippes.com/>

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--
Paul Morabito
Chairman

US HF Cellular Communications LLC / ShipCom LLC /Snowshoe Capital LLC
USA cell/text: 310.339.0475<tel:310.339.0475> - e-fax: 480.222.1062<tel:480.222.1062> - UK
cell: 0.777.0.385385
e-mail: paul.morabito@ushfcc.com<mailto:paul.morabito@ushfcc.com>

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<winmail.dat>

From: Dennis Vacco
Sent: Wednesday, October 03, 2012 6:01 PM
To: Paul Morabito
CC: Christian Lovelace; Stephanie Canastraro
Subject: RE: Snowshoe Properties, LLC

I just concluded a call with Karla MacCary at Nossaman. She wants a term sheet on both the real estate deal and the option. She will accept same via email.

I know you are busy but if you could answer the questions in red below, I can send her a term sheet so she has it first thing in the morning.

As I understand your instructions below, Snowshoe Properties, LLC, will borrow \$5MM. Snowshoe will provide a FDT on 1461 Glenneyre and a SDT on 570 Glenneyre. The term will be for 36 months with no prepayment penalty. **Are the monthly payments interest only or interest and principal? If interest and principal what is the amortization period, 3 years, 10, 15? What interest rate do you want to offer?**

As to the option, please remind me what terms you propose. **Is the option for Virsenet or USHF? How does dilution work at Virsenet level/ USHF level? In other words if the equity interest is in Virsenet is Ray and EWB diluted along with you or only you? If in USHF, is only Virsenet diluted (same impact as a distribution from Virsenet or is JJCD diluted as well. What triggers the option? How long is option period for? What is the valuation of the option? What consideration does BB pay for option?**

Thanks.

From: Paul Morabito [mailto:morabito.pa@gmail.com]
Sent: Monday, October 01, 2012 7:08 PM
To: Dennis Vacco
Cc: Christian Lovelace
Subject: Re: Snowshoe Properties, LLC

\$5 million.
Nominal interest.
1st on 1461 G and 2nd on 570 G
36 month term or prepay with no penalty

Paul Morabito
Chairman
US HF Cellular Communications
tel/text: (310) 339-0475
email: paul.morabito@ushfcc.com

On Oct 1, 2012, at 4:04 PM, "Dennis Vacco" <dvacco@lippes.com> wrote:

I received an email from Alan Skobin. Please send me a bullet point email with your proposed terms so I can have an informed conversation with Karla Mac Cary at Nossman. Thanks.

From: Alan Skobin [mailto:askobin@galpin.com]
Sent: Monday, October 01, 2012 7:01 PM
To: Dennis Vacco
Cc: KMacCary@Nossaman.com
Subject: RE: Snowshoe Properties, LLC

Dennis,

Our attorney is Karla MacCary, who is with Nossman. Her contact info is:

Telephone: 213 612-7862
Email: KMacCary@Nossaman.com

Could you please send both Carla and I an email with what you understand the terms to be of the transactions. Also, it is important that Karla speak with whoever you propose does drafting so that there is a mutual comfort with the approach. That will hopefully save time and money for your client, who will be responsible for our legal costs.

Sorry for the brevity, but I wanted to get back to you before my knee replacement in the morning. Look forward to meeting you one day.

Thanks much, and all the best,

Alan Skobin

From: Dennis Vacco [<mailto:dvacco@lippes.com>]
Sent: Monday, October 01, 2012 8:33 AM
To: ASkobin@galpin.com
Cc: Edward Bayuk; Paul Morabito; Stephanie Canastraro
Subject: Snowshoe Properties, LLC

Alan,

I represent Snowshoe Properties, LLC and its sole member, Edward Bayuk. Edward and Paul have asked me to reach out to you to open a line of discussion concerning a First Deed of Trust for 1461 Glenneyre, and a Second Deed of Trust for 570 Glenneyre, both properties are located in Laguna Beach, CA. Can we schedule a call for today to initiate conversations about these mortgages? If you are not available is there another attorney who you would want me to discuss these matters with?

I am generally available all day today.

Thanks.

DENNIS C. VACCO, Esq.
Lippes Mathias Wexler Friedman LLP
665 Main Street, Suite 300
Buffalo, New York 14203
716-853-5100 (office)
716-853-5199 (fax)
716-713-1679 (cell)
DVacco@Lippes.com

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From: Paul Morabito [morabito.pa@gmail.com]
Sent: Monday, September 03, 2012 4:09 PM
To: Stephanie Canastraro; Dennis Vacco
CC: Edward Bayuk
Subject: Wire

Please send Edward the wire information to LIPPES TRUST ACCOUNT for the \$310,000 BOA payment on Wednesday.
COPY ME.

Paul Morabito
Chairman
US HF Cellular Communications LLC / Snowshoe Capital LLC
tel/text: (310) 339-0475
SatCell: 011-881622479740
email: paul.morabito@ushfcc.com

From: Paul Morabito [morabito.pa@gmail.com]
Sent: Thursday, March 14, 2013 12:17 AM
To: Dennis Vacco
Subject: Re: BHI Hinckley

We would transfer ownership to them lock, stock and barrel ... \$2 million in store level cashflow and no debt or PGs.

On Wed, Mar 13, 2013 at 12:58 PM, Dennis Vacco <dvacco@lippes.com> wrote:

Until I receive draft of agreement from Desmond, I am not going to further engage BHI Trust. Similarly, you owe \$8,800 in back taxes for Q4 2012 but I am not pressing you to pay until I see final agreement even though Desmond has demanded payment pursuant to our agreement. Having said that, Spirit sued JH claiming default over the past due payment (which you made on March 1st) and the back taxes. Desmond promised me yesterday, a draft of the agreement, but I still have not received one.

As to your proposal, do you mean you would transfer ownership of Superpumper to BHI or to use it as "collateral" in exchange for a longer forbearance.

-----Original Message-----

From: Paul Morabito [mailto:morabito.pa@gmail.com]
Sent: Wednesday, March 13, 2013 3:39 PM
To: Dennis Vacco
Subject: BHI Hinckley

Status ?

Why not offer them Superpumper - they would make \$2 million a year and could borrow \$3 million against it c

Paul Morabito
tel/text: [\(310\) 339-0475](tel:3103390475)

--

Paul Morabito
USA cell/text: 310.339.0475 - fax: 480.222.1062 - UK cell: 0.777.0.385385
e-mail: morabito.pa@gmail.com

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4436

For the year Jan 1 - Dec 31, 2009, or other tax year beginning , 2009, ending , 20 OMB No. 1545-0074

Your first name M Last name
PAUL MORABITO

Your social security number

If a joint return, spouse's first name M Last name
 Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. Apartment no.
8581 SANTA MONICA BLVD. #708

City, town or post office. If you have a foreign address, see instructions. State ZIP code
SANTA MONICA, CA 90069-4120

Presidential Election Campaign
 Check here if you, or your spouse if filing jointly, want \$3 to go to this fund? (see instructions) You Spouse

Filing Status

1 Single

2 Married filing jointly (even if only one had income)

3 Married filing separately. Enter spouse's SSN above & full name here.

4 Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here.

5 Qualifying widow(er) with dependent child (see instructions)

Exemptions

6a Yourself. If someone can claim you as a dependent, do not check box 6a.

b Spouse

c Dependents:		(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see instrs)	<input type="checkbox"/> if lived with you	<input type="checkbox"/> if did not live with you due to divorce or separation (see instrs)	<input type="checkbox"/> Dependents on bc not entered above	<input type="checkbox"/> Add numbers on lines above
(1) First name	Last name							
								1

d Total number of exemptions claimed **1**

Income

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	498,206.
8a	Taxable interest. Attach Schedule B if required.	8a	64,572.
8b	Tax-exempt interest. Do not include on line 8a. STMT 2	8b	21,259.
9a	Ordinary dividends. Attach Schedule B if required.	9a	141,937.
9b	Qualified dividends (see instrs)	9b	
10	Taxable refunds, credits, or offsets of state and local income taxes (see instructions) STATEMENT 3	10	0.
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	-178,641.
13	Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here	13	-3,000.
14	Other gains or (losses). Attach Form 4797	14	
15a	IRA distributions	15a	
15b	Taxable amount (see instrs)	15b	
16a	Pensions and annuities	16a	
16b	Taxable amount (see instrs)	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	-1,573,323.
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation in excess of \$2,400 per recipient (see instructions)	19	
20a	Social security benefits	20a	
20b	Taxable amount (see instrs)	20b	
21	Other income	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income	22	-1,050,249.

Adjusted Gross Income

23	Educator expenses (see instructions)	23	
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25	Health savings account deduction. Attach Form 8889	25	
26	Moving expenses. Attach Form 3903	26	
27	One-half of self-employment tax. Attach Schedule SE	27	
28	Self-employed SEP, SIMPLE, and qualified plans	28	
29	Self-employed health insurance deduction (see instructions)	29	
30	Penalty on early withdrawal of savings	30	
31a	Alimony paid	31a	
31b	Recipient's SSN	31b	
32	IRA deduction (see instructions)	32	
33	Student loan interest deduction (see instructions)	33	
34	Tuition and fees deduction. Attach Form 8917	34	
35	Domestic production activities deduction. Attach Form 8903	35	
36	Add lines 23 - 31a and 32 - 35	36	0.
37	Subtract line 36 from line 22. This is your adjusted gross income	37	-1,050,249.

MORABITO (341).000408

Tax and Credits		38	Amount from line 37 (adjusted gross income)	38	-1,050,249.
39a Check <input type="checkbox"/> You were born before January 2, 1945. <input type="checkbox"/> Blind. Total boxes checked <input type="checkbox"/> 39a					
if: <input type="checkbox"/> Spouse was born before January 2, 1945. <input type="checkbox"/> Blind. Total boxes checked <input type="checkbox"/> 39b					
b If your spouse itemizes on a separate return, or you were a dual status alien, see instrs and ck here ▶ 39b					
Standard Deduction for		40a	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40a	386,449.
• People who check any box on line 39a, 39b, or 40b or who can be claimed as a dependent, see instructions.		40b	b If you are increasing your standard deduction by certain real estate taxes, new motor vehicle taxes, or a net disaster loss, attach Schedule L and check here (see instructions) ▶ 40b	40b	
• All others:		41	41 Subtract line 40a from line 38	41	-1,436,698.
Single or Married filing separately, \$5,700		42	42 Exemptions. If line 38 is \$125,100 or less and you did not provide housing to a Midwestern displaced individual, multiply \$3,650 by the number on line 5d. Otherwise, see instructions	42	3,650.
Married filing jointly or Qualifying widow(er), \$11,400		43	43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	0.
Head of household, \$8,350		44	44 Tax (see instrs). Check if any tax is from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	44	0.
		45	45 Alternative minimum tax (see instructions). Attach Form 6251	45	0.
		46	46 Add lines 44 and 45 ▶ 46	46	0.
		47	47 Foreign tax credit. Attach Form 1116 if required	47	
		48	48 Credit for child and dependent care expenses. Attach Form 2441	48	
		49	49 Education credits from Form 8863, line 29	49	
		50	50 Retirement savings contributions credit. Attach Form 8880	50	
		51	51 Child tax credit (see instructions)	51	
		52	52 Credits from Form: a <input type="checkbox"/> 8356 b <input type="checkbox"/> 8839 c <input type="checkbox"/> 5695	52	
		53	53 Other crs from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	53	
		54	54 Add lines 47 through 53. These are your total credits	54	
		55	55 Subtract line 54 from line 46. If line 54 is more than line 46, enter -0-	55	0.
Other Taxes		56	56 Self-employment tax. Attach Schedule SE	56	
		57	57 Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	57	
		58	58 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	58	
		59	59 Additional taxes: a <input type="checkbox"/> AEIC payments b <input type="checkbox"/> Household employment taxes. Attach Schedule H	59	
		60	60 Add lines 55-59. This is your total tax ▶ 60	60	0.
Payments		61	61 Federal income tax withheld from Forms W-2 and 1099	61	149,462.
		62	62 2009 estimated tax payments and amount applied from 2008 return	62	
		63	63 Making work pay and government retiree credit. Attach Schedule M	63	400.
If you have a qualifying child, attach Schedule EIC.		64a	64a Earned income credit (EIC)	64a	
		64b	b Nontaxable combat pay election ▶ 64b	64b	
		65	65 Additional child tax credit. Attach Form 8812	65	
		66	66 Refundable education credit from Form 8863, line 16	66	
		67	67 First-time homebuyer credit. Attach Form 5405	67	
		68	68 Amount paid with request for extension to file (see instructions)	68	
		69	69 Excess social security and tier 1 RRTA tax withheld (see instructions)	69	
		70	70 Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> 4136 c <input type="checkbox"/> 8801 d <input type="checkbox"/> 8885	70	
		71	71 Add lns 61-63, 64a, & 65-70. These are your total pmts ▶ 71	71	149,862.
Refund		72	72 If line 71 is more than line 60, subtract line 60 from line 71. This is the amount you overpaid	72	149,862.
Direct deposit? See instructions and fill in 73b, 73c, and 73d or Form 8888.		73a	73a Amount of line 72 you want refunded to you. If Form 8888 is attached, check here ▶ <input type="checkbox"/>	73a	149,862.
			b Routing number		
			c Type: <input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings		
			d Account number		
		74	74 Amount of line 72 you want applied to your 2010 estimated tax ▶ 74	74	
Amount You Owe		75	75 Amount you owe. Subtract line 71 from line 60. For details on how to pay, see instructions.	75	
		76	76 Estimated tax penalty (see instructions)	76	
Third Party Designee		Do you want to allow another person to discuss this return with the IRS (see instructions)? <input checked="" type="checkbox"/> Yes. Complete the following. <input type="checkbox"/> No			
		Designee's name ▶ STANTON R. BERNSTEIN, CPA		Phone no ▶ 818-596-2139	Personal identification number (PIN) ▶ 21550
Sign Here		Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Joint return? See instructions.		Your signature	Date	Your occupation	Daytime phone number
Keep a copy for your records.		Spouse's signature. If a joint return, both must sign.	Date	BUSINESSMAN	
Paid Preparer's Use Only		Preparer's signature ▶ STANTON R. BERNSTEIN, CPA	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN P00185129
		Firm's name (or yours if self-employed) ▶ STANTON BERNSTEIN, AN ACCOUNTANCY CORP.			
		address, and ZIP code ▶ 6320 CANOGA AVE., 15TH FLOOR		EIN ▶ 20-2231319	
		WOODLAND HILLS, CA 91367		Phone no. ▶ (818) 596-2139	

SCHEDULE A
(Form 1040)

Itemized Deductions

OMB No. 1545-0074

2009

Department of the Treasury
Internal Revenue Service (99)

▶ Attach to Form 1040.

▶ See instructions for Schedule A (Form 1040).

Attachment
Sequence No. **07**

Name(s) shown on Form 1040

Your social security number

PAUL MORABITO

Medical and Dental Expenses		Caution. Do not include expenses reimbursed or paid by others.				
1	Medical and dental expenses (see instructions)	STATEMENT .4	1	68,723.		
2	Enter amount from Form 1040, line 38.	2	-1,050,249.			
3	Multiply line 2 by 7.5% (.075)		3			
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-		4	68,723.		
Taxes You Paid		5 State and local (check only one box):				
		a <input type="checkbox"/> Income taxes, or				
		b <input checked="" type="checkbox"/> General sales taxes		5	239.	
		6 Real estate taxes (see instructions)		6	49,548.	
		7 New motor vehicle taxes from line 11 of the worksheet on page 2. Skip this line if you checked box 5b.		7		
(See instructions.)		8 Other taxes. List type and amount ▶				
		PERSONAL PROPERTY TAXES		8	9,352.	
		9 Add lines 5 through 8		9	59,139.	
Interest You Paid		10 Home mtg interest and points reported to you on Form 1098		SEE ST. 5	10	48,183.
		11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying number, and address ▶				
		12 Points not reported to you on Form 1098. See instrs for spcl rules		12		
		13 Qualified mortgage insurance premiums (see instructions)		13		
		14 Investment interest. Attach Form 4952 if required. (See instrs.)		STMT. 6	14	150,480.
		15 Add lines 10 through 14		15	198,663.	
Gifts to Charity		16 Gifts by cash or check. If you made any gift of \$250 or more, see instrs		SEE STATEMENT. 7	16	35,480.
If you made a gift and got a benefit for it, see instructions.		17 Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500			17	
		18 Carryover from prior year			18	
		19 Add lines 16 through 18		DISALLOWED CONTRIBUTIONS	19	-35,480.
Casualty and Theft Losses		20 Casualty or theft loss(es). Attach Form 4684. (See instructions.)			20	0.
Job Expenses and Certain Miscellaneous Deductions		21 Unreimbursed employee expenses — job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) ▶			21	
		22 Tax preparation fees			22	3,895.
(See instructions.)		23 Other expenses — investment, safe deposit box, etc. List type and amount ▶			23	56,029.
		SEE STATEMENT 8			24	59,924.
		24 Add lines 21 through 23			24	
		25 Enter amount from Form 1040, line 38.		25	-1,050,249.	
		26 Multiply line 25 by 2% (.02)			26	
		27 Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-			27	59,924.
Other Miscellaneous Deductions		28 Other — from list in the instructions. List type and amount ▶			28	0.
Total Itemized Deductions		29 Is Form 1040, line 38, over \$166,800 (over \$83,400 if married filing separately)?			29	386,449.
		<input checked="" type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40a.				
		<input type="checkbox"/> Yes. Your deduction may be limited. See instructions for the amount to enter.				
		30 If you elect to itemize deductions even though they are less than your standard deduction, check here ▶ <input type="checkbox"/>				

BAA For Paperwork Reduction Act Notice, see Form 1040 instructions.

FDIA0301L 11/20/09

Schedule A (Form 1040) 2009

MORABITO (341).000410

4440

SCHEDULE B
(Form 1040A or 1040)

Interest and Ordinary Dividends

OMB No. 1545-0074

2009

Department of the Treasury
Internal Revenue Service (99)

▶ Attach to Form 1040A or 1040.

▶ See Instructions.

Attachment
Sequence No. 08

Name(s) shown on return

Your social security number

PAUL MORABITO

Part I
Interest

(See instructions for Form 1040A, or Form 1040, line 8a.)

1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see the instructions and list this interest first. Also, show that buyer's social security number and address

BANK OF AMERICA
BANK OF AMERICA (2 ACCTS)
BANK OF MONTREAL
ROSEMONT SOLEBURY CO-INVESTMENT FUND LP

Amount

34,153.
22,982.
565.
6,872.

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

2 Add the amounts on line 1
3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815
4 Subtract line 3 from line 2. Enter the result here and on Form 1040A, or Form 1040, line 8a.

64,572.
64,572.

Note. If line 4 is over \$1,500, you must complete Part III.

Part II
Ordinary Dividends

(See instructions for Form 1040A, or Form 1040, line 9a.)

5 List name of payer
CONSOLIDATED NEVADA CORPORATION
ROSEMONT SOLEBURY CO-INVESTMENT FUND LP

Amount

141,931.
6.

Note. If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

6 Add the amounts on line 5. Enter the total here and on Form 1040A, or Form 1040, line 9a.

141,937.

Part III
Foreign Accounts and Trusts

(See instructions.)

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

Yes No

7a At any time during 2009, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See instructions for exceptions and filing requirements for Form TD F 90-22.1

X

b If 'Yes,' enter the name of the foreign country

8 During 2009, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If 'Yes,' you may have to file Form 3520. See instructions.

X

BAA For Paperwork Reduction Act Notice, see Form 1040A or 1040 instructions.

FDIA0401L 06/24/09

Schedule B (Form 1040) 2009

MORABITO (341).000411

SCHEDULE C
(Form 1040)

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

2009

Department of the Treasury
Internal Revenue Service (99)

Partnerships, joint ventures, etc., generally must file Form 1065 or 1065-B.
Attach to Form 1040, 1040NR, or 1041. See Instructions for Schedule C (Form 1040).

Attachment
Sequence No. **09**

Name of proprietor

Serial security number (SSN)

PAUL MORABITO

A Principal business or profession, including product or service (see instructions) COWESTCO SPECIAL RISK, LLC	B Enter code from instructions 524210
C Business name. If no separate business name, leave blank.	D Employer ID number (EIN), if any 26-4359384
E Business address (including suite or room no.) 59 DAMONTE RANCH PARKWAY # B-335 City, town or post office, state, and ZIP code RENO, NV 89521	
F Accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) _____	
G Did you 'materially participate' in the operation of this business during 2009? If 'No,' see instructions for limit on losses. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
H If you started or acquired this business during 2009, check here <input checked="" type="checkbox"/>	

Part I Income

1 Gross receipts or sales. Caution. See the instructions and check the box if: • This income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, or • You are a member of a qualified joint venture reporting only rental real estate income not subject to self-employment tax. Also see instructions for limit on losses. <input type="checkbox"/>	1	49,000.
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	49,000.
4 Cost of goods sold (from line 42 on page 2)	4	
5 Gross profit. Subtract line 4 from line 3	5	49,000.
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7 Gross income. Add lines 5 and 6	7	49,000.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8 Advertising	8		18 Office expense	18	
9 Car and truck expenses (see instructions)	9		19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11		a Vehicles, machinery, and equipment	20a	
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13		21 Repairs and maintenance	21	
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	
15 Insurance (other than health)	15		23 Taxes and licenses	23	
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.)	16a		a Travel	24a	613.
b Other	16b		b Deductible meals and entertainment (see instructions)	24b	
17 Legal & professional services	17	120,068.	25 Utilities	25	
18 Total expenses before expenses for business use of home. Add lines 8 through 27	18		26 Wages (less employment credits)	26	
19 Tentative profit or (loss). Subtract line 18 from line 7	19		27 Other expenses (from line 48 on page 2)	27	106,960.
20 Expenses for business use of your home. Attach Form 8829	20		28 Total expenses before expenses for business use of home. Add lines 18 through 27	28	227,641.
21 Net profit or (loss). Subtract line 20 from line 19	21		29 Tentative profit or (loss). Subtract line 28 from line 7	29	-178,641.
• If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (if you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3.			30 Expenses for business use of your home. Attach Form 8829	30	
• If a loss, you must go to line 32.			31 Net profit or (loss). Subtract line 30 from line 29	31	-178,641.
32 If you have a loss, check the box that describes your investment in this activity (see instructions).			32a <input checked="" type="checkbox"/> All investment is at risk.		
• If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on Form 1041, line 3.			32b <input type="checkbox"/> Some investment is not at risk.		
• If you checked 32b, you must attach Form 6198. Your loss may be limited.					

BAA For Paperwork Reduction Act Notice, see Form 1040 instructions.

FD/2011ZL 06/18/09

Schedule C (Form 1040) 2009

MORABITO (341).000412

SCHEDULE D
(Form 1040)

Capital Gains and Losses

OMB No 1545-0074

2009

Department of the Treasury
Internal Revenue Service (99)

► Attach to Form 1040 or Form 1040NR. ► See Instructions for Schedule D (Form 1040).
► Use Schedule D-1 to list additional transactions for lines 1 and 8.

Attachment
Sequence No. 12

Name(s) shown on return

Your social security number

PAUL MORABITO

Part I Short-Term Capital Gains and Losses – Assets Held One Year or Less

(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(c) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
1 US TREASURY BILL	7/31/08	1/29/09	6,979,658.	6,979,658.	0.
FOREIGN EXCHANGE GAIN			16,121.	0.	16,121.
2 Enter your short-term totals, if any, from Schedule D-1, line 2			2		
3 Total short-term sales price amounts. Add lines 1 and 2 in column (d)			3	6,995,779.	
4 Short-term gain from Form 5252 and short-term gain or (loss) from Forms 4684, 6781, and 8824					4
5 Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1					5
6 Short-term capital loss carryover. Enter the amount, if any, from line 10 of your Capital Loss Carryover Worksheet in the instructions					6
7 Net short-term capital gain or (loss). Combine lines 1 through 6 in column (f)					7
					16,121.

Part II Long-Term Capital Gains and Losses – Assets Held More Than One Year

(a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(c) Date sold (Mo, day, yr)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
8 SIERRA VIEW LOC HEALTH CARE DI	9/18/07	2/23/09	447,500.	511,045.	-63,545.
9 Enter your long-term totals, if any, from Schedule D-1, line 9			9		
10 Total long-term sales price amounts. Add lines 8 and 9 in column (d)			10	447,500.	
11 Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824					11
12 Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1					12
13 Capital gain distributions. See instrs.					13
14 Long-term capital loss carryover. Enter the amount, if any, from line 15 of your Capital Loss Carryover Worksheet in the instructions					14
15 Net long-term capital gain or (loss). Combine lines 8 through 14 in column (f). Then go to Part III on page 2					15
					-63,545.

BAA For Paperwork Reduction Act Notice, see Form 1040 or Form 1040NR instructions.

Schedule D (Form 1040) 2009

Part III Summary

16 Combine lines 7 and 15 and enter the result.....	16	-47,424.
If line 16 is: <ul style="list-style-type: none"> • A gain, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below. • A loss, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22. • Zero, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22. 		
17 Are lines 15 and 16 both gains? <input type="checkbox"/> Yes. Go to line 18. <input type="checkbox"/> No. Skip lines 18 through 21, and go to line 22.		
18 Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet in the instructions.....	▶ 18	
19 Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet in the instructions.....	▶ 19	
20 Are lines 18 and 19 both zero or blank? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040 (or in the instructions for Form 1040NR). Do not complete lines 21 and 22 below. <input type="checkbox"/> No. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Schedule D Tax Worksheet in the instructions. Do not complete lines 21 and 22 below.		
21 If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of: <ul style="list-style-type: none"> • The loss on line 16 or • (\$3,000), or if married filing separately, (\$1,500)]..... 	21	-3,000.
Note. When figuring which amount is smaller, treat both amounts as positive numbers.		
22 Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040 (or in the instructions for Form 1040NR). <input type="checkbox"/> No. Complete the rest of Form 1040 or Form 1040NR.		

Name(s) shown on return. Do not enter name and social security number if shown on Page 1.

Your social security number

PAUL MORABITO

Caution: The IRS compares amounts reported on your tax return with amounts shown on Schedule(s) K-1.

Part II Income or Loss From Partnerships and S Corporations

Note. If you report a loss from an at-risk activity for which any amount is not at risk, you must check the box in column (e) on line 28 and attach Form 6198. See instructions.

27 Are you reporting any loss not allowed in a prior year due to the at-risk or basis limitations, a prior year unallowed loss from a passive activity (if that loss was not reported on Form 8582), or unreimbursed partnership expenses? Yes No
If you answered 'Yes,' see instructions before completing this section.

28	(a) Name	(b) Enter P for partnership; S for S corporation	(c) Check if foreign partnership	(d) Employer identification number	(e) Check if any amount is not at risk
A	SEE STATEMENT 9				
B					
C					
D					

Passive Income and Loss		Nonpassive Income and Loss		
(f) Passive loss allowed (attach Form 8582 if required)	(g) Passive income from Schedule K-1	(h) Nonpassive loss from Schedule K-1	(i) Section 179 expense deduction from Form 4562	(j) Nonpassive income from Schedule K-1
A				
B				
C				
D				
29a Totals		40,704.		
b Totals	40,704.		1,573,323.	
30 Add columns (g) and (j) of line 29a				30 40,704.
31 Add columns (f), (h), and (i) of line 29b			SEE STATEMENT 10	31 -1,614,027.
32 Total partnership and S corporation income or (loss). Combine lines 30 and 31. Enter the result here and include in the total on line 41 below.				32 -1,573,323.

Part III Income or Loss From Estates and Trusts

33	(a) Name	(b) Employer ID no.
A		
B		

Passive Income and Loss		Nonpassive Income and Loss	
(c) Passive deduction or loss allowed (attach Form 8582 if required)	(d) Passive income from Schedule K-1	(e) Deduction or loss from Schedule K-1	(f) Other income from Schedule K-1
A			
B			
34a Totals			
b Totals			
35 Add columns (d) and (f) of line 34a			35
36 Add columns (c) and (e) of line 34b			36
37 Total estate and trust income or (loss). Combine lines 35 and 36. Enter the result here and include in the total on line 41 below.			37

Part IV Income or Loss From Real Estate Mortgage Investment Conduits (REMICs) - Residual Holder

38	(a) Name	(b) Employer identification number	(c) Excess inclusion from Schedules Q, line 7c (see instructions)	(d) Taxable income (net loss) from Schedules Q, line 1b	(e) Income from Schedules Q, line 3b
39	Combine columns (d) and (e) only. Enter the result here and include in the total on line 41 below.				39

Part V Summary

40	Net farm rental income or (loss) from Form 4835. Also, complete line 42 below.	40	
41	Total income or (loss). Combine lines 26, 32, 37, 39, and 40. Enter the result here and on Form 1040, line 17, or Form 1040NR, line 18.	41	-1,573,323.
42	Reconciliation of farming and fishing income. Enter your gross farming and fishing income reported on Form 4835, line 7; Schedule K-1 (Form 1065), box 14, code B; Schedule K-1 (Form 1120S), box 17, code U; and Schedule K-1 (Form 1041), line 14, code F (see instructions).	42	
43	Reconciliation for real estate professionals. If you were a real estate professional (see instructions), enter the net income or (loss) you reported anywhere on Form 1040 or Form 1040NR from all rental real estate activities in which you materially participated under the passive activity loss rules.	43	

Form **4952**

Investment Interest Expense Deduction

OMB No. 1545-0191

2009

Department of the Treasury
Internal Revenue Service (99)

► Attach to your tax return.

Attachment
Sequence No. **51**

Name(s) shown on return
PAUL MORABITO

Identifying number

Part I Total Investment Interest Expense

1	Investment interest expense paid or accrued in 2009 (see instructions).....	1	72,660.
2	Disallowed investment interest expense from 2008 Form 4952, line 7.....	2	180,147.
3	Total investment interest expense. Add lines 1 and 2.....	3	252,807.

Part II Net Investment Income

4a	Gross income from property held for investment (excluding any net gain from the disposition of property held for investment).....	4a	206,509.	
4b	Qualified dividends included on line 4a.....	4b		
4c	Subtract line 4b from line 4a.....	4c	206,509.	
4d	Net gain from the disposition of property held for investment.....	4d		
4e	Enter the smaller of line 4d or your net capital gain from the disposition of property held for investment (see instructions).....	4e		
4f	Subtract line 4e from line 4d.....	4f		
4g	Enter the amount from lines 4b and 4e that you elect to include in investment income (see instructions).....	4g		
4h	Investment income. Add lines 4c, 4f, and 4g.....	4h	206,509.	
5	Investment expenses (see instructions).....	5	56,029.	
6	Net investment income. Subtract line 5 from line 4h. If zero or less, enter -0.....	6	150,480.	

Part III Investment Interest Expense Deduction

7	Disallowed investment interest expense to be carried forward to 2010. Subtract line 6 from line 3. If zero or less, enter -0.....	7	102,327.
8	Investment interest expense deduction. Enter the smaller of line 3 or 6. See instructions.....	8	150,480.

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form 4952 (2009)

Form **8801**

**Credit for Prior Year Minimum Tax –
Individuals, Estates, and Trusts**

OMB No. 1545-1073

2009

Department of the Treasury
Internal Revenue Service (99)

▶ See separate instructions. ▶ Attach to Form 1040, 1040NR, or 1041.

Attachment
Sequence No. **74**

Name(s) shown on return

Identifying number

PAUL MORABITO

Part I Net Minimum Tax on Exclusion Items

1	Combine lines 1, 6, 7, and 11 of your 2008 Form 6251. Estates and trusts, see instructions	1	-241,007.
2	Enter adjustments and preferences treated as exclusion items (see instructions)	2	164,229.
3	Minimum tax credit net operating loss deduction (see instructions)	3	
4	Combine lines 1, 2, and 3. If zero or less, enter -0- here and on line 15 and go to Part II. If more than \$214,900 and you were married filing separately for 2008, see instructions	4	0.
5	Enter: \$69,950 if married filing jointly or qualifying widow(er) for 2008; \$46,200 if single or head of household for 2008; or \$34,975 if married filing separately for 2008. Estates and trusts, enter \$22,500	5	
6	Enter: \$150,000 if married filing jointly or qualifying widow(er) for 2008; \$112,500 if single or head of household for 2008; or \$75,000 if married filing separately for 2008. Estates and trusts, enter \$75,000	6	
7	Subtract line 6 from line 4. If zero or less, enter -0- here and on line 8 and go to line 9	7	0.
8	Multiply line 7 by 25% (.25)	8	0.
9	Subtract line 8 from line 5. If zero or less, enter -0-. If under age 24 at the end of 2008, see instructions	9	0.
10	Subtract line 9 from line 4. If zero or less, enter -0- here and on line 15 and go to Part II. Form 1040NR filers, see instructions	10	0.
11	<ul style="list-style-type: none"> • If for 2008 you filed Form 2555 or 2555-EZ, see the instructions for the amount to enter. • If for 2008 you reported capital gain distributions directly on Form 1040, line 13; you reported qualified dividends on Form 1040, line 9b (Form 1041, line 2b(2)); or you had a gain on both lines 15 and 16 of Schedule D (Form 1040) (lines 14a and 15, column (2), of Schedule D (Form 1041)), complete Part III of Form 8801 and enter the amount from line 49 here. Form 1040NR filers, see instructions. • All others: If line 10 is \$175,000 or less (\$87,500 or less if married filing separately for 2008), multiply line 10 by 26% (.26). Otherwise, multiply line 10 by 28% (.28) and subtract \$3,500 (\$1,750 if married filing separately for 2008) from the result. Form 1040NR filers, see instructions. 	11	
12	Minimum tax foreign tax credit on exclusion items (see instructions)	12	
13	Tentative minimum tax on exclusion items. Subtract line 12 from line 11	13	
14	Enter the amount from your 2008 Form 6251, line 35, or 2008 Form 1041, Schedule I, line 55	14	
15	Net minimum tax on exclusion items. Subtract line 14 from line 13. If zero or less, enter -0-	15	0.

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form 8801 (2009)

FDZ2413L 08/25/09

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Part II Current Year Nonrefundable and Refundable Credits and Carryforward to 2010

16	Enter the amount from your 2008 Form 6251, line 36, or 2008 Form 1041, Schedule I, line 56	16	
17	Enter the amount from line 15	17	
18	Subtract line 17 from line 16. If less than zero, enter as a negative amount	18	
19	2008 credit carryforward. Enter the amount from your 2008 Form 8801, line 31	19	340.
20	Enter your 2008 unallowed qualified electric vehicle credit (see instructions)	20	
21	Combine lines 18 through 20. If zero or less, enter -0-	21	340.
22	Enter 50% (.50) of the total interest and penalties you paid before October 3, 2008, on alternative minimum tax attributable to the exercise of incentive stock options for 2007 or any prior year	22	
23	Add lines 21 and 22. If zero or less, stop here and see instructions	23	340.
24	Enter your 2009 regular income tax liability minus allowable credits (see instructions)	24	
25	Enter the amount from your 2009 Form 6251, line 34, or 2009 Form 1041, Schedule I, line 54	25	
26	Subtract line 25 from line 24. If zero or less, enter -0-	26	0.
27	Current year nonrefundable credit. Enter the smaller of line 23 or line 26. Also enter this amount on your 2009 Form 1040, line 53 (check box b); Form 1040NR, line 49 (check box b); or Form 1041, Schedule G, line 2d	27	
28	<p>• Estates and trusts: Leave lines 28 and 29 blank and go to line 30.</p> <p>• Individuals: Did you have a minimum tax credit carryforward to 2007 (on your 2006 Form 8801, line 26) or pay any interest or penalties before October 3, 2008, on alternative minimum tax attributable to the exercise of incentive stock options for 2007 or any prior year?</p> <p><input checked="" type="checkbox"/> No. Leave lines 28 and 29 blank and go to line 30.</p> <p><input type="checkbox"/> Yes. Complete Part IV of Form 8801 to figure the amount to enter</p>	28	
29	<p>Is line 28 more than line 27?</p> <p><input type="checkbox"/> No. Leave line 29 blank and go to line 30.</p> <p><input type="checkbox"/> Yes. Subtract line 27 from line 28. This is your current year refundable credit. Enter the result here and on your 2009 Form 1040, line 70 (check box c), or Form 1040NR, line 64 (check box c)</p>	29	
30	Credit carryforward to 2010. Subtract the larger of line 27 or line 28 from line 23. Keep a record of this amount because you may use it in future years.	30	340.

Form 8801 (2009)

Department of the Treasury
Internal Revenue Service (99)

▶ See separate instructions.
▶ Attach to Form 1040 or Form 1041.

Attachment
Sequence No. **88**

Name(s) shown on return

Identifying number

PAUL MORABITO

Part I 2009 Passive Activity Loss

Caution: Complete Worksheets 1, 2, and 3 on page 2 before completing Part I.

Rental Real Estate Activities With Active Participation (For the definition of active participation, see Special Allowance for Rental Real Estate Activities in the instructions.)

1 a	Activities with net income (enter the amount from Worksheet 1, column (a))	1 a		
1 b	Activities with net loss (enter the amount from Worksheet 1, column (b))	1 b		
1 c	Prior years unallowed losses (enter the amount from Worksheet 1, column (c))	1 c		
1 d	Combine lines 1a, 1b, and 1c	1 d		
Commercial Revitalization Deductions From Rental Real Estate Activities				
2 a	Commercial revitalization deductions from Worksheet 2, column (a)	2 a		
2 b	Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2 b		
2 c	Add lines 2a and 2b	2 c		
All Other Passive Activities				
3 a	Activities with net income (enter the amount from Worksheet 3, column (a))	3 a	40,704.	
3 b	Activities with net loss (enter the amount from Worksheet 3, column (b))	3 b	-126,142.	
3 c	Prior years unallowed losses (enter the amount from Worksheet 3, column (c))	3 c	-1,049,644.	
3 d	Combine lines 3a, 3b, and 3c	3 d		-1,135,082.
4	Combine lines 1d, 2c, and 3d. If the result is net income or zero, all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Do not complete Form 8582. Report the losses on the forms and schedules normally used.	4		-1,135,082.

- If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
 - Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
 - Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

Caution: If your filing status is married filing separately and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to line 15.

Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: Enter all numbers in Part II as positive amounts. See the instructions for an example.

5	Enter the smaller of the loss on line 1d or the loss on line 4	5	
6	Enter \$150,000. If married filing separately, see the instructions	6	
7	Enter modified adjusted gross income, but not less than zero (see instructions).	7	
8	Subtract line 7 from line 6	8	
9	Multiply line 8 by 50% (.5). Do not enter more than \$25,000. If married filing separately, see instructions.	9	
10	Enter the smaller of line 5 or line 9	10	0.

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities

Note: Enter all numbers in Part III as positive amounts. See the example for Part II in the instructions.

11	Enter \$25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12	Enter the loss from line 4	12	
13	Reduce line 12 by the amount on line 10	13	
14	Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	14	

Part IV Total Losses Allowed

15	Add the income, if any, on lines 1a and 3a and enter the total	15	40,704.
16	Total losses allowed from all passive activities for 2009. Add lines 10, 14, and 15. See the instructions to find out how to report the losses on your tax return	16	40,704.

BAA For Paperwork Reduction Act Notice, see the instructions.

Form 8582 (2009)

Caution: The worksheets must be filed with your tax return. Keep a copy for your records.

Worksheet 1 – For Form 8582, Lines 1a, 1b, and 1c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
Total. Enter on Form 8582, lines 1a, 1b, and 1c.					

Worksheet 2 – For Form 8582, Lines 2a and 2b (See instructions.)

Name of activity	(a) Current year deductions (line 2a)	(b) Prior year unallowed deductions (line 2b)	(c) Overall loss
Total. Enter on Form 8582, lines 2a and 2b.			

Worksheet 3 – For Form 8582, Lines 3a, 3b, and 3c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
BARUK PROPERTIES LLC		121,305.	732,472.		853,777.
SUPERPUMPER PROPERTIES LLC	40,704.		316,340.		275,636.
ROSEMONT SOLEBURY CO-INVESTMEN		1,617.	832.		2,449.
SNOWSHOE CAPITAL LLC		3,220.			3,220.
Total. Enter on Form 8582, lines 3a, 3b, and 3c.	40,704.	126,142.	1,049,644.		

Worksheet 4 – Use this worksheet if an amount is shown on Form 8582, line 10 or 14 (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
Total			1.00		

Worksheet 5 – Allocation of Unallowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Unallowed loss
BARUK PROPERTIES LLC	SCH E LN 28	853,777.	0.752171	853,777.
SUPERPUMPER PROPERTIES LLC	SCH E LN 28	275,636.	0.242834	275,636.
ROSEMONT SOLEBURY CO-INVESTMENT	SCH E LN 28	2,449.	0.002158	2,449.
SNOWSHOE CAPITAL LLC	SCH E LN 28	3,220.	0.002837	3,220.
Total		1,135,082.	1.00	1,135,082.

Worksheet 6 – Allowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Unallowed loss	(c) Allowed loss
SUPERPUMPER PROPERTIES LLC	SCH E LN 28	316,340.	275,636.	40,704.
ROSEMONT SOLEBURY CO-INVESTMENT	SCH E LN 28	2,449.	2,449.	0.
SNOWSHOE CAPITAL LLC	SCH E LN 28	3,220.	3,220.	0.
Total		322,009.	281,305.	40,704.

Worksheet 7 – Activities With Losses Reported on Two or More Forms or Schedules (See instructions.)

Name of activity	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss
Name of activity ... BARUK PROPERTIES LLC					
Form or schedule and line number to be reported on (see instructions) SCH E LN 28					
1 a Net loss plus prior year unallowed loss from form or schedule	644,884.				
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-		644,884.	0.755331	644,884.	
Form or schedule and line number to be reported on (see instructions) FORM 4797					
1 a Net loss plus prior year unallowed loss from form or schedule	208,893.				
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-		208,893.	0.244669	208,893.	
Form or schedule and line number to be reported on (see instructions)					
1 a Net loss plus prior year unallowed loss from form or schedule					
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-					
Form or schedule and line number to be reported on (see instructions)					
1 a Net loss plus prior year unallowed loss from form or schedule					
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-					
Total		853,777.	1.00	853,777.	0.

Name of activity ...					
Form or schedule and line number to be reported on (see instructions)					
1 a Net loss plus prior year unallowed loss from form or schedule					
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-					
Form or schedule and line number to be reported on (see instructions)					
1 a Net loss plus prior year unallowed loss from form or schedule					
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-					
Form or schedule and line number to be reported on (see instructions)					
1 a Net loss plus prior year unallowed loss from form or schedule					
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-					
Form or schedule and line number to be reported on (see instructions)					
1 a Net loss plus prior year unallowed loss from form or schedule					
b Net income from form or schedule					
c Subtract line 1b from line 1a. If zero or less, enter -0-					
Total		0.	1.00	0.	0.

PAUL MORABITO

STATEMENT 1
FORM 1040
WAGE SCHEDULE

TAXPAYER - EMPLOYER	WAGES	FEDERAL W/H	FICA	MEDI- CARE	STATE W/H	LOCAL W/H
PA MORABITO ARIZONA & CO	498,206.	149,462.	6,622.	7,224.		
GRAND TOTAL	498,206.	149,462.	6,622.	7,224.	0.	0.

STATEMENT 2
FORM 1040, LINE 8B
TAX-EXEMPT INTEREST

PAYER	IN-STATE MUNICIPAL BONDS	PRIVATE ACTIVITY BONDS	TOTAL
BANK OF AMERICA (2 ACCTS)			21,259.
TOTAL	0.	0.	21,259.

STATEMENT 3
FORM 1040, PAGE 1, LINE 10
TAXABLE REFUNDS OF STATE AND LOCAL INCOME TAXES

1. STATE AND LOCAL INCOME TAX REFUNDS (PRIOR YEAR)	\$	40,040.
2. REFUNDS ATTRIBUTABLE TO POST 12/31/2008 PAYMENTS PER IRS PUB. 525		0.
3. NET STATE AND LOCAL INCOME TAX REFUNDS		40,040.
4. STATE AND LOCAL TAXES PAID FROM PRIOR YEAR SCH. A, LINE 5		113,168.
5. PRIOR YEAR ALLOWABLE SALES TAX DEDUCTION		1,704.
6. EXCESS OF INCOME TAXES DEDUCTED OVER SALES TAXES		111,464.
7. ENTER THE SMALLER OF LINE 3 OR LINE 6		40,040.
8. ITEMIZED DEDUCTION FROM PRIOR YEAR SCH. A, LINE 29		321,467.
9. PRIOR YEAR RECOMPUTED ITEMIZED DEDUCTIONS (IF PHASEOUT)		0.
10. PRIOR YEAR BASE STANDARD DEDUCTION	5,450.	
11. PRIOR YEAR ADD'L STANDARD DEDUCTION FOR AGE/BLINDNESS	0.	
12. STATE & LOCAL R/E TAXES FROM PRIOR YEAR SCH. A, LINE 6	28,951.	
13. ENTER \$500, \$1,000 IF MARRIED FILING JOINTLY	500.	
14. ENTER THE SMALLER OF LINE 12 OR LINE 13	500.	
15. PRIOR YEAR DISASTER LOSS (4684, LINE 18A)	0.	
16. PRIOR YEAR TOTAL STANDARD DEDUCTION (ADD LINE 10, 11, 14, AND 15)		5,950.
17. ENTER THE LARGER OF LINE 9 OR LINE 16		5,950.
18. SUBTRACT LINE 17 FROM LINE 8 (NOT LESS THAN 0)		315,517.
19. ENTER THE SMALLER OF LINE 7 OR LINE 18		40,040.
20. NEGATIVE TAXABLE INCOME (PRIOR YEAR)		-244,507.
21. REFUND WITH NO TAX BENEFIT DUE TO AMT OR NONREFUNDABLE CREDITS		0.
22. STATE AND LOCAL REFUNDS TAXABLE THIS YEAR (ADD LINES 19, 20, AND 21, BUT NOT LESS THAN 0)	\$	0.

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PAUL MORABITO

STATEMENT 4
SCHEDULE A, LINE 1
MEDICAL AND DENTAL EXPENSES

DOCTORS, DENTISTS, AND NURSES.....	\$	45,623.
INSURANCE PREMIUMS.....		23,100.
TOTAL	\$	<u>68,723.</u>

STATEMENT 5
SCHEDULE A, LINE 10
HOME MORTGAGE INTEREST REPORTED ON FORM 1098

BANK OF AMERICA.....	\$	48,183.
TOTAL	\$	<u>48,183.</u>

STATEMENT 6
SCHEDULE A, LINE 14
INVESTMENT INTEREST

BANK OF AMERICA.....	\$	26,799.
BANK OF AMERICA LINE OF CREDIT.....		45,849.
INVESTMENT INTEREST CARRYOVER.....		180,147.
INVESTMENT INTEREST FROM K-1.....		12.
DISALLOWED INVESTMENT INTEREST (FORM 4952).....		-102,327.
TOTAL	\$	<u>150,480.</u>

STATEMENT 7
SCHEDULE A, LINE 16
CONTRIBUTIONS BY CASH OR CHECK

AIDS SOCIETY.....	\$	25,000.
AMERICAN CANCER SOCIETY.....		1,000.
CHARITABLE CONTRIBUTIONS FROM K-1.....		9,480.
TOTAL	\$	<u>35,480.</u>

STATEMENT 8
SCHEDULE A, LINE 23
OTHER EXPENSES

BANK OF AMERICA.....	\$	10,393.
BANK OF AMERICA.....		16,407.
INVESTMENT EXP. FROM K-1.....		26,296.
PER INCOME STMT.....		901.
US TRUST.....		2,032.
TOTAL	\$	<u>56,029.</u>

2009

FEDERAL STATEMENTS

PAGE 3

PAUL MORABITO

STATEMENT 9
SCHEDULE E, PAGE 2
PART II - INCOME OR LOSS FROM PARTNERSHIPS AND S CORPORATIONS

NAME	TYPE	IF FOREIGN	EMPLOYER I.D. NO.	ANY INVEST. NOT AT RISK	PTP	PASSIVE LOSS FROM FORM 8382	PASSIVE INC. FROM SCH. K-1	NONPASSIVE LOSS FROM SCH. K-1	SECTION 179 DEDUCTION	NONPASSIVE INCOME FROM K-1				
BARJAN PROPERTIES LLC	P		88-0423588											
BIG WHEEL GAMING LLC	P		20-5223157					1,372.						
BIG WHEEL LOGGING LLC	P		20-5232059					3,385.						
SUPERJUMPER PROPERTIES LLC	P		26-0216957		\$	40,704.								
PVAL PASSIVE CARRIAGE	P		26-0216957											
ROSEMONT SOLEBURY CO-INVESTMENT FUND LP	P		30-0416226											
WATCHHAYLOCK LLC	P		90-0400087							31,487.				
WASHOE CONSTRUCTION MGMT SERVICES LLC	P		26-2404735											
SNOWSHOE CAPITAL LLC	P		26-4824130											
CONSOLIDATED NEVADA CORPORATION	S		20-5307689											
CONSOLIDATED WESTERN CORPORATION	S		20-4680776											
TOTAL					\$	40,704.	\$	40,704.	\$	1,573,323.	\$	0.	\$	0.
								796,408.		780,671.				

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PAUL MORABITO

STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: BARUK PROPERTIES LLC

ADJUSTED BASIS AT BEGINNING OF YEAR	1,346,319.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTIONS OF MONEY	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CHANGE IN PARTNER'S SHARE OF LIABILITIES	-558,465.
CURRENT YEAR INCOME FROM PARTNERSHIP	0.
ADJUSTED BASIS USED FOR BASIS LIMITATION	787,854.
LOSS ALLOWED BY BASIS LIMITATION	121,305.
ADJUSTED BASIS AT END OF YEAR	666,549.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
RRE INCOME (LOSS)	121,305.		121,305.	
REGULAR TAX	121,305.	0.	121,305.	0.
DEDUCTIONS				
REGULAR TAX	0.	0.	0.	0.

ALTERNATIVE MINIMUM TAX

ALT MIN TAX BEGINNING BASIS	1,345,668.
ALT MIN TAX INCOME	63.
CURRENT YEAR ADJUSTMENTS TO BASIS	-558,465.
ALT MIN TAX BASIS USED FOR LIMITATION	787,266.
LOSS ALLOWED BY ALT MIN TAX BASIS	121,305.
ALT MIN TAX FINAL BASIS	665,961.
ALT MIN TAX ADJUSTMENT (FORM 8582)	63.
ALT MIN TAX ORDINARY INCOME (LOSS)	121,305.
	0.

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PAUL MORABITO

STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: BIG WHEEL GAMING LLC

ADJUSTED BASIS AT BEGINNING OF YEAR	6,810.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTIONS OF MONEY	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CHANGE IN PARTNER'S SHARE OF LIABILITIES	1,700.
CURRENT YEAR INCOME FROM PARTNERSHIP	0.
ADJUSTED BASIS USED FOR BASIS LIMITATION	8,510.
LOSS ALLOWED BY BASIS LIMITATION	1,372.
ADJUSTED BASIS AT END OF YEAR	7,138.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
ORDINARY INCOME (LOSS)	1,372.		1,372.	
REGULAR TAX	<u>1,372.</u>	<u>0.</u>	<u>1,372.</u>	<u>0.</u>
DEDUCTIONS				
REGULAR TAX	<u>0.</u>	<u>0.</u>	<u>0.</u>	<u>0.</u>

ALTERNATIVE MINIMUM TAX	
ALT MIN TAX BEGINNING BASIS	6,810.
ALT MIN TAX INCOME	
CURRENT YEAR ADJUSTMENTS TO BASIS	1,700.
ALT MIN TAX BASIS USED FOR LIMITATION	8,510.
LOSS ALLOWED BY ALT MIN TAX BASIS	1,372.
ALT MIN TAX FINAL BASIS	7,138.

ALT MIN TAX ORDINARY INCOME (LOSS)	1,372.	0.
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PAUL MORABITO

STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: BIG WHEEL LODGING LLC

ADJUSTED BASIS AT BEGINNING OF YEAR	96,683.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTIONS OF MONEY	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CHANGE IN PARTNER'S SHARE OF LIABILITIES	4,700.
CURRENT YEAR INCOME FROM PARTNERSHIP	0.
ADJUSTED BASIS USED FOR BASIS LIMITATION	101,383.
LOSS ALLOWED BY BASIS LIMITATION	3,585.
ADJUSTED BASIS AT END OF YEAR	97,798.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
ORDINARY INCOME (LOSS)	3,585.		3,585.	
REGULAR TAX	<u>3,585.</u>	<u>0.</u>	<u>3,585.</u>	<u>0.</u>
DEDUCTIONS				
REGULAR TAX	<u>0.</u>	<u>0.</u>	<u>0.</u>	<u>0.</u>

ALTERNATIVE MINIMUM TAX				
ALT MIN TAX BEGINNING BASIS			96,683.	
ALT MIN TAX INCOME				
CURRENT YEAR ADJUSTMENTS TO BASIS			4,700.	
ALT MIN TAX BASIS USED FOR LIMITATION			101,383.	
LOSS ALLOWED BY ALT MIN TAX BASIS			3,585.	
ALT MIN TAX FINAL BASIS			97,798.	
ALT MIN TAX ORDINARY INCOME (LOSS)			3,585.	0.

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STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: SUPERPUMPER PROPERTIES LLC

ADJUSTED BASIS AT BEGINNING OF YEAR	808,066.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTIONS OF MONEY	-39,065.
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CHANGE IN PARTNER'S SHARE OF LIABILITIES	-5,636.
CURRENT YEAR INCOME FROM PARTNERSHIP	40,704.
ADJUSTED BASIS USED FOR BASIS LIMITATION	804,069.
LOSS ALLOWED BY BASIS LIMITATION	0.
ADJUSTED BASIS AT END OF YEAR	804,069.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
REGULAR TAX	0.	0.	0.	0.
DEDUCTIONS				
REGULAR TAX	0.	0.	0.	0.

ALTERNATIVE MINIMUM TAX		
ALT MIN TAX BEGINNING BASIS		905,681.
ALT MIN TAX INCOME		40,704.
CURRENT YEAR ADJUSTMENTS TO BASIS		-44,701.
ALT MIN TAX BASIS USED FOR LIMITATION		901,684.
LOSS ALLOWED BY ALT MIN TAX BASIS		
ALT MIN TAX FINAL BASIS		901,684.

PAUL MORABITO

**STATEMENT 10
SCHEDULE E, LINE 31
BASIS LIMITATION
ACTIVITY NAME: ROSEMONT SOLEBURY CO-INVESTMENT FUND LP**

ADJUSTED BASIS AT BEGINNING OF YEAR	179,680.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTIONS OF MONEY	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CHANGE IN PARTNER'S SHARE OF LIABILITIES	
CURRENT YEAR INCOME FROM PARTNERSHIP	6,878.
ADJUSTED BASIS USED FOR BASIS LIMITATION	186,558.
LOSS ALLOWED BY BASIS LIMITATION	27,927.
ADJUSTED BASIS AT END OF YEAR	158,631.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
ORDINARY INCOME (LOSS)	<u>1,617.</u>		<u>1,617.</u>	
REGULAR TAX	<u>1,617.</u>	<u>0.</u>	<u>1,617.</u>	<u>0.</u>
DEDUCTIONS				
PORTFOLIO DEDUCTIONS - 2%	26,296.		26,296.	
INV. INTEREST EXP - SCH A	12.		12.	
NONDEDUCTIBLE EXPENSES	2.		2.	
REGULAR TAX	<u>26,310.</u>	<u>0.</u>	<u>26,310.</u>	<u>0.</u>
ALTERNATIVE MINIMUM TAX				
ALT MIN TAX BEGINNING BASIS			179,680.	
ALT MIN TAX INCOME			6,878.	
CURRENT YEAR ADJUSTMENTS TO BASIS				
ALT MIN TAX BASIS USED FOR LIMITATION			186,558.	
LOSS ALLOWED BY ALT MIN TAX BASIS			27,927.	
ALT MIN TAX FINAL BASIS			158,631.	
ALT MIN TAX ORDINARY INCOME (LOSS)			27,927.	0.

PAUL MORABITO

STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: WATCHMYBLOCK LLC

ADJUSTED BASIS AT BEGINNING OF YEAR	80,615.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTIONS OF MONEY	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CHANGE IN PARTNER'S SHARE OF LIABILITIES	2,000.
CURRENT YEAR INCOME FROM PARTNERSHIP	0.
ADJUSTED BASIS USED FOR BASIS LIMITATION	82,615.
LOSS ALLOWED BY BASIS LIMITATION	31,487.
ADJUSTED BASIS AT END OF YEAR	51,128.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
ORDINARY INCOME (LOSS)	31,487.		31,487.	
REGULAR TAX	<u>31,487.</u>	<u>0.</u>	<u>31,487.</u>	<u>0.</u>
DEDUCTIONS				
REGULAR TAX	<u>0.</u>	<u>0.</u>	<u>0.</u>	<u>0.</u>

ALTERNATIVE MINIMUM TAX

ALT MIN TAX BEGINNING BASIS	80,615.
ALT MIN TAX INCOME	
CURRENT YEAR ADJUSTMENTS TO BASIS	2,000.
ALT MIN TAX BASIS USED FOR LIMITATION	82,615.
LOSS ALLOWED BY ALT MIN TAX BASIS	31,487.
ALT MIN TAX FINAL BASIS	51,128.
ALT MIN TAX ORDINARY INCOME (LOSS)	31,487.
	0.

PAUL MORABITO

STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: CONSOLIDATED NEVADA CORPORATION

STOCK BASIS AT BEGINNING OF YEAR	0.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CURRENT YEAR INCOME FROM S CORPORATION	141,931.
LESS INCOME USED TO RESTORE DEBT BASIS	
STOCK BASIS USED FOR BASIS LIMITATION	141,931.
LOSS ALLOWED BY BASIS LIMITATION	141,931.
STOCK BASIS AT END OF YEAR	0.
PRINCIPAL AMOUNT OF DEBT S CORP OWES TO SHAREHOLDER AT BEGINNING OF YEAR	1,728,762.
DEBT BASIS	1,316,571.
INCOME USED TO RESTORE DEBT BASIS	
LOANS MADE TO S CORP DURING THE YEAR	613,611.
LOAN REPAYMENTS	
DEBT BASIS USED FOR BASIS LIMITATION	1,930,182.
LOSS ALLOWED BY BASIS LIMITATION	614,277.
DEBT BASIS AT END OF YEAR	1,315,905.
PRINCIPAL AMOUNT OF DEBT S CORP OWES TO SHAREHOLDER AT END OF YEAR	2,342,373.

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
ORDINARY INCOME (LOSS)	756,208.		756,208.	
REGULAR TAX	<u>756,208.</u>	<u>0.</u>	<u>756,208.</u>	<u>0.</u>
DEDUCTIONS				
REGULAR TAX	<u>0.</u>	<u>0.</u>	<u>0.</u>	<u>0.</u>
ALTERNATIVE MINIMUM TAX				
ALT MIN TAX BEGINNING BASIS			0.	
ALT MIN TAX INCOME			141,931.	
CURRENT YEAR ADJUSTMENTS TO BASIS			613,611.	
ALT MIN TAX BASIS USED FOR LIMITATION			755,542.	
LOSS ALLOWED BY ALT MIN TAX BASIS			718,116.	
ALT MIN TAX FINAL BASIS			37,426.	
ALT MIN TAX ADJUSTMENT (FORM 6251, LINE 19)			<u>38,092.</u>	
ALT MIN TAX ORDINARY INCOME (LOSS)			718,116.	0.

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PAUL MORABITO

STATEMENT 10
 SCHEDULE E, LINE 31
 BASIS LIMITATION
 ACTIVITY NAME: CONSOLIDATED WESTERN CORPORATION

STOCK BASIS AT BEGINNING OF YEAR	6,389,485.
ADDITIONAL AMOUNTS INVESTED IN CURRENT YEAR	
CURRENT YEAR DISTRIBUTION OF PROPERTY	
CURRENT YEAR INCOME FROM S CORPORATION	0.
LESS INCOME USED TO RESTORE DEBT BASIS	
STOCK BASIS USED FOR BASIS LIMITATION	6,389,485.
LOSS ALLOWED BY BASIS LIMITATION	800,824.
STOCK BASIS AT END OF YEAR	5,588,661.

PRINCIPAL AMOUNT OF DEBT S CORP OWES TO SHAREHOLDER AT BEGINNING OF YEAR

DEBT BASIS	0.
INCOME USED TO RESTORE DEBT BASIS	
LOANS MADE TO S CORP DURING THE YEAR	
LOAN REPAYMENTS	
DEBT BASIS USED FOR BASIS LIMITATION	0.
LOSS ALLOWED BY BASIS LIMITATION	0.
DEBT BASIS AT END OF YEAR	0.

PRINCIPAL AMOUNT OF DEBT S CORP OWES TO SHAREHOLDER AT END OF YEAR

	(A) CURRENT YEAR LOSS OR DEDUCTION	(B) PRIOR YEAR UNALLOWED BASIS LOSS	(C) LOSS ALLOWABLE BY BASIS LIMITATION	(D) BASIS CARRYOVER
INCOME OR LOSS				
ORDINARY INCOME (LOSS)	780,671.		780,671.	
REGULAR TAX	780,671.	0.	780,671.	0.
DEDUCTIONS				
CHARITABLE CONTRIBUTIONS	9,480.		9,480.	
NONDEDUCTIBLE EXPENSES	10,673.		10,673.	
REGULAR TAX	20,153.	0.	20,153.	0.

Filing Instructions

Superpumper, Inc

Form 8879-S

**U.S. S Corporation Income Tax Declaration for an IRS *e-file* Return
with Electronic Filing Personal Identification Number**

Taxable Year Ended December 31, 2010

Date Due: AS SOON AS POSSIBLE

Remittance: None is required. No amount is due or overpaid.

Signature: You are using the Personal Identification Number (PIN) for signing your return electronically. The IRS *e-file* Signature Authorization form should be signed and dated by an authorized officer of the corporation and returned to:

Dansa & D'Arata LLP
361 Delaware Ave
Buffalo, NY 14202
Fax 716-883-2963

Other: Please retain a copy of the IRS *e-file* Signature Authorization and Form 1120S for your records.

Your return is being filed electronically with the IRS and is not required to be mailed. If you mail a paper copy of Form 1120S to the IRS it will delay processing of your return.

COPY

Form **8879-S** **IRS e-file Signature Authorization for Form 1120S** OMB No. 1545-1863
 Department of the Treasury For calendar year 2010, or tax year beginning 10/01/10, ending 12/31/10
 Internal Revenue Service **2010**
 ▶ See instructions. Do not send to the IRS. Keep for your records.

Name of corporation **SUPERPUMPER, INC** Employer identification number _____

Tax Return Information (Whole dollars only)

1	Gross receipts or sales less returns and allowances (Form 1120S, line 1c)	1	21,311,250
2	Gross profit (Form 1120S, line 3)	2	2,348,540
3	Ordinary business income (loss) (Form 1120S, line 21)	3	-116,328
4	Net rental real estate income (loss) (Form 1120S, Schedule K, line 2)	4	
5	Income (loss) reconciliation (Form 1120S, Schedule K, line 18)	5	-116,948

Declaration and Signature Authorization of Officer (Be sure to get a copy of the corporation's return)

Under penalties of perjury, I declare that I am an officer of the above corporation and that I have examined a copy of the corporation's 2010 electronic income tax return and accompanying schedules and statements and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the corporation's electronic income tax return. I consent to allow my electronic return originator (ERO), transmitter, or intermediate service provider to send the corporation's return to the IRS and to receive from the IRS (a) an acknowledgement of receipt or reason for rejection of the transmission, (b) the reason for any delay in processing the return or refund, and (c) the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of the corporation's federal taxes owed on this return, and the financial institution to debit the entry to this account. To revoke a payment, I must contact the U.S. Treasury Financial Agent at 1-888-353-4537 no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I have selected a personal identification number (PIN) as my signature for the corporation's electronic income tax return and, if applicable, the corporation's consent to electronic funds withdrawal.

Officer's PIN: check one box only

- I authorize DANSA & D'ARATA LLP to enter my PIN 7 as my signature on the corporation's 2010 electronically filed income tax return.
ERO firm name do not enter all zeros
- As an officer of the corporation, I will enter my PIN as my signature on the corporation's 2010 electronically filed income tax return.

Officer's signature ▶ **COPY** Date ▶ _____ Title ▶ OFFICER
SALVATORE MORABITO

Certification and Authentication

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN.
do not enter all zeros

I certify that the above numeric entry is my PIN, which is my signature on the 2010 electronically filed Income tax return for the corporation indicated above. I confirm that I am submitting this return in accordance with the requirements of Pub. 3112, IRS e-file Application and Participation, and Pub. 4163, Modernized e-File (MeF) Information for Authorized IRS e-file Providers for Business Returns.

ERO's signature ▶ DAVID J. D'ARATA, CPA Date ▶ 09/15/11

**ERO Must Retain This Form — See Instructions
 Do Not Submit This Form to the IRS Unless Requested To Do So**

Form **1120S** U.S. Income Tax Return for an S Corporation
 Department of the Treasury Internal Revenue Service
 Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation. See separate instructions.
 OMB No. 1545-0130
2010

For calendar year 2010 or tax year beginning **10/01/10** ending **12/31/10**

A S election effective date 04/24/06	TYPE OR PRINT	Name SUPERPUMPER, INC	D E Employer identification number
B Business activity code number (see instructions) 447100		Number, street, and room or suite no. If a P.O. box, see instructions. 14631 N. SCOTTDALE ROAD #125	E Date incorporated
C Check if Sch. M-3 attached <input checked="" type="checkbox"/>		City or town, state, and ZIP code SCOTTSDALE AZ 85254	F Total assets (see instructions) \$ 16,567,568

G Is the corporation electing to be an S corporation beginning with this tax year? Yes No If "Yes," attach Form 2553 if not already filed
 H Check if: (1) Final return (2) Name change (3) Address change (4) Amended return (5) S election termination or revocation
 I Enter the number of shareholders who were shareholders during any part of the tax year **1**

Caution. Include only trade or business income and expenses on lines 1a through 21. See the instructions for more information.

Income	1a	Gross receipts or sales	21,311,250	b Less returns and allowances		c Bal	1c	21,311,250
	2	Cost of goods sold (Schedule A, line 8)					2	18,962,710
	3	Gross profit. Subtract line 2 from line 1c					3	2,348,540
	4	Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)					4	
	5	Other income (loss) (see instructions - attach statement)					5	
	6	Total income (loss). Add lines 3 through 5					6	2,348,540
Deductions (see instructions for limitations)	7	Compensation of officers					7	
	8	Salaries and wages (less employment credits)					8	
	9	Repairs and maintenance					9	32,200
	10	Bad debts					10	
	11	Rents					11	1,265
	12	Taxes and licenses					12	108,707
	13	Interest					13	79,493
	14	Depreciation not claimed on Schedule A or elsewhere on return (attach Form 4562)					14	338,269
	15	Depletion (Do not deduct oil and gas depletion.)					15	
	16	Advertising					16	
	17	Pension, profit-sharing, etc., plans					17	
18	Employee benefit programs					18		
19	Other deductions (attach statement)			SEE STMT 1		19	1,904,934	
20	Total deductions. Add lines 7 through 19					20	2,464,868	
21	Ordinary business income (loss). Subtract line 20 from line 6					21	-116,328	
Tax and Payments	22a	Excess net passive income or LIFO recapture tax (see instructions)		22a			22a	
	22b	Tax from Schedule D (Form 1120S)		22b			22b	
	22c	Add lines 22a and 22b (see instructions for additional taxes)					22c	
	23a	2010 estimated tax payments and 2009 overpayment credited to 2010		23a			23a	
	23b	Tax deposited with Form 7004		23b			23b	
	23c	Credit for federal tax paid on fuels (attach Form 4136)		23c			23c	
	23d	Add lines 23a through 23c					23d	
	24	Estimated tax penalty (see instructions). Check if Form 2220 is attached					24	
25	Amount owed. If line 23d is smaller than the total of lines 22c and 24, enter amount owed					25		
26	Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid					26		
27	Enter amount from line 26 Credited to 2011 estimated tax Refunded					27		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer: **SALVATORE MORABITO** Date: _____ Title: **OFFICER**

Print/Type preparer's name: **DAVID J. D'ARATA, CPA** Preparer's signature: **DAVID J. D'ARATA, CPA** Date: **09/15/11** Check if self-employed PTIN: **P00286858**

Firm's name: **DANSA & D'ARATA LLP** Firm's EIN: _____

Firm's address: **361 DELAWARE AVE** **BUFFALO, NY 14202** Phone no. **716-842-3900**

For Paperwork Reduction Act Notice, see separate instructions. Form 1120S (2010)

DAA

Superpumper 000418

4466

Cost of Goods Sold (see instructions)		
1	Inventory at beginning of year	1,253,837
2	Purchases	
3	Cost of labor	753,750
4	Additional section 263A costs (attach statement)	
5	Other costs (attach statement) STMT 2	18,431,260
6	Total. Add lines 1 through 5	20,438,847
7	Inventory at end of year	1,476,137
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	18,962,710

9a Check all methods used for valuing closing inventory: (i) Cost as described in Regulations section 1.471-3
(ii) Lower of cost or market as described in Regulations section 1.471-4
(iii) Other (Specify method used and attach explanation.) ▶
b Check if there was a writedown of subnormal goods as described in Regulations section 1.471-2(c) ▶
c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ▶
d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO **9d**
e If property is produced or acquired for resale, do the rules of section 263A apply to the corporation? Yes No
f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? Yes No
If "Yes," attach explanation.

Other Information (see instructions)		Yes	No
1	Check accounting method: a <input type="checkbox"/> Cash b <input checked="" type="checkbox"/> Accrual c <input type="checkbox"/> Other (specify) ▶		
2	See the instructions and enter the: a Business activity ▶ RETAIL SALES b Product or service ▶ FUEL & GROCERIES		
3	At the end of the tax year, did the corporation own, directly or indirectly, 50% or more of the voting stock of a domestic corporation? (For rules of attribution, see section 267(c).) If "Yes," attach a statement showing: (a) name and employer identification number (EIN), (b) percentage owned, and (c) if 100% owned, was a qualified subchapter S subsidiary election made?		<input checked="" type="checkbox"/>
4	Has this corporation filed, or is it required to file, Form 8918, Material Advisor Disclosure Statement, to provide information on any reportable transaction? ▶		<input checked="" type="checkbox"/>
5	Check this box if the corporation issued publicly offered debt instruments with original issue discount. If checked, the corporation may have to file Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments. ▶ <input type="checkbox"/>		
6	If the corporation: (a) was a C corporation before it elected to be an S corporation or the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation and (b) has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years (see instructions) ▶ \$		
7	Enter the accumulated earnings and profits of the corporation at the end of the tax year. \$		
8	Are the corporation's total receipts (see instructions) for the tax year and its total assets at the end of the tax year less than \$250,000? If "Yes," the corporation is not required to complete Schedules L and M-1		<input checked="" type="checkbox"/>
9	During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If "Yes," see instructions		<input checked="" type="checkbox"/>

Shareholders' Pro Rata Share Items		Total amount	
1	Ordinary business income (loss) (page 1, line 21)	1	-116,328
2	Net rental real estate income (loss) (attach Form 8825)	2	
3a	Other gross rental income (loss) 3a		
b	Expenses from other rental activities (attach statement) 3b		
c	Other net rental income (loss). Subtract line 3b from line 3a 3c		
4	Interest income 4		
5	Dividends: a Ordinary dividends 5a		
b	Qualified dividends 5b		
6	Royalties 6		
7	Net short-term capital gain (loss) (attach Schedule D (Form 1120S)) 7		
8a	Net long-term capital gain (loss) (attach Schedule D (Form 1120S)) 8a		
b	Collectibles (28%) gain (loss) 8b		
c	Unrecaptured section 1250 gain (attach statement) 8c		
9	Net section 1231 gain (loss) (attach Form 4797) 9		
10	Other income (loss) (see instructions) Type ▶ 10		

		Shareholders' Pro Rata Share Items (continued)	Total amount
Deductions	11	Section 179 deduction (attach Form 4562)	11
	12a	Contributions SEE STMT 3	12a 620
	b	Investment interest expense	12b
	c	Section 59(e)(2) expenditures(1) Type ▶ (2) Amount ▶	12c(2)
	d	Other deductions (see instructions) Type ▶	12d
Credits	13a	Low-income housing credit (section 42(j)(5))	13a
	b	Low-income housing credit (other)	13b
	c	Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	13c
	d	Other rental real estate credits (see instructions) Type ▶	13d
	e	Other rental credits (see instructions) Type ▶	13e
	f	Alcohol and cellulosic biofuel fuels credit (attach Form 6478)	13f
	g	Other credits (see instructions) Type ▶	13g
Foreign Transactions	14a	Name of country or U.S. possession ▶	14a
	b	Gross income from all sources	14b
	c	Gross income sourced at shareholder level Foreign gross income sourced at corporate level	14c
	d	Passive category	14d
	e	General category	14e
	f	Other (attach statement) Deductions allocated and apportioned at shareholder level	14f
	g	Interest expense	14g
	h	Other Deductions allocated and apportioned at corporate level to foreign source income	14h
	i	Passive category	14i
	j	General category	14j
	k	Other (attach statement) Other information	14k
	l	Total foreign taxes (check one): <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	14l
	m	Reduction in taxes available for credit (attach statement)	14m
	n	Other foreign tax information (attach statement)	
Alternative Minimum Tax (AMT) Items	15a	Post-1986 depreciation adjustment	15a
	b	Adjusted gain or loss	15b
	c	Depletion (other than oil and gas)	15c
	d	Oil, gas, and geothermal properties - gross income	15d
	e	Oil, gas, and geothermal properties - deductions	15e
	f	Other AMT items (attach statement)	15f
Items Affecting Shareholder Basis	16a	Tax-exempt interest income	16a
	b	Other tax-exempt income	16b 898,862
	c	Nondeductible expenses	16c
	d	Distributions (attach statement if required) (see instructions)	16d
	e	Repayment of loans from shareholders	16e
Other Information	17a	Investment income	17a
	b	Investment expenses	17b
	c	Dividend distributions paid from accumulated earnings and profits	17c
	d	Other items and amounts (attach statement)	
Reconciliation	18	Income/loss reconciliation. Combine the amounts on lines 1 through 10 in the far right column. From the result, subtract the sum of the amounts on lines 11 through 12d and 14l	18 -116,948

Balance Sheets per Books	Beginning of tax year		End of tax year	
	(a)	(b)	(c)	(d)
Assets				
1 Cash		837,786		810,343
2a Trade notes and accounts receivable	576,491		1,974,627	
b Less allowance for bad debts	()	576,491	()	1,974,627
3 Inventories		1,253,837		1,476,137
4 U.S. government obligations				
5 Tax-exempt securities (see instructions)				
6 Other current assets (attach statement) STMT 4				402,140
7 Loans to shareholders		1,814,042		7,002,224
8 Mortgage and real estate loans				
9 Other investments (attach statement) STMT 5		31,000		31,000
10a Buildings and other depreciable assets	12,039,551		12,350,474	
b Less accumulated depreciation	(10,796,636)	1,242,915	(10,968,577)	1,381,897
11a Depletable assets				
b Less accumulated depletion	()		()	
12 Land (net of any amortization)				
13a Intangible assets (amortizable only)	175,000		3,827,500	
b Less accumulated amortization	(175,000)	0	(510,334)	3,317,166
14 Other assets (attach statement) STMT 6		4,067,157		172,034
15 Total assets		9,823,228		16,567,568
Liabilities and Shareholders' Equity				
16 Accounts payable		1,411,473		1,217,495
17 Mortgages, notes, bonds payable in less than 1 year		1,225,703		1,997,259
18 Other current liabilities (attach statement) STMT 7		1,794,589		1,684,789
19 Loans from shareholders				
20 Mortgages, notes, bonds payable in 1 year or more		3,116,252		3,212,142
21 Other liabilities (attach statement)				
22 Capital stock		1,000		10,000
23 Additional paid-in capital				5,833,558
24 Retained earnings		2,274,211		2,612,325
25 Adjustments to shareholders' equity (attach statement)				
26 Less cost of treasury stock	()		()	
27 Total liabilities and shareholders' equity		9,823,228		16,567,568

Reconciliation of Income (Loss) per Books With Income (Loss) per Return

Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more - see instructions

1 Net income (loss) per books		5 Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize):	
2 Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize):		a Tax-exempt interest \$	
3 Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 14i (itemize):		6 Deductions included on Schedule K, lines 1 through 12 and 14i, not charged against book income this year (itemize):	
a Depreciation \$		a Depreciation \$	
b Travel and entertainment \$		7 Add lines 5 and 6	
4 Add lines 1 through 3		8 Income (loss) (Schedule K, line 18). Line 4 less line 7	

Analysis of Accumulated Adjustments Account, Other Adjustments Account, and Shareholders' Undistributed Taxable Income Previously Taxed (see instructions)

	(a) Accumulated adjustments account	(b) Other adjustments account	(c) Shareholders' undistributed taxable income previously taxed
1 Balance at beginning of tax year	2,274,211		
2 Ordinary income from page 1, line 21			
3 Other additions			
4 Loss from page 1, line 21	(116,328)		
5 Other reductions STMT 8	620		
6 Combine lines 1 through 5	2,157,263		
7 Distributions other than dividend distributions			
8 Balance at end of tax year. Subtract line 7 from line 6	2,157,263		

Schedule K-1
(Form 1120S)
Department of the Treasury
Internal Revenue Service

2010

For calendar year 2010, or tax
year beginning 10/01/10
ending 12/31/10

Final K-1 Amended K-1

OMB No. 1545-0130

Shareholder's Share of Income, Deductions, Credits, etc.
▶ See back of form and separate instructions

A Corporation's employer identification number		5a Ordinary dividends		
B Corporation's name, address, city, state, and ZIP code		5b Qualified dividends	14	Foreign transactions
		6 Royalties		
		7 Net short-term capital gain (loss)		
C IRS Center where corporation filed return E-FILE		8a Net long-term capital gain (loss)		
		8b Collectibles (28%) gain (loss)		
D Shareholder's identifying number		8c Unrecaptured section 1250 gain		
E Shareholder's name, address, city, state, and ZIP code		9 Net section 1231 gain (loss)		
		10 Other income (loss)	15	Alternative minimum tax (AMT) items
F Shareholder's percentage of stock ownership for tax year <u>100.000000</u> %				
For IRS Use Only		11 Section 179 deduction	16	Items affecting shareholder basis
			B	898,862
		12 Other deductions A 620		
			17	Other information
* See attached statement for additional information.				

For Paperwork Reduction Act Notice, see Instructions for Form 1120S.

Schedule K-1 (Form 1120S) 2010

DAA

**SCHEDULE M-3
(Form 1120S)**

Department of the Treasury
Internal Revenue Service

Name of corporation

SUPERPUMPER, INC

**Net Income (Loss) Reconciliation for S Corporations
With Total Assets of \$10 Million or More**

▶ Attach to Form 1120S.
▶ See separate instructions.

OMB No. 1545-0130

2010

Employer identification number

Financial Information and Net Income (Loss) Reconciliation (see instructions)

1a Did the corporation prepare a certified audited non-tax-basis income statement for the period ending with or within this tax year? (See instructions if multiple non-tax-basis income statements are prepared.)
 Yes. Skip line 1b and complete lines 2 through 11 with respect to that income statement.
 No. Go to line 1b.

b Did the corporation prepare a non-tax-basis income statement for that period?
 Yes. Complete lines 2 through 11 with respect to that income statement.
 No. Skip lines 2 through 3b and enter the corporation's net income (loss) per its books and records on line 4a.

2 Enter the income statement period: Beginning 10/01/10 Ending 12/31/10

3a Has the corporation's income statement been restated for the income statement period on line 2?
 Yes. (If "Yes," attach an explanation and the amount of each item restated.)
 No.

b Has the corporation's income statement been restated for any of the five income statement periods preceding the period on line 2?
 Yes. (If "Yes," attach an explanation and the amount of each item restated.)
 No.

4a	Worldwide consolidated net income (loss) from income statement source identified in Part I, line 1	4a	781,914
b	Indicate accounting standard used for line 4a (see instructions): (1) <input checked="" type="checkbox"/> GAAP (2) <input type="checkbox"/> IFRS (3) <input type="checkbox"/> Tax-basis (4) <input type="checkbox"/> Other (specify) _____		
5a	Net income from nonincludible foreign entities (attach schedule)	5a	
b	Net loss from nonincludible foreign entities (attach schedule and enter as a positive amount)	5b	
6a	Net income from nonincludible U.S. entities (attach schedule)	6a	
b	Net loss from nonincludible U.S. entities (attach schedule and enter as a positive amount)	6b	
7a	Net income (loss) of other foreign disregarded entities (attach schedule)	7a	
b	Net income (loss) of other U.S. disregarded entities (except qualified subchapter S subsidiaries) (attach schedule)	7b	
c	Net income (loss) of other qualified subchapter S subsidiaries (QSubs) (attach schedule)	7c	
8	Adjustment to eliminations of transactions between includible entities and nonincludible entities (attach schedule)	8	
9	Adjustment to reconcile income statement period to tax year (attach schedule)	9	
10	Other adjustments to reconcile to amount on line 11 (attach schedule)	10	
11	Net income (loss) per income statement of the corporation. Combine lines 4 through 10. Note. Part I, line 11, must equal Part II, line 26, column (a).	11	781,914

12 Enter the total amount (not just the corporation's share) of the assets and liabilities of all entities included or removed on the following lines:

	Total Assets	Total Liabilities
a Included on Part I, line 4	16,567,568	8,111,685
b Removed on Part I, line 5		
c Removed on Part I, line 6		
d Included on Part I, line 7		

Name of corporation

Employer identification number

SUPERPUMPER, INC

Reconciliation of Net Income (Loss) per Income Statement of the Corporation With Total Income (Loss) per Return (see instructions)

Income (Loss) Items	(a) Income (Loss) per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Income (Loss) per Tax Return
1 Income (loss) from equity method foreign corporations (attach schedule)				
2 Gross foreign dividends not previously taxed				
3 Subpart F, QEF, and similar income inclusions (attach schedule)				
4 Gross foreign distributions previously taxed (attach schedule)				
5 Income (loss) from equity method U.S. corporations (attach schedule)				
6 U.S. dividends not eliminated in tax consolidation				
7 Income (loss) from U.S. partnerships (attach schedule)				
8 Income (loss) from foreign partnerships (attach schedule)				
9 Income (loss) from other pass-through entities (attach schedule)				
10 Items relating to reportable transactions (attach details)				
11 Interest income (attach Form 8916-A)	898,862	-898,862		0
12 Total accrual to cash adjustment				
13 Hedging transactions				
14 Mark-to-market income (loss)				
15 Cost of goods sold (attach Form 8916-A)	18,962,710			(18,962,710)
16 Sale versus lease (for sellers and/or lessors)				
17 Section 481(a) adjustments				
18 Unearned/deferred revenue				
19 Income recognition from long-term contracts				
20 Original issue discount and other imputed interest				
21a Income statement gain/loss on sale, exchange, abandonment, worthlessness, or other disposition of assets other than inventory and pass-through entities				
b Gross capital gains from Schedule D, excluding amounts from pass-through entities				
c Gross capital losses from Schedule D, excluding amounts from pass-through entities, abandonment losses, and worthless stock losses				
d Net gain/loss reported on Form 4797, line 17, excluding amounts from pass-through entities, abandonment losses, and worthless stock losses				
e Abandonment losses				
f Worthless stock losses (att details)				
g Other gain/loss on disposition of assets other than inventory				
22 Other income (loss) items with diff.				
23 Total income (loss) items. Combine lines 1 - 22	-18,063,848	-898,862		-18,962,710
24 Total expense/deduction items (from Part III line 32)	-338,269			-338,269
25 Other items with no differences	19,184,031			19,184,031
26 Reconciliation totals. Combine lines 23 through 25	781,914	-898,862		-116,948

Note. Line 26, column (a), must equal the amount on Part I, line 11, and column (d) must equal Form 1120S, Schedule K, line 18.

Name of corporation

Employer identification number

SUPERPUMPER, INC

Reconciliation of Net Income (Loss) per Income Statement of the Corporation With Total Income (Loss) per Return—Expense/Deduction Items (see instructions)

Expense/Deduction Items	(a) Expense per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Deduction per Tax Return
1 U.S. current income tax expense				
2 U.S. deferred income tax expense				
3 State and local current income tax expense				
4 State and local deferred income tax expense				
5 Foreign current income tax expense (other than foreign withholding taxes)				
6 Foreign deferred income tax expense				
7 Equity-based compensation				
8 Meals and entertainment				
9 Fines and penalties				
10 Judgments, damages, awards, and similar costs				
11 Pension and profit-sharing				
12 Other post-retirement benefits				
13 Deferred compensation				
14 Charitable contribution of cash and tangible property				
15 Charitable contribution of intangible property				
16 Current year acquisition or reorganization investment banking fees				
17 Current year acquisition or reorganization legal and accounting fees				
18 Current year acquisition/reorganization other costs				
19 Amortization/impairment of goodwill				
20 Amortization of acquisition, reorganization, and start-up costs				
21 Other amortization or impairment write-offs				
22 Section 198 environmental remediation costs				
23a Depletion—Oil & Gas				
b Depletion—Other than Oil & Gas				
24 Depreciation	338,269			338,269
25 Bad debt expense				
26 Interest expense (attach Form 8918-A)				
27 Corporate owned life insurance premiums				
28 Purchase versus lease (for purchasers and/or lessees)				
29 Research and development costs (all. sch.)				
30 Section 118 exclusion (attach schedule)				
31 Other expense/deduction items with differences (attach schedule)				
32 Total expense/deduction items. Combine lines 1 through 31. Enter here and on Part II, line 24, reporting positive amounts as negative and negative amounts as positive	338,269			338,269

Form **4562** **Depreciation and Amortization** (Including Information on Listed Property)
 Department of the Treasury Internal Revenue Service (99) **2010** Attachment Sequence No. **67**
 ▶ See separate instructions. ▶ Attach to your tax return.

Name(s) shown on return: **SUPERPUMPER, INC** Identifying number: _____

Business or activity to which this form relates

REGULAR DEPRECIATION

Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	500,000
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	2,000,000
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2009 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instructions)	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2011. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Special Depreciation Allowance and Other Depreciation (Do not include listed property.) (See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	310,923
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	

MACRS Depreciation (Do not include listed property.) (See instructions.)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2010	17	27,346
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here: <input type="checkbox"/>		

Section B—Assets Placed in Service During 2010 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only—see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	

Section C—Assets Placed in Service During 2010 Tax Year Using the Alternative Depreciation System

20a Class life				S/L	
b 12-year			12 yrs.	S/L	
c 40-year			40 yrs.	MM	S/L

Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions	22	338,269
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

For Paperwork Reduction Act Notice, see separate instructions.

Form 4562 (2010)

DAA

SUPERPUMPER, INC

Form 4562 (2010)

Listed Property (Include automobiles, certain other vehicles, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A—Depreciation and Other Information (Caution: See the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed?										Yes		No		24b If "Yes," is the evidence written?				Yes		No	
(a) Types of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost													
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions)								25													
26 Property used more than 50% in a qualified business use:																					
27 Property used 50% or less in a qualified business use:																					
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1														28							
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1														29							

Section B—Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
	Yes	No										
30 Total business/investment miles driven during the year (do not include commuting miles)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?												
35 Was the vehicle used primarily by a more than 5% owner or related person?												
36 Is another vehicle available for personal use?												

Section C—Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (See instructions.)		

Note: If your answer to 37, 38, 39, 40, or 41 is "Yes," do not complete Section B for the covered vehicles.

Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year	
42 Amortization of costs that begins during your 2010 tax year (see instructions):						
43 Amortization of costs that began before your 2010 tax year					43	63,792
44 Total. Add amounts in column (f). See the instructions for where to report					44	63,792

Form **8916-A**

Supplemental Attachment to Schedule M-3

OMB No. 1545-2081

Department of the Treasury
Internal Revenue Service

▶ Attach to Schedule M-3 for Form 1065, 1120, 1120-L, 1120-PC, or 1120S.

2010

Name of common parent

SUPERPUMPER, INC

Employer identification number

Name of subsidiary

Employer identification number

Cost of Goods Sold				
Cost of Goods Sold Items	(a) Expense per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Deduction per Tax Return
1 Amounts attributable to cost flow assumptions				
2 Amounts attributable to:				
a Stock option expense				
b Other equity based compensation				
c Meals and entertainment				
d Parachute payments				
e Compensation with section 162(m) limitation				
f Pension and profit sharing				
g Other post-retirement benefits				
h Deferred compensation				
i Section 198 environmental remediation costs				
j Amortization				
k Depletion				
l Depreciation				
m Corporate owned life insurance premiums				
n Other section 263A costs				
3 Inventory shrinkage accruals				
4 Excess inventory and obsolescence reserves				
5 Lower of cost or market write-downs				
6 Other items with differences (attach sch.)				
7 Other items with no differences	18,962,710			18,962,710
8 Total cost of goods sold. Add lines 1 through 7, in columns a, b, c, and d	18,962,710			18,962,710

For Paperwork Reduction Act Notice, see page 4.

Form **8916-A** (2010)

DAA

Interest Income					
	Interest Income Item	(a) Income (Loss) per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Income (Loss) per Tax Return
1	Tax-exempt interest income				
2	Interest income from hybrid securities				
3	Sale/lease interest income				
4a	Intercompany interest income - From outside tax affiliated group				
4b	Intercompany interest income - From tax affiliated group				
5	Other interest income	898,862	-898,862		
6	Total interest income. Add lines 1 through 5. Enter total on Schedule M-3 (Forms 1120, 1120-PC, and 1120-L), Part II, line 13 or Schedule M-3 (Forms 1065 and 1120S) Part II, line 11.	898,862	-898,862		

Interest Expense					
	Interest Expense Item	(a) Expense per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Deduction per Tax Return
1	Interest expense from hybrid securities				
2	Lease/purchase interest expense				
3a	Intercompany interest expense - Paid to outside tax affiliated group				
3b	Intercompany interest expense - Paid to tax affiliated group				
4	Other interest expense				
5	Total interest expense. Add lines 1 through 4. Enter total on Schedule M-3 (Form 1120) Part III, line 8; Schedule M-3 (Forms 1120-PC and 1120-L), Part III, line 36; Schedule M-3 (Form 1065) Part III, line 27; or Schedule M-3 (Form 1120S) Part III, line 26.				

SUPERPUMPER Superpumper, Inc

Federal Statements

FYE: 12/31/2010

Statement 1 - Form 1120S, Page 1, Line 19 - Other Deductions

<u>Description</u>	<u>Amount</u>
BANK CHARGES	\$ 12,892
CASH OVER/SHORT	3,256
COMPUTER	6,115
CREDIT CARD DISCOUNTS	366,804
CUSTOMER RELATIONS	30
DISCOUNTS GIVEN	-124,499
DUES	1,191
EMPLOYEE RELATIONS	4,443
GARBAGE	16,920
INSURANCE	79,683
LEASE	1,091,528
INVENTORY SERVICES	6,800
LEGAL FEES	10,220
MISC	1,950
OFFICE	545
POSTAGE	813
PROFESSIONAL FEES	44,546
LEASE- CORPORATE OFFICE	95,787
RECRUITING & TRAINING	5,477
CAS WASH	8,706
SECURITY ARMORED CAR	33,562
SUPPLIES	30,716
TELEPHONE	22,099
UNIFORMS	-1,284
UTILITIES	122,842
AMORTIZATION	63,792
TOTAL	\$ <u>1,904,934</u>

SUPERPUMPER Superpumper, Inc

Federal Statements

FYE: 12/31/2010

Statement 2 - Form 1120S, Page 2, Schedule A, Line 5 - Other Costs

<u>Description</u>	<u>Amount</u>
MERCHANDISE	\$ 2,688,215
FUEL	15,392,848
STORE USE	91
BAD MERCHANDISE	7,805
QUANTITY DISCOUNT	19,865
PROMOTION	101,978
INVENTORY ADJUSTMENT	-1,841
MISC	222,299
TOTAL	<u>\$ 18,431,260</u>

SUPERPUMPER Superpumper, Inc

Federal Statements

FYE: 12/31/2010

Statement 3 - Form 1120S, Page 3, Schedule K, Line 12a - Cash Contributions

Description	Cash Contrib 50%	Cash Contrib 30%	Total
MISC	\$ 620	\$ 0	\$ 620
TOTAL	\$ 620	\$ 0	\$ 620

Federal Statements

FYE: 12/31/2010

Statement 4 - Form 1120S, Page 4, Schedule L, Line 6 - Other Current Assets

Description	Beginning of Year	End of Year
DUE FROM CWC- SNOWSHOE	\$ 0	\$ 402,140
TOTAL	\$ 0	\$ 402,140

Statement 5 - Form 1120S, Page 4, Schedule L, Line 9 - Other Investments

Description	Beginning of Year	End of Year
INVESTMENT IN RAFFLES	\$ 31,000	\$ 31,000
TOTAL	\$ 31,000	\$ 31,000

Statement 6 - Form 1120S, Page 4, Schedule L, Line 14 - Other Assets

Description	Beginning of Year	End of Year
PREPAID EXPENSES	\$ 122,529	\$ 48,580
DEPOSITS	117,128	123,454
GOODWILL	3,827,500	
TOTAL	\$ 4,067,157	\$ 172,034

Statement 7 - Form 1120S, Page 4, Schedule L, Line 18 - Other Current Liabilities

Description	Beginning of Year	End of Year
ACCRUED EXPENSES	\$ 1,306,878	\$ 1,308,691
PAYROLL TAX PAYABLE	47,305	10,021
PROFIT SHARING PLAN A	2,315	5,372
P/R GARNISHMENT PAYABLE	340	
SALES TAX PAYABLE	75,576	80,373
PROPERTY TAX PAYABLE	217,461	155,635
PROPERTY TAX PAYABLE	4,697	2,673
ACCRUED FUEL PAYABLE	140,017	122,024
TOTAL	\$ 1,794,589	\$ 1,684,789

Statement 8 - Form 1120S, Page 4, Schedule M-2, Line 5(a) - Other Reductions

Description	Amount
CHARITABLE CONTRIBUTIONS	\$ 620
TOTAL	\$ 620

SUPERPUMPER Superpumper, Inc

Federal Statements

FYE: 12/31/2010

Form 1120S, Page 1, Line 1a - Gross Receipts

<u>Description</u>	<u>Amount</u>
	\$ 22,210,112
	<u>-898,862</u>
TOTAL	<u>\$ 21,311,250</u>

Form 1120S, Page 1, Line 12 - Taxes and Licenses

<u>Description</u>	<u>Amount</u>
LICENSE	\$ 11,226
TAX	<u>97,481</u>
TOTAL	<u>\$ 108,707</u>

Form 1120S, Page 1, Line 13 - Interest

<u>Description</u>	<u>Amount</u>
	\$ 79,493
TOTAL	<u>\$ 79,493</u>

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SUPERPUMPER Superpumper, Inc

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Federal Statements

FYE: 12/31/2010

Form 1120S, Page 2, Schedule A, Line 3 - Cost of Labor

<u>Description</u>	<u>Amount</u>
COST OF LABOR	\$ 753,750
TOTAL	\$ 753,750

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SUPERPUMPER Superpumper, Inc

FYE: 12/31/2010

Federal Statements

Form 1120S, Page 4, Schedule L, Line 2a - Trade Notes and Accounts Receivable

<u>Description</u>	<u>Beginning of Year</u>	<u>End of Year</u>
ACCOUNTS RECEIVABLE	\$ 576,491	\$ 126,670
A/R PAM		1,294,105
CREDIT CARDS		414,555
REBATES		72,471
ATM		66,826
TOTAL	\$ <u>576,491</u>	\$ <u>1,974,627</u>

Form 1120S, Page 4, Schedule L, Line 3 - Inventories

<u>Description</u>	<u>Beginning of Year</u>	<u>End of Year</u>
MERCHANDISE	\$ 795,961	\$ 831,454
FUEL	457,876	644,683
TOTAL	\$ <u>1,253,837</u>	\$ <u>1,476,137</u>

Form 1120S, Page 4, Schedule L, Line 7 - Loans to Shareholders

<u>Description</u>	<u>Beginning of Year</u>	<u>End of Year</u>
E. BAYUK	\$ 915,500	\$ 3,518,155
S. MORABITO	898,542	3,484,069
TOTAL	\$ <u>1,814,042</u>	\$ <u>7,002,224</u>

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