

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

ALBERT ELLIS LINCICOME, JR. and )  
VICENTA LINCICOME, )

Appellants, )

v. )

SABLES, LLC, A NEVADA LIMITED )  
LIABILITY COMPANY, AS TRUSTEE )  
OF THE DEED OF TRUST GIVEN BY )  
VICENTA LINCICOME AND DATED )  
5/23/2007; FAY SERVICING, LLC, A )  
DELAWARE LIMITED LIABILITY )  
COMPANY AND SUBSIDIARY OF )  
FAY FINANCIAL, LLC; PROF-2013-M4 )  
LEGAL TITLE TRUST BY U.S. BANK, )  
N.A., AS LEGAL TITLE TRUSTEE; )  
BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND )  
2016, A UTAH LIMITED LIABILITY )  
COMPANY; NEWREZ, LLC, D/B/A )  
SHELLPOINT MORTGAGE )  
SERVICING, LLC.; 1900 CAPITAL )  
TRUST II, BY U.S. BANK TRUST )  
NATIONAL ASSOCIATION; AND )  
MCM-2018-NPL2, )

Respondents. )

**NEVADA SUPREME COURT** Filed  
**CASE NO.: 83261** Dec 29 2021 05:57 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
**THIRD JUDICIAL DISTRICT**  
**COURT CASE NO.: 18-CV-01332**

**APPELLANTS' APPENDIX TO OPENING BRIEF**



**INDEX OF APPENDIX  
VOLUME I**

<b>#</b>	<b><u>Document</u></b>	<b><u>Filed Date</u></b>	<b><u>Page</u></b>
1	Complaint	11-07-2018	AA00001
2	Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00126

**VOLUME II**

2	(Continued) Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00251
3	Affidavit of Counsel	11-07-2018	AA00255
4	Notice of Lis Pendens APN 29-401-17	11-07-2018	AA00257
5	Order After Hearing Concerning Restraining Order and Preliminary Injunction	11-08-2018	AA00259
6	Corrected Order Concerning Restraining Order and Preliminary Injunction	11-14-2018	AA00262
7	Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00265

**VOLUME III**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00501
---	--	------------	---------

**VOLUME IV**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00751
8	Declaration of Fay Servicing, LLC in Response to Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction	11-15-2018	AA00778
9	US Bank Trust's Answer to Complaint	11-29-2018	AA00782



10	Defendant Bank of America, N.A.'s Notice of Motion and Motion to Dismiss Plaintiffs' Complaint	12-21-2018	AA00796
11	Declaration of Non-Monetary Status (Sables)	12-24-2018	AA00805
12	Order After Hearing Concerning Restraining Order and Preliminary Injunction and Setting Aside Order Entered 11-8-18 and Corrected Order 11-14-18.	12-31-2018	AA00809
13	Objection to Declaration of Non-Monetary Status	01-09-2019	AA00817
14	Sables, LLC's Response to Objection to Its Declaration of Non-Monetary Status	01-28-2019	AA00821
15	Sables, LLC's Motion to Set Aside Default	01-28-2019	AA00826
16	Plaintiffs' Motion for Leave to File Amended Complaint to Substitute Parties	03-04-2019	AA00836
17	Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00918
18	Declaration of Ramir M. Hernandez, Esq. in Support of Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00931
19	Defendant Bank of America, N.A.'s Motion to Dismiss Plaintiffs' Complaint	03-22-2019	AA00935
20	Opposition to US Bank's Motion for Rule 11 Sanctions	03-28-2019	AA00944
21	Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA00975

### **VOLUME V**

21	(Continued) Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA01001
22	Response to Declaration of Shadd A. Wade	04-11-2019	AA01078
23	Defendant Bank of America, N.A.'s Reply to Opposition on Motion to Dismiss Plaintiffs' Complaint	04-12-2019	AA01094
24	Reply in Support of Motion for Rule 11 Sanctions Against Plaintiffs	04-12-2019	AA01103
25	Motion to Intervene and Expunge Lis Pendens	05-24-2019	AA01111
26	Order	05-30-2019	AA01122



27	Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims for Relief	06-07-2019	AA01127
28	Opposition to Motion to Intervene	06-10-2019	AA01213
29	Opposition to Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims and Relief	06-19-2019	AA01225
30	Reply in Support of Motion to Intervene and Expunge Lis Pendens	06-19-2019	AA01230
31	Sables, LLC's Opposition to Plaintiffs' Amended Motion to Amend	06-20-2019	AA01235
32	Reply to Breckenridge Property Fund 2016, LLC's Opposition to the Amended Motion for Leave to Amend Complaint	07-09-2019	AA01240
33	Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01244
<b>VOLUME VI</b>			
33	(Continued) Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01251
34	Order Granting Plaintiffs Leave to File Second Amended Complaint	08-28-2019	AA01280
35	Plaintiffs' Motion for Leave to File Second Amended Complaint to Substitute Parties and Add Additional Claims for Relief	09-12-2019	AA01283
36	Order Granting in Part and Denying in Part the Motion to Intervene and Expunge Lis Pendens	09-17-2019	AA01374
37	Order Directing Answer (Supreme Court)	09-25-2019	AA01376
38	Plaintiffs' Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief	09-27-2019	AA01378
39	Ex Parte Motion for Order to Show Cause	10-03-2019	AA01385
40	Intervenor's Counterclaim	10-03-2019	AA01414
41	Order	10-16-2019	AA01447



42	Plaintiffs' Opposition to Breckenridge's Motion for Order to Show Cause Re Writ of Restitution	10-18-2019	AA01445
43	Plaintiffs' Answer to Counterclaim and Counterclaim Against Intervener	10-23-2019	AA01473
44	Order Denying Ex Parte Motion and Setting Hearing	10-24-2019	AA01495
45	Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01498

## VOLUME VII

45	(Continued) Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01501
46	Breckenridge's Answer to the Counterclaim Filed by Albert Ellis Lincicome, Jr. and Vicenta Lincicome	11-18-2019	AA01516
47	Order Concerning Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief.	11-22-2019	AA01521
48	Petitioners' Reply to Responses to Petition for Writ of Mandamus (Supreme Court)	11-27-2019	AA01523
49	Order (Concerning Motion to File Second Amended Complaint)	12-06-2019	AA01544
50	Plaintiffs' Motion for Reconsideration	12-13-2019	AA01546
51	Plaintiffs' Second Amended Complaint	12-20-2019	AA01553
52	Answer to Second Amended Complaint (US Bank, Prof-2013 M4-Legal Title Trust and Fay Servicing)	01-07-2020	AA01697
53	Breckenridge Property Fund 2016, LLC's Answer to Second Amended Complaint	01-08-2020	AA01721
54	Order Denying Petition for Review (Supreme Court)	01-22-2020	AA01726
55	Bank of America, N.A.'s Answer and Affirmative Defenses to Plaintiffs' Second Amended Complaint	01-23-2020	AA01728
56	Order Denying Without Prejudice Ex Parte Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be Granted and Request to Shorten Time to Answer	02-11-2020	AA01748



### **VOLUME VIII**

57	Answer to Second Amended Complaint (Newrez, LLC, d/b/a Shellpoint Mortgage)	03-19-2020	AA01751
58	Breckenridge Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments With Court	03-27-2020	AA01776
59	Plaintiffs' Opposition to Motion for Deposit of Payments With Court	04-13-2020	AA01806
60	Breckenridge Reply in Support of Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments with Court	04-24-2020	AA01839
61	Breckenridge Property Fund 2016, LLC's Reply in Support of Motion for Leave to File Crossclaim Against Prof-2013-M4 Legal Title Trust by U.S. Bank National Association, as Legal Title Trustee	09-11-2020	AA01844
62	Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	10-02-2020	AA01853
63	Answer to Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	11-02-2020	AA01860
64	Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA01869

### **VOLUME IX**

64	(Continued) Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA02001
65	Breckenridge Property Fund 2016 LLC's Motion for Summary Judgment Against Plaintiff	03-18-2021	AA02179
66	(Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02230

### **VOLUME X**

66	(Continued) (Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02251
----	---	------------	---------



## **VOLUME XI**

- |    |  |            |         |
|----|--|------------|---------|
| 66 | (Continued) (Plaintiffs') Motion for Partial Summary Judgment  | 03-19-2021 | AA02501 |
| 67 | Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA02540 |

## **VOLUME XII**

- |    |  |            |         |
|----|--|------------|---------|
| 67 | (Continued) Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02751 |
| 68 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment   | 03-25-2021 | AA02764 |
| 69 | Request for Judicial Notice in Support of Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment and Shellpoint Mortgage Servicing LLC's Motion for Summary Judgment | 03-25-2021 | AA02779 |
| 70 | Shellpoint Mortgage Servicing, LLC's Motion for Summary Judgment   | 03-25-2021 | AA02785 |
| 71 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02796 |

## **VOLUME XIII**

- |    |  |            |         |
|----|--|------------|---------|
| 71 | (Continued) Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA03001 |
| 72 | Bank of America, N.A.'s Errata to Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions   | 04-02-2021 | AA03017 |



73	Bank of America, N.A.'s Opposition to Plaintiffs' Partial Motion for Summary Judgment	04-14-2021	AA03021
74	Plaintiffs' Opposition to US Bank, Fay Servicing, and Shellpoint's Motions for Summary Judgment	04-15-2021	AA03089
75	Plaintiffs' Opposition to BANA's Motion for Summary Judgment	04-15-2021	AA03112
76	Plaintiffs' Opposition to Breckenridge's Motion for Summary Judgment	04-15-2021	AA03127
77	Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03136

#### **VOLUME XIV**

77	(Continued) Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03251
78	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03482

#### **VOLUME XV**

78	(Continued) Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03501
79	Bank of America, N.A.'s Reply Supporting Motion for Summary Judgment	05-05-2021	AA03506
80	Supplement to Plaintiffs' Statement of Undisputed Material Facts	05-06-2021	AA03519
81	Reply to Bank of America, N.A.'s Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03671
82	Reply to US Bank & Fay Servicing, LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03698
83	Shellpoint Mortgage Servicing, LLC's Reply in Support of Motion for Summary Judgment	05-10-2021	AA03720
84	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and	05-10-2021	AA03727



Fay Servicing LLC's Reply in Support of Motion for Summary Judgment

- |    |   |            |         |
|----|---|------------|---------|
| 85 | Breckenridge Property Fund 2016 LLC's Reply in Support of Motion for Summary Judgment Against Plaintiff | 05-10-2021 | AA03737 |
| 86 | Order on Breckenridge Motion for Summary Judgment   | 06-23-2021 | AA03743 |

**VOLUME XVI**

- |    |  |            |         |
|----|--|------------|---------|
| 87 | Order Denying Plaintiffs' Motion for Partial Summary Judgment/Granting Motions for Summary Judgment filed by BANA, Prof-2013 M4 Legal Trust, US Bank and Fay Servicing LLC | 06-23-2021 | AA03751 |
| 88 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03769 |
| 89 | Notice of Entry of Order (Order Denying Plaintiffs Motion for Partial Summary Judgment)  | 07-06-2021 | AA03780 |
| 90 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03801 |
| 91 | Lincicomes' Notice of Appeal   | 07-19-2021 | AA03812 |
| 92 | Case Appeal Statement  | 07-30-2021 | AA03815 |
| 93 | Order Regarding Permanent Writ of Restitution  | 08-20-2021 | AA03823 |
| 94 | Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents  | 09-09-2021 | AA03826 |
| 95 | Plaintiffs' Motion for Stay Pending Appeal   | 09-15-2021 | AA03888 |
| 96 | Opposition to Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents                              | 09-24-2021 | AA03904 |
| 97 | Defendant Breckenridge Property Fund 2016, LLC's Opposition to Plaintiffs' Motion to Stay Pending Appeal   | 10-01-2021 | AA03906 |
| 98 | Request for Transcripts  | 10-04-2021 | AA03974 |
| 99 | Breckenridge Property Fund 2016's Reply in Support of Motion for Entry of Order Granting   | 10-06-2021 | AA03976 |



Permanent Writ of Restitution and Payment of  
Overdue Rents

100 Transcripts of Hearings 10-18-2021 AA03979

**VOLUME XVII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04001

**VOLUME XVIII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04251

101 Order Concerning: Breckenridge Property Fund  
2016, LLC's Motion for Entry of Order Granting  
Permanent Writ of Restitution and Payment of  
Overdue Rents and Plaintiffs' Motion for Stay  
Pending Appeal 11-05-2021 AA04257

102 Lincicomes' Ex Parte Motion for Additional Time to  
Obtain Supersedeas Bond 11-15-021 AA04267

103 Breckenridge Property Fund 2016's Opposition to  
Plaintiffs' Improper Ex Parte Motion for Additional  
Time to Obtain Supersedeas Bond and Request for  
Sanctions 11-16-2021 AA04274

104 Order Denying Ex Parte Motion (for additional time  
for bond) 11-17-2021 AA04301

105 Permanent Writ of Restitution (order permitting  
eviction of Lincicomes from their home) 11-22-2021 AA04304



## **TABLE OF AUTHORITIES**

<b><u>Cases</u></b>	<b><u>Page</u></b>
<u>Halcrow, Inc. v. Eighth Jud. Dist. Ct.</u> , 129 Nev. 394, 302 P.3d 1148 (2013).....	7
<u>Schleining v. Cap One. Inc.</u> , 326 P.3d 4, 10-11 (Nev., 2014).....	5
 <b><u>Statutes</u></b>	 <b><u>Page</u></b>
NRS 107.015(15).....	8
NRS 107.028.....	1
NRS 107.028(6).....	4, 5
NRS 107.029 .....	1, 3, 4
NRS 107.080.....	4, 5, 6
NRS 107.400 – NRS 107.560.....	8
NRS 107.560 .....	8
NRS Chapter 107 .....	1, 2, 3, 5, 7, 8, 10
 <b><u>Rules</u></b>	 <b><u>Page</u></b>
NRAP 28(e)(1).....	11
NRAP 31(a)(7).....	11
NRAP 32(a)(4).....	11
NRAP 32(a)(5).....	11
NRAP 32(a)(6).....	11
NRAP 32(a)(7)(C).....	11
NRCP 5.....	13



**Other**

**Page**

SB 382.....	8
-------------	---



## **INTRODUCTION**

Sables, LLC (“Sables”) hereby responds to Plaintiffs’ Albert Lincicome and Vincenta Lincicome’s (“Plaintiffs”) Petition for Writ of Mandamus (“Petition”) pursuant to Order of this Court dated September 25, 2019.

The underlying action centers on a dispute between borrower Plaintiffs and their lenders. Sables is the trustee under the deed of trust at issue, and its role is limited to performing its duties as set forth in NRS Chapter 107. The actions of Sables in the underlying dispute consists of recording the Notice of Default, the Notice of Sale, and subsequently, the Trustee’s Deed upon completing the foreclosure. Sables has not committed any acts, and none are alleged, outside of its duties as trustee set forth in NRS Chapter 107.

**First**, Plaintiffs seek relief from the Order granting Sables’ Declaration of Non-Monetary Status pursuant to NRS 107.029 (“DNMS”). Plaintiffs make allegations of errors pertaining to their lenders concerning prior dealings which do not concern Sables. Sables, as trustee, is entitled to rely on the information provided by the beneficiary of the deed of the trust in performing its duties under NRS Chapter 107 (NRS 107.028). Plaintiffs allegations of errors pertaining to their loan are properly directed at the lender defendants, and not the trustee. Importantly, not one allegation or stated fact in Plaintiff’s Complaint or its proposed Amended Complaint alleges that Sables violated any statutory duty of a



trustee under NRS Chapter 107. The Complaint focuses on the content of the recorded documents, which is provided by the beneficiary of the deed of trust, which is a defendant participating in the underlying action. (Complaint, Appendix, Vol. 1, 00001-00015, and Proposed Amended Complaint, Appendix Vol. 2-3, 00488-00502). Accordingly, the DNMS was properly sustained over Plaintiffs' objection.

**Second**, Plaintiffs seek relief from the Order precluding Plaintiffs' request to amend to include new or additional claims as to Sables. The district court properly denied Plaintiffs' request to amend as to Sables, as Plaintiffs provided no factual basis for liability of trustee Sables in performing its duties as set forth in NRS Chapter 107. Plaintiffs continue to try to pin monetary liability on Sables solely due to Sables' recordation of the Notice of Default, Notice of Sale, and now the Trustee's Deed, in the underlying non-judicial foreclosure. However, recording of these notices and the deed is the statutory duty of the trustee, and is not actionable. Plaintiffs' dispute as to the contents of the notices lies with the lender defendants, not Sables. The information contained in the notices is provided by the lender beneficiary of the deed of trust. Sables merely performs the ministerial acts of recording and mailing the notices to interested parties pursuant to the statutes. Based on the facts and claims plead in the Complaint, and in the proposed Amended Complaint, the district court properly denied Plaintiff's request to amend



as to Sables, as the proposed amendment is based on these same set of facts set forth in the Complaint, rendering it futile.

Allowing a borrower in default to sue a non-judicial foreclosure trustee based on a dispute with the lender, solely because the trustee performed its duties by recording the statutorily-required notices, would render the DNMS statute NRS 107.029 meaningless. Sables has no interest in the loan, the property, or the outcome of the dispute. Despite its DNMS being granted, Sables remains bound by the district court's determinations. Accordingly, if the district court finds some actionable or reversible error concerning the loan balance or other information set forth in the notices, Sables would be obligated to comply with the court's ruling as to same, including rescission, if required.

### **ARGUMENT**

#### **I. THE DISTRICT COURT CORRECTLY UPHELD SABLES' DECLARATION OF NON-MONETARY STATUS.**

##### **A. Sables, as trustee, performed its limited duties set forth in NRS Chapter 107.**

Plaintiffs' allegations as to Sables all stem from its recording of the Notice of Default and Notice of Sale, and now the Trustee's Deed – all of which are statutorily required functions of a trustee under NRS Chapter 107. Plaintiffs appear to take issue with the content of the notices, however that information is provided by the beneficiary of the deed of trust, which is a party to this case.



Sables has no right or duty to perform an audit of the loan information provided, but on the contrary, is entitled to rely on the information provided by the beneficiary. Indeed, “A rebuttable presumption that a trustee has acted impartially and in good faith exists if the trustee acts in compliance with the provisions of NRS 107.080. (NRS 107.028(6)). Plaintiffs have not alleged that Sables violated any provision of NRS 107.080, but have merely alleged that Sables was on notice of the alleged errors with the loan, which is the subject of the underlying litigation and remains to be resolved (Complaint, Appendix, Vol. 1, 00001-00015, and Proposed Amended Complaint, Appendix Vol. 2-3, 00488-00502). Sables is caught in the middle of a dispute between the borrower Plaintiffs and their lender defendants, and is not an independent source, nor an auditing authority of the contested information. Such disputes between lenders and borrowers is common, which is the entire purpose of shielding the trustee in NRS 107.029. Accordingly, the presumption of good faith and impartiality remains as to Sables, and its DNMS was properly sustained.

**B. No error has been established requiring correction by Sables.**

NRS 107.028(6) provides: “In performing acts required by NRS 107.080, the trustee incurs no liability for any good faith error resulting from reliance on information provided by the beneficiary regarding the nature and the amount of the default under the obligation secured by the deed of trust if the trustee corrects



the good faith error not later than 20 days after discovering the error.” Plaintiffs allege that Sables was on notice of errors alleged by Plaintiffs, however, these remain merely allegations in a litigated case, not actionable or established errors. The allegations remain at issue in the underlying litigation, which until resolved, remain only allegations. Notably, Sables has complied with all orders of the district court, including the injunction, but Plaintiffs then failed to post the required bond, allowing the sale to proceed per order of the Court and the direction of the beneficiary. Sables takes no side in the dispute and has complied with all applicable law and court orders. Should the district court find that there was an error requiring rescission of the foreclosure notices, Sables would immediately comply with the Court’s Order to correct any errors, in compliance with NRS 107.028(6).

**C. Sables has complied with its statutory duties under NRS Chapter 107.**

NRS 107.080 imposes a “substantial compliance” requirement, not a strict compliance standard. Schleining v. Cap One. Inc., 326 P.3d 4, 10-11 (Nev., 2014). “Substantial compliance is sufficient where actual notice occurs and there is no prejudice to the party entitled to notice.” Id., at 12. Plaintiffs do not allege Sables failed to provide notice, nor have they alleged any resultant prejudice from the content of the notices. Plaintiffs did not make payments on the loan for nearly



a decade, but now allege minor discrepancies with the date of default and the loan balance associated with the disputed loan modification, are contained in the Notice of Default. However, without any articulable or alleged prejudice, these items are not actionable, especially as to Sables, which relies on the beneficiary to provide its loan balance and default information. Plaintiffs cannot argue they were prejudiced by the foreclosure notices, as they subsequently obtained an injunction but failed to post a bond in amount less than the default amount. If Plaintiffs were able to cure the default, surely they would have posted the bond of a lesser amount. Plaintiffs received all required notices, and have not alleged and cannot allege any prejudice resultant from the information contained therein. Accordingly, Sables has complied with the requirements of NRS 107.080 *et seq.*, and its DNMS should stand.

### **III. THE DISTRICT COURT PROPERLY DENIED PLAINTIFF'S MOTION TO AMEND AS TO SABLES, AS PLAINTIFFS PLEAD NO NEW FACTS TO SUPPORT LIABILITY OF THE TRUSTEE.**

#### **A. Amendment was properly denied as futile where no new facts are alleged as the basis for Sables' liability.**

Plaintiff's proposed Amended Complaint continues to allege the same facts as in the first Complaint pertaining to Sables, which resulted in the granting of Sables' DNMS. Specifically, all of Plaintiffs' allegations as to Sables centers on Sables' recordation of the Notice of Default, Notice of Sale, and Trustee's Deed –



all of which are statutorily-required duties of the trustee. Leave to amend a pleading should not be granted if the proposed amendment would be futile. Halcrow, Inc. v. Eighth Jud. Dist. Ct., 129 Nev. 394, 302 P.3d 1148 (2013). Plaintiffs' proposed claims as to Sables are again based solely on Sables' recording of the Notice of Default, Notice of Sale, and Trustee's Deed – statutory duties of a trustee under NRS Chapter 107. If amendment were allowed, Sables would file another DNMS, which would again be upheld by the district court, as the proposed Amended Complaint is based on the same operative facts. In sum, Sables as trustee is not liable for recording the Notice of Default, Notice of Sale, or Trustee's Deed, even if errors are found to exist concerning the loan balance and default information provided by the beneficiary as alleged by Plaintiffs.

Plaintiffs attempt to put the cart before the horse by alleging Sables was on notice of errors, however, the errors are merely *allegations* in the underlying case, and have yet to be resolved. This highlights the policy of the DNMS statute. The dispute is between Plaintiffs and the beneficiary of the deed of trust, as it pertains to the history of the loan and loan balance. The trustee is merely a third-party bystander to the dispute, aside from Plaintiffs' attempts to pin liability on the trustee for recording the notices required by NRS Chapter 107. Importantly, Plaintiffs have not alleged that they cured the default, and no prejudice has been alleged resulting from the alleged errors. Of equal importance is the fact that the



district court granted the injunction, provided that Plaintiffs pay the security bond, but Plaintiffs either refused to pay it or were unable to. After not making payments on the mortgage loan for roughly a decade, the Plaintiffs should have funds set aside equal to their missed payments.

Since Plaintiffs' claims in the proposed amended complaint are still centered on nothing more than Sables' act of recording documents as required of a trustee by NRS Chapter 107, the DNMS would still stand under the prior analysis. The district court properly denied amendment, as Sables would otherwise be required to re-litigate the DNMS based on the same factual allegations. Accordingly, amendment would be futile and was properly denied.

**B. NRS 107.560 is inapplicable to trustee Sables.**

NRS 107.560, part of the Nevada Homeowner's Bill of Rights ("HOB") codified in NRS 107.400 – NRS 107.560, is not applicable to a trustee such as Sables. This statutory scheme does not once reference the duties of a trustee, much less liability of a trustee. The HOB statutes, including NRS 107.560, routinely reference the duties and liabilities of a "mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent," which arguably pertains to the other defendants in this action. "Trustee" is defined in NRS 107.015(15)(as amended by SB 382), and is routinely referred to as "trustee" throughout NRS Chapter 107. This lends the inference that the legislature intentionally left



“trustee” out of NRS 107.400 - 107.560, rather than include it by its role as defined by the statute. The legislatures intent to not include trustee in the HOBR statutes, much less provide for liability of the trustee in these statues is compelling, and further supports the district court’s granting of Sables’ DNMS.

**C. The necessary parties are in the case without Sables’ participation.**

Even without Sables as a party defendant, the necessary parties are present to afford Plaintiffs the relief requested in the complaint and the proposed amended complaint (Complaint, Appendix, Vol. 1, 00001-00015, and Proposed Amended Complaint, Appendix Vol. 2-3, 00488-00502). The beneficiary of the deed of trust and the prior lenders and servicers responsible for the loan at issue are parties to the case, and appropriate relief is available without the participation of Sables. As stated previously, Sables has no interest in the loan, the property, or the outcome of the dispute. Sables will continue to perform its duties as trustee, as directed by the court and the applicable statutes.

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## **CONCLUSION**

For the foregoing reasons, this Court should deny the Petition for Writ of Mandamus, finding that: 1) Sables' recordation of the notices as required by NRS Chapter 107 is not actionable by Plaintiffs; 2) that Sables' Declaration of Non-Monetary Status was properly upheld by the district court, and 3) denial of leave to amend as to Sables was proper where Plaintiffs fail to allege new facts outside of actions constituting the trustee's duties under NRS Chapter 107.

DATED: October 25th, 2019. ZBS LAW, LLP

/s/ Shadd A. Wade, Esq.  
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## **CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in Times New Roman and 14-point font size.

I FURTHER CERTIFY that this brief complies with the page or type-volume limitations of NRAP 31(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more, and contains 2,158 words.

FINALLY, I HEREBY CERTIFY that I have read this **RESPONSE TO PETITION FOR WRIT OF MANDAMUS**, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

///

///



I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: October 25th, 2019

ZBS LAW, LLP

By: /s/ Shadd A. Wade  
Shadd A. Wade, Esq.  
*Attorneys for Sables, LLC*



## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of ZBS LAW, LLP, and that on this   25th   day of October, 2019, and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **RESPONSE TO PETITION FOR WRIT OF MANDAMUS**, through this Court's electronic filing system to the following:

(X) by serving the following parties electronically through CM/ECF as set forth below:

### **Master Service List**

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<b>Docket Number and Case Title:</b>	79152-COA - LINCICOME, JR. VS. DIST. CT. (SABLES, LLC)
<b>Case Category</b>	Original Proceeding
<b>Information current as of:</b>	Oct 25 2019 10:53 a.m.

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**Electronic notification will be sent to the following:**

Ariel Stern  
Shadd Wade  
Ramir Hernandez  
Darren Brenner  
Scott Lachman  
Michael Millward

( ) by depositing a copy in the United States Mail postage prepaid to the parties listed below:

**Notification by traditional means must be sent to the following:**

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



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2019 NOV 18 PM 2:13

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12 IN THE THIRD JUDICIAL DISTRICT COURT

13 OF THE STATE OF NEVADA

14 IN AND FOR THE COUNTY OF LYON

16 ALBERT ELLIS LINCICOME, JR., and  
17 VICENTA LINCICOME,

18 Plaintiff,

19 v.

20 SABLES, LLC, a Nevada limited liability  
21 company, as Trustee of the Deed of Trust  
22 given by Vicenta Lincicome and dated  
23 5/23/2007; FAY SERVICING, LLC, a  
24 Delaware limited liability company and  
25 subsidiary of Fay Financial, LLC; PROF-  
26 2013-MF LEGAL TITLE TRUST by U.S.  
27 BANK, N.A., as Legal Title Trustee; for  
28 BANK OF AMERICA, N.A.; and DOES 1-  
50.,

Defendants.

Case No.: 18-CV-01332

Dept No.: II

**BRECKENRIDGE'S ANSWER TO  
THE COUNTERCLAIM FILED BY  
ALBERT ELLIS LINCICOME, JR  
AND VICENTA LINCICOME**



1 BRECKENRIDGE PROPERTY FUND 2016,  
2 LLC,

3 Defendant in Intervention.

4 BRECKENRIDGE PROPERTY FUND 2016,  
5 LLC,

6 Counterclaimant,

7 vs.

8 ALBERT ELLIS LINCICOME, JR., an  
9 individual; VICENTA LINCICOME, an  
10 individual; and DOE OCCUPANTS 1-5.

11 Counterdefendants.

12 COMES NOW, BRECKENRIDGE PROPERTY FUND 2016, LLC  
13 ("Breckenridge"), by and through its counsel of record, HUTCHISON & STEFFEN, PLLC  
14 and WEDGEWOOD, LLC, and hereby submits its Answer to the Counterclaim filed by  
15 Albert Ellis Lincicome, Jr. and Vicenta Lincicome ("Lincicome").

16 1. Answering paragraph numbers 1, 3-75, 77, 81-90, 92-102, 104, and 106,  
17 Breckenridge is without sufficient knowledge or information to form a belief as to the truth  
18 of the allegations of said paragraphs and on that basis deny each and every allegation set  
19 forth therein.

20 2. Answering paragraph numbers 2 and 78, Breckenridge admits the  
21 allegations set forth therein.

22 3. Answering paragraph number 76, Breckenridge admits that it purchased the  
23 Property at the foreclosure sale but denies that the sale was without legal authority.

24 4. Answering paragraph number 79, Breckenridge admits that the trustee's  
25 deed was executed in favor of Breckenridge but denies that it was done in violation of NRS  
26 107.

27 5. Breckenridge repeats and realleges its prior responses to the allegations  
28 contained in paragraph numbers 80, 91, and 105 of the Counterclaim.



1           6.       Answering paragraph numbers 103, and 107-109, Breckenridge denies the  
2 allegations set forth therein.

3                               **AFFIRMATIVE DEFENSES**

4           1.       The Lincicomes' claims on file herein fail to state a claim against  
5 Breckenridge, upon which relief can be granted.

6           2.       The Lincicomes' claims are barred by the doctrine of waiver, estoppel,  
7 unclean hands and other equitable defenses.

8           3.       The Lincicomes' claims are barred by the applicable statute of limitations  
9 and/or the doctrine of laches.

10          4.       The Lincicomes' claims are barred by the statute of frauds.

11          5.       Breckenridge was a bona fide purchaser for value of the Property in good  
12 faith and without notice of any of the alleged defects to the Property.

13          6.       The damages, if any, allegedly sustained by the Lincicomes' were caused in  
14 whole by other parties' acts or omissions.

15          7.       Breckenridge incorporates all affirmative defenses as set forth in NRCP  
16 8(c).

17          8.       Breckenridge denies each and every allegation not specifically answered.

18          9.       All possible affirmative defenses may not have been alleged herein insofar  
19 as sufficient facts were not available after reasonable inquiry upon the filing of  
20 Breckenridge's Answer to the Lincicomes' Counterclaim and therefore, Breckenridge  
21 reserves the right to amend its Answer to allege additional affirmative defenses if  
22 subsequent investigations so warrant.

23               WHEREFORE, Breckenridge prays:

24          1.       That the Lincicome's take nothing by way of their Counterclaim and that the  
25 Court deny the Lincicome's all of the relief sought therein;

26          2.       For costs and attorney fees incurred in the defense of this action; and

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

28       ///



Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that the preceding document filed in this court does not contain the social security number of any person.

DATED this 18 day of November 2019.

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the law firm of HUTCHISON & STEFFEN, PLLC and that on the 18<sup>th</sup> day of November, 2019, by placing the same in the United States Mail, at Reno, Nevada in a sealed envelope, first class postage prepaid to:

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An Employee of HUTCHISON STEFFEN, PLLC



Case No: 18-CV-01332

Dept.: II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ELLIS LINCICOME and VICENTA LINCICOME,  
Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a Delaware  
limited liability company and subsidiary of  
Fay Financial, LLC; PROF-2013-M4 LEGAL  
TITLE TRUST by U.S. BANK, N.A., as Legal  
Title Trustee; for BANK OF AMERICA, N.A.;  
BRECKENRIDGE PROPERTY FUND 2016; and  
DOES 1-50.

Defendants.

**ORDER**

THIS MATTER came before the Court upon Plaintiff Ellis Lincicome and Vicenta Lincicome (hereinafter "Plaintiffs") *Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief* (hereinafter "Motion"). In Plaintiffs' Motion, Plaintiffs request that the Court grant Plaintiffs leave to file a motion for reconsideration.

The Court finds that no opposition to the Plaintiffs' Motion has been filed and that time for filing a responsive paper has elapsed, and that relief sought in Plaintiffs' Motion is appropriate.

GOOD CAUSE APPEARING, it is hereby Ordered the Plaintiffs' Motion for Leave to File a Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief is GRANTED.





1 Plaintiffs shall have 21 days from the date of service of this Order to file their  
2 Motion for Reconsideration of the Court's August 23, 2019 Order.

3  
4 LA  
5 DISTRICT COURT JUDGE

6 **AFFIRMATION**

7 I hereby affirm pursuant to NRS 239B.03 that the foregoing does not contain the  
8 social security number of any person, or other personal information as defined by NRS  
9 603A.040.

10 Submitted this 19<sup>th</sup> day of November, 2019:

11  
12 By: [Signature]  
13 Michael G. Millward, Esq.



**IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

ALBERT ELLIS LINCICOME, JR., and )  
VICENTA LINCICOME, )  
 )  
Petitioners, )  
 ) Case No. 79152-COA  
vs. )  
 ) District Court Case No.: 18-CV-01332  
THE THIRD JUDICIAL DISTRICT )  
COURT OF NEVADA, IN AND FOR )  
COUNTY OF LYON; HONORABLE )  
LEON A. ABERASTURI, DISTRICT )  
COURT JUDGE, )  
 )  
Respondent, )  
 )  
and )  
 )  
SABLES, LLC, a Nevada limited )  
liability company; FAY SERVICING, )  
LLC, a Delaware limited liability )  
company and subsidiary of Fay )  
Financial, LLC; PROF-2013-M4 )  
LEGAL TITLE TRUST by U.S. BANK, )  
N.A., as Legal Title Trustee; BANK OF )  
AMERICA, N.A. )  
 )  
Real Parties in Interest. )  

---

**PETITIONERS' REPLY TO RESPONSES TO**  
**PETITION FOR WRIT OF MANDAMUS**

Pursuant to the Court's Order dated September 25, 2019, Petitioners Albert Ellis Lincicome, Jr. and Vicenta Lincicome's submit this Reply to the Answers, Responses and Joinders filed by real parties in interest Sables, LLC, Bank of America, N.A., Fay Servicing, LLC, and U.S. Bank N.A., as Legal Title Trustee to the Petition for Writ of Mandamus filed July 12, 2019.



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## **TABLE OF CONTENTS**

I. INTRODUCTION .....	1
II. ISSUES PRESENTED .....	2
III. SABLES, LLC’S RESPONSE .....	2
1. Petitioners’ Complaint is Sufficiently Pleaded.....	2
2. A Factual Basis for Petitioners’ Objection Exists .....	5
3. Sables is not Immune from Liability .....	8
IV. BANK OF AMERICA, N.A.’S RESPONSE.....	13
V. CONCLUSION.....	14
CERTIFICATE OF COMPLIANCE.....	16
CERTIFICATE OF SERVICE .....	17



## **TABLE OF AUTHORITIES**

### **CASES**

*Ford v. Showboat Operating, Co.*, 110 Nev. 752, 877 P.2d 546 (1994).....13

### **STATUTES**

NRS 107.028(6) ..... passim

NRS 107.028(7) .....7, 8

NRS 107.029 ..... 3, 4, 5

NRS 107.080(2)(a)(2) .....6, 11

NRS 107.0805 .....5

NRS 107.480 .....7

NRS 107.500(1)(b).....6, 9

### **RULES**

NRCP 8(a).....4

NRCP 8(d).....4



# **REPLY TO ANSWERS TO PETITION FOR WRIT OF MANDAMUS**

## **I. INTRODUCTION**

Petitioners Albert Ellis Lincicome, Jr. and Vicenta Lincicome (hereinafter “Petitioners”) seek the issuance of a Writ of Mandamus instructing the District Court to vacate the portions of its May 30, 2019 order granting Sables, LLC’s Declaration of Nonmonetary Status and enter an order granting Petitioners’ leave to amend their Complaint so that additional causes of action may be alleged against Sables, LLC (hereinafter “Sables”).

Petitioners specifically respond herein to *Sables, LLC’s Response to Petition for Writ of Mandamus*, filed by Sables on October 25, 2019. Petitioners also respond to *Bank of America, N.A.’S Response to Petition for Writ of Mandamus*.

Petitioners assert that the record, including the District Court’s December 31, 2018 Order, and the *Objection to Sables Declaration of Nonmonetary Status* establish that a sufficient factual basis exists upon which a determination of Sables’ liability for the conduct alleged in Petitioners’ Complaint and their proposed Amended Complaint may be made.

Therefore, it is respectfully requested that this Court grant Petitioners’ Petition for issuance of a Writ of Mandamus as set forth above.



## **II. ISSUES PRESENTED**

1. Whether the District Court committed Reversible Error by Granting *Sables, LLC's Declaration of Nonmonetary Status* over Petitioners' Objection.
2. Whether the District Court abused its discretion by denying Petitioners leave to amend their Complaint to assert additional claims for relief against Sables, LLC.

## **III. SABLES, LLC'S RESPONSE**

### **1. Petitioners' Complaint is Sufficiently Pleaded**

Real party in interest Sables, LLC (hereinafter "Sables") argues that the District Court did not abuse its discretion by denying Petitioners leave to amend their Complaint upon the assertion that Petitioners' proposed Amended Complaint was insufficiently pleaded to subject it to liability. Sables Resp., p.6.

In Sables' Response to the Petition, it limited much of its analysis to the question of whether the Complaint and proposed Complaint were sufficiently pleaded. In doing so, Sables failed to acknowledge that the District Court's basis in denying Petitioners' *Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims for Relief*, as it pertains to claims against Sables, was based upon the District Court's grant of *Sables LLC's Declaration of Nonmonetary Status* (hereinafter "Declaration"). App. Vol. III, pp.713-717.



Accordingly, the District Court made no specific findings that Petitioners' proposed Amended Complaint was properly pleaded in its April 15, 2019 Order. Cf. App. Vol. III, pp. 713-717.

Thus, Sables' argument concerning the sufficiency of the Complaint and the proposed Amended Complaint are misplaced. Notably, in making this argument, Sables simply ignores the District Court's findings made in its December 31, 2018 Order, as well as the allegations set forth in Petitioner's *Objection to Sables' LLC's Declaration of Nonmonetary Status* (hereinafter "Objection") which are relevant to the District Court's determination under NRS 107.029, and to this Court's determination of whether the District Court committed Reversible Error in granting Sables' Declaration. *See e.g.* Sables Resp., pp. 1-2, 4, 6-9.

In this regard, Sables argues that "not one allegation or stated fact in Plaintiff's Complaint or its proposed Amended Complaint alleges that Sables violated any statutory duty of a trustee under NRS Chapter 107." Sables Resp., pp. 1-2.

Contrary to Sables assertion, the Complaint and the proposed Amended Complaint do allege that Sables violated its duties. *See e.g.* App. Vol. II, pp. 492-493 ¶¶ 62-68. However, more importantly, Petitioners' Complaint and proposed Amended Complaint easily satisfies the NRCP 8(a) and 8(d) pleading standards. *See* NRCP 8(a), (d).



NRCP 8(a) requires that a claim for relief contains “a short and plain statement” as to (1) the court’s jurisdiction; (2) a “showing that the pleader is entitled to relief;” (3) a “demand for the relief sought;” and (4) a statement of whether damages of more than \$15,000 is sought. NRCP 8(a). As well, NRCP 8(d) provides that “[e]ach allegation must be simple, concise, and direct” and that “[n]o technical form is required.” NRCP 8(d).

Petitioners’ Complaint and proposed Amended Complaint satisfy these requirements without question. *See* App. Vol. I, pp. 1-16; App. Vol. II, pp. 483-500; App. Vol. III, pp.501-506.

As well, nothing in NRS 107.029 or any other section of chapter 107 would indicate that a heightened pleading standard is applicable to claims made against a trustee. *Cf.* NRS 107.

Accordingly, even though the allegations of the Complaint and proposed Amended Complaint are not at issue, if the Court determines it necessary to consider Sables’ argument as to the sufficiency of Petitioners’ Complaint and proposed Amended Complaint, the Court should find that both are sufficiently pleaded under NRCP 8. *See* NRCP 8.

Additionally the Court should find that Sables argument regarding the sufficiency of Petitioners’ Complaint or Amended Complaint do not undermine



Petitioners' assertion that the District Court abused its discretion in denying Petitioners leave to amend their Complaint.

## **2. A Factual Basis for Petitioners' Objection Exists**

Sables argues in its Response to the Petition that the District Court did not commit reversible error in granting its Declaration because no factual basis for liability or error requiring Sables' correction was established by Petitioners. Sables Resp., p.2, 4. Sables is wrong.

NRS 107.029(3) requires that any party that objects to a declaration of non-monetary status "must set forth the factual basis on which the objection is based." NRS 107.029(3).

In the Objection, Petitioners outlined the events and conduct that establish in part Sables' liability. App. Vol. II , p.327. Petitioners therein assert that Sables was served with a copy of the Complaint and that it was thereby placed on notice of its violations of NRS 107.400 to NRS 107.560, for recording a Notice of Default that failed to comply with NRS 107.0805. App. Vol. II, pp.327-328. Additionally, it is noted in the Objection that the filing of Sables' Declaration was moot because the District Court Clerk had previously taken Sables' default. *Id.*

It is relevant to the analysis that filing of Petitioners' Objection was preceded with the District Court's December 31, 2018 Order. *See* App. Vol. II, pp.308-315. In that Order, the District Court found that Sables had not accurately



reported the “total balance owed,” “the principal obligation owed,” “the date through which [the loan was] . . . paid,” or “the current interest rate effective under the 2007 [Deed of Trust] as modified under the [Loan Modification Agreement]” [by] Vicenta Lincicome under the [Deed of Trust] as modified by the [Loan Modification Agreement].” App. Vol. II, p.312.

Additionally, the District Court also stated that “Plaintiffs have established that they will succeed on their claim that Defendants have violated NRS 107.500(1)(b) for failing to provide accurate information required to be provided prior to the initiation of a foreclosure.” App. Vol. II, p.313.

In only touching upon the subject of errors, Sables states that allegations of errors pertaining to Petitioners’ dealings with prior lenders “do not concern Sables” and “errors pertaining to [Petitioners’] loan are properly directed at the lender defendants, and not the trustee.” Sables Resp., p.1. Later in the Response, Sables states that allegations of wrongdoing are “merely allegations in a litigated case, [and] are not actionable. *Id.* at p.5.

These assertions make it apparent that Sables lacks an understanding of its duties under Chapter 107, including its duties to correct recorded documents as required by NRS 107.028(6) or verify that the grantor of the deed of trust is in default as required by NRS 107.080(2)(a)(2). *See id.*; NRS 107.028(6); NRS 107.080(2)(a)(2).



Additional evidence of Sables' lack of understanding of its duties is found in Sables' assertion that the Home Owners Bill of Rights ("HOBR") codified in NRS 107.400 to NRS 107.560 "is not applicable to a trustee such as Sables." Sables Resp., p.8.

Specifically on this point, NRS 107.480 provides that the "exercise of a trustee's power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of NRS 107.400 to NRS 107.560, inclusive." NRS 107.480.

Sables' belief that it need not comply with or concern itself with HOBR is wrong and is specifically controverted by the terms of NRS 107.480 discussed above as well as NRS 107.028(7), which requires a trustee to comply with all of the provisions of Chapter 107.

Sables' contentions as to its duties, or the lack thereof, is shocking in the context of Petitioners' allegations. Thus, it must be concluded that Sables general responses, excuses and defenses and misstatements of the law and its duties do nothing to address or controvert the fact that a factual basis for Sables liability was presented in Petitioners' Objection, as well as established by the District Court's December 31, 2018 Order.

Therefore, this Court should conclude that the District Court committed reversible error in granting *Sables LLC's Declaration of Nonmonetary Status*.



### **3. Sables is not Immune from Liability**

Sables argues that the District Court did not commit reversible error in granting its Declaration because Chapter 107 shields it from liability. *See Sables Resp.*, p.7.

Sables argues that it cannot be “liable for recording the Notice of Default, Notice of Sale, or Trustees Deed, even if errors are found to exist concerning the loan balance and default information provided by the beneficiary.” *Id.* In this regard Sables states that it is “entitled to rely on the information provided by the beneficiary of the deed of the trust in performing its duties under NRS Chapter 107” and thereafter cites NRS 107.028. *Sables Resp.*, p.1.

Sables goes on to state that it “has no right or duty to perform an audit of the loan information provided, but . . . is entitled to rely on the information provided by the beneficiary.” *Sables Resp.*, p.3. Sables is wrong.

NRS 107.028(6) provides that a trustee has a duty to act “impartially” and “in good faith” and that it will not incur liability “if the trustee corrects [a] good faith error not later than 20 days after discovering the error.” NRS 107.028(6)

NRS 107.028(7) provides that “[i]f, in an action brought by a grantor . . . the court finds that the trustee did not comply with this section, any other provision of this chapter, . . . the court must award the grantor . . . damages of \$5,000 or treble



the amount of actual damages, whichever is greater; . . . and . . . [r]easonable attorney’s fees and costs.” NRS 107.028(7).

It is notable in this regard, that the District Court’s December 31, 2018 Order concluded that Petitioners will succeed on their claim that Defendants violated NRS 107.500(1)(b) “for failing to provide accurate information required to be provided prior to the initiation of a foreclosure.” App. Vol. II, p.313.

Sables cannot hide behind the beneficiary from the verifiable evidence that establishes it had a duty to correct the errors in the recorded documents, or jeopardize being liable for its failure to do the same. *See* NRS 107.028(6)-(7).

For example, the evidence supporting Petitioners’ contention that Sables had a duty to correct its Notice of Default are public documents that were previously admitted into evidence at the November 20, 2018 hearing upon Petitioners’ application for issuance of a temporary restraining order. App. Vol. II, pp.309.

The documents admitted at said hearing include: (1) a Deed of Trust given by Petitioner Vicenta Lincicome on May 23, 2007, and recorded by the Lyon County Recorder on May 25, 2007 (hereinafter “2007 DOT”) (App. Vol. I, pp.154-179); (2) the Loan Modification Agreement (hereinafter “LMA”) modifying the 2007 DOT which was executed by Vicenta Lincicome, individually, and James Smith, on behalf of Bank of America, and was recorded by Bank of America on May 4, 2011 (App. Vol. I, pp.181-186); and (3) the Notice of Default issued by



Sables on November 1, 2017, and recorded on November 3, 2017 (hereinafter “NOD”), acknowledging that the 2007 DOT was modified by the LMA (App. Vol. I, pp.240-245).

These three documents taken together establish that Sables violated its duty to rescind and correct the NOD. In the NOD, Sables stated that “[t]he subject Deed of Trust was modified by Loan Modification Agreement recorded on 5/4/2011,” however the NOD does not reflect any of the LMA’s modified terms. *Compare* App. Vol. I, pp.182-183; (LMA); App. Vol. I, p.240 (NOD). Rather, the NOD only reflects the terms of the original 2007 DOT. *Compare* App. Vol. I, p.240 (NOD), App. Vol. I, pp.155; 167-168; 173-174 (2007 DOT).

Sables’ asserts that it was justified in unquestionably relying upon the beneficiary of the 2007 DOT for information, however, that justification does not reflect well upon Sables recognition of its duty to be impartial or to act in good faith once it was put on notice of the errors. *See* Sables Resp. p.1, 3; NRS 107.028(6).

Thus, had Sables recognized its duty to be impartial and act in good faith, it would have investigated and corrected the recorded documents as required by NRS 107.028(6) within 20 days of November 7, 2018, the date it was initially served with the Complaint, or on November 18, 2018 when it received personal service of the Summons and Complaint. *See* App. Vol. I, pp. 128-129; 297-299, 300-301.



Likewise, Sables' blind obedience to the beneficiary directions prevented it from impartially determining that Petitioners were not in default before exercising the power of sale, which is one of Petitioners' primary contention in this matter. *See* NRS 107.080(2)(a)(2); App. Vol. III, pp.589-590.

Petitioners have argued that Bank of America defaulted upon 2007 DOT as modified by the LMA when it refused Petitioners' payments in 2009 when Petitioners were informed that the LMA did not exist in their system. *See* App. Vol. I, pp.4-5, ¶¶ 18-25.

The evidence admitted before the District Court establishes that Bank of America did not acknowledge the LMA in December of 2011, even though it had recorded the fully executed LMA with the Lyon County Recorder seven months prior. *See* App. Vol. I, p.102; pp. 181-186.

Rather than confronting these troubling facts, Sables uses its Response to the Petition to blast Petitioners for not making "payments on the loan for nearly a decade" and for not being "able to cure the default." Sables Resp., p.6.

Sables' conduct in this matter is abhorrent. Chapter 107 of the Nevada Revised Statutes does not shield a trustee from liability when it shirks its duties, let alone exercises the power of sale when the borrow is not in default, yet Sables has. *See* NRS 107.080(2)(a)(2); App. Vol. I, p.102; pp.181-186.



Had Sables taken just a few minutes to investigate the loan, or even consider the findings of the District Court's December 31, 2018 order, it would have discovered that at no point in the history of the mortgage had Petitioners ever been given the opportunity to make a payment upon LMA's terms. *See App. Vol. I, p.4-10.* It would have realized that some exercise of caution was in order because maybe, just maybe, Petitioners are not in default on their mortgage.

Petitioners' have established the factual basis for Sables' liability and have articulated a very real and actual prejudice resulting from of Sables' reckless conduct, namely the wrongful foreclosure of their home. *See App. Vol. I, p.425-433.* Sables' own failure to research and investigate Petitioners' allegations, which its Response implies did not happen, is sufficient to establish liability under NRS 107.028(7).

In short, Sables' argument that, as trustee of the 2007 DOT, it cannot be liable for violations of specific requirements of NRS 107, including HOBR, is ludicrous and is not an accurate reflection of Nevada law.

Accordingly, because sufficient evidence exists that establishes a factual basis for Sables' liability upon its conduct, Petitioners respectfully request that this Court find that the District Court committed reversible error by granting *Sables LLC's Declaration of Nonmonetary Status* and issue a writ of mandamus directing the Third Judicial District Court to vacate portions of its May 30, 2019 Order.



#### IV. BANK OF AMERICA, N.A.'S RESPONSE

Real Party in Interest Bank of America, N.A. (hereinafter “BANA”), filed its Response to Petition for Writ of Mandamus on November 12, 2019, therein joining Sables’ Response, but also attempting to derail this Court’s review of the *Petition for Writ of Mandamus* by raising the issue of whether the District Court also erred in denying in part BANA’s March 22, 2019 Motion to Dismiss.

According to this Court’s September 25, 2019 *Order Directing Answer*, the Court requested that real parties in interest “file and serve an answer, including authorities addressing the issues raised in the petition.”

BANA raised the issue pertaining to the District Court’s denial of BANA’s Motion to Dismiss, under the precedent established in *Ford v. Showboat Operating, Co.*, 110 Nev. 752, 877 P.2d 546 (1994). *Ford* concerns the issue of whether a party may cross-appeal as a matter of right, even when the party does not “appear to have been aggrieved.” *Id.*

However, this matter concerns a petition for extraordinary relief sought prior to judgment, of which no party is entitled to consideration as a matter of right. Thus, BANA is not entitled to have this Court consider the equivalent of a cross-appeal in this matter as a matter of right. BANA can certainly file its own petition for extraordinary relief if it believes that such relief is warranted. However, this Court should not extend the holding in *Ford* to permit BANA the right to muddy



up this proceeding by derailing the Court's focus from a determination of the issues presented in the Petition.

Notably, BANA's Response does not add any additional argument or authorities relevant to the Petition under consideration. Furthermore, according to this Court's September 25, 2019 Order, the issues raised by BANA exceeds the scope of the issues for which real parties in interest were requested to respond.

Accordingly, because BANA provides no additional relevant arguments or authorities addressing the issues raised in the Petition, Petitioners believe it to be improper to address the issues raised by BANA. However, if the Court believes that BANA has properly sought extraordinary relief, and maybe entitled to the same, Petitioners request that the Court enter an order providing all real parties in interest, including Petitioners' the right to respond.

## V. CONCLUSION

For the reasons stated herein above, and also presented in Petitioners' *Petition for Writ of Mandamus*, Petitioners respectfully request that this Court conclude that the Third Judicial District Court committed reversible error in granting *Sales, LLC's Declaration of Non-Monetary Status* and further abused its discretion in denying Petitioners leave to amend their Complaint to assert additional claims against Sables.



It is further requested that the Court grant Petitioners' Petition and issue a Writ of Mandamus instructing the District Court to vacate the portions of its May 30, 2019 Order granting *Sables, LLC's Declaration of Nonmonetary Status*. It is also requested that the District Court be instructed to enter an order granting Petitioners leave to amend their Complaint as to Sables, LLC, so that additional causes of action may be alleged.

Dated this 27<sup>th</sup> day of November, 2019.

MILLWARD LAW, LTD

By: 

Michael G. Millward, Esq.

NSB# 11212

1591 Mono Ave

Minden, NV 89423

(775) 600-2776

Attorney for Petitioners



## CERTIFICATE OF COMPLIANCE

STATE OF NEVADA                    )  
  )ss.:  
COUNTY OF DOUGLAS            )

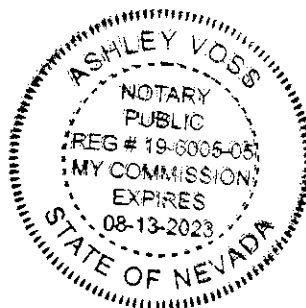
I, Michael G. Millward, Esq., hereby certify that this reply follows the formatting requirements of NRAP 32(a)(4), the typeface requirement of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6). This petition has been prepared and proportionally spaced using Microsoft Word 2010 in Times New Roman, 14 point and with 1 inch margins.

I further hereby certify that I have read this petition, and to the best of my knowledge, information and belief, it is not frivolous or interposed of any improper purpose. I understand that I may be subject to sanction in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

  
Michael G. Millward, Esq.

SUBSCRIBED and SWORN to before  
Me this 27<sup>th</sup> day of November, 2019.

  
\_\_\_\_\_  
NOTARY PUBIC in and for said  
COUNTY AND STATE





## CERTIFICATE OF SERVICE

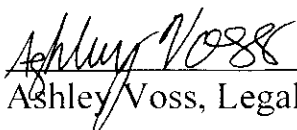
I, Ashley Voss, hereby certify that I am an employee of Millward Law Ltd., and that on the 27<sup>th</sup> day of November, 2019, I deposited for delivery a true and correct copy of the **REPLY TO RESPONSES TO PETITION FOR WRIT OF MANDAMUS** for service by placing an original or true copy thereof in a sealed envelope placed for collection and mailing in Minden, Nevada, on said date, following ordinary business practices to the following:

Shadd A. Wade, Esq.  
Zieve, Brodnax & Steele, LLP  
Nevada Bar No. 11310  
9435 West Russell Road, Suite 120  
Las Vegas, Nevada 89148  
(702) 948-8565

THE HONORABLE LEON A.  
ABERASTURI  
District Court Judge  
Third Judicial District Court  
911 Harvey Lane  
Yerington, NV 89447

Ramir M. Hernandez, Esq.  
Nevada Bar No. 13146  
Wright, Finlay & Zak, LLP  
7785 W. Sahara Avenue, Suite 200  
Las Vegas, Nevada 89117  
(702) 475-7964

Darren T. Brenner, Esq.  
Nevada Bar No. 8386  
Scott R. Lachman, Esq.  
Akerman, LLP  
Nevada Bar No. 12016  
1635 Village Center Circle, Ste. 200  
Las Vegas, Nevada 89134  
(702) 634-5000

  
\_\_\_\_\_  
Ashley Voss, Legal Assistant



FILED

2019 DEC -6 AM 8:56

Case No: 18-CV-01332

Dept.: II

ANDREA ANDERSEN

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ELLIS LINCICOME and VICENTA LINCICOME, )

Plaintiffs, )

v. )

SABLES, LLC, a Nevada limited liability )  
company, as Trustee of the Deed of Trust )  
given by Vicenta Lincicome and dated )  
5/23/2007; FAY SERVICING, LLC, a Delaware )  
limited liability company and subsidiary of )  
Fay Financial, LLC; PROF-2013-M4 LEGAL )  
TITLE TRUST by U.S. BANK, N.A., as Legal )  
Title Trustee; for BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND 2016; and )  
DOES 1-50. )

Defendants. )

ORDER

THIS MATTER came before the Court upon Plaintiff Ellis Lincicome and Vicenta Lincicome (hereinafter "Plaintiffs") *Motion for Leave to File Second Amended Complaint to Substitute Parties and Add Additional Claims for Relief* (hereinafter "Motion"). In Plaintiffs' Motion, Plaintiffs request that the Court grant them leave to file their Second Amended Complaint to substitute additional parties necessary for the Plaintiffs' to obtain relief sought by their Complaint, as well as to assert additional claims pertaining to wrongful foreclosure upon Plaintiffs' real property.

The Court finds that no opposition to the Plaintiffs' Motion has been filed and the time for filing a responsive paper has elapsed.

The Court further finds that because no compelling reason to deny of Plaintiffs request to amend exists, Plaintiffs request to amend their Complaint should be granted.





1 GOOD CAUSE APPEARING, it is hereby Ordered the Plaintiffs' Motion for Leave to File  
2 Second Amended Complaint to Substitute Parties and Add Additional Claims for Relief is  
3 GRANTED.

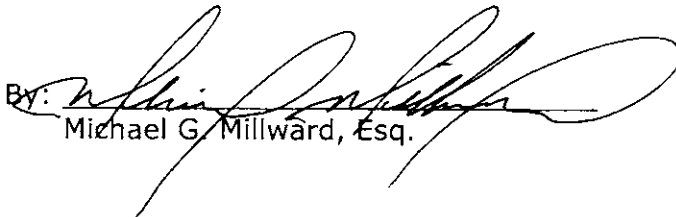
4 Plaintiffs shall have 15 days from the date of service of this Order to file their  
5 Amended Complaint.

6  
7   
8 DISTRICT COURT JUDGE

9 **AFFIRMATION**

10 I hereby affirm pursuant to NRS 239B.03 that the foregoing does not contain the  
11 social security number of any person, or other personal information as defined by NRS  
12 603A.040.

13 Submitted this 19<sup>th</sup> day of November, 2019:

14  
15 BY:   
16 Michael G. Millward, Esq.





FILED

2019 DEC 13 AM 11:32

TANYA SCHEIBINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

Victoria Tovar DEPUTY

Case No: 18-CV-01332

Dept.: II

The undersigned affirms that this document does not  
contain personal information, pursuant to NRS 603A.040

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\*\*\*\*\*

ELLIS LINCICOME and VICENTA LINCICOME, )

Plaintiffs, )

v. )

**MOTION FOR RECONSIDERATION**

SABLES, LLC, a Nevada limited liability )  
company, as Trustee of the Deed of Trust )  
given by Vicenta Lincicome and dated )  
5/23/2007; FAY SERVICING, LLC, a Delaware )  
limited liability company and subsidiary of )  
Fay Financial, LLC; PROF-2013-M4 LEGAL )  
TITLE TRUST by U.S. BANK, N.A., as Legal )  
Title Trustee; for BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND 2016; and )  
DOES 1-50. )

Defendants. )

COME NOW, Plaintiffs ELLIS LINCICOME and VICENTA LINCICOME (hereinafter  
together as "Plaintiffs" or "Lincicomes"), by and through their attorney, Michael G. Millward,  
Esq., of Millward Law, Ltd., and hereby move this Honorable Court to reconsider the Court's  
August 23, 2019, Order as it pertains to its finding that "declaratory relief [is] not a cause of  
action." Plaintiffs' Motion is based upon the pleadings and papers on file herein, and the  
attached Memorandum of Points and Authorities.

Dated this 12<sup>th</sup> day of December, 2019

**MILLWARD LAW, LTD.**

By:   
Michael G. Millward, Esq.



## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

This Court should reconsider its finding and determination that "declaratory relief [is] not a cause of action" made in its August 23, 2019, Order. As established below, when making its decision, the Court overlooked the provisions of Chapter 30 of the Nevada Revised Statutes, NRC 57, NAR 3(A), as well as the numerous decisions of the Nevada Supreme Court in matters where declaratory relief was the sole independent cause of action.

Plaintiffs respectfully request that the Court grant this *Motion for Reconsideration* (hereinafter "*Motion*") the Court's August 23, 2019 Order as to the validity of Plaintiffs' claims for declaratory relief and reverse its prior decision.

### **II. RELEVANT FACTS AND PROCEDURAL HISTORY**

On July 7, 2019, the Lincicomes filed their Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims for Relief (hereinafter "*Amended Motion*").

On or about June 19, 2019, Breckenridge Property Fund 2016, LLC (hereinafter "*Breckenridge*") filed its Opposition to Plaintiffs' Amended Motion (hereinafter "*Opposition*"), therein arguing, in pertinent part to this Motion, that "Plaintiffs' cause of action for declaratory relief fails because 'declaratory relief is not an independent cause of action.'"

On July 9, 2019, Plaintiffs filed their Reply to Breckenridge's Opposition (hereinafter "*Reply*"), there in arguing that Breckenridge fails to cite any primary authority for its claim that a claim for declaratory relief cannot stand on its own in Nevada, and further arguing that Breckenridge's citation to Federal District Court cases is not helpful in interpreting Nevada law.

On July 23, 2019, the Court held a conference call and decided several issues pending in the case. Without opportunity for argument, the Court agreed with Breckenridge and found and determined that declaratory relief is not a cause of action.

On September 27, 2019, Plaintiffs filed their Motion for Leave to File *Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief*.





1 On December 6, 2019, the Court granted the Plaintiffs' Motion for Leave to File Motion  
2 for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief.

3 A motion for reconsideration is warranted when the court may have overlooked a  
4 statute or law. *Kaminski v. Woodbury*, 85 Nev. 667, 669, 462 P.2d 45 (1969). Rehearing of  
5 a prior determination of the court is warranted when "the court has overlooked or  
6 misapprehended a material matter" or "[i]n such other circumstances as will promote  
7 substantial justice." *In the Matter of Dunleavy*, 104 Nev. 784, 786 (1989)(*interpreting a*  
8 *motion to vacate as similar to a motion for reconsideration under the NRAP*).

### 9 III. ARGUMENT

10 The Court should grant Plaintiffs' motion and reverse its August 23, 2019 decision  
11 concluding that the declaratory relief is not a cause of action. In so concluding, the Court  
12 overlooked the following rules and statutes:

- 13 1. The Uniform Declaratory Judgments Act adopted in 1929 and codified in the  
14 Nevada Revised Statutes from 30.010 to 30.160 including NRS 30.030 which  
15 provides as follows in pertinent part:

16 Courts of record within their respective jurisdictions shall have  
17 power to declare rights, status and other legal relations whether  
18 or not further relief is or could be claimed. **No action or**  
19 **proceeding shall be open to objection on the ground that a**  
20 **declaratory judgment or decree is prayed for.** The declaration  
21 may be either affirmative or negative in form and effect; and such  
22 declarations shall have the force and effect of a final judgment or  
23 decree.

24 NRS 30.030 (*emphasis added*).

- 25 2. Rule 57 of the Nevada Rules of Civil Procedure (NRCP) governing entry of a  
26 "Declaratory Judgment" provides as follows in pertinent part:

27 These rules govern the procedure for obtaining a declaratory  
28 judgment under **NRS Chapter 30** or other state law. . . . The  
existence of another adequate remedy does not preclude a  
declaratory judgment that is otherwise appropriate. The court  
may order a speedy hearing of **a declaratory-judgment action.**

NRCP 57 (*emphasis added*).

3. Rule 3(A) of the Nevada Rules Governing Alternative Dispute Resolution (NAR)  
which provides that "[a]ll civil cases commenced in the district courts that have a





probable jury award value not in excess of \$50,000 per plaintiff, exclusive of interest and costs, and regardless of comparative liability, are subject to the program, except . . . **actions for declaratory relief** . . .” (*emphasis added*).

4. NRS 463.343(1) which permits the Gaming Board or Commission among others to obtain judicial determinations as to the meaning of a provision of Chapter 462 “by bringing an **action for declaratory judgment** . . . in accordance with the provision of **chapter 30 of NRS.**”

NRS 463.343(1) (*emphasis added*).

Nevada’s Supreme Court has also ruled on hundreds of cases where declaratory relief was the sole cause of action. Below you will find a sample of the numerous cases decided by the Nevada Supreme Court that support conclusion that a claim for declaratory relief is an independent cause of action that can be tried on its own:

1. *Boca Part Marketplace Syndications Grp, LLC v. Higco, Inc.*, 407 P.3d 761 (2017). In *Boca*, the Nevada Supreme Court determined that a party can bring an action for breach of contract after prevailing upon an action for declaratory relief “[s]o long as the first suit only sought declaratory relief.” *Id.* at 763.
2. *Beckwith v. State Farm Fire & Casualty Company*, 120 Nev. 23, 83. P.3d 275 (2004). In *Beckwith*, the Nevada Supreme Court reviewed an appeal by State Farm concerning an action solely for declaratory relief to determine whether a homeowner’s personal third-party liability policy coverage includes the intentional misconduct of an intoxicated insured. *Id.* The Nevada Supreme Court affirmed the District Court’s determination in favor of State Farm that the policy coverage did not apply to the conduct. *Id.*
3. *Dwello v. American Reliance Ins. Co.*, 115 Nev. 422, 990 P.2d 190 (1999). In *Dwello*, the Supreme Court determined that the homeowner who was, providing babysitting services, does not fall within the business pursuits exclusion of homeowners, thereby confirming that American Reliance had no duty to defend and indemnify the homeowner in a dog bite case. *Id.*



1 4. *Knittle v. Progressive Cass. Ins. Co.*, 112 Nev. 8, 908 P.2d 724 (1996). In *Knittle*,  
2 the Nevada Supreme Court affirmed dismissal of action for declaratory judgment  
3 where the Court found that no justiciable controversy was ripe for determination.  
4 *Id.*

5 In light of the statutes, rules, and cases cited above, there should be no question that  
6 this Court overlooked primary statutory authority as well as Court rules in determining the  
7 declaratory relief is not an independent cause of action in the State of Nevada.

8 The Court should find the words found in NRS 30.030 to be most compelling:

9 **"No action or proceeding shall be open to objection on the ground that a**  
10 **declaratory judgment or decree is prayed for."**

11 NRS 30.030 (*emphasis added*).

12 Thus, because Breckenridge's position clearly is rejected by Nevada statute, any  
13 reliance of the Court upon Breckenridge's citation to Federal District Court cases in  
14 Breckenridge's prior Opposition in determining the Nevada's law as to declaratory relief was  
15 misplaced. This should be found to be especially true where the law as to a party's right to  
16 seek declaratory relief is clearly defined by Chapter 30 of the Nevada Revised Statutes.

#### 17 IV. CONCLUSION

18 For the reasons stated above, Plaintiffs' respectfully request that the Court grant their  
19 motion for reconsideration of the the Court's August 23, 2019 Order, and reverse its  
20 determination that Declaratory Relief is not a cause of action in the State of Nevada.

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //



**AFFIRMATION**

The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not contain the social security number of any person or other personal information as defined by NRS 603A.040.

Dated this 12<sup>th</sup> day of December, 2019.

**MILLWARD LAW, LTD**

By: 

Michael G. Millward, Esq.  
NSB# 11212  
Attorney for Plaintiffs

**MILLWARD LAW, LTD**  
1591 Mono Ave., Minden, NV 89423  
(775) 600-1776





## CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that service of the foregoing *Motion for Reconsideration* was made on the 12<sup>th</sup> day of December, 2019, by depositing a true copy of the same for mailing with the United States Postal Service, addressed to the following:

Shadd A. Wade, Esq.  
Zieve, Brodnax & Steel  
9435 W. Russel Rd., Suite 120  
Las Vegas, NV 89148  
*Attorney for Sables, LLC*

Scott R. Lachman, Esq.  
Darren T. Brenner, Esq.  
Ackerman, LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

Matthew K. Schriever, Esq.  
Hutchison & Steffen, PLLC  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
*Attorney for Breckenridge Property Fund 2016, LLC*

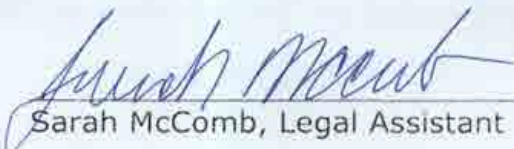
Casey J. Nelson, Esq.  
Wedgewood, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, NV 89146  
*Attorney for Breckenridge Property Fund 2016, LLC*

Christopher A. J. Swift, Esq.  
Ramir M. Hernandez, Esq.  
Wright, Finlay & Zak, LLP  
7785 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117  
*Attorney for Fay Servicing, LLC and US Bank Prof-2013-M4 Legal Title Trust.*

MCM-2018-NPL2  
7101 Wisconsin Avenue, Suite 1012  
Bethesda MD 20814

1900 Capital Trust II  
By U.S. Bank Trust National Assoc.  
300 Delaware Avenue 9<sup>th</sup> Floor  
Wilmington DE 19801

Shellpoint Mortgage Servicing  
Post Office Box 10826  
Greenville, SC 29603-0826

  
Sarah McComb, Legal Assistant





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2019 DEC 20 PM 1:38

TANYA SCEIRINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT  
TANYA SCEIRINE  
CLERK

Case No: 18-CV-01332

Dept.: II

The undersigned affirms that this document does not  
contain personal information, pursuant to NRS 603A.040

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ALBERT ELLIS LINCICOME, JR. and )  
VICENTA LINCICOME, )  
Plaintiffs, )  
v. )  
SABLES, LLC, a Nevada limited liability )  
company, as Trustee of the Deed of Trust )  
given by Vicenta Lincicome and dated )  
5/23/2007; FAY SERVICING, LLC, a )  
Delaware limited liability company and )  
subsidiary of Fay Financial, LLC; PROF- )  
2013-M4 LEGAL TITLE TRUST by U.S. )  
BANK, N.A., as Legal Title Trustee; for )  
BANK OF AMERICA, N.A.; BRECKENRIDGE )  
PROPERTY FUND 2016, a Utah limited )  
liability company; NEWREZ, LLC, d/b/a )  
SHELLPOINT MORTGAGE SERVICING, LLC, )  
substituted in for DOE 1; 1900 CAPITAL )  
TRUST II, BY U.S. BANK TRUST NATIONAL )  
ASSOCIATION, substituted in for DOE 2; )  
MCM-2018-NPL2, substituted in for DOE )  
3; and DOES 4-10. )  
Defendants. )

BRECKENRIDGE PROPERTY FUND 2016, )  
LLC )  
Counterclaimant, )  
vs. )  
ALBERT ELLIS LINCICOME, JR., an )  
individual; VICENTA LINCICOME, an )  
individual; and DOE OCCUPANTS 1-5. )  
Counterdefendants. )

**SECOND AMENDED COMPLAINT  
(ARBITRATION EXEMPT - NAR 3  
"DECLARATORY RELIEF")**



COME NOW, ELLIS LINCICOME and VICENTA LINCICOME, by and through their attorney, Michael G. Millward, Esq., of Millward Law, Ltd., and hereby allege and aver as follows:

**PARTIES**

1. At all times relevant herein, Plaintiff ELLIS LINCICOME is and was a resident of the State of Nevada, residing at 70 Riverside Drive, Dayton, Nevada 89403.

2. At all times relevant herein, Plaintiff VICENTA LINCICOME is and was a resident of the State of Nevada, residing at 70 Riverside Drive, Dayton, Nevada 89403.

3. At all times relevant herein, Defendant SABLES, LLC (hereinafter referred to as "Sables"), is and was a Nevada limited liability company, providing deed of trust trustee services to servicers and financial institutions.

4. At all times relevant herein, Defendant FAY SERVICING, LLC (hereinafter referred to as "Fay Servicing"), is and was a Delaware limited liability company. Fay Servicing provides loan servicing for financial institutions and was the servicer for PROF-2013-M4 LEGAL TITLE TRUST by U.S. BANK NATIONAL ASSOCIATION, the current or former beneficiary of a Deed of Trust encumbering Plaintiffs' residence.

5. Upon information and belief, at all times relevant herein, Defendant PROF-2013-M4 LEGAL TITLE TRUST by U.S. BANK NATIONAL ASSOCIATION (hereinafter referred to as "US Bank"), as legal title trustee, was a mortgage investment trust. At all times relevant herein, US Bank, was a non-title 7 business entity, registered to do business in the State of Nevada, conducting business in the State of Nevada as a national bank, and providing commercial banking services for individuals, businesses, and institutions in the State of Nevada.

6. At all times relevant herein, Defendant BANK OF AMERICA, N.A., successor by merger to BAC Home Loans Servicing, LP, formerly Countrywide Home Loans Servicing, LP, (hereinafter referred to as "Bank of America") was a non-title seven business entity, registered to do business in the State of Nevada, conducting business in the State of Nevada



1 as a national bank, and providing commercial banking services for individuals, businesses,  
2 and institutions in the State of Nevada.

3 7. At all times relevant herein, Defendant and Intervener BRECKENRIDGE  
4 PROPERTY FUND 2016, LLC, a Utah limited liability company (hereinafter "Breckenridge"), is  
5 and was the grantee of a Trustee's Deed recorded with the Lyon County Recorder on January  
6 25, 2019, as Document No. 591393.

7 8. At all times relevant herein, Defendant NEWREZ, LLC d/b/a Shellpoint  
8 Mortgage Servicing, LLC, substituted in for Doe 1 (hereinafter "Shellpoint") is and was a  
9 Delaware limited liability company. Shellpoint provides loan servicing services for  
10 beneficiaries of mortgage security instruments. Upon information and belief, at all times  
11 relevant herein, Defendant 1900 CAPITAL TRUST II, BY U.S. BANK TRUST NATIONAL  
12 ASSOCIATION, substituted herein for Doe 2 (hereinafter referred to as "Capital Trust"), as  
13 legal title trustee, was a mortgage investment trust. At all times relevant herein, Capital  
14 Trust, was a non-title 7 business entity, registered to do business in the State of Nevada,  
15 conducting business in the State of Nevada as a national bank, and providing commercial  
16 banking services for individuals, businesses, and institutions in the State of Nevada.

17 9. Upon information and belief, Defendant MCM-2018-NPL2, is an investment  
18 Trust administered by MCM Capital, LLC, substituted herein for Doe 3 (hereinafter "MCM") as  
19 legal title trustee. MCM is a Delaware limited liability company and provides services as a  
20 mortgage investor, manager, advisor and technology provider.

21 10. The true names, capacities, and/or involvement of the DOE Defendants named  
22 herein are unknown to Plaintiffs ELLIS LINCICOME and VICENTA LINCICOME (together  
23 hereinafter referred to as "the Lincicomes"), who therefore sue said Defendants by fictitious  
24 names. The Lincicomes are informed and believe, and thereon allege, that those persons or  
25 entities are the partners, owners, shareholders, agents, employees, or alter egos of the  
26 Defendants named herein, or those persons have an interest in the deed of trust or  
27 mortgage loan, or are otherwise affected by the relief sought herein. The Lincicomes pray  
28 leave to amend this Complaint to show their true names and capacities when the same have



1 been determined. The Lincicomes are informed and believe, and thereon allege, that each of  
2 the Defendants named herein as a DOE is legally responsible in some manner for the events  
3 and happenings herein referred to in this lawsuit.

#### 4 **JURISDICTION**

5 11. The Third Judicial District Court in and for the County of Lyon has personal  
6 jurisdiction over all parties pursuant to NRS 14.065 and subject matter jurisdiction over all  
7 claims asserted in this Complaint pursuant to Article VI of the Nevada Constitution.

8 12. Mandatory arbitration of this matter is exempt under Rule 3(A) of the Nevada  
9 Arbitration Rules because this matter concerns "actions for declaratory relief." NAR 3A.

#### 10 **VENUE**

11 13. The Third Judicial District Court in and for the County of Lyon is the proper  
12 venue for this action pursuant to NRS 13.010 because the actions arose out of contracts  
13 executed and to be performed in Lyon County, Nevada, and the real property at issue and  
14 affected by the relief sought is located in Lyon County, Nevada.

#### 15 **GENERAL ALLEGATIONS**

16 14. In May of 2007, the Lincicomes agreed to enter into a residential mortgage  
17 loan with Sierra Pacific for the purchase of a home located at 70 Riverside Drive, Dayton,  
18 Nevada 89403 (hereinafter "Residence" or "Premises").

19 15. Sierra Pacific requested that Plaintiff Ellis Lincicome (hereinafter individually  
20 referred to as "Ellis") make a withdrawal of \$80,000 from his 401K retirement plan to be  
21 contributed as part of the down payment of the home purchase.

22 16. On May 23, 2007, Vicenta Lincicome (hereinafter individually referred to as  
23 "Vicenta") executed a Promissory Note in favor of Sierra Pacific as part of an interest only  
24 residential mortgage loan.

25 17. On that same day, May 23, 2007, Vicenta executed a Deed of Trust  
26 (hereinafter "Deed of Trust") in favor of Mortgage Electronic Registration Systems, Inc.  
27 (hereinafter referred to as "MERS"), a Delaware Corporation that tracks ownership interests  
28 and servicing rights in mortgage loans and holds title to mortgages solely as nominee for its



1 member-lenders, as the nominee for Sierra Pacific to secure the mortgage loan. The  
2 Promissory Note and Deed of Trust are attached hereto as **Exhibit 1.**

3 18. In or about March of 2008, the Lincicomes learned that they had incurred a tax  
4 bill of nearly \$20,000 for having taken the \$80,000 distribution from Ellis's 401k.

5 19. The Lincicomes were unable to make their June 1, 2008, mortgage payment  
6 and were unable to later catch up on past due payments.

7 20. Also on April 27, 2009, Bank of America, N.A., and Countrywide Bank, N.A.,  
8 merged. See Ex. C to *Motion for Relief of Stay* attached as **Exhibit 2.**

9 21. Bank of America (or Recontrust Company, N.A.) recorded a Notice of Default  
10 on January 23, 2009 as Document No.437084, accelerating the sum due under the  
11 Promissory Note.

12 22. After receiving a Notice of Default and Notice of Sale, the Lincicomes began the  
13 process of applying for a mortgage workout with Bank of America.

14 23. On July 31, 2009, Vicenta executed a Loan Modification Agreement (hereinafter  
15 "2009 LMA") with BAC Home Loans Servicing, LP, which provided that the first payment of  
16 \$2,272.62 was to be made September 1<sup>st</sup>, 2009. A copy of the 2009 Loan Modification  
17 Agreement is attached hereto as **Exhibit 3.**

18 24. The LMA extended the maturity date to August 1, 2049, and, as of August 1,  
19 2009, the interest rate applicable to their loan would be reduced from the current rate of  
20 6.875% to 4.875%. The LMA provided that on September 1, 2014, the interest rate would  
21 increase to 5.375%. Under the LMA all arrears were to be capitalized as of September 1,  
22 2009, and the new principal balance owed would be \$417,196.58. A copy of the "Important  
23 Message About Your Loan" notice is attached as **Exhibit 4.**

24 25. On July 31, 2009, the LMA, which was fully executed by Vicenta, was sent by  
25 Federal Express in the reusable Fed-Ex envelope provided with the loan modification package  
26 to BAC Home Loans Servicing, LP Modification, 100 Beecham Drive, Suite 104, Pittsburgh, PA  
27 15205.  
28



1           26.     On September 1, 2009, the Lincicomes travelled to the Bank of America branch  
2 located in Carson City to make their first payment under the LMA. The banker assisting the  
3 Lincicomes was a young woman named Crystal. After searching for information concerning  
4 the Lincicomes' loan, Crystal could not find any record of the LMA in their system. Crystal  
5 accepted payment under the understanding that it was to be credited against the Lincicomes'  
6 loan as modified by the LMA, once the LMA had been entered into their system. Crystal told  
7 the Lincicomes to contact Bank of America customer service and request a coupon book for  
8 the LMA to make payments easier.

9           27.     On or about September 1, 2009, Vicenta contacted Bank of America Customer  
10 Service and was told to go to the Customer Assistance Center on Rose Drive in Reno. The  
11 Lincicomes were assisted by Manager Barbara Keady. The Lincicomes showed Ms. Keady a  
12 signed copy of the LMA. Ms. Keady informed the Lincicomes that Bank of America would  
13 investigate the status of the LMA.

14           28.     On or about October 1, 2009, Vicenta travelled to the Carson City Bank of  
15 America branch to make the second payment on the LMA. This time the banker, a middle-  
16 aged woman, refused the payment and indicated that there was no record of the existence  
17 of the LMA in Bank of America's computer system.

18           29.     Bank of America provided a Home Loan Statement dated October 29, 2009,  
19 which establishes that Bank of America had not applied the terms of the LMA to the  
20 Lincicomes' mortgage loan. The October 29, 2009 statement is attached as **Exhibit 5**. The  
21 statement reflects an incorrect payment amount, an incorrect interest rate, and an incorrect  
22 past due amount. Ex. 5.

23           30.     From October 1, 2009, to December of 2011, the Lincicomes continued to  
24 contact Bank of America by phone to inquire as to the status of the LMA and make payment.  
25 On each phone call, the Bank of America customer service representative would inform the  
26 Lincicomes that the matter was being investigated. Copies of correspondence from Bank of  
27 America dated December 15, 2009, February 23, 2010, March 12, 2010, October 19, 2011  
28 and December 23, 2011, are attached hereto as **Exhibit 6**.



1           31. On March 12, 2010, the Lincicomes again contacted Bank of America by phone  
2 and again were informed that the status of the LMA was still being investigated. However,  
3 during this call the Lincicomes were advised to seek help from the Department of Housing  
4 and Urban Development's (HUD) Financial Guidance Center.

5           32. In April, the Lincicomes met with HUD Counselor Lucy Powell. Ms. Powell  
6 assisted the Lincicomes with the design of an action plan, which included the filing of a  
7 Chapter 13 Bankruptcy petition to cure the arrearage with Bank of America that would have  
8 accrued since the LMA was signed, and to force Bank of America to find and recognize the  
9 LMA.

10           33. The Lincicomes filed a petition for Chapter 13 Bankruptcy protection before the  
11 United States Bankruptcy Court, District of Nevada, on April 6, 2010, under Case No. 10-  
12 51219, and therein listed Bank of America as a secured creditor.

13           34. The deadline for Bank of America to file a claim was set by the Bankruptcy  
14 Court Clerk to expire on August 12, 2010. A copy of the *Notice of Chapter 13 Bankruptcy*  
15 *Case, Meeting of Creditors, & Deadlines* is attached as **Exhibit 7**.

16           35. Neither Bank of America nor BAC Home Loan Servicing filed a claim in the  
17 Lincicomes' Bankruptcy case.

18           36. Without a claim filing or information regarding the validity of the LMA and the  
19 current arrears to go off of, the Lincicomes were unable to include payment of arrears as  
20 part of their Chapter 13 plan.

21           37. Upon information and belief, in early 2011, Bank of America found the LMA.

22           38. Senior Vice President of Bank of America, James S. Smith, executed the LMA  
23 on March 22, 2011.

24           39. A fully executed copy of the LMA was recorded with the office of the Lyon  
25 County Recorder on May 4, 2011, as Document No. 475808.

26           40. Bank of America did not give the Lincicomes notice that the LMA had been  
27 signed and recorded.  
28



1           41. The Lincicomes remained unaware of the fact that the LMA had been found, or  
2 that it had been agreed to and fully executed by Bank of America, until 2017.

3           42. On November 26, 2014, Bank of America appeared in the Lincicomes'  
4 Bankruptcy case and filed a *Motion for Relief of Stay* seeking relief from the automatic stay,  
5 pursuant to 11 U.S.C. § 362.

6           43. In the *Motion for Relief of Stay*, Bank of America did not inform the Bankruptcy  
7 Court of the 2009 LMA, nor did it provide the Court with a copy of the LMA recorded on May  
8 4, 2011.

9           44. On June 15, 2015, the Bankruptcy Court Clerk granted the Lincicomes  
10 discharge of all of their scheduled debts. A copy of the June 15, 2015 Discharge Order is  
11 attached as **Exhibit 8**.

12           45. Prior to discharge, but after the Court had entered an order granting Bank of  
13 America's *Motion for Relief of Stay*, the Lincicomes again applied for a loan modification.

14           46. On or about April 24, 2015, Bank of America accepted the loan modification  
15 application and required the Lincicomes to complete three trial modification payments before  
16 they could move forward with modifying their mortgage loan. A copy of April 24, 2015 loan  
17 modification notice is attached as **Exhibit 9**.

18           47. The April 24, 2015 loan modification notice provided that upon completion of  
19 the trial payments, the Lincicomes' mortgage would be extended to May 1, 2055, that the  
20 interest rate would be reduced to 4.125%, and that if it is determined that the unpaid  
21 balance of the Lincicomes mortgage exceeds 115% of the current value of their home, the  
22 Lincicomes would be eligible to have up to 30% of their principal balance deferred and not  
23 be subject to interest. Ex.9.

24           48. The Lincicomes made the first trial payment of \$2,013.78 on May 28, 2015.  
25 The second trial payment was made on July 1, 2015.

26           49. Then on August 1, 2015, while attempting to make the third trial payment,  
27 Bank of America informed the Lincicomes that their loan had been transferred to Fay  
28



1 Servicing, LLC. A copy of the check which the Lincicomes attempted to tender on August 1,  
2 2015, payable to Bank of America, is attached hereto as **Exhibit 10**.

3 50. The Lincicomes called Fay Servicing that same day, August 1, 2015, to make  
4 payment and spoke with account manager Rosalind Jackson. Ms. Jackson informed the  
5 Lincicomes that Fay Servicing does not honor Bank of America modifications.

6 51. On August 10, 2015, Fay Servicing generated a Mortgage Statement indicating  
7 the amount due on the Lincicomes' account on September 1, 2015, was \$207,599.70, and  
8 reflecting an interest rate of 6.875 percent and indicating there were 85 payments that  
9 remain due on the account. A copy of Fay Servicing's Mortgage Statement generated August  
10 10, 2015, is attached hereto as **Exhibit 11**.

11 52. On August 11, 2015, Fay Servicing, LLC, sent a letter to the Lincicomes that  
12 Bank of America was no longer their loan servicer and that beginning August 1, 2015, all  
13 payment should be sent to Fay Servicing.

14 53. The Lincicomes were devastated when neither Bank of America nor Fay  
15 Servicing would accept their payment and that Fay Servicing would not honor the April 24,  
16 2015 loan modification offer.

17 54. On November 10, 2015, Bank of America assigned its interest in the Deed of  
18 Trust to PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title  
19 Trustee (hereinafter "US Bank"). A copy of the November 10, 2015 Assignment is attached  
20 as **Exhibit 12**.

21 55. The November 10, 2015, Assignment to US Bank was recorded with the Lyon  
22 County Recorder as Document No. 544042. Ex.12.

23 56. In 2016, the Lincicomes applied for the Home Affordable Modification Program  
24 (HAMP) modification through Fay Servicing. Fay Servicing informed the Lincicomes that they  
25 only qualified for a Home Affordable Foreclose Alternatives (HAFA) Short Sale. The  
26 Lincicomes appealed Fay Servicing's denial of their qualification for HAMP.

27 57. On September 7, 2016, Fay Servicing sent the Lincicomes a response to their  
28 appeal of their denial therein indicating that the Lincicomes did not have sufficient income to



1 qualify for a modification, and also that they were not qualified for the HAMP Unemployment  
2 Program (HAMP UP) "because the property is not your primary residence."

3 58. The Lincicomes have continuously used and claimed their home located at 70  
4 Riverside Dr., Dayton, Nevada, as their residence.

5 59. After being denied, the Lincicomes reached out to Senator Harry Reid's office  
6 for help. Shortly thereafter Fay Servicing offered the Lincicomes a trial modification at  
7 \$2,528.86 per month.

8 60. The Lincicomes completed the three trial payments by December 1, 2016.  
9 Then on December 15, 2016, Fay Servicing sent the Lincicomes the final modification  
10 agreement. After reviewing the agreement, the Lincicomes knew that entering into the  
11 modification under the proposed terms would leave them in a terrible financial position, and  
12 would likely result in another default upon the modified terms. The Lincicomes decided not  
13 to enter into the agreement.

14 61. On December 20, 2016, the Lincicomes then elected to enter the State of  
15 Nevada Foreclosure Mediation Program.

16 62. Anita Conboy was appointed mediator and mediation was scheduled and held  
17 on April 17, 2017. The mediation was terminated when no agreement between the parties  
18 was reached. No certificate of mediation was issued because Fay Servicing did not bring any  
19 certifications for any of the documents as required by law.

20 63. On November 3, 2017, Sables, LLC, as Trustee under the Deed of Trust,  
21 recorded its *Notice of Breach and Default and Election to Sell the Real Property under Deed*  
22 *of Trust* (hereinafter "NOD"). A copy of the NOD is attached hereto as **Exhibit 13**.

23 64. The NOD provides that as of October 31, 2017, \$265,572.39 is owed in  
24 arrears. Even though the NOD acknowledges that the "subject Deed of Trust was modified  
25 by Loan Modification Agreement recorded as Instrument 475808 . . . recorded on 5/4/2011  
26 . . . in the office of the County recorder of Lyon County," it also provides that all monthly  
27 installments from "9/1/2008" forward are due.  
28



1           65.    The NOD is incorrect because the 2009 LMA was effective July 31, 2009, with  
2 the first installment to be made on 9/1/2009 instead of 8/1/2008. Ex.3.

3           66.    The NOD includes an Affidavit of Authority signed on October 5, 2016, by  
4 Veronica Talley, as a "Foreclosure Specialist IV" (hereinafter "Talley Affidavit") stating that  
5 Fay Servicing has complied with the requirements of NRS 107.080.

6           67.    The Talley Affidavit misstates the date of recording of the November 10, 2015  
7 Assignment from Bank of America to PROF-2013-M4 Legal Title Trust, by U.S. Bank National  
8 Association, as Legal Title Trustee, as having been recorded November 25, 2016, instead of  
9 the actual date of recording November 25, 2015. Ex.13; Ex.12.

10          68.    The Talley Affidavit was signed nearly 13 months prior to the recording of the  
11 NOD.

12          69.    The Declaration of the Mortgage Service attached to the NOD indicates that  
13 pursuant to the requirements of NRS 107.510 the mortgage servicer contacted the borrower  
14 to assess the borrower's financial situation and to explore options for the borrower to avoid a  
15 foreclosure sale. The Declaration was signed and dated April 5, 2016, nearly 19 months  
16 prior to the signing of the NOD to which it is attached. Ex.13, p.6.

17          70.    The Lincicomes attended a second mediation on April 3, 2018, and a Certificate  
18 of Mediation was issued on October 4, 2018.

19          71.    The Certificate of Mediation provides that the Lincicomes will voluntarily  
20 relinquish the property.

21          72.    Even though a deed in lieu of foreclosure was discussed as the Lincicomes' only  
22 option at the mediation, and recommended by their attorney Geoffrey Giles, they did not  
23 agree to relinquish their property.

24          73.    On October 12, 2018, Sables, LLC, recorded its *Notice of Trustee's Sale* with  
25 the Lyon County Recorder as Document No. 587470.

26          74.    The October 12, 2018 *Notice of Trustee's Sale* provides that the date of sale is  
27 November 9, 2018, at 11:00 AM, at the Lyon County Court House on 31 S. Main Street  
28 Yerington, Nevada 89447.



1           75.    On November 7, 2018, the Lincicomes filed a *Complaint* for Declaratory Relief  
2 and an *Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent*  
3 *Injunction* in the Third Judicial District Court of the State of Nevada, as Case No. 18-CV-  
4 01332.

5           76.    On November 7, 2018, a *Notice of Lis Pendens* was filed in the Third Judicial  
6 District Court Case No. 18-CV-01332 against the Premises and was recorded on November  
7 8, 2018, with the Lyon County Recorder as Document No. 588549.

8           77.    On November 8, 2018, the Third Judicial District Court entered an *Order*  
9 restraining and enjoining Defendants from foreclosing on the Property. A copy of the  
10 November 8, 2018 Order is attached as **Exhibit 14**.

11           78.    On November 8, 2018, a *Notice of Entry of Order* concerning entry of the  
12 Court's November 8, 2018 *Order* was served on all interested parties by mail.

13           79.    On November 14, 2018, the Third Judicial District Court entered a *Corrected*  
14 *Order* restraining and enjoining Defendants from foreclosing on the Property.

15           80.    On November 20, 2018, a *Notice of Entry of Order* concerning entry of the  
16 Court's November 14, 2018 *Corrected Order* was served on all interested parties.

17           81.    On November 20, 2018, the Court held a hearing on the *Application for Ex*  
18 *Parte Restraining Order, Preliminary Injunction and Permanent Injunction*.

19           82.    On December 21, 2018 the Third Judicial District Court Clerk took Sable's  
20 default.

21           83.    On December 28, 2018, the Lincicomes received a notice from Shellpoint  
22 Mortgage Servicing, LLC, indicating that MCM 2018-NPL2 is the new beneficiary of the Deed  
23 of Trust.

24           84.    On December 31, 2018, the Third Judicial District Court entered the Order  
25 upon the November 20, 2018 hearing.

26           85.    On January 4, 2019, a *Notice of Entry of Order* concerning entry of the Court's  
27 December 31, 2018 *Order* was served on all interested parties.

28           86.    On January 4, 2019, Sables, sold the Premises at foreclosure to Breckenridge.



1           87. On January 17, 2019, the Lincicomes received a notice from Shellpoint that  
2 1900 Capital Trust II, by U.S. Bank Trust National Association, is the new beneficiary of the  
3 Deed of Trust.

4           88. On January 25, 2019, a *Trustee's Deed Upon Sale* was recorded in the office of  
5 the Lyon County Recorder as Document No. 591393. A copy of the Trustee's Deed Upon  
6 Sale recorded as Document No. 591393 is attached hereto as **Exhibit 15**.

7           89. The Trustee's Deed was issued in violation of NRS 107.0805.

8                           **FIRST CAUSE OF ACTION**

9                           **(Wrongful Foreclosure)**

10          90. Plaintiffs re-allege and incorporate by this reference each and every allegation  
11 contained in paragraphs 1 through 89, hereinabove, as though fully set forth herein.

12          91. This cause of action is asserted against US Bank, MCM, Capital Trust, Sables  
13 and their respective agents who are named parties herein.

14          92. Sables is named as a prospective Defendant herein only to the extent allowed  
15 by NRS 107.029, and shall have no duty or requirement to defend against this claim as long  
16 as it remains a "nonparty participant" in the action.

17          93. By acquiring the benefits of the Deed of Trust, US Bank, MCM, Capital Trust,  
18 Sables, and their respective agents, including Fay Servicing and Shellpoint, assumed the  
19 duties imposed by law on a beneficiary of a deed of trust including the express obligations  
20 contained in the Deed of Trust, and subjected themselves to the statutory duties prerequisite  
21 to conducting a foreclosure sale.

22          94. Defendants had a legal duty to comply with the provisions of Chapter 107 of  
23 the Nevada Revised Statutes, including sections NRS 107.080 and NRS 107.400 through  
24 NRS 107.560, which sections are also known as the "Homeowners Bill of Rights Act."

25          95. Defendants were given actual and constructive notice that the 2009 LMA  
26 modified the Deed of Trust pertaining to Plaintiffs' Residence prior to the foreclosure sale  
27 that occurred January 4, 2019.



1 96. Prior to the foreclosure sale in this matter, Defendants US Bank, Fay Servcing,  
2 and Sables were given actual notice that the terms Deed of Trust, as modified by the 2009  
3 LMA, had not been enforced by Bank of America or US Bank, or their respective agents.

4 97. Prior to the foreclosure sale in this matter, Defendants US Bank, Fay Servcing,  
5 and Sables were given actual notice that Plaintiffs were asserting that Bank of America, the  
6 prior beneficiary of the Deed of Trust had breached its obligation to accept payment from  
7 Plaintiffs in the fall of 2009.

8 98. Upon information and belief, Defendants US Bank and/or Fay Servicing  
9 requested that Sables conduct a foreclosure sale, even though doing so would be in violation  
10 of its legal duties under NRS 107.080.

11 99. On January 4, 2019, in violatation of the duties and requirements of the  
12 applicable sections of NRS 107, including NRS 107.080, Sables exercised the power of sale  
13 to foreclose and sell the Plaintiffs' Residence to Breckenridge.

14 100. As a proximate and direct result of Defendants' wrongful conduct and  
15 foreclosure of Plaintiffs' Residence, Plaintiffs have been damaged in the sum of an amount in  
16 excess of Fifteen Thousand Dollars (\$15,000) to be proved at trial.

17 101. In addition to actual damages, Plaintiffs seek treble damages pursuant to NRS  
18 107.028, NRS 107.080, NRS 107.560.

19 102. The Lincicomes have had to retain the services of an attorney to prosecute this  
20 action and are entitled to reasonable attorney's fees and cost of suit incurred herein as  
21 permitted under NRS 107.080(8).

## 22 **SECOND CAUSE OF ACTION**

### 23 **(Declaratory Relief – NRS 30.010 *et. seq.* – NAR 3)**

24 103. Plaintiffs re-allege and incorporate by this reference each and every allegation  
25 contained in paragraphs 1 through 102, hereinabove, as though fully set forth herein.

26 104. This cause of action is asserted against Bank of America, US Bank, MCM,  
27 Captial Trust, Salbes, Fay Servicing, Shellpoint, and Breckenridge.



1           105. Sables is named as a prospective Defendant herein only to the extent allowed  
2 by NRS 107.029, and shall have no duty or requirement to defend against this claim as long  
3 as it remains a “nonparty participant” in the action.

4           106. An actual controversy has arisen and now exists between the Lincicomes and  
5 all named Defendants which requires a determination of rights, responsibilities, interests,  
6 and liabilities of the parties including those declarations sought below.

7           107. An actual controversy has arisen and now exists between the Lincicomes and  
8 the named Defendants which requires a determination of rights, responsibilities, interests,  
9 and liabilities of the parties including those declarations sought below.

10           108. Plaintiffs seek a declaration as to the terms of the under the May 23, 2007  
11 Deed of Trust, as modified by the 2009 LMA, including Plaintiffs’ and Bank of America’s rights  
12 and duties thereunder.

13           109. Plaintiffs seek a declaration as to Defendant Bank of America’s duty to accept  
14 payments from Plaintiffs in October of 2009 under the Deed of Trust as modified by the 2009  
15 LMA.

16           110. Plaintiffs seek a declaration as to any duty Plaintiffs had to perform following  
17 Bank of America’s rejection of Plaintiffs’ payment in October of 2009.

18           111. Plaintiffs seek a declaration as to any event or occurrence that constitutes a  
19 cure for Bank of America’s rejection of Plaintiffs October 2009 payment.

20           112. Plaintiffs seek a declaration as to the effect of Bank of America’s failure to  
21 incorporate and give effect to the 2009 LMA.

22           113. Plaintiffs seek a declaration as to the effect of the November 10, 2015,  
23 assignment of the Deed of Trust, as modified by the 2009 LMA from Bank of America to US  
24 Bank.

25           114. Plaintiffs seek a declaration as to any warranty given by Bank of America to US  
26 Bank when Bank of America assigned its beneficial interest under the Deed of Trust, as  
27 modified by the 2009 LMA, to US Bank on November 10, 2015.  
28



1 115. Plaintiffs seek a declaration as to the effect of US Bank, Fay Servicing, and  
2 Shellpoint's failure to incorporate and give effect to the 2009 LMA.

3 116. Plaintiffs seek a declaration of US Bank's rights to enforce any beneficial  
4 interest it did or continues to have in the Deed of Trust, as modified by the 2009 LMA,  
5 following the assignment of the same from Bank of America on November 10, 2015.

6 117. Plaintiffs seek a declaration of US Bank's, MCM, and/or Capital Trust's right to  
7 enforce the Deed of Trust as modified by the 2009 LMA.

8 118. Plaintiffs seek a declaration of Plaintiffs' and Defendants' rights in respect to  
9 the provisions of NRS 106 and NRS 107.

10 119. Plaintiffs seek a declaration of Sables duties, as Trustee of the Deed of Trust,  
11 to investigate its rights to exercise the power of sale pursuant to NRS 107.080.

12 120. Plaintiffs seek a declaration of Sables right, as Trustee of the Deed of Trust, to  
13 exercise the power of sale under the provisions of NRS 107.080.

14 121. Plaintiffs seek a declaration of the validity of the Trustee's Deed recorded on  
15 January 25, 2019.

16 122. Plaintiffs seek a declaration of Breckenridge's interest in Plaintiffs' Residence.

17 123. Judicial declarations sought herein are necessary and appropriate in order for  
18 Plaintiffs to ascertain their rights and duties under the Deed of Trust, as modified by the  
19 2009 LMA, as well as their interest in the Residence to maintain the quiet enjoyment of their  
20 property free from any disturbance by Defendants and Breckenridge.

21 124. Plaintiffs have had to retain the services of an attorney to prosecute this action  
22 and are entitled to reasonable attorney's fees and costs of suit incurred herein.

### 23 **THIRD CAUSE OF ACTION**

#### 24 **(Quiet Title)**

25 125. Plaintiffs re-allege and incorporate by this reference each and every allegation  
26 contained in paragraphs 1 through 124, hereinabove, as though fully set forth herein.

27 126. This cause of action is asserted against Breckenridge.



1 127. Upon information and belief, Defendants US Bank and Fay servicing requested  
2 Sables, as Trustee of the Deed of Trust, as modified by the 2009 LMA, exercise the power of  
3 sale to cause the foreclosure sale of Plaintiffs' Residence.

4 128. Pursuant to NRS 107.080(1), the power of sale "conferred upon a trustee [is]  
5 to be exercised after a breach of the obligation for which transfer is security." NRS  
6 107.080(1).

7 129. Pursuant to 107.080(2)(a)(2), the power of sale "must" not be exercised until  
8 "the grantor . . . has . . . failed to make good the deficiency in performance or payment."  
9 NRS 107.080(2)(a)(2).

10 130. Pursuant to 107.080(5)(a)-(c), a court is required to declare a sale void made  
11 pursuant to NRS 107.080, where:

12 (a) The trustee or other person authorized to make the sale does  
13 not substantially comply with the provisions of this section;

14 (b) Except as otherwise provided in subsection 6, an action is  
15 commenced in the county where the sale took place within 30  
16 days after the date on which the trustee's deed upon sale is  
recorded pursuant to subsection 10 in the office of the county  
recorder of the county in which the property is located; and

17 (c) A notice of lis pendens providing notice of the pendency of the  
18 action is recorded in the office of the county recorder of the county  
19 where the sale took place within 5 days after commencement of  
the action.

20 NRS 107.080(5)(a)-(c).

21 131. Bank of America breached the Deed of Trust, as modified by the 2009 LMA,  
22 when it rejected Plaintiffs' payment in October of 2009.

23 132. Bank of America and US Bank have not cured the October 2009 breach.

24 133. Plaintiffs were not in breach of the 2009 LMA at the time of the recording of the  
25 NOD on November 3, 2017.

26 134. Plaintiffs were not in breach of the 2009 LMA at the time of the recording of the  
27 Notice of Trustee's Sale on October 12, 2018.  
28







(I) The amount of payment required to make good the deficiency in performance or payment . . . ;

(II) The amount in default;

. . .

(IV) The amount of accrued interest and late charges;

(V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale . . . .

NRS 107.0805(1)(b)(3).

145. The Lincicomes have not received a statement by any financial institution concerning their home loan from September 2009 forward that accurately reflects the interest rate, principal balance, or last payment date.

146. No affidavit provided by the Defendants in this matter has complied with NRS 107.0805(1)(b)(3).

147. The failure to provide the Lincicomes with accurate information required by NRS 107.400-107.560 is a material violation of the Homeowner's Bill of Rights.

148. As an approximate result of Defendants' violations of NRS 107.400 through NRS 107.560, and NRS 107.0805, the Lincicomes have been damaged in excess of Fifteen Thousand Dollars (\$15,000) and are entitled to relief provided for pursuant to NRS 107.400 through NRS 107.560 and NRS 107.560 including treble and statutory damages.

149. Plaintiffs have had to retain the services of an attorney to prosecute this action and are entitled to reasonable attorney's fees and costs of suit incurred herein as permitted pursuant to NRS 107.560.

## **FIFTH CAUSE OF ACTION**

### **(Breach of Contract – Bank of America)**

150. Plaintiffs re-allege and incorporate by this reference each and every allegation contained in paragraphs 1 through 149, hereinabove, as though fully set forth herein.

151. On July 11, 2009, Defendant Bank of America offered Plaintiff Vicenta Lincicome a permanent loan modification.

152. On July 31, 2009, following receipt of the offer, Plaintiff Vicenta Lincicome accepted and executed the 2009 LMA provided by Defendant Bank of America.



1           153. Following Vicenta Lincicome's execution of the 2009 LMA, she immediately sent  
2 the agreement via Federal Express in the envelope that had been provided by Bank of  
3 America.

4           154. Upon information and belief, Defendant Bank of America failed to process the  
5 2009 LMA in its system.

6           155. On March 22, 2011, James Smith executed the 2009 LMA on behalf of Bank of  
7 America. Ex.3.

8           156. Bank of America caused the 2009 LMA to be recorded with the Lyon County  
9 Recorder on May 4, 2011. Ex.3.

10          157. At no time, other than being provided a copy of the recorded 2009 LMA in  
11 2017, did the Lincicomes receive notice, written or otherwise, that Bank of America had  
12 located and signed the 2009 LMA.

13          158. On September 1, 2009, Bank of America accepted Plaintiff Vicenta Lincicome's  
14 payment of \$2,276.72.

15          159. On October 1, 2009, Bank of America rejected Plaintiff Vicenta Lincicome's  
16 payment of \$2,276.72 and informed her that they could not process a payment for less than  
17 the current payment amount.

18          160. From October 1, 2009, through December of 2011, Bank of America refused to  
19 accept all offers to tender payment of \$2,276.72 under the 2009 LMA.

20          161. All verbal and written communications between October 1, 2009, through  
21 March of 2010, that were received from Bank of America requesting the status of the 2009  
22 LMA were responded to by Bank of America with the indication that it was continuing to  
23 research or investigate the matter.

24          162. By failing to process the 2009 LMA, and payments according to the 2009 LMA's  
25 terms, Bank of America materially breached the 2009 LMA.

26          163. But for Defendant Bank of America's material breach of the 2009 LMA, the  
27 Lincicomes' property would not have been subject to foreclosure sale.  
28



1 164. As a proximate cause of Defendant Bank of America's material breach of the  
2 2009 LMA, Plaintiffs have suffered economic losses and general damages in excess of Fifteen  
3 Thousand Dollars (\$15,000) to be proved at trial.

4 165. Plaintiffs have had to retain the services of an attorney to prosecute this action  
5 and are entitled to reasonable attorney's fees and costs of suit incurred herein.

#### 6 **SIXTH CAUSE OF ACTION**

##### 7 **(Breach of Duty to Act in Good Faith and Fair Dealing – Bank of America)**

8 166. Plaintiffs re-allege and incorporate by this reference each and every allegation  
9 contained in paragraphs 1 through 165, hereinabove, as though fully set forth herein.

10 167. At all times material hereto, Defendant Bank of America owed to Plaintiff  
11 Vicenta Lincicome a duty to deal fairly and in good faith with respect to their contractual  
12 relationship.

13 168. Defendant Bank of America violated its duty of good faith and fair dealing by  
14 refusing to perform under the provisions of the 2009 LMA by not accepting Vicenta's timely  
15 payments from October 1, 2009, forward so that the Lincicomes could keep current on their  
16 loan under the 2009 LMA.

17 169. That as a direct and proximate result of Defendant Bank of America's breach of  
18 its duty to Plaintiff Vicenta Lincicome, Plaintiffs have suffered economic losses and general  
19 damages in excess of Fifteen Thousand Dollars (\$15,000) to be proved at trial.

20 170. Plaintiffs have had to retain the services of an attorney to prosecute this action  
21 and are entitled to reasonable attorney's fees and costs of suit incurred herein.

#### 22 **SEVENTH CAUSE OF ACTION**

##### 23 **(Breach of Contract – US BANK)**

24 171. Plaintiffs re-allege and incorporate by this reference each and every allegation  
25 contained in paragraphs 1 through 170, hereinabove, as though fully set forth herein.

26 172. On November 10, 2015, Bank of America assigned its interest in the Deed of  
27 Trust to PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title  
28 Trustee (hereinafter "US Bank"). Ex.12.



1 173. The November 10, 2015, Assignment to US Bank was recorded with the Lyon  
2 County Recorder as Document No. 544042. Ex.12.

3 174. US Bank through its agent Fay Servicing has at all times relevant continually  
4 disregarded the 2009 LMA or failed to incorporate and apply the terms of the 2009 LMA to  
5 Plaintiffs' loan.

6 175. By failing to honor and apply the terms of the 2009 LMA since receipt of  
7 assignment of the Deed of Trust, US Bank has materially breached the terms of the 2009  
8 LMA.

9 176. As a proximate cause of Defendant US Bank's continued material breach of the  
10 2009 LMA, Plaintiffs have suffered economic losses and general damages in excess of Fifteen  
11 Thousand Dollars (\$15,000) to be proved at trial.

12 177. Plaintiffs have had to retain the services of an attorney to prosecute this action  
13 and are entitled to reasonable attorney's fees and costs of suit incurred herein.

14 **EIGHT CAUSE OF ACTION**

15 **(Breach of Duty to Act in Good Faith and Fair Dealing – US BANK)**

16 178. Plaintiffs re-allege and incorporate by this reference each and every allegation  
17 contained in paragraphs 1 through 177, hereinabove, as though fully set forth herein.

18 179. At all times material hereto, Defendant US Bank owed to Plaintiff Vicenta  
19 Lincicome a duty to deal fairly and in good faith with respect to their contractual relationship.

20 180. Defendant US Bank violated its duty of good faith and fair dealing by refusing  
21 to honor and apply the terms of the 2009 LMA to Vicenta Lincicome's loan.

22 181. That as a direct and proximate result of Defendant US Bank's breach of its duty  
23 to Plaintiff Vicenta Lincicome, Plaintiffs have suffered economic losses and general damages  
24 in excess of Fifteen Thousand Dollars (\$15,000) to be proved at trial.

25 182. Plaintiffs have had to retain the services of an attorney to prosecute this action  
26 and are entitled to reasonable attorney's fees and costs of suit incurred herein.

27 \ \

28 \ \



**NINTH CAUSE OF ACTION**

**(Slander of Title)**

183. Plaintiffs re-allege and incorporate by this reference each and every allegation contained in paragraphs 1 through 182, hereinabove, as though fully set forth herein.

184. US Bank slandered Plaintiffs' title by its conduct including seeking the recording of an inaccurate and unwarranted Notice of Default with the Lyon County Recorder.

185. Fay Servicing slandered Plaintiffs' title by its conduct including seeking the recording of an inaccurate and unwarranted a Notice of Default with the Lyon County Recorder.

186. US Bank and Fay Servicing slandered Plaintiffs' title by causing Sables to record an inaccurate and unwarranted Notice of Default.

187. US Bank and Fay Servicing slandered Plaintiffs' title by causing Sables to record an inaccurate and unwarranted Notice of Sale.

188. US Bank and Fay Servicing slandered Plaintiffs' title by causing Sables to conduct a foreclosure sale and record a Trustee's Deed when they were on notice of the defects of the Notice of Default, Notice of Sale, and that US Bank's right to enforce the Deed of Trust was in question.

189. Wherefore, as a proximate result of Defendants' slander of title, Plaintiffs have suffered general damages in excess of Fifteen Thousand Dollars (\$15,000) to be proved at trial.

190. Plaintiffs have had to retain the services of an attorney to prosecute this action and are entitled to reasonable attorney's fees and costs of suit incurred herein.

**TENTH CAUSE OF ACTION**

**(Special Damages –Attorney's Fees)**

191. Plaintiffs re-allege and incorporate by this reference each and every allegation contained in paragraphs 1 through 190, hereinabove, as though fully set forth herein.



192. Plaintiffs have brought this action in part pursuant to NRS 107.080 and NRS 107.560, which permit recovery of reasonable attorney's fees and costs to a prevailing borrower.

193. Additionally, as natural and proximate consequence of Defendants' conduct alleged herein, Plaintiffs have suffered damages, including special damages in the form of attorney's fees.

194. As a proximate result of Defendants' and Breckenridge's conduct, Plaintiffs have suffered attorney's fees in excess of Fifteen Thousand Dollars (\$15,000) to be proved at trial.

195. Plaintiffs are entitled to the recovery of reasonable attorney's fees and costs from Defendants in an amount and sum to be proven at trial.

#### **PRAYER FOR RELIEF**

Wherefore, Plaintiffs pray for the following relief:

1. That the Court grant relief to Plaintiffs permitted under the Nevada Homeowner's Bill of Rights;

2. That Breckenridge take nothing by reason of its Counterclaim on file herein;

3. That the Court enter judgment against Defendants in favor of the Lincicomes for their reasonable attorney's fees and costs in Defending Breckenridges' Counterclaim;

4. That the Court make an award of damages in favor of Plaintiffs and against Defendants and Breckenridge in excess of \$15,000;

5. The the Court set aside the Trustee's Deed Upon Sale, recorded on January 25, 2019, and quiet title to the Lincicomes' Residence in favor of the Lincicomes;

6. That the Court determine Plaintiffs and Defendants' duties and rights under the 2007 Deed of Trust as modified by the 2009 Loan Modification Agreement;

7. That the Court declare the rights and interests of the parties;

8. That the Court award Plaintiffs their reasonable attorney's fees and costs; and

9. That the Court provide such other relief as the Court deems proper in the premises.



**AFFIRMATION**

The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not contain the social security number of any person or other personal information as defined by NRS 603A.040.

Dated this 20<sup>th</sup> day of December, 2019.

**MILLWARD LAW, LTD**

By: 

Michael G. Millward, Esq.

NSB# 11212

1591 Mono Ave

Minden, NV 89423

(775) 600-2776

Attorney for Plaintiffs



## INDEX TO EXHIBITS

Exhibit 1	<i>May 23 2007 Promissory Note and Deed of Trust</i>	26 pages
Exhibit 2	<i>Motion for Relief of Stay</i>	38 pages
Exhibit 3	Loan Modification Agreement	6 pages
Exhibit 4	"Important Message About Your Loan" Notice	1 page
Exhibit 5	Bank of America Home Loan Statement dated October 29, 2009	1 page
Exhibit 6	Correspondence from Bank of America dated December 15, 2009, February 23, 2010, March 12, 2010, October 19, 2011 and December 23, 2011	5 pages
Exhibit 7	<i>Notice of Chapter 13, Bankruptcy Case, Meeting of Creditors, &amp; Deadlines</i>	3 pages
Exhibit 8	<i>Discharge of Debtor After Completion of Chapter 13 Plan</i>	1 page
Exhibit 9	April 24, 2015 Loan Modification Notice	1 page
Exhibit 10	Lincicomes' check dated August 1, 2015, payable to Bank of America	1 page
Exhibit 11	Fay Servicing's Mortgage Statement generated August 10, 2015	2 pages
Exhibit 12	November 10, 2015 Assignment	2 pages
Exhibit 13	<i>Notice of Breach and Default and of Election to Sell the Real Property under Deed of Trust</i>	6 pages
Exhibit 14	November 8, 2018 Order	3 pages
Exhibit 15	Trustee's Deed Upon Sale recorded as Document No. 591393	4 pages



**STATE OF NEVADA            )**  
                                       **) ss.**  
**COUNTY OF DOUGLAS      )**

I, Vicenta Lincicome, under the penalty of perjury, being duly sworn, depose and state as follows:

1. That I am one of the Plaintiffs in this matter; and
2. That I have read the Second Amended Complaint and know the contents thereof; that the same is true of my own knowledge, except for those matters therein stated upon information and belief, and as to those matters, I believe them to be true;

Dated this 19<sup>th</sup> day of December, 2019

*Vicenta Lincicome*  
VICENTA LINCICOME

On this 19<sup>th</sup> day of December, 2019, before me personally appeared Vicenta Lincicome, known to be the person described in and who executed the foregoing instrument, and who subscribed and swore to before me that she executed it as her free act and deed.

Witness my hand and official seal this 19<sup>th</sup> day of December, 2019.

*Ashley Voss*  
Notary Public





1 VERIFICATION OF ALBERT ELLIS LINCICOME, JR.

2 STATE OF NEVADA )  
3 ) ss.  
4 COUNTY OF DOUGLAS )

5 I, Albert Ellis Lincicome, Jr., under the penalty of perjury, being duly sworn,  
6 depose and state as follows:


- 7 1. That I am one of the Plaintiffs in this matter; and  
8 2. That I have read the Second Amended Complaint and know the contents  
9 thereof; that the same is true of my own knowledge, except for those matters therein  
10 stated upon information and belief, and as to those matters, I believe them to be true;

11 Dated this 19<sup>th</sup> day of December, 2019

12   
13 ALBERT ELLIS LINCICOME, JR.  
14

15 On this 19<sup>th</sup> day of December, 2019, before me personally appeared Albert Ellis  
16 Lincicome, Jr., known to be the person described in and who executed the foregoing  
17 instrument, and who subscribed and swore to before me that he executed it as his free  
18 act and deed.

19 Witness my hand and official seal this 19<sup>th</sup> day of December, 2019.

20  
21  
22   
23 Notary Public





## CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that service of the foregoing *Second Amended Complaint* was made on the 20<sup>th</sup> day of December, 2019, by depositing a true copy of the same for mailing with the United States Postal Service, addressed to the following:

Shadd A. Wade, Esq.  
Zieve, Brodnax & Steel  
9435 W. Russel Rd., Suite 120  
Las Vegas, NV 89148  
*Attorney for Sables, LLC*

Scott R. Lachman, Esq.  
Darren T. Brenner, Esq.  
Ackerman, LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

Matthew K. Schriever, Esq.  
Hutchison & Steffen, PLLC  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
*Attorney for Breckenridge Property Fund 2016, LLC*

Casey J. Nelson, Esq.  
Wedgewood, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, NV 89146  
*Attorney for Breckenridge Property Fund 2016, LLC*

Christopher A. J. Swift, Esq.  
Ramir M. Hernandez, Esq.  
Wright, Finlay & Zak, LLP  
7785 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117  
*Attorney for Fay Servicing, LLC and US Bank Prof-2013-M4 Legal Title Trust.*

MCM-2018-NPL2  
7101 Wisconsin Avenue, Suite 1012  
Bethesda MD 20814

1900 Capital Trust II  
By U.S. Bank Trust National Assoc.  
300 Delaware Avenue 9<sup>th</sup> Floor  
Wilmington DE 19801

Shellpoint Mortgage Servicing  
Post Office Box 10826  
Greenville, SC 29603-0826



Herrin Fosmore, Law Clerk



# Exhibit 1



Assessor's Parcel Number:  
29-401-17

I hereby affirm that this document  
submitted for recording does not  
contain a social security number.

S/ LYNDIA KLEIN  
FUNDER

Recording Requested By:  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
280 BRINKBY STREET, SUITE 100  
RENO, NV 89509  
775-826-3700

We certify that this is a true copy  
of the original as recorded in  
County, Nevada on 5-25-07 4:34 pm  
Document No. 407150

Stewart Title Of Carson City  
By: Carol Cozart

Loan No: 0000479436

[Space Above This Line For Recording Data]

## DEED OF TRUST

MIN: 1000703-0000479436-5

### DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated MAY 23, 2007  
together with all Riders to this document.

(B) "Borrower" is VICENTA LINCICOME, A MARRIED WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is SIERRA PACIFIC MORTGAGE COMPANY, INC.

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA  
Lender's address is 50 IRON POINT CIRCLE, STE 200, FOLSOM, CA 95630

(D) "Trustee" is GREENHEAD INVESTMENTS, INC., A CALIFORNIA CORPORATION



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

(F) "Note" means the promissory note signed by Borrower and dated MAY 23, 2007.  
The Note states that Borrower owes Lender

THREE HUNDRED EIGHTY-ONE THOUSAND ONE HUNDRED FIFTY and NO/100----- Dollars  
(U.S. \$ 381,150.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than JUNE 1, 2037.

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

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

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

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

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

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

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

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

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

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

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

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

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

Loan No: 0000479436



## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY

of

LYON

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A."

which currently has the address of 70 RIVERSIDE DRIVE [Street],  
DAYTON [City], Nevada 89403 [Zip Code] ("Property Address"):

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

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

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

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

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is

Loan No: 0000479436

NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW:MERS.NV.CVL.DT.3.WPF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 3 of 13 pages)



not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

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

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

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

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

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

Loan No: 0000479436



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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts

Loan No: 0000479436



disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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

Loan No: 0000478436



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

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

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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

Loan No: 0000479436



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

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

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

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

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

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

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

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

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

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

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

*Loan No: 000047243c*



in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

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

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

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

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

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

Loan No: 0000479436



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

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

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

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

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

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

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



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

*Vicenta Lincione* (Seal)  
VICENTA LINCIONE -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ Borrower

Loan No: 0000479436

STATE OF NEVADA.

*Carson City*

County ss.

This instrument was acknowledged before me on

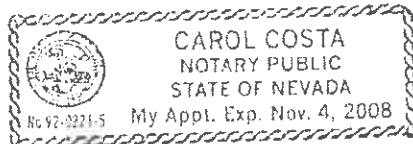
*May 23 2007*

by

*Vicenta Lincione*

*Carol Costa*

My Commission Expires: *11-1-08*



NEVADA Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS.NV.CVL.DT.13.WPF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 13 of 13 pages)

WHEN RECORDED MAIL TO:

MIP INSURING DEPARTMENT  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
50 IRON POINT CIRCLE, STE 200  
FOLSOM, CA 95630  
916-932-1700



## ADJUSTABLE RATE RIDER

(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)

THIS ADJUSTABLE RATE RIDER is made this 23rd day of MAY, 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure the Borrower's Adjustable Rate Note (the "Note") to

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

70 RIVERSIDE DRIVE  
DAYTON, NV 89403

[Property Address]

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

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

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

The Note provides for an initial interest rate of 6.875%. The Note provides for changes in the interest rate and the monthly payments, as follows:

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

**(A) Change Dates**

The interest rate I will pay may change on the first day of JUNE 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the one-year London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for one-year U.S.

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after 1P) Single Family-Freddie Mac Uniform Instrument

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Form 5131 5/04  
(Page 1 of 4)



dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

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

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding

TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 11.675 % or less than 2.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than TWO percentage points ( 2.000 %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than 11.675 %.

(E) Effective Date of Changes

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

(F) Notice of Changes

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

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

1. UNTIL BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE IN EFFECT AS FOLLOWS:

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by

Loan No: 0000479435

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after 1P Single Family Freddie Mac Uniform Instrument

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Form 5131 3/04  
Page 2 of 3



Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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

2. AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:

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

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

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

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

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after 1P) Single Family Freddie Mac Uniform Instrument

Form 5131 3/04

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Page 3 of 4



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

  
\_\_\_\_\_  
VICENTA LINCICOME (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

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(Seal)  
-Borrower

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-Borrower

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(Seal)  
-Borrower

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(Seal)  
-Borrower

[Sign Original Only]

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after 1P) Single Family Freddie Mac Uniform Instrument

Form 5131 2/94  
(Page 4 of 4)

DRAW: FRED MAC UNIFORM RIDER 5131.LAWFF (P:\NOTES\SHARE\01011900\SARIDERSAC.VL\MXFFH5131.ARM)



## INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE RIDER

Property Address: 70 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Rider (the "Rider") dated the same date as this Addendum executed by the undersigned and payable to SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender")

THIS ADDENDUM supersedes Section 4(C) of the Rider. None of the other provisions of the Rider are changed by this Addendum.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points (2.750 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.

Loan No: 0000479436

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM -- MULTISTATE  
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01/01  
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(page 1 of 2 pages)



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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

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\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

*[Sign Original Only]*

Loan No: 0000479436

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM – MULTISTATE  
DRAW.MX.CV1.ARM.10.ADN.DM.RIDER.2.WPF (0101DOCS\RIDERS\CV1.MX10\_ADN.RID)

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(page 2 of 2 pages)



**EXHIBIT "A"**  
**ADJUSTABLE RATE NOTE**  
(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)

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

MAY 23, 2007  
[Date]

FOLSOM, CALIFORNIA  
[City] [State]

70 RIVERSIDE DRIVE  
DAYTON, NV 89403  
[Property Address]

**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$ 381,150.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

**2. INTEREST**

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.875 %. The interest rate I will pay will change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

**3. PAYMENTS**

**(A) Time and Place of Payments**

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the first day of each month beginning on JULY 1, 2007.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This amount may change.

**(C) Monthly Payment Changes**

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

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

**(A) Change Dates**

The interest rate I will pay may change on the first day of JUNE, 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

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

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



**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250** %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875** % or less than **2.250** %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **TWO** percentage points ( **2.000** %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875** %.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

**5. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

**6. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceed the permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**7. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of **15** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **5.000** % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.



**8. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

**(A) UNTIL MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:**

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

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

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

**(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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



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

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

*Vicenta Lincicome*

VICENTA LINCICOME

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

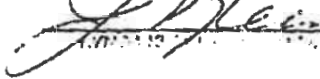
(Seal)  
-Borrower

[Sign Original Only]



PAY TO THE ORDER OF  
Countrywide Bank, FSB

WITHOUT RECOURSE  
SIERRA PACIFIC FINANCE CO.  
A CALIFORNIA CORPORATION

  
LAURIE MEZEY

PAY TO THE ORDER OF  
COUNTRYWIDE HOME LOANS, INC.  
WITHOUT RECOURSE  
COUNTRYWIDE BANK, FSB

BY   
LAURIE MEZEY  
SENIOR VICE PRESIDENT

PAY TO THE ORDER OF  
WITHOUT RECOURSE  
COUNTRYWIDE HOME LOANS, INC.

BY   
MICHELLE SJOLANDER  
EXECUTIVE VICE PRESIDENT



**INTEREST-ONLY ADDENDUM  
TO ADJUSTABLE RATE PROMISSORY NOTE**

Loan Number:

Property Address: 10 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Note (the "Note") dated the same date as this Addendum executed by the undersigned and payable to

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender").

THIS ADDENDUM supersedes Sections 3(A), 3(B), 4(C) and 7(A) of the Note. None of the other provisions of the Note are changed by this Addendum.

**3. PAYMENTS**

**(A) Time and Place of Payments**

I will pay interest by making payments every month for the first 120 payments (the "Interest-Only Period") in the amount sufficient to pay interest as it accrues. I will pay principal and interest by making payments every month thereafter for the next 240 payments in an amount sufficient to fully amortize the outstanding principal balance of the Note at the end of the Interest-Only Period over the remaining term of the Note in equal monthly payments.

I will make my monthly payments on the first day of each month beginning on JULY 1, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This payment amount is based on the original principal balance of the Note. This payment amount may change.

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.



**7. BORROWER'S FAILURE TO PAY AS REQUIRED**

**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of interest during the Interest-Only Period, 5.000 % of my overdue payment of principal and interest thereafter. I will pay this late charge promptly, but only once on each late payment.

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

  
VICENTA LINCICOME

(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

*[Sign Original Only]*



# Exhibit 2



A. Ellis Lincicome, Jr. and Vicenta J. Lincicome  
Debtor(s)

10-51219-gwz  
Case No:

Motion #:

Bank of America, N.A.  
MOVANT

Chapter: 13

Certification of Attempt to Resolve the Matter without Court Action:

Moving counsel hereby certifies that pursuant to the requirements of LR 4001(a)(2), an attempt has been made to resolve the matter without court action, but movant has been unable to do so.

Date: November 24, 2014

Signature: \_\_\_\_\_

Attorney for Movant

PROPERTY INVOLVED IN THIS MOTION: 70 Riverside Drive, Dayton, NV 89403

NOTICE SERVED ON: Debtor(s) ☒ ;

Debtor (s) Counsel ☒ ;

Trustee ☒

DATE OF SERVICE: 11/10/14

MOVING PARTY'S CONTENTIONS:

The EXTENT and PRIORITY of LIENS: \*

1st Bank of America, N.A. \$567,234.69 †

2nd \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$567,234.69

APPRAISAL or OPINION as to VALUE:

Per attached Schedule "A" - \$476,000.00

TERMS OF MOVANT'S CONTRACT  
WITH THE DEBTOR:\*

Amount of Note: \$381,150.00

Interest Rate: 6.875%

Duration: 30 Year

Payment Per Month: \$2,425.24

Date of Default: May 1, 2013

Amount of Arrearages: \$130,788.87 ‡

Date of Notice of Default: N/A

SPECIAL CIRCUMSTANCES: The undersigned hereby certifies that an attempt has been made to confer with debtor(s) counsel, or with debtor(s) and that more than three (3) business days have expired, and that after sincere effort to do so, counsel has been unable to resolve this matter without court action.

SUBMITTED BY: Greg Wilde

SIGNATURE: [Signature] #10235

DEBTOR'S CONTENTIONS:

The EXTENT and PRIORITY of LIENS:

1<sup>st</sup> \_\_\_\_\_

2<sup>nd</sup> \_\_\_\_\_

3<sup>rd</sup> \_\_\_\_\_

4<sup>th</sup> \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$ \_\_\_\_\_

APPRAISAL or OPINION as to VALUE:

DEBTOR'S OFFER OF "ADEQUATE  
PROTECTION" FOR MOVANT:

SPECIAL CIRCUMSTANCES:

SUBMITTED BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

\* All amounts due to Movant as of November 10, 2014

† The amount of Movant's liens and arrears above do not include \$1,026.00 for fees and costs that have also been incurred by Movant as of the date hereof in connection with seeking the relief requested in the Motion.

‡ Amounts listed are due for post-petition only.



1 **TIFFANY & BOSCO, P.A.**

2 Gregory L. Wilde, Esq.

3 Nevada Bar No. 004417

4 212 South Jones Boulevard

5 Las Vegas, Nevada 89107

6 Telephone: 702 258-8200

7 Fax: 702 258-8787

8 Attorney for Movant Bank of America, N.A.

9 14-70888

10 **UNITED STATES BANKRUPTCY COURT**

11 **DISTRICT OF NEVADA**

12 In Re:

Bk Case No.: 10-51219-gwz

13 **A. Ellis Lincicome, Jr. and Vicenta J. Lincicome**

Date: December 30, 2014

Time: 10:00am

Chapter 13

14 Debtors.

15 **MOTION FOR RELIEF FROM AUTOMATIC STAY**

16 **(REAL PROPERTY)**

17 Bank of America, N.A., ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for  
18 relief from the automatic stay with respect to certain real property of the Debtor(s) having an address of  
19 70 Riverside Drive, Dayton, NV 89403 (the "Property"). In further support of this Motion, Movant  
20 respectfully states:

- 21 1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with  
22 respect to the Debtor(s) on April 6, 2010.
- 23 2. A foreclosure notice of default has not been recorded.
- 24 3. A Chapter 13 Plan was confirmed on October 13, 2010.
- 25 4. The Debtor(s) have executed and delivered that certain promissory note in the  
26 original principal amount of \$381,150.00 (the "Note"). A true and correct copy of the Note is attached  
hereto as Exhibit "A". Movant, directly, or through an agent, has possession of the Note. Movant is an  
entity entitled to enforce the Note.



5. Pursuant to that certain Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtor(s) under the Note and the Deed of Trust with respect to the Loan are secured by the Property. A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

6. All rights and remedies under the Deed of Trust have been assigned to the Movant pursuant to that certain assignment of deed of trust. Additionally, all rights and remedies under the Deed of Trust have been assigned to the Movant pursuant to that certain Certificate of Merger. Bank of America, N.A., is successor by Merger to BAC Home Loans Servicing, LP effective July 1, 2011. Prior to that date, Countrywide Home Loans Servicing LP merged with BAC Home Loans Servicing, LP effective April 27, 2009. Attached hereto as Exhibit "C" are the merger documents.

7. Bank of America, N.A. services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor(s) obtain(s) a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

8. As of November 10, 2014, the outstanding Obligations are:

Unpaid Principal Balance	\$381,150.00
Unpaid, Accrued Interest	\$170,972.39
Costs	\$17,384.92
<u>Less:</u> Partial Payments	(\$2,272.62)
Minimum Outstanding Obligations	\$567,234.69

9. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$850.00 in legal fees and \$176.00 in costs. Movant reserves all rights to seek an award or allowance of such fees and costs in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

///



10. The following chart sets forth the number and amount of post-petition payments due pursuant to the terms of the Note that have been missed by the Debtor(s):

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
39	5/1/10	7/1/13	\$2,408.52	\$93,932.28
9	8/1/13	4/1/14	\$2,427.92	\$21,851.28
7	5/1/14	11/1/14	\$2,402.03	\$16,814.21
Less post-petition partial payments:				(\$1,808.90)

Total: \$130,788.87

11. As of November 10, 2014, the total post-petition arrearage/delinquency is \$130,788.87. This is the amount necessary to cure any post-petition default on or about the date hereof.<sup>1</sup>

12. The fair market value of the Property is \$476,000.00. The basis for such valuation is the Schedules of the Debtor(s). A true and correct copy of the Schedule "A" is attached hereto as Exhibit "D".

13. Upon information and belief, the aggregate amount of encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, is \$567,234.69.

14. Cause exists for relief from the automatic stay for the following reasons:

- (a) Movant's interest in the Property is not adequately protected and the fair market value of the Property is declining and payments are not being made to Movant sufficient to protect Movant's interest against that decline.
- (b) Post confirmation payments required by the confirmed plan have not been made to Movant.

<sup>1</sup> The total of missed post-petition payments for this impounded loan include any missed escrow payments. Such missed escrow payments include amounts assessed for taxes and insurance and any previously assessed escrow shortage amount (if applicable). To avoid duplication, post-petition advances (if any) made for insurance, real estate taxes, or similar charges are not listed separately to the extent such advances would have been paid from the missed escrow payments. As part of the next annual RESPA analysis, the Bank will determine whether the escrow payments assessed to the debtor (including the missed escrow payments) result in a projected escrow shortage or overage. All rights are hereby reserved to assert or request any escrow amounts in accordance with RESPA and the total post-petition arrearage/delinquency is qualified accordingly. In addition, the amounts set forth herein do not include any legal fees or expenses of counsel incurred by Movant in connection with seeking the relief requested in the Motion.



(c) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor(s) have no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. That the 14-day stay described by Bankruptcy Rule 4001(a) (3) be waived.

4. For such other relief as the Court deems proper.

5. That the Movant shall give Debtors at least seven business days' notice of the time, place and date of sale.

6. Movant further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

DATED this 26th day of November, 2014.

TIFFANY & BOSCO, P.A.

By:  #10235  
/s/ Gregory L. Wilde, Esq.

GREGORY L. WILDE, ESQ.

Attorney for Movant

212 South Jones Boulevard

Las Vegas, Nevada 89107



**TIFFANY & BOSCO, P.A**

Gregory L. Wilde, Esq.

Nevada Bar No. 004417

212 South Jones Boulevard

Las Vegas, Nevada 89107

Telephone: 702 258-8200

Fax: 702 258-8787

[nvbk@tblaw.com](mailto:nvbk@tblaw.com)

Bank of America, N.A.

14-70888

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In Re:

A. Ellis Lincicome, Jr. and Vicenta J. Lincicome

Debtors

Bk Case No.: 10-51219-gwz

Date: December 30, 2014

Time: 10:00am

Chapter 13

**[PROPOSED] ORDER TERMINATING AUTOMATIC STAY**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Automatic Stay in the above-entitled bankruptcy proceedings is terminated as to the Debtor and the Trustee in favor of Secured Creditor Bank of America, N.A., its assignees and/or successors in interest, of the subject property, generally described as 70 Riverside Drive, Dayton, NV 89403.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Movant shall give Debtors at least seven business days' notice of the time, place and date of sale.



1  
2 IT IS FURTHER ORDERED, ADJUDGED and DECREED that Movant is exempt from  
3 further compliance with Fed. Bankr. Rule P. 3002.1.

4 IT IS FURTHER ORDERED, ADJUDGED and DECREED That the Order be binding and  
5 effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of  
6 the United States Code.

7  
8 Submitted by:

9 TIFFANY & BOSCO, P.A

10 By: /s/Gregory L. Wilde, Esq

11 Gregory L. Wilde, Esq.  
12 Attorney for Movant

13 APPROVED / DISAPPROVED

14 By: \_\_\_\_\_

15 Robert G. Johnston  
16 Attorney for Debtor(s)

17 APPROVED / DISAPPROVED

18 By: \_\_\_\_\_

19 William A. Van Meter  
20 Chapter 13 Trustee  
21  
22  
23  
24  
25  
26



# EXHIBIT "A"

## ADJUSTABLE RATE NOTE (1 Year LIBOR Index - Rate Caps) (Assumable after Initial Period)

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

MAY 23, 2007  
{Date}

FOLSOM, CALIFORNIA  
{City} {State}

70 RIVERSIDE DRIVE  
DAYTON, NV 89403  
{Property Address}

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 381,150.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

### 2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.875 %. The interest rate I will pay will change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

### 3. PAYMENTS

#### (A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the first day of each month beginning on JULY 1, 2007.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This amount may change.

#### (C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (A) Change Dates

The interest rate I will pay may change on the first day of JUNE, 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

#### (B) The Index

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

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



**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250** %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875** % or less than **2.250** %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than

**TWO** percentage points ( **2.000** %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875** %.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

**5. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

**6. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**7. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of **15** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **5.000** % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.



**8. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

**(A) UNTIL MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:**

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

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

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

**(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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



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

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
-Borrower

\_\_\_\_ (Seal)  
-Borrower

\_\_\_\_ (Seal)  
-Borrower

\_\_\_\_ (Seal)  
-Borrower

\_\_\_\_ (Seal)  
-Borrower

\_\_\_\_ (Seal)  
-Borrower

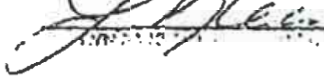
\_\_\_\_ (Seal)  
-Borrower

*[Sign Original Only]*

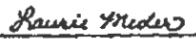


PAY TO THE ORDER OF  
Countrywide Bank, FSB

WITHOUT RECOURSE  
SIERRA PROPERTIES TRUST CO.  
A CALIFORNIA CORPORATION

  
LAURIE MEDER

PAY TO THE ORDER OF  
COUNTRYWIDE HOME LOANS, INC.  
WITHOUT RECOURSE  
COUNTRYWIDE BANK, FSB

BY   
LAURIE MEDER  
SENIOR VICE PRESIDENT

PAY TO THE ORDER OF  
WITHOUT RECOURSE  
COUNTRYWIDE HOME LOANS, INC.

BY   
MICHELE SJOLANDER  
EXECUTIVE VICE PRESIDENT



**INTEREST-ONLY ADDENDUM  
TO ADJUSTABLE RATE PROMISSORY NOTE**

Loan Number:

Property Address: 10 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23<sup>rd</sup> day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Note (the "Note") dated the same date as this Addendum executed by the undersigned and payable to  
SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender").

THIS ADDENDUM supersedes Sections 3(A), 3(B), 4(C) and 7(A) of the Note. None of the other provisions of the Note are changed by this Addendum.

**3. PAYMENTS**

**(A) Time and Place of Payments**

I will pay interest by making payments every month for the first 120 payments (the "Interest-Only Period") in the amount sufficient to pay interest as it accrues. I will pay principal and interest by making payments every month thereafter for the next 240 payments in an amount sufficient to fully amortize the outstanding principal balance of the Note at the end of the Interest-Only Period over the remaining term of the Note in equal monthly payments.

I will make my monthly payments on the first day of each month beginning on JULY 1, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This payment amount is based on the original principal balance of the Note. This payment amount may change.

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.



**7. BORROWER'S FAILURE TO PAY AS REQUIRED**

**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of interest during the Interest-Only Period, 5.000 % of my overdue payment of principal and interest thereafter. I will pay this late charge promptly, but only once on each late payment.

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

  
VICENTA LINCICOME

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

*[Sign Original Only]*



# EXHIBIT "C"

## ASSISTANT SECRETARY CERTIFICATE

OF

### BANK OF AMERICA, NATIONAL ASSOCIATION

The undersigned, Devra Lindgren, an Assistant Secretary of Bank of America, National Association (the "Association"); a national banking association organized and existing under the laws of the United States of America and having its principal place of business in the City of Charlotte, County of Mecklenburg, State of North Carolina, does hereby certify that:

1. **Countrywide Document Custody Services** was a division of **Treasury Bank, National Association**.

Effective September 6, 2005, **Treasury Bank, National Association** changed its name to **Countrywide Bank, National Association**.

Effective March 12, 2007, **Countrywide Bank, National Association** converted to a federal savings bank under the title of **Countrywide Bank, FSB**.


Effective April 27, 2009, **Countrywide Bank, FSB** converted back to a national banking association under the title of **Countrywide Bank, National Association**, and immediately thereafter, merged with and into **Bank of America, National Association**.

2. Effective April 27, 2009, **Countrywide Home Loans Servicing LP** changed its name to **BAC Home Loans Servicing, LP**.

Effective July 1, 2011, **BAC Home Loans Servicing, LP** merged with and into **Bank of America, National Association**.

IN WITNESS WHEREOF, I have hereupon set my hand and affixed the seal of said Association this 23rd day of May, 2012.

[SEAL]

  
Devra Lindgren  
Assistant Secretary



**DOC # 467719**

11/10/2010

12 41 PM

**Official Record**

Requested By  
ORION FINANCIAL GROUP

Lyon County - NV

Mary C. Milligan - Recorder

Page 1 of 2 Fee \$15.00

Recorded By: MFK RPTT



467719



I the undersigned hereby affirm that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

**PREPARED BY & RETURN TO:**

M. E. Wileman  
Orion Financial Group, Inc.  
2860 Exchange Blvd. # 100  
Southlake, TX 76092

**Assignment of Mortgage**

Send Any Notices To Assignee.

For Valuable Consideration, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC. G4318 Miller Road, Flint, MI 48507 (Assignor) by these presents does assign and set over, without recourse, to BAC HOME LOANS SERVICING LP FKA COUNTRYWIDE HOME LOANS SERVICING LP 1757 TAPO CANYON ROAD, SIMI VALLEY, CA 93063 (Assignee) the described mortgage, together with certain note(s) described with all interest, all liens, any rights due or to become due thereon, executed by VICENTA LINCIOCOME, A MARRIED WOMAN to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC.. Said mortgage Dated: 5/23/2007 is recorded in the State of NV, County of Lyon on 5/25/2007, Record # 407150 AMOUNT: \$ 381,150.00 Property Address: 70 RIVERSIDE DRIVE, DAYTON, NV 89403

IN WITNESS WHEREOF, the undersigned corporation has caused this instrument to be executed by its proper officer. Executed on: 10-22-2010

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC.

By:

**Nicholas Glavatsky**  
Certifying Officer



State of California, County of Ventura  
On 10-22-2014, before me, the undersigned, Nichole Clavaderscher, who acknowledged that he/she  
is Certifying Officer of for MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC. and that he/she  
executed the foregoing instrument and that such execution was done as the free act and deed of MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC  
MORTGAGE COMPANY, INC. SIERRA PACIFIC MORTGAGE COMPANY, INC..



Jon Secrist  
Notary public, Jon Secrist  
My commission expires: 7-24-2014

MAIL TAX BILL TO:  
VICENTA LINCIOCOME, A MARRIED WOMAN Property Address: 70 RIVERSIDE DRIVE, DAYTON, NV  
89403



## EXHIBIT "B"

I hereby affirm that this document submitted for recording does not contain a social security number.

/s/ LYNDA KLEIN

FUNDER

Recording Requested By:  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
280 BRINKBY STREET, SUITE 100  
RENO, NV 89509

DOC # 407150

05/25/2007

04:34 PM

### Official Record

Requested By

STEWART TITLE OF NEVADA

Lyon County - NV

Mary C. Milligan - Recorder

Page 1 of 20 Fee: \$58.00

Recorded By: DLW RPTT:



0407150

[Space Above This Line For Recording Data]

## DEED OF TRUST

MIN:

### DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated MAY 23, 2007 together with all Riders to this document.

(B) "Borrower" is VICENTA LINCICOME, A MARRIED WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is SIERRA PACIFIC MORTGAGE COMPANY, INC.

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA  
Lender's address is 50 IRON POINT CIRCLE, STE 200, FOLSOM, CA 95630

(D) "Trustee" is GREENHEAD INVESTMENTS, INC., A CALIFORNIA CORPORATION



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

(F) "Note" means the promissory note signed by Borrower and dated **MAY 23, 2007**. The Note states that Borrower owes Lender

**THREE HUNDRED EIGHTY-ONE THOUSAND ONE HUNDRED FIFTY and NO/100**— Dollars (U.S. \$ **381,150.00** ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **JUNE 1, 2037**

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

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

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

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

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

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

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

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

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

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

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

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

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



## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY of LYON  
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A."

which currently has the address of 70 RIVERSIDE DRIVE [Street],  
DAYTON [City], Nevada 89403 [Zip Code] ("Property Address"):

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

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

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

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

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is



not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

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

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

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

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

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



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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts



disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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



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

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

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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



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

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

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

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

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

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

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

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

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

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

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



in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

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

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

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

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

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



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

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

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

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

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

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

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



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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)

STATE OF NEVADA,

*Carson City*

County ss.

This instrument was acknowledged before me on

*May 23 2007*

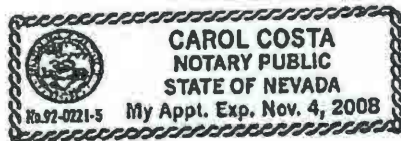
, by

*Vicenta Lincicome*

*Carol Costa*

My Commission Expires:

*11-4-08*



NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.13.WPF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 13 of 13 pages)

WHEN RECORDED MAIL TO:

MIP INSURING DEPARTMENT  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
50 IRON POINT CIRCLE, STE 200  
FOLSOM, CA 95630



**ADJUSTABLE RATE RIDER**  
(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)

THIS ADJUSTABLE RATE RIDER is made this 23<sup>rd</sup> day of MAY 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure the Borrower's Adjustable Rate Note (the "Note") to

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

70 RIVERSIDE DRIVE  
DAYTON, NV 89403

[Property Address]

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

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

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

The Note provides for an initial interest rate of 6.875 %. The Note provides for changes in the interest rate and the monthly payments, as follows:

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

**(A) Change Dates**

The interest rate I will pay may change on the first day of JUNE 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the one-year London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for one-year U.S.

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family-Resale Also Uniform Instrument

DRAW.0304.MX.CVL.ARM.RIDER.5131.1.WPF(F:\OPSS\SHARE\0101\DOCS\RIDERS\CVL\MXPH5131.ARM)

Form 5131 3/04  
(Page 1 of 4)



dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250 %**) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875 %** or less than **2.250 %**. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **TWO** percentage points ( **2.000 %**) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875 %**.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

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

**1. UNTIL BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE IN EFFECT AS FOLLOWS:**

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by



Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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

**2. AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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

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



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

  
VICENTA LINCICOME (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

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(Seal)  
-Borrower

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(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

[Sign Original Only]



## INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE RIDER

Property Address: 70 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Rider (the "Rider") dated the same date as this Addendum executed by the undersigned and payable to SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender")

THIS ADDENDUM supersedes Section 4(C) of the Rider. None of the other provisions of the Rider are changed by this Addendum.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM - MULTISTATE  
DRAW.MX.CVL.ARM.IO.ADNDM.RIDER.1.WPF (0101DOCSRIDERS\CVL\MXIO\_ADN.RID)

01/01  
603F  
(page 1 of 2 pages)



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

  
VICENTA LINCICOME (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

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-Borrower

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-Borrower

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(Seal)  
-Borrower

[Sign Original Only]

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM - MULTISTATE  
DRAW.MX.CVL.ARM.IO.ADNDM.RIDER.2.WPF (0101DOCS\RIDERS\CVL\MXIO\_ADN.RID)

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(page 2 of 2 pages)



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The land referred to herein is situated in the State of Nevada,  
County of LYON, described as follows:

LOT 42 AS SHOWN ON THE OFFICIAL MAP OF GOLD CANYON ESTATES,  
PHASE 2, FILE IN THE OFFICE OF THE LYON COUNTY, NEVADA RECORDER,  
ON OCTOBER 20, 2005, AS DOCUMENT NO. 365687.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF, LYING BELOW THE  
NATURAL ORDINARY HIGH WATER LINE OF THE CARSON RIVER.



**EXHIBIT "D"**re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME

Debtor(s)

Case No. \_\_\_\_\_  
(if known)**SCHEDULE A-REAL PROPERTY**

cept as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a tenant community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether the husband, wife, both, or the marital community own the property placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "none" under "Description and Location of Property."

not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G-Executory Contracts and Unexpired Leases.

an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Current Value of Debtor's Interest, in Property Without Deducting any Secured Claim or Exemption	Amount of Secured Claim
	Husband--H Wife--W Joint--J Community--C		
Residence at 70 Riverside Drive, Dayton, OH	J	\$ 476,000.00	\$ 381,000.00
Mental House at 2763 Carriage Crest Drive, Carson City, NV 89706	J	\$ 280,000.00	\$ 280,000.00
Plot of 4315 Drake Way, Washoe Valley, NV	J	\$ 100,000.00	\$ 100,000.00
<b>TOTAL \$</b>		<b>856,000.00</b>	

continuation sheets attached

(Report also on Summary of Schedules.)



# Exhibit 3



APN# 029-401-17

**Recording Requested by:**

Name Michael Camacho

Address 100 Beecham Dr

City/State/Zip Pittsburg PA 15205

**Mail Tax Statements to:**

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

**DOC # 475808**

05/04/2011 01:19 PM

**Official Record**

Requested By  
BAC HOME LOANS SERVICING

Lyon County - NV  
Mary C. Milligan - Recorder

Page 1 of 6 Fee \$44.00

Recorded By MFK RPT



0475808

Loan Modification Agreement

**Title of Document**

(Required Field)

**FILL IN ALL THAT APPLY**

**The Undersigned Hereby Affirms That This Document Submitted For Recording Contains Personal Information As Required By Law\***

Specify Law\* \_\_\_\_\_

Signature \_\_\_\_\_

Specify Law\* \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

\*If there is no applicable State or Federal Law, Personal Information must be removed prior to recording

**If this document is a re-record or correction, fill out below**

Correcting Document# \_\_\_\_\_ Amending \_\_\_\_\_

Reason for re-record \_\_\_\_\_

(For Re-records, all pages from original document must be included, \$25 Non-conforming Fee Applies)

**If legal description is in metes & bounds, indicate where it was obtained:**

\_\_\_\_\_ (Document Title), Book \_\_\_\_\_ Page \_\_\_\_\_ or

Document # \_\_\_\_\_ recorded \_\_\_\_\_ (date) in the

Lyon County Recorder's Office

**-OR-**

If prepared by a surveyor, provide name and address

\_\_\_\_\_

\_\_\_\_\_

\*Personal information\* means a natural person's first name or first initial and last name in combination with any one or more of the following data elements:

1. Social security number
2. Driver's license number or identification card number
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password

This page added to provide additional information required by NRS 111.312 Sections 1-4  
(\$1.00 Additional Recording Fee Applies)



**IN MODIFICATION AGREEMENT  
(Fixed Interest Rate)**

This Loan Modification Agreement ("Agreement"), made this 11th day of July, 2009, between VICENTA LINCICOME (the "Borrower(s)") and BAC Home Loans Servicing, LP (the "Lender"), amends and supplements (1) the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated the 23rd day of May, 2007 in the amount of \$381,150.00, and (2) the Note secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as the "Property", located at 70 RIVERSIDE DRIVE, DAYTON, NV 89403

The real property described being set forth as follows

Previous mortgage recorded  
5/25/07 Doc 407150 Assigned  
11/01/2010 Doc 407119

**SAME AS IN SAID SECURITY INSTRUMENT**

In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (Notwithstanding anything to the contrary contained in the Note or Security Instrument)

- 1 As of the 1st day of September, 2009, the amount payable under the Note or Security Instrument (the "Unpaid Principal Balance") is U.S. \$417,196.58, consisting of the amount(s) loaned to the Borrower by the Lender which may include, but not limited to, any past due principal payments, interest, fees and/or costs capitalized to date
- 2 The Borrower promises to pay the Unpaid Principal Balance, plus interest, to the order of the Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 4.875% from the 1st day of August, 2009. The Borrower promises to make monthly payments of principal and interest of U.S. \$1,977.29 beginning on the 1st day of September, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on the 1st day of August, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date
- 3 The Borrower will make such payments at Payment Processing PO Box 10219 Van Nuys, CA 91410 or at such other place as the Lender may require
- 4 Nothing in this agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all terms and provisions thereof, as amended by this Agreement
- 5 In consideration of this Modification, Borrower agrees that if any document related to the Security Instrument, Note and/or Modification is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the loan as modified, or is otherwise missing, Borrower(s) will comply with Lender's request to execute, acknowledge, initial and deliver to Lender any documentation Lender deems necessary. If the original promissory note is replaced the Lender hereby indemnifies the Borrower(s) against any loss associated with a demand on the original note. All documents Lender requests of Borrower(s) shall be referred to as "Documents". Borrower agrees to deliver the Documents within ten (10) days after receipt by Borrower(s) of a written request for such replacement

05/04/2011  
002 of 6

475805



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan # 162304785

WDGFIXNR 8124 July 11, 2009

AA01650





475808

05/04/2011  
003 of 6

STEP RATE LOAN MODIFICATION  
ADDENDUM TO LOAN MODIFICATION AGREEMENT

The Step Rate Loan Modification Agreement Addendum (the "Addendum") is made this July 11, 2009, and is incorporated into and shall be deemed a part of that certain Loan Modification Agreement of even date herewith (the "Agreement") between VICENTA LINCICOME (the "Borrowers") and BAC Home Loans Servicing, LP ("the Lender"), which agreement amends and supplements that certain Mortgage Deed of Trust or Deed to Secure Debt (the "Security Instrument") executed by Borrower in favor of Lender

THIS ADDENDUM CONTAINS PROVISIONS PROVIDING FOR  
SCHEDULED INTEREST RATE CHANGES

In consideration of the mutual promises and agreements exchanged and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Agreement, Security Instrument or the promissory note (the "Note"), except as specifically provided for herein )

1 Scheduled Interest Rate Changes

The Agreement provides for an initial interest rate of 4.875% which will be charged from the 1st day of August, 2009

The Interest Rate shall then change on the 1st day of August, 2014 at which time it shall be 5.375%

Thereafter, the interest rate and monthly principal and interest payment shall adjust in accordance with the Note, Adjustable Rate Rider and/or any other loan document that is affixed to or incorporated into the Note and Rider and provides for, implements or relates to any change or adjustment in the interest rate and monthly payment amount under the Note until such time as the principal and interest due under the Note are paid in full. If on August 1, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by the Agreement and this Addendum, the Borrower shall pay these amounts in full on the Maturity Date

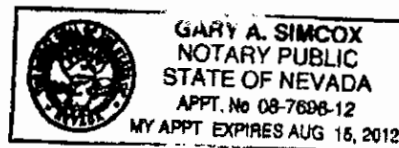
BORROWER

Vicenta Lincicome Dated July 31, 2009  
VICENTA LINCICOME

Lender

BAC Home Loans Servicing, LP

Dated July 31, 2009



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan # 162304785

July 11, 2009

AA01651





475808

05/04/2011  
004 of 6

As evidenced by their signatures below, the Borrower and the Lender agree to the foregoing

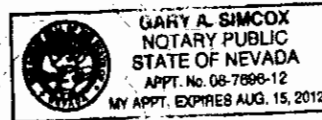
Vicenta Lincicome Dated July 31, 2009  
VICENTA LINCICOME

STATE OF NevadaCOUNTY OF ClarkOn July 31, 2009 before me, Gary Simcox Notary Public, personally appearedVicenta Lincicome

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature

08-15-2012  
Lynne

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.

The HOPE Team  
CHL Loan # 162304785

WDGFIXNR 8124 July 11, 2009

AA01652





475808

05/04/2011  
005 of 6

DO NOT WRITE BELOW THIS LINE

THIS SECTION IS FOR INTERNAL BANK OF AMERICA HOME LOANS SERVICING, LP USE ONLY

BAC Home Loans Servicing, LP  
7105 Corporate Drive  
(PTX-B-36)  
Plano, TX 75024

By

Dated

James I SmithMAR 22 2011

STATE OF

CO  
MAR 22 2011

COUNTY OF

BroomfieldOn MAR 22 2011 before me,Amy L Bogan

Notary Public, personally appeared

James I Smith

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures (s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Amy L Bogan

Signature

AMY L BOGAN

NOTARY PUBLIC, STATE OF COLORADO

My Comm. Expires September 8, 2014

BAC Home Loans Servicing LP is a subsidiary of Bank of America N.A.

0093 06409

AA01653





475808

05/04/2011  
006 of 6

LEGAL DESCRIPTION

ALL THAT CERTAIN LOT OR PARCEL OF LAND BEING SITUATE IN GOLD CANYON EST SUBDIVISION, PH 2  
LOT 42 BEING 482 ACRES

PARCEL # 029-401-17

Unofficial Copy



# Exhibit 4





Home Loans

Attn: Home Retention Division  
BAC Home Loans Servicing, LP  
100 Beecham Drive Suite 104  
Pittsburgh, PA 15205

Notice Date: July 11, 2009

Account No.: 162304785

VICENTA LINCICOME  
70 Riverside Dr  
Dayton, NV 89403

Property Address:  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

**IMPORTANT MESSAGE ABOUT YOUR LOAN**

We are pleased to advise you that your loan modification has been approved. In order for the modification to be valid, the enclosed documents need to be signed and returned.

The following amounts will be added to your current principal balance, resulting in a modified principal balance of \$417,196.58 prior to your first payment date. The amount added to your loan is:

Interest :	\$32,755.05
Fees:	\$55.00
Escrow:	\$3,236.53
Total:	\$36,046.58

Your new modified monthly payment will be \$2,272.62, effective with your September 1, 2009 payment. This payment is subject to change if your escrow account is reanalyzed due to new annual premiums. Your current interest rate is 6.875%. Your new reduced rate of 4.875% will be effective as of the September 1, 2009 payment. As of September 1, 2014 your interest rate will be 5.375% for the remaining term of your loan. Your new maturity date is August 1, 2049, which may have changed from your current maturity date as a result of the modification terms. This agreement will bring the loan current, however, you are still required to pay back the entire unpaid principal by the maturity date for your loan.

A breakdown of the scheduled interest rate changes is as follows:

Statement Due Date	Interest Rate	Principal & Interest
September 1, 2009	4.875%	\$1,977.29
September 1, 2014	5.375%	\$2,105.10

A breakdown of your payment is as follows:

P&I Payment:	\$1,977.29
Escrow:	\$295.33
Total Payment:	\$2,272.62

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan # 162304785

WDGCSCOV LMS 8120 July 11, 2009



# Exhibit 5



**Bank of America****Home Loans**Customer Service  
PO Box 9170  
Sun Valley, CA 94062-5170

Statement date 10/29/2009

**Account Number 162304785**Property address  
70 Riverside Drive0149104 01 AT 0357 \*\*AUTC T5 02788 89403 9055  
PD A1 AG 0401-- 6--2-7 0000068 IN 1 P49254VICENTA LINCICOME  
70 Riverside Dr  
Dayton NV 89403-9055**INTEREST-ONLY LOAN  
MONTHLY STATEMENT**  
(During the Interest-Only  
Period)**IMPORTANT NOTICE**

If you and BAC Home Loans Servicing, LP have entered into an agreement to address your monthly payments, please make payments in accordance with this agreement.

If you have qualified for an interest rate reduction based upon current active military service, subsequent statements may not reflect the reduced payment amount. Please refer to the notice previously sent to you for the reduced payment amount.

**Your Payment Choices This Month**

The amounts listed below are total payments, including amounts collected for escrow items such as taxes and insurance premiums. You can also pay additional Principal any month in any amount, by specifying "Additional Principal" in the payment coupon.

Payment Information	Total Payment Amount**	Principal/and or Interest Payment	Outstanding Late Charges	Optional Products*
Interest Only Payment ***	\$2,435.43	\$2,183.67	\$218.36	\$0.00

15-Year Amortized Payment Choice This Payment Choice is not available this month.

Amortized Payment Choice This Payment Choice is not available this month.

Please note: Amounts above may change based on payments made, received or returned before or after this statement was created.

\*\*Outstanding late charges up to \$400.00 are reflected in the payment choice amount.

\*\*\* The Amortized & 15-year Amortized Payment Choice (Amortized Payment Choices) amounts are based on the assumption that these payments will always be received on the scheduled due date. You are not required to pay these amounts. The extra amount of Principal included with each of these alternative Amortized Payment Choices will be applied as a partial prepayment of Principal on the date the payment is received. The interest portion of your payment will be applied as of the scheduled due date. The Amortized Payment is similar to, but not identical to, the Interest and Principal payment that you will be required to make after the Interest-Only Period ends. When that happens, your Interest and Principal payments will be applied to your loan as of the scheduled due date. The Amortized Payment Choices will reduce your principal balance and the amount of interest you will pay over the life of this loan. These Amortized Payment Choices are provided to you as an additional service, but by no means are you limited to these choices when it comes to the amount of partial prepayments of principal that you may select on your own. **IMPORTANT NOTE:** Be sure you review any prepayment penalty provision you may have in your loan. Depending on the amount of any partial Prepayments and when you make them, you may owe a prepayment charge at the time you payoff your loan.

**Your Home Loan Snapshot as of October 29, 2009**

Loan type	30 Yr Conv Jimbo ARM
Principal balance	\$381,150.00
Escrow balance	-\$2,961.30
Interest rate	6.875%

Payment Due Date:	11/01/2009
Past Due Payment Amount	\$42,143.00
Fees Due	\$1,746.40
Partial Payment Balance	\$2,272.62
Late Charge if payment is received after 11/16/2009 (see next page for account activity details)	\$109.18

We may charge you a fee for any payment returned or rejected by your financial institution, subject to applicable law.

AA01658



# Exhibit 6



**Bank of America**



Home Loans  
Customer Service Department, CA6-919-01-41  
PO Box 5170  
Simi Valley, CA 93062-5170

**Notice Date:** December 15, 2009

**Account No.:** 162304785

Vicenta Lincicome  
70 Riverside Dr  
Dayton, NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**IMPORTANT MESSAGE ABOUT YOUR LOAN**

Bank of America Home Loans Servicing, L.P. recently received an authorization request from The Law Offices of Charles T. Marshall for access to your loan information.

---

**WHAT THIS MEANS**

Our system has been documented to allow our Customer Service Representatives to discuss your loan with **The Law Offices of Charles T. Marshall at any time, unless otherwise notified.**

Although we can discuss your loan information with The Law Offices of Charles T. Marshall, only the parties named in the Note are authorized to make any changes to the loan information.

---

**THANK YOU FOR YOUR BUSINESS**

You are a valued customer here at BAC Home Loans Servicing, LP. It is our continued goal to provide our customers with the highest level of customer satisfaction.

If you have any questions, please contact our Customer Service Department directly at (800) 669-6007.

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence

3<sup>rd</sup> Ply Auth App A 5704/9926 03/24/2006

AA01660



**Notice Date:** February 23, 2010

Account No.: 162304785

Vicenta Lincicome  
70 Riverside Dr  
Dayton NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

YOUR REQUEST HAS BEEN RECEIVED

Thank you for your recent correspondence addressed to BAC Home Loans Servicing, LP.

## WHAT YOU CAN EXPECT

We are in the process of obtaining the documentation and information necessary to address your questions and concerns. We will provide a more complete response within twenty (20) business days.

THANK YOU FOR YOUR BUSINESS

Please accept our sincere apology for the delay  
Thank you for the opportunity to be of assistance.

This communication is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence. CSDEAY 2887/9927 11/26/2004

AA01661



**Bank of America** 

**Home Loans**

Po Box: 5170  
Simi Valley, CA 93065



0005014-0005014 15785 001 ----- 066500

**Notice Date:** March 12, 2010

**Account No.:** 162304785

Vicenta Lincicome  
70 Riverside Dr  
Dayton NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent correspondence addressed to BAC Home Loans Servicing, LP.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions and concerns. We will provide a more complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

Please accept our sincere apology for the delay.

Thank you for the opportunity to be of assistance.

This communication is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence. GSDEAY 2087/9927 11/26/2004

AA01662



**Bank of America**



**Home Loans**

4500- Annon Carter Blvd  
Fort Worth, TX 76155



A11 3-772-24035-0001338-001-1-000-000-000-000  
VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

**Notice Date:** October 19, 2011

**Account No.:** 162304785

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-6607, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence

CSDEAY 12606 12/16/2010

AA01663

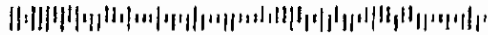


Bank of America



Home Loans

400 National Way  
Sunny Valley, CA 93085



AT1 4-772-30001-0003973-004-1-000-000-000-000

VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

CSDEAY 12606 12/16/2010

**Notice Date:** December 23, 2011

**Account No.:** 162304785

**Property Address:**  
70 Riverside Drive  
Dayton NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-6607, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence.

AA01664



# Exhibit 7



B91 (Official Form 91) (Chapter 13 Case) (12/07)

Case Number 10-51219-gwz

**UNITED STATES BANKRUPTCY COURT District of Nevada****Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines**

The debtor(s) listed below filed a chapter 13 bankruptcy case on 4/6/10. You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. **NOTE:** The staff of the bankruptcy clerk's office cannot give legal advice. **RENO CASES ONLY:** See [www.reno13.com](http://www.reno13.com) for specific meeting times. **Important Notice of Individual Debtors:** Debtors who are individuals must provide government issued photo identification and proof of social security number at the meeting of creditors. Failure to do so may result in dismissal of their case.

**See Reverse Side For Important Explanations**

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

A. ELLIS LINCICOME JR.  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

VICENTA J. LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

Case Number:  
10-51219-gwz  
Judge: GREGG W ZIVE

Social Security/Individual Taxpayer ID/Employer Tax ID/Other nos.  
xxx-xx-2173  
xxx-xx-9330

Attorney for Debtor(s) (name and address):  
ROBERT G JOHNSTON  
412 N DIVISION  
CARSON CITY, NV 89703  
Telephone number: (775) 882-6112

Bankruptcy Trustee (name and address):  
WILLIAM A. VAN METER  
POB 6630  
RENO, NV 89513  
Telephone number: (775) 324-2500

**Meeting of Creditors**Date: **May 14, 2010**Time: **12:00 PM**Location: **300 Booth Street, Room 2110, Reno, NV 89509****Deadlines:**Papers must be *received* by the bankruptcy clerk's office by the following deadlines:**Deadline to File a Proof of Claim:**For all creditors (except a governmental unit): **8/12/10**For a governmental unit (except as otherwise provided in Fed. R. Bankr. P. 3002 (c)(1)): **180 days after order for relief entered****Creditor with a Foreign Address:**

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

**Deadline to File a Complaint to Determine Dischargeability of Certain Debts: 7/13/10****Deadline to Object to Exemptions:**Thirty (30) days after the *conclusion* of the meeting of creditors.**Pre-Confirmation Meeting**

Not Applicable

**Hearing on Confirmation of Plan**

Date: **6/4/10** Time: **02:00 PM**  
Location: **300 Booth Street, Reno, NV 89509**  
A written objection must be filed prior to the hearing.

**Chapter 13 Plan**The Chapter 13 plan, when filed, will be mailed under separate cover and may also be viewed on the U.S. Bankruptcy Court's Pacer system at: [www.nvb.uscourts.gov](http://www.nvb.uscourts.gov).**Creditors May Not Take Certain Actions:**

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office:  
300 Booth Street  
Reno, NV 89509  
Telephone number: (775) 784-5559

**For the Court:**

Clerk of the Bankruptcy Court:



Mary A. Schott

Hours Open: Monday - Friday 9:00 AM - 4:00 PM

Date: 4/7/10



**EXPLANATIONS**

B91 (Official Form 91) (12/07)

Filing of Chapter 13 Bankruptcy Case	A bankruptcy case under Chapter 13 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts pursuant to a plan. A plan is not effective unless confirmed by the bankruptcy court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan, if not enclosed, will be sent to you later, and if the confirmation hearing is not indicated on the front of this notice, you will be sent notice of the confirmation hearing. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business, if any, unless the court orders otherwise.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1301. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date without further notice.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a)(2) or (4), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of property claimed as exempt, at the bankruptcy clerk's office or at <a href="http://www.nyb.uscourts.gov">www.nyb.uscourts.gov</a> .
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer to Page 1 for Important Deadlines and Notices



**United States Bankruptcy Court  
District of Nevada**

Case No. 10-51219-gwz

Chapter 13

In re: (Name of Debtor)

A. ELLIS LINCICOME JR.

VICENTA J. LINCICOME

Hearing Date: 6/4/10

Hearing Time: 02:00 PM

**NOTICE OF HEARING ON CONFIRMATION OF CHAPTER 13 PLAN**

**NOTICE IS HEREBY GIVEN** that the debtor has filed a chapter 13 plan. A hearing on confirmation of the plan will be held before a United States Bankruptcy Judge at The C. Clifton Young Federal Building and U.S. Courthouse, 300 Booth Street, Reno, NV 89509 on 6/4/10 at the hour of 02:00 PM. A copy of said plan will be sent by separate notice.

Any objections to the plan shall be made in accordance with Fed. R. Bankr. P. 3015(f) and 9014, and Local Rule 9014. Any objection to confirmation of the plan must be filed and served prior to the confirmation hearing and if no timely objections are filed, the plan may be deemed to be filed in good faith.

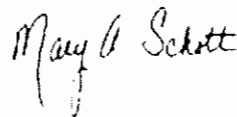
If you object to the plan, you *must* file a **WRITTEN** response with the court. You *must* also serve your written response on the debtor, debtor's attorney, the trustee and U.S. trustee.

If you do not file a written response with the court, or if you do not serve your written response on the persons named above, then:

- \* The court may *refuse to allow you to speak* at the scheduled hearing; and
- \* The court may *rule against you* without formally calling the matter at the hearing.

Dated: 4/7/10

BY THE COURT



Mary A. Schott  
Clerk of the Bankruptcy Court



# Exhibit 8



**United States Bankruptcy Court  
District of Nevada**

**Case No. 10-51219-gwz**

**Chapter 13**

In re: (Name of Debtor)

A. ELLIS LINCICOME JR.  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

VICENTA J. LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

Social Security No.:

xxx-xx-2173

xxx-xx-9330

**DISCHARGE OF DEBTOR AFTER COMPLETION OF CHAPTER 13 PLAN**

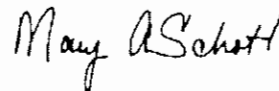
The Court finds that the debtor filed a petition under Title 11, United States Code, on 4/6/10, that the debtor's plan has been confirmed, and that the debtor has fulfilled all requirements under the plan.

**IT IS HEREBY ORDERED THAT:**

1. Pursuant to 11 U.S.C. Section 1328(a), the debtor is discharged from all debts provided for by the Plan or disallowed under 11 U.S.C. Section 502, except any debt:
  - a. provided for under 11 U.S.C. Section 1322(b)(5), and on which the last payment is due after the date on which the final payment under the Plan was due;
  - b. in the nature of a domestic support obligation, as specified in 11 U.S.C. Section 523(a)(5);
  - c. for a student loan or educational benefit overpayment as specified in 11 U.S.C. Section 523(a)(8);
  - d. for a death or personal injury caused by the debtor's unlawful operation of a motor vehicle, vessel, or aircraft while intoxicated from using alcohol, a drug, or another substance, as specified in 11 U.S.C. Section 532(a)(9);
  - e. for restitution included in a sentence on the debtor's conviction of a crime, in a case commenced on or after November 15, 1990;
  - f. for a fine included in a sentence on the debtor's conviction of a crime, in a case commenced on or after October 22, 1994;
  - g. for restitution, or damages, awarded in a civil action against the debtor as a result of malicious or willful injury by the debtor that caused personal injury to an individual or the death of an individual, in a case commenced on or after October 17, 2005; or
  - h. for certain taxes to the extent not paid in full under the plan, in a case commenced on or after October 17, 2005.
2. Pursuant to 11 U.S.C. Section 1328(d), the debtor is not discharged from any debt based on an allowed claim filed under 11 U.S.C. Section 1305(a)(2) if prior approval by the Trustee of the debtor's incurring such debt was practicable and was not obtained.
3. Notwithstanding the provisions of Title 11, United States Code, the debtor is not discharged from any debt made nondischargeable by 18 U.S.C. Section 3613(f), by certain provisions of Titles 10, 37, 38, 42, and 50 of the United States Code, or by any other applicable provision of law.
4. All creditors are prohibited from attempting to collect any debt that has been discharged in this case.

Dated: 6/15/15

BY THE COURT



Mary A. Schott  
Clerk of the Bankruptcy Court



# Exhibit 9



April 24, 2015

Vicenta Lindcome  
70 Riverside Drive  
Dayton, NV 89403

**Loan Number: 162304785**

**You're on your way toward an  
affordable mortgage payment**

**To accept our offer, make your first  
trial period payment or contact us by  
05/08/2015.**

Dear Vicenta Lindcome

Based on a careful review of your loan, we are offering you an opportunity to enter into a Trial Period Plan for a loan modification. This is the first step toward qualifying for more affordable mortgage payments or more manageable terms. It is important that you read this letter in its entirety so that you fully understand the actions you need to take to successfully complete the Trial Period Plan.

**The proposed modification terms**

If you successfully complete the Trial Period Plan by making the required payments, you will receive a modification with an interest rate of 4.125%, which will be fixed from the date the modification is effective. If we determine that the unpaid balance of your mortgage is more than 115% of the current value of your home, you will be eligible to have up to 30% of your principal balance deferred, and the deferred amount will not be subject to any interest rate charges. The deferred principal amount will be due and payable at the earlier of 1) the end of the term of the modified mortgage, 2) any sale or transfer of your interest in the property or 3) a refinance of your mortgage loan.

**To stop the foreclosure process (suspension of foreclosure)**

To prevent your loan from starting the foreclosure process or to suspend foreclosure if that process has already begun, you must notify us by 05/08/2015 of your intent to accept this trial offer through one of the following options:

- Contact us at 1.800.669.6650
- Sign and return the enclosed *Intent to Accept Trial Offer* form using the prepaid envelope provided
- Make your first trial payment by 05/08/2015, which is earlier than the scheduled due date described below

However, if you do not respond by 05/08/2015, we will continue with the foreclosure process, and a foreclosure sale may occur.

**Please Note:** If we do not receive your acceptance to this trial offer by one of the options above by 05/08/2015, we can only accept the first trial payment in certified funds to prevent foreclosure. This payment must still be made by the first payment due date and your remaining trial payments can be paid by check/money order or deducted directly from your checking account, if applicable.

Additionally, if you have a scheduled foreclosure sale date and take the required steps to accept this offer, Bank of America will make every effort to postpone the sale. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale or the investor on your loan may not halt the scheduled sale. **Do not ignore any foreclosure notices.**

This offer will be revoked if a foreclosure sale occurs, even if the sale occurs prior to the first trial period payment due date set forth below:

PKG 156 / 03\_8223-3

AA01672



# Exhibit 10



Press ENTER to Continue



Amount entered is less than the minimum allowable payment.  
Payments cannot be more than \$50 below the Normal Payment  
Amount. Please re-enter amount and/or Payment Type(s)

OK

Bank of America

11/01/2015

000000336 0008259  
TLR 029 FRB3210  
ABA062001633

VICENTA J LINCICOME  
A ELLIS LINCICOME JR.  
70 RIVERSIDE DR  
DAYTON, NV 89403

1088

50-78/1211

PAY TO THE  
ORDER OF

*Bank of America*  
*100 Thousand Three hundred & 78/100*



BANK OF AMERICA

Carson City Office  
2976 NORTH CARSON ST.  
CARSON CITY, NV 89704  
1-800-486-3265

FOR

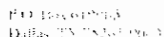
*Account # 16234785 Vicenta J Lincicome*

⑆121100782⑆ 028276287⑆ 01088



# Exhibit 11





## Statement Date 06/10/2015



0000-0001-9144-1064/2017-0000-1000 0000-0000-0000-0000

VICENTA LINCOLN-  
70 RIVERSIDE DR  
DAYTON NY 89403 9056

If you have questions or concerns about your statement, please contact us at 1-800-495-7166 between the hours of 9 a.m. - 9 p.m. CT Monday through Thursday, 9 a.m. - 5 p.m. CT Friday, and 10 a.m. - 4 p.m. CT Saturday.

Account Number	114477
Payment Due Date	09/01/2015
Amount Due	\$207,599.70

*If payment is received after 09/16/2015 \$109.18 late fee will be charged*

Property Address  
70 RIVERSIDE DR  
DAYTON NV 89400

## Delinquency Notice

**You are late on your monthly payments.** Failure to bring the amount current may result in additional fees and expenses, and in certain instances, your credit risk **fourfold**. The amount needed to cure the delinquency is \$207,599.70. If you are unable to pay this amount, please call your account manager to discuss your delinquency.

**A:** 1-800-515-1115. You are 15 days delinquent on your mortgage, can

- [illegible]

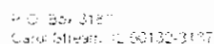
Pay: \$207,599.76 - You must pay this amount to bring your loan current.

If you are experiencing financial difficulty, see back for information about home ownership counseling.

DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT



Account Number	Due Date	Regular Payment	Past Due	Payments Due	Other Amounts
114477	09-01-2015	\$0.413.96	\$705.165.75	85	\$0.00



Amount Due	
Due By 09/01/2015:	\$207,599.70
Payment received after 09/01/2015:	\$0.00
Additional Encow:	\$
Additional Encow:	\$
Total Amount Enclosed	\$



<b>Payments via Overnight or Express Mail</b> Fay Servicing Attn: Payment Processing 440 S. LaSalle, Suite 2000 Chicago, IL 60605		<b>Payments Online</b> <a href="http://www.fayservicing.com">www.fayservicing.com</a> <b>Correspondence</b> Fay Servicing P.O. Box 809441 Chicago, IL 60680-9441
<small>Payments cannot be made or received at this location.          Remember to include your name and account number on all payment remittances and written correspondence.</small>		

### Payments by Phone

Fay Servicing's Pay-by-phone option makes it possible to make your loan payment by using your touchtone telephone. This service is available to you 24 hours a day, 7 days a week. Simply call the toll-free number below to perform real-time, confidential mortgage payment transactions. And you can call as often as you like. There is no charge for the call or transaction.

### Payments Online

Fay Servicing Online Mortgage Payment, free with your online account, can save you time and money with the click of a mouse. Pay your mortgage online and skip paper checks and stamps. Set up your payment in minutes. (Ref. to each month to make your payments, or set up automated recurring payments for convenience.)

### MoneyGram Express Payment

MoneyGram ExpressPayment ensures same-day delivery of your payment to Fay Servicing. Visit your local MoneyGram Agent. Call 1-800-926-9400 to locate the one nearest you. Complete the ExpressPayment form, providing your name and Fay Servicing loan number. The Fay Servicing Receive Code is 15055. All ExpressPayment transactions require cash. The agent will charge a fee for this service. Fay Servicing does not charge a fee for this service.

### Activity Since Your Last Statement (07/10/2015 - 08/10/2015)

Date	Description	Charges	Payments
07/06/15	CORR ADVANCE ADJUST	-\$10.00	
08/05/15	MONTHLY PAYMENT		\$100.00

*Qualified Written Requests must be submitted to Fay Servicing, LLC, 901 S. 2nd St., Suite 201, Springfield, Illinois 62704.*

HUD-approved housing counselors are available at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm> or by calling 1-800-569-4287.

### Notice of Error or Information Request:

If you believe there has been an error with the account or you require additional information, you may send a written Notice of Error or Information Request. All Notices of Error or Information Requests must be sent in writing to the address listed below, as this is our exclusive address under Federal Law for these matters. If you send your correspondence to any other address, it may not be processed in accordance with Federal law. Please submit to Fay Servicing, LLC, 901 S. 2nd St., Suite 201, Springfield, Illinois 62704-7909.

Fay Servicing is a debt collector, and information you provide to us will be used for that purpose. To the extent your original obligation was discharged, or is subject to an automatic stay under the United States Bankruptcy Code, this is being provided for informational purposes only and does not constitute an attempt to collect a debt or impose personal liability. Our office hours are Monday-Thursday 9 a.m. - 9 p.m. Friday 9 a.m. - 5 p.m., and Saturday 10 a.m. - 4 p.m. CST. Call today: 1-800-495-7166. NMLS ID#88244. NC residents: Fay Servicing, LLC, NC Permit Number 112302, 440 S. LaSalle St., Suite 2000, Chicago, IL 60605-6011.

Be sure to check box on reverse. Please print.

Account Number

Borrower

Co-Borrower

Street

City/State/Zip

Home Phone

Work Phone

Borrower Email

Co-Borrower Email

Borrower Signature

Co-Borrower Signature



# Exhibit 12



**DOC# 544042**

11/25/2015

08:47AM

**Official Record**

Requested By  
DEFAULT SERVICES - AVENUE 365

**Lyon County - NV**

**Dawna L. Warr - Recorder**

Page: 1 of 2

Fee: \$15.00

Recorded By MFK

RPTT: \$0.00



0544042

**Prepared By:**

PROF-2013-M4 Legal Title Trust, by U.S. Bank  
National Association, as Legal Title Trustee  
60 Livingston Avenue, EP-MN-WS3D, St. Paul, MN  
55107, Attention: Structured Finance Services

**WHEN RECORDED RETURN TO:**

Avenue 365 Lender Services  
401 Plymouth Rd, Ste. 550  
Plymouth Meeting, PA 19462

Parcel # 29-401-17

**ASSIGNMENT OF DEED OF TRUST**

FOR VALUE RECEIVED, the undersigned, **BANK OF AMERICA, N.A., S/B/M BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P.**, located at 1800 Tapa Canyon Road, Simi Valley, California 93063 ("ASSIGNOR/GRANTOR"), hereby grants, conveys, assigns to: **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee**, located at 60 Livingston Avenue, EP-MN-WS3D, St. Paul, MN 55107, Attention: Structured Finance Services ("ASSIGNEE/GRANTEE") all beneficial interest under that certain **DEED OF TRUST**, dated 5/23/2007 and executed by **VICENTA LINCICOME, A MARRIED WOMAN**, borrower(s) to: **Mortgage Electronic Registration Systems, Inc., as nominee for SIERRA PACIFIC MORTGAGE COMPANY, INC.**, its successors and assigns, as original lender, and certain instrument recorded 5/25/2007, in **INSTRUMENT NO. 407150**, in the Official Records of **LYON County**, the State of **Nevada**, given to secure a certain Promissory Note in the amount of \$381,150.00 covering property located at: **70 RIVERSIDE DRIVE, DAYTON, NEVADA 89403**.

TOGETHER with the note or notes therein described and secured thereby, the money due and to become due thereon, with interest, and all rights accrued or to accrue under said Mortgage including the right to have reconveyed, in whole or in part, the real property described therein.





544042

11/25/2015  
2 of 2Dated: November 10<sup>th</sup>, 2015

ASSIGNOR: BANK OF AMERICA, N.A., S/B/M BAC HOME  
LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME  
LOANS SERVICING, L.P. By: Avenue 365 Lender Services,  
LLC, its attorney-in-fact\*

By: 

Name: Steven Travascio

Title: Authorized Signatory

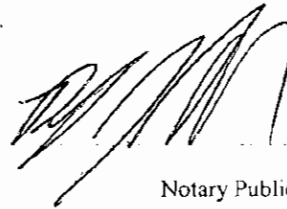
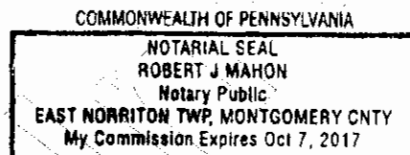
\*Power of Attorney recorded in Maricopa County, Arizona as

Instrument: 20150617207

State of: Pennsylvania

County of: Montgomery

Before me, **Robert J. Mahon**, duly commissioned Notary Public, on this day personally appeared **Steven Travascio, Authorized Signatory for Avenue 365 Lender Services, LLC, attorney-in-fact BANK OF AMERICA, N.A., S/B/M BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P.** known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 10<sup>th</sup> day of November, 2015.

Notary Public's Signature

Printed Name: Robert J. Mahon

My Commission Expires: 10.07.2017

Property Address: 70 RIVERSIDE DRIVE, DAYTON, NEVADA 89403

Original Loan Amount:  
\$381,150.00



# Exhibit 13



DOC# 572258

11/03/2017

10:29AM

**Official Record**

Requested By  
SERVICELINK TITLE AGENCY INC.

Lyon County - NV

Dawna L. Warr - Recorder

Page: 1 of 6

Fee: \$288.00

Recorded By BKC

RPTT: \$0.00

APN: 029-401-17

WHEN RECORDED MAIL TO:

Sables, LLC

c/o Zieve Brodnax & Steele

3753 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169



0572258

TS No. : 16-42397

**NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO  
SELL THE REAL PROPERTY UNDER DEED OF TRUST**

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five (5) business day prior to the date set for the sale of your property pursuant to NRS 107.080. No sale date may be set until three months from the date this Notice of Default may be recorded (which date of recordation appears on this notice). This amount is **\$265,572.39** as of **10/31/2017** and will increase until your account becomes current.

NOTICE IS HEREBY GIVEN THAT: SABLES, LLC, a Nevada limited liability company is either the original trustee, or the duly appointed substituted Trustee, or acting as agent for the Trustee or the Beneficiary under a under a Deed of Trust dated 5/23/2007, executed by VICENTA LINCICOME, A MARRIED WOMAN, as trustor to secure obligations in favor of Mortgage Electronic Registration Systems, Inc., as nominee for, SIERRA PACIFIC MORTGAGE COMPANY, INC. its successors and assigns, as Beneficiary, recorded 5/25/2007, instrument no. 407150 The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011 of Official Records in the office of the County recorder of Lyon, County, Nevada securing, among other obligations including

One note(s) for the Original sum of \$381,150.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by Beneficiary; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The monthly installment which became due on 9/1/2008, along with late charges, and all subsequent monthly installments.

You are responsible to pay all payments and charges due under the terms and conditions of the loan documents which come due subsequent to the date of this notice, including, but not limited to; foreclosure trustee fees and costs, advances and late charges.

Furthermore, as a condition to bring your account in good standing, you must provide the undersigned with written proof that you are not in default on any senior encumbrance and provide proof of insurance.





T.S. No.: 16-42397

**Nothing in this Notice of Default should be construed as a waiver of any fees owing to the beneficiary under the Deed of Trust, pursuant to the terms and provisions of the loan documents.**

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered to said duly appointed Trustee a written Declaration of Default and Demand for Sale and has deposited with said duly appointed Trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

### NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. As to owner occupied property, where reinstatement is possible, the time to reinstate may be extended to 5 days prior to the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

**To determine if reinstatement is possible and the amount, if any, to cure the default, contact:**

PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
c/o Fay Servicing, LLC  
c/o SABLES, LLC, a Nevada limited liability company  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169  
Beneficiary Phone: 800-495-7166  
Trustee Phone: (702) 664-1774

To reach a person with authority to negotiate a loan modification on behalf of the lender:

Lauren Jowers  
800-495-7166

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

If you have any questions, you should contact a lawyer or the governmental agency that may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

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

Attached hereto and incorporated herein by reference is the Affidavit of Authority in Support of Notice of Default and Election to Sell pursuant to NRS 107.080.





572258

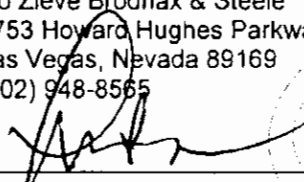
11/03/2017  
3 of 6

T.S. No.: 16-42397

You may wish to consult a credit counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with names and addresses of local HUD approved counseling agency by calling their approved Local Housing Counseling Agency toll free number: (800) 569-4287 or you can go to HUD's website: <http://portal.hud.gov>.

Dated: 11/1/2017

SABLES, LLC, a Nevada limited liability company, as Trustee  
Sables, LLC  
c/o Zieve Brodnax & Steele  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
(702) 948-8565

  
Michael Busby, Trustee Sale Officer

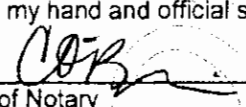
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CALIFORNIA  
County of ORANGE

On 11/1/2017, before me, Christine O'Brien, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
Signature of Notary





572258

11/03/2017  
4 of 6**Affidavit of Authority**

(Nevada Revised Statute §107.080 as amended effective June 1, 2013)

Re: TS# 16-42397  
Borrower Name: VICENTA LINCICOME  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

I, Veronica Talley, am the Foreclosure Specialist of Fay Servicing, LLC, the current servicer for the beneficiary of the deed of trust described in the notice of default and election to sell to which this affidavit is attached ("Deed of Trust"). The following facts are based upon my personal review of documents that are of public record in the State of Nevada and personal knowledge acquired by my personal review of the business records of the beneficiary, which are within my custody and control. The business records of the beneficiary contain entries made in the ordinary course of business at or about the time the events reflected therein occurred.

1(a). The full name and business address of the current trustee of record for the Deed of Trust is **Sables LLC, a Nevada Limited Liability Company, 3753 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169**

1(b). The full name and business address of the current holder of the Note secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**

1(c). The full name and business address of the current beneficiary for the obligation or debt secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**

1(d). The full name and business address of the current servicer for the obligation secured by the Deed of Trust is **Fay Servicing, LLC, 440 S. LaSalle St., Suite 2000, Chicago, IL 60605**

2. From my review of the documents of public record and the business records of the current beneficiary and a title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to Chapter 692A of the NRS, the name of each assignee and each recorded assignment of the Deed of Trust:

2(a). Assignee Name: PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.  
Instrument and Recording Information: Assignment of Deed of Trust recorded on 11/25/2016  
Instrument No. 544042

2(b). Assignee Name: Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP  
FKA Countrywide Home Loans Servicing, LP  
Instrument and Recording Information: Corporation Assignment of Deed of Trust recorded on 08/15/2011  
Instrument No. 480360

2(c). Assignee Name: Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP  
FKA Countrywide Home Loans Servicing, LP  
Instrument and Recording Information: Assignment of Mortgage recorded on 11/10/2010  
Instrument No 467719

3. The current beneficiary under the Deed of Trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the Deed of Trust.

4. From my review of the documents of public record and the business records of the current beneficiary, the current trustee has authority to exercise the power of sale with respect to the property





572258

11/03/2017  
5 of 6

encumbered by the Deed of Trust, pursuant to instruction from the current beneficiary of record and current holder of the note secured by the Deed of Trust.

5. From my review of the documents of public record and the business records of the current beneficiary, the beneficiary, servicer of the obligation, or an attorney of the beneficiary or servicer has sent to VICENTA LINCICOME, a written statement of: (I) the amount of payment required to make good the deficiency in performance of payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement; (II) the amount in default; (III) the principal amount of the obligation or debt secured by the deed of trust; (IV) the amount of accrued interest and late charges; (V) a good faith estimate of all fees imposed in connection with the power of sale; and (VI) contact information for obtaining the most current amounts due and the local or toll-free telephone number that VICENTA LINCICOME may call to receive the most current amounts due and a recitation of the information in this affidavit.

6. The borrower or obligor of the loan secured by the Deed of Trust may call Fay Servicing, LLC at 800-495-7166 to receive the most current amounts due and a recitation of the information contained in this Affidavit.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct and that this Affidavit was executed on October 5, 2016.

By: **Fay Servicing, LLC, its attorney in fact**

**Veronica Talley**

(Print Name)

*Veronica Talley*

(Signature)

**Foreclosure Specialist IV**

(Title)

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

State of Texas

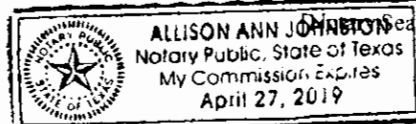
County of Denton

On October 5th 2016 before me, Allison Ann Johnston, Notary Public, personally appeared, Veronica Talley, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature







572258

11/03/2017  
6 of 6

## Declaration of Mortgage Servicer Pursuant to NR 107.510

T.S. Number: 16-42397  
Borrower(s): VICENTA LINCICOME  
Mortgage Servicer: Fay Servicing, LLC  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

The undersigned, as an authorized agent or employee of the mortgage servicer named below, declares that:

1. ☒ The mortgage servicer has contacted the borrower pursuant to NRS 107.510 (2), to assess the borrower's financial situation and to explore options for the borrower to avoid a foreclosure sale. Thirty (30) days, or more, have passed since the initial contact was made.
2. ☐ The mortgage servicer has exercised due diligence to contact the borrower pursuant to NRS 107.510 (5), to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure". Thirty (30) days, or more, have passed since these due diligence efforts were satisfied.
3. ☐ No contact was required by the mortgage servicer because the individual(s) did not meet the definition of "borrower" pursuant to NRS 107.410.
4. ☐ During the preceding annual reporting period, the Lender has foreclosed on 100 or fewer real properties located in this state and therefore, pursuant to NRS 107.460, the provisions of NRS 107.400 to 107.560, inclusive, do not apply.
5. ☐ The loan is not a "residential mortgage loan" as defined in NRS 107.450.

I certify that this declaration is accurate, complete and supported by competent and reliable evidence which the mortgage servicer has reviewed to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information.

Dated: 4-5-2016By: 



# Exhibit 14



FILED

2018 NOV -8 PM 1:51

TANYA SEE TIME  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

Victoria Tovar Clerk

Case No: 18-CV-01332

Dept.: II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ALBERT ELLIS LINCICOME, JR., and )  
VICENTA LINCICOME, )

Plaintiffs, )

v. )

**ORDER**

SABLES, LLC, a Nevada limited liability )  
company, as Trustee of the Deed of Trust )  
given by Vicenta Lincicome and dated )  
5/23/2007; FAY SERVICING, LLC, a )  
Delaware limited liability company and )  
subsidiary of Fay Financial, LLC; PROF- )  
2013-M4 LEGAL TITLE TRUST by U.S. )  
BANK, N.A., as Legal Title Trustee; for )  
BANK OF AMERICA, N.A.; and DOES 1-50. )

Defendants. )

THIS MATTER comes before the Court upon the Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction filed on November 7, 2018, by Plaintiffs Albert Ellis Lincicome, Jr., and Vicenta Lincicome.

THE COURT having reviewed the Application, the supporting evidence submitted therewith, and the representations of counsel, hereby makes the following FINDINGS OF FACT:

1. That a Notice of Trustee's Sale was recorded by Sables, LLC, the current trustee under that certain Deed of Trust recorded in Lyon County, Nevada, on May 25, 2007, as Document No. 407150, noticing sale of the Plaintiff's real property there in described;

ORDER

PAGE 1 OF 3



2. That Plaintiffs have established that irreparable injury will result if Defendant Sables, LLC, is permitted to exercise the power of sale and foreclosure on the Plaintiffs' real property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, Assessor Parcel Number 29-401-17; and

3. That Plaintiffs have established to the Court's satisfaction that Plaintiffs are likely to succeed on the merits of their claim for injunctive relief under NRS 107.560 for material violations of the Homeowner's Bill of Rights.

THEREFORE, GOOD CAUSE APPEARING, the Court hereby enters the following Orders:

1. That Sables, LLC, is hereby restrained and temporarily enjoined from selling at public auction the real property identified in the Notice of Trustee's Sale recorded with the Office of the Lyon County Recorder as Document No. 587470, at public auction until further order of the Court.

2. That the Notice of Trustee's Sale recorded on October 12, 2019, is hereby cancelled and that the public auction of the property described in the Notice of Trustee's Sale is hereby vacated.

3. That a hearing to determine whether a preliminary injunction should issue shall be held on 20<sup>th</sup> November, 2018 at 2:30 PM, at the courthouse located at 911 Harvey Way, Yerington, Nevada. Defendants, or any one of them, may appear at that time to be heard why the injunction should not issue;

4. That Plaintiffs are ordered to provide proper service of this Order, pursuant to NRCP 5.

5. That Plaintiffs are not required to post bond.

6. That Plaintiffs are hereby ordered to appear at the above stated time set for the hearing in order to address their request for issuance of a preliminary injunction.

IT IS SO ORDERED.

Dated this 20<sup>th</sup> day of November, 2018

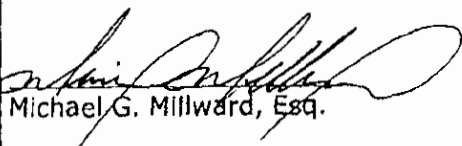
  
DISTRICT JUDGE



**AFFIRMATION**

The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not contain the social security number of any person, or other personal information as defined by NRS 603A.040.

Submitted this 7th day of November, 2018

  
Michael G. Millward, Esq.





# Exhibit 15



70 RIVERSIDE DR

**Doc #: 591393**

01/25/2019 08:21 AM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: FIRST AMERICAN TITLE INSURANCE C

**Lyon County, NV**  
**Margie Kassebaum, Recorder**

Fee: \$38.00 RPTT: \$1,148.55

Recorded By: Inhumildad

A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:  
**Breckenridge Property Fund, 2016, LLC**  
2320 Potosi St. Ste 130  
Las Vegas, NV 89146

Recorded As An Accommodation

Forward Tax Statements to  
the address given above

Only Without Liability

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

### TRUSTEE'S DEED UPON SALE

Transfer Tax: \$ 1148.55

The Grantee Herein WAS NOT the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$671,249.37

The Amount Paid by the Grantee was \$294,000.01

Said Property is in the City of DAYTON, County of Lyon

SABLES, LLC, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

**Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:

Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.

EXCEPTING THEREFROM all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by VICENTA LINCICOME, A MARRIED WOMAN as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.



A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:

**Breckenridge Property Fund, 2016, LLC**  
2320 Potosi St. Ste 130  
Las Vegas, NV 89146

Recorded As An Accommodation

Forward Tax Statements to      Only Without Liability  
the address given above

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

### TRUSTEE'S DEED UPON SALE

Transfer Tax: \$ 1148.55

The Grantee Herein **WAS NOT** the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$671,249.37

The Amount Paid by the Grantee was \$294,000.01

Said Property is in the City of DAYTON, County of Lyon

**SABLES, LLC**, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby **GRANT** and **CONVEY** to

#### **Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:

Lot 42 as shown on the official map of **GOLD CANYON ESTATES, PHASE 2**, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.

**EXCEPTING THEREFROM** all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by **VICENTA LINCICOME, A MARRIED WOMAN** as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.



## TRUSTEE'S DEED UPON SALE

T.S. #: 16-42397

Order #: 160069595-NV-VOO

Trustee having complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified return receipt mail, postage pre-paid to each person entitled to notice in compliance with Nevada Revised Statutes 107.080.

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 1/4/2019. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$ \$294,000.01, in lawful money of the United States, in pro per, receipt there of is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, SABLES, LLC, a Nevada limited liability company, as Trustee, has this day, caused its name to be hereunto affixed.

Date: 1/15/2019

SABLES, LLC, a Nevada limited liability company

Geoffrey Neal, Trustee Sale Officer

Geoffrey  
Neal

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

State of CALIFORNIA  
County of ORANGE

On 1/15/2019 before me, the undersigned, J. Develasco Notary Public, personally appeared Geoffrey Neal who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

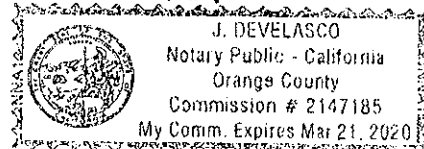
Signature

J. Develasco

(Seal)

J. Develasco

J. Develasco  
# 2147185 Expires 3/21/20





STATE OF NEVADA  
DECLARATION OF VALUE FORM

1. Assessor Parcel Number(s)

a) 029-401-17

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

2. Type of Property:

a) ☐ Vacant Land

c) ☐ Condo/Townhse

e) ☐ Apt. Bldg

g) ☐ Agricultural

☐ Other

b) ☒ Single Fam. Res.

d) ☐ 2-4 Plex

f) ☐ Comm'l/Ind'l

h) ☐ Mobile Home

FOR RECORDER'S OPTIONAL USE ONLY

Book: \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

Notes: \_\_\_\_\_

3. a. Total Value/Sales Price of Property

\$ \$294,000.01

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

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

c. Transfer Tax Value:

\$ \$294,000.01

d. Real Property Transfer Tax Due

\$ 1148.55

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100 %

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

Signature \_\_\_\_\_

Capacity AGENT

Signature \_\_\_\_\_

Capacity AGENT

SELLER (GRANTOR) INFORMATION  
(REQUIRED)

Print Name: Sables, LLC, a Nevada limited liability company

Address: 3753 Howard Hughes Parkway, Suite 200, Las Vegas, NV 89169

BUYER (GRANTEE) INFORMATION  
(REQUIRED)

Print Name: Breckenridge Property Fund, 2016, LLC

Address: 2320 Potosi St. Ste 130 Las Vegas, NV 89146

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

Print Name: First American Escrow #: ACCU

Address: 10000 W Charleston

City: Las Vegas

State: NV

Zip: 89135

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED



FILED

2020 JAN -7 AM 11:51

TANYA SCERINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

ORIGINAL *Andrea Andersen*

1 WRIGHT, FINLAY & ZAK, LLP

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3 Nevada Bar No. 9313

4 Ramir M. Hernandez, Esq.

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10 *Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association,*  
11 *as Legal Title Trustee and Fay Servicing LLC*

12 **THIRD JUDICIAL DISTRICT COURT**

13 **LYON COUNTY, NEVADA**

14 ALBERT ELLIS LINCICOME, JR. and  
15 VICENTA LINCICOME,

16 Plaintiffs,

17 vs.

Case No.: 18-cv-01332

Dept. No.: II

18 **ANSWER TO SECOND AMENDED**  
19 **COMPLAINT**

20 SABLES, LLC, a Nevada limited liability  
21 company, as Trustee of the Deed of Trust, given  
22 by Vicenta Lincicome and dated 5/23/2007;  
23 FAY SERVICING, LLC, a Delaware limited  
24 liability company and , subsidiary of Fay  
25 Financial, LLC; PROF-2013-M4 LEGAL  
26 TITLE TRUST by U.S. BANK, N.A., as Legal  
27 Title Trustee; for BANK OF AMERICA, N.A.;  
28 BRECKENRIDGE PROPERTY FUND 2016, a  
Utah limited liability company; NEWREZ,  
LLC, d/b/a SHELLPOINT MORTGAGE  
SERVICING , LLC, substituted in for DOE 1;  
1900 CAPITAL TRUST II, BY U.S. BANK  
TRUST NATIONAL ASSOCIATION,  
substituted in for DOE 2; MCM-2018-NPL2,  
substituted in for DOE3; and DOES 4-10.

Defendants.

Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association, as  
Legal Title Trustee ("U.S. Bank Trust") and Fay Servicing LLC ("Fay")(collectively  
"Defendants"), by and through their attorneys of record, the law firm of Wright, Finlay & Zak,  
LLP, hereby files this Answer to Plaintiff's Second Amended Complaint.



**PARTIES**

1. Answering Paragraph 1 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

2. Answering Paragraph 2 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

3. Answering Paragraph 3 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

4. Answering Paragraph 4 of the Complaint, Defendants admit the allegations therein.

5. Answering Paragraph 5 of the Complaint, Defendants admit that US Bank is licensed to do business in Nevada. As to the remaining allegations, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

6. Answering Paragraph 6 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

7. Answering Paragraph 7 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

8. Answering Paragraph 8 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

9. Answering Paragraph 9 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

10. Answering Paragraph 10 of the Complaint, Defendants do not possess enough information to admit or deny the allegations; therefore, Defendants deny said allegations.

**JURISDICTION**

11. Defendants do not possess enough information to admit or deny the allegations in paragraph 11 of the Complaint; therefore, Defendants deny said allegations.

12. Answering Paragraph 12 of the Complaint, Defendants admit that this matter is exempt under Rule 3(A) of the Nevada Arbitration Rules.



1 **VENUE**

2 13. Defendants do not possess enough information to admit or deny the allegations  
3 in paragraph 13 of the Complaint; therefore, Defendants deny said allegations.

4 **GENERAL ALLEGATIONS**

5 14. Defendants do not possess enough information to admit or deny the allegations  
6 in paragraph 14 of the Complaint; therefore, Defendants deny said allegations.

7 15. Defendants do not possess enough information to admit or deny the allegations  
8 in paragraph 15 of the Complaint; therefore, Defendants deny said allegations.

9 16. Answering Paragraph 16 of the Complaint, Defendants admit that the referenced  
10 documents speak for themselves.

11 17. Answering Paragraph 17 of the Complaint, Defendants admit that the referenced  
12 documents speak for themselves.

13 18. Defendants do not possess enough information to admit or deny the allegations  
14 in paragraph 18 of the Complaint; therefore, Defendants deny said allegations.

15 19. Defendants do not possess enough information to admit or deny the allegations  
16 in paragraph 19 of the Complaint; therefore, Defendants deny said allegations.

17 20. Defendants do not possess enough information to admit or deny the allegations  
18 in paragraph 20 of the Complaint; therefore, Defendants deny said allegations.

19 21. Answering Paragraph 21 of the Complaint, Defendants admit that the referenced  
20 document speaks for itself.

21 22. Defendants do not possess enough information to admit or deny the allegations  
22 in paragraph 22 of the Complaint; therefore, Defendants deny said allegations.

23 23. Answering Paragraph 23 of the Complaint, Defendants admit that the referenced  
24 document speaks for itself.

25 24. Answering Paragraph 24 of the Complaint, Defendants admit that the referenced  
26 document speaks for itself.

27 25. Defendants do not possess enough information to admit or deny the allegations  
28 in paragraph 25 of the Complaint; therefore, Defendants deny said allegations.



1           26. Defendants do not possess enough information to admit or deny the allegations  
2 in paragraph 26 of the Complaint; therefore, Defendants deny said allegations.

3           27. Defendants do not possess enough information to admit or deny the allegations  
4 in paragraph 27 of the Complaint; therefore, Defendants deny said allegations.

5           28. Defendants do not possess enough information to admit or deny the allegations  
6 in paragraph 28 of the Complaint; therefore, Defendants deny said allegations.

7           29. Defendants do not possess enough information to admit or deny the allegations  
8 in paragraph 29 of the Complaint; therefore, Defendants deny said allegations.

9           30. Defendants do not possess enough information to admit or deny the allegations  
10 in paragraph 30 of the Complaint; therefore, Defendants deny said allegations.

11          31. Defendants do not possess enough information to admit or deny the allegations  
12 in paragraph 31 of the Complaint; therefore, Defendants deny said allegations.

13          32. Defendants do not possess enough information to admit or deny the allegations  
14 in paragraph 32 of the Complaint; therefore, Defendants deny said allegations.

15          33. Defendants do not possess enough information to admit or deny the allegations  
16 in paragraph 33 of the Complaint; therefore, Defendants deny said allegations.

17          34. Defendants do not possess enough information to admit or deny the allegations  
18 in paragraph 34 of the Complaint; therefore, Defendants deny said allegations.

19          35. Defendants do not possess enough information to admit or deny the allegations  
20 in paragraph 35 of the Complaint; therefore, Defendants deny said allegations.

21          36. Defendants do not possess enough information to admit or deny the allegations  
22 in paragraph 36 of the Complaint; therefore, Defendants deny said allegations.

23          37. Defendants do not possess enough information to admit or deny the allegations  
24 in paragraph 37 of the Complaint; therefore, Defendants deny said allegations.

25          38. Defendants do not possess enough information to admit or deny the allegations  
26 in paragraph 38 of the Complaint; therefore, Defendants deny said allegations.

27          39. Defendants do not possess enough information to admit or deny the allegations  
28 in paragraph 39 of the Complaint; therefore, Defendants deny said allegations.



1           40. Defendants do not possess enough information to admit or deny the allegations  
2 in paragraph 40 of the Complaint; therefore, Defendants deny said allegations.

3           41. Defendants do not possess enough information to admit or deny the allegations  
4 in paragraph 41 of the Complaint; therefore, Defendants deny said allegations.

5           42. Answering paragraph 42 of the Complaint, Defendants admit that the referenced  
6 bankruptcy document speaks for itself.

7           43. Answering paragraph 43 of the Complaint, Defendants admit that the referenced  
8 bankruptcy document speaks for itself.

9           44. Answering paragraph 44 of the Complaint, Defendants admit that the referenced  
10 bankruptcy document speaks for itself.

11          45. Defendants do not possess enough information to admit or deny the allegations  
12 in paragraph 45 of the Complaint; therefore, Defendants deny said allegations.

13          46. Answering Paragraph 46 of the Complaint, Defendants admit that the referenced  
14 document speaks for itself.

15          47. Answering Paragraph 47 of the Complaint, Defendants admit that the referenced  
16 document speaks for itself.

17          48. Defendants do not possess enough information to admit or deny the allegations  
18 in paragraph 48 of the Complaint; therefore, Defendants deny said allegations.

19          49. Defendants do not possess enough information to admit or deny the allegations  
20 in paragraph 49 of the Complaint; therefore, Defendants deny said allegations.

21          50. Defendants do not possess enough information to admit or deny the allegations  
22 in paragraph 50 of the Complaint; therefore, Defendants deny said allegations.

23          51. Answering Paragraph 51 of the Complaint, Defendants admit that the referenced  
24 document speaks for itself.

25          52. Defendants do not possess enough information to admit or deny the allegations  
26 in paragraph 52 of the Complaint; therefore, Defendants deny said allegations.

27          53. Defendants do not possess enough information to admit or deny the allegations  
28 in paragraph 53 of the Complaint; therefore, Defendants deny said allegations.



1           54.     Answering Paragraph 54 of the Complaint, Defendants admit that the referenced  
2 recorded document speaks for itself.

3           55.     Answering Paragraph 55 of the Complaint, Defendants admit that the referenced  
4 recorded document speaks for itself.

5           56.     Defendants do not possess enough information to admit or deny the allegations  
6 in paragraph 56 of the Complaint; therefore, Defendants deny said allegations.

7           57.     Defendants do not possess enough information to admit or deny the allegations  
8 in paragraph 57 of the Complaint; therefore, Defendants deny said allegations.

9           58.     Defendants do not possess enough information to admit or deny the allegations  
10 in paragraph 58 of the Complaint; therefore, Defendants deny said allegations.

11          59.     Defendants do not possess enough information to admit or deny the allegations  
12 in paragraph 59 of the Complaint; therefore, Defendants deny said allegations.

13          60.     Defendants do not possess enough information to admit or deny the allegations  
14 in paragraph 60 of the Complaint; therefore, Defendants deny said allegations.

15          61.     Defendants do not possess enough information to admit or deny the allegations  
16 in paragraph 61 of the Complaint; therefore, Defendants deny said allegations.

17          62.     Defendants do not possess enough information to admit or deny the allegations  
18 in paragraph 62 of the Complaint; therefore, Defendants deny said allegations.

19          63.     Answering Paragraph 63 of the Complaint, Defendants admit that the referenced  
20 recorded document speaks for itself.

21          64.     Answering Paragraph 64 of the Complaint, Defendants admit that the referenced  
22 recorded document speaks for itself.

23          65.     Defendants do not possess enough information to admit or deny the allegations  
24 in paragraph 65 of the Complaint; therefore, Defendants deny said allegations.

25          66.     Answering Paragraph 66 of the Complaint, Defendants admit that the referenced  
26 recorded document speaks for itself.

27          67.     Defendants do not possess enough information to admit or deny the allegations  
28 in paragraph 67 of the Complaint; therefore, Defendants deny said allegations.



1           68. Defendants do not possess enough information to admit or deny the allegations  
2 in paragraph 68 of the Complaint; therefore, Defendants deny said allegations.

3           69. Defendants do not possess enough information to admit or deny the allegations  
4 in paragraph 69 of the Complaint; therefore, Defendants deny said allegations.

5           70. Answering Paragraph 70 of the Complaint, Defendants admit the allegations  
6 therein.

7           71. Answering Paragraph 71 of the Complaint, Defendants admit the allegations  
8 therein.

9           72. Answering Paragraph 72 of the Complaint, Defendants deny the allegations  
10 therein.

11           73. Answering Paragraph 73 of the Complaint, Defendants admit the allegations  
12 therein.

13           74. Answering Paragraph 74 of the Complaint, Defendants admit that the referenced  
14 recorded document speaks for itself.

15           75. Answering Paragraph 75 of the Complaint, Defendants admit that the referenced  
16 court document speaks for itself.

17           76. Answering Paragraph 76 of the Complaint, Defendants admit that the referenced  
18 court document speaks for itself.

19           77. Answering Paragraph 77 of the Complaint, Defendants admit that the referenced  
20 court document speaks for itself.

21           78. Defendants do not possess enough information to admit or deny the allegations  
22 in paragraph 78 of the Complaint; therefore, Defendants deny said allegations.

23           79. Answering Paragraph 79 of the Complaint, Defendants admit that the referenced  
24 court document speaks for itself.

25           80. Defendants do not possess enough information to admit or deny the allegations  
26 in paragraph 80 of the Complaint; therefore, Defendants deny said allegations.

27           81. Answering Paragraph 81 of the Complaint, Defendants admit the allegations  
28 therein.



82. Defendants do not possess enough information to admit or deny the allegations in paragraph 82 of the Complaint; therefore, Defendants deny said allegations.

83. Defendants do not possess enough information to admit or deny the allegations in paragraph 83 of the Complaint; therefore, Defendants deny said allegations.

84. Answering Paragraph 84 of the Complaint, Defendants admit that the referenced court document speaks for itself.

85. Defendants do not possess enough information to admit or deny the allegations in paragraph 85 of the Complaint; therefore, Defendants deny said allegations.

86. Defendants do not possess enough information to admit or deny the allegations in paragraph 86 of the Complaint; therefore, Defendants deny said allegations.

87. Defendants do not possess enough information to admit or deny the allegations in paragraph 87 of the Complaint; therefore, Defendants deny said allegations.

88. Answering Paragraph 88 of the Complaint, Defendants admit that the referenced recorded document speaks for itself.

89. Paragraph 89 of the Complaint contains legal conclusions and allegations against other parties to which no response is required. As to those other parties, Defendants do not possess enough information to admit or deny; therefore, Defendants deny said allegations. To the extent the allegations reference Defendants, Defendants deny said allegations

### FIRST CAUSE OF ACTION

**(Wrongful Foreclosure)**

90. Answering paragraph 90 of the Complaint, Defendants hereby repeat, reallege, and incorporate each of their admissions, denials, or other responses to all the paragraphs referenced hereinabove as if set forth at length and in full.

91. Paragraph 91 of the Complaint contains legal conclusions and allegations against other parties to which no response is required. As to those other parties, Defendants do not possess enough information to admit or deny; therefore, Defendants deny said allegations. To the extent the allegations reference Defendants, Defendants deny said allegations.

92. Paragraph 92 of the Complaint contains legal conclusions to which no response



1 is required. To the extent a response is required, Defendants do not possess enough information  
2 to admit or deny the allegations; therefore, Defendants deny said allegations.

3 93. Paragraph 93 of the Complaint contains legal conclusions and allegations against  
4 other parties to which no response is required. As to those other parties, Defendants do not  
5 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
6 the extent the allegations reference Defendants, Defendants deny said allegations.

7 94. Paragraph 94 of the Complaint contains legal conclusions and allegations against  
8 other parties to which no response is required. As to those other parties, Defendants do not  
9 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
10 the extent the allegations reference Defendants, Defendants deny said allegations.

11 95. Paragraph 95 of the Complaint contains legal conclusions and allegations against  
12 other parties to which no response is required. As to those other parties, Defendants do not  
13 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
14 the extent the allegations reference Defendants, Defendants deny said allegations.

15 96. Paragraph 96 of the Complaint contains legal conclusions and allegations against  
16 other parties to which no response is required. As to those other parties, Defendants do not  
17 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
18 the extent the allegations reference Defendants, Defendants deny said allegations.

19 97. Paragraph 97 of the Complaint contains legal conclusions and allegations against  
20 other parties to which no response is required. As to those other parties, Defendants do not  
21 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
22 the extent the allegations reference Defendants, Defendants deny said allegations.

23 98. Paragraph 98 of the Complaint contains legal conclusions and allegations against  
24 other parties to which no response is required. As to those other parties, Defendants do not  
25 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
26 the extent the allegations reference Defendants, Defendants deny said allegations.

27 99. Paragraph 99 of the Complaint contains legal conclusions and allegations against  
28 other parties to which no response is required. As to those other parties, Defendants do not



1 possess enough information to admit or deny; therefore, Defendants deny said allegations. To  
2 the extent the allegations reference Defendants, Defendants deny said allegations.

3 100. Answering Paragraph 100 of the Complaint, Defendants deny the allegations  
4 therein.

5 101. Answering Paragraph 101 of the Complaint, Defendants deny the allegations  
6 therein.

7 102. Answering Paragraph 102 of the Complaint, Defendants deny the allegations  
8 therein.

## 9 SECOND CAUSE OF ACTION

### 10 (Declaratory Relief—NRS 30.010 *et. seq.* – NAR 3)

11 103. Answering paragraph 103 of the Complaint, Defendants hereby repeat, reallege,  
12 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
13 referenced hereinabove as if set forth at length and in full.

14 104. Paragraph 104 identifies the parties to which this cause of action pertains to  
15 which no response is required. To the extent a response is required, Defendants do not possess  
16 enough information to admit or deny the allegations; therefore, Defendants deny said  
17 allegations.

18 105. Paragraph 105 of the Complaint contains legal conclusions and allegations  
19 against other parties to which no response is required. To the extent a response is required,  
20 Defendants do not possess enough information to admit or deny the allegations; therefore,  
21 Defendants deny said allegations.

22 106. Paragraph 106 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. As to those other parties, Defendants do  
24 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
25 To the extent the allegations reference Defendants, Defendants deny said allegations.

26 107. Paragraph 107 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. As to those other parties, Defendants do  
28 not possess enough information to admit or deny; therefore, Defendants deny said allegations.



1 To the extent the allegations reference Defendants, Defendants deny said allegations.

2 108. Paragraph 108 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. As to those other parties, Defendants do  
4 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
5 To the extent the allegations reference Defendants, Defendants deny said allegations.

6 109. Paragraph 109 of the Complaint contains legal conclusions and allegations  
7 against other parties to which no response is required. As to those other parties, Defendants do  
8 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
9 To the extent the allegations reference Defendants, Defendants deny said allegations.

10 110. Paragraph 110 of the Complaint contains legal conclusions and allegations  
11 against other parties to which no response is required. As to those other parties, Defendants do  
12 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
13 To the extent the allegations reference Defendants, Defendants deny said allegations.

14 111. Paragraph 111 of the Complaint contains legal conclusions and allegations  
15 against other parties to which no response is required. As to those other parties, Defendants do  
16 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
17 To the extent the allegations reference Defendants, Defendants deny said allegations.

18 112. Paragraph 112 of the Complaint contains legal conclusions and allegations  
19 against other parties to which no response is required. As to those other parties, Defendants do  
20 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
21 To the extent the allegations reference Defendants, Defendants deny said allegations.

22 113. Paragraph 113 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. As to those other parties, Defendants do  
24 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
25 To the extent the allegations reference Defendants, Defendants deny said allegations.

26 114. Paragraph 114 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. As to those other parties, Defendants do  
28 not possess enough information to admit or deny; therefore, Defendants deny said allegations.



1 To the extent the allegations reference Defendants, Defendants deny said allegations.

2 115. Paragraph 115 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. As to those other parties, Defendants do  
4 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

5 To the extent the allegations reference Defendants, Defendants deny said allegations.

6 116. Paragraph 116 of the Complaint contains legal conclusions and allegations  
7 against other parties to which no response is required. As to those other parties, Defendants do  
8 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

9 To the extent the allegations reference Defendants, Defendants deny said allegations.

10 117. Paragraph 117 of the Complaint contains legal conclusions and allegations  
11 against other parties to which no response is required. As to those other parties, Defendants do  
12 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

13 To the extent the allegations reference Defendants, Defendants deny said allegations.

14 118. Paragraph 118 of the Complaint contains legal conclusions and allegations  
15 against other parties to which no response is required. As to those other parties, Defendants do  
16 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

17 To the extent the allegations reference Defendants, Defendants deny said allegations.

18 119. Paragraph 119 of the Complaint contains legal conclusions and allegations  
19 against other parties to which no response is required. As to those other parties, Defendants do  
20 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

21 To the extent the allegations reference Defendants, Defendants deny said allegations.

22 120. Paragraph 120 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. As to those other parties, Defendants do  
24 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

25 To the extent the allegations reference Defendants, Defendants deny said allegations.

26 121. Paragraph 121 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. As to those other parties, Defendants do  
28 not possess enough information to admit or deny; therefore, Defendants deny said allegations.



1 To the extent the allegations reference Defendants, Defendants deny said allegations.

2 122. Paragraph 122 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. As to those other parties, Defendants do  
4 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

5 To the extent the allegations reference Defendants, Defendants deny said allegations.

6 123. Paragraph 123 of the Complaint contains legal conclusions and allegations  
7 against other parties to which no response is required. As to those other parties, Defendants do  
8 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

9 To the extent the allegations reference Defendants, Defendants deny said allegations.

10 124. Paragraph 124 of the Complaint contains Plaintiffs' request relief so no response  
11 is required. To the extent a response is required, Defendants deny said allegations.

### 12 **THIRD CAUSE OF ACTION**

#### 13 **(Quiet Title)**

14 125. Answering paragraph 125 of the Complaint, Defendants hereby repeat, reallege,  
15 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
16 referenced hereinabove as if set forth at length and in full.

17 126. Paragraph 126 identifies the parties to which this cause of action pertains to  
18 which no response is required. To the extent a response is required, Defendants do not possess  
19 enough information to admit or deny the allegations; therefore, Defendants deny said  
20 allegations.

21 127. Paragraph 127 of the Complaint contains legal conclusions and allegations  
22 against other parties to which no response is required. To the extent a response is required,  
23 Defendants admit the allegations therein.

24 128. Paragraph 128 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. To the extent a response is required,  
26 Defendants do not possess enough information to admit or deny the allegations; therefore,  
27 Defendants deny said allegations.

28 129. Paragraph 129 of the Complaint contains legal conclusions and allegations



1 against other parties to which no response is required. To the extent a response is required,  
2 Defendants do not possess enough information to admit or deny the allegations; therefore,  
3 Defendants deny said allegations.

4 130. Paragraph 130 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. To the extent a response is required,  
6 Defendants do not possess enough information to admit or deny the allegations; therefore,  
7 Defendants deny said allegations.

8 131. Paragraph 131 of the Complaint contains legal conclusions and allegations  
9 against other parties to which no response is required. To the extent a response is required,  
10 Defendants do not possess enough information to admit or deny the allegations; therefore,  
11 Defendants deny said allegations.

12 132. Paragraph 132 of the Complaint contains legal conclusions and allegations  
13 against other parties to which no response is required. To the extent a response is required,  
14 Defendants do not possess enough information to admit or deny the allegations; therefore,  
15 Defendants deny said allegations.

16 133. Paragraph 133 of the Complaint contains legal conclusions and allegations  
17 against other parties to which no response is required. To the extent a response is required,  
18 Defendants do not possess enough information to admit or deny the allegations; therefore,  
19 Defendants deny said allegations.

20 134. Paragraph 134 of the Complaint contains legal conclusions and allegations  
21 against other parties to which no response is required. To the extent a response is required,  
22 Defendants do not possess enough information to admit or deny the allegations; therefore,  
23 Defendants deny said allegations.

24 135. Paragraph 135 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. To the extent a response is required,  
26 Defendants do not possess enough information to admit or deny the allegations; therefore,  
27 Defendants deny said allegations.

28 136. Paragraph 136 of the Complaint contains legal conclusions and allegations



1 against other parties to which no response is required. To the extent a response is required,  
2 Defendants do not possess enough information to admit or deny the allegations; therefore,  
3 Defendants deny said allegations.

4 137. Paragraph 137 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. To the extent a response is required,  
6 Defendants deny said allegations.

7 138. Paragraph 138 of the Complaint contains legal conclusions and allegations  
8 against other parties to which no response is required. To the extent a response is required,  
9 Defendants do not possess enough information to admit or deny the allegations; therefore,  
10 Defendants deny said allegations.

11 139. Paragraph 139 of the Complaint contains legal conclusions and allegations  
12 against other parties to which no response is required. To the extent a response is required,  
13 Defendants do not possess enough information to admit or deny the allegations; therefore,  
14 Defendants deny said allegations.

#### 15 **FOURTH CAUSE OF ACTION**

##### 16 **(Violation of Homeowner's Bill of Rights)**

17 140. Answering paragraph 140 of the Complaint, Defendants hereby repeat, reallege,  
18 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
19 referenced hereinabove as if set forth at length and in full.

20 141. Paragraph 141 identifies the parties to which this cause of action pertains to  
21 which no response is required. To the extent a response is required, Defendants deny said  
22 allegations.

23 142. Paragraph 142 of the Complaint contains legal conclusions and allegations  
24 against other parties to which no response is required. To the extent a response is required,  
25 Defendants do not possess enough information to admit or deny the allegations; therefore,  
26 Defendants deny said allegations.

27 143. Paragraph 143 of the Complaint contains legal conclusions and allegations  
28 against other parties to which no response is required. As to those other parties, Defendants do



1 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
2 To the extent the allegations reference Defendants, Defendants deny said allegations.

3 144. Paragraph 144 of the Complaint contains legal conclusions to which no response  
4 is required. To the extent a response is required, Defendants do not possess enough information  
5 to admit or deny; therefore, Defendants deny said allegations. To the extent the allegations  
6 reference Defendants, Defendants deny said allegations.

7 145. Paragraph 145 of the Complaint contains legal conclusions and allegations  
8 against other parties to which no response is required. As to those other parties, Defendants do  
9 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
10 To the extent the allegations reference Defendants, Defendants deny said allegations.

11 146. Paragraph 146 of the Complaint contains legal conclusions and allegations  
12 against other parties to which no response is required. As to those other parties, Defendants do  
13 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
14 To the extent the allegations reference Defendants, Defendants deny said allegations.

15 147. Paragraph 147 of the Complaint contains legal conclusions and allegations  
16 against other parties to which no response is required. As to those other parties, Defendants do  
17 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
18 To the extent the allegations reference Defendants, Defendants deny said allegations.

19 148. Paragraph 148 of the Complaint contains legal conclusions and allegations  
20 against other parties to which no response is required. As to those other parties, Defendants do  
21 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
22 To the extent the allegations reference Defendants, Defendants deny said allegations.

23 149. Paragraph 149 of the Complaint contains legal conclusions and allegations  
24 against other parties to which no response is required. As to those other parties, Defendants do  
25 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
26 To the extent the allegations reference Defendants, Defendants deny said allegations.

27 /./

28 /./



1 **FIFTH CAUSE OF ACTION**

2 **(Breach of Contract—Bank of America)**

3 150. Answering paragraph 150 of the Complaint, Defendants hereby repeat, reallege,  
4 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
5 referenced hereinabove as if set forth at length and in full.

6 151. Defendants do not possess enough information to admit or deny the allegations  
7 in paragraph 151 of the Complaint; therefore, Defendants deny said allegations.

8 152. Defendants do not possess enough information to admit or deny the allegations  
9 in paragraph 152 of the Complaint; therefore, Defendants deny said allegations.

10 153. Defendants do not possess enough information to admit or deny the allegations  
11 in paragraph 153 of the Complaint; therefore, Defendants deny said allegations.

12 154. Defendants do not possess enough information to admit or deny the allegations  
13 in paragraph 154 of the Complaint; therefore, Defendants deny said allegations.

14 155. Defendants do not possess enough information to admit or deny the allegations  
15 in paragraph 155 of the Complaint; therefore, Defendants deny said allegations.

16 156. Defendants do not possess enough information to admit or deny the allegations  
17 in paragraph 156 of the Complaint; therefore, Defendants deny said allegations.

18 157. Defendants do not possess enough information to admit or deny the allegations  
19 in paragraph 157 of the Complaint; therefore, Defendants deny said allegations.

20 158. Defendants do not possess enough information to admit or deny the allegations  
21 in paragraph 158 of the Complaint; therefore, Defendants deny said allegations.

22 159. Defendants do not possess enough information to admit or deny the allegations  
23 in paragraph 159 of the Complaint; therefore, Defendants deny said allegations.

24 160. Defendants do not possess enough information to admit or deny the allegations  
25 in paragraph 160 of the Complaint; therefore, Defendants deny said allegations.

26 161. Defendants do not possess enough information to admit or deny the allegations  
27 in paragraph 161 of the Complaint; therefore, Defendants deny said allegations.

28 162. Defendants do not possess enough information to admit or deny the allegations



1 in paragraph 162 of the Complaint; therefore, Defendants deny said allegations.

2 163. Defendants do not possess enough information to admit or deny the allegations  
3 in paragraph 163 of the Complaint; therefore, Defendants deny said allegations.

4 164. Defendants do not possess enough information to admit or deny the allegations  
5 in paragraph 164 of the Complaint; therefore, Defendants deny said allegations.

6 165. Defendants do not possess enough information to admit or deny the allegations  
7 in paragraph 165 of the Complaint; therefore, Defendants deny said allegations.

#### 8 **SIXTH CAUSE OF ACTION**

##### 9 **(Breach of Duty to Act in Good Faith and Fair Dealing – Bank of America)**

10 166. Answering paragraph 166 of the Complaint, Defendants hereby repeat, reallege,  
11 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
12 referenced hereinabove as if set forth at length and in full.

13 167. Defendants do not possess enough information to admit or deny the allegations  
14 in paragraph 167 of the Complaint; therefore, Defendants deny said allegations.

15 168. Defendants do not possess enough information to admit or deny the allegations  
16 in paragraph 168 of the Complaint; therefore, Defendants deny said allegations.

17 169. Defendants do not possess enough information to admit or deny the allegations  
18 in paragraph 169 of the Complaint; therefore, Defendants deny said allegations.

19 170. Defendants do not possess enough information to admit or deny the allegations  
20 in paragraph 170 of the Complaint; therefore, Defendants deny said allegations.

#### 21 **SEVENTH CAUSE OF ACTION**

##### 22 **(Breach of Contract – US Bank)**

23 171. Answering paragraph 171 of the Complaint, Defendants hereby repeat, reallege,  
24 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
25 referenced hereinabove as if set forth at length and in full.

26 172. Answering paragraph 172 of the Complaint, Defendants admit that the  
27 referenced recorded document speaks for itself.

28 173. Answering paragraph 173 of the Complaint, Defendants admit that the



1 referenced recorded document speaks for itself.

2 174. Answering paragraph 174 of the Complaint, Defendants deny the allegations  
3 therein.

4 175. Answering paragraph 175 of the Complaint, Defendants deny the allegations  
5 therein.

6 176. Answering paragraph 176 of the Complaint, Defendants deny the allegations  
7 therein.

8 177. Answering paragraph 177 of the Complaint, Defendants deny the allegations  
9 therein.

#### 10 **EIGHTH CAUSE OF ACTION**

##### 11 **(Breach of Duty to Act in Good Faith and Fair Dealing – US Bank)**

12 178. Answering paragraph 178 of the Complaint, Defendants hereby repeat, reallege,  
13 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
14 referenced hereinabove as if set forth at length and in full.

15 179. Paragraph 179 of the Complaint contains legal conclusions to which no response  
16 is required. To the extent a response is required, Defendants deny said allegations

17 180. Answering paragraph 180 of the Complaint, Defendants deny the allegations  
18 therein.

19 181. Answering paragraph 181 of the Complaint, Defendants deny the allegations  
20 therein.

21 182. Answering paragraph 182 of the Complaint, Defendants deny the allegations  
22 therein.

#### 23 **NINTH CAUSE OF ACTION**

##### 24 **(Slander of Title)**

25 183. Answering paragraph 183 of the Complaint, Defendants hereby repeat, reallege,  
26 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
27 referenced hereinabove as if set forth at length and in full.

28 184. Answering paragraph 184 of the Complaint, Defendants deny the allegations



1 therein.

2 185. Answering paragraph 185 of the Complaint, Defendants deny the allegations  
3 therein.

4 186. Answering paragraph 186 of the Complaint, Defendants deny the allegations  
5 therein.

6 187. Answering paragraph 187 of the Complaint, Defendants deny the allegations  
7 therein.

8 188. Answering paragraph 188 of the Complaint, Defendants deny the allegations  
9 therein.

10 189. Answering paragraph 189 of the Complaint, Defendants deny the allegations  
11 therein.

12 190. Answering paragraph 190 of the Complaint, Defendants deny the allegations  
13 therein.

14 **TENTH CAUSE OF ACTION**

15 **(Special Damages—Attorney's Fees.)**

16 191. Answering paragraph 191 of the Complaint, Defendants hereby repeat, reallege,  
17 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
18 referenced hereinabove as if set forth at length and in full.

19 192. Paragraph 192 of the Complaint contains legal conclusions and allegations  
20 against other parties to which no response is required. As to those other parties, Defendants do  
21 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
22 To the extent the allegations reference Defendants, Defendants deny said allegations.

23 193. Paragraph 193 of the Complaint contains legal conclusions and allegations  
24 against other parties to which no response is required. As to those other parties, Defendants do  
25 not possess enough information to admit or deny; therefore, Defendants deny said allegations.  
26 To the extent the allegations reference Defendants, Defendants deny said allegations.

27 194. Paragraph 194 of the Complaint contains legal conclusions and allegations  
28 against other parties to which no response is required. As to those other parties, Defendants do



1 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

2 To the extent the allegations reference Defendants, Defendants deny said allegations.

3 195. Paragraph 195 of the Complaint contains legal conclusions and allegations  
4 against other parties to which no response is required. As to those other parties, Defendants do  
5 not possess enough information to admit or deny; therefore, Defendants deny said allegations.

6 To the extent the allegations reference Defendants, Defendants deny said allegations.

7 **DEFENDANTS ASSERT THE FOLLOWING AFFIRMATIVE DEFENSES:**

8 **FIRST AFFIRMATIVE DEFENSE**

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

10 Plaintiffs' Complaint fails to state a claim against Defendants upon which relief can be  
11 granted.

12 **SECOND AFFIRMATIVE DEFENSE**

13 **(Equitable Doctrines)**

14 Defendants allege that the Plaintiffs' claims are barred by the equitable doctrines of  
15 laches, unclean hands, and failure to do equity.

16 **THIRD AFFIRMATIVE DEFENSE**

17 **(Waiver and Estoppel)**

18 Defendants allege that by reason of Plaintiffs' acts and omissions, Plaintiffs have waived  
19 their rights and are estopped from asserting the claims against Defendants.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 **(Statute of Limitations)**

22 Defendants allege that the Plaintiffs' Complaint, and each cause of action therein, is  
23 barred by the statute of limitations.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 **(Conditions Precedent)**

26 Defendants allege that Plaintiff's claims for damages are barred as a result of the failure  
27 of Plaintiff to satisfy conditions precedent.

28 ///



1 **SIXTH AFFIRMATIVE DEFENSE**

2 **(Additional Affirmative Defenses)**

3 Defendants reserve the right to assert additional affirmative defenses in the event  
4 discovery and/or investigation indicates that additional affirmative defenses are applicable.

5 **PRAYER**

6 WHEREFORE, Defendant prays for judgment as follows:

- 7 1. That Plaintiffs take nothing by way of the Complaint;  
8 2. For reasonable attorney's fees and costs; and  
9 3. For any such other and further relief as the Court may deem just and proper in the  
10 case.

11 DATED this 6th day of January, 2020.

12 WRIGHT, FINLAY & ZAK, LLP

13   
14

15 R. Samuel Ehlers

16 Nevada Bar No. 9313

17 Ramir M. Hernandez, Esq.

18 Nevada Bar No. 13146

19 7785 W. Sahara Ave, Suite 200

20 Las Vegas, NV 89117

21 *Attorney for Defendants, Prof-2013 M4-Legal Title*  
22 *Trust, by U.S. Bank, National Association, as*  
23 *Legal Title Trustee and Fay Servicing LLC*  
24  
25  
26  
27  
28



**AFFIRMATION**

**Pursuant to NRS 239B.03/603A.040**

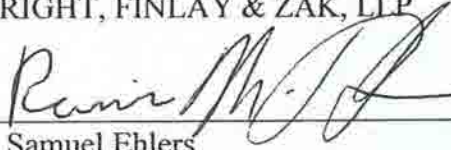
The undersigned does hereby affirm that the foregoing document does not contain any of the following information governed by NRS 239B.030 and NRS 603A.040:

1. Social Security Number;
2. Driver License Number or Identification Card Number; or
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.

The term does not include any publically available information that is lawfully made available to the general public.

DATED this 6th day of January, 2020.

WRIGHT, FINLAY & ZAK, LLP

  
R. Samuel Ehlers

Nevada Bar No. 9313

Ramir M. Hernandez, Esq.

Nevada Bar No. 13146

7785 W. Sahara Ave, Suite 200

Las Vegas, NV 89117

*Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association, as Legal Title Trustee and Fay Servicing LLC*



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCp 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK,  
3 LLP, and that on this 6<sup>th</sup> day of January, 2020, I did cause a true copy of the foregoing  
4 **ANSWER TO SECOND AMENDED COMPLAINT** to be served by placing a copy in the  
5 mail, addressed as follows:

6  
7 Michael G. Millward, Esq.  
8 MILLWARD LAW, LTD.  
9 1591 Mono Ave.  
Minden, NV 89423

10 Shadd A. Wade, Esq.  
11 ZIEVE, BRODNAX & STEELE, LLP  
12 9435 West Russell Road, Suite 120  
Las Vegas, NV 89148

13 Darren T. Brenner, Esq.  
14 Scott R. Lachman, Esq.  
15 AKERMAN LLP  
16 1635 Village Center Circle, Ste. 200  
Las Vegas, NV 89134

17 John T. Steffen, Esq.  
18 Matthew K. Schriever, Esq.  
19 HUTCHISON & STEFFEN, PLLC  
10080 W. Alta Dr., Suite 200  
Las Vegas, NV 89145

20 Casey J. Nelson, Esq.  
21 WEDGEWOOD, LLC  
22 Office of the General Counsel  
23 2320 Potosi Street, Suite 130  
Las Vegas, Nevada 89146

24  
25   
26  
27  
28 An Employee of WRIGHT, FINLAY & ZAK, LLP



FILED

2020 JAN -8 PM 4: 09

TANYA SCERINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Kathy Thomas*

1 John T. Steffen (4390)  
2 Matthew K. Schriever (10745)  
3 Alex R. Velto (14961)  
4 HUTCHISON & STEFFEN, PLLC  
5 10080 W. Alta Drive, Suite 200  
6 Las Vegas, Nevada 89145  
7 Telephone: (702) 385-2500  
8 Facsimile: (702) 385-2086  
9 mschriever@hutchlegal.com

7 Casey J. Nelson (12259)  
8 WEDGEWOOD, LLC  
9 Office of the General Counsel  
10 2320 Potosi Street, Suite 130  
11 Las Vegas, Nevada 89146  
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13 Facsimile: (310) 730-5967  
14 caseynelson@wedgewood-inc.com

15 *Attorney for Defendant / Counterclaimant*  
16 *Breckenridge Property Fund 2016, LLC*

17 **THIRD JUDICIAL DISTRICT COURT**  
18 **LYON COUNTY, NEVADA**

16 ALBERT ELLIS LINCICOME, JR., and  
17 VICENTA LINCICOME,

18 Plaintiff,

19 v.

20 SABLES, LLC, a Nevada limited liability  
21 company, as Trustee of the Deed of Trust  
22 given by Vicenta Lincicome and dated  
23 5/23/2007; FAY SERVICING, LLC, a  
24 Delaware limited liability company and  
25 subsidiary of Fay Financial, LLC; PROF-  
26 2013-MF LEGAL TITLE TRUST by U.S.  
27 BANK, N.A., as Legal Title Trustee; for  
28 BANK OF AMERICA,  
N.A.; BRECKENRIDGE PROPERTY  
FUND 2016, a Utah limited liability  
company; NEWREZ, LLC dba  
SHELLPOINT MORTGAGE SERVICING,  
LLC, substituted in for DOE 1; 1900  
CAPITAL TRUST II, BY U.S. BANK

Case No.: 18-CV-01332

Dept No.: II

**BRECKENRIDGE PROPERTY FUND  
2016, LLC'S ANSWER TO SECOND  
AMENDED COMPLAINT**



1 TRUST NATIONAL ASSOCIATION,  
2 substituted in for DOE 2; MCM-2018-  
3 NPL2, substituted in for DOE 2 and DOES  
4 4-50,

5 Defendants.

6 BRECKENRIDGE PROPERTY FUND  
7 2016, LLC,

8 Counterclaimant,

9 vs.

10 ALBERT ELLIS LINCICOME, JR., an  
11 individual; VICENTA LINCICOME, an  
12 individual; and DOE OCCUPANTS 1-5.

13 Counterdefendants.

14 COMES NOW, BRECKENRIDGE PROPERTY FUND 2016, LLC  
15 ("Breckenridge"), by and through its counsel of record, HUTCHISON & STEFFEN,  
16 PLLC and WEDGEWOOD, LLC, and hereby submits its Answer to the Second Amended  
17 Complaint filed by Albert Ellis Lincicome, Jr. and Vicenta Lincicome ("Lincicome").

18 1. Answering paragraph numbers 1-6, 8-85, 87, 91-98, 100-102, 104-124,  
19 126-137, 139, 141-149, 151-165, 167-170, 172-177, 179-182, 184-190, and 192-195,  
20 Breckenridge is without sufficient knowledge or information to form a belief as to the  
21 truth of the allegations of said paragraphs and on that basis deny each and every allegation  
22 set forth therein.

23 2. Answering paragraph numbers 7, 86, and 88, Breckenridge admits the  
24 allegations set forth therein.

25 3. Answering paragraph numbers 89 and 138, Breckenridge denies the  
26 allegations set forth therein.

27 ///

28 ///



1           4.       Breckenridge repeats and realleges its prior responses to the allegations  
2 contained in paragraph numbers 90, 103, 125, 140, 150, 166, 171, 178, 183, and 191 of the  
3 Second Amended Complaint.

4           5.       Answering paragraph number 99, Breckenridge admits that the property  
5 was sold to Breckenridge at the foreclosure sale but denies that the sale violated NRS 107.

6                               **AFFIRMATIVE DEFENSES**

7           1.       The Lincicomes' claims on file herein fail to state a claim against  
8 Breckenridge, upon which relief can be granted.

9           2.       The Lincicomes' claims are barred by the doctrine of waiver, estoppel,  
10 unclean hands and other equitable defenses.

11          3.       The Lincicomes' claims are barred by the applicable statute of limitations  
12 and/or the doctrine of laches.

13          4.       The Lincicomes' claims are barred by the statute of frauds.

14          5.       Breckenridge was a bona fide purchaser for value of the Property in good  
15 faith and without notice of any of the alleged defects to the Property.

16          6.       The damages, if any, allegedly sustained by the Lincicomes' were caused  
17 in whole by other parties' acts or omissions.

18          7.       Breckenridge incorporates all affirmative defenses as set forth in NRCP  
19 8(c).

20          8.       Breckenridge denies each and every allegation not specifically answered.

21          9.       All possible affirmative defenses may not have been alleged herein insofar  
22 as sufficient facts were not available after reasonable inquiry upon the filing of  
23 Breckenridge's Answer to the Complaint and therefore, Breckenridge reserves the right to  
24 amend its Answer to allege additional affirmative defenses if subsequent investigations so  
25 warrant.

26               WHEREFORE, Breckenridge prays:

27          1.       That the Lincicome's take nothing by way of their Complaint and that the  
28 Court deny the Lincicome's all of the relief sought therein;



2. For costs and attorney fees incurred in the defense of this action; and

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

Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that the preceding document filed in this court does not contain the social security number of any person.

DATED this 9 day of January 2020.

HUTCHISON & STEFFEN, PLLC

John T. Steffen (4390)  
Matthew K. Schriever (10745)  
Alex R. Velto (14961)  
10080 W. Alta Dr., Suite 200  
Las Vegas, Nevada 89145

Casey J. Nelson (12259)  
WEDGEWOOD, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, Nevada 89146

*Attorney for Defendant / Counterclaimant  
Breckenridge Property Fund 2016, LLC*



**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Hutchison & Steffen, and that on the date indicated below, I served a true and correct copy of the **BRECKENRIDGE PROPERTY FUND 2016, LLC'S ANSWER TO SECOND AMENDED COMPLAINT** via U.S. Mail to the parties designated below.

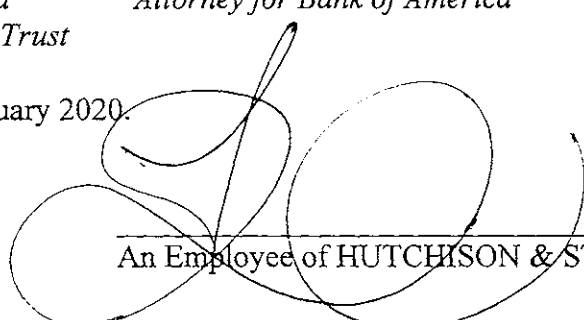
Michael G. Millward, Esq.  
MILLWARD LAW, LTD.  
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*Attorney for Plaintiffs*

Shadd A. Wade, Esq.  
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*Attorney for Sables, LLC*

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Ramir M. Hernandez, Esq.  
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Las Vegas, NV 89117  
*Attorney for Fay Servicing, LLC and  
US Bank Prof-2013-M4 Legal Title Trust*

Scott R. Lachman, Esq.  
Darren T. Brenner, Esq.  
ACKERMAN, LLP  
1635 Village Center Circle, #200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

DATED this 1<sup>st</sup> day of January 2020.

  
An Employee of HUTCHISON & STEFFEN



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALBERT ELLIS LINCICOME, JR.; AND  
VICENTA LINCICOME,

Petitioners,

vs.

THE THIRD JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF LYON;  
AND THE HONORABLE LEON  
ABERASTURI, DISTRICT JUDGE,

Respondents,

and

SABLES, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; FAY  
SERVICING, LLC, A DELAWARE  
LIMITED LIABILITY COMPANY AND  
SUBSIDIARY OF FAY FINANCIAL,  
LLC; PROF-2013-M4 LEGAL TITLE  
TRUST BY U.S. BANK, N.A., AS LEGAL  
TITLE TRUSTEE; AND BANK OF  
AMERICA, N.A.,  
Real Parties in Interest.

No. 79152-COA

**FILED**

JAN 22 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

**ORDER DENYING PETITION**

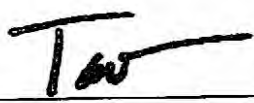
This original petition for a writ of mandamus challenges a district court order granting nonmonetary status and denying leave to amend the complaint. Having reviewed the filings and supporting documentation, we conclude that petitioners have not met their burden to demonstrate that our extraordinary and discretionary intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (describing a petitioner's burden to demonstrate that writ relief is warranted); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) ("[T]he issuance of a writ of mandamus or



prohibition is purely discretionary with this court."). The petitioners point to defects with the district court's decisions, but have not complied with NRAP 21(a)(4) by providing this court with transcripts detailing what happened at the relevant hearings. *See Pan*, 120 Nev. at 229, 88 P.3d at 844 ("If essential information is left out of the petition and accompanying documentation, we have no way of properly evaluating the petition."). The petitioners also fail to demonstrate the absence of an adequate and speedy legal remedy. *See Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) ("Writ relief is not available . . . when an adequate and speedy legal remedy exists."). Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Leon Aberasturi, District Judge  
Millward Law, Ltd.  
Akerman LLP/Las Vegas  
Wright, Finlay & Zak, LLP/Las Vegas  
ZBS Law, LLP  
Third District Court Clerk



FILED

2020 JAN 23 AM 11:56

TANYA SCERINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

Victoria Tera DEPUTY

1 DARREN T. BRENNER, ESQ.  
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8 **THIRD JUDICIAL DISTRICT COURT**

9 **LYON COUNTY, NEVADA**

10 ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,

11 Plaintiffs,

12 v.

13 SABLES, LLC, a Nevada limited liability  
14 company, as trustee of the Deed of Trust  
give by Vicenta Lincicome and dated  
15 5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
16 subsidiary of Fay Financial, LLC; PROF-  
2013 M4 LEGAL TITLE TRUST by U.S.  
17 BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A. and DOES  
18 1-50,

19 Defendants.

Case No. 18-cv-01332  
Dept. No.: II

**BANK OF AMERICA, N.A.'S ANSWER  
AND AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' SECOND AMENDED  
COMPLAINT**

20 Defendant Bank of America, N.A. (BANA) answers the second amended complaint (SAC)  
21 of plaintiffs Albert Ellis Lincicome, Jr. and Vicenta Lincicome as follows:

22 **PARTIES**

23 1. BANA does not possess enough information to either admit or deny the allegations  
24 in this paragraph, and accordingly, the allegations are denied.

25 2. BANA does not possess enough information to either admit or deny the allegations  
26 in this paragraph, and accordingly, the allegations are denied.

27 ...

28 ...



10. BANA does not possess enough information to either admit or deny the allegations in this paragraph, and accordingly, the allegations are denied.

12. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required, the allegations are denied.



**GENERAL ALLEGATIONS**

14. BANA admits the allegations in this paragraph.

15. BANA does not possess enough information to either admit or deny the allegations in this paragraph, and accordingly, the allegations are denied.

16. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.

17. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.

18. BANA does not possess enough information to either admit or deny the allegations in this paragraph, and accordingly, the allegations are denied.

19. BANA admits that plaintiffs defaulted on the loan. Except as expressly admitted, the allegations in this paragraph are denied.

20. BANA admits that it is the successor by April 27, 2009 de jure merger to Countrywide Bank, FSB, f/k/a Countrywide Bank, N.A. Except as expressly admitted the allegations in this paragraph are denied.

21. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.

22. BANA admits that plaintiffs applied for a loan modification. Except as expressly admitted the allegations in this paragraph are denied.

23. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.

24. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.



1           25.     BANA admits that it received the LMA executed by Vicenta Lincicome. Except  
2 as expressly admitted, the allegations in this paragraph are denied.

3           26.     BANA does not possess enough information to either admit or deny the allegation  
4 that plaintiffs travelled to a bank branch on September 1, 2009, and accordingly, that allegation is  
5 denied. BANA further expressly denies the remaining allegations in this paragraph.

6           27.     BANA does not possess enough information either admit or deny the allegation that  
7 Vicenta Lincicome traveled to a customer assistance center on Rose Drive in Reno on or about  
8 September 1, 2009, and accordingly, that allegation is denied. BANA further expressly denies the  
9 remaining allegations in this paragraph.

10          28.     BANA does not possess enough information to either admit or deny the allegation  
11 that Vicenta Lincicome travelled to a branch in Carson City on or about October 1, 2009, and  
12 accordingly, that allegation is denied. BANA further expressly denies the remaining allegations  
13 in this paragraph.

14          29.     The allegations in this paragraph relate to writings, which speak for themselves. To  
15 the extent that a response is required and to the extent that the allegations differ from the written  
16 document, the allegations in this paragraph are denied.

17          30.     BANA admits that plaintiffs contacted BANA via phone. The allegations in this  
18 paragraph relate to writings, which speak for themselves. To the extent that a response is required,  
19 to the extent that the allegations differ from the written document, and except as expressly  
20 admitted, the allegations in this paragraph are denied.

21          31.     The allegations in this paragraph are denied.

22          32.     BANA does not possess enough information to either admit or deny the allegations  
23 in this paragraph, and accordingly, they are denied.

24          33.     The allegations in this paragraph are admitted.

25          34.     The allegations in this paragraph relate to writings, which speak for themselves. To  
26 the extent that a response is required and to the extent that the allegations differ from the written  
27 document, the allegations in this paragraph are denied.

28 ...



1 35. BANA admits that it did not file a proof of claim in the bankruptcy. Except as  
2 expressly admitted the allegations in this paragraph are denied.

3 36. The allegations in this paragraph state legal conclusions to which no response is  
4 required. To the extent that a response is required, the allegations are denied.

5 37. The allegations in this paragraph are denied as pled.

6 38. The allegations in this paragraph relate to writings, which speak for themselves. To  
7 the extent that a response is required and to the extent that the allegations differ from the written  
8 document, the allegations in this paragraph are denied.

9 39. The allegations in this paragraph relate to writings, which speak for themselves. To  
10 the extent that a response is required and to the extent that the allegations differ from the written  
11 document, the allegations in this paragraph are denied.

12 40. The allegations in this paragraph state legal conclusions to which no response is  
13 required. To the extent that a response is required, the allegations are denied.

14 41. BANA does not possess enough information to either admit or deny the allegations  
15 in this paragraph, and accordingly, they are denied.

16 42. The allegations in this paragraph are admitted.

17 43. The allegations in this paragraph relate to writings, which speak for themselves. To  
18 the extent that a response is required and to the extent that the allegations differ from the written  
19 document, the allegations in this paragraph are denied.

20 44. The allegations in this paragraph relate to writings, which speak for themselves. To  
21 the extent that a response is required and to the extent that the allegations differ from the written  
22 document, the allegations in this paragraph are denied.

23 45. The allegations in this paragraph are admitted.

24 46. The allegations in this paragraph relate to writings, which speak for themselves. To  
25 the extent that a response is required and to the extent that the allegations differ from the written  
26 document, the allegations in this paragraph are denied.

27 ...

28 ...



1           47.     The allegations in this paragraph relate to writings, which speak for themselves. To  
2 the extent that a response is required and to the extent that the allegations differ from the written  
3 document, the allegations in this paragraph are denied.

4           48.     BANA admits that it received payments in the amount of \$2,013.78 from plaintiffs  
5 on or about May 28, 2015 and July 1, 2015. Except as expressly admitted, the allegations in this  
6 paragraph are denied.

7           49.     BANA admits that servicing of the subject loan was transferred to defendant Fay  
8 Servicing, LLC on or about July 31, 2015. The remaining allegations in this paragraph relate to  
9 writings, which speak for themselves. To the extent that the allegations differ from the written  
10 document and except as expressly admitted, the allegations in this paragraph are denied.

11          50.     BANA does not possess enough information to either admit or deny the allegations  
12 in this paragraph, and accordingly, they are denied.

13          51.     BANA does not possess enough information to either admit or deny the allegations  
14 in this paragraph, and accordingly, they are denied.

15          52.     BANA does not possess enough information to either admit or deny the allegations  
16 in this paragraph, and accordingly, they are denied.

17          53.     BANA does not possess enough information to either admit or deny the allegations  
18 in this paragraph, and accordingly, they are denied.

19          54.     The allegations in this paragraph relate to writings, which speak for themselves. To  
20 the extent that a response is required and to the extent that the allegations differ from the written  
21 document, the allegations in this paragraph are denied.

22          55.     The allegations in this paragraph relate to writings, which speak for themselves. To  
23 the extent that a response is required and to the extent that the allegations differ from the written  
24 document, the allegations in this paragraph are denied.

25          56.     BANA does not possess enough information to either admit or deny the allegations  
26 in this paragraph, and accordingly, they are denied.

27          57.     BANA does not possess enough information to either admit or deny the allegations  
28 in this paragraph, and accordingly, they are denied.



1           58.     BANA does not possess enough information to either admit or deny the allegations  
2 in this paragraph, and accordingly, they are denied.

3           59.     BANA does not possess enough information to either admit or deny the allegations  
4 in this paragraph, and accordingly, they are denied.

5           60.     BANA does not possess enough information to either admit or deny the allegations  
6 in this paragraph, and accordingly, they are denied.

7           61.     BANA does not possess enough information to either admit or deny the allegations  
8 in this paragraph, and accordingly, they are denied.

9           62.     BANA does not possess enough information to either admit or deny the allegations  
10 in this paragraph, and accordingly, they are denied.

11          63.     The allegations in this paragraph relate to writings, which speak for themselves. To  
12 the extent that a response is required and to the extent that the allegations differ from the written  
13 document, the allegations in this paragraph are denied.

14          64.     The allegations in this paragraph relate to writings, which speak for themselves. To  
15 the extent that a response is required and to the extent that the allegations differ from the written  
16 document, the allegations in this paragraph are denied.

17          65.     The allegations in this paragraph relate to writings, which speak for themselves. To  
18 the extent that a response is required and to the extent that the allegations differ from the written  
19 document, the allegations in this paragraph are denied.

20          66.     The allegations in this paragraph relate to writings, which speak for themselves. To  
21 the extent that a response is required and to the extent that the allegations differ from the written  
22 document, the allegations in this paragraph are denied.

23          67.     The allegations in this paragraph relate to writings, which speak for themselves. To  
24 the extent that a response is required and to the extent that the allegations differ from the written  
25 document, the allegations in this paragraph are denied.

26          68.     The allegations in this paragraph relate to writings, which speak for themselves. To  
27 the extent that a response is required and to the extent that the allegations differ from the written  
28 document, the allegations in this paragraph are denied.



1           69.     The allegations in this paragraph relate to writings, which speak for themselves. To  
2 the extent that a response is required and to the extent that the allegations differ from the written  
3 document, the allegations in this paragraph are denied.

4           70.     BANA does not possess enough information to either admit or deny the allegations  
5 in this paragraph, and accordingly, they are denied.

6           71.     BANA does not possess enough information to either admit or deny the allegations  
7 in this paragraph, and accordingly, they are denied.

8           72.     BANA does not possess enough information to either admit or deny the allegations  
9 in this paragraph, and accordingly, they are denied.

10          73.     The allegations in this paragraph relate to writings, which speak for themselves. To  
11 the extent that a response is required and to the extent that the allegations differ from the written  
12 document, the allegations in this paragraph are denied.

13          74.     The allegations in this paragraph relate to writings, which speak for themselves. To  
14 the extent that a response is required and to the extent that the allegations differ from the written  
15 document, the allegations in this paragraph are denied.

16          75.     The allegations in this paragraph are admitted.

17          76.     The allegations in this paragraph relate to writings, which speak for themselves. To  
18 the extent that a response is required and to the extent that the allegations differ from the written  
19 document, the allegations in this paragraph are denied.

20          77.     The allegations in this paragraph relate to writings, which speak for themselves. To  
21 the extent that a response is required and to the extent that the allegations differ from the written  
22 document, the allegations in this paragraph are denied.

23          78.     BANA does not possess enough information to either admit or deny the allegations  
24 in this paragraph, and accordingly, they are denied.

25          79.     The allegations in this paragraph relate to writings, which speak for themselves. To  
26 the extent that a response is required and to the extent that the allegations differ from the written  
27 document, the allegations in this paragraph are denied.

28     ...



1 80. BANA does not possess enough information to either admit or deny the allegations  
2 in this paragraph, and accordingly, they are denied.

3 81. The allegations in this paragraph are admitted.

4 82. The allegations in this paragraph are admitted.

5 83. BANA does not possess enough information to either admit or deny the allegations  
6 in this paragraph, and accordingly, they are denied.

7 84. The allegations in this paragraph relate to writings, which speak for themselves. To  
8 the extent that a response is required and to the extent that the allegations differ from the written  
9 document, the allegations in this paragraph are denied.

10 85. BANA does not possess enough information to either admit or deny the allegations  
11 in this paragraph, and accordingly, they are denied.

12 86. The allegations in this paragraph are admitted upon information and belief.

13 87. BANA does not possess enough information to either admit or deny the allegations  
14 in this paragraph, and accordingly, they are denied.

15 88. The allegations in this paragraph relate to writings, which speak for themselves. To  
16 the extent that a response is required and to the extent that the allegations differ from the written  
17 document, the allegations in this paragraph are denied.

18 89. The allegations in this paragraph state a legal conclusion to which no response is  
19 required. To the extent that a response is required, the allegations in this paragraph are denied.

20 **FIRST CAUSE OF ACTION**

21 **(Wrongful Foreclosure)**

22 This cause of action is not asserted against BANA, and accordingly, a response to  
23 paragraphs 90 through 102 are not required. To the extent that a response is required, the  
24 allegations in these paragraphs are denied.

25 **SECOND CAUSE OF ACTION**

26 **(Declaratory Relief – NRS 30.010 *et seq.* – NAR 3)**

27 103. BANA incorporates its response to paragraphs 1 through 102 as if fully set  
28 forth herein.



1           104. This paragraph states the parties to which this cause of action is asserted, and  
2 accordingly, no response is required. To the extent that a response is required, BANA admits that  
3 plaintiffs have asserted this cause of action against BANA, among other defendants. Except as  
4 expressly admitted, the allegations in this paragraph are denied.

5           105. This paragraph does not pertain to BANA and further states legal conclusions, and  
6 accordingly, no response is required. To the extent that a response is required, the allegations in  
7 this paragraph are denied.

8           106. The allegations in this paragraph state legal conclusions to which no response is  
9 required. To the extent that a response is required, the allegations are denied.

10          107. The allegations in this paragraph state legal conclusions to which no response is  
11 required. To the extent that a response is required, the allegations are denied.

12          108. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that  
13 plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in  
14 this paragraph.

15          109. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that  
16 plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in  
17 this paragraph.

18          110. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that  
19 plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in  
20 this paragraph.

21          111. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that  
22 plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in  
23 this paragraph.

24          112. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that  
25 plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in  
26 this paragraph.

27 ...

28 ...



113. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in this paragraph.

114. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in this paragraph.

115. This paragraph does not pertain to BANA and further states legal conclusions, and accordingly, no response is required. To the extent that a response is required, the allegations in this paragraph are denied.

116. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in this paragraph.

117. This paragraph does not pertain to BANA and further states legal conclusions, and accordingly, no response is required. To the extent that a response is required, the allegations in this paragraph are denied.

118. BANA admits that plaintiffs are seeking the stated declaratory relief, but deny that plaintiffs are entitled to such relief. BANA further expressly denies the remaining allegations in this paragraph.

119. This paragraph does not pertain to BANA and further states legal conclusions, and accordingly, no response is required. To the extent that a response is required, the allegations in this paragraph are denied.

120. This paragraph does not pertain to BANA and further states legal conclusions, and accordingly, no response is required. To the extent that a response is required, the allegations in this paragraph are denied.

121. This paragraph does not pertain to BANA and further states legal conclusions, and accordingly, no response is required. To the extent that a response is required, the allegations in this paragraph are denied.

...



122. This paragraph does not pertain to BANA and further states legal conclusions, and accordingly, no response is required. To the extent that a response is required, the allegations in this paragraph are denied.

123. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required, the allegations are denied.

124. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required, the allegations are denied.

### **THIRD CAUSE OF ACTION**

#### **(Quiet Title)**

This cause of action is not asserted against BANA, and accordingly, a response to paragraphs 125 through 139 are not required. To the extent that a response is required, the allegations in these paragraphs are denied.

### **FOURTH CAUSE OF ACTION**

#### **(Violation of the Homeowner's Bill of Rights)**

140. BANA incorporates its response to paragraphs 1 through 139 as if fully set forth herein.

141. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required and to the extent that the allegations are directed at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA, BANA does not possess enough information to either admit or deny the allegations, and accordingly, they are denied.

142. To the extent that the allegations are directed at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA, BANA does not possess enough information to either admit or deny the allegations, and accordingly, they are denied.

143. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required and to the extent that the allegations are directed at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA,



1 BANA does not possess enough information to either admit or deny the allegations, and  
2 accordingly, they are denied.

3 144. The allegations in this paragraph merely recite a statute, and accordingly, no  
4 response is required. To the extent that a response is required, the allegations are denied.

5 145. To the extent that the allegations are directed at BANA, the allegations are denied.  
6 To the extent that the allegations do not relate to BANA, BANA does not possess enough  
7 information to either admit or deny the allegations, and accordingly, they are denied.

8 146. The allegations in this paragraph state legal conclusions to which no response is  
9 required. To the extent that a response is required and to the extent that the allegations are directed  
10 at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA,  
11 BANA does not possess enough information to either admit or deny the allegations, and  
12 accordingly, they are denied.

13 147. The allegations in this paragraph state legal conclusions to which no response is  
14 required. To the extent that a response is required and to the extent that the allegations are directed  
15 at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA,  
16 BANA does not possess enough information to either admit or deny the allegations, and  
17 accordingly, they are denied.

18 148. The allegations in this paragraph state legal conclusions to which no response is  
19 required. To the extent that a response is required and to the extent that the allegations are directed  
20 at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA,  
21 BANA does not possess enough information to either admit or deny the allegations, and  
22 accordingly, they are denied.

23 149. The allegations in this paragraph state legal conclusions to which no response is  
24 required. To the extent that a response is required and to the extent that the allegations are directed  
25 at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA,  
26 BANA does not possess enough information to either admit or deny the allegations, and  
27 accordingly, they are denied.

28 ...



**FIFTH CAUSE OF ACTION****(Breach of Contract – Bank of America)**

150. BANA incorporates its response to paragraphs 1 through 149 as if fully set forth herein.

151. BANA admits that on or about July 11, 2009, it sent correspondence to Vicenta Lincicome advising that she had been approved for a loan modification, and the required steps to accept the modification. Except as expressly admitted, the allegations in this paragraph are denied.

152. BANA admits that the loan modification agreement is executed by Vicenta Lincicome with a date of execution of July 31, 2009. Except as expressly admitted, the allegations in this paragraph are denied.

153. BANA admits that it received the LMA executed by Vicenta Lincicome. Except as expressly admitted, the allegations in this paragraph are denied.

154. The allegations in this paragraph are denied.

155. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.

156. The allegations in this paragraph relate to writings, which speak for themselves. To the extent that a response is required and to the extent that the allegations differ from the written document, the allegations in this paragraph are denied.

157. To the extent that the allegations relate to what plaintiffs received or plaintiffs knowledge, BANA does not possess enough information to either admit or deny those allegations, and accordingly, they are denied. To the extent that the allegations imply that BANA failed to provide required notice, such allegations state a legal conclusion to which no response. To the extent that the allegations relate to actions taken or not taken by BANA and as to any other remaining allegations, they are denied.

158. The allegations in this paragraph are denied.

159. The allegations in this paragraph are denied.

160. The allegations in this paragraph are denied.



1 161. The allegations in this paragraph are denied.

2 162. The allegations in this paragraph state a legal conclusion to which no response is  
3 required. To the extent that a response is required, the allegations are denied.

4 163. The allegations in this paragraph state a legal conclusion to which no response is  
5 required. To the extent that a response is required, the allegations are denied.

6 164. The allegations in this paragraph state a legal conclusion to which no response is  
7 required. To the extent that a response is required, the allegations are denied.

8 165. The allegations in this paragraph state a legal conclusion to which no response is  
9 required. To the extent that a response is required, the allegations are denied.

#### 10 **SIXTH CAUSE OF ACTION**

##### 11 **(Breach of Duty of Act in Good Faith and Fair Dealing – Bank of America)**

12 166. BANA incorporates its response to paragraphs 1 through 165 as if fully set  
13 forth herein.

14 167. The allegations in this paragraph state a legal conclusion to which no response is  
15 required. To the extent that a response is required, the allegations are denied.

16 168. The allegations in this paragraph state a legal conclusion to which no response is  
17 required. To the extent that a response is required, the allegations are denied.

18 169. The allegations in this paragraph state a legal conclusion to which no response is  
19 required. To the extent that a response is required, the allegations are denied.

20 170. The allegations in this paragraph state a legal conclusion to which no response is  
21 required. To the extent that a response is required, the allegations are denied.

#### 22 **SEVENTH CAUSE OF ACTION**

##### 23 **(Breach of Contract – US Bank)**

24 This cause of action is not asserted against BANA, and accordingly, a response to  
25 paragraphs 171 through 177 are not required. To the extent that a response is required, the  
26 allegations in these paragraphs are denied.

27 ...

28 ...



**EIGHTH CAUSE OF ACTION****(Breach of Duty of Act in Good Faith and Fair Dealing – US Bank)**

This cause of action is not asserted against BANA, and accordingly, a response to paragraphs 178 through 182 are not required. To the extent that a response is required, the allegations in these paragraphs are denied.

**NINTH CAUSE OF ACTION****(Slander of Title)**

This cause of action is not asserted against BANA, and accordingly, a response to paragraphs 183 through 190 are not required. To the extent that a response is required, the allegations in these paragraphs are denied.

**TENTH CAUSE OF ACTION****(Special Damages – Attorney's Fees)**

191. BANA incorporates its response to paragraphs 1 through 190 as if fully set forth herein.

192. This paragraph restates the provisions of statutes to which no response is required. To the extent a response is required, the allegations are denied.

193. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required and to the extent that the allegations are directed at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA, BANA does not possess enough information to either admit or deny the allegations, and accordingly, they are denied.

194. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required and to the extent that the allegations are directed at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA, BANA does not possess enough information to either admit or deny the allegations, and accordingly, they are denied.

195. The allegations in this paragraph state legal conclusions to which no response is required. To the extent that a response is required and to the extent that the allegations are directed



1 at BANA, the allegations are denied. To the extent that the allegations do not relate to BANA,  
2 BANA does not possess enough information to either admit or deny the allegations, and  
3 accordingly, they are denied.

4 196. BANA denies all allegations in paragraphs 1 through 195 that are not responded to  
5 above.

#### 6 **PRAYER FOR RELIEF**

7 1. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

8 2. This paragraph does not pertain to BANA. To the extent a response is required,  
9 BANA contends that plaintiffs are not entitled to any relief under any theory or in any amount.

10 3. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

11 4. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

12 5. This paragraph does not pertain to BANA. To the extent a response is required,  
13 BANA contends that plaintiffs are not entitled to any relief under any theory or in any amount.

14 6. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

15 7. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

16 8. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

17 9. BANA denies that plaintiffs are entitled to the relief requested in this paragraph.

18 Every allegation not expressly admitted herein is denied.

#### 19 **AFFIRMATIVE DEFENSES**

20 BANA asserts the following additional defenses. Discovery and investigation of this case  
21 is not yet complete, and BANA reserves the right to amend this answer by adding, deleting, or  
22 amending defenses as may be appropriate. In further answer to the SAC, and by way of additional  
23 defenses, BANA avers as follows:

#### 24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiffs have failed to state facts sufficient to constitute any cause of action  
26 against BANA.

#### 27 **SECOND AFFIRMATIVE DEFENSE**

28 Plaintiffs' claims are barred pursuant to the applicable statute of limitations.



1                                    **THIRD AFFIRMATIVE DEFENSE**

2            Plaintiffs' claims are barred in whole or in part because of the plaintiffs' failure to take  
3 reasonable steps to protect themselves from harm and to mitigate their alleged damages, if any.

4                                    **FOURTH AFFIRMATIVE DEFENSE**

5            Plaintiffs' claims are barred, in whole or in part, or subject to reduction by the doctrines of  
6 ratification, recoupment, duress, fraud, statute of frauds, novation, waiver, laches, estoppel,  
7 payment, failure of consideration, illegality, release, payment, res judicata, "unclean hands"  
8 and/or mootness.

9                                    **FIFTH AFFIRMATIVE DEFENSE**

10           Plaintiffs have suffered no damages resulting from any conduct on the part of BANA.

11                                   **SIXTH AFFIRMATIVE DEFENSE**

12           Plaintiffs' damages, if any, were caused in whole or in part by the actions or inactions of  
13 plaintiffs or others, but not by the actions or inaction of BANA. Plaintiffs' damages, if any, were  
14 caused by the acts or omissions of an individual or entity over whom or which BANA exercised  
15 no control.

16                                   **SEVENTH AFFIRMATIVE DEFENSE**

17           Plaintiffs' reliance, if any, on alleged statements, representations, misrepresentations, or  
18 failures to speak was unreasonable.

19                                   **EIGHTH AFFIRMATIVE DEFENSE**

20           Plaintiffs' claims are barred, in whole or in part, to the extent that BANA's alleged actions,  
21 if such actions were performed at all, were justified.

22                                   **NINTH AFFIRMATIVE DEFENSE**

23           BANA conducted itself in conformity with applicable laws and regulations.

24                                   **TENTH AFFIRMATIVE DEFENSE**

25           Plaintiffs are parties to one or more written agreements upon which plaintiffs rely. The  
26 terms of such written agreements bar plaintiffs' claims.

27                                   **ELEVENTH AFFIRMATIVE DEFENSE**

28           Plaintiffs' claims are barred because BANA's do not owe plaintiffs any duty of care.



1 **TWELFTH AFFIRMATIVE DEFENSE**

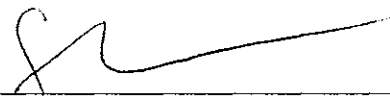
2 BANA reserves the right to assert additional affirmative defenses in the event discovery  
3 and/or investigation disclose the existence of other affirmative defenses.

4 WHEREFORE, BANA prays for judgment as follows:

- 5 1. That the plaintiffs take nothing by way of the SAC and that the matter be dismissed  
6 with prejudice;  
7 2. For reasonable attorney's fees and costs; and  
8 3. For any such other and further relief as the court may deem just and proper in  
9 the case.

10 DATED this 22nd day of January, 2020.

11 **AKERMAN LLP**

12   
13 \_\_\_\_\_  
14 DARREN T. BRENNER, ESQ.  
15 Nevada Bar No. 8386  
16 SCOTT R. LACHMAN, ESQ.  
17 Nevada Bar No. 12016  
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19 Las Vegas, Nevada 89134

20 *Attorneys for Bank of America, N.A.*

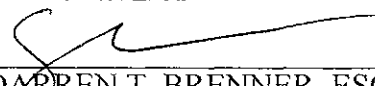
21 **AFFIRMATION**

22 (Pursuant to NRS 239B.030)

23 The undersigned does hereby affirms that the foregoing does not contain the social security  
24 number of any person or other personal information as defined by NRS 603A.040.

25 DATED this 22nd day of January, 2020.

26 **AKERMAN LLP**

27   
28 \_\_\_\_\_  
29 DARREN T. BRENNER, ESQ.  
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TEL.: (702) 634-5000 - FAX: (702) 380-8572



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 22<sup>nd</sup> day of January, 2020, I caused to be served a true and correct copy of the foregoing **BANK OF AMERICA, N.A.'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' SECOND AMENDED COMPLAINT** in the following manner:

**(UNITED STATES MAIL)** By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last-known mailing addresses, on the date above written as follows:

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**MILLWARD LAW, LTD.**

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Justin M. Clouser, Esq.

**CLOUSER, HEMPEN, WASICK LAW GROUP, LTD.**

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Rarnir M. Hernandez, Esq.

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Casey J. Nelson, Esq.

**WEDGEWOOD, LLC**

2320 Potosi Street, Suite 130  
Las Vegas, Nevada 89146

*Attorneys for Breckenridge Property Fund 2016, LLC*

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.



An employee of AKERMAN LLP



FILED

2020 FEB 11 PM 4:41

ANDREA ANDERSEN

Case No.: 18-CV-01332

Dept. No.: II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON COUNTY

.....

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,  
Plaintiffs,

vs.

SABES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust given  
by Vicenta Lincicome and dated 5/23/2007;  
FAY SERVICING, LLC, a Delaware limited  
liability company and subsidiary of Fay  
Financial, LLC; PROF-2013 M4 LEGAL  
TITLE TRUST by U.S. BANK, N.A., as Legal  
Title Trustee; for BANK OF AMERICAN,  
N.A.; BRECKENRIDGE PROPERTY FUND  
2016; and DOES 1-50.

Defendants.

**ORDER DENYING WITHOUT  
PREJUDICE EX PARTE MOTION FOR  
ORDER TO SHOW CAUSE WHY A  
TEMPORARY WRIT OF RESTITUTION  
SHOULD NOT BE GRANTED AND  
REQUEST TO SHORTEN TIME TO  
ANSWER**

On February 4, 2020, the above entitled matter came before the Court on a hearing for all pending motions. Plaintiff's Counsel, Michael, G. Millward, Esq. and Justin M. Clouser, Esq., appeared in person. All other parties appeared telephonically. The Court was aware of three motions pending before the hearing. The parties came to an agreement as to the Motion to set 16.1 (b) Conference. Mr. Millward also notified the Court of his withdrawal of the Motion for Reconsideration. The only remaining motion was Defendant in Intervention/Counterclaimant's, Breckenridge Property Fund 2016, LLC, Ex Parte Motion for Order to Show Cause Why a



1 Temporary Writ of Restitution Should Not be Granted and Request to Shorten Time to Answer  
2 Counterclaim.

3 **FINDINGS OF FACT**

4 The Court finds that its December 31, 2018 Order stated, "that the injunction shall be  
5 effective against Defendants so long as bond is posted and Plaintiffs post additional security in  
6 the sum of \$2,105.10 on January 20, 2019, and on the 20<sup>th</sup> day of each month thereafter." The  
7 Court finds that no bond was posted and thus the injunction did not remain in effect.

8 Additionally, the purchasers are found to have been aware of the title issues at the time of  
9 the property sale. The Plaintiffs requested relief setting aside the sale under NRS Chapter 107  
10 and the Court has not made a determination regarding that requested relief. The Court did not  
11 hear any evidence regarding the rental value of the property.

12 Therefore, based on the foregoing and good cause appearing, **IT IS HEREBY**  
13 **ADJUDGED and ORDERED** that the Ex Parte Motion for Order to Show Cause Why a  
14 Temporary Writ of Restitution Should Not be Granted and Request to Shorten Time to Answer  
15 Counterclaim is hereby **DENIED WITHOUT PREJUDICE**.

16 Dated this 11<sup>th</sup> of February, 2020.

17   
18 Hon. LEON ABERASTURI  
19 DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

I hereby certify that I, Yelga Carbajal, am an employee of the Honorable Leon Aberasturi, District Judge, and that on this date pursuant to NRCP 5(b), I mailed from Yerington, Nevada, a true copy of the foregoing document addressed to:

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1591 Mono Ave.  
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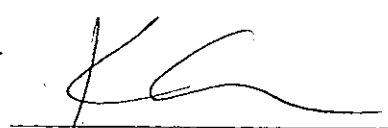
MCM-2018-NPL2  
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Shellpoint Mortgage Servicing  
P.O. Box 10826  
Greenville, SC 29603

1900 Capital Trust II  
By U.S. Bank Trust National Assoc.  
300 Delaware Ave, 9<sup>th</sup> Floor  
Wilmington, DE 19801

DATED: This 11<sup>th</sup> day of February, 2020.

  
Employee of Hon. Leon Aberasturi



ALBERT ELLIS LINCICOME, JR. and )  
VICENTA LINCICOME, )  
Appellants, )  
v. )  
SABLES, LLC, A NEVADA LIMITED )  
LIABILITY COMPANY, AS TRUSTEE )  
OF THE DEED OF TRUST GIVEN BY )  
VICENTA LINCICOME AND DATED )  
5/23/2007; FAY SERVICING, LLC, A )  
DELAWARE LIMITED LIABILITY )  
COMPANY AND SUBSIDIARY OF )  
FAY FINANCIAL, LLC; PROF-2013-M4 )  
LEGAL TITLE TRUST BY U.S. BANK, )  
N.A., AS LEGAL TITLE TRUSTEE; )  
BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND )  
2016, A UTAH LIMITED LIABILITY )  
COMPANY; NEWREZ, LLC, D/B/A )  
SHELLPOINT MORTGAGE )  
SERVICING, LLC.; 1900 CAPITAL )  
TRUST II, BY U.S. BANK TRUST )  
NATIONAL ASSOCIATION; AND )  
MCM-2018-NPL2, )  
Respondents. )

NEVADA SUPREME COURT  
CASE NO.: 83261  
  
THIRD JUDICIAL DISTRICT  
COURT CASE NO.: 18-CV-01332

## Docket 83261 Document 2021-37149



**INDEX OF APPENDIX  
VOLUME I**

<b>#</b>	<b><u>Document</u></b>	<b><u>Filed Date</u></b>	<b><u>Page</u></b>
1	Complaint	11-07-2018	AA00001
2	Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00126

**VOLUME II**

2	(Continued) Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00251
3	Affidavit of Counsel	11-07-2018	AA00255
4	Notice of Lis Pendens APN 29-401-17	11-07-2018	AA00257
5	Order After Hearing Concerning Restraining Order and Preliminary Injunction	11-08-2018	AA00259
6	Corrected Order Concerning Restraining Order and Preliminary Injunction	11-14-2018	AA00262
7	Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00265

**VOLUME III**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00501
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**VOLUME IV**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00751
8	Declaration of Fay Servicing, LLC in Response to Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction	11-15-2018	AA00778
9	US Bank Trust's Answer to Complaint	11-29-2018	AA00782



10	Defendant Bank of America, N.A.'s Notice of Motion and Motion to Dismiss Plaintiffs' Complaint	12-21-2018	AA00796
11	Declaration of Non-Monetary Status (Sables)	12-24-2018	AA00805
12	Order After Hearing Concerning Restraining Order and Preliminary Injunction and Setting Aside Order Entered 11-8-18 and Corrected Order 11-14-18.	12-31-2018	AA00809
13	Objection to Declaration of Non-Monetary Status	01-09-2019	AA00817
14	Sables, LLC's Response to Objection to Its Declaration of Non-Monetary Status	01-28-2019	AA00821
15	Sables, LLC's Motion to Set Aside Default	01-28-2019	AA00826
16	Plaintiffs' Motion for Leave to File Amended Complaint to Substitute Parties	03-04-2019	AA00836
17	Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00918
18	Declaration of Ramir M. Hernandez, Esq. in Support of Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00931
19	Defendant Bank of America, N.A.'s Motion to Dismiss Plaintiffs' Complaint	03-22-2019	AA00935
20	Opposition to US Bank's Motion for Rule 11 Sanctions	03-28-2019	AA00944
21	Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA00975

### **VOLUME V**

21	(Continued) Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA01001
22	Response to Declaration of Shadd A. Wade	04-11-2019	AA01078
23	Defendant Bank of America, N.A.'s Reply to Opposition on Motion to Dismiss Plaintiffs' Complaint	04-12-2019	AA01094
24	Reply in Support of Motion for Rule 11 Sanctions Against Plaintiffs	04-12-2019	AA01103
25	Motion to Intervene and Expunge Lis Pendens	05-24-2019	AA01111
26	Order	05-30-2019	AA01122



27	Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims for Relief	06-07-2019	AA01127
28	Opposition to Motion to Intervene	06-10-2019	AA01213
29	Opposition to Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims and Relief	06-19-2019	AA01225
30	Reply in Support of Motion to Intervene and Expunge Lis Pendens	06-19-2019	AA01230
31	Sables, LLC's Opposition to Plaintiffs' Amended Motion to Amend	06-20-2019	AA01235
32	Reply to Breckenridge Property Fund 2016, LLC's Opposition to the Amended Motion for Leave to Amend Complaint	07-09-2019	AA01240
33	Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01244
<b>VOLUME VI</b>			
33	(Continued) Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01251
34	Order Granting Plaintiffs Leave to File Second Amended Complaint	08-28-2019	AA01280
35	Plaintiffs' Motion for Leave to File Second Amended Complaint to Substitute Parties and Add Additional Claims for Relief	09-12-2019	AA01283
36	Order Granting in Part and Denying in Part the Motion to Intervene and Expunge Lis Pendens	09-17-2019	AA01374
37	Order Directing Answer (Supreme Court)	09-25-2019	AA01376
38	Plaintiffs' Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief	09-27-2019	AA01378
39	Ex Parte Motion for Order to Show Cause	10-03-2019	AA01385
40	Intervenor's Counterclaim	10-03-2019	AA01414
41	Order	10-16-2019	AA01447



42	Plaintiffs' Opposition to Breckenridge's Motion for Order to Show Cause Re Writ of Restitution	10-18-2019	AA01445
43	Plaintiffs' Answer to Counterclaim and Counterclaim Against Intervener	10-23-2019	AA01473
44	Order Denying Ex Parte Motion and Setting Hearing	10-24-2019	AA01495
45	Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01498

## VOLUME VII

45	(Continued) Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01501
46	Breckenridge's Answer to the Counterclaim Filed by Albert Ellis Lincicome, Jr. and Vicenta Lincicome	11-18-2019	AA01516
47	Order Concerning Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief.	11-22-2019	AA01521
48	Petitioners' Reply to Responses to Petition for Writ of Mandamus (Supreme Court)	11-27-2019	AA01523
49	Order (Concerning Motion to File Second Amended Complaint)	12-06-2019	AA01544
50	Plaintiffs' Motion for Reconsideration	12-13-2019	AA01546
51	Plaintiffs' Second Amended Complaint	12-20-2019	AA01553
52	Answer to Second Amended Complaint (US Bank, Prof-2013 M4-Legal Title Trust and Fay Servicing)	01-07-2020	AA01697
53	Breckenridge Property Fund 2016, LLC's Answer to Second Amended Complaint	01-08-2020	AA01721
54	Order Denying Petition for Review (Supreme Court)	01-22-2020	AA01726
55	Bank of America, N.A.'s Answer and Affirmative Defenses to Plaintiffs' Second Amended Complaint	01-23-2020	AA01728
56	Order Denying Without Prejudice Ex Parte Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be Granted and Request to Shorten Time to Answer	02-11-2020	AA01748



### **VOLUME VIII**

57	Answer to Second Amended Complaint (Newrez, LLC, d/b/a Shellpoint Mortgage)	03-19-2020	AA01751
58	Breckenridge Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments With Court	03-27-2020	AA01776
59	Plaintiffs' Opposition to Motion for Deposit of Payments With Court	04-13-2020	AA01806
60	Breckenridge Reply in Support of Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments with Court	04-24-2020	AA01839
61	Breckenridge Property Fund 2016, LLC's Reply in Support of Motion for Leave to File Crossclaim Against Prof-2013-M4 Legal Title Trust by U.S. Bank National Association, as Legal Title Trustee	09-11-2020	AA01844
62	Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	10-02-2020	AA01853
63	Answer to Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	11-02-2020	AA01860
64	Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA01869

### **VOLUME IX**

64	(Continued) Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA02001
65	Breckenridge Property Fund 2016 LLC's Motion for Summary Judgment Against Plaintiff	03-18-2021	AA02179
66	(Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02230

### **VOLUME X**

66	(Continued) (Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02251
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## **VOLUME XI**

- |    |  |            |         |
|----|--|------------|---------|
| 66 | (Continued) (Plaintiffs') Motion for Partial Summary Judgment  | 03-19-2021 | AA02501 |
| 67 | Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA02540 |

## **VOLUME XII**

- |    |  |            |         |
|----|--|------------|---------|
| 67 | (Continued) Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02751 |
| 68 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment   | 03-25-2021 | AA02764 |
| 69 | Request for Judicial Notice in Support of Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment and Shellpoint Mortgage Servicing LLC's Motion for Summary Judgment | 03-25-2021 | AA02779 |
| 70 | Shellpoint Mortgage Servicing, LLC's Motion for Summary Judgment   | 03-25-2021 | AA02785 |
| 71 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02796 |

## **VOLUME XIII**

- |    |  |            |         |
|----|--|------------|---------|
| 71 | (Continued) Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA03001 |
| 72 | Bank of America, N.A.'s Errata to Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions   | 04-02-2021 | AA03017 |



73	Bank of America, N.A.'s Opposition to Plaintiffs' Partial Motion for Summary Judgment	04-14-2021	AA03021
74	Plaintiffs' Opposition to US Bank, Fay Servicing, and Shellpoint's Motions for Summary Judgment	04-15-2021	AA03089
75	Plaintiffs' Opposition to BANA's Motion for Summary Judgment	04-15-2021	AA03112
76	Plaintiffs' Opposition to Breckenridge's Motion for Summary Judgment	04-15-2021	AA03127
77	Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03136

#### **VOLUME XIV**

77	(Continued) Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03251
78	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03482

#### **VOLUME XV**

78	(Continued) Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03501
79	Bank of America, N.A.'s Reply Supporting Motion for Summary Judgment	05-05-2021	AA03506
80	Supplement to Plaintiffs' Statement of Undisputed Material Facts	05-06-2021	AA03519
81	Reply to Bank of America, N.A.'s Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03671
82	Reply to US Bank & Fay Servicing, LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03698
83	Shellpoint Mortgage Servicing, LLC's Reply in Support of Motion for Summary Judgment	05-10-2021	AA03720
84	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and	05-10-2021	AA03727



Fay Servicing LLC's Reply in Support of Motion for Summary Judgment

- |    |   |            |         |
|----|---|------------|---------|
| 85 | Breckenridge Property Fund 2016 LLC's Reply in Support of Motion for Summary Judgment Against Plaintiff | 05-10-2021 | AA03737 |
| 86 | Order on Breckenridge Motion for Summary Judgment   | 06-23-2021 | AA03743 |

**VOLUME XVI**

- |    |  |            |         |
|----|--|------------|---------|
| 87 | Order Denying Plaintiffs' Motion for Partial Summary Judgment/Granting Motions for Summary Judgment filed by BANA, Prof-2013 M4 Legal Trust, US Bank and Fay Servicing LLC | 06-23-2021 | AA03751 |
| 88 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03769 |
| 89 | Notice of Entry of Order (Order Denying Plaintiffs Motion for Partial Summary Judgment)  | 07-06-2021 | AA03780 |
| 90 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03801 |
| 91 | Lincicomes' Notice of Appeal   | 07-19-2021 | AA03812 |
| 92 | Case Appeal Statement  | 07-30-2021 | AA03815 |
| 93 | Order Regarding Permanent Writ of Restitution  | 08-20-2021 | AA03823 |
| 94 | Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents  | 09-09-2021 | AA03826 |
| 95 | Plaintiffs' Motion for Stay Pending Appeal   | 09-15-2021 | AA03888 |
| 96 | Opposition to Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents                              | 09-24-2021 | AA03904 |
| 97 | Defendant Breckenridge Property Fund 2016, LLC's Opposition to Plaintiffs' Motion to Stay Pending Appeal   | 10-01-2021 | AA03906 |
| 98 | Request for Transcripts  | 10-04-2021 | AA03974 |
| 99 | Breckenridge Property Fund 2016's Reply in Support of Motion for Entry of Order Granting   | 10-06-2021 | AA03976 |



Permanent Writ of Restitution and Payment of  
Overdue Rents

100 Transcripts of Hearings 10-18-2021 AA03979

**VOLUME XVII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04001

**VOLUME XVIII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04251

101 Order Concerning: Breckenridge Property Fund  
2016, LLC's Motion for Entry of Order Granting  
Permanent Writ of Restitution and Payment of  
Overdue Rents and Plaintiffs' Motion for Stay  
Pending Appeal 11-05-2021 AA04257

102 Lincicomes' Ex Parte Motion for Additional Time to  
Obtain Supersedeas Bond 11-15-021 AA04267

103 Breckenridge Property Fund 2016's Opposition to  
Plaintiffs' Improper Ex Parte Motion for Additional  
Time to Obtain Supersedeas Bond and Request for  
Sanctions 11-16-2021 AA04274

104 Order Denying Ex Parte Motion (for additional time  
for bond) 11-17-2021 AA04301

105 Permanent Writ of Restitution (order permitting  
eviction of Lincicomes from their home) 11-22-2021 AA04304



FILED

2020 MAR 19 PM 2:54

ORIGINAL

TANYA SOEHRNE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

Andrea Andersen

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9 [rhernandez@wrightlegal.net](mailto:rhernandez@wrightlegal.net)

10 Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association,  
11 as Legal Title Trustee; Fay Servicing LLC, and Shellpoint Mortgage Servicing, LLC

12 **THIRD JUDICIAL DISTRICT COURT**

13 **LYON COUNTY, NEVADA**

14 ALBERT ELLIS LINCICOME, JR. and  
15 VICENTA LINCICOME,

16 Plaintiffs,

17 vs.

Case No.: 18-cv-01332

Dept. No.: II

18 **ANSWER TO SECOND AMENDED**  
19 **COMPLAINT**

20 SABLES, LLC, a Nevada limited liability  
21 company, as Trustee of the Deed of Trust, given  
22 by Vicenta Lincicome and dated 5/23/2007;  
23 FAY SERVICING, LLC, a Delaware limited  
24 liability company and , subsidiary of Fay  
25 Financial, LLC; PROF-2013-M4 LEGAL  
26 TITLE TRUST by U.S. BANK, N.A., as Legal  
27 Title Trustee; for BANK OF AMERICA, N.A.;  
28 BRECKENRIDGE PROPERTY FUND 2016, a  
Utah limited liability company; NEWREZ,  
LLC, d/b/a SHELLPOINT MORTGAGE  
SERVICING, LLC, substituted in for DOE 1;  
1900 CAPITAL TRUST II, BY U.S. BANK  
TRUST NATIONAL ASSOCIATION,  
substituted in for DOE 2; MCM-2018-NPL2,  
substituted in for DOE3; and DOES 4-10.

Defendants.

Defendant, NEWREZ, LLC d/b/a SHELLPOINT MORTGAGE SERVICING, LLC  
("Shellpoint" or "Defendant") by and through their attorneys of record, Wright, Finlay, & Zak,  
LLP, hereby files this Answer to Plaintiff's Second Amended Complaint.

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1 **PARTIES**

2 1. Answering Paragraph 1 of the Complaint, Defendant does not possess enough  
3 information to admit or deny the allegations; therefore, Defendant deny said allegations.

4 2. Answering Paragraph 2 of the Complaint, Defendant does not possess enough  
5 information to admit or deny the allegations; therefore, Defendant deny said allegations.

6 3. Answering Paragraph 3 of the Complaint, Defendant does not possess enough  
7 information to admit or deny the allegations; therefore, Defendant denies said allegations.

8 4. Answering Paragraph 4 of the Complaint, Defendant does not possess enough  
9 information to admit or deny the allegations; therefore, Defendant denies said allegations.

10 5. Answering Paragraph 5 of the Complaint, Defendant does not possess enough  
11 information to admit or deny the allegations; therefore, Defendant denies said allegations.

12 6. Answering Paragraph 6 of the Complaint, Defendant does not possess enough  
13 information to admit or deny the allegations; therefore, Defendant denies said allegations.

14 7. Answering Paragraph 7 of the Complaint, Defendant does not possess enough  
15 information to admit or deny the allegations; therefore, Defendant denies said allegations.

16 8. Answering Paragraph 8 of the Complaint, Shellpoint is a Delaware limited  
17 liability and that it serviced the mortgage loan that is the subject of this Complaint for the  
18 mortgagee.

19 9. Answering Paragraph 9 of the Complaint, Defendant does not possess enough  
20 information to admit or deny the allegations; therefore, Defendant denies said allegations.

21 10. Answering Paragraph 10 of the Complaint, Defendant does not possess enough  
22 information to admit or deny the allegations; therefore, Defendant denies said allegations.

23 **JURISDICTION**

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

26 12. Answering Paragraph 12 of the Complaint, Defendant admits that this matter is  
27 exempt under Rule 3(A) of the Nevada Arbitration Rules.

28 /././







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

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

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

7       29. Answering Paragraph 29 of the Complaint, Defendant admits that the referenced  
8 documents speak for themselves.

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

11       31. Defendant does not possess enough information to admit or deny the allegations  
12 in paragraph 31 of the Complaint; therefore, Defendant denies said allegations.

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

15       33. Defendant does not possess enough information to admit or deny the allegations  
16 in paragraph 33 of the Complaint; therefore, Defendant denies said allegations.

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

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

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

23       37. Defendant does not possess enough information to admit or deny the allegations  
24 in paragraph 37 of the Complaint; therefore, Defendant denies said allegations.

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

27       39. Answering Paragraph 17 of the Complaint, Defendant admits that the referenced  
28 documents speak for themselves.



1       40. Defendant does not possess enough information to admit or deny the allegations  
2 in paragraph 40 of the Complaint; therefore, Defendant denies said allegations.

3       41. Defendant does not possess enough information to admit or deny the allegations  
4 in paragraph 41 of the Complaint; therefore, Defendant denies said allegations.

5       42. Answering paragraph 42 of the Complaint, Defendant admits that the referenced  
6 bankruptcy document speaks for itself.

7       43. Answering paragraph 43 of the Complaint, Defendant admits that the referenced  
8 bankruptcy document speaks for itself.

9       44. Answering paragraph 44 of the Complaint, Defendant admits that the referenced  
10 bankruptcy document speaks for itself.

11       45. Defendant does not possess enough information to admit or deny the allegations  
12 in paragraph 45 of the Complaint; therefore, Defendant denies said allegations.

13       46. Answering Paragraph 46 of the Complaint, Defendant admits that the referenced  
14 document speaks for itself.

15       47. Answering Paragraph 47 of the Complaint, Defendant admits that the referenced  
16 document speaks for itself.

17       48. Defendant does not possess enough information to admit or deny the allegations  
18 in paragraph 48 of the Complaint; therefore, Defendant denies said allegations.

19       49. Defendant does not possess enough information to admit or deny the allegations  
20 in paragraph 49 of the Complaint; therefore, Defendant denies said allegations.

21       50. Defendant does not possess enough information to admit or deny the allegations  
22 in paragraph 50 of the Complaint; therefore, Defendant denies said allegations.

23       51. Answering Paragraph 51 of the Complaint, Defendant admits that the referenced  
24 document speaks for itself.

25       52. Defendant does not possess enough information to admit or deny the allegations  
26 in paragraph 52 of the Complaint; therefore, Defendant denies said allegations.

27       53. Defendant does not possess enough information to admit or deny the allegations  
28 in paragraph 53 of the Complaint; therefore, Defendant denies said allegations.



1           54.     Answering Paragraph 54 of the Complaint, Defendant admits that the referenced  
2 recorded document speaks for itself.

3           55.     Answering Paragraph 55 of the Complaint, Defendant admits that the referenced  
4 recorded document speaks for itself.

5           56.     Defendant does not possess enough information to admit or deny the allegations  
6 in paragraph 56 of the Complaint; therefore, Defendant denies said allegations.

7           57.     Defendant does not possess enough information to admit or deny the allegations  
8 in paragraph 57 of the Complaint; therefore, Defendant denies said allegations.

9           58.     Defendant does not possess enough information to admit or deny the allegations  
10 in paragraph 58 of the Complaint; therefore, Defendant denies said allegations.

11          59.     Defendant does not possess enough information to admit or deny the allegations  
12 in paragraph 59 of the Complaint; therefore, Defendant denies said allegations.

13          60.     Defendant does not possess enough information to admit or deny the allegations  
14 in paragraph 60 of the Complaint; therefore, Defendant denies said allegations.

15          61.     Defendant does not possess enough information to admit or deny the allegations  
16 in paragraph 61 of the Complaint; therefore, Defendant denies said allegations.

17          62.     Defendant does not possess enough information to admit or deny the allegations  
18 in paragraph 62 of the Complaint; therefore, Defendant denies said allegations.

19          63.     Answering Paragraph 63 of the Complaint, Defendant admits that the referenced  
20 recorded document speaks for itself.

21          64.     Answering Paragraph 64 of the Complaint, Defendant admits that the referenced  
22 recorded document speaks for itself.

23          65.     Defendant does not possess enough information to admit or deny the allegations  
24 in paragraph 65 of the Complaint; therefore, Defendant denies said allegations.

25          66.     Answering Paragraph 66 of the Complaint, Defendant admits that the referenced  
26 recorded document speaks for itself.

27          67.     Defendant does do not possess enough information to admit or deny the  
28 allegations in paragraph 67 of the Complaint; therefore, Defendant denies said allegations.



1       68. Defendant does not possess enough information to admit or deny the allegations  
2 in paragraph 68 of the Complaint; therefore, Defendant denies said allegations.

3       69. Defendant does not possess enough information to admit or deny the allegations  
4 in paragraph 69 of the Complaint; therefore, Defendant denies said allegations.

5       70. Defendant does not possess enough information to admit or deny the allegations  
6 in paragraph 70 of the Complaint; therefore, Defendant denies said allegations.

7       71. Defendant does not possess enough information to admit or deny the allegations  
8 in paragraph 71 of the Complaint; therefore, Defendant denies said allegations.

9       72. Defendant does not possess enough information to admit or deny the allegations  
10 in paragraph 72 of the Complaint; therefore, Defendant denies said allegations.

11       73. Answering Paragraph 73 of the Complaint, Defendant admits that the referenced  
12 recorded document speaks for itself.

13       74. Answering Paragraph 74 of the Complaint, Defendant admits that the referenced  
14 recorded document speaks for itself.

15       75. Answering Paragraph 75 of the Complaint, Defendant admits that the referenced  
16 court document speaks for itself.

17       76. Answering Paragraph 76 of the Complaint, Defendant admits that the referenced  
18 court document speaks for itself.

19       77. Answering Paragraph 77 of the Complaint, Defendant admits that the referenced  
20 court document speaks for itself.

21       78. Defendant does not possess enough information to admit or deny the allegations  
22 in paragraph 78 of the Complaint; therefore, Defendant denies said allegations.

23       79. Answering Paragraph 79 of the Complaint, Defendant admits that the referenced  
24 court document speaks for itself.

25       80. Defendant does not possess enough information to admit or deny the allegations  
26 in paragraph 80 of the Complaint; therefore, Defendant denies said allegations.

27       81. Defendant does not possess enough information to admit or deny the allegations  
28 in paragraph 81 of the Complaint; therefore, Defendant denies said allegations.



1           82. Defendant does not possess enough information to admit or deny the allegations  
2 in paragraph 82 of the Complaint; therefore, Defendant denies said allegations.

3           83. Answering Paragraph 83 of the Complaint, Defendant admits that the referenced  
4 document speaks for itself.

5           84. Answering Paragraph 84 of the Complaint, Defendant admits that the referenced  
6 court document speaks for itself.

7           85. Defendant does not possess enough information to admit or deny the allegations  
8 in paragraph 85 of the Complaint; therefore, Defendant denies said allegations.

9           86. Defendant does not possess enough information to admit or deny the allegations  
10 in paragraph 86 of the Complaint; therefore, Defendant denies said allegations.

11           87. Answering Paragraph 87 of the Complaint, Defendant admits that the referenced  
12 court document speaks for itself.

13           88. Answering Paragraph 88 of the Complaint, Defendant admits that the referenced  
14 recorded document speaks for itself.

15           89. Answering paragraph 89 of the Complaint, Defendant denies the allegations  
16 therein.

#### 17                                   **FIRST CAUSE OF ACTION**

#### 18                                   **(Wrongful Foreclosure)**

19           90. Answering paragraph 90 of the Complaint, Defendant hereby repeats, realleges,  
20 and incorporates each of its admissions, denials, or other responses to all the paragraphs  
21 referenced hereinabove as if set forth at length and in full.

22           91. Paragraph 91 of the Complaint contains legal conclusions and allegations against  
23 other parties to which no response is required. As to those other parties, Defendant does not  
24 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
25 the extent the allegations reference Defendant, Defendant denies said allegations.

26           92. Paragraph 92 of the Complaint contains legal conclusions to which no response  
27 is required. To the extent a response is required, Defendant does not possess enough  
28 information to admit or deny the allegations; therefore, Defendant denies said allegations.



1           93. Paragraph 93 of the Complaint contains legal conclusions and allegations against  
2 other parties to which no response is required. As to those other parties, Defendant does not  
3 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
4 the extent the allegations reference Defendant, Defendant denies said allegations.

5           94. Paragraph 94 of the Complaint contains legal conclusions and allegations against  
6 other parties to which no response is required. As to those other parties, Defendant does not  
7 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
8 the extent the allegations reference Defendant, Defendant denies said allegations.

9           95. Paragraph 95 of the Complaint contains legal conclusions and allegations against  
10 other parties to which no response is required. As to those other parties, Defendant does not  
11 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
12 the extent the allegations reference Defendant, Defendant denies said allegations.

13           96. Paragraph 96 of the Complaint contains legal conclusions and allegations against  
14 other parties to which no response is required. As to those other parties, Defendant does not  
15 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
16 the extent the allegations reference Defendants, Defendant denies said allegations.

17           97. Paragraph 97 of the Complaint contains legal conclusions and allegations against  
18 other parties to which no response is required. As to those other parties, Defendant does not  
19 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
20 the extent the allegations reference Defendant, Defendant denies said allegations.

21           98. Paragraph 98 of the Complaint contains legal conclusions and allegations against  
22 other parties to which no response is required. As to those other parties, Defendant does not  
23 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
24 the extent the allegations reference Defendant, Defendant denies said allegations.

25           99. Paragraph 99 of the Complaint contains legal conclusions and allegations against  
26 other parties to which no response is required. As to those other parties, Defendant does not  
27 possess enough information to admit or deny; therefore, Defendant denies said allegations. To  
28 the extent the allegations reference Defendant, Defendant denies said allegations.



100. Answering Paragraph 100 of the Complaint, Defendant denies the allegations therein.

101. Answering Paragraph 101 of the Complaint, Defendant denies the allegations therein.

102. Answering Paragraph 102 of the Complaint, Defendant denies the allegations therein.

## SECOND CAUSE OF ACTION

(Declaratory Relief—NRS 30.010 *et. seq.* —NAR 3)

103. Answering paragraph 103 of the Complaint, Defendant hereby repeats, realleges, and incorporates each of its admissions, denials, or other responses to all the paragraphs referenced hereinabove as if set forth at length and in full.

104. Paragraph 104 identifies the parties to which this cause of action pertains to which no response is required. To the extent a response is required, Defendant does not possess enough information to admit or deny the allegations; therefore, Defendant denies said allegations.

105. Paragraph 105 of the Complaint contains legal conclusions and allegations against other parties to which no response is required. To the extent a response is required, Defendant does not possess enough information to admit or deny the allegations; therefore, Defendant denies said allegations.

106. Paragraph 106 of the Complaint contains legal conclusions and allegations against other parties to which no response is required. As to those other parties, Defendant does not possess enough information to admit or deny; therefore, Defendant denies said allegations. To the extent the allegations reference Defendant, Defendant denies said allegations.

107. Paragraph 107 of the Complaint contains legal conclusions and allegations against other parties to which no response is required. As to those other parties, Defendant does not possess enough information to admit or deny; therefore, Defendant denies said allegations. To the extent the allegations reference Defendant, Defendant denies said allegations.

108. Paragraph 108 of the Complaint contains legal conclusions and allegations



1 against other parties to which no response is required. As to those other parties, Defendant does  
2 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
3 To the extent the allegations reference Defendant, Defendant denies said allegations.

4 109. Paragraph 109 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. As to those other parties, Defendant does  
6 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
7 To the extent the allegations reference Defendant, Defendant denies said allegations.

8 110. Paragraph 110 of the Complaint contains legal conclusions and allegations  
9 against other parties to which no response is required. As to those other parties, Defendant does  
10 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
11 To the extent the allegations reference Defendant, Defendant denies said allegations.

12 111. Paragraph 111 of the Complaint contains legal conclusions and allegations  
13 against other parties to which no response is required. As to those other parties, Defendant does  
14 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
15 To the extent the allegations reference Defendant, Defendant denies said allegations.

16 112. Paragraph 112 of the Complaint contains legal conclusions and allegations  
17 against other parties to which no response is required. As to those other parties, Defendant does  
18 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
19 To the extent the allegations reference Defendant, Defendant denies said allegations.

20 113. Paragraph 113 of the Complaint contains legal conclusions and allegations  
21 against other parties to which no response is required. As to those other parties, Defendant does  
22 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
23 To the extent the allegations reference Defendant, Defendant denies said allegations.

24 114. Paragraph 114 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. As to those other parties, Defendant does  
26 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
27 To the extent the allegations reference Defendant, Defendant denies said allegations.

28 115. Paragraph 115 of the Complaint contains legal conclusions and allegations



1 against other parties to which no response is required. As to those other parties, Defendant does  
2 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
3 To the extent the allegations reference Defendant, Defendant denies said allegations.

4 116. Paragraph 116 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. As to those other parties, Defendant does  
6 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
7 To the extent the allegations reference Defendant, Defendant denies said allegations.

8 117. Paragraph 117 of the Complaint contains legal conclusions and allegations  
9 against other parties to which no response is required. As to those other parties, Defendant does  
10 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
11 To the extent the allegations reference Defendant, Defendant denies said allegations.

12 118. Paragraph 118 of the Complaint contains legal conclusions and allegations  
13 against other parties to which no response is required. As to those other parties, Defendant does  
14 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
15 To the extent the allegations reference Defendant, Defendant denies said allegations.

16 119. Paragraph 119 of the Complaint contains legal conclusions and allegations  
17 against other parties to which no response is required. As to those other parties, Defendant does  
18 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
19 To the extent the allegations reference Defendant, Defendant denies said allegations.

20 120. Paragraph 120 of the Complaint contains legal conclusions and allegations  
21 against other parties to which no response is required. As to those other parties, Defendant does  
22 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
23 To the extent the allegations reference Defendant, Defendant denies said allegations.

24 121. Paragraph 121 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. As to those other parties, Defendant does  
26 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
27 To the extent the allegations reference Defendant, Defendant denies said allegations.

28 122. Paragraph 122 of the Complaint contains legal conclusions and allegations



1 against other parties to which no response is required. As to those other parties, Defendant does  
2 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
3 To the extent the allegations reference Defendant, Defendant denies said allegations.

4 123. Paragraph 123 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. As to those other parties, Defendant does  
6 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
7 To the extent the allegations reference Defendant, Defendant denies said allegations.

8 124. Paragraph 124 of the Complaint contains Plaintiffs' request relief so no response  
9 is required. To the extent a response is required, Defendant denies said allegations.

### 10 **THIRD CAUSE OF ACTION**

#### 11 **(Quiet Title)**

12 125. Answering paragraph 125 of the Complaint, Defendant hereby repeats, realleges,  
13 and incorporates each of their admissions, denials, or other responses to all the paragraphs  
14 referenced hereinabove as if set forth at length and in full.

15 126. Paragraph 126 identifies the parties to which this cause of action pertains to  
16 which no response is required. To the extent a response is required, Defendant does not possess  
17 enough information to admit or deny the allegations; therefore, Defendant denies said  
18 allegations.

19 127. Paragraph 127 of the Complaint contains legal conclusions and allegations  
20 against other parties to which no response is required. To the extent a response is required,  
21 Defendant admits the allegations therein.

22 128. Paragraph 128 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. To the extent a response is required,  
24 Defendant does not possess enough information to admit or deny the allegations; therefore,  
25 Defendant denies said allegations.

26 129. Paragraph 129 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. To the extent a response is required,  
28 Defendant does not possess enough information to admit or deny the allegations; therefore,



1 Defendant denies said allegations.

2 130. Paragraph 130 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. To the extent a response is required,  
4 Defendant does not possess enough information to admit or deny the allegations; therefore,  
5 Defendant denies said allegations.

6 131. Paragraph 131 of the Complaint contains legal conclusions and allegations  
7 against other parties to which no response is required. To the extent a response is required,  
8 Defendant does not possess enough information to admit or deny the allegations; therefore,  
9 Defendant denies said allegations.

10 132. Paragraph 132 of the Complaint contains legal conclusions and allegations  
11 against other parties to which no response is required. To the extent a response is required,  
12 Defendant does not possess enough information to admit or deny the allegations; therefore,  
13 Defendant denies said allegations.

14 133. Paragraph 133 of the Complaint contains legal conclusions and allegations  
15 against other parties to which no response is required. To the extent a response is required,  
16 Defendant does not possess enough information to admit or deny the allegations; therefore,  
17 Defendant denies said allegations.

18 134. Paragraph 134 of the Complaint contains legal conclusions and allegations  
19 against other parties to which no response is required. To the extent a response is required,  
20 Defendant does not possess enough information to admit or deny the allegations; therefore,  
21 Defendant denies said allegations.

22 135. Paragraph 135 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. To the extent a response is required,  
24 Defendant does not possess enough information to admit or deny the allegations; therefore,  
25 Defendant denies said allegations.

26 136. Paragraph 136 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. To the extent a response is required,  
28 Defendant does not possess enough information to admit or deny the allegations; therefore,



1 Defendant denies said allegations.

2 137. Paragraph 137 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. To the extent a response is required,  
4 Defendant denies said allegations.

5 138. Paragraph 138 of the Complaint contains legal conclusions and allegations  
6 against other parties to which no response is required. To the extent a response is required,  
7 Defendant does not possess enough information to admit or deny the allegations; therefore,  
8 Defendant denies said allegations.

9 139. Paragraph 139 of the Complaint contains legal conclusions and allegations  
10 against other parties to which no response is required. To the extent a response is required,  
11 Defendant does not possess enough information to admit or deny the allegations; therefore,  
12 Defendant denies said allegations.

#### 13 **FOURTH CAUSE OF ACTION**

#### 14 **(Violation of Homeowner's Bill of Rights)**

15 140. Answering paragraph 140 of the Complaint, Defendants hereby repeat, reallege,  
16 and incorporate each of their admissions, denials, or other responses to all the paragraphs  
17 referenced hereinabove as if set forth at length and in full.

18 141. Paragraph 141 contains legal conclusions to which no response is required. To  
19 the extent a response is required, Defendant, Defendant denies said allegations.

20 142. Paragraph 142 of the Complaint contains legal conclusions and allegations  
21 against other parties to which no response is required. To the extent a response is required,  
22 Defendant does not possess enough information to admit or deny the allegations; therefore,  
23 Defendant denies said allegations.

24 143. Paragraph 143 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. As to those other parties, Defendant does  
26 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
27 To the extent the allegations reference Defendants, Defendant denies said allegations.

28 144. Paragraph 144 of the Complaint contains legal conclusions to which no response



1 is required. To the extent a response is required, Defendant does not possess enough  
2 information to admit or deny; therefore, Defendant denies said allegations. To the extent the  
3 allegations reference Defendant, Defendant denies said allegations.

4 145. Paragraph 145 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. As to those other parties, Defendant does  
6 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
7 To the extent the allegations reference Defendant, Defendant denies said allegations.

8 146. Paragraph 146 of the Complaint contains legal conclusions and allegations  
9 against other parties to which no response is required. As to those other parties, Defendant does  
10 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
11 To the extent the allegations reference Defendant, Defendant denies said allegations.

12 147. Paragraph 147 of the Complaint contains legal conclusions and allegations  
13 against other parties to which no response is required. As to those other parties, Defendant does  
14 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
15 To the extent the allegations reference Defendant, Defendant denies said allegations.

16 148. Paragraph 148 of the Complaint contains legal conclusions and allegations  
17 against other parties to which no response is required. As to those other parties, Defendant does  
18 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
19 To the extent the allegations reference Defendant, Defendant denies said allegations.

20 149. Paragraph 149 of the Complaint contains legal conclusions and allegations  
21 against other parties to which no response is required. As to those other parties, Defendant does  
22 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
23 To the extent the allegations reference Defendant, Defendant denies said allegations.

## 24 **FIFTH CAUSE OF ACTION**

### 25 **(Breach of Contract—Bank of America)**

26 150. Answering paragraph 150 of the Complaint, Defendant hereby repeats, realleges,  
27 and incorporates each of its admissions, denials, or other responses to all the paragraphs  
28 referenced hereinabove as if set forth at length and in full.



1        151. Paragraph 151 of the Complaint contains legal conclusions and allegations  
2 against other parties to which no response is required. To the extent a response is required,  
3 Defendant denies said allegations.

4        152. Paragraph 152 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. To the extent a response is required,  
6 Defendant denies said allegations.

7        153. Paragraph 153 of the Complaint contains legal conclusions and allegations  
8 against other parties to which no response is required. To the extent a response is required,  
9 Defendant denies said allegations.

10       154. Paragraph 154 of the Complaint contains legal conclusions and allegations  
11 against other parties to which no response is required. To the extent a response is required,  
12 Defendant denies said allegations.

13       155. Paragraph 155 of the Complaint contains legal conclusions and allegations  
14 against other parties to which no response is required. To the extent a response is required,  
15 Defendant denies said allegations.

16       156. Paragraph 156 of the Complaint contains legal conclusions and allegations  
17 against other parties to which no response is required. To the extent a response is required,  
18 Defendant denies said allegations.

19       157. Paragraph 157 of the Complaint contains legal conclusions and allegations  
20 against other parties to which no response is required. To the extent a response is required,  
21 Defendant denies said allegations.

22       158. Paragraph 158 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. To the extent a response is required,  
24 Defendant denies said allegations.

25       159. Paragraph 159 of the Complaint contains legal conclusions and allegations  
26 against other parties to which no response is required. To the extent a response is required,  
27 Defendant denies said allegations.

28       160. Paragraph 160 of the Complaint contains legal conclusions and allegations



1 against other parties to which no response is required. To the extent a response is required,  
2 Defendant denies said allegations.

3 161. Paragraph 161 of the Complaint contains legal conclusions and allegations  
4 against other parties to which no response is required. To the extent a response is required,  
5 Defendant denies said allegations.

6 162. Paragraph 162 of the Complaint contains legal conclusions and allegations  
7 against other parties to which no response is required. To the extent a response is required,  
8 Defendant denies said allegations.

9 163. Paragraph 163 of the Complaint contains legal conclusions and allegations  
10 against other parties to which no response is required. To the extent a response is required,  
11 Defendant denies said allegations.

12 164. Paragraph 164 of the Complaint contains legal conclusions and allegations  
13 against other parties to which no response is required. To the extent a response is required,  
14 Defendant denies said allegations.

15 165. Paragraph 165 of the Complaint contains legal conclusions and allegations  
16 against other parties to which no response is required. To the extent a response is required,  
17 Defendant denies said allegations.

#### 18 **SIXTH CAUSE OF ACTION**

##### 19 **(Breach of Duty to Act in Good Faith and Fair Dealing – Bank of America)**

20 166. Answering paragraph 166 of the Complaint, Defendant hereby repeats, realleges,  
21 and incorporate each of its admissions, denials, or other responses to all the paragraphs  
22 referenced hereinabove as if set forth at length and in full.

23 167. Paragraph 167 of the Complaint contains legal conclusions and allegations  
24 against other parties to which no response is required. To the extent a response is required,  
25 Defendant denies said allegations.

26 168. Paragraph 168 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. To the extent a response is required,  
28 Defendant denies said allegations.



1 169. Paragraph 169 of the Complaint contains legal conclusions and allegations  
2 against other parties to which no response is required. To the extent a response is required,  
3 Defendant denies said allegations.

4 170. Paragraph 170 of the Complaint contains legal conclusions and allegations  
5 against other parties to which no response is required. To the extent a response is required,  
6 Defendant denies said allegations.

#### 7 SEVENTH CAUSE OF ACTION

##### 8 (Breach of Contract – US Bank)

9 171. Answering paragraph 171 of the Complaint, Defendant hereby repeats, realleges,  
10 and incorporates each of their admissions, denials, or other responses to all the paragraphs  
11 referenced hereinabove as if set forth at length and in full.

12 172. Paragraph 172 of the Complaint contains legal conclusions and allegations  
13 against other parties to which no response is required. To the extent a response is required,  
14 Defendant denies said allegations.

15 173. Paragraph 173 of the Complaint contains legal conclusions and allegations  
16 against other parties to which no response is required. To the extent a response is required,  
17 Defendant denies said allegations.

18 174. Paragraph 174 of the Complaint contains legal conclusions and allegations  
19 against other parties to which no response is required. To the extent a response is required,  
20 Defendant denies said allegations.

21 175. Paragraph 175 of the Complaint contains legal conclusions and allegations  
22 against other parties to which no response is required. To the extent a response is required,  
23 Defendant denies said allegations.

24 176. Paragraph 176 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. To the extent a response is required,  
26 Defendant denies said allegations.

27 177. Paragraph 177 of the Complaint contains legal conclusions and allegations  
28 against other parties to which no response is required. To the extent a response is required,



1 Defendant denies said allegations.

2 **EIGHTH CAUSE OF ACTION**

3 **(Breach of Duty to Act in Good Faith and Fair Dealing – US Bank)**

4 178. Answering paragraph 178 of the Complaint, Defendant hereby repeats, realleges,  
5 and incorporates each of its admissions, denials, or other responses to all the paragraphs  
6 referenced hereinabove as if set forth at length and in full.

7 179. Paragraph 179 of the Complaint contains legal conclusions and allegations  
8 against other parties to which no response is required. To the extent a response is required,  
9 Defendant denies said allegations.

10 180. Paragraph 180 of the Complaint contains legal conclusions and allegations  
11 against other parties to which no response is required. To the extent a response is required,  
12 Defendant denies said allegations.

13 181. Paragraph 181 of the Complaint contains legal conclusions and allegations  
14 against other parties to which no response is required. To the extent a response is required,  
15 Defendant denies said allegations.

16 182. Paragraph 182 of the Complaint contains legal conclusions and allegations  
17 against other parties to which no response is required. To the extent a response is required,  
18 Defendant denies said allegations.

19 **NINTH CAUSE OF ACTION**

20 **(Slander of Title)**

21 183. Answering paragraph 183 of the Complaint, Defendant hereby repeats, realleges,  
22 and incorporates each of its admissions, denials, or other responses to all the paragraphs  
23 referenced hereinabove as if set forth at length and in full.

24 184. Paragraph 184 of the Complaint contains legal conclusions and allegations  
25 against other parties to which no response is required. To the extent a response is required,  
26 Defendant denies said allegations.

27 185. Paragraph 185 of the Complaint contains legal conclusions and allegations  
28 against other parties to which no response is required. To the extent a response is required,



1 Defendant denies said allegations.

2 186. Paragraph 186 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. To the extent a response is required,  
4 Defendant denies said allegations.

5 187. Paragraph 187 of the Complaint contains legal conclusions and allegations  
6 against other parties to which no response is required. To the extent a response is required,  
7 Defendant denies said allegations.

8 188. Paragraph 188 of the Complaint contains legal conclusions and allegations  
9 against other parties to which no response is required. To the extent a response is required,  
10 Defendant denies said allegations.

11 189. Paragraph 189 of the Complaint contains legal conclusions and allegations  
12 against other parties to which no response is required. To the extent a response is required,  
13 Defendant denies said allegations.

14 190. Paragraph 190 of the Complaint contains legal conclusions and allegations  
15 against other parties to which no response is required. To the extent a response is required,  
16 Defendant denies said allegations.

#### 17 TENTH CAUSE OF ACTION

#### 18 (Special Damages—Attorney's Fees.)

19 191. Answering paragraph 191 of the Complaint, Defendant hereby repeats, realleges,  
20 and incorporates each of its admissions, denials, or other responses to all the paragraphs  
21 referenced hereinabove as if set forth at length and in full.

22 192. Paragraph 192 of the Complaint contains legal conclusions and allegations  
23 against other parties to which no response is required. As to those other parties, Defendant does  
24 not possess enough information to admit or deny; therefore, Defendant denies said allegations.  
25 To the extent the allegations reference Defendant, Defendant denies said allegations.

26 193. Paragraph 193 of the Complaint contains legal conclusions and allegations  
27 against other parties to which no response is required. As to those other parties, Defendant does  
28 not possess enough information to admit or deny; therefore, Defendant denies said allegations.



1 To the extent the allegations reference Defendant, Defendant denies said allegations.

2 194. Paragraph 194 of the Complaint contains legal conclusions and allegations  
3 against other parties to which no response is required. As to those other parties, Defendant does  
4 not possess enough information to admit or deny; therefore, Defendant denies said allegations.

5 To the extent the allegations reference Defendant, Defendant denies said allegations.

6 195. Paragraph 195 of the Complaint contains legal conclusions and allegations  
7 against other parties to which no response is required. As to those other parties, Defendant does  
8 not possess enough information to admit or deny; therefore, Defendant denies said allegations.

9 To the extent the allegations reference Defendant, Defendant denies said allegations.

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

11 **FIRST AFFIRMATIVE DEFENSE**

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

13 Plaintiffs' Complaint fails to state a claim against Defendant upon which relief can be  
14 granted.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Equitable Doctrines)**

17 Defendant alleges that the Plaintiffs' claims are barred by the equitable doctrines of  
18 laches, unclean hands, and failure to do equity.

19 **THIRD AFFIRMATIVE DEFENSE**

20 **(Waiver and Estoppel)**

21 Defendant alleges that by reason of Plaintiffs' acts and omissions, Plaintiffs waived their  
22 rights and are estopped from asserting the claims against Defendants.

23 **FOURTH AFFIRMATIVE DEFENSE**

24 **(Statute of Limitations)**

25 Defendant alleges that the Plaintiffs' Complaint, and each cause of action therein, is  
26 barred by the statute of limitations.



1 FIFTH AFFIRMATIVE DEFENSE

2 (Conditions Precedent)

3 Defendant alleges that Plaintiffs' claims for damages are barred as a result of the failure  
4 of Plaintiffs to satisfy conditions precedent.

5 SIXTH AFFIRMATIVE DEFENSE

6 (Additional Affirmative Defenses)

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

9 PRAYER

10 WHEREFORE, Defendant prays for judgment as follows:

- 11 1. That Plaintiffs take nothing by way of the Second Amended Complaint;  
12 2. For reasonable attorneys' fees and costs; and  
13 3. For any such other and further relief as the Court may deem just and proper in the  
14 case.

15 DATED this 17th day of March, 2020.

17 WRIGHT, FINLAY & ZAK, LLP

18   
19 /s/

20 R. Samuel Ehlers, Esq.

21 Nevada Bar No. 9313

22 Ramir M. Hernandez, Esq.

23 Nevada Bar No. 13146

24 7785 W. Sahara Ave, Suite 200

25 Las Vegas, NV 89117

26 (702) 475-7964; Fax: (702) 946-1345

27 [rhernandez@wrightlegal.net](mailto:rhernandez@wrightlegal.net)

28 *Attorney for Defendants, Prof-2013 M4-Legal Title  
Trust, by U.S. Bank, National Association, as  
Legal Title Trustee; Fay Servicing LLC, and  
Shellpoint Mortgage Servicing, LLC*



1 **THIRD JUDICIAL DISTRICT COURT**

2 **AFFIRMATION**

3 **Pursuant to NRS 239B.03/603A.040**

4 The undersigned does hereby affirm that the foregoing document does not contain any  
5 of the following information governed by NRS 239B.030 and NRS 603A.040:

- 6 1. Social Security Number;  
7 2. Driver License Number or Identification Card Number; or  
8 3. Account number, credit card number or debit card number, in combination with any  
9 required security code, access code or password that would permit access to the person's  
10 financial account.

11 The term does not include any publically available information that is lawfully made  
12 available to the general public.

13 DATED this 17th day of March, 2020.

14 **WRIGHT, FINLAY & ZAK, LLP**

15  
16  
17 

18 R. Samuel Ehlers, Esq.

19 Nevada Bar No. 9313

20 Ramir M. Hernandez, Esq.

21 Nevada Bar No. 13146

22 7785 W. Sahara Ave, Suite 200

23 Las Vegas, NV 89117

24 (702) 475-7964; Fax: (702) 946-1345

25 [rhernandez@wrightlegal.net](mailto:rhernandez@wrightlegal.net)

26 *Attorney for Defendants, Prof-2013 M4-Legal Title*  
27 *Trust, by U.S. Bank, National Association, as*  
28 *Legal Title Trustee; Fay Servicing LLC, and*  
*Shellpoint Mortgage Servicing, LLC*



1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of Wright Finlay, & Zak, LLP,  
3 and that on this 17<sup>th</sup> day of March, 2020, I did cause a true copy of the foregoing ANSWER TO  
4 SECOND AMENDED COMPLAINT to be served by placing a copy in the mail, addressed as  
5 follows:

6  
7 Michael G. Millward, Esq.  
8 MILLWARD LAW, LTD.  
9 1591 Mono Ave.  
10 Minden, NV 89423

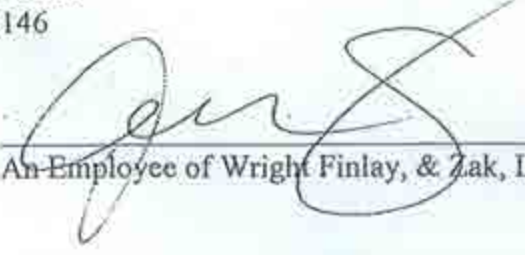
11 Justin M. Clouser, Esq.  
12 1512 US Highway 395 N, Ste. 1  
13 Gardnerville, NV 89410

14 Shadd A. Wade, Esq.  
15 ZIEVE, BRODNAX & STEELE, LLP  
16 9435 West Russell Road, Suite 120  
17 Las Vegas, NV 89148

18 Darren T. Brenner, Esq.  
19 Scott R. Lachman, Esq.  
20 AKERMAN LLP  
21 1635 Village Center Circle, Ste. 200  
22 Las Vegas, NV 89134

23 John T. Steffen, Esq.  
24 Matthew K. Schriever, Esq.  
25 HUTCHISON & STEFFEN, PLLC  
26 10080 W. Alta Dr., Suite 200  
27 Las Vegas, NV 89145

28 Casey J. Nelson, Esq.  
WEDGEWOOD, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, Nevada 89146

  
An Employee of Wright Finlay, & Zak, LLP



FILED

2020 MAR 27 PM 1:34

TANYA SCIBINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Victoria Toran* DEPUTY

1 John T. Steffen (4390)  
2 Matthew K. Schriever (10745)  
3 Alex R. Velto (14961)  
4 HUTCHISON & STEFFEN, PLLC  
5 10080 W. Alta Drive, Suite 200  
6 Las Vegas, Nevada 89145  
7 Telephone: (702) 385-2500  
8 Facsimile: (702) 385-2086  
9 mschriever@hutchlegal.com

7 Casey J. Nelson (12259)  
8 WEDGEWOOD, LLC  
9 Office of the General Counsel  
10 2320 Potosi Street, Suite 130  
11 Las Vegas, Nevada 89146  
12 Telephone: (702) 305-9157  
13 Facsimile: (310) 730-5967  
14 caseynelson@wedgewood-inc.com

15 *Attorney for Defendant / Counterclaimant*  
16 *Breckenridge Property Fund 2016, LLC*

17 **THIRD JUDICIAL DISTRICT COURT**

18 **LYON COUNTY, NEVADA**

19 ALBERT ELLIS LINCICOME, JR., and  
20 VICENTA LINCICOME,

21 Plaintiff,

22 v.

23 SABLES, LLC, a Nevada limited liability  
24 company, as Trustee of the Deed of Trust  
25 given by Vicenta Lincicome and dated  
26 5/23/2007; FAY SERVICING, LLC, a  
27 Delaware limited liability company and  
28 subsidiary of Fay Financial, LLC; PROF-  
2013-MF LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.;  
BRECKENRIDGE PROPERTY FUND  
2016; NEWREZ LLC dba SHELLPOINT  
MORTGAGE SERVICING, LLC; 1900

Case No.: 18-CV-01332

Dept No.: II

**MOTION FOR ORDER REQUIRING  
PLAINTIFF TO DEPOSIT RENTAL  
AND/OR MORTGAGE PAYMENTS  
WITH COURT**



1 CAPITAL TRUST II, BY U.S. BANK  
2 TRUST NATIONAL ASSOCIATION;  
3 MCM-2018-NPL2 and DOES 1-50.,

4 Defendants.

5 AND RELATED ACTIONS.  
6

7 COMES NOW, BRECKENRIDGE PROPERTY FUND 2016, LLC  
8 ("Breckenridge"), by and through its counsel of record, HUTCHISON & STEFFEN, PLLC  
9 and WEDGEWOOD, LLC, and hereby files this motion for order requiring plaintiff to  
10 deposit rental and/or mortgage payments with court. The property has been foreclosed on  
11 and the occupants refuse to vacate the premises. Accordingly, they should be required to  
12 deposit rental and/or mortgage payments with the court until resolution of the matter.

13 This motion is also based upon the pleadings and papers on file, the attached  
14 memorandum of points and authorities, the attached exhibits, and any oral argument  
15 requested.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. STATEMENT OF FACTS**

18 1. On October 12, 2018, Sables, LLC recorded a Notice of Trustee's Sale  
19 ("NOS") setting a foreclosure sale date for the property located at 70 Riverside Drive,  
20 Dayton, Nevada 89403 ("Subject Property") because Albert Ellis Lincicome, Jr. and  
21 Vicenta Lincicome ("Plaintiffs") were in default of loan obligations.

22 2. Plaintiffs subsequently filed the underlying Complaint in this action and  
23 recorded a Lis Pendens with the county recorder on November 8, 2018 at Document No.  
24 588549, seeking to postpone or cancel the scheduled foreclosure sale.

25 3. On December 31, 2018, this Court entered an Order enjoining Sables, LLC  
26 from foreclosing on the Subject Property on the condition that Plaintiffs post a bond in the  
27 amount of \$172,610.67 and additional security in the amount of \$2,105.10 per month  
28 thereafter. *See Exhibit #1.*



1           4.     The Plaintiffs failed to post the required bond and security, which resulted in  
2 the foreclosure sale proceeding forward on January 4, 2019.

3           5.     Breckenridge purchased the Subject Property at the NRS 107 foreclosure  
4 sale for \$294,000.01 and took title thereto. *See Exhibit #2*

5           6.     The Plaintiffs were in possession of the Subject Property at the time  
6 Breckenridge purchased the Subject Property and have been in possession of it since that  
7 date.

8           7.     This court has recently denied Breckenridge's request for a temporary writ  
9 of restitution, which would have allowed Breckenridge to have possession of the Subject  
10 Property. *See Exhibit #3.*

11          8.     Because the Plaintiffs are being allowed to remain in possession of the  
12 Subject Property, good cause exists to require them to post rents and/or mortgage payments  
13 with the court during the pendency of this dispute.

14          9.     Ultimately, this court will need to make a determination whether the January  
15 2019 foreclosure sale was valid or invalid. Either way, the Plaintiffs will not be entitled to  
16 a free house – they will either be required to pay rent to the new owner or pay ongoing  
17 mortgage payments to their lender. The Plaintiffs are currently reaping a windfall by being  
18 able to stay in the property without having to make any payments. To add to that windfall,  
19 the Plaintiffs have an incentive to delay final resolution because every month of delay is  
20 another month of living rent free.

21          10.    Based on the current rental market, a range of \$2,250.00 - \$2,500.00 is a fair  
22 market rental value for the Subject Property. *See Exhibit #4.* That rental range is  
23 consistent with the monthly security of \$2,105.10 per month that this court previously  
24 ordered to stay foreclosure.

25          11.    Accordingly, Breckenridge requests this court to issue an order requiring  
26 Plaintiffs to deposit rental and/or mortgage payments in the amount of \$2,250.00 with the  
27 court during the pendency of this action.

28 ///



1   **II.    LEGAL ANALYSIS**

2           “Unjust enrichment occurs whenever a person has and retains a benefit which in  
3 equity and good conscience belongs to another. Unjust enrichment is the unjust retention  
4 of a benefit to the loss of another.” *Topaz Mutual Co. v. Marsh*, 108 Nev. 845, 856 (1992);  
5 *Nevada Industrial Development v. Benedetti*, 103 Nev. 360, 363 (footnote 2) (1987).

6           Plaintiffs are being unjustly enriched by being allowed to remain in the Subject  
7 Property without paying rent or a mortgage payment. The foreclosure in this matter  
8 occurred over one year ago and Plaintiffs were not making payments to their lender prior to  
9 that time either. The court should order them to pay rent and or mortgage payments. The  
10 Plaintiffs are squatting in the Subject Property without Breckenridge’s permission. They  
11 are aware that the Subject Property has been foreclosed. However, Plaintiffs continue to  
12 occupy the Subject Property without paying fair market rent to Breckenridge’s detriment.

13           This court’s denial of Breckenridge’s request for possession of the Subject Property  
14 is akin to a stay because it is preventing Breckenridge from obtaining possession of the  
15 Subject Property. NRS 40.385(3) provides, “A tenant who retains possession of the  
16 premises that are the subject of the appeal during the pendency of the appeal shall pay to  
17 the landlord rent in the amount provided in the underlying contract between the tenant and  
18 the landlord as it becomes due.” Even though this matter is not an appeal, the rationale is  
19 the same: the Plaintiffs should be required to pay rent during the pendency of this lawsuit.  
20 The court should follow the guidance and rationale of NRS 40.385(3) and require the  
21 Plaintiffs to post fair market rent or the amount of their prior mortgage payments during the  
22 pendency of the action.

23           Breckenridge’s prior request for possession of the Subject Property did not include  
24 evidence of fair market rental value for the Subject Property. Breckenridge has now  
25 supplemented the record and provided proof that the fair market rental value is in the range  
26 of \$2,250.00 to \$2,500.00. This rental range is consistent with the monthly security of  
27 \$2,105.10 per month that this court previously ordered to stay foreclosure. Accordingly,

28   ///



1 the court should require the Plaintiffs to tender those monthly payments to the court during  
2 the pendency of this dispute.

3         Posting these payments will not be a detriment to the Plaintiffs because they would  
4 otherwise be required to pay rent or mortgage payments for any residence, so posting  
5 payments with the court would not be an economic hardship for them. Additionally, it  
6 appears that the Plaintiffs have not made mortgage payments in a number of years which is  
7 what caused the underlying foreclosure to occur. Allowing this matter to proceed without  
8 requiring the Plaintiffs to post rental or mortgage payments would not be equitable.  
9 Instead, it has created a windfall to the Plaintiffs at the detriment to the Defendants by  
10 allowing the Plaintiffs to stay in the Subject Property without having to make any  
11 payments. To add to that windfall, unless the court requires monthly payments, the  
12 Plaintiffs will have an incentive to delay final resolution of this case because every month  
13 of delay is another month of living rent free. The foreclosure occurred over a year ago and  
14 Plaintiffs have consistently engaged in delay tactics since that time. In fact, the required  
15 early case conference only occurred earlier this month, sixteen (16) months after  
16 commencement of the lawsuit.

17         Upon conclusion of this case, when the court determines whether the foreclosure  
18 was valid or not, it can also make a determination as to who is entitled to the monies that  
19 have been posted with the court. The posted payments would therefore act as security in  
20 this matter, protecting the various potential interests of all parties pending ultimate  
21 resolution of the validity of the foreclosure.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

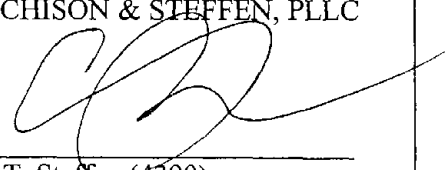


1 **IV. CONCLUSION**

2 Based on the foregoing Breckenridge requests this Court issue an Order requiring  
3 the Plaintiffs to post rental and/or mortgage payments with the court as security during the  
4 pendency of this matter.

5 DATED this 24 day of March, 2020.

HUTCHISON & STEFFEN, PLLC

6   
7  
8 John T. Steffen (4390)  
9 Matthew K. Schriever (10745)  
10 Alex R. Velto (14961)  
11 10080 W. Alta Dr., Suite 200  
12 Las Vegas, Nevada 89145

13 Casey J. Nelson (12259)  
14 WEDGEWOOD, LLC  
15 Office of the General Counsel  
16 2320 Potosi Street, Suite 130  
17 Las Vegas, Nevada 89146

18 *Attorneys for Breckenridge Property*  
19 *Fund 2016, LLC*  
20  
21  
22  
23  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Hutchison & Steffen, and that on the date indicated below, I served a true and correct copy of the **MOTION FOR ORDER REQUIRING PLAINTIFF TO DEPOSIT RENTAL AND/OR MORTGAGE PAYMENTS WITH COURT** via U.S. Mail to the parties designated below:

Michael G. Millward, Esq.  
MILLWARD LAW, LTD.  
1591 Mono Avenue  
Minden, NV 89423  
*Attorney for Plaintiffs*

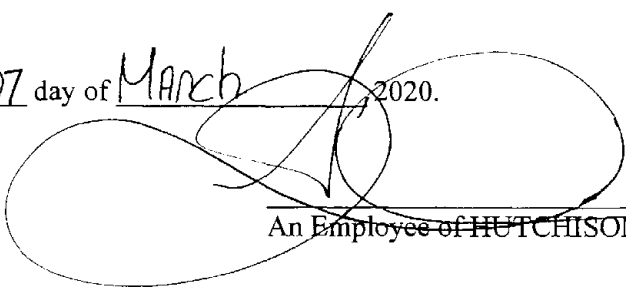
Justin M. Clouser, Esq.  
1512 US Highway 395 N, Ste. 1  
Gardnerville, NV 89410  
*Attorney for Plaintiff*

R. Samuel Ehlers, Esq.  
Ramir M. Hernandez, Esq.  
WRIGHT FINLAY & ZAK, LLP  
7785 W. Sahara Avenue, #200  
Las Vegas, NV 89117  
*Attorney for Prof-2013-M4 Legal Title Trust by US. Bank, National Association as Legal Title Trustee; Fay Servicing, LLC, and Shellpoint Mortgage Servicing, LLC*

Shadd A. Wade, Esq  
ZIEVE BRODNAX & STEEL  
9435 W. Russell Road, #120  
Las Vegas, NV 89148  
*Attorney for Sables, LLC*

Darren T. Brenner, Esq.  
Scott R. Lachman, Esq.  
ACKERMAN, LLP  
1635 Village Center Circle, #200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

DATED this 27 day of March, 2020.

  
An Employee of HUTCHISON & STEFFEN



**LIST OF EXHIBITS**

Exhibit No.	Document Title	No. of Pages (including exhibit cover page)
1	Order filed on December 31, 2018	9
2	Trustee's Deed Upon Sale recorded on January 25, 2019	5
3	Order Denying Ex Parte Motion for OSC	4
4	Declaration in Support of Motion for Order Requiring Payments	4



# EXHIBIT 1

# EXHIBIT 1



FILED

Case No: 18-CV-01332

2018 DEC 31 AM 10:48

Dept.: II

TANYA GEL RYSE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

Andrea Andersen

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ALBERT ELLIS LINCICOME, JR., and  
VICENTA LINCICOME,

Plaintiffs,

v.

**ORDER**

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-M4 LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.; and DOES 1-50.

Defendants.

THIS MATTER comes before the Court upon the *Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction* (hereinafter "Application") filed on November 7, 2018, by Plaintiffs Albert Ellis Lincicome, Jr., and Vicenta Lincicome (hereinafter "Lincicomes"), thereby seeking a restraining order, preliminary injunction and permanent injunction upon the sale of the Lincicomes' residence by Sables, LLC, at public auction.

On November 8, 2018, the Court entered an Order temporarily enjoining and restraining Sables, LLC, from conducting a trustee's sale of the Lincicomes' residence, and set a hearing upon the application to occur on November 20, 2018.

ORDER

PAGE 1 OF 8



1 On November 14, 2018, Defendants Prof-2013 M4-Legal Title Trust, by U.S. Bank,  
2 N.A., as Legal Title Trustee (hereinafter "US Bank") and Fay Servicing, LLC (hereinafter "Fay  
3 Servicing"), filed their *Response to Application for Ex Parte Restraining Order, Preliminary*  
4 *Injunction and Permanent Injunction* (hereinafter "Response"). Defendants argued in their  
5 Response that Plaintiff's arguments lack merit because Plaintiffs had previously consented to  
6 foreclosure, and because violations of the applicable Homeowners Bill of Rights statute are  
7 not material.

8 On November 20, 2018, the Court held a hearing on the Application and Response.  
9 The Lincicomes attended with their attorney, Michael G. Millward, Esq., of Millward Law, Ltd.,  
10 and US Bank and Fay Servicing appeared through their counsel Ramir M. Hernandez, Esq., of  
11 Wright, Finlay & Zak, LLP. As well, Defendant Bank of America, N.A., (hereinafter "Bank of  
12 America") appeared telephonically through its counsel Scott Lachman, Esq., of Akerman,  
13 LLP.

14 Counsel at the hearing stipulated to the admission of the evidence presented in the  
15 Application and Response previously filed before the Court as well as documents presented  
16 at the hearing on behalf of the Lincicomes. Additionally, Counsel stipulated that the  
17 Lincicomes' respective Affidavits filed with the Application be considered as evidence by the  
18 Court as testimony.

19 The Court having considered the documentary evidence, testimony and arguments  
20 presented hereby makes the following FINDINGS OF FACT:

21 1. That on May 23, 2007, in connection with the purchase of the residence located  
22 at 70 Riverside Drive, Dayton, Nevada 89403, Vicenta Lincicome (hereinafter "Vicenta")  
23 executed a Promissory Note in favor of Sierra Pacific, and also a Deed of Trust (hereinafter  
24 "2007 DOT") in favor of Mortgage Electronic Registration Systems, Inc. (hereinafter referred  
25 to as "MERS"), as the nominee for Sierra Pacific, to secure the mortgage loan;

26 2. That on or about July 11, 2009, Bank of America offered Vicenta a Loan  
27 Modification Agreement (hereinafter "LMA") which modified and extended the maturity date  
28

ORDER

PAGE 2 OF 8



1 of the 2007 DOT from June 1, 2037, to August 1, 2049 and further modified the interest rate  
2 applicable to the 2007 DOT by reducing the same from 6.875% to 4.875%;

3 3. That the LMA provided that on September 1, 2014, the interest rate applicable  
4 to the 2007 DOT would increase from 4.875% to 5.375%;

5 4. That the LMA capitalized existing arrears of September 1, 2009, and modified  
6 the principal balance owed under the 2007 DOT from \$381,150 to \$417,196.58;

7 5. That on July 31, 2009, Vicenta accepted Bank of America's offer to modify the  
8 2007 DOT, and executed the LMA and sent the document to Bank of America;

9 6. That on September 1, 2009, the Lincicomes made a payment of \$2,272.62 to  
10 Bank of America upon the 2007 DOT as modified by the LMA;

11 7. That on September 1, 2009, Bank of America accepted payment, but was  
12 unable to find the modified loan in its system;

13 8. That on October 1, 2009, Bank of America refused payment from the  
14 Lincicomes, because it did not have a record that the 2007 DOT had been modified by the  
15 LMA;

16 9. That the Lincicomes' requests to make payment on the 2007 DOT as modified  
17 by the LMA between October 1, 2009 and December 2011, were refused by Bank of  
18 America;

19 10. That the Lincicomes filed a petition for Chapter 13 Bankruptcy protection  
20 before the United States Bankruptcy Court, District of Nevada, on April 6, 2010, under Case  
21 No. 10-51219, and listed Bank of America as a secured creditor;

22 11. That Bank of America did not file a claim or appear in the Lincicomes Chapter  
23 13 Bankruptcy case prior to confirmation of the Lincicomes' Chapter 13 Plan;

24 12. That on May 4, 2011, Bank of America recorded a fully executed copy of the  
25 July 11, 2009 LMA with the office of the Lyon County Recorder, as Document No. 475808;

26 13. That the Lincicomes were not made aware of the execution and recording of  
27 the LMA until 2017;

28 //



1           14. That on November 26, 2014, Bank of America appeared in the Lincicomes'  
2 Chapter 13 Bankruptcy case and filed a Motion for Relief of Stay seeking relief from the  
3 automatic stay, pursuant to 11 U.S.C. § 362;

4           15. That Bank of America's Motion for Relief of Stay did not inform the Lincicomes  
5 or the Bankruptcy Court that the LMA had been executed and recorded;

6           16. That on June 15, 2015, the Bankruptcy Court Clerk granted the Lincicomes a  
7 discharge of all of their scheduled debts;

8           17. That on August 1, 2015, Bank of America transferred the servicing of the 2007  
9 DOT as modified by the LMA to Fay Servicing;

10           18. That all statements provided by Fay Servicing to the Lincicomes between  
11 August 10, 2015 and October 10, 2018, do not reflect that the terms of the 2007 DOT had  
12 been modified by the LMA.

13           19. All statements between August 10, 2015 and October 10, 2018, reported the  
14 principal balance owed, the applicable interest rate, the payment amount, the total  
15 arrearage owed, as well as the total number of payments remaining due;

16           20. That on November 10, 2015, Bank of America assigned its interest in the Deed  
17 of Trust to PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title  
18 Trustee (hereinafter "US Bank");

19           21. That on November 3, 2017, Sables, LLC, as then acting Trustee under the 2007  
20 DOT, recorded its Notice of Breach and Default and of Election to Sell the Real Property  
21 under Deed of Trust (hereinafter "NOD") with the Lyon County Recorder as Document No.  
22 572258;

23           22. That the NOD provides that the "subject Deed of Trust was modified by Loan  
24 Modification Agreement recorded as Instrument 475808 . . . on 5/4/2011;"

25           23. That the NOD provides that all monthly installments from "9/1/2008" forward  
26 are due, instead of 9/1/2009 as required by the LMA;

27           24. That the NOD provides that the principal balance owed is \$381,150.00, instead  
28 of \$417,196.58 as provided in the LMA;

ORDER

PAGE 4 OF 8

AA01788



1        25. That on October 12, 2018, Defendant Sables, LLC, recorded its Notice of  
2 Trustee's Sale with the Lyon County Recorder as Document No. 587470, providing that the  
3 Property would be sold by public auction on November 9, 2018, at 11:00 AM, at the Lyon  
4 County Court House on 31 S. Main Street, Yerington, Nevada 89447;

5        26. That under the circumstances the foreclosure of the Lincicome's residence  
6 would cause them irreparable injury;

7        27. The LMA appears to be a valid modification of the 2007 DOT;

8        28. That based on the record before the Court at the hearing neither Fay Servicing  
9 nor Sables has accurately reported the total balance owed Vicenta Lincicome under the 2007  
10 DOT as modified by the LMA;

11       29. That based on the record before the Court at the hearing neither Fay Servicing  
12 nor Sables has accurately reported the principal obligation owed by Vicenta Lincicome under  
13 the 2007 DOT as modified under the LMA;

14       30. That based on the record before the Court at the hearing neither Fay Servicing  
15 nor Sables has accurately reported the date through which 2007 DOT as modified under LMA  
16 is paid; and

17       31. That based on the record before the Court at the hearing neither Fay Servicing  
18 nor Sables has accurately reported the current interest rate effective under the 2007 DOT as  
19 modified under the LMA.

20       The Court hereby enters the following Conclusions of Law:

21       1. The Homeowners Bill of Rights codified under NRS 107.400 through NRS  
22 107.560 is applicable to this foreclosure matter;

23       2. That Plaintiffs established that Irreparable Injury would result if Defendant  
24 Sables, LLC, was permitted to exercise the power of sale and foreclose on the Plaintiffs' real  
25 property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, Assessor Parcel  
26 Number 29-401-17;

27       //

28       //

ORDER

PAGE 5 OF 8



1       3.     That Plaintiffs have established that they will succeed on their claim that  
2 Defendants have violated NRS 107.500(1)(b) for failing to provide accurate information  
3 required to be provided prior to the initiation of a foreclosure; and

4       4.     That Plaintiffs have established to the Court's satisfaction that they were likely  
5 to succeed on the merits of their claims pertaining to material violations of the Homeowner's  
6 Bill of Rights pursuant to NRS 107.400 through NRS 107.560.

7       THEREFORE, GOOD CAUSE APPEARING, the Court enters the following orders:

8       1.     That Sables, LLC, is hereby enjoined from selling at public auction the real  
9 property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, and identified in the  
10 Notice of Trustee's Sale recorded with the Office of the Lyon County Recorder as Document  
11 No. 587470, until further order of the Court;

12       2.     That Plaintiffs shall post bond a bond in the amount of \$172,610.67 by  
13 December 20, 2018, and shall file with the Court and serve opposing counsel with a Notice of  
14 Bond filing;

15       3.     That the injunction shall be effective against Defendants so long as bond is  
16 posted and Plaintiffs post additional security in the sum of \$2,105.10 on January 20, 2019,  
17 and on the 20<sup>th</sup> day of each month thereafter with the Third Judicial District Court Clerk's  
18 office;

19       4.     Plaintiffs shall file a notice of compliance with the requirement to pay additional  
20 security with the Third Judicial District Court Clerk and shall contemporaneously serve the  
21 same upon Defendants after making payment of additional security as set forth above;

22       5.     That failure of Plaintiffs to timely post a bond and provide notice of bond by  
23 December 20, 2018, shall relieve Defendants of their duty to comply with this injunction  
24 enjoining the sale of 70 Riverside Drive, Dayton, Lyon County, Nevada, until a filing of notice  
25 of bond and a notice of compliance of Plaintiffs' satisfaction of the requirement to post  
26 additional security with the Third Judicial District Court Clerk in this matter are thereafter  
27 served upon Defendants; and

28     //

ORDER

PAGE 6 OF 8



6. That the Court's orders entered in the Court's November 8, 2018 Order and the Court's November 14, 2018 Corrected Order, pertaining to the cancellation of the Notice of Sale, are hereby set aside.

IT IS SO ORDERED.

Dated this 31<sup>st</sup> day of December, 2018

DISTRICT JUDGE

## AFFIRMATION

The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not contain the social security number of any person, or other personal information as defined by NRS 603A.040.

Reviewed, approved and submitted this 18 day of December, 2018

Michael G. Millward, Esq.  
Nevada Bar No. 11212  
Millward Law, Ltd.  
1591 Mono Ave.  
Minden, NV 89423

## ORDER

PAGE 7 OF 8



1 Reviewed, approved and submitted this 18<sup>th</sup> day of December, 2018.  
2

3 

4 Ramir M. Hernandez, Esq.  
5 Nevada Bar No. 13146  
6 Wright, Finlay & Zak  
7 7785 W. Sahara Ave., Suite 200  
8 Las Vegas, NV 89117  
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# **EXHIBIT 2**

# **EXHIBIT 2**



70 RIVERSIDE DR

**Doc #: 591393**

01/25/2019 08:21 AM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: FIRST AMERICAN TITLE INSURANCE C

**Lyon County, NV**

**Margie Kassebaum, Recorder**

Fee: \$38.00 RPTT: \$1,148.55

Recorded By: Inhumildad

A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:

**Breckenridge Property Fund, 2016, LLC**

**2320 Potosi St. Ste 130**

**Las Vegas, NV 89146**

**Recorded As An Accommodation**

Forward Tax Statements to  
the address given above

**Only Without Liability**

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

### **TRUSTEE'S DEED UPON SALE**

Transfer Tax: \$ 1148.55

The Grantee Herein WAS NOT the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$671,249.37

The Amount Paid by the Grantee was \$294,000.01

Said Property is in the City of DAYTON, County of Lyon

**SABLES, LLC**, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby **GRANT** and **CONVEY** to

**Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:

Lot 42 as shown on the official map of **GOLD CANYON ESTATES, PHASE 2**, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.

**EXCEPTING THEREFROM** all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by **VICENTA LINCICOME, A MARRIED WOMAN** as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.



A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:  
Breckenridge Property Fund, 2016, LLC  
2320 Potosi St. Ste 130  
Las Vegas, NV 89146

Recorded As An Accommodation

Forward Tax Statements to      Only Without Liability  
the address given above

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

### TRUSTEE'S DEED UPON SALE

Transfer Tax: \$ 1148.55  
The Grantee Herein **WAS NOT** the Foreclosing Beneficiary.  
The Amount of the Unpaid Debt was \$671,249.37  
The Amount Paid by the Grantee was \$294,000.01  
Said Property is in the City of DAYTON, County of Lyon

**SABLES, LLC**, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby **GRANT** and **CONVEY** to

#### **Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:  
Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.  
**EXCEPTING THEREFROM** all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by **VICENTA LINCICOME, A MARRIED WOMAN** as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.



## TRUSTEE'S DEED UPON SALE

T.S. #: 16-42397

Order #: 160069595-NV-VOO

Trustee having complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified return receipt mail, postage pre-paid to each person entitled to notice in compliance with Nevada Revised Statutes 107.080.

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 1/4/2019. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$ \$294,000.01, in lawful money of the United States, in pro per, receipt there of is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, SABLES, LLC, a Nevada limited liability company, as Trustee, has this day, caused its name to be hereunto affixed.

Date: 1/15/2019

SABLES, LLC, a Nevada limited liability company

Geoffrey Neal, Trustee Sale Officer

Geoffrey  
Neal

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

State of CALIFORNIA  
County of ORANGE

On 1/15/2019 before me, the undersigned, J. Develasco Notary Public, personally appeared Geoffrey Neal who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

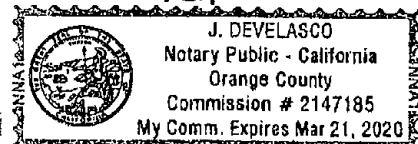
WITNESS my hand and official seal.

Signature

J. Develasco

(Seal)

J. Develasco





STATE OF NEVADA  
DECLARATION OF VALUE FORM

1. Assessor Parcel Number(s)

- a) 029-401-17  
b) \_\_\_\_\_  
c) \_\_\_\_\_  
d) \_\_\_\_\_

2. Type of Property:

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

FOR RECORDER'S OPTIONAL USE ONLY

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

3. a. Total Value/Sales Price of Property

\$ \$294,000.01

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

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

c. Transfer Tax Value:

\$ \$294,000.01

d. Real Property Transfer Tax Due

\$ 1148.55

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100 %

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

Signature  Capacity AGENT

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

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

Print Name: Sables, LLC, a Nevada  
limited liability company  
Address: 3753 Howard Hughes Parkway,  
Suite 200, Las Vegas, NV 89169

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

Print Name: Breckenridge Property Fund,  
2016, LLC  
Address: 2320 Potosi St. Ste 130  
Las Vegas, NV 89146

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

Print Name: First American Escrow #: ACCU  
Address: 1000 W. CHARLES ST  
City: LAS VEGAS State: NV Zip: 89105

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED



# **EXHIBIT 3**

# **EXHIBIT 3**



FILED

Case No.: 18-CV-01332

2020 FEB 11 PM 4:41

Dept. No.: II

FAYYA SCHEIRINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

ANDREA ANDERSEN

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON COUNTY

.....

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,  
Plaintiffs,

vs.

SABES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust given  
by Vicenta Lincicome and dated 5/23/2007;  
FAY SERVICING, LLC, a Delaware limited  
liability company and subsidiary of Fay  
Financial, LLC; PROF-2013 M4 LEGAL  
TITLE TRUST by U.S. BANK, N.A., as Legal  
Title Trustee; for BANK OF AMERICAN,  
N.A.; BRECKENRIDGE PROPERTY FUND  
2016; and DOES 1-50.

Defendants.

**ORDER DENYING WITHOUT  
PREJUDICE EX PARTE MOTION FOR  
ORDER TO SHOW CAUSE WHY A  
TEMPORARY WRIT OF RESTITUTION  
SHOULD NOT BE GRANTED AND  
REQUEST TO SHORTEN TIME TO  
ANSWER**

On February 4, 2020, the above entitled matter came before the Court on a hearing for all pending motions. Plaintiff's Counsel, Michael, G. Millward, Esq. and Justin M. Clouser, Esq., appeared in person. All other parties appeared telephonically. The Court was aware of three motions pending before the hearing. The parties came to an agreement as to the Motion to set 1611 (b) Conference. Mr. Millward also notified the Court of his withdrawal of the Motion for Reconsideration. The only remaining motion was Defendant in Intervention/Counterclaimant's, Breckenridge Property Fund 2016, LLC, Ex Parte Motion for Order to Show Cause Why a



1 Temporary Writ of Restitution Should Not be Granted and Request to Shorten Time to Answer  
2 Counterclaim.

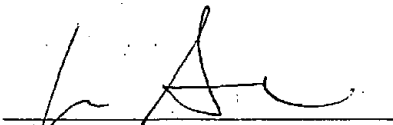
3 **FINDINGS OF FACT**

4 The Court finds that its December 31, 2018 Order stated, "that the injunction shall be  
5 effective against Defendants so long as bond is posted and Plaintiffs post additional security in  
6 the sum of \$2,105.10 on January 20, 2019, and on the 20<sup>th</sup> day of each month thereafter." The  
7 Court finds that no bond was posted and thus the injunction did not remain in effect.

8 Additionally, the purchasers are found to have been aware of the title issues at the time of  
9 the property sale. The Plaintiffs requested relief setting aside the sale under NRS Chapter 107  
10 and the Court has not made a determination regarding that requested relief. The Court did not  
11 hear any evidence regarding the rental value of the property.

12 Therefore, based on the foregoing and good cause appearing, **IT IS HEREBY**  
13 **ADJUDGED and ORDERED** that the Ex Parte Motion for Order to Show Cause Why a  
14 Temporary Writ of Restitution Should Not be Granted and Request to Shorten Time to Answer  
15 Counterclaim is hereby **DENIED WITHOUT PREJUDICE**.

16 Dated this 16<sup>th</sup> of February, 2020.

17   
18 Hon. LEON ABERASTURI  
19 DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28



CERTIFICATE OF SERVICE

I hereby certify that I, Kyle A. Carbajal, am an employee of the Honorable Leon Aberasturi, District Judge, and that on this date pursuant to NRCP 5(b), I mailed from Yerington, Nevada, a true copy of the foregoing document addressed to:

Michael G. Millward, Esq.  
Millward Law, Ltd.  
1591 Mono Ave.  
Minden, NV 89423

Justin M. Clouser, Esq.  
Clouser Hempen Wasick Law Group, Ltd.  
1512 US HWY 395 N. Ste. 1  
Gardnerville, NV 89410

Darren T. Brenner, Esq.  
Scott R. Lachman, Esq.  
Akerman LLP  
1635 Village Center Cir. Ste. 200  
Las Vegas, NV 89134

Shadd A. Wade  
Zieve, Brodnax & Steele, LLP  
9435 W. Russel Rd., Ste. 120  
Las Vegas, NV 89148

Casey J. Nelson, Esq.  
Wedgewood, LLC  
2320 Potosi St., Ste. 130  
Las Vegas, NV 89146

John T. Steffen, Esq.  
Matthew K. Schriever, Esq.  
Hutchison & Steffen, PLLC  
10080 W. Alta Dr., Ste. 200  
Las Vegas, NV 89145


MCM-2018-NPL2  
7101 Wisconsin Ave, Ste. 1012  
Bethesda, MD 20814

R. Samuel Ehlers, Esq.  
Ramir M. Hernandez, Esq.  
Wright, Finlay & Zak, LLP  
7785 W. Sahara Ave., Ste. 200  
Las Vegas, NV 89117

Shellpoint Mortgage Servicing  
P.O. Box 10826  
Greenville, SC 29603

1900 Capital Trust II  
By U.S. Bank Trust National Assoc.  
300 Delaware Ave, 9<sup>th</sup> Floor  
Wilmington, DE 19801

DATED: This 11<sup>th</sup> day of February, 2020.



Employee of Hon. Leon Aberasturi



# **EXHIBIT 4**

# **EXHIBIT 4**



1 John T. Steffen (4390)  
2 Matthew K. Schriever (10745)  
3 HUTCHISON & STEFFEN, PLLC  
4 10080 W. Alta Dr., Suite 200  
5 Las Vegas, NV 89145  
6 Telephone: (702) 385-2500  
7 Facsimile: (702) 385-2086  
8 mschriever@hutchlegal.com

9 Casey J. Nelson (12259)  
10 WEDGEWOOD, LLC  
11 Office of the General Counsel  
12 2320 Potosi Street, Suite 130  
13 Las Vegas, Nevada 89146  
14 Telephone: (702) 305-9157  
15 Facsimile: (310) 730-5967  
16 caseynelson@wedgewood-inc.com

17 *Attorney for Defendant / Counterclaimant*  
18 *Breckenridge Property Fund 2016, LLC*

19 **THIRD JUDICIAL DISTRICT COURT**  
20 **LYON COUNTY, NEVADA**

21 ALBERT ELLIS LINCICOME, JR., and  
22 VICENTA LINCICOME,

23 Plaintiff,

24 v.

25 SABLES, LLC, a Nevada limited liability  
26 company, as Trustee of the Deed of Trust  
27 given by Vicenta Lincicome and dated  
28 5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-MF LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.;  
BRECKENRIDGE PROPERTY FUND  
2016; NEWREZ LLC dba SHELLPOINT  
MORTGAGE SERVICING, LLC; 1900  
CAPITAL TRUST II, BY U.S. BANK  
TRUST NATIONAL ASSOCIATION;  
MCM-2018-NPL2 and DOES 1-50.,

Defendants.

Case No.: 18-CV-01332  
Dept No.: II

**DECLARATION IN SUPPORT OF  
MOTION FOR ORDER REQUIRING  
PLAINTIFF TO DEPOSIT RENTAL  
AND/OR MORTGAGE PAYMENTS  
WITH COURT**



1 AND RELATED ACTIONS  
2

3 The undersigned, Jason Campbell declares under penalty of perjury that the  
4 following assertions are true:

5 1. I am the Director of Regional Operations for Wedgewood, LLC, which is  
6 the managing member of Defendant / Counterclaimant Breckenridge Property Fund 2016,  
7 LLC ("Breckenridge").  
8

9 2. I am an authorized representative of Breckenridge.

10 3. Breckenridge is a limited liability company authorized to do business in  
11 Nevada, that purchases real estate throughout the state of Nevada.  
12

13 4. I am competent to testify to the matters asserted herein, of which I have  
14 personal knowledge, except as to those matters stated upon information and belief. As to  
15 those matters stated upon information and belief, I believe them to be true.

16 5. As the Director of Regional Operations for Wedgewood, LLC, the major  
17 responsibilities and duties of my position include, among other, the following:  
18

19 a. Daily analysis of upcoming properties scheduled to go to sale in  
20 foreclosure;

21 b. Daily analysis of real property market conditions and property valuations;

22 c. Area Property Manager oversight, renovation direction, budgeting,  
23 approval; and  
24

25 d. Area real estate professional oversight including pricing, offer negotiation,  
26 and repair negotiation.  
27  
28



1           6. Breckenridge purchased the real property located at 70 Riverside Drive,  
2 Dayton, Nevada 89403 ("Subject Property") at a foreclosure sale that occurred on January  
3 4, 2019.

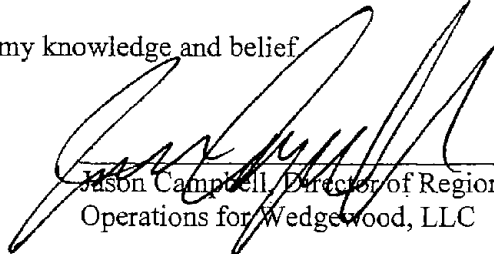
4           7. Breckenridge purchased the Subject Property at the foreclosure sale as an  
5 independent, good faith purchaser.  
6

7           8. I have reviewed the publicly available information available for the Subject  
8 Property and compared that information with online rental availability of other real estate  
9 available for rent in Dayton, Nevada and Fernley, Nevada.

10           9. Based on current available rental prices and rentals in those surrounding areas  
11 I have determined that a fair market rental value for the Subject Property to be in the  
12 \$2,250.00 to \$2,500.00 per month range.  
13

14           10. The factors I utilized to determine that fair market rental range in comparing  
15 the Subject Property with other properties for rent included year built, square footage,  
16 bed/bath count, neighborhood, larger garage size, single story, lot size, availability, and  
17 desirability.  
18

19           I declare under penalty of perjury of the laws of the United States and the State of  
20 Nevada that these facts are true to the best of my knowledge and belief  
21

22   
23 Jason Campbell, Director of Regional  
24 Operations for Wedgewood, LLC  
25  
26  
27  
28



Case No: 18-CV-01332

Dept.: II

The undersigned affirms that this document does not  
contain personal information, pursuant to NRS 603A.040

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,

Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-M4 LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; BANK  
OF AMERICA, N.A.; BRECKENRIDGE  
PROPERTY FUND 2016, a Utah limited  
liability company; NEWREZ, LLC, d/b/a  
SHELLPOINT MORTGAGE SERVICING,  
LLC, substituted in for DOE 1; 1900  
CAPITAL TRUST II, BY U.S. BANK TRUST  
NATIONAL ASSOCIATION, substituted in  
for DOE 2; MCM-2018-NPL2, substituted  
in for DOE 3; and DOES 4-10.

Defendants.

BRECKENRIDGE PROPERTY FUND 2016,  
LLC

Counterclaimant,

vs.

ALBERT ELLIS LINCICOME, JR., an  
individual; VICENTA LINCICOME, an  
individual; and DOE OCCUPANTS 1-5.

Counterdefendants.

**PLAINTIFFS' OPPOSITION  
TO MOTION FOR DEPOSIT OF  
PAYMENTS WITH COURT**



1 COME NOW, Plaintiffs ELLIS LINCICOME and VICENTA LINCICOME (hereinafter  
2 together as "Plaintiffs" or "Lincicomes"), by and through their attorney, Michael G. Millward,  
3 Esq., of Millward Law, Ltd., and Justin M. Clouser, Esq., of Clouser Hempen Wasick Law  
4 Group, Ltd., and hereby submit their Opposition to the *Motion for Order Requiring Plaintiff to*  
5 *Deposit Rental and/or Mortgage Payments* with Court filed by Breckenridge Property Fund  
6 2016, LLC (hereinafter "Breckenridge") on March 27, 2020.

7 Plaintiffs' Opposition is supported by the attached memorandum of points and  
8 authorities and supporting exhibits filed herewith, and the pleadings and papers on file  
9 herein.

10  
11 Dated this 11<sup>th</sup> day of April, 2020.

12 **MILLWARD LAW, LTD.**

13  
14 By: 

15 Michael G. Millward  
16 NSB# 11212  
17 1591 Mono Avenue  
18 Minden, Nevada 89423  
19 (775) 600-2776  
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1 On November 8, 2018, the Court entered its order granting the Lincicomes'  
2 Application for Temporary Restraining Order and set a hearing on the TRO Application for  
3 November 20, 2018.

4 At the hearing on November 20, 2018, counsel in attendance stipulated to the  
5 admission of the evidence presented in the TRO Application and the Response to the TRO  
6 Application.

7 On December 31, 2018, the Court entered its written order making specific findings of  
8 fact and conclusions of law as to its determination that a preliminary injunction should issue.  
9 The Court's December 31, 2018 Order is attached as **Exhibit 2**.

10 Even though the December 31, 2018 Order required a bond be posted, the Order  
11 specifically provided that "Sables, LLC, is hereby enjoined from selling at public auction the  
12 real property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, and identified in  
13 the Notice of Trustee's Sale recorded with the Office of the Lyon County Recorder as  
14 Document No. 587470, until further order of the Court." *Id.*

15 In the December 31, 2018 Order, the Court found:

16 . . . .  
17 2. That on or about July 11, 2009, Bank of America offered  
18 Vicenta a Loan Modification Agreement (hereinafter "LMA") which  
19 modified and extended the maturity date of the [2007 Deed of  
20 Trust (referred to as "2007 DOT")] from June 1, 2037, to August  
21 1, 2049 and further modified the interest rate applicable to the  
22 2007 DOT by reducing the same from 6.875% to 4.875%;

23 3. That the LMA provided that on September 1, 2014, the  
24 interest rate applicable to the 2007 DOT would increase from  
25 4.875% to 5.375%;

26 4. That the LMA capitalized existing arrears of September 1,  
27 2009, and modified the principal balance owed under the 2007  
28 DOT from \$381,150 to \$417,196.58;

5. That on July 31, 2009, Vicenta accepted Bank of America's  
offer to modify the 2007 DOT, and executed the LMA and sent the  
document to Bank of America;

6. That on September 1, 2009, the Lincicomes made a  
payment of \$2,272.62 to Bank of America upon the 2007 DOT as  
modified by the LMA;



1 7. That on September 1, 2009, Bank of America accepted  
2 payment, but was unable to find the modified loan in its system;

3 8. That on October 1, 2009, Bank of America refused  
4 payment from the Lincicomes, because it did not have a record  
that the 2007 DOT had been modified by the LMA;

5 9. That the Lincicomes' requests to make payment on the  
6 2007 DOT as modified by the LMA between October 1, 2009 and  
December 2011, were refused by Bank of America;

7 . . .

8 12. That on May 4, 2011, Bank of America recorded a fully  
9 executed copy of the July 11, 2009 LMA with the office of the  
Lyon County Recorder, as Document No. 475808;

10 13. That the Lincicomes were not made aware of the execution  
11 and recording of the LMA until 2017;

12 . . .

13 1. That on November 3, 2017, Sables, LLC, as then acting  
14 Trustee under the 2007 DOT, recorded its Notice of Breach and  
Default and of Election to Sell the Real Property under Deed of  
Trust (hereinafter "NOD") with the Lyon County Recorder as  
Document No. 572258;

16 2. That the NOD provides that the "subject Deed of Trust was  
17 modified by Loan Modification Agreement recorded as Instrument  
475808 . . . on 5/4/2011;"

18 3. That the NOD provides that all monthly installments from  
19 "9/1/2008" forward are due, instead of 9/1/2009 as required by  
the LMA;

20 4. That the NOD provides that the principal balance owed is  
21 \$381,150.00, instead of \$417,196.58 as provided in the LMA;

22 5. That on October 12, 2018, Defendant Sables, LLC,  
23 recorded its Notice of Trustee's Sale with the Lyon County  
Recorder as Document No. 587470, providing that the Property  
24 would be sold by public auction on November 9, 2018, at 11:00  
AM, at the Lyon County Court House on 31 S. Main Street,  
25 Yerington, Nevada 89447;

26 . . .

27 27. The LMA appears to be a valid modification of the 2007  
28 DOT;



1 28. That based on the record before the Court at the hearing  
2 neither Fay Servicing nor Sables has accurately reported the total  
3 balance owed Vicenta Lincicome under the 2007 DOT as modified  
4 by the LMA;

5 29. That based on the record before the Court at the hearing  
6 neither Fay Servicing nor Sables has accurately reported the  
7 principal obligation owed by Vicenta Lincicome under the 2007  
8 DOT as modified under the LMA;

9 30. That based on the record before the Court at the hearing  
10 neither Fay Servicing nor Sables has accurately reported the date  
11 through which 2007 DOT as modified under LMA is paid; and

12 31. That based on the record before the Court at the hearing  
13 neither Fay Servicing nor Sables has accurately reported the  
14 current interest rate effective under the 2007 DOT as modified  
15 under the LMA.

16 The Court also entered the following conclusions of law that also support the  
17 conclusion that Sables' and the other defendants' conduct violated Homeowner's Bill of  
18 Rights:

19 1. The Homeowners Bill of Rights codified under NRS 107.400  
20 through NRS 107.560 is applicable to this foreclosure matter;

21 2. That Plaintiffs established that irreparable injury would  
22 result if Defendant Sables, LLC, was permitted to exercise the  
23 power of sale and foreclose on the Plaintiffs' real property located  
24 at 70 Riverside Drive, Dayton, Lyon County, Nevada, Assessor  
25 Parcel Number 29-401-17;

26 3. That Plaintiffs have established that they will succeed on  
27 their claim that Defendants have violated NRS 107.500(1)(b) for  
28 failing to provide accurate information required to be provided  
prior to the initiation of a foreclosure; and

4. That Plaintiffs have established to the Court's satisfaction  
that they were likely to succeed on the merits of their claims  
pertaining to material violations of the Homeowner's Bill of Rights  
pursuant to NRS 107.400 through NRS 107.560.

Id.

The Lincicomes were unable to post the requisite bond, and on January 4, 2019, six  
days after the Court entered its Order, Sables sold the Lincicomes' home by foreclosure sale  
to Breckenridge.



1 On October 3, 2019, Breckenridge served its *Ex Parte Motion for Order to Show Cause*  
2 *why a Temporary Writ of Restitution Should Not Be Granted and Request to Shorten Time to*  
3 *Answer Counterclaim* (hereinafter "Ex Parte Motion").

4 One October 17, 2019, Plaintiffs' Opposition to Breckenridge's Motion for Order to  
5 Show Cause re Writ of Restitution was served on the parties to the matter.

6 On October 24, 2019, the Court entered its *Order Denying Ex Parte Motion and*  
7 *Setting Hearing*, therein setting an "evidentiary hearing" on the 4<sup>th</sup> day of February 2020, at  
8 9:30 a.m.

9 On February 4, 2020, the Court held a hearing upon all pending motions. All other  
10 pending motions were resolved at the hearing and the Court considered evidence and  
11 argument upon Breckenridge's Ex Parte Motion.

12 On February 11, 2020, the Court entered its *Order Denying without Prejudice Ex Parte*  
13 *Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be Granted*  
14 *and Request to Shorten Time to Answer*. A copy of the Courts February 11, 2020 Order is  
15 attached as **Exhibit 3**.

16 The Court found that Breckenridge was "aware of the title issues at the time of the  
17 property sale." Ex. 3, p.2. The Court further found that Plaintiffs have sought to set aside  
18 "the sale under NRS Chapter 107 and the Court has not made a determination regarding the  
19 requested relief." *Id*. Lastly, the Court noted that no evidence "regarding rental value of the  
20 property" was heard. *Id*.

### 21 **III. LEGAL AUTHORITY**

22 The Nevada Supreme Court has held that a foreclosure sale generally terminates a  
23 party's legal title to the property. *Res. Grp., LLC v. Nev. Ass'n Servs., Inc.*, 437 P.3d 154,  
24 158 (Nev. 2019)(citing *Bldg. Energetix Corp. v. EHE, LP*, 129 Nev. 78, 86, 294 P.3d 1228,  
25 1234 (2013); *Charmicor, Inc. v. Bradshaw Fin. Co.*, 92 Nev. 310, 313, 550 P.2d 413, 415  
26 (1976)).

27 However, there are a number of exceptions to this general rule, such as where the  
28 sale is void. *Id. (citing Energetix , 129 Nev. at 86, 294 P.3d at 1234)*. A void sale is a sale



1 that was never valid and did not transfer title. *Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*,  
2 427 P.3d 113 (Nev. 2018). Whereas a voidable sale will only be deemed valid as to "bona  
3 fide purchasers." *See id.*

4 A sale will be void when "a defect renders the sale wholly void [and] '[n]o title, legal  
5 or equitable, passes to the purchaser'" *Id.* (citing *Deep v. Rose*, 234 Va. 631, 364 S.E.2d  
6 228 (1988)).

7 A sale is also void where the lien is not in default, or the default of the loan has been  
8 cured. *Id.* (citing *Bank of Am., N.A.* 427 P.3d at 121). A sale may also be declared void for  
9 lack of substantial compliance with Nevada's foreclosure statutes. *Id.* A voidable sale is  
10 one rendered void under the principles of equity. *Id.* (citing *Res. Grp.*, 135 Nev. at 205-07,  
11 444 P.3d at 447-49).

12 Chapter 107 of Nevada's statutes governing Deed of Trust provides that a foreclosure  
13 sale will be declared void if the sale, applicable in this matter, was rendered in violation of  
14 NRS 107.080(5) or NRS 107.0805(4).

15 A sale is void pursuant to NRS 107.080(5) where the sale does not substantially  
16 comply with the provisions of NRS 107.080. NRS 107.080(5) is provides in relevant part as  
17 follows:

18 . . . Except as otherwise provided in subsection 7, a sale made  
19 pursuant to this section **must be declared void** by any court of  
20 competent jurisdiction in the county where the sale took place if:  
21 (a) The trustee or other person authorized to make the sale **does**  
22 **not substantially comply with the provisions of this section;**  
23 (b) Except as otherwise provided in subsection 6, an **action is**  
24 **commenced** in the county where the sale took place within 30  
25 days after the date on which the trustee's deed upon sale is  
26 recorded pursuant to subsection 10 in the office of the county  
27 recorder of the county in which the property is located; and  
28 (c) A notice of **lis pendens** providing notice of the pendency of  
the action is recorded in the office of the county recorder of the  
county where the sale took place within 5 days after  
commencement of the action.

NRS 107.080(5) (emphasis added).

Even though a sale may be otherwise void pursuant NRS 107.080(5), NRS 107.080(7)  
serves to protect the rights of bona fide purchasers. NRS 107.080(7) provides:



1 Upon expiration of the time for commencing an action which is set  
2 forth in subsections 5 and 6, any failure to comply with the  
3 provisions of this section or any other provision of this chapter  
does not affect the rights of a bona fide purchaser as described in  
NRS 111.180.

4 NRS 107.080(7).

5 A "bona fide purchaser, according to NRS 111.180(1), is a purchaser that purchases  
6 "in good faith and for valuable consideration and who does not have actual knowledge,  
7 constructive notice of, or reasonable cause to know that there exists defect in, or adverse  
8 rights, title or interest to, the real property." NRS 107.180(1) (*emphasis added*).

9 NRS 107.560(4) found within HOBR reinforces the definition of "bona fide purchaser"  
10 found in NRS 111.180(1). NRS 107.560(4) provides that "[a] violation of NRS 107.400 to  
11 NRS 107.560, inclusive, does not affect the validity of a sale to a bona fide purchase for  
12 value and any of its encumbrances for value without notice." NRS 107.560(4) (*emphasis*  
13 *added*).

14 NRS 107.0805(4) provides in relevant part as follows:

15 In addition to the grounds provided in paragraph (a) of subsection  
16 5 of NRS 107.080, a sale made pursuant to this section must be  
17 declared void by any court of competent jurisdiction in the county  
18 where the sale took place if the trustee or other person authorized  
to make the sale does not substantially comply with any applicable  
provisions set forth in NRS 107.086 and 107.087, and the  
applicant otherwise complies with subsection 5 of NRS 107.080.

19 NRS 107.0805(4).

20 NRS 107.086 and NRS 107.087 pertain to requirements for the Trustee to exercise  
21 the power of sale as it pertains to requirements to provide notices and mediation through  
22 Home Means Nevada, Inc.

23 Breckenridge relies upon NRS 40.385 for its argument. However, Breckenridge's use  
24 of NRS 40.385 is misplaced. NRS 40.385 assumes that the landlord has vested title in the  
25 premises and that no issue concerning the acquisition of the landlord's title interest in the  
26 real property is at issue. NRS 40.385 is not applicable in this matter.



#### IV. ARGUMENT

Breckenridge argues that Plaintiffs are being unjustly enriched by "being allowed to remain in the Subject Property without paying rent or mortgage payment" and that the Court should order Plaintiffs to "pay rent and or mortgage payments." Def. Mot., p.4.

However, Breckenridge is not entitled to the protections afforded a "bona fide purchaser" and is therefore not entitled to the relief sought as a matter of equity or as a matter of law.

##### 1. The validity of the foreclosure sale has not been determined

In making its Motion, Breckenridge asks the Court to assume that the Lincicomes' right, title, and interest in the real property located at 70 Riverside Drive, Dayton, Nevada 89403 (hereinafter "Premises") was terminated by way of the foreclosure sale on January 4, 2019, and that it has superior rights to the property.

Even though generally a foreclosure terminates a party's legal title to the property, title does not terminate where a foreclosure sale is void. . *Res. Grp., LLC v. Nev. Ass'n Servs., Inc.*, 437 P.3d 154, 158 (Nev. 2019)(citing *Bldg. Energetix Corp. v. EHE, LP*, 129 Nev. 78, 86, 294 P.3d 1228, 1234 (2013); *Charmicor, Inc. v. Bradshaw Fin. Co.*, 92 Nev. 310, 313, 550 P.2d 413, 415 (1976)).

The Lincicomes assert that the Trustee, Sables, LLC, exercised the power of sale on January 4, 2019, without authority pursuant NRS 107.080, and that as a result, the sale on January 4, 2018 was void. See Pl. 2<sup>nd</sup> Amend. Comp.

In particular, the Lincicomes assert that Bank of America, N.A. (hereinafter "BANA") and PROF-2013-M4 LEGAL TITLE TRUST by U.S. BANK, N.A.'s (hereinafter "US Bank"), breached their Deed of Trust as modified by the 2009 LMA by refusing the Lincicomes' payments and failing to effectuate the terms of the 2009 LMA. See *id.* pp.13-14.

The Lincicomes have alleged that they have never been able to make a payment under their modified Deed of Trust and that they are not in default. See *id.* Notably, Plaintiffs' position is supported by nearly all of the evidence that has been presented in this matter.



1 All notices, statements, demands previously presented in this matter as evidence  
2 establish that the 2009 LMA terms have at no time been enforced or operable since the LMA  
3 was executed, or recorded.

4 Thus, based upon the Court's findings set forth Court's December 31, 2018 Order, it is  
5 likely that the January 4, 2019 sale was void, and, if the Court makes such a determination,  
6 and finds that the Trustee had no authority to exercise the power of sale, Breckenridge will  
7 be found have never held title to the Premises. *See Bank of Am., N.A.*, 134 Nev. at 612,  
8 427 P.3d at 121.

9 **2. Breckenridge is not a "bona fide purchaser"**

10 Breckenridge is not entitled to the relief sought because it is not entitled to the  
11 protections that the common-law and Nevada's statutes afford to a "bona fide purchaser."

12 A bona fide purchaser is protected from the set aside of a foreclosure sale as a matter  
13 of equity in order to protect the innocent third party purchaser that would be harmed by the  
14 set aside of the sale. *Shadow Wood Homeowners Ass'n, Inc. v. N.Y. Cmty. Bancorp, Inc.*,  
15 132 Nev. 49, 366 P.3d 1105, 1115 (2016).

16 A determination that a purchaser does not have "bona fide purchaser" status where it  
17 has been asserted is required before a court can set aside the foreclosure sale and quiet title  
18 without concern for the resulting harm to the purchaser. *See id.*

19 A purchaser is a "bona fide purchaser" under common-law where the property is  
20 taken "'for a valuable consideration and without notice of the prior equity, and without notice  
21 of facts which upon diligent inquiry would be indicated and from which notice would be  
22 imputed to him, if he failed to make such inquiry.'" *Id.* (quoting *Bailey v. Butner*, 64 Nev. 1,  
23 19, 176 P.2d 226, 234 (1947)).

24 Just as the common law protects a "bona fide purchaser," NRS 107.080(7) and NRS  
25 107.560(4) protect a "bona fide purchaser" from a claim that a sale is void. This is true  
26 except where a material defect in the foreclosure proceeding renders the sale void. *Bank of*  
27 *Am., N.A.*, 134 Nev. at 612, 427 P.3d at 121. In such a case, the buyers' status as a bona  
28 fide purchaser is irrelevant. *id.*



1 The Nevada legislature has defined a "bona fide purchaser" as one that purchases "in  
2 good faith and for valuable consideration and who does not have actual knowledge,  
3 constructive notice of, or reasonable cause to know that there exists defect in, or adverse  
4 rights, title or interest to, the real property." NRS 107.180(1) (*emphasis added*).

5 Notably, when a party asserts bona fide purchaser status, that party bears the burden  
6 of establishing such status. *Berge v. Fredericks*, 95 Nev. 183, 187, 591 P.2d 246, 248  
7 (1979).

8 Here, as evidenced by its Motion, Breckenridge presumes that it has legal title to the  
9 Premises regardless of the fact that it was on notice prior to the foreclosure that a sale of the  
10 Premises under the circumstances may be void.

11 However, it has not asserted that it is a "bona fide purchaser" let alone met its burden  
12 to establish that it is entitled to that status. On the contrary, the record and the Court's  
13 finding weighs against a determination that Breckenridge is a bona fide purchaser.

14 Breckenridge was imputed to have "notice" of "defects" and "adverse rights" by way  
15 of Plaintiffs' Lis Pendens recorded November 7, 2018. With such notice, Breckenridge was  
16 deemed to have knowledge of the allegations in Plaintiffs' Complaint, and the Court's  
17 December 31, 2018 Order finding that Plaintiffs are likely to succeed on their HOBR  
18 violations claim.

19 At the February 4, 2020 hearing concerning Breckenridge's Ex. Parte Motion, the  
20 Court found that Breckenridge had constructive notice of the allegations in Plaintiffs'  
21 Complaint and the findings in the Court's December 31, 2018 Order. The Court's verbal  
22 findings were confirmed by the Court's February 11, 2020 *Order Denying without Prejudice*  
23 *Ex Parte Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be*  
24 *Granted and Request to Shorten Time to Answer*, wherein the Court specifically found that  
25 Breckenridge was "aware of the title issues at the time of the property sale." Ex. 3 p.2.

26 Thus, if Breckenridge is a "bona fide purchaser" equity would serve to protect its  
27 interests, and it may very well extend to permit the recovery sought. *See Shadow Wood*  
28 *Homeowners Ass'n, Inc.*, 132 Nev. 49, 366 P.3d 1105, 1115. However, the law will not



1 protect Breckenridge's claim for rental income as a matter of equity where Breckenridge  
2 knew of the allegations and claims raised by Plaintiffs in this matter and chose to move  
3 forward with the purchase anyway. *See id.*

4 The Court should therefore determine that Breckenridge has no equitable or legal  
5 right to the relief it seeks.

6 **3. Breckenridge is not entitled to payments by way of NRS 40.385**

7 Breckenridge uses NRS 40.385(3) by analogy and makes a request for equitable relief  
8 by way of argument involving "unjust enrichment" to assert that it should be entitled to  
9 reasonable rent and/or mortgage payments to the Court clerk.

10 NRS 40.385(3) is not applicable literally or by analogy. NRS 40.385(3) applies where  
11 an eviction matter has been appealed and where the tenant has retained possession. See  
12 NRS 40.385. The rationale for payment of rents under the circumstances of an appeal is not  
13 applicable here. In this case, there is no ongoing contractual relationship between  
14 Breckenridge and Plaintiffs.

15 Here, one of the primary issues is whether Breckenridge has any interest in the  
16 Lincicomes' residence at all. Thus, the validity of the January 4, 2019 foreclosure sale will  
17 be of significant import of all parties involved.

18 As demonstrated and argued hereinabove, neither law or equity will be found to  
19 provide Breckenridge any right to rents, let alone a possessory interest in the Premises until  
20 a determination of the validity of the January 4, 2019 foreclosure sale is made.

21 A preliminary determination of that the sale will likely be declared void is well  
22 supported by the evidence presented in this matter and the Court's prior findings. For  
23 example, the Court found that 2009 LMA appears to be a valid modification of the 2007 Deed  
24 of Trust. Ex. 2, p.5, ¶ 27.

25 However, there is no evidence that has been presented in this case that in anyway  
26 establishes that the Lincicomes have ever failed to make payments according to the terms of  
27 the 2009 LMA. Ex. 2, p.3-4.



1           There is plenty of evidence that BANA and US Bank sought to enforce the terms of the  
2 2007 Deed of Trust prior to modification. Ex. 2, p.4, ¶¶ 18-19.

3           There is also plenty of evidence of the Lincicomes did their best to preserve their  
4 home through various mortgage workouts. See Ex. 2, p.4, ¶¶ 14. The record shows that  
5 they did so even though BANA had executed and recorded the 2009 LMA without informing  
6 the Lincicomes that the LMA was accepted, signed, and recorded. See Ex. 2, p.4.

7           The record and the Court's prior findings suitably demonstrate that it is likely that the  
8 Lincicomes will establish that the Trustee lacked authority to conduct the foreclosure sale.  
9 Additionally, because Breckenridge is not a "bona fide purchaser" the Court should determine  
10 that Breckenridge knew or should have known what it was getting into is not entitled to the  
11 equitable relief sought.

12           To give Breckenridge the relief sought under the circumstances would be premature  
13 and would reward Breckenridge by giving it protection for having taken considerable risk in  
14 purchasing at the foreclosure sale as if it were a "bona fide purchaser." See *Shadow Wood*  
15 *Homeowners Ass'n, Inc.*, 132 Nev. 49, 366 P.3d at 1115.

16           Additionally, Breckenridge's assertion that the equivalent of mortgage payments  
17 should be placed with the Court clerk is likewise improper. The beneficiaries of the Deed of  
18 Trust in this matter chose to pursue and cause the foreclosure sale of the Premises. If there  
19 is a declaration that the foreclosure in this matter was void, it would not be for anything that  
20 the Plaintiffs have or have not done.

21           At no point since the Lincicomes' mortgage was modified in 2009 have they been  
22 given the opportunity to make payments according to its terms. Contrary to assertions  
23 made in this matter, the Lincicomes simply want to the opportunity to enforce the  
24 agreement they made in 2009. The failures of BANA and US Bank to recognize that the  
25 2009 LMA effectively modified the Lincicomes' mortgage, and the repercussions resulting  
26 therefrom are of no fault of the Lincicomes.

27           Accordingly, a requirement that the Lincicomes pay a reasonable mortgage payment  
28 to continue is possession of their home, when they have been wrongly foreclosed upon is



1 improper as to Breckenridge, or as to any other defendant. Furthermore, Breckenridge has  
2 no legal or equitable standing to make a claim for mortgage payments, and its requests for  
3 the same should therefore be denied.

4 **V. CONCLUSION**

5 Breckenridge was not an unknowing victim of this foreclosure sale. The *Notice of Lis*  
6 *Pendens* recorded November 8, 2018, put Breckenridge on notice that the property was  
7 subject to litigation. Accordingly, Breckenridge is not a bona fide purchaser, and it is not  
8 entitled to the equitable relief sought.

9 Under the circumstances, Breckenridge's interest in the Lincicomes' Premises is  
10 voidable at best. Therefore, the Court should conclude that Breckenridge is no more entitled  
11 to the relief sought than the Lincicomes would be for Breckenridge's ongoing slander to the  
12 title of their home.

13 **AFFIRMATION**

14 The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not  
15 contain the social security number of any person or other personal information as defined by  
16 NRS 603A.040.

17 Dated this 10 day of April, 2020.

18 **MILLWARD LAW, LTD**

19  
20 By: 

21 Michael G. Millward, Esq.

22 NSB# 11212

23 Attorney for Plaintiffs  
24  
25  
26  
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## INDEX TO EXHIBITS

Exhibit 1	Notice of Lis Pendens	2 pages
Exhibit 2	Court Order, dated December 31, 2018	8 pages
Exhibit 3	Court Order, dated February 11, 2020: <i>Order Denying without Prejudice Ex Parte Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be Granted and Request to Shorten Time to Answer.</i>	3 pages



**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that service of the foregoing *Plaintiffs' Opposition to Motion for Deposit of Payments with Court* was made on this 10 day of April, 2020, by depositing a true copy of the same for mailing with the United States Postal Service, addressed to the following:

Shadd A. Wade, Esq.  
ZIEVE, BRODNAX & STEEL  
9435 W. Russel Rd., Suite 120  
Las Vegas, NV 89148  
*Attorney for Sables, LLC*

Scott R. Lachman, Esq.  
Darren T. Brenner, Esq.  
ACKERMAN, LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

John T. Steffen, Esq.  
Matthew K. Schriever, Esq.  
HUTCHINSON & STEFFEN, PLLC  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
*Attorney for Breckenridge Property Fund 2016, LLC*

Casey J. Nelson, Esq.  
WEDGEWOOD, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, NV 89146  
*Attorney for Breckenridge Property Fund 2016, LLC*

Ramir M. Hernandez, Esq.  
R. Samuel Ehlers, Esq.  
WRIGHT, FINLAY & ZAK, LLP  
7785 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117  
*Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association, as Legal Title Trustee; Fay Servicing LLC, and Shellpoint Mortgage Servicing, LLC*

MCM-2018-NPL2  
7101 Wisconsin Avenue, Suite 1012  
Bethesda MD 20814

NEWREZ LLC  
BY U.S. BANK TRUST NATIONAL ASSOC.  
300 Delaware Avenue 9<sup>th</sup> Floor  
Wilmington DE 19801

SHELLPOINT MORTGAGE SERVICING  
Post Office Box 10826  
Greenville, SC 29603-0826

  
Sherry Dagizikos, Paralegal



# Exhibit I



FILED

2018 NOV -7 PM 4:55

Case No: 18-CV-01332

Dept.: II

The undersigned affirms that this document does not  
contain personal information, pursuant to NRS 603A.040

Victoria Tovar

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\*\*\*\*\*

ALBERT ELLIS LINCICOME, JR., and )  
VICENTA LINCICOME, )

Plaintiffs, )

v. )

SABLES, LLC, a Nevada limited liability )  
company, as Trustee of the Deed of Trust )  
given by Vicenta Lincicome and dated )  
5/23/2007; FAY SERVICING, LLC, a )  
Delaware limited liability company and )  
subsidiary of Fay Financial, LLC; PROF- )  
2013-M4 LEGAL TITLE TRUST by U.S. )  
BANK, N.A., as Legal Title Trustee; for )  
BANK OF AMERICA, N.A.; and DOES 1-50. )

Defendants. )

**NOTICE OF LIS PENDENS  
APN 29-401-17**

NOTICE IS HEREBY GIVEN that an action has been commenced in the Third Judicial  
District Court for Lyon County, Nevada, by Plaintiffs, ALBERT ELLIS LINCICOME, JR., and  
VICENTA LINCICOME, and against Defendants SABLES, LLC, FAY SERVICING, LLC, and  
PROF-2013-M4 LEGAL TITLE TRUST, by U.S. BANK NATIONAL ASSOCIATION, as Legal Title  
Trustee, and BANK OF AMERICA, N.A.

This Complaint involves claims for relief for Injunctive Relief, Breach of Contract,  
Breach of Duty to Act in Good Faith and Fair Dealing, Declaratory Relief and Special  
Damages for Attorney's Fees in favor of Plaintiffs as related to the following parcel of real

NOTICE OF LIS PENDENS

PAGE 1 OF 2

**MILLWARD LAW, LTD**  
1591 Mono Ave. Minden NV 89423  
(775) 600-2776



AA01824



1 property commonly known as 70 Riverside Drive, Dayton, Nevada 89403, more property  
2 described as:

3 All that certain real property situate in the County of Lyon, State of  
4 Nevada, described as follows:

5 Lot 42 as shown on the official map of GOLD CANYON ESTATES,  
6 PHASE 2, filed in the office of the Lyon County, Nevada, Recorder, on  
7 October 20, 2005, as Document No. 365687.

8 EXCEPTING THEREFROM all that portion thereof, lying below the  
9 natural ordinary high water line of the Carson River

10 **AFFIRMATION**

11 The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not  
12 contain the social security number of any person or other personal information as defined by  
13 NRS 603A.040.

14 Dated this 7<sup>th</sup> day of November, 2018.

15 **MILLWARD LAW, LTD**

16 By:   
17 Michael G. Millward, Esq.  
18 NSB# 11212  
19 1591 Mono Ave  
20 Minden, NV 89423  
21 (775) 600-2776  
22 Attorney for Plaintiffs

23 **MILLWARD LAW, LTD**  
24 1591 Mono Ave, Minden NV 89423  
25 (775) 600-2776





# Exhibit 2



FILED

2018 DEC 31 AM 10:49

ANDREA ANDERSEN

Case No: 18-CV-01332

Dept.: II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\*\*\*\*\*

ALBERT ELLIS LINCICOME, JR., and  
VICENTA LINCICOME,

Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-M4 LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.; and DOES 1-50.

Defendants.

ORDER

THIS MATTER comes before the Court upon the *Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction* (hereinafter "Application") filed on November 7, 2018, by Plaintiffs Albert Ellis Lincicome, Jr., and Vicenta Lincicome (hereinafter "Lincicomes"), thereby seeking a restraining order, preliminary injunction and permanent injunction upon the sale of the Lincicomes' residence by Sables, LLC, at public auction.

On November 8, 2018, the Court entered an Order temporarily enjoining and restraining Sables, LLC, from conducting a trustee's sale of the Lincicomes' residence, and set a hearing upon the application to occur on November 20, 2018.

ORDER

PAGE 1 OF 8

AA01827



1 On November 14, 2018, Defendants Prof-2013 M4-Legal Title Trust, by U.S. Bank,  
2 N.A., as Legal Title Trustee (hereinafter "US Bank") and Fay Servicing, LLC (hereinafter "Fay  
3 Servicing"), filed their *Response to Application for Ex Parte Restraining Order, Preliminary*  
4 *Injunction and Permanent Injunction* (hereinafter "Response"). Defendants argued in their  
5 Response that Plaintiff's arguments lack merit because Plaintiffs had previously consented to  
6 foreclosure, and because violations of the applicable Homeowners Bill of Rights statute are  
7 not material.

8 On November 20, 2018, the Court held a hearing on the Application and Response.  
9 The Lincicomes attended with their attorney, Michael G. Millward, Esq., of Millward Law, Ltd.,  
10 and US Bank and Fay Servicing appeared through their counsel Ramir M. Hernandez, Esq., of  
11 Wright, Finlay & Zak, LLP. As well, Defendant Bank of America, N.A., (hereinafter "Bank of  
12 America") appeared telephonically through its counsel Scott Lachman, Esq., of Akerman,  
13 LLP.

14 Counsel at the hearing stipulated to the admission of the evidence presented in the  
15 Application and Response previously filed before the Court as well as documents presented  
16 at the hearing on behalf of the Lincicomes. Additionally, Counsel stipulated that the  
17 Lincicomes' respective Affidavits filed with the Application be considered as evidence by the  
18 Court as testimony.

19 The Court having considered the documentary evidence, testimony and arguments  
20 presented hereby makes the following FINDINGS OF FACT:

21 1. That on May 23, 2007, in connection with the purchase of the residence located  
22 at 70 Riverside Drive, Dayton, Nevada 89403, Vicenta Lincicome (hereinafter "Vicenta")  
23 executed a Promissory Note in favor of Sierra Pacific, and also a Deed of Trust (hereinafter  
24 "2007 DOT") in favor of Mortgage Electronic Registration Systems, Inc. (hereinafter referred  
25 to as "MERS"), as the nominee for Sierra Pacific, to secure the mortgage loan;

26 2. That on or about July 11, 2009, Bank of America offered Vicenta a Loan  
27 Modification Agreement (hereinafter "LMA") which modified and extended the maturity date  
28

ORDER

PAGE 2 OF 8

AA01828



1 of the 2007 DOT from June 1, 2037, to August 1, 2049 and further modified the interest rate  
2 applicable to the 2007 DOT by reducing the same from 6.875% to 4.875%;

3 3. That the LMA provided that on September 1, 2014, the interest rate applicable  
4 to the 2007 DOT would increase from 4.875% to 5.375%;

5 4. That the LMA capitalized existing arrears of September 1, 2009, and modified  
6 the principal balance owed under the 2007 DOT from \$381,150 to \$417,196.58;

7 5. That on July 31, 2009, Vicenta accepted Bank of America's offer to modify the  
8 2007 DOT, and executed the LMA and sent the document to Bank of America;

9 6. That on September 1, 2009, the Lincicomes made a payment of \$2,272.62 to  
10 Bank of America upon the 2007 DOT as modified by the LMA;

11 7. That on September 1, 2009, Bank of America accepted payment, but was  
12 unable to find the modified loan in its system;

13 8. That on October 1, 2009, Bank of America refused payment from the  
14 Lincicomes, because it did not have a record that the 2007 DOT had been modified by the  
15 LMA;

16 9. That the Lincicomes' requests to make payment on the 2007 DOT as modified  
17 by the LMA between October 1, 2009 and December 2011, were refused by Bank of  
18 America;

19 10. That the Lincicomes filed a petition for Chapter 13 Bankruptcy protection  
20 before the United States Bankruptcy Court, District of Nevada, on April 6, 2010, under Case  
21 No. 10-51219, and listed Bank of America as a secured creditor;

22 11. That Bank of America did not file a claim or appear in the Lincicomes Chapter  
23 13 Bankruptcy case prior to confirmation of the Lincicomes' Chapter 13 Plan;

24 12. That on May 4, 2011, Bank of America recorded a fully executed copy of the  
25 July 11, 2009 LMA with the office of the Lyon County Recorder, as Document No. 475808;

26 13. That the Lincicomes were not made aware of the execution and recording of  
27 the LMA until 2017;

28 //

ORDER

PAGE 3 OF 8

AA01829



1        14. That on November 26, 2014, Bank of America appeared in the Lincicomes'  
2 Chapter 13 Bankruptcy case and filed a Motion for Relief of Stay seeking relief from the  
3 automatic stay, pursuant to 11 U.S.C. § 362;

4        15. That Bank of America's Motion for Relief of Stay did not inform the Lincicomes  
5 or the Bankruptcy Court that the LMA had been executed and recorded;

6        16. That on June 15, 2015, the Bankruptcy Court Clerk granted the Lincicomes a  
7 discharge of all of their scheduled debts;

8        17. That on August 1, 2015, Bank of America transferred the servicing of the 2007  
9 DOT as modified by the LMA to Fay Servicing;

10       18. That all statements provided by Fay Servicing to the Lincicomes between  
11 August 10, 2015 and October 10, 2018, do not reflect that the terms of the 2007 DOT had  
12 been modified by the LMA.

13       19. All statements between August 10, 2015 and October 10, 2018, reported the  
14 principal balance owed, the applicable interest rate, the payment amount, the total  
15 arrearage owed, as well as the total number of payments remaining due;

16       20. That on November 10, 2015, Bank of America assigned its interest in the Deed  
17 of Trust to PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title  
18 Trustee (hereinafter "US Bank");

19       21. That on November 3, 2017, Sables, LLC, as then acting Trustee under the 2007  
20 DOT, recorded its Notice of Breach and Default and of Election to Sell the Real Property  
21 under Deed of Trust (hereinafter "NOD") with the Lyon County Recorder as Document No.  
22 572258;

23       22. That the NOD provides that the "subject Deed of Trust was modified by Loan  
24 Modification Agreement recorded as Instrument 475808 . . . on 5/4/2011;"

25       23. That the NOD provides that all monthly installments from "9/1/2008" forward  
26 are due, instead of 9/1/2009 as required by the LMA;

27       24. That the NOD provides that the principal balance owed is \$381,150.00, instead  
28 of \$417,196.58 as provided in the LMA;

ORDER

PAGE 4 OF 8

AA01830



1           25. That on October 12, 2018, Defendant Sables, LLC, recorded its Notice of  
2 Trustee's Sale with the Lyon County Recorder as Document No. 587470, providing that the  
3 Property would be sold by public auction on November 9, 2018, at 11:00 AM, at the Lyon  
4 County Court House on 31 S. Main Street, Yerington, Nevada 89447;

5           26. That under the circumstances the foreclosure of the Lindcome's residence  
6 would cause them irreparable injury;

7           27. The LMA appears to be a valid modification of the 2007 DOT;

8           28. That based on the record before the Court at the hearing neither Fay Servicing  
9 nor Sables has accurately reported the total balance owed Vicenta Lincicome under the 2007  
10 DOT as modified by the LMA;

11           29. That based on the record before the Court at the hearing neither Fay Servicing  
12 nor Sables has accurately reported the principal obligation owed by Vicenta Lincicome under  
13 the 2007 DOT as modified under the LMA;

14           30. That based on the record before the Court at the hearing neither Fay Servicing  
15 nor Sables has accurately reported the date through which 2007 DOT as modified under LMA  
16 is paid; and

17           31. That based on the record before the Court at the hearing neither Fay Servicing  
18 nor Sables has accurately reported the current interest rate effective under the 2007 DOT as  
19 modified under the LMA.

20           The Court hereby enters the following Conclusions of Law:

21           1. The Homeowners Bill of Rights codified under NRS 107.400 through NRS  
22 107.560 is applicable to this foreclosure matter;

23           2. That Plaintiffs established that irreparable Injury would result if Defendant  
24 Sables, LLC, was permitted to exercise the power of sale and foreclose on the Plaintiffs' real  
25 property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, Assessor Parcel  
26 Number 29-401-17;

27 //

28 //

ORDER

PAGE 5 OF 8

AA01831



1           3.     That Plaintiffs have established that they will succeed on their claim that  
2 Defendants have violated NRS 107.500(1)(b) for failing to provide accurate information  
3 required to be provided prior to the initiation of a foreclosure; and

4           4.     That Plaintiffs have established to the Court's satisfaction that they were likely  
5 to succeed on the merits of their claims pertaining to material violations of the Homeowner's  
6 Bill of Rights pursuant to NRS 107.400 through NRS 107.560.

7           THEREFORE, GOOD CAUSE APPEARING, the Court enters the following orders:

8           1.     That Sables, LLC, is hereby enjoined from selling at public auction the real  
9 property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, and identified in the  
10 Notice of Trustee's Sale recorded with the Office of the Lyon County Recorder as Document  
11 No. 587470, until further order of the Court;

12           2.     That Plaintiffs shall post bond a bond in the amount of \$172,610.67 by  
13 December 20, 2018, and shall file with the Court and serve opposing counsel with a Notice of  
14 Bond filing;

15           3.     That the injunction shall be effective against Defendants so long as bond is  
16 posted and Plaintiffs post additional security in the sum of \$2,105.10 on January 20, 2019,  
17 and on the 20<sup>th</sup> day of each month thereafter with the Third Judicial District Court Clerk's  
18 office;

19           4.     Plaintiffs shall file a notice of compliance with the requirement to pay additional  
20 security with the Third Judicial District Court Clerk and shall contemporaneously serve the  
21 same upon Defendants after making payment of additional security as set forth above;

22           5.     That failure of Plaintiffs to timely post a bond and provide notice of bond by  
23 December 20, 2018, shall relieve Defendants of their duty to comply with this injunction  
24 enjoining the sale of 70 Riverside Drive, Dayton, Lyon County, Nevada, until a filing of notice  
25 of bond and a notice of compliance of Plaintiffs' satisfaction of the requirement to post  
26 additional security with the Third Judicial District Court Clerk in this matter are thereafter  
27 served upon Defendants; and

28     //

ORDER

PAGE 6 OF 8

AA01832



1           6.     That the Court's orders entered in the Court's November 8, 2018 Order and the  
2 Court's November 14, 2018 Corrected Order, pertaining to the cancellation of the Notice of  
3 Sale, are hereby set aside.

4           IT IS SO ORDERED.

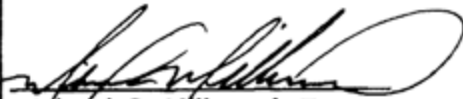
5           Dated this 31<sup>st</sup> day of December, 2018

6   
7 \_\_\_\_\_  
8 DISTRICT JUDGE

9  
10                           **AFFIRMATION**

11           The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not  
12 contain the social security number of any person, or other personal information as defined  
13 by NRS 603A.040.

14           Reviewed, approved and submitted this 18 day of December, 2018

15   
16 Michael G. Millward, Esq.  
17 Nevada Bar No. 11212  
18 Millward Law, Ltd.  
19 1591 Mono Ave.  
20 Minden, NV 89423

21  
22  
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24  
25  
26  
27  
28                           ORDER

PAGE 7 OF 8



1 Reviewed, approved and submitted this 18<sup>th</sup> day of December, 2018.

2  
3 

4 Ramir M. Hernandez, Esq.  
5 Nevada Bar No. 13146  
6 Wright, Finlay & Zak  
7 7785 W. Sahara Ave., Suite 200  
8 Las Vegas, NV 89117  
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ORDER

PAGE 8 OF 8



# Exhibit 3



FILED

Case No.: 18-CV-01332

2020 FEB 11 PM 4:41

Dept. No.: II

ANDREA ANDERSEN

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON COUNTY

.....

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,  
Plaintiffs,

vs.

**ORDER DENYING WITHOUT  
PREJUDICE EX PARTE MOTION FOR  
ORDER TO SHOW CAUSE WHY A  
TEMPORARY WRIT OF RESTITUTION  
SHOULD NOT BE GRANTED AND  
REQUEST TO SHORTEN TIME TO  
ANSWER**

SABES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust given  
by Vicenta Lincicome and dated 5/23/2007;  
FAY SERVICING, LLC, a Delaware limited  
liability company and subsidiary of Fay  
Financial, LLC; PROF-2013 M4 LEGAL  
TITLE TRUST by U.S. BANK, N.A., as Legal  
Title Trustee; for BANK OF AMERICAN,  
N.A.; BRECKENRIDGE PROPERTY FUND  
2016; and DOES 1-50.  
Defendants.

On February 4, 2020, the above entitled matter came before the Court on a hearing for all pending motions. Plaintiff's Counsel, Michael, G. Millward, Esq. and Justin M. Clouser, Esq., appeared in person. All other parties appeared telephonically. The Court was aware of three motions pending before the hearing. The parties came to an agreement as to the Motion to set 16.1 (b) Conference. Mr. Millward also notified the Court of his withdrawal of the Motion for Reconsideration. The only remaining motion was Defendant in Intervention/Counterclaimant's, Breckenridge Property Fund 2016, LLC, Ex Parte Motion for Order to Show Cause Why a



1 Temporary Writ of Restitution Should Not be Granted and Request to Shorten Time to Answer  
2 Counterclaim.

3 **FINDINGS OF FACT**

4 The Court finds that its December 31, 2018 Order stated, "that the injunction shall be  
5 effective against Defendants so long as bond is posted and Plaintiffs post additional security in  
6 the sum of \$2,105.10 on January 20, 2019, and on the 20<sup>th</sup> day of each month thereafter." The  
7 Court finds that no bond was posted and thus the injunction did not remain in effect.

8 Additionally, the purchasers are found to have been aware of the title issues at the time of  
9 the property sale. The Plaintiffs requested relief setting aside the sale under NRS Chapter 107  
10 and the Court has not made a determination regarding that requested relief. The Court did not  
11 hear any evidence regarding the rental value of the property.

12 Therefore, based on the foregoing and good cause appearing, **IT IS HEREBY**  
13 **ADJUDGED and ORDERED** that the Ex Parte Motion for Order to Show Cause Why a  
14 Temporary Writ of Restitution Should Not be Granted and Request to Shorten Time to Answer  
15 Counterclaim is hereby **DENIED WITHOUT PREJUDICE**.

16 Dated this 11<sup>th</sup> of February, 2020.

17   
18 \_\_\_\_\_  
19 Hon. LEON ABERASTURI  
20 DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

I hereby certify that I, Yelisea Carbajal, am an employee of the Honorable Leon Aberasturi, District Judge, and that on this date pursuant to NRCP 5(b), I mailed from Yerington, Nevada, a true copy of the foregoing document addressed to:

Michael G. Millward, Esq.  
Millward Law, Ltd.  
1591 Mono Ave.  
Minden, NV 89423

Justin M. Clouser, Esq.  
Clouser Hempen Wasick Law Group, Ltd.  
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MCM-2018-NPL2  
7101 Wisconsin Ave, Ste. 1012  
Bethesda, MD 20814

R. Samuel Ehlers, Esq.  
Ramir M. Hernandez, Esq.  
Wright, Finlay & Zak, LLP  
7785 W. Sahara Ave., Ste. 200  
Las Vegas, NV 89117

Shellpoint Mortgage Servicing  
P.O. Box 10826  
Greenville, SC 29603

1900 Capital Trust II  
By U.S. Bank Trust National Assoc.  
300 Delaware Ave, 9<sup>th</sup> Floor  
Wilmington, DE 19801

DATED: This 11<sup>th</sup> day of February, 2020.



Employee of Hon. Leon Aberasturi



FILED

2028 APR 24 PM 1:39

TANYA SCERINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Victoria Tovar* DEPUTY

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2 Matthew K. Schriever (10745)  
3 Alex R. Velto (14961)  
4 HUTCHISON & STEFFEN, PLLC  
5 10080 West Alta Drive, Suite 200  
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8 Fax (702) 385-2086  
9 mschriever@hutchlegal.com

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10 2320 Potosi Street, Suite 130  
11 Las Vegas, Nevada 89146  
12 Tel (702) 305-9157  
13 Fax (310) 730-5967  
14 caseynelson@wedgewood-inc.com

12 *Attorney for Defendant / Counterclaimant*  
13 *Breckenridge Property Fund, LLC*

14 **THIRD JUDICIAL DISTRICT COURT**

15 **LYON COUNTY, NEVADA**

16  
17 ALBERT ELLIS LINCICOME, JR., and  
18 VICENTA LINCICOME,  
19 Plaintiff,

20 v.

21 SABLES, LLC, a Nevada limited liability  
22 company, as Trustee of the Deed of Trust  
23 given by Vicenta Lincicome and dated  
24 5/23/2007; FAY SERVICING, LLC, a  
25 Delaware limited liability company and  
26 subsidiary of Fay Financial, LLC; PROF-  
27 2013-MF LEGAL TITLE TRUST by U.S.  
28 BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.;  
BRECKENRIDGE PROPERTY FUND  
2016; NEWREZ LLC dba SHELLPOINT  
MORTGAGE SERVICING, LLC; 1900

Case No.: 18-CV-01332

Dept No.: II

**REPLY IN SUPPORT OF MOTION  
FOR ORDER REQUIRING  
PLAINTIFF TO DEPOSIT RENTAL  
AND/OR MORTGAGE PAYMENTS  
WITH COURT**



1 CAPITAL TRUST II, BY U.S. BANK  
2 TRUST NATIONAL ASSOCIATION;  
3 MCM-2018-NPL2 and DOES 1-50.,

4 Defendants.

5 AND RELATED ACTIONS  
6

7 COMES NOW, BRECKENRIDGE PROPERTY FUND 2016, LLC  
8 ("Breckenridge"), by and through its counsel of record, HUTCHISON & STEFFEN, PLLC  
9 and WEDGEWOOD, LLC, and hereby files this reply in support of its motion for order  
10 requiring plaintiff to deposit rental and/or mortgage payments with court.

11 In their Opposition, Plaintiffs argue that they should not be required to post rent  
12 with the court during the pendency of this matter because they recorded a lis pendens  
13 against the Subject Property. However, Plaintiffs fail to provide any legal support for the  
14 argument that recording the lis pendens absolves them of the need to post rent/mortgage  
15 payments as security during this wrongful foreclosure lawsuit. A lis pendens is not a  
16 substitute for a bond or for an injunction in a case. A lis pendens – or notice of pendency  
17 of action – functions only to provide notice of a lawsuit; it does not prevent or enjoin a  
18 foreclosure sale from happening. Here, Plaintiffs had the opportunity to prevent the  
19 foreclosure sale of the Subject Property if they would have timely posted the required  
20 bond. They failed to post the required bond and now continue to reside in the Subject  
21 Property – that they do not own – free from mortgage and rent. Their actions are not  
22 equitable or fair. Breckenridge paid \$294,00.01 over fifteen (15) months ago and is  
23 entitled to some form of security to protect its interest in the Subject Property.

24 Plaintiffs also argue that Breckenridge is not entitled to rents because this is a void  
25 sale. However, there have been no orders from this Court declaring the foreclosure to be  
26 void. Plaintiffs arguments of a void sale are nothing but arguments at this point. The  
27 parties are in the midst of discovery and there have been no factual findings or orders  
28 entered by this Court that the foreclosure sale is void. This uncertainty is the exact reason



1 that the Court should require rent/mortgage payments to be posted. Posting payments will  
2 provide protection and security to all parties involved. If Plaintiffs are successful in their  
3 lawsuit, they are still going to be required to make mortgage payments because they do not  
4 get the house for free. Posting mortgage payments will therefor benefit the Plaintiffs in the  
5 long run by paying down their mortgage balance. Not only does this act as security for the  
6 Plaintiffs but it also acts as security for the bank because those payments would ultimately  
7 reduce the amount of debt owed to the bank. If the bank is successful in defending the  
8 Plaintiffs' lawsuit, then requiring Plaintiffs to post payments will provide security for  
9 Breckenridge in the form of rental payments during this period of time that Breckenridge  
10 has not been able to have possession of the Subject Property due to Plaintiffs unlawful  
11 possession of it. Not only does requiring payments to be posted provide security to all but  
12 it is also equitable for all involved.

13 It is Plaintiffs who have put themselves in this situation. They chose not to make  
14 their mortgage payments which resulted in foreclosure to commence. They chose not to  
15 post the bond which resulted in the foreclosure sale to occur. They chose not to set aside  
16 cash every month in the amount of the disputed loan modification payment which would  
17 have allowed them to have the funds to post the bond.

18 Plaintiffs are receiving a windfall in not making a mortgage payment in years and  
19 now being allowed to reside in the Subject Property rent free for over fifteen (15) months  
20 since the foreclosure.

21 Plaintiffs opposition did not dispute or oppose Breckenridge's evidence of the fair  
22 market rental value for the Subject Property. Thus, upon granting this motion, the Court  
23 should order that the monthly payments be posted in that range of \$2,250.00 to \$2,500.00

24 Based on the foregoing Breckenridge requests this Court issue an Order requiring  
25 the Plaintiffs to post rental and/or mortgage payments with the court as security during the  
26 pendency of this matter.

27 ///


28 ///



Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that the preceding document filed in this court does not contain the social security number of any person.

DATED this 24 day of April, 2020.

HUTCHISON & STEFFEN, PLLC



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Matthew K. Schriever (10745)  
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*Attorney for Defendant / Counterclaimant  
Breckenridge Property Fund, LLC*



**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Hutchison & Steffen, and that on the date indicated below, I served a true and correct copy of the **REPLY IN SUPPORT OF MOTION FOR ORDER REQUIRING PLAINTIFF TO DEPOSIT RENTAL AND/OR MORTGAGE PAYMENTS WITH COURT** via U.S. Mail to the parties designated below.

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US. Bank, National Association as Legal Title  
Trustee; Fay Servicing, LLC, and Shellpoint  
Mortgage Servicing, LLC*

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*Attorney for Bank of America*

DATED this 24<sup>th</sup> day of April 2020.

  
An Employee of HUTCHISON & STEFFEN



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18 *Attorney for Defendant / Counterclaimant*  
19 *Breckenridge Property Fund, LLC*

20 **THIRD JUDICIAL DISTRICT COURT**

21 **LYON COUNTY, NEVADA**

22 ALBERT ELLIS LINCICOME, JR., and  
23 VICENTA LINCICOME,  
24  
25 Plaintiff,

26 v.

27 SABLES, LLC, a Nevada limited liability  
28 company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-MF LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.;  
BRECKENRIDGE PROPERTY FUND  
2016; NEWREZ LLC dba SHELLPOINT  
MORTGAGE SERVICING, LLC; 1900  
CAPITAL TRUST II, BY U.S. BANK  
TRUST NATIONAL ASSOCIATION;

Case No.: 18-CV-01332

Dept No.: II

**BRECKENRIDGE PROPERTY  
FUND 2016, LLC'S REPLY IN  
SUPPORT OF MOTION FOR  
LEAVE TO FILE CROSSCLAIM  
AGAINST PROF-2013-M4 LEGAL  
TITLE TRUST, BY U.S. BANK  
NATIONAL ASSOCIATION, AS  
LEGAL TITLE TRUSTEE**



1 MCM-2018-NPL2 and DOES 1-50.,  
2 Defendants.

3 AND RELATED ACTIONS  
4

5 COMES NOW, BRECKENRIDGE PROPERTY FUND 2016, LLC  
6 ("Breckenridge"), by and through its counsel of record, HUTCHISON & STEFFEN, PLLC  
7 and WEDGEWOOD, LLC, and hereby files this reply in support of its motion for leave to  
8 file a crossclaim against PROF-2013-M4 LEGAL TITLE TRUST, BY U.S. BANK  
9 NATIONAL ASSOCIATION, AS LEGAL TITLE TRUSTEE ("Prof-2013-M4").

10 In its opposition to the Breckenridge's motion, Prof-2013-M4 argues that  
11 Breckenridge lacks standing to bring a wrongful foreclosure claim against Prof-2013-M4,  
12 that the recorded lis pendens prevents Breckenridge from proceeding on its negligent  
13 misrepresentation claim, and that Prof-2013-M4 is the wrong party because the note and  
14 deed of trust had already been assigned to 1900 CAPITAL TRUST II, BY U.S. BANK  
15 TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACTIY BUT  
16 SOLELY AS CERTIFICATE ON TRUSTEE ON 12/26/18 ("1900 Capital") prior to the  
17 foreclosure sale even though that assignment was not recorded until months later.

18 The purpose of Breckenridge's motion is to ensure that it receives a refund of the  
19 \$294,000.01 that it paid at the foreclosure sale and its related damages in the event the  
20 foreclosure sale is set aside. It makes no difference to Breckenridge whether those funds  
21 come from Prof-2013-M4, 1900 Capital, the servicer of the loan, or another entity that  
22 might be holding those funds. Accordingly, if needed, Breckenridge seeks leave to amend  
23 its motion to allow Breckenridge to name Prof-2013-M4 and 1900 Capital as defendants.

24 This court should grant the motion pursuant to NRCP 15(a)(2) because justice  
25 requires it. Otherwise both the Plaintiff and the bank will receive a windfall in this matter  
26 – Plaintiff by having their note reduced by the amount paid by Breckenridge while also  
27 being able to retain possession of the Subject Property and the bank by receiving a

28 ///



1 significant payment and reduced the amount owed under the delinquent note – while  
2 Breckenridge gets nothing while also losing the monies it paid at the foreclosure sale.

3 Leave to amend is not futile; rather, justice in this matter requires that leave be  
4 given. If the court ultimately sets aside the foreclosure sale, then the sale would be a void  
5 sale – as if it never occurred. If the sale never occurred, then it would be inequitable for the  
6 bank to retain the funds paid by Breckenridge. Breckenridge's motion is not frivolous or  
7 prejudicial, it does not cause undue delay, and is not made in bad faith.

8 **I. Breckenridge Has A Claim For Wrongful Foreclosure/Rescission and**  
9 **Restitution.**

10 Prof-2013-M4's reliance on *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284  
11 (1983) and *Hines v. Nat'l Default Servicing Corp.*, 131 Nev. 1291 (2015) for its argument  
12 that Breckenridge does not have standing to bring a wrongful foreclosure is without merit  
13 because those cases did not involve third-party purchasers. Breckenridge's claim does not  
14 argue that the Lincicome's were not in breach of condition or failure of performance.  
15 Breckenridge has no knowledge of the existence of absence of those fact because it was not  
16 involved in the matter until it purchased the Subject Property at the foreclosure sale.  
17 Breckenridge hopes that the foreclosure sale is determined valid and that it retains  
18 ownership of the Subject Property. Breckenridge's claim is an alternative claim for  
19 Wrongful Foreclosure/Rescission and Restitution in the event the Lincicome's claims to set  
20 aside the foreclosure sale are sustained because it would be unjust for Prof-2013-M4 to  
21 retain the \$294,000.01 paid by Breckenridge at the foreclosure sale in that event.

22 Additionally, Breckenridge's claim is for restitution. The terms "restitution" and  
23 "unjust enrichment" are the modern counterparts of the doctrine of quasi-contract. *Smith v.*  
24 *Smith*, 95 Idaho 477, 511 P.2d 294 (1973). The purpose of quasi-contractual relief is to do  
25 justice to the parties regardless of their intention. *Trollope v. Koerner*, 106 Ariz. 10, 470  
26 P.2d 91 (1970). "The essential elements of quasi contract are a benefit conferred on the  
27 defendant by the plaintiff, appreciation by the defendant of such benefit, and acceptance  
28 and retention by the defendant of such benefit under circumstances such that it would be



1 inequitable for him to retain the benefit without payment of the value thereof.” *Dass v.*  
2 *Epplen*, 162 Colo. 60, 424 P.2d 779, 780 (Colo. 1967). Unjust enrichment occurs  
3 whenever a person has and retains a benefit which in equity and good conscience belongs  
4 to another. *L & A Drywall, Inc. v. Whitmore Const. Co. Inc.*, 608 P.2d 626 (Utah 1980).  
5 See also, *Unionamerica Mortg. and Equity Trust v. McDonald*, 97 Nev. 210, 626 P.2d 1272  
6 (1981). Here, it would be inequitable for Prof-2013-M4’s to retain the \$294,000.01 paid by  
7 Breckenridge at the foreclosure sale and for Breckenridge to receive nothing.

8 **II. Breckenridge Has A Claim For Negligent Misrepresentation.**

9 In Nevada, the elements for a negligent misrepresentation claim are that: (i) the  
10 defendant supplied information while in the course of its business, profession or  
11 employment in which it had a pecuniary interest, (ii) the information must have been false,  
12 (iii) the information must have been supplied for the guidance of the plaintiff in his  
13 business transactions, (iv) the defendant must have failed to exercise reasonable care or  
14 competence in obtaining or communicating the information, (v) the plaintiff must have  
15 justifiably relied upon the information by taking action, and (vi) as a result of reliance upon  
16 the accuracy of the information, the plaintiff sustained damages. Nev. J.I. 9.05.

17 The notice of default recorded by Prof-2013-M4’s agent made numerous  
18 representations, of which Breckenridge justifiably relied upon prior to purchasing the  
19 Subject Property at the foreclosure sale, including:

- 20 1. That the agent was the appointed substituted Trustee, or acting as the agent  
21 for the Trustee or Beneficiary under the deed of trust securing the note;
- 22 2. That a breach of the obligations for which the deed of trust is a security had  
23 occurred; and
- 24 3. That the beneficiary of the deed of trust had elected to have the Subject  
25 Property sold to satisfy the obligations.

26 The notice of sale recorded by Prof-2013-M4’s agent made numerous  
27 representations, of which Breckenridge justifiably relied upon prior to purchasing the  
28 Subject Property at the foreclosure sale, including:



- 1           1.     The Lincicome's were in default under a deed of trust;
- 2           2.     That unless action was took to protect the property, the property may be sold
- 3                 at a public sale; and
- 4           3.     That the agent would sell at public auction all right, title, and interest it held
- 5                 in the Subject Property.

6           These six representations and statements were then published to potential bidders  
7 by both recording the documents and also publishing the notice of sale in the local papers.  
8 Obviously, the purpose of recording and publishing these notices was to attract potential  
9 bidders and to have such bidders purchase the Subject Property in reliance upon the  
10 notices. Prior to purchasing a property at a NRS 107 sale, Breckenridge reviews copies of  
11 the notice of default and notice of sale, reviews the property history, reviews the recorded  
12 documents, and makes a determination of the value of the property.

13           In its attempt to oppose Breckenridge's negligent misrepresentation claims, Prof-  
14 2013-M4 points to the fact that a lis pendens had also been recorded. A notice of lis  
15 pendens is a document recorded with the recorder's office giving all the world constructive  
16 notice that the plaintiff in a lawsuit claims an interest in certain real property. The  
17 recording of a lis pendens requires the filing of a lawsuit and that the lawsuit involves some  
18 claim legal interest in the real property, such as a title dispute, a lien dispute, or a lien  
19 foreclosure. *In re Bradshaw*, 315 B.R. 875 (Bkrtcy. D. Nev. 2004); *see also* NRS 14.010.

20           In this matter, the notice of lis pendens was extremely vague and did not indicate  
21 that the Lincicome's were challenging the bank's authority to foreclose on the Subject  
22 Property. Rather, the lis pendens only indicated, "This Complaint involves claims for relief  
23 for Injunctive Relief, Breach of Contract, Breach of Duty to Act in Good Faith and Fair  
24 Dealing, Declaratory Relief and Special Damages for Attorney's Fees in favor of Plaintiffs  
25 as related to the following parcel of real property commonly known as 70 Riverside Drive,  
26 Dayton, Nevada 89403[.]" Nowhere in the lis pendens is the argument specifically alleged  
27 that the bank did not have the authority to foreclose. The lis pendens did not alert  
28 Breckenridge to these deficiencies.



1 Despite the unclear nature of the recorded lis pendens, discovery will show that  
2 Breckenridge did review the underlying court record to determine the status of the lawsuit  
3 before making a bid at the foreclosure sale. Thus, while Breckenridge would have  
4 knowledge of the recorded lis pendens, it would also have equal knowledge of the  
5 December 31, 2018 order enjoining the foreclosure if the Plaintiffs posted of a bond. It  
6 would also have equal knowledge that Plaintiffs failed to post the bond. Breckenridge  
7 would not have purchased the Subject Property at the foreclosure sale had that December  
8 31, 2018 order not been filed.

9 Notwithstanding the lis pendens or the December 31, 2018 order, if Prof-2013-M4  
10 did not have authority to proceed with foreclosure but proceeded with the sale nonetheless,  
11 the mere recording of a lis pendens does not absolve Prof-2013-M4 under a negligent  
12 misrepresentation theory. By proceeding with the foreclosure sale, Prof-2013-MF  
13 represented that it had authority to proceed with the foreclosure sale and Breckenridge  
14 relied on those representations coupled with Prof-2013 MF's willingness to proceed with  
15 the foreclosure sale based on the December 31, 2018 order.

16 If this court finds that the foreclosure was void, then Breckenridge will have a valid  
17 claim for negligent misrepresentation against Prof-2013-M4. The purchase of the Subject  
18 Property was made under the assumption that Prof-2013-M4 had the legal right to conduct  
19 the foreclosure sale. Prof-2013-M4 represented to Breckenridge, and others, that it had the  
20 legal authority to conduct the NRS 107 foreclosure sale and to transfer title to the Subject  
21 Property. However, Prof-2013-M4's information to Breckenridge was false if it is later  
22 determined that it had no authority to hold the foreclosure sale. The information presented  
23 to Breckenridge – the notice of default, the notice of sale, the December 31, 2018 order,  
24 and the actual holding of the foreclosure – were all made to induce Breckenridge to  
25 purchase the Subject Property.

26 Prof-2013-M4 has retained Breckenridge's payment of \$294,000.01 for the  
27 purchase price for the Subject Property. Breckenridge relied on Prof-2013-M4's  
28 representations as evidenced by the purchase price of the Subject Property, which was the



1 fair market value of the Subject Property at time of the foreclosure sale. As a result – if this  
2 court declares the sale void – Breckenridge will incur damages in that it tendered  
3 \$294,000.01 to Prof-2013-M4 but will not have received anything in return because of  
4 Prof-2013-M4's negligent misrepresentations of its authority to foreclosure on the Subject  
5 Property.

6 **III. Prof-2013-M4 Assignment To 1900 Capital.**

7 Upon information and belief, the February 2019 assignment to 1900 Capital has not  
8 previously been disclosed in this matter. Furthermore, the legal effect or validity of that  
9 later recorded assignment has not been determined. 1900 Capital is not currently a named  
10 party in this action, but it is anticipated that the Lincicome's are likely to seek amendment  
11 of their underlying complaint to include 1900 Capital as a defending party now that its  
12 supposed interest has been disclosed.

13 To the extent Prof-2013-M4's representation that the note and deed of trust had  
14 been assigned to 1900 Capital prior to the foreclosure sale is accurate and that it is the  
15 entity holding or claiming an interest in the purchase funds, then Breckenridge requests that  
16 it be granted leave to name 1900 Capital in their crossclaim in addition to Prof-2013-M4  
17 since it is not clear which entity is holding the funds at this point.

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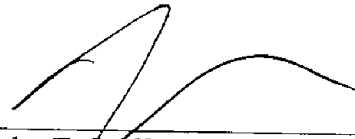
1 **IV. Conclusion.**

2 For the foregoing reasons, and for judicial efficiency to avoid the need to file a  
3 subsequent lawsuit in the event this Court invalids the foreclosure sale, this court should  
4 grant Breckenridge's motion.

5 Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that  
6 the preceding document filed in this court does not contain the social security number of  
7 any person

8 DATED this 12 day of September 2020.

9 HUTCHISON & STEFFEN, PLLC

10 

11  
12 John T. Steffen (4390)  
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17 Casey J. Nelson (12259)  
18 WEDGEWOOD, L.L.C.  
19 Office of the General Counsel  
20 2320 Potosi Street, Suite 130  
21 Las Vegas, Nevada 89146

22 *Attorney Defendant and Counterclaimant,*  
23 *Breckenridge Property Fund 2016, L.L.C.*  
24  
25  
26  
27  
28



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Hutchison & Steffen, and that on the date  
3 indicated below, I served a true and correct copy of the **BRECKENRIDGE PROPERTY**  
4 **FUND 2016, LLC'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE**  
5 **CROSSCLAIM AGAINST PROF-2013-M4 LEGAL TITLE TRUST, BY U.S. BANK**  
6 **NATIONAL ASSOCIATION, AS LEGAL TITLE TRUSTEE** via U.S. Mail to the  
7 parties designated below:

8  
9 Michael G. Millward, Esq.  
10 MILLWARD LAW, LTD.  
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12 Minden, NV 89423  
13 *Attorney for Plaintiffs*

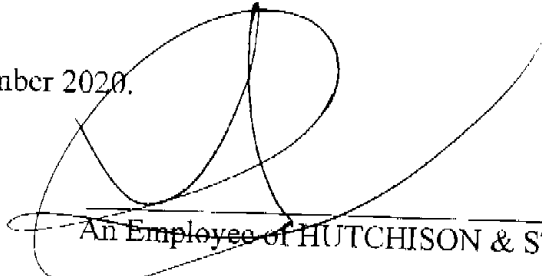
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17 *Attorney for Prof-2013-M4 Legal Title*  
*Trust by US. Bank, National Association as*  
*Legal Title Trustee; Fay Servicing, LLC,*  
*and Shellpoint Mortgage Servicing, LLC*

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23 *Attorney for Bank of America*

24 DATED this 10 day of September 2020.

25   
26 An Employee of HUTCHISON & STEFFEN  
27  
28



FILED

2020 OCT -2 PM 4: 15

TANYA SCEIRINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Jindsey McAlister*

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15 *Attorney for Defendant, Counterclaimant, and Cross-Plaintiff*  
16 *Breckenridge Property Fund 2016, LLC*

13 **THIRD JUDICIAL DISTRICT COURT**  
14 **LYON COUNTY, NEVADA**

15 ALBERT ELLIS LINCICOME, JR., and  
16 VICENTA LINCICOME,

17 Plaintiff,

18 v.

19 SABLES, LLC, a Nevada limited liability  
20 company, as Trustee of the Deed of Trust given  
21 by Vicenta Lincicome and dated 5/23/2007;  
22 FAY SERVICING, LLC, a Delaware limited  
23 liability company and subsidiary of Fay  
24 Financial, LLC; PROF-2013-MF LEGAL  
25 TITLE TRUST by U.S. BANK, N.A., as Legal  
26 Title Trustee; for BANK OF AMERICA, N.A.;  
27 BRECKENRIDGE PROPERTY FUND 2016;  
28 NEWREZ LLC dba SHELLPOINT  
MORTGAGE SERVICING, LLC; 1900  
CAPITAL TRUST II, BY U.S. BANK TRUST  
NATIONAL ASSOCIATION; MCM-2018-  
NPL2 and DOES 1-50.,

Defendants.

Case No.: 18-CV-01332

Dept No.: II

**BRECKENRIDGE PROPERTY  
FUND 2016, LLC'S CROSSCLAIM  
AGAINST PROF-2013-M4 LEGAL  
TITLE TRUST, BY U.S. BANK  
NATIONAL ASSOCIATION, AS  
LEGAL TITLE TRUSTEE**



1 BRECKENRIDGE PROPERTY FUND 2016,  
2 LLC,

3 Counterclaimant,

4 vs.

5 ALBERT ELLIS LINCICOME, JR., an  
6 individual; VICENTA LINCICOME, an  
7 individual; and DOE OCCUPANTS 1-5.

8 Counterdefendants.

9 BRECKENRIDGE PROPERTY FUND 2016,  
10 LLC,

11 Cross-Plaintiff,

12 vs.

13 PROF-2013-M4 LEGAL TITLE TRUST, BY  
14 U.S. BANK NATIONAL ASSOCIATION, AS  
15 LEGAL TITLE TRUSTEE,

16 Cross-Defendant.

17 COMES NOW, BRECKENRIDGE PROPERTY FUND 2016, LLC ("Cross-  
18 Plaintiff"), by and through its counsel of record, HUTCHISON & STEFFEN, PLLC and  
19 WEDGEWOOD, LLC, and hereby files this Crossclaim against PROF-2013-M4 LEGAL  
20 TITLE TRUST, BY U.S. BANK NATIONAL ASSOCIATION, AS LEGAL TITLE  
21 TRUSTEE ("Cross-Defendant") as follows:

22 **JURISDICTION AND VENUE**

23 1. This court has subject matter jurisdiction over this action under § 6, Article  
24 6 of the Nevada Constitution.

25 2. This Court has subject matter jurisdiction over this matter.

26 3. Cross-Defendant has sufficient minimum contacts with Nevada so as to  
27 allow this Court to exercise jurisdiction over it.

28 4. Venue is proper in this Judicial District under NRS § 13.010 and 13.040.

///



1 **PARTIES**

2 5. The following are real parties in interest pursuant to NRCP 17.

3 6. Cross-Plaintiff is a limited liability company authorized to do business and  
4 doing business in Lyon County, Nevada and is the lawful title holder of the real property  
5 located at 70 Riverside Drive, Dayton, Nevada 89403 ("Subject Property").

6 7. Cross-Defendant is, and at all times pertinent hereto was, a national  
7 banking association authorized to do business and doing business in Lyon County,  
8 Nevada.

9 **FACTUAL ALLEGATIONS**

10 8. In May 2007, Albert and Vicente Lincicome ("Lincicome's") obtained a  
11 loan from Sierra Pacific ("Sierra Loan") to finance their purchase of the Subject Property.

12 9. As security for repayment of the Sierra Loan, the Lincicome's executed a  
13 first priority Deed of Trust against the Subject Property ("Deed of Trust"), which was  
14 recorded with the Lyon County Recorder's Office on or about May 25, 2007.

15 10. Thereafter, the Deed of Trust was eventually assigned to PROF-2013-M4  
16 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee ("Cross-  
17 Defendant") through a Nevada Assignment of Deed of Trust, which was recorded with the  
18 Lyon County Recorder's Office on or about November 25, 2015.

19 11. Cross-Plaintiff is informed and believes, and on that basis alleges, that  
20 during the Lincicome's ownership of the Subject Property, they became delinquent in the  
21 payment of the Sierra Loan.

22 12. As a result of that delinquency, Cross-Defendant caused its foreclosure  
23 agent and/or trustee to record a Notice of Default and Election with the Lyon County  
24 Recorder's Office on or about November 3, 2017.

25 13. Thereafter, Cross-Defendant caused its foreclosure agent and/or trustee to  
26 record a Notice of Trustee's Sale with the Lyon County Recorder's Office.

27 14. The Lincicome's subsequently filed the underlying Complaint in this  
28 action, seeking to postpone or cancel the scheduled foreclosure sale.



1           15.    On December 31, 2018, this Court entered an Order enjoining the  
2 foreclosure on the Subject Property on the condition that the Lincicome's post a bond in  
3 the amount of \$172,610.67 and additional security in the amount of \$2,105.10 per month  
4 thereafter.

5           16.    The Lincicome's failed to post the required bond and security, which  
6 resulted in the foreclosure sale proceeding forward on January 4, 2019.

7           17.    Counterclaimant purchased the Subject Property at the NRS 107  
8 foreclosure sale for \$294,000.01 and took title thereto.

9           18.    The acquisition of the Subject Property by Cross-Plaintiff was: (i) at or  
10 above fair market value for the Subject Property; (ii) made in good faith and for valuable  
11 consideration; and (iii) made without knowledge of any adverse legal or equitable claim to  
12 the Subject Property.

13           19.    Cross-Plaintiff filed a Counterclaim against the Lincicome's on October 3,  
14 2019 through which it claims ownership to the Subject Property, seeks to quiet title in its  
15 favor, seeks possession of the Subject Property, and seeks other monetary damages

16           20.    On December 20, 2019, the Lincicome's filed their Second Amended  
17 Complaint through which it claims ownership to the Subject Property, seeks to quiet title  
18 in its favor, seeks to set aside Cross-Defendant's foreclosure sale, and seeks other  
19 monetary damages.

20           21.    In the event the Lincicome's claims to set aside the foreclosure sale are  
21 sustained, then Cross-Plaintiff is entitled to damages against Cross-Defendant for its  
22 wrongful foreclosure sale of the Subject Property.

23           22.    It has become necessary for the Cross-Plaintiff to retain the services of  
24 counsel to prosecute these claims and Cross-Plaintiff is entitled to any and all costs  
25 incurred herein including, without limitation, any and all attorney fees.

26    ///

27    ///

28    ///



1 **FIRST CAUSE OF ACTION**

2 (Wrongful Foreclosure/Rescission and Restitution)

3 23. Cross-Plaintiff repeats and realleges the allegations contained in the  
4 preceding paragraphs as though fully set forth herein.

5 24. Cross-Plaintiff properly acquired title and ownership of the Subject  
6 Property in exchange for good and valuable consideration paid.

7 25. In the event the Lincicome's claims to set aside the foreclosure sale are  
8 sustained, then Cross-Defendant's sale of the Subject Property to Cross-Plaintiff was  
9 wrongful, null, void, and of no effect.

10 26. If Cross-Defendant's foreclosure sale was wrongful, null, void, and of no  
11 effect, then it would be unjust for Cross-Defendant to retain the benefit of its invalid  
12 foreclosure sale. Thus, the sale must be rescinded and the funds paid by Cross-Plaintiff's  
13 invalid foreclosure sale must be returned.

14 27. As a direct, legal, and proximate result of Cross-Defendant's actions,  
15 Cross-Plaintiff has been damaged by suffering a loss of equity, loss of rental income,  
16 unavailability of credit, and increased costs of credit in an amount in excess of Fifteen  
17 Thousand Dollars (\$15,000.00).

18 WHEREFORE, Cross-Plaintiff prays for the following:

19 1. In the event the Court does not order, declare, and determine that Cross-  
20 Plaintiff has free and clear title to the Subject Property as prayed for in Cross-Plaintiff's  
21 counterclaim against the Lincicome's, then the Court must order, declare, and determine  
22 that Cross-Defendant's foreclosure sale and deed to Cross-Plaintiff was wrongful, null,  
23 void, and of no effect; that the foreclosure sale must be rescinded; and that the funds paid  
24 by Cross-Plaintiff be returned;

25 2. For an award of damages and losses against Cross-Defendant in an amount  
26 in excess of \$15,000.00 to be proven at trial;

27 3. For an award of reasonable attorney's fees and costs incurred in this action;  
28 and;



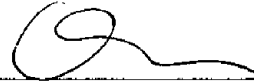
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4. For such other and further relief as the Court may deem proper.

Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that the preceding document filed in this court does not contain the social security number of any person

DATED this 7 day of October, 2020.

HUTCHISON & STEFFEN, PLLC



John T. Steffen (4390)  
Matthew K. Schriever (10745)  
Alex R. Velto (14961)  
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WEDGEWOOD, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, Nevada 89146

*Attorney for Defendant, Counterclaimant,  
and Cross-Plaintiff,  
Breckenridge Property Fund 2016, LLC*



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Hutchison & Steffen, and that on the date  
3 indicated below, I served a true and correct copy of the **BRECKENRIDGE PROPERTY**  
4 **FUND 2016, LLC'S CROSSCLAIM AGAINST PROF-2013-M4 LEGAL TITLE**  
5 **TRUST, BY U.S. BANK NATIONAL ASSOCIATION, AS LEGAL TITLE**  
6 **TRUSTEE** via U.S. Mail to the parties designated below.

7 Michael G. Millward, Esq.  
8 MILLWARD LAW, LTD.  
9 1591 Mono Avenue  
Minden, NV 89423

Justin M. Clouser, Esq.  
1512 US Highway 395 N, Ste. 1  
Gardnerville, NV 89410

*Attorney for Plaintiffs*

10 *Attorney for Plaintiffs*

11 R. Samuel Ehlers, Esq.  
12 Ramir M. Hernandez, Esq.  
13 WRIGHT FINLAY & ZAK, LLP  
14 7785 W. Sahara Avenue, #200  
Las Vegas, NV 89117

Shadd A. Wade, Esq.  
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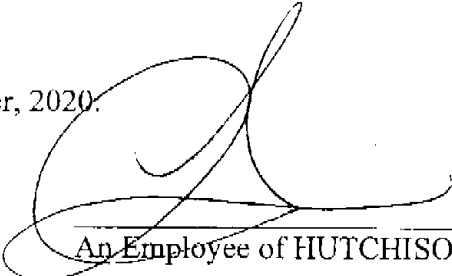
*Attorney for Sables, LLC*

15 *Attorney for Prof-2013-M4 Legal Title*  
16 *Trust by US. Bank, National Association*  
17 *as Legal Title Trustee; Fay Servicing,*  
*LLC, and Shellpoint Mortgage Servicing,*  
*LLC*

18 Darren T. Brenner, Esq.  
19 Scott R. Lachman, Esq.  
20 ACKERMAN, LLP  
21 1635 Village Center Circle, #200  
Las Vegas, NV 89134

22 *Attorney for Bank of America*

23 DATED this 21 day of October, 2020.

24   
25 \_\_\_\_\_  
26 An Employee of HUTCHISON & STEFFEN  
27  
28



1 WRIGHT, FINLAY & ZAK, LLP  
2 Darren T. Brenner, Esq.  
3 Nevada Bar No. 8386  
4 Ramir M. Hernandez, Esq.  
5 Nevada Bar No. 13146  
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8 (702) 475-7964; Fax: (702) 946-1345  
9 [rhernandez@wrightlegal.net](mailto:rhernandez@wrightlegal.net)

10 *Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association,*  
11 *as Legal Title Trustee, Fay Servicing LLC, and Shellpoint Mortgage Servicing, LLC*

12 **THIRD JUDICIAL DISTRICT COURT**

13 **LYON COUNTY, NEVADA**

14 ALBERT ELLIS LINCICOME, JR. and  
15 VICENTA LINCICOME,

16 Plaintiffs,

17 vs.

18 SABLES, LLC, a Nevada limited liability  
19 company, as Trustee of the Deed of Trust, given  
20 by Vicenta Lincicome and dated 5/23/2007;  
21 FAY SERVICING, LLC, a Delaware limited  
22 liability company and , subsidiary of Fay  
23 Financial, LLC; PROF-2013-M4 LEGAL  
24 TITLE TRUST by U.S. BANK, N.A., as Legal  
25 Title Trustee; for BANK OF AMERICA, N.A.;  
26 BRECKENRIDGE PROPERTY FUND 2016, a  
27 Utah limited liability company; NEWREZ,  
28 LLC, d/b/a SHELLPOINT MORTGAGE  
SERVICING , LLC, substituted in for DOE 1;  
1900 CAPITAL TRUST II, BY U.S. BANK  
TRUST NATIONAL ASSOCIATION,  
substituted in for DOE 2; MCM-2018-NPL2,  
substituted in for DOE3; and DOES 4-10.

Defendants.

FILED

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TANYA SCHEINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

ORIGINAL

Case No.: 18-cv-01332

Dept. No.: II

**ANSWER TO BRECKENRIDGE  
PROPERTY FUND 2016, LLC'S  
CROSSCLAIM AGAINST PROF-2013-M4  
LEGAL TITLE TRUST, BY U.S. BANK  
NATIONAL ASSOCIATION, AS LEGAL  
TITLE TRUSTEE**



1  
2 BRECKENRIDGE PROPERTY FUND 2016,  
3 LLC,

4 Counterclaimant,

5 vs.

6 ALBERT ELLIS LINCICOME, JR., an  
7 individual; VICENTA LINCICOME, an  
8 individual; and DOE OCCUPANTS 1-5.

9 Counterdefendants.

10 BRECKENRIDGE PROPERTY FUND 2016,  
11 LLC,

12 Cross-Plaintiff,

13 vs.

14 PROF-2013-M4 LEGAL TITLE TRUST, BY  
15 U.S. BANK NATIONAL ASSOCIATION, AS  
16 LEGAL TITLE TRUSTEE,

17 Cross-Defendant.  
18

19  
20 Cross-Defendant, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association,  
21 as Legal Title Trustee ("U.S. Bank Trust"), by and through its attorneys of record, the law firm  
22 of Wright, Finlay & Zak, LLP, hereby files this Answer to Cross-Plaintiff's Cross-Complaint:

23 1. Answering Paragraph 1 of the Cross-Complaint, Cross-Defendant does not  
24 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
25 said allegations.

26 2. Answering Paragraph 2 of the Cross-Complaint, Cross-Defendant does not  
27 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
28 said allegations.



1           3.     Answering Paragraph 3 of the Cross-Complaint Cross-Defendant does not  
2 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
3 said allegations.

4           4.     Answering Paragraph 4 of the Cross-Complaint, Cross-Defendant does not  
5 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
6 said allegations.

7           5.     Answering Paragraph 5 of the Cross-Complaint, Cross-Defendant does not  
8 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
9 said allegations.

10          6.     Answering Paragraph 6 of the Cross-Complaint, Cross-Defendant admits that it  
11 is licensed to do business in Nevada. As to the remaining allegations, Cross-Defendant does not  
12 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
13 said allegations.

14          7.     Answering Paragraph 7 of the Cross-Complaint, Cross-Defendant does not  
15 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
16 said allegations.

17          8.     Answering Paragraph 8 of the Cross-Complaint, Cross-Defendant does not  
18 possess enough information to admit or deny the allegations; therefore, Cross-Defendant denies  
19 said allegations.

20          9.     Answering Paragraph 9 of the Cross-Complaint, Cross-Defendant admits that the  
21 referenced Deed of Trust speaks for itself.

22          10.    Answering Paragraph 10 of the Cross-Complaint, Cross-Defendant admits that  
23 the referenced Assignment of Deed of Trust speaks for itself.

24          11.    Answering Paragraph 11 of the Cross-Complaint, Cross-Defendant admits that  
25 the Lincicome's became delinquent on the Sierra Loan during the Lincicome's ownership of the  
26 Subject Property.

27          12.    Answering Paragraph 12 of the Cross-Complaint, Cross-Defendant admits that  
28 the referenced Notice of Default and Election speaks for itself.



1           13.     Answering Paragraph 13 of the Cross-Complaint, Cross-Defendant admits that  
2 the referenced Notice of Trustee's Sale speaks for itself.

3           14.     Cross-Defendant does not possess enough information to admit or deny the  
4 allegations in paragraph 14 of the Cross-Complaint; therefore, Cross-Defendant denies said  
5 allegations.

6           15.     Answering Paragraph 15 of the Cross-Complaint, Cross-Defendant admits that  
7 the referenced Court Order speaks for itself.

8           16.     Answering Paragraph 16 of the Cross-Complaint, Cross-Defendant admits the  
9 allegations therein.

10          17.     Cross-Defendant does not possess enough information to admit or deny the  
11 allegations in paragraph 17 of the Cross-Complaint; therefore, Cross-Defendant denies said  
12 allegations.

13          18.     Cross-Defendant does not possess enough information to admit or deny the  
14 allegations in paragraph 18 of the Cross-Complaint; therefore, Cross-Defendant denies said  
15 allegations.

16          19.     Answering Paragraph 19 of the Cross-Complaint, Defendant admits that the  
17 referenced Counterclaim speaks for itself.

18          20.     Answering Paragraph 20 of the Cross-Complaint, Cross-Defendant admits that  
19 the referenced Second Amended Complaint speaks for itself.

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

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

26          23.     Answering paragraph 23 of the Cross-Complaint, Cross-Defendant hereby  
27 repeats, realleges, and incorporates each of its admissions, denials, or other responses to all the  
28 paragraphs referenced hereinabove as if set forth at length and in full.



1           24.     Cross-Defendant does not possess enough information to admit or deny the  
2 allegations in paragraph 24 of the Cross-Complaint; therefore, Cross-Defendant denies said  
3 allegations.

4           25.     Cross-Defendant does not possess enough information to admit or deny the  
5 allegations in paragraph 25 of the Cross-Complaint; therefore, Cross-Defendant denies said  
6 allegations.

7           26.     Cross-Defendant does not possess enough information to admit or deny the  
8 allegations in paragraph 26 of the Cross-Complaint; therefore, Cross-Defendant denies said  
9 allegations.

10          27.     Answering paragraph 27 of the Cross-Complaint, Cross-Defendant denies the  
11 allegations therein.

12           **CROSS-DEFENDANTS ASSERT THE FOLLOWING AFFIRMATIVE DEFENSES:**

13                   **FIRST AFFIRMATIVE DEFENSE**

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

15           Cross-Plaintiff's Complaint fails to state a claim against Defendant upon which relief  
16 can be granted.

17                   **SECOND AFFIRMATIVE DEFENSE**

18                           **(Equitable Doctrines)**

19           Cross-Defendant alleges that the Cross-Plaintiff's claims are barred by the equitable  
20 doctrines of laches, unclean hands, and failure to do equity.

21                   **THIRD AFFIRMATIVE DEFENSE**

22                           **(Waiver and Estoppel)**

23           Cross-Defendant alleges that by reason of Cross-Plaintiff's acts and omissions, Cross-  
24 Plaintiff has waived its rights and is estopped from asserting the claims against Cross-  
25 Defendants.

26                   **FOURTH AFFIRMATIVE DEFENSE**

27                           **(Statute of Limitations)**

28           Cross-Defendant alleges that the Cross-Plaintiff's Complaint, and each cause of action



1 therein, is barred by the statute of limitations.

2 **FIFTH AFFIRMATIVE DEFENSE**

3 **(Conditions Precedent)**

4 Cross-Defendant alleges that Cross-Plaintiff's claims are barred as a result of the failure  
5 of Plaintiff to satisfy conditions precedent.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 **(Failure to Join a Necessary Party)**

8 Cross-Defendant alleges that Cross-Plaintiff's claims are barred as a result of the failure  
9 of Plaintiff to join a necessary party to the Cross-Complaint.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 **(Failure to Mitigate)**

12 Cross-Defendant alleges that by reason of Cross-Plaintiff's failure to mitigate its losses,  
13 Cross-Plaintiff has waived its rights and is estopped from asserting the claims against Cross-  
14 Defendants.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 **(Assumption of Risk)**

17 Cross-Defendant alleges that by reason of Cross-Plaintiff's acts and omissions, Cross-  
18 Plaintiff has waived its rights and is estopped from asserting the claims against Cross-  
19 Defendants.

20 **NINTH AFFIRMATIVE DEFENSE**

21 **(Bona Fide Purchaser)**

22 Cross-Defendant alleges that Cross-Plaintiff's is not entitled to relief from Cross-  
23 Defendant as it is not a bona fide purchaser of the subject property.

24 **TENTH AFFIRMATIVE DEFENSE**

25 **(Additional Affirmative Defenses)**

26 Defendants reserve the right to assert additional affirmative defenses in the event  
27 discovery and/or investigation indicates that additional affirmative defenses are applicable.  
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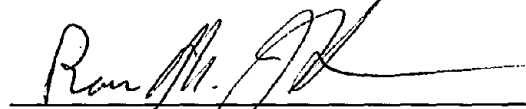
**PRAYER**

WHEREFORE, Defendant prays for judgment as follows:

1. That Cross-Plaintiffs take nothing by way of the Cross-Complaint;
2. For reasonable attorney's fees and costs; and
3. For any such other and further relief as the Court may deem just and proper in the case.

DATED this 27th day of October, 2020.

WRIGHT, FINLAY & ZAK, LLP



Ramir M. Hernandez, Esq.

Nevada Bar No. 13146

7785 W. Sahara Ave, Suite 200

Las Vegas, NV 89117

*Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association, as Legal Title Trustee and Fay Servicing LLC*



**AFFIRMATION**

**Pursuant to NRS 239B.03/603A.040**

The undersigned does hereby affirm that the foregoing document does not contain any of the following information governed by NRS 239B.030 and NRS 603A.040:

1. Social Security Number;
2. Driver License Number or Identification Card Number; or
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.

The term does not include any publically available information that is lawfully made available to the general public.

DATED this 27th day of October, 2020.

WRIGHT, FINLAY & ZAK, LLP



Ramir M. Hernandez, Esq.  
Nevada Bar No. 13146  
7785 W. Sahara Ave, Suite 200  
Las Vegas, NV 89117  
*Attorney for Defendants, Prof-2013 M4-Legal Title  
Trust, by U.S. Bank, National Association, as  
Legal Title Trustee and Fay Servicing LLC*



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK,  
3 LLP, and that on this 27th day of October, 2020, I did cause a true copy of the foregoing  
4 **ANSWER TO BRECKENRIDGE PROPERTY FUND 2016, LLC'S CROSSCLAIM**  
5 **AGAINST PROF-2013-M4 LEGAL TITLE TRUST, BY U.S. BANK NATIONAL**  
6 **ASSOCIATION, AS LEGAL TITLE TRUSTEE** to be served by placing a copy in the mail,  
7 addressed as follows:

8 Michael G. Millward, Esq.  
9 MILLWARD LAW, LTD.  
10 1591 Mono Ave.  
11 Minden, NV 89423

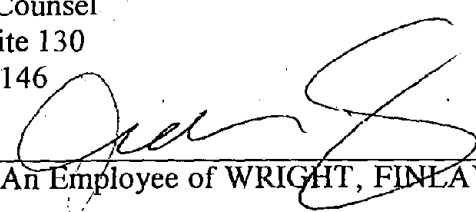
12 Justin M. Clouser, Esq.  
13 1512 US Highway 395 N, Ste. 1  
14 Gardnerville, NV 89410

15 Shadd A. Wade, Esq.  
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19 Darren T. Brenner, Esq.  
20 Scott R. Lachman, Esq.  
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23 Las Vegas, NV 89134

24 John T. Steffen, Esq.  
25 Matthew K. Schriever, Esq.  
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Casey J. Nelson, Esq.  
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An Employee of WRIGHT, FINLAY & ZAK, LLP



FILED

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TANYA SCIBINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Tanya Scibine*

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7 Attorneys for Bank of America, N.A.

8  
9 **THIRD JUDICIAL DISTRICT COURT**

10 **LYON COUNTY, NEVADA**

11 ALBERT ELLIS LINCICOME, JR. and  
12 VICENTA LINCICOME,

13 Plaintiffs,

14 v.

15 SABLES, LLC, a Nevada limited liability  
company, as trustee of the Deed of Trust given  
by Vicenta Lincicome and dated 5/23/2007;  
16 FAY SERVICING, LLC, a Delaware limited  
liability company and subsidiary of Fay  
17 Financial, LLC; PROF-2013 M4 LEGAL  
TITLE TRUST by U.S. BANK, N.A., as Legal  
18 Title Trustee; for BANK OF AMERICA, N.A.  
BRECKENRIDGE PROPERTY FUND 2016,  
19 a Utah limited liability company; NEWREZ,  
LLC d/b/a SHELLPOINT MORTGAGE  
20 SERVICING, LLC, substituted in for DOE 1;  
1900 CAPITAL TRUST II, BY U.S. BANK  
21 TRUST NATIONAL ASSOCIATION,  
substituted in for DOE 2; MCM-2018-NPL2,  
22 substituted in for DOE 3 and DOES 4-10,

23 Defendants.  
24

Case No. 18-cv-01332  
Dept. No.: II

**BANK OF AMERICA, N.A.'S MOTION  
FOR SUMMARY JUDGMENT AND  
MOTION FOR SANCTIONS**

25 Bank of America, N.A. (BANA) moves for summary judgment on all claims asserted by  
26 Albert Ellis Lincicome, Jr. and Vicenta Lincicome. BANA also moves for sanctions against the  
27 Lincicomes for failure to cooperate during discovery and failure to disclose a damages computation.  
28 ...



1 **I. INTRODUCTION**

2 The Lincicomes only made a handful of mortgage payments on their near half-million dollar  
3 home since mid-2008. They continue to reside in the home despite a 2019 foreclosure sale. BANA  
4 had no role in the foreclosure and cannot be held responsible for any purported statutory violation  
5 regarding the sale or the foreclosure process. BANA's role is limited to purported servicing issues  
6 in 2009-2011. The Lincicomes did not sue BANA until November 2018. The Lincicomes' claims  
7 regarding these issues are time-barred and relate to facts occurring before enactment of a statutory  
8 violation. BANA respectfully requests this court enter summary judgment in BANA's favor.  
9 Alternatively, BANA requests this court sanction the Lincicomes for their lack of cooperation  
10 during discovery and failure to disclose a damages computation.

11 **II. THE LINCICOMES FAILED TO COOPERATE DURING DISCOVERY**

12 This court previously denied BANA's dismissal motion so the Lincicomes could conduct  
13 discovery on their claims against BANA. Consistent with their mortgage history, the Lincicomes  
14 barely lifted a finger.<sup>1</sup> They failed to respond to written discovery and never disclosed a damages  
15 computation. These failures prejudiced BANA during discovery and now on summary judgment.  
16 Although they make excuse after excuse as to why they could not make monthly mortgage  
17 payments, they cannot present a substantial justification for their lack of diligence during discovery.  
18 This court should grant summary judgment to BANA for these reasons.

19 **A. The Lincicomes Failed to Respond to Written Discovery**

20 The Lincicomes served written discovery to BANA, including requests for production of  
21 documents, requests for admissions, and 115 requests for genuineness of documents. BANA timely  
22 responded to the Lincicomes' written discovery. The same was not reciprocated by the Lincicomes.  
23 BANA served its own written discovery on the Lincicomes on January 13, 2021. The Lincicomes  
24 responded to BANA's requests for admissions and genuineness of documents on February 12, 2021.

---

26  
27 <sup>1</sup> While the Lincicomes served some written discovery, they failed to depose any defendant—let  
28 alone BANA's 30(b)(6) witness—or any third party listed in its initial disclosures. The Lincicomes  
did not even bother disclosing BANA as a witness. [Ex. A]. The only BANA-related witness the  
Lincicomes identified is a BANA mortgage loan officer who purportedly communicated with the  
Lincicomes more than a decade ago about their loan. [*Id.*].



1 On February 24, 2021, after the due date, BANA's counsel received an email from the Lincicomes'  
2 counsel requesting a week extension to respond to the requests for production and interrogatories.  
3 BANA's counsel provided the extension as a professional courtesy. The Lincicomes have still not  
4 responded, all the while knowing this summary judgment motion was due. Their failure was not  
5 substantially justified and BANA has been prejudiced as a result. BANA does not believe it  
6 requires these discovery responses to achieve summary judgment on the grounds presented below.  
7 Notwithstanding, these responses should have been timely served as it is unknown what the  
8 Lincicomes will allege in their summary judgment opposition.

9 This court should issue appropriate sanctions under NRCP 37. These sanctions should  
10 including granting summary judgment, striking the operative complaint, and dismissing the action  
11 in whole or in part at least as to BANA. NRCP 37(b)(1). BANA reserves the right to supplement  
12 its summary judgment motion upon production of the outstanding written discovery.

13 **B. The Lincicomes Failed to Disclose a Damages Computation**

14 The Lincicomes served initial disclosures in April 2020. [Ex. A]. These disclosures are  
15 void of a damages computation. [Id.]. The Lincicomes did not serve any supplemental disclosures  
16 to include a damages computation. See NRCP 26(e)(1). They failed to comply with the mandatory  
17 pretrial disclosures requirements. See NRCP 16.1(a)(1)(A) (requiring a party to produce, "without  
18 awaiting a discovery request ... [a] computation of any category of damages claimed"). The failure  
19 to respond to written discovery compounded this failure. BANA has no comprehension of the kind  
20 of damages the Lincicomes seek against it. The Lincicomes could not even provide BANA a  
21 computation at their depositions toward the close of discovery. [Ex. B at 28; Ex. C at 261]. All  
22 BANA knows is that the Lincicomes seek the jurisdictional amount. [Ex. D at #37].

23 The Lincicomes did not disclose a computation of damages at any time, nor did they disclose  
24 a theory of damages against BANA. *Jackson v. United Artists Theatre Circuit, Inc.*, 278 F.R.D.  
25 586, 593 (D. Nev. 2011) (parties have a "duty to diligently obtain the necessary information and  
26 prepare and provide its damages computation within the discovery period"); *CCR/AG Showcase*  
27 *Phase I Owner, L.L.C. v. United Artists Theatre Circuit, Inc.*, 2010 WL 1947016, at \*5 (D. Nev.  
28 May 13, 2010) ("The party seeking damages must also timely disclose its theory of damages as well



1 as the computation of those damages." (emphasis excluded)). The Lincicomes could have easily  
2 supplemented their initial disclose with a damages computation. These chose not to.

3 BANA has been prejudiced by the lack of damages computation. Such a computation  
4 should have been made at the start of discovery and supplemented thereafter so BANA could  
5 "understand the contours of [its] potential exposure and make informed decisions regarding  
6 settlement and discovery." *Calvert v. Ellis*, 2015 WL 631284, at \*2 (D. Nev. Feb. 12, 2015)  
7 (quotations omitted); *see Silvagni v. Wal-Mart Stores, Inc.*, 320 F.R.D. 237, 240-41 (D. Nev. 2017)  
8 (explaining the purpose of damages computations and recognizing and computations should be  
9 more detailed as the case progresses). A computation is especially important here where there are  
10 multiple defendants with divergent positions and where BANA is no longer the loan servicer, was  
11 not involved in the foreclosure, and its purported servicing errors are remote in time. The  
12 Lincicomes failure to provide a damages computation is not substantially justified, even if an exact  
13 dollar amount cannot be determined.

14 BANA anticipates the Lincicomes may claim BANA could "figure out" damages based on  
15 the thousand or so document they produced. But general reference to a thousand plus documents,  
16 many of which are financial documents, is insufficient to show a genuine issue of material fact as  
17 to damages. *See Schuck v. Signature Flight Support of Nev., Inc.*, 126 Nev. 434, 438, 245 P.3d 542,  
18 545 (2010) (district courts are not obligated to search through the record for specific facts that might  
19 support a nonmoving party's claim); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026,  
20 1030-31 (2005) (general allegations and conclusions cannot create a genuine issue of material fact).

21 The Lincicomes ignored their obligations under Rule 16.1 and have failed to satisfy their  
22 burden on summary judgment. This court should grant judgment for BANA. *See Coronado Med.*  
23 *Cen. Owners Ass'n v. United Ins. Co. of Am.*, Nos. 77943/78447, 2020 WL 6882719, at \*1 (Nev.  
24 Nov. 23, 2020) (unpublished) (affirming summary judgment based on failure to disclose a damages  
25 computation); *see, e.g., Hulihan v. Reg. Trans. Com'n of S. Nev.*, 833 F.Supp.2d 1226, 1234 (D.  
26 Nev. June 21, 2011) ("Plaintiff has not provided a computation of damages as required under  
27 Federal Rule of Civil Procedure 26(a)(1)(A)(iii) . . . . As such, there is no issue of material fact as  
28 to whether Plaintiff suffered damages as a result of Defendants' negligence.").



Should this court deny judgment to BANA, then this court should, at the very least, exclude evidence of damages at trial or issue other appropriate sanctions. *See* NRCP 37(c)(1); *see also* *Pizarro-Ortega v. Cervantes-Lopez*, 133 Nev. 261, 265, 396 P.3d 783, 797 (2017); *Gallardo-Recendez v. Ely*, No. 78077, .2020 WL 5888031, at \*1 (Nev. Oct. 1, 2020) (unpublished).

### III. UNDISPUTED MATERIAL FACTS

#### A. The Lincicomes

1. Vicenta Lincicome is a sophisticated borrower having been a former real estate salesperson and accountant. [Ex. E; Ex F at 13, 124]. She took real estate courses, held a Nevada real estate license, and worked in real estate in for four to six years. [Ex. F at 118-22]. She retired in April 2015 and has not sought employment since. [Ex. A at 1161, Ex. C at 255; Ex. D at #33; Ex. F at 13, 124]. According to her husband, Ellis Lincicome, Vicenta is "very qualified" and could have been working from 2015 to the present. [Ex. B at 26-27; *see* Ex. F at 25]. She has a two bachelor's degrees—one in accounting and another in education. [Ex. F at 118]

2. Ellis Lincicome was a supervisor in the casino industry. [Ex. B at 34]. He was terminated from his employment in 2013 and has not worked since. [Ex. F at 15.] He has a history of defaulting on home loans and other credit accounts, *see Conseco Finance Corp. v. Lincicome*, Washoe County Case. No. CV00-05296 (defaulting on a mobile home). [Ex. G at 32].

3. When they were both employed they were making approximately \$10,000 per month. [Ex. H (about \$125,000 annually); Ex. F at 178]. By 2018, their combined income from social security and retirement was only approximately \$2,000-\$3,000 per month, leaving little disposable income after expenses. [Ex. F at 14-15, 23, Ex. B at 24-26]. They could not afford to make monthly mortgage payments when they were both employed and certainly could not afford payments when they retired. [Ex. F at 24, 156, 159, 161-162; Ex. B at 27, 42, 50; Ex. C at 259, 280].

#### B. The Subject Property, Deed of Trust, and Assignments

4. In May 2007, Vicenta Lincicome financed a property known as 70 Riverside Drive, Dayton, Nevada 89403 with a loan in the amount of \$381,150.00 (**loan**), secured by recorded deed. The deed of trust identifies Sierra Pacific Mortgage Company, Inc. as the lender and Mortgage



1 Electronic Registration Systems, Inc. (MERS) as the beneficiary and nominee for the lender. The  
2 deed of trust states the loan can be sold one or more times without notice to the borrower. [Ex. I].  
3 The note identifies a monthly mortgage amount, and states the amount may change. [Ex. J] Vicenta  
4 signed by the deed of trust and note. [Ex. F at 26, 28-30]. At the time of signing, she understood  
5 she took out a loan with a 30-year maturity date. [Ex. F at 150-151].

6 5. On August 15, 2011, MERS recorded an assignment of the deed of trust, transferring  
7 its interest in the deed of trust to Bank of America, N.A., Successor by Merger to BAC Home Loans  
8 Servicing, LP FKA Countrywide Home Loans Servicing, L.P. [Ex. K].

9 6. On November 25, 2015, BANA recorded an assignment of the deed of trust  
10 transferring its interest to U.S. Bank. [Ex. L].

11 **C. The Default and Modification Efforts**

12 7. In mid-2008, the Lincicomes defaulted on the loan after making less than ten  
13 payments. [Ex. M; Ex. F at 34, 162].

14 8. In January 2009, the trustee under the deed of trust at the time recorded a notice of  
15 default. [Ex. N].

16 9. In July 2009, BANA offered the Lincicomes a loan modification agreement (LMA),  
17 identifying the new loan balance as \$417,198.58 and a post office box address in California to make  
18 payments. [Ex. O].

19 10. BANA accepted a first modified payment from the Lincicomes, in person at a Bank  
20 of America branch in Carson City, on September 1, 2009. [Ex. C at 211-212; Ex. F at 34; Ex. ;].

21 11. In October 2009, the Lincicomes attempted to make a second modified payment in  
22 person in October 2009, but the payment was rejected because there was no record of the LMA in  
23 BANA's system. [Ex. C at 211-12; Ex. D at #24; Ex. F at 34-37]. They did not bring a copy of  
24 the LMA to the branch. [Ex. F at 52-54]. The Lincicome never tried to make a third payment in  
25 person or by mail. [Ex. B at 47-48; Ex. F at 54, 184]. Nor did they put monthly mortgage payments  
26 into a separate account. [Ex. C at 217; Ex. D at #12; Ex. F at 184]. Despite correspondence to  
27 BANA, they never requested BANA honor the LMA or provided BANA with a copy of the LMA.  
28 [Ex. C at 209, 276; Ex. F at 55; Ex. P at 1311-13].



12. In October 2009, the Lincicomes received a statement from BANA establishing the loan had not been modified. [Ex. Q].

13. In December 2009, BANA confirmed receipt of the Lincicomes' request that BANA cease communication with them. [Ex. A at 769]. The Lincicomes continued to communicate with BANA in 2010 and 2011. [Ex. A 773, 855-57, 1160; Ex. F at 143].

14. In March 2011, BANA signed and recorded the LMA. [Ex. O].

15. BANA offered the Lincicomes a modification in April 2012, but the Lincicomes did not make the required trial payments. [Ex. M; Ex. P at 5439-40, 7927].

16. BANA offered another modification in April 2015, but the loan was service released to Fay Servicing prior to the final trial payment. [Ex. F at 77-78; Ex. R; Ex. S].

#### **D. The Bankruptcy**

17. On or about November 2009, the Lincicomes retained counsel for its forthcoming bankruptcy. [Ex. P at 7183].

18. In April 2010, the Lincicomes filed for chapter 13 bankruptcy, listing the total amount of the secured claim for the property as \$381,000, the amount of the original loan, not the loan balance in the LMA. [Ex. F at 60-61; Ex. G at 13, 19]. The Lincicomes were not making monthly mortgage payments at the time they filed bankruptcy and during the bankruptcy. [Ex. F at 66, 69-70, 75].

19. Throughout the bankruptcy, BANA filed notices of mortgage payment changes, including one in November 2011 establishing the loan had not been modified. [Ex. T]. Vicenta reviewed the November 2011 notice with her bankruptcy attorney. [Ex. C at 263]. The Lincicomes did not direct any payments to the address identified on this notice. [Ex. F at 164].

20. In January 2015, the bankruptcy court terminated, without objection, the automatic stay as to BANA. [Ex. U].

21. In July 2015, the bankruptcy court entered a final decree. [Ex. V]

#### **E. The Foreclosure Sale**

22. On November 3, 2017, Sables, as trustee under the deed of trust, recorded a notice of default. [Ex. W].



23. On December 1, 2017, Vicenta filed a petition for foreclosure mediation assistance in the first judicial district court, naming Sables, U.S. Bank, and Fay Serving as interested parties. [Ex. P at 266-68].

24. On October 12, 2018, Sables recorded a notice of trustee sale after the Lincicomes backed out of the mediation resolution. [Ex. A at 1233-41; Ex. X].

25. On November 7, 2018, the Lincicomes sued BANA among other defendants. They subsequently amended their complaint twice and sought extraordinary appellate relief. Claims against BANA include: (1) breach of contract, (2) breach of the covenant of good faith and fair dealing; (3) declaratory relief, and (4) violations of the Homeowner's Bill of Rights.

26. On January 4, 2019, Sables sold the property to Breckenridge Property Fund 2016. [Ex. Y]. Vicenta did not post a bond to stop the foreclosure. [Ex. C at 278-79]. She takes no responsibility for the foreclosure and continues to reside in the property with her husband, Ellis. [Ex. C at 232-33, 281].

#### IV. ARGUMENT

The Lincicomes' claims against BANA are untimely. They sued BANA in November 2018 for purported servicing issues they were aware of in 2009-2011. Any servicing issues predate enactment of statutory homeowner violations. This court should enter summary judgment favoring BANA and certify that judgment as final under NRCP 54(b).

##### A. Legal Standard

"Summary judgment is appropriate . . . when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter of law." *Wood*, 121 Nev. at 731, 121 P.3d at 1031. On summary judgment, the nonmoving party must do more than simply show that there is some metaphysical doubt as to the operative facts, relying upon more than general allegations and conclusions set forth in the pleadings, and must present specific facts demonstrating the existence of a genuine issue. *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192, 194, 444 P.3d 436, 439 (2019). Summary judgment is appropriate when claims are time-barred. *Stalk v. Mushkin*, 125 Nev. 21, 27, 199 P.3d 868, 872 (2009).



1           **B.       The Breach of Contract and Breach of the Covenant of Good Faith and Fair**  
2           **Dealing Claims Are Time Barred**

3           The Lincicomes sued BANA for breach of contract and breach of the covenant of good faith  
4 and fair dealing based on purported servicing issues in 2009-2011. They admit as such in the  
5 operative complaint, depositions, and discovery responses. [Ex. B at 39, 48; Ex. C at 257; Ex. Z  
6 at #20]. Indeed, they "under[stood] that their mortgage agreement was **breached by Bank of**  
7 **America on October 1, 2009**, by way of Bank of America's refusal to accept loan payments under  
8 the terms of the [LMA]." [Ex. Z at #20 (emphasis added)]. Yet, they waited until November 2018  
9 to sue BANA. The Lincicomes' breach of contract and breach of the duty of good faith and fair  
10 dealing claims are untimely and fail as a matter of law.

11           A six-year statute of limitations applies to breach of contract and breach of covenant of good  
12 faith and fair dealing claims founded upon an instrument in writing. NRS 11.190(1)(b); *see Ocwen*  
13 *Loan Servs., LLC v. BFP Invs. 5, LLC*, 2020 WL 1866267, at \*4 n.6 (D. Nev. April 14, 2020)  
14 ("Plaintiff's breach of contract and breach of covenant of good faith and fair dealing claims are  
15 based on . . . an instrument in writing, and carry a six-year statute of limitations"); *Deutsche Bank*  
16 *Nat'l Tr. Co. as Tr. for Residential Asset Securitization Tr. 2006-A3AB v. SFR Invs. Pool 1, LLC*,  
17 2019 WL 1446956, at \*2 (D. Nev. Mar. 31, 2019) (same). The statute of limitations for these claims  
18 accrue when the plaintiff knows or should know of a breach. *Bemis v. Estate of Bemis*, 114 Nev.  
19 1021, 1025, 967 P.2d 437, 440 (1998).

20           The Lincicomes initiated these claims against BANA more than six years following their  
21 accrual. They knew of the purported breach in October 2009 when BANA did not accept their  
22 second payment under the LMA. [Ex. D at #24; Ex. C at 211-12; Ex. F at 34-37; Ex. Z at #20].  
23 The same month, BANA sent the Lincicomes a loan statement that did not include the terms of the  
24 modification. [Ex. Q]. They were required to sue BANA by October 2015—six years later. They  
25 waited more than three years later to sue.

26           The Lincicomes were certainly aware they had a cause of action against BANA in April  
27 2010, when they filed for chapter 13 bankruptcy, listing original loan of \$381,000 in their petition.  
28 [Ex. F at 60-61; Ex. G at 13, 19]. And at the very latest, they were aware they had a cause of action



1 against BANA in December 2011, the last date they allege BANA refused to accept their payment.  
2 *See* Complaint ¶ 160. These claims are untimely even using April 2010 or December 2011 as the  
3 accrual date. The Lincicomes breach of contract and breach of the covenant of good faith and fair  
4 dealing claims are time-barred. They have no excuse for waiting until November 2018 to sue  
5 BANA, especially where they twice sought judicial assistance—once in 2010 and again in 2017—  
6 and years after BANA stopped servicing the loan. [Ex. G; Ex. P at 266-68].

7 **C. The Lincicomes' Declaratory Relief Claim Fails.**

8 The Lincicomes seek through a declaratory relief cause of action to enforce the terms of the  
9 LMA. More specifically, they seek a declaration regarding BANA's breach of the LMA, their duties  
10 once the October 2009 payment was rejected, and the extent of the debt secured by the deed of  
11 trust, as modified by the LMA. Complaint ¶¶ 108-114. Generally, declaratory relief is a remedy  
12 rather than an independent claim for relief. *See, e.g., Hyman v. Deutsche Bank Nat. Trust Co.*, 2013  
13 WL 6795731, at \*5 (D. Nev. Dec. 19, 2013) (holding that neither injunctive relief nor declaratory  
14 relief constitute an independent cause of action), *Contreras v. Master Fin., Inc.*, 2011 WL 32513,  
15 \*4 (D. Nev. Jan. 4, 2011) (finding that claims for injunctive or declaratory relief are remedies that  
16 may be afforded to a party after he has sufficiently established and proven his claims; they are not  
17 a separate causes of action). This court should dismiss the claim on this basis alone.

18 BANA acknowledges that in some cases declaratory relief is available where: "(1) a  
19 justiciable controversy exists between persons with adverse interests, (2) the party seeking  
20 declaratory relief has a legally protectable interest in the controversy, and (3) the issue is ripe for  
21 judicial determination." *Cnty. of Clark ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 752,  
22 961 P.2d 754, 756 (1998). To the extent the cause of action seeks a declaration concerning the  
23 obligations under the deed of trust and the promissory note, BANA is not a party to any alleged  
24 controversy concerning those instruments. BANA assigned the deed of trust to U.S. Bank and the  
25 loan was service released to Fay Servicing. [Ex. L; Ex. R]. BANA has no role in the foreclosure  
26 or any attempt to enforce the deed of trust. There is no justiciable controversy between the  
27 Lincicomes and BANA in the enforcement of the deed of trust or promissory note, the amount owed  
28 under the deed of trust or promissory note, or the validity of the foreclosure sale.



1 The Lincicomes' attempts to have this court enforce the terms of the 2009 LMA also fails,  
2 because, as discussed above, any such claim would be time-barred as to BANA. *See also Bank of*  
3 *New York v. Foothills at MacDonald Ranch Master Ass'n*, 329 F. Supp. 3d 1221, 1230 (D. Nev.  
4 2018) ("Where a claim for declaratory relief could have been resolved through another form of  
5 action which has a specific limitations period, the specific period of time will govern.") (*citing*  
6 *Levald, Inc. v. City of Palm Desert*, 998 F.2d 680, 688 (9th Cir. 1993) (internal quotation marks  
7 omitted)). The Lincicomes needed to bring their claim for breach of the LMA and a declaration to  
8 enforce the terms in a timely manner. Not three years after BANA assigned its interest away.

9 The failure of the Lincicomes to sue BANA from 2009 to 2015 disadvantages BANA.  
10 BANA is not in a position to apply the LMA today or anytime post-assignment. *See Home Sav.*  
11 *As'n v. Bigelow*, 105 Nev. 494, 496, 779 P.2d 85, 86 (1989) ("Laches is more than mere delay in  
12 seeking to enforce one's rights, it is delay that works a disadvantage to another."); *id.* ("The  
13 condition of the party asserting laches must become so changed that he cannot be restored to his  
14 former state."). It is prejudicial to BANA to assert this claim since BANA has no control over the  
15 deed of trust or promissory note. *Besnilian v. Wilkinson*, 117 Nev. 519, 522, 25 P.3d 187, 189  
16 (2001) ("to invoke laches, the party must show that the delay caused actual prejudice"). Waiting  
17 until November 2018 to sue BANA to enforce the LMA is unreasonable. This court should  
18 alternatively apply laches to grant summary judgment to BANA on this claim.

19 **D. BANA's Alleged Conduct Predates the Homeowner's Bill of Rights.**

20 The Lincicomes claim BANA violated the Homeowner's Bill of Rights (**HBOR**), codified  
21 as NRS 107.400 through 107.560, based on the January 2009 notice of default and the fact BANA  
22 did not accept their payment in October 2009. [Ex. C at 257; Ex. N]. They did not sue BANA  
23 until November 2018, and waited to raise a HBOR claim until December 2019. This claim is  
24 untimely. NRS 11.090(3)(a) (a three-year limitations period applies to "[a]n action upon a liability  
25 created by statute").

26 Even if the claim were timely, it fails because the Lincicomes' allegations of wrongdoing  
27 by BANA occurred prior to the statute's October 1, 2013 effective date, and would apply only  
28 prospectively in the absence of clear legislative intent that it apply retroactively. *See Public*



1 *Employees' Benefits Program v. LVMPD*, 124 Nev. 138, 154, 179 P.3d 542 (2008). The statute  
2 does not state it applies retroactively and the legislative history indicates it was to apply only to  
3 notices of default recorded after that date. S.B. 321, 2013 Leg., 77th Reg. Sess. (2013).<sup>2</sup> This  
4 claims further fail because BANA was not the "mortgage servicer" as defined by NRS 107.440 at  
5 the time the most recent foreclosure was initiated, and should not be statutorily liable for anything  
6 other defendants did or did not do. Servicing transferred from BANA to Fay, and BANA assigned  
7 its beneficial interest in the deed of trust to U.S. Bank years prior to the foreclosure. [Ex. L].

8 BANA cannot be liable for alleged HBOR violations prior to the statute's enactment. Even  
9 if the statute applied, the Lincicomes' allegations toward BANA are untimely. The Lincicomes'  
10 HBOR claim against BANA fails for procedural reasons and because they have not and cannot  
11 point to any conduct by BANA that violates HBOR.

#### 12 E. Claim Preclusion Also Bars this Action

13 This action is also barred by claim preclusion. Under Nevada law, claim preclusion applies  
14 when "(1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the  
15 subsequent action is based on the same claims or any part of them that were or could have been  
16 brought in the first case." *Five Star Capital Corp. v. Ruby*, 194 P.3d 709, 713 (Nev. 2008).

17 In December 2017, Vicenta filed a petition for foreclosure mediation assistance in the first  
18 judicial district court, naming Sables, U.S. Bank, and Fay Serving as interested parties. [Ex. P at  
19 000266-000268]. The result of that action, also arising out of the loan transaction and property,  
20 was an "unsuccessful" foreclosure mediation. [Ex. A at 01233-01241]. BANA is in privity with  
21 U.S. Bank as a result of the assignment. [Ex. L]. Vicenta is in privity with her husband. *See*  
22 *Zaragosa v. Craven*, 202 P.2d 73, 75 (Ca. 1949) (a wife is in privity with her husband even if she  
23 is not a named party). The mediation resulted in a "final judgment"—a resolution between the  
24 Lincicomes and the interested parties. [Ex. A at 01233-01241]. Although the standard formulation  
25 of the doctrine presupposes the existence of two separate suits—and the foreclosure mediation  
26 proceedings at issue do not constitute a civil suit in the traditional sense—the same basic principles  
27

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28 <sup>2</sup> The Lincicomes claim the notice of default required an affidavit pursuant to NRS 107.0805. That statute was adopted in 2017, such that it cannot apply to a 2009 notice of default.



1 apply. *Cf. Tom v. Innovative Home Sys., LLC*, 132 Nev. 161, 169, 368 P.3d 1219, 1224-25 (Ct.  
2 App. 2016) (claim preclusion apply even when one of the proceedings in question was not a  
3 traditional lawsuit, but was instead a dispute before an administrative agency, so long as the agency  
4 acted in a judicial capacity and resolved disputed issues of fact that the parties had the opportunity  
5 to litigate). Further, the claims against BANA could have been brought in the first judicial district  
6 court action.

7 Even if there was not a strict final judgment, the filing of their judicial foreclosure petition  
8 in 2017, along with the 2010 bankruptcy, shows the Lincicomes could have sued BANA earlier.  
9 Waiting until November 2018 to initiate litigation based on BANA's purported conduct in 2009 to  
10 2011 is simply too late. The delay is worsened by the fact the Lincicomes blame BANA for the  
11 foreclosure sale when the Lincicomes admittedly cannot afford to pay monthly mortgage payments.  
12 They could not do so in 2010—hence the default and bankruptcy—and certainly could do so at the  
13 time of foreclosure. [Ex. B at 27, 42, 50; Ex. C at 259, 280; Ex. F at 24, 156, 159, 161-162].

14 **F. Judicial Estoppel Further Bars this Action**

15 Not only is this action barred by claim preclusion, it is also barred by judicial estoppel.  
16 "Judicial estoppel is an equitable doctrine that precludes a party from gaining an advantage by  
17 asserting one position, and then later seeking an advantage by taking a clearly inconsistent  
18 position." *Hamilton v. State Farm Fire & Cas. Co.*, 270 F.3d 778, 782 (9th Cir. 2001).

19 "In the bankruptcy context, a party is judicially estopped from asserting a cause of action  
20 not raised in a reorganization plan or otherwise mentioned in the debtor's schedules or disclosure  
21 statements." *Id.* at 783. Section 521 of Title 11 of the United States Code requires that a debtor file  
22 "a list of creditors, and unless the court orders otherwise, a schedule of assets and liabilities, a  
23 schedule of current income and current expenditures, and a statement of the debtor's financial  
24 affairs." *Id.* at 784 (citing 11 U.S.C. § 521). This required disclosure includes any contingent and  
25 unliquidated claims, and the duty continues for the duration of the bankruptcy proceeding. *Id.* at  
26 785. "Judicial estoppel will be imposed when the debtor has knowledge of enough facts to know  
27 that a potential cause of action exists during the pendency of the bankruptcy, but fails to amend his  
28 schedules or disclosure statements to identify the cause of action as a contingent asset." *Id.* at 784



1 In *Hay v. First Interstate Bank of Kalispell, N.A.*, the Ninth Circuit recognized that while  
2 the plaintiff did not know all the facts, the plaintiff knew enough to require notification of the asset  
3 (i.e., the action/suit against a creditor) to the bankruptcy court. 978 F.2d 555, 557 (9th Cir. 1992).  
4 The Ninth Circuit ruled the plaintiff's failure to give the required notice estopped the plaintiff and  
5 justified the district court's grant of summary judgment to the defendants. *Id. Hamilton* emphasized  
6 "[t]he debtor's duty to disclose potential claims as assets does not end when the debtor files  
7 schedules, but instead continues for the duration of the bankruptcy proceeding." 270 F.3d at 785  
8 (citations omitted).

9 The rulings and reasoning in *Hay* and *Hamilton* should compel this court to grant summary  
10 judgment to BANA. In their bankruptcy schedules, the Lincicomes identified their interest in the  
11 property, and specifically identified the loan as being not modified under the LMA. [Ex. G]. They  
12 did not mention any potential claims against BANA in their schedules or at any time during the  
13 five-year bankruptcy. This is troublesome for the Lincicomes since they knew BANA would not  
14 accept their October 2009 payment prior to filing bankruptcy in 2010 and during the pendency of  
15 the bankruptcy. *Hamilton*, 270 F.3d at 784. The Lincicomes are judicially estopped from asserting  
16 these claims against BANA now. Even if they are not judicially estopped, summary judgment  
17 should still be granted based on all of the grounds set forth above, including the Lincicomes' failure  
18 to assert their claims against BANA within the applicable statute of limitations.<sup>3</sup>

19 **G. NRCP 54(b) Certification is Appropriate**

20 The Lincicomes brought claims against a number of defendants. The other defendants were  
21 involved in the applicable foreclosure process. BANA was not. BANA's involvement is temporally  
22 limited to purported servicing issues in 2009-2011. BANA should not have been named in this suit  
23

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24 <sup>3</sup> The Lincicomes stated in their requests for admission responses that they asserted a quiet title  
25 claim against BANA. [Ex. D at #5]. However, the operative complaint states the "cause of action  
26 is asserted against Breckenridge" only. See Complaint ¶ 126. In Nevada, quiet title claims  
27 represent an action *in rem*, and are controlled by the terms of NRS 40.010. This statute recognizes  
28 quiet title claims may be brought "against another who claims an estate or interest in real  
property, adverse to the person bringing the action, for the purpose of determining such  
adverse claim." BANA does not claim or possess an interest in any note or deed of trust  
encumbering the property, having assigned the deed of trust to U.S. Bank in 2015. [Ex. L]. To the  
extent the claim was raised against BANA, it should be dismissed on the pleadings alone.



1 and has been dragged through this litigation for the past three years, including an interlocutory  
2 appeal. BANA anticipates the other defendants will also move for summary judgment. Should this  
3 court enter summary judgment for BANA and not the other defendants, then this court should  
4 certify the judgment as final as to the Lincicomes' claims against BANA. Certification is  
5 appropriate under NRCP 54(b) since there is no just reason for delay. Any delay would prejudice  
6 BANA as it would impose an artificial stay on appellate adjudication.

7 **V. CONCLUSION**

8 For years, the Lincicomes failed to make monthly mortgage payments to BANA. They then  
9 sued BANA years after the statute of limitations for their claims expired. They subsequently  
10 dragged BANA through years of litigation, all the while failing to cooperate during discovery.  
11 BANA respectfully requests this court grant summary judgment in its favor. Should this court not  
12 enter summary judgment for all defendants, then BANA also requests this court certify the  
13 judgment as final as to BANA. Should this court deny summary judgment, then it should, at the  
14 very least, issue sanctions against the Lincicomes for neglecting to respond to discovery and failing  
15 to disclose a damages computation.

16 Dated this 16<sup>th</sup> day of March, 2021.

17 **AKERMAN LLP**

18 /s/ Scott R. Lachman

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**INDEX OF EXHIBITS TO  
BANK OF AMERICA, N.A.'S MOTION FOR SUMMARY JUDGMENT  
AND MOTION FOR SANCTIONS  
CASE NO. 18-cv-01332**

1		
2		
3		
4	Exhibit A	Plaintiff's Initial Disclosures (select documents only)
5	Exhibit B	Deposition of Albert Ellis Lincicome, Jr. (excerpts only)
6	Exhibit C	Deposition of Vicenta Lincicome (Volume 2) (excerpts only)
7	Exhibit D	Plaintiff's Response to Bank of America, N.A.'s First Set of Requests for Admission and Requests for Genuineness of Documents
8	Exhibit E	Real Estate License
9	Exhibit F	Deposition of Vicenta Lincicome (Volume 1) (excerpts only)
10	Exhibit G	Voluntary Bankruptcy Petition
11	Exhibit H	Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income
12	Exhibit I	Deed of Trust
13	Exhibit J	Adjustable Rate Note
14	Exhibit K	Assignment of Deed of Trust to Bank of America, N.A. successor by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, L.P.
15	Exhibit L	Assignment of Deed of Trust to PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee
16	Exhibit M	Loan Payment History
17	Exhibit N	Notice of Default and Election to Sell Under Deed of Trust (2009)
18	Exhibit O	Recorded Loan Modification Agreement
19	Exhibit P	Documents from Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association, as Legal Title Trustee, Fay Servicing LLC, and Shellpoint Mortgage Servicing, LLC's Disclosures
20	Exhibit Q	October 2009 Letter from Bank of America
21	Exhibit R	July 2015 Letter from Bank of America
22	Exhibit S	Trial Payment Plan Acceptance Letter
23	Exhibit T	Notice of Mortgage Payment Change
24	Exhibit U	Order Terminating Automatic Stay
25	Exhibit V	Final Decree
26		
27		
28		



- 1 Exhibit W Notice of Default and Election to Sell the Real Property Under Deed of Trust  
2 (2017)  
3 Exhibit X Notice of Trustee's Sale  
4 Exhibit Y Trustee's Deed Upon Sale  
5 Exhibit Z Plaintiff's Response to Defendant NewRez, LLC d/b/a Shellpoint Mortgage  
6 Servicing, LLC's First Set of Interrogatories to Plaintiffs (excerpts only)  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on the 16<sup>th</sup> day of March, 2021, I caused to be served a true and correct copy of the foregoing **BANK OF AMERICA, N.A.'S MOTION FOR SUMMARY JUDGMENT AND MOTION FOR SANCTIONS**, in the following manner:

☒ **(UNITED STATES MAIL)** By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last-known mailing addresses, on the date above written:

Michael G. Millward, Esq. <b>MILLWARD LAW, LTD.</b> 1591 Mono Avenue Minden, NV 89423 <i>Attorneys for Plaintiffs</i>	Justin M. Clouser, Esq. <b>CLOUSER HEMPEN WASICK LAW GROUP</b> 1512 Hwy 395 N, Suite 1 Gardnerville, NV 89410 <i>Attorney for Plaintiffs</i>
John T. Steffen, Esq. Matthew K. Schriever, Esq. Alex R. Velto, Esq. <b>HUTCHISON &amp; STEFFEN, PLLC</b> 10080 W. Alta Drive, Suite 200 Las Vegas, NV 89145 <i>Attorneys for Breckenridge Property Fund 2016, LLC</i>	Casey J. Nelson, Esq. <b>WEDGEWOOD, LLC</b> Office of the General Counsel 2320 Potosi Street, Suite 130 Las Vegas, NV 89146 <i>Attorneys for Breckenridge Property Fund 2016, LLC</i>
Darren T. Brenner, Esq. Rarmir M. Hernandez, Esq. <b>WRIGHT, FINLAY &amp; ZAK, LLP</b> 7785 W. Sahara Ave, Suite 200 Las Vegas, NV 89117 <i>Attorneys Defendants, Prof-2013 M4-Legal Title Trust. by U.S. Bank, National Association, as Legal Title Trustee and Fay Servicing LLC</i>	Shadd A. Wade, Esq. <b>ZIEVE BRODNAX &amp; STEEL, LLP</b> 9435 W. Russel Road, Suite 120 Las Vegas, NV 89148 <i>Attorneys for Sables, LLC</i>

☐ **(PERSONAL SERVICE)** By causing to be personally delivered a copy of the above-referenced document to the person(s) listed below: Not applicable.

☒ **(EMAIL)** By emailing a true and correct copy of the above-referenced document to the person(s) listed below:

Michael G. Millward, Esq.	<a href="mailto:michael@millwardlaw.com">michael@millwardlaw.com</a>
Justin M. Clouser, Esq.	<a href="mailto:jclouser@clouserlaw.com">jclouser@clouserlaw.com</a>
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Matthew K. Schriever, Esq.	<a href="mailto:mschriever@hutchlegal.com">mschriever@hutchlegal.com</a>
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Darren T. Brenner, Esq. [dbrenner@wrightlegal.net](mailto:dbrenner@wrightlegal.net)  
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Shadd A. Wade, Esq. [swade@zbslaw.com](mailto:swade@zbslaw.com)

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Carla Llarena  
An Employee of Akerman LLP



# EXHIBIT A

# EXHIBIT A



Case No: 18-CV-01332

Dept.: II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,

Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-M4 LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; BANK  
OF AMERICA, N.A.; BRECKENRIDGE  
PROPERTY FUND 2016, a Utah limited  
liability company; NEWREZ, LLC, d/b/a  
SHELLPOINT MORTGAGE SERVICING,  
LLC, substituted in for DOE 1; 1900  
CAPITAL TRUST II, BY U.S. BANK TRUST  
NATIONAL ASSOCIATION, substituted in  
for DOE 2; MCM-2018-NPL2, substituted  
in for DOE 3; and DOES 4-10.

Defendants.

**PLAINTIFFS' INITIAL DISCLOSURES  
OF WITNESSES AND DOCUMENTS  
PURUSANT TO NRCP 16.1**

BRECKENRIDGE PROPERTY FUND 2016,  
LLC

Counterclaimant,

vs.

ALBERT ELLIS LINCICOME, JR., an  
individual; VICENTA LINCICOME, an  
individual; and DOE OCCUPANTS 1-5.

Counterdefendants.

COME NOW, Plaintiffs ELLIS LINCICOME and VICENTA LINCICOME (hereinafter  
together as "Plaintiffs" or "Lincicomes"), by and through their attorney, Michael G. Millward,  
Esq., of Millward Law, Ltd., and Justin M. Clouser, Esq., of Clouser Hempen Wasick Law





1 Group, Ltd., and pursuant to NRCP 16.1 hereby make their NRCP 16.1 initial disclosures of  
2 witnesses and documents as follows:

3 **I. LIST OF WITNESSES**

4 1. ALBERT ELLIS LINCICOME, JR c/o Michael G. Millward, Esq., of Millward Law,  
5 Ltd., concerning his personal knowledge and the facts and which pertain to and involve his  
6 claims relating to or derived from the acts alleged in the Complaint, including the  
7 establishment of the 2009 Loan Modification Agreement, his and his wife's attempts to  
8 enforce the agreement, as well as the acts and statements of Defendants in this matter.

9 2. VICENTA LINCICOME c/o Michael G. Millward, Esq., of Millward Law, Ltd.,  
10 concerning her personal knowledge and the facts and which pertain to and involve hers  
11 claims relating to or derived from the acts alleged in the Complaint, including the  
12 establishment of the 2009 Loan Modification Agreement, her and her husband's attempts to  
13 enforce the agreement, as well as the acts and statements of Defendants in this matter.

14 3. VERONICA TALLEY, Foreclosure Specialist with Fay Servicing, LLC. Ms. Talley  
15 will testify of her the records available to her, her review of those records in or about  
16 October 5, 2016, and her review of the Deed of Trust, 2009 Loan Modification History in  
17 relationship to the Notice of Default and decision to move forward with a foreclosure upon  
18 the Lincicomes' Residence.

19 4. VONTERRO LESEAN WHITE, employee of Fay Servicing, LLC, 3932 W Congress  
20 Pkwy, Chicago, IL 60624. Mr. White is anticipated to testify regarding the Affidavit of  
21 Certification of Document signed by him in 2009. Mr. White is anticipated to testify  
22 concerning review of documents in or about February of 2018. In particular whether any  
23 review of the 2009 Loan Modification was made and whether the document was reviewed  
24 and the effect of the document discussed or analyzed by Fay Servicing, LLC or by U.S. Bank.

25 5. ANITA DONALDSON CONBOY, Foreclosure Mediator, 1243 Laredo Ct., Reno, NV  
26 89503. Ms. Conboy will testify as to the documents submitted for review by Fay Servicing  
27 and U.S. Bank at the Foreclosure Mediation that occurred on April 6, 2017.  
28



6. MICHAEL BUSBY, TRUSTEE SALE OFFICER, Zieve Brodnax, Steel, 30 Corporate Park, Irvine, CA, 92606. Among other things, Mr. Busby will testify as to the preparation of the *Notice of Trustee's Sale*, dated October 11, 2018, and the reference therein to the Loan 2009 Modification Agreement recorded on May 4, 2011.

7. MADELYN SHIPMAN, Foreclosure Mediator, 5650 Mt. Rose Highway, Reno NV 89511. Among other things, Ms. Shipman will testify as to the Foreclosure Mediation that occurred on April 3, 2018, and the documents presented at the time.

8. SONYA GIROUX, 830 W 11<sup>th</sup> Street, Reno, NV 89503, formerly employed by Senator Harry Reid. Ms. Giroux will testify as to her involvement with the Lincicomes and their attempts to enforce the 2009 Loan Modification Agreement, as well as their attempts to protect their home by way of other mortgage workouts.

9. BARBARA E. KEADY, a.k.a. BARBARA KAY KEADY, formerly employed as a Mortgage Loan Officer with Bank of America (5905 S. Virginia St. #201, Reno, NV 89502), 805 Coffey Dr., Carson City, NV 89701. Ms. Keady will testify as to her contacts with the Lincicome in the fall of 2009 concerning the 2009 Loan Modification.

10. All witnesses named by all other Defendants in this matter as a witness.

11. Plaintiffs reserve the right to supplement this list as information becomes available.

## II. DISCLOSURE OF DOCUMENTS

Plaintiff reserves the right to supplement documents and witnesses as discovery progresses.

#	<u>Pleadings and Papers</u>	<u>Date</u>	<u>Pages</u>
1.	Complaint	11-07-2018	1-125
2.	Notice of Lis Pendens	11-07-2018	126-127
3.	Affidavit of Counsel	11-07-2018	128-129
4.	Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	130-255
5.	Order	11-08-2018	256-258
6.	Notice of Entry of Order	11-09-2018	259-263
7.	Corrected Order	11-14-2018	264-266
8.	Notice of Appearance	11-15-2018	267-270



9.	Declaration of Fay Services, LLC in Response to Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction	11-15-2018	271-274
10.	Notice of Entry of Order	11-20-2018	275-279
11.	US Bank Trust's Answer to Complaint	11-29-2018	280-293
12.	Summons on Return (Bank of America)	12-10-2018	294-296
13.	Summons on Return (Sables)	12-11-2018	297-299
14.	Default (Sables)	12-21-2018	300-301
15.	Default (Bank of America)	12-21-2018	302-303
16.	Declaration of Non-Monetary Status (Sables)	12-24-2018	304-307
17.	Order	12-31-2018	308-315
18.	Notice of Entry of Order	01-08-2019	316-325
19.	Objection to Declaration of Non-Monetary Status	01-09-2019	326-329
20.	Application for Entry of Default Judgment	01-22-2019	330-333
21.	Sables, LLC's Response to Objection to Its Declaration of Non-Monetary Status	01-28-2019	334-338
22.	Sables, LLC's Motion to Set Aside Default	01-28-2019	339-348
23.	Joinder to Sables, LLC's Motion to Set Aside Default	02-08-2019	349-352
24.	Response to Plaintiff's Application for Entry of Default Judgment Against Sables, LLC	02-08-2019	353-362
25.	Opposition to Sables, LLC's Motion to Set Aside Default	02-08-2019	363-402
26.	Order Setting Hearing	02-11-2019	403-404
27.	Sables, LLC's Joinder to Response to Plaintiff's Application for Entry of Default Judgment	02-21-2019	405-407
28.	Supplemental Declaration of Shadd A. Wade in Support of Motion to Set Aside Default	03-01-2019	408-424
29.	Plaintiffs' Motion for Leave to File Amended Complaint to Substitute Parties	03-04-2019	425-506
30.	Stipulation and Order to Set Aside and Vacate Default of Defendant Bank of America, N.A. and to Permit Bank of America, N.A. to File a Response	03-04-2019	507-510
31.	Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	511-523
32.	Declaration of Ramir M. Hernandez, Esq. in Support of Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	524-527
33.	Notice of Entry of Stipulation and Order to Set Aside and Vacate Default of Defendant Bank of America, N.A. and to Permit Bank of America, N.A. to File a Response	03-15-2019	528-536
34.	Defendant Bank of America, N.A.'s Motion to Dismiss Plaintiffs' Complaint	03-22-2019	537-545
35.	Opposition to US Bank's Motion for Rule 11 Sanctions	03-28-2019	546-576
36.	Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-4-2019	577-679
37.	Response to Declaration of Shadd A. Wade	04-11-2019	680-695
38.	Defendant Bank of America N.A.'s Reply to	04-12-2019	696-704



	Opposition on Motion to Dismiss Plaintiffs' Complaint		
39.	Reply in Support of Motion for Rule 11 Sanctions Against Plaintiffs	04-12-2019	705-712
40.	Order	05-30-2019	713-717
41.	Notice of Entry of Order	06-21-2019	718-726
	<b><u>Other Documents</u></b>	<b>Date</b>	<b>Pages</b>
42.	Certified Copy of Grant, Bargain, Sale Deed. Document No. 407149	05-07-2007	727-728
43.	Grant, Bargain, Sale Deed. Document No. 407148	05-07-2007	729-730
44.	Certified Copy of Deed of Trust. Document No. 407150	05-23-2007	731-749
45.	Owner Occupancy Verification Card signed by Vicenta Lincicome	08-08-2007	750-750
46.	Notice of Default and Election to Sell Under Deed of Trust. Document No. 437084	01-23-2009	751-753
47.	Reconstrust Company Notice of Default and Election to Sell Under Deed of Trust, Document No. 437084	01-23-2009	754-755
48.	Declaration of Homestead. Document No. 439348	03-11-2009	756-756
49.	Bank of America Home Loans "Important Message About Your Loan"	07-11-2009	757-758
50.	BAC Home Loans Servicing, LP Loan Modification Agreement	07-31-2009	759-761
51.	Unrecorded BAC Home Loans Servicing, LP Loan Modification Agreement	07-31-2009	762-764
52.	Receipt for \$2,272.62 BAC Home Loans Servicing	09-01-2007	765-765
53.	Bank of America Home Loans Statement	10-29-2009	766-768
54.	Letter from Bank of America Home Loans to Vicenta Lincicome Regarding Notice of Representation of Charles T. Marshall	12-15-2009	769-770
55.	Letter from Bank of America Home Loans to Vicenta Lincicome Regarding Home Loans	02-23-2010	771-771
56.	Letter from Bank of America Home Loans to Vicenta Lincicome Regarding Home Loan & Mabuhay Alliance, Inc.	02-24-2010	772-772
57.	Letter from Bank of America Home Loans to Vicenta Lincicome. Re: Request for Information	03-12-2010	773-773
58.	Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, and Deadlines	04-06-2010	774-776
59.	Voluntary Petition for Bankruptcy	04-06-2010	777-819
60.	Stipulation for Order Authorizing Transfer of Real Property	06-23-2010	820-829
61.	Order Confirming Chapter 13 Plan	10-13-2010	830-834
62.	Chapter 13 Plan with Determination of Interest Rates and Plan Summary	04-06-2011	835-842
63.	BAC Home Loan Servicing List of Signing Officers attached to Assignment of Deed of Trust and Note	04-25-2011	843-847



64.	Loan Modification Agreement Recorded Requested by BAC Home Loans Servicing	05-04-2011	848-853
65.	Corporation Assignment of Deed of Trust Nevada from Bank of America N.A. to BAC Home Loans Servicing. Document No. 480360	08-15-2011	854-854
66.	Letter from Bank of America Home Loans to Vicenta Lincicome Re: Receipt of Request for Information	10-19-2011	855-855
67.	Letter from Bank of America Home Loans to Vicenta Lincicome Re: Request for Modification	10-24-2011	856-856
68.	Letter from Bank of America Home Loans to Vicenta Lincicome Re: Request for Information	12-23-2011	857-857
69.	Notice of Independent Foreclosure Review of Bank of America N.A.	02-01-2012	858-864
70.	HUD Financial Guidance Center Housing Action Plan	11-12-2012	865-865
71.	Bank of America N.A. Notice of Mortgage Payment Change	06-02-2013	866-872
72.	Independent Foreclosure Review with Check for \$400.00 RE: Bank of America N.A.'s Performance Lapses	01-20-2014	873-874
73.	Bank of America N.A. Notice of Mortgage Payment Change	04-08-2014	875-882
74.	Department of Housing and Urban Development Notice of Data Breach	05-01-2014	883-889
75.	Bank of America N.A. Notice of Mortgage Payment Change	11-03-2014	890-896
76.	Notice of Motion for Relief from the Automatic Stay and Certificate of Service	11-26-2014	897-900
77.	Motion for Relief from Automatic Stay (Real Property)	11-26-2014	901-938
78.	Bank of America Home Loans February 2015 Statement	03-01-2015	939-946
79.	Bank of America Home Loans March 2015 Statement	03-16-2015	947-948
80.	Certificate of Service for the Final Report and Final Account filed by Trustee	04-08-2015	949-949
81.	Trustee's Final Account and Report	04-08-2015	950-953
82.	Bank of America Home Loans April 2015 Statement	04-16-2015	954-961
83.	Letter from Bank of America Home Loans to Vicenta Lincicome Re: Loan Modification Trial Payments	04-24-2015	962-991
84.	Bank of America Home Loans June 2015 Statement	06-02-2015	992-999
85.	Discharge of Debtor After Completion of Chapter 13 Plan	06-15-2015	1000-1000
86.	Order Terminating the 2011 Consent Order and 2013 Amendment to Consent Order from the Office of the Comptroller of the Currency	06-16-2015	1001-1002
87.	Bankruptcy Claims Register	07-01-2015	1003-1009
88.	Bank of America Home Loans July 2015 Statement	07-03-2015	1010-1017
89.	Bank of America Home Loans Notice of Transfer of Servicing of Loan to Fay Servicing	07-14-2015	1018-1021



90.	Notice of Sale of Ownership of Mortgage Loan from Fay Servicing	07-17-2015	1022-1023
91.	Evidence of 3rd Modification Payment Rejection by Bank of America N.A. on 08-01-2015	08-01-2015	1024-1024
92.	Fay Servicing Mortgage August 2015 Statement	08-10-2015	1026-1028
93.	Notice of Servicing Transfer from Fay Servicing	08-11-2015	1029-1042
94.	Correspondence from Rosalind Jackson from Fay Servicing Regarding Transfer of Servicing	08-12-2015	1043-1044
95.	Bank of America Home Loans Annual Escrow Account Disclosure Statement	09-10-2015	1045-1046
96.	Fay Servicing Mortgage September 2015 Statement	09-12-2015	1047-1049
97.	Request for Notice Under NRS 116.31163(2) and/or 116.31168_Document No. 541340	09-22-2015	1050-1052
98.	Fay Servicing Mortgage October 2015 Statement	10-12-2015	1053-1055
99.	Fay Servicing Mortgage November 2015 Statement	11-12-2015	1056-1058
100.	Assignment of Deed Trust from Bank of America N.A. to PROF-2013-M4 Legal Title Trust_ Document No. 544042	11-25-2015	1059-1060
101.	Fay Servicing Mortgage December 2015 Statement	12-14-2015	1061-1063
102.	Fay Servicing Mortgage January 2016 Statement	01-11-2016	1064-1066
103.	Fay Servicing Mortgage February 2016 Statement	02-10-2016	1067-1068
104.	Fay Servicing Mortgage March 2016 Statement	03-10-2016	1069-1071
105.	Declaration of Mortgage Servicer	04-05-2016	1072-1072
106.	Fay Servicing Mortgage April 2016 Statement	04-11-2016	1073-1074
107.	Fay Servicing Mortgage May 2016 Statement	05-10-2016	1075-1077
108.	Fay Servicing Mortgage June 2016 Statement	06-14-2016	1078-1080
109.	Fay Servicing Mortgage July 2016 Statement	07-11-2016	1081-1082
110.	Fay Servicing Mortgage August 2016 Statement	08-10-2016	1083-1084
111.	Correspondence from Vicenta Lincicome to Fay Servicing, LLC Regarding Denial of HAMP-UP Program	08-19-2016	1085-1086
112.	FAY Servicing Denial Letter	09-07-2016	1087-1092
113.	Fay Servicing Mortgage September 2016 Statement	09-12-2016	1093-1094
114.	Proof of First Payment of Trial Modification to Fay Servicing	09-30-2016	1095-1102
115.	Veronica Talley's Affidavit of Authority from Fay Servicing	10-05-2016	1103-1104
116.	Fay Servicing Mortgage October 2016 Statement	10-10-2016	1105-1106
117.	Fay Servicing Mortgage November 2016 Statement	11-10-2016	1107-1108
118.	Proof of Third Payment of Trial Modification to Fay Servicing	11-22-2016	1109-1112
119.	Proof of Second Payment of Trial Modification to Fay Servicing	11-26-2016	1113-1117
120.	Fay Servicing Mortgage December 2016 Statement	12-10-2016	1118-1119
121.	Modification Agreement presented by Fay Servicing	12-15-2016	1120-1126
122.	Supreme Court Mediation Letter from Anita Conboy	12-20-2016	1127-1131



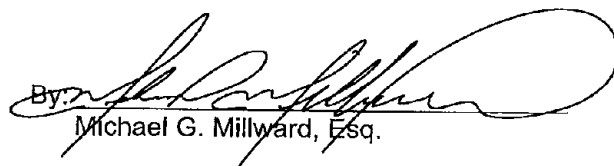
1	123.	Fay Servicing Mortgage January 2017 Statement	01-10-2017	1132-1133
2	124.	Office of the Comptroller of the Currency Correcting Foreclosure Practices	01-31-2017	1134-1135
3	125.	Fay Servicing Mortgage February 2017 Statement	02-11-2017	1136-1137
4	126.	Fay Servicing Mortgage March 2017 Statement	03-10-2017	1138-1139
5	127.	Fay Servicing Mortgage April 2017 Statement	04-10-2017	1140-1141
6	128.	Fay Servicing Mortgage May 2017 Statement	05-10-2017	1142-1143
7	129.	Notice Regarding Mediation Statement and Agreement - Denial of Certificate	05-18-2017	1144-1148
8	130.	Fay Servicing Mortgage June 2017 Statement	06-12-2017	1149-1150
9	131.	Fay Servicing Mortgage July 2017 Statement	07-10-2017	1151-1152
10	132.	Fay Servicing Mortgage August 2017 Statement	08-10-2017	1153-1154
11	133.	Fay Servicing Mortgage September 2017 Statement	09-11-2017	1155-1156
12	134.	Vicenta Lincicome Complaint to Nevada Division of Mortgage Lending	09-28-2017	1157-1163
13	135.	Fay Servicing Mortgage October 2017 Statement	10-10-2017	1164-1165
14	136.	Letter from Fay Servicing to Vicenta Lincicome Regarding Complaint	10-30-2017	1166-1167
15	137.	Letter from Fay Servicing to Andrea Golyer regarding of Division of Banking Complaint by Vicenta Lincicome	11-01-2017	1168-1169
16	138.	Notice of Breach and Default and of Election to Sell the Real Property Under Deed of Trust. Document No. 572258	11-03-2017	1170-1175
17	139.	Notice of Attempt to Collect a Debt by Sables, LLC	11-08-2017	1176-1189
18	140.	Fay Servicing Mortgage November 2017 Statement	11-11-2017	1190-1191
19	141.	Letter from Andrea Golyer with Division of Banking to Vicenta Lincicome Re: Complaint against Fay Servicing, LLC	11-13-2017	1192-1192
20	142.	Limited Financial Power of Attorney for Geoffrey Giles and Associates	11-28-2017	1193-1194
21	143.	Petition for Foreclosure Mediation Assistance	12-01-2017	1195-1200
22	144.	Fay Servicing Mortgage December 2017 Statement	12-11-2017	1201-1202
23	145.	Fay Servicing Mortgage January 2018 Statement	01-10-2018	1203-1204
24	146.	Fay Servicing Mortgage February 2018 Statement	02-10-2018	1205-1206
25	147.	Residential Broker Price Opinion	02-15-2018	1207-1216
26	148.	Affidavit of Certification of Documents and Assignment of Mortgage Note	02-18-2018	1217-1218
27	149.	Affidavit of Certification of Documents and Assignment of Mortgage Note	02-18-2018	1219-1220
28	150.	Letter from Fay Servicing to Vicenta Lincicome Re: Loss Mitigation Package	02-18-2018	1221-1222
	151.	Fay Servicing Offer of Trial Payment Regarding Trial Period Plan Modification	03-06-2018	1223-1229
	152.	Fay Servicing Mortgage March 2018 Statement	03-10-2018	1230-1231



153.	Letter from Shadd Wade of Zieve, Brodnax & Steele, LLP on behalf of U.S. Bank Re: Mediation	03-30-2018	1232-1232
154.	Mediators Statement	04-03-2018	1233-1248
155.	Fay Servicing Mortgage April 2018 Statement	04-10-2018	1249-1250
156.	Fay Servicing Mortgage May 2018 Statement	05-10-2018	1251-1252
157.	Letter from Vicenta Lincicome to Office of President of Fay Servicing	05-18-2018	1253-1255
158.	Letter from Vicenta Lincicome to U.S. Representative Mark Amodei	05-28-2018	1256-1258
159.	Letter from Vicenta Lincicome to Senator Catherine Cortez Masto	05-31-2018	1259-1261
160.	Fay Servicing Mortgage June 2018 Statement	06-11-2018	1262-1263
161.	Fay Servicing's Response to Complaint to Consumer Financial Protection Bureau	06-20-2018	1264-1265
162.	Fay Servicing Mortgage July 2018 Statement	07-10-2018	1266-1267
163.	Fay Servicing Mortgage August 2018 Statement	08-11-2018	1268-1269
164.	Fay Servicing Mortgage September 2018 Statement	09-14-2018	1270-1271
165.	Mediation Program Certificate. Document No. 587169	10-04-2018	1272-1273
166.	Fay Servicing Mortgage October 2018 Statement	10-10-2018	1274-1275
167.	Sables, LLC Notice of Trustee's Sale	10-11-2018	1276-1278
168.	Fax: Complaint, Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction, and Notice of Lis Pendens sent to Bank of America Legal Order Processing Department	11-18-2018	1279-1282
169.	Fay Servicing Mortgage December 2018 Statement	12-10-2018	1283-1284
170.	Notice of Sale of Ownership of Mortgage Loan from Shellpoint Mortgage Servicing	12-28-2018	1285-1289
171.	Settlement Conference Letter	01-04-2019	1290-1291
172.	2018 Form 1098 Mortgage Interest Statement issued by Fay Servicing	01-15-2019	1292-1292
173.	Department of Housing and Urban Development Office of Housing Service Members Civil Relief Act Notice Disclosure sent by Shellpoint Mortgage Servicing	01-15-2019	1293-1295
174.	Letter from Shellpoint Mortgage Servicing regarding Servicing of the Mortgage Loan	01-15-2019	1296-1300
175.	Short Year History Statement from Fay Servicing	02-06-2019	1301-1302

Dated this 16<sup>th</sup> day of April, 2020

**MILLWARD LAW, LTD.**

By:   
 Michael G. Millward, Esq.



## CERTIFICATE OF SERVICE

Pursuant NRCP5(b), I hereby certify that service of the *Plaintiffs Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1* was mailed on April 16, 2020, by depositing the same in the United States Postal Service, first-class postage prepaid, addressed to the following:

Shadd A. Wade, Esq.  
ZIEVE, BRODNAX & STEEL  
9435 W. Russel Rd., Suite 120  
Las Vegas, NV 89148  
*Attorney for Sables, LLC*

Scott R. Lachman, Esq.  
Darren T. Brenner, Esq.  
ACKERMAN, LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

John T. Steffen, Esq.  
Matthew K. Schriever, Esq.  
HUTCHINSON & STEFFEN, PLLC  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
*Attorney for Breckenridge Property Fund 2016, LLC*

Ramir M. Hernandez, Esq.  
R. Samuel Ehlers, Esq.  
WRIGHT, FINLAY & ZAK, LLP  
7785 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117  
*Attorney for Defendants, Prof-2013 M4-Legal Title Trust, by U.S. Bank, National Association, as Legal Title Trustee; Fay Servicing LLC, and Shellpoint Mortgage Servicing, LLC*

Casey J. Nelson, Esq.  
WEDGEWOOD, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, NV 89146  
*Attorney for Breckenridge Property Fund 2016, LLC*

Ashley Voss, Legal Assistant



**Bank of America**



**Home Loans**

Customer Service Department, CA6-919-01-41  
PO Box 5170  
Simi Valley, CA 93062-5170

**Notice Date:** December 15, 2009

**Account No.:** [REDACTED] 4785

Vicenta Lincicome  
70 Riverside Dr  
Dayton, NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**IMPORTANT MESSAGE ABOUT THE LOAN**

This notice confirms receipt of your request that we cease communication with you regarding your account.

---

**WHAT THIS MEANS**

BAC Home Loans Servicing, LP strives to provide the highest level of customer satisfaction.

We have updated our records to reflect your request. Please note that we may communicate with you in order to notify you that we may invoke or intend to invoke a specified remedy.

Please do not hesitate to contact us in the future if you change your mind and would like normal communications to resume regarding your account.

---

**THANK YOU FOR YOUR BUSINESS**

You are a valued customer here at BAC Home Loans Servicing, LP. It is our continued goal to provide our customers with the highest level of customer satisfaction.

If you need further assistance, please contact our Customer Service Department directly at (800) 669-6607.

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence.

CSSTFI 5947/10664 05/17/2006  
00769

AA01899



**Bank of America** 

**Home Loans**

Po Box: 5170  
Simi Valley, CA 93065



0005514-0005514 LETRS 001 ----- 766503

**Notice Date:** March 12, 2010

**Account No.:** [REDACTED] 4785

Vicenta Lincicome  
70 Riverside Dr  
Dayton NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent correspondence addressed to BAC Home Loans Servicing, LP.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions and concerns. We will provide a more complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

Please accept our sincere apology for the delay.

Thank you for the opportunity to be of assistance.

This communication is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence. CSDEAY 2887/9927 11/26/2004

00773

AA01900



**Bank of America**



**Home Loans**

4500- Amon Carter Blvd  
Fort Worth, TX 76155



AT1 3-772-24035-0001336-001-1-000-000-000-000  
VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

**Notice Date:** October 19, 2011

**Account No.:** [REDACTED] 4785

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

---

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

---

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-6607, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence.

CSDEAY 12606 12/16/2010 00855

AA01901



**Bank of America**



**Home Loans**

Mail Stop, CA6-919-01-41  
P.O. Box 5170  
Simi Valley, CA 93062-5170

**Notice Date:** October 24, 2011

**Account No.:** [REDACTED] 4785

Vicenta Lincicome  
70 Riverside Dr  
Dayton, NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**ABOUT YOUR HOME LOAN**

We recently received your request regarding a loan modification on the above referenced loan.

Your request has been forwarded to a specialist in the appropriate department for further research. We appreciate your patience while additional information is gathered in order to respond to your request. We will contact you by telephone or in writing when our review is complete.

---

**THANK YOU FOR YOUR BUSINESS**

If you have any questions, please call us at 1-800-669-6650. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence.

CSSTFI 13025 03/24/2011  
00856

AA01902



**Bank of America**



**Home Loans**

400 National Way  
Simi Valley, CA 93065

CSDEAY 12606 12/16/2010



AT1 4-772-30001-0003973-004-1-000-000-000-000

VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

**Notice Date:** December 23, 2011

**Account No.:** [REDACTED] 4785

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

---

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

---

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-6607, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence.

00857

AA01903



**December 15, 2009** – Bank of America acknowledged receipt of authorization to work with Charles T. Marshall. However, we never heard from Bank of America or Charles T. Marshall again.

Due to the harassing calls from Vendors while our debt escalated for late payments, we went to Financial Guidance Center (Ms. Lucy Powell) for advice. She suggested trying Chapter 13, and talk to a lawyer if we qualify. After closing our agreement with Consumer Credit Counselling after 8 months we contacted Atty. Johnston. After going through everything he filed our papers in April 2010.

**June 4, 2010** – After a series of hearings our Chapter 13 Plan was confirmed. Monthly payments to the Court was \$2,039.00 until July 2015.(Copies attached)

**June 26, 2010** -In one of the hearings, when the Judge knew that we really wanted to save the house and would keep on following up our Modification, he agreed to include, through the Chapter 13 plan, the payment for Escrow Charges. Atty. Robert Johnston, Chapter 13 lawyer wrote to Bank of America, NA informing them to include us in every Modification they offer (copies attached).

**Nov. 2013** – My husband was laid off from work which left me the sole breadwinner.

**January 20, 2014** – We received a letter from Independent Foreclosure Review, under Ref. # 180777614 about an agreement between federal banking regulators and Bank of America in connection with an enforcement action related to their deficient mortgage servicing.

**May 1, 2014** – A letter from AllClear ID, Inc **BREACH RESPONSE UNIT** **confirming a lost thumb drive** containing important information relative to our Housing loan. This review was done by HUD. This confirmed our lost Modification which I have been following up for years.



**April 5, 2015** – On my 26<sup>th</sup> year of service with Eagle Valley Children's Home, the Executive Director terminated my services. It was never my decision to retire but I had no choice. I turned 66 years old this very day.

**April 24, 2015** - Bank of America NA offered a 3 month Trial Modification from June 1 – August 1, 2015. We immediately accepted the offer and an agreement to make payments by phone as required. I made phone payments on June 1<sup>st</sup>, July 1<sup>st</sup> and when I called in our payment for August 1<sup>st</sup> 2015, Bank of America informed us that servicing was transferred.

I am including the following documents to support our complain:

1. 1<sup>st</sup> Modification under FAY Servicing
2. Final Modification – dated December 15, 2016
3. Modification during the Mediation –April 11, 2017
4. Letter from Independent Foreclosure Review
5. Letter from AllClear ID, INC Breach Response Unit
6. Document from Ms. Laura Tellez – Nevada Legal Services
- Filing for Mediation
7. Foreclosure Mediation Program – Result
8. Mr. Ryan Bradford's copies of Original Modification
9. Bank of America's Copies of Original Modification dated July 11, 2009
- With copy of Check payment to Bank of America
10. Doc.# 544042 dated 11-25-2015 – Assignment of Deed of Trust
11. Doc. # 467719 dated 11-10-2010 – Assignment of Mortgage



Mediator's Name: Madelyn Shipman  
Mediator's Bar Number: 408  
Mediator's Firm Name: Madelyn Shipman  
Mediator's Address: 5650 Mount Rose Hwy  
Reno, NV 89511  
Mediator's Telephone: 775-849-1763

Rec'd  
4-5-18

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

VINCENTA LINCICOME, an Individual,

Petitioner,

Case No. 18-CV-01346

vs.

PROF-2013-M4 LEGAL TITLE TRUST, BY U.S.  
BANK NATIONAL ASSOCIATION, AS LEGAL  
TITLE TRUSTEE,

Respondent.  
/

MEDIATOR'S STATEMENT

Homeowner Last Name: LINCICOME

Homeowner First Name: VINCENTA

Property Street Address:

70 RIVERSIDE DRIVE

Property City: DAYTON

State: NEVADA

Zip Code 89403



Part 1 : SIGN-IN SHEET		Date: <u>4/3/2018</u>	
Mediator:	Name:	<u>MADELYN SHIPMAN</u>	
		Print	
	Contact Info:	<u>Shipmanheika@gmail.com</u>	
		Email	Telephone #
	Participated:	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> By Telephone
Homeowner(s)/ Grantor:	Name:	<u>X VICENTA J. LINCIONE</u>	
		Print	
	Contact Info:	<u>[REDACTED]</u>	
		Email	Telephone #
	Participated:	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> By Telephone
Homeowner(s)/ Grantor:	Name:	<u>X A. ELLIS LINCIONE JR.</u>	
		Print	
	Contact Info:	<u>same</u>	
		Email	Telephone #
	Participated:	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> By Telephone
Homeowner Atty. Or Rep:	Name:	<u>GEOFF GILES</u>	
		Print	
	Contact Info:	<u>gedgiles@gmail.com</u>	
		Email	Telephone #
NV Bar/NRS 645F License #	Participated:	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> By Telephone
Beneficiary (Person with Authority):	Name:	<u>TODD VISSER</u>	
		Print	
	Contact Info:	<u>312-508-4226</u>	
		Email	Telephone #
	Participated:	<input type="checkbox"/> In Person	<input checked="" type="checkbox"/> By Telephone
Lender Atty. or Rep:	Name:	<u>Nathan Zeltzer</u>	
		Print	
	Contact Info:	<u>nathan@zlaw.com</u>	
		Email	Telephone #
NV Bar/NRS 645F License #	Participated:	<input checked="" type="checkbox"/> In Person	<input type="checkbox"/> By Telephone
Other:	Name:		
		Print	
	Contact Info:		
		Email	Telephone #
	Participated:	<input type="checkbox"/> In Person	<input type="checkbox"/> By Telephone

If needed, a separate sheet may be utilized for additional attendees.

The attending parties are signing this sheet only to memorialize their presence at the mediation. If an agreement is reached, the parties will be request by the mediator to execute the agreement section of this Mediator Statement, which will outline the basic terms agreed upon at mediation. The mediator may be compelled to testify in any subsequent proceedings regarding the contents of an agreement.



**Part 2A: SUMMARY**

(In this section in its entirety (Part 2A-G) the mediator will document the applicable outcomes of the mediation. All appropriate boxes should be checked in this section.)

☐ A Document Conference was held on WAIVED. (Attach Completed Document List)

☒ A Foreclosure Mediation was held on APRIL 3, 2018.

☐ A Foreclosure Mediation was **not** held (Check All That Apply):

☐ Homeowner requested to withdraw from mediation

☐ Homeowner in active bankruptcy

☐ Non-eligible property

☐ Parties resolved prior to mediation (Complete Part 3: AGREEMENT SECTION G)

**Part 2B: DISPOSITION**

(Mediator must check one box below)

☐ The parties were unable to agree to a loan modification or make other arrangements and the mediation is terminated.

☒ The parties resolved this matter. If marked, also complete Part 3: Mediation Agreement.

**Part 2C: HOMEOWNER (GRANTOR) PARTICIPATION**

☐ Homeowner (Grantor) failed to attend the mediation.

☐ Homeowner (Grantor) failed to exchange required documents.

**COMMENTS**



**Part 2D: BENEFICIARY (LENDER) PARTICIPATION**

*If any item is checked below, the mediator may recommend sanctions. (Determine specific sanction recommendations with particularity in Part 2E).*

- ☐ Beneficiary (Lender), and/or its Representative, failed to attend the mediation. NFMR 11(1)(a).
- ☐ Beneficiary (Lender), and/or its Representative, failed to demonstrate authority, or provide access to a person with authority, to negotiate a loan modification. NFMR 11 (1)(a).
- ☐ Beneficiary (Lender), and/or its Representative, failed to participate in good faith.
- Beneficiary (Lender), and/or its Representative, failed to bring to mediation each document required. NFMR 12 (7). (Check all missing or incomplete documents).
- ☐ An original or certified copy of the mortgage note, or judicial order pursuant to NRS104.3309.
- ☐ A certification with an original signature of each endorsement and/or assignment of the mortgage note, or judicial order pursuant to NRS 104.3309.
- ☐ An original or certified copy of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- ☐ A certification with an original signature of each assignment of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- ☐ Appraisal or Broker Price Opinion (BPO) in accordance with NRS 645.2515 dated not more than 60 days prior to the date of the scheduled mediation.
- ☐ Short Sale document in accordance with the Nevada Foreclosure Mediation Rules.

**Part 2E: SPECIFIC RECOMMENDATION(S) FOR SANCTIONS**

(In this section mediators must state with particularity the participant's conduct and specific reason(s) for recommending sanctions.)

**Part 2F: MEDIATOR'S CERTIFICATION**

The Mediator hereby certifies, under the penalty of perjury, that the foregoing is a true and accurate record of the proceedings as required by the Nevada Mediation Foreclosure Rules.

Date: 4/3/2018

Madelyn Shipman  
MEDIATOR



All documents and discussions presented during the mediation are confidential except in an action for Judicial Review as set forth in the applicable State of Nevada Foreclosure Mediation Rules and NRS Chapter 107.

**Part 3: AGREEMENT (Sections A-G)**

This section outlines the detailed agreement between the grantor and the beneficiary. The mediator will complete all section that apply.

**THE PARTIES AGREED TO THE FOLLOWING**

(Please Choose Either A or B and check all that apply):

3A. RETAIN THE HOME	3B. RELINQUISH THE HOME
<input type="checkbox"/> 1. Reinstatement	<input checked="" type="checkbox"/> 1. Deed in Lieu of Foreclosure
<input type="checkbox"/> 2. Repayment Plan	<input type="checkbox"/> 2. Voluntary Surrender
<input type="checkbox"/> 3. Extension	<input type="checkbox"/> 3. Cash for Keys \$ _____
<input type="checkbox"/> 4. ARM to Fixed Rate	<input type="checkbox"/> 4. Gov't Program: _____
<input type="checkbox"/> 5. Amortization Extended	<input type="checkbox"/> 5. Other Forbearance
<input type="checkbox"/> 6. Interest Rate Reduction	<input type="checkbox"/> 6. Short Sale
<input type="checkbox"/> 7. Principal Forbearance	Estimated Short Sale Value: _____
<input type="checkbox"/> 8. Other Forbearance	Listed By Date: _____
<input type="checkbox"/> 9. Principal Reduction	Listing Period: From _____ to _____
<input type="checkbox"/> 10. Refinance	Listing Price: _____
<input type="checkbox"/> 11. Temporary Modification	Beneficiary Offer Acceptance By
Expiration Date: _____	Date: _____
<input type="checkbox"/> 12. Permanent Modification	Maximum Escrow Period: _____
<input type="checkbox"/> 13. Short payoff \$ _____	<input type="checkbox"/> 7. Waiver of Deficiency <input type="checkbox"/> Yes <input type="checkbox"/> No
When: _____	<input type="checkbox"/> 8. Vacate Date: _____
Conditions: _____	<input checked="" type="checkbox"/> 9. Certificate Date: <u>7/5/2018</u>
<input type="checkbox"/> 14. Gov't Program: _____	Comments: <u>PURSUANT TO DIL</u>
	<u>REQUIREMENTS ON P. 6 OF</u>
	<u>TTP DATED 3/6/2018 -</u>
	<u>ATTACHED HERETO.</u>

**3C. DETAILS**

- ☐ Beneficiary will report the loan as paid in current status effective as of: \_\_\_\_\_
- ☐ Treatment of arrearages: \_\_\_\_\_
- ☐ Waiver of Fees and Penalties: \_\_\_\_\_
- ☐ Rescind Notice of Default effective as of: \_\_\_\_\_



**3D. THE FOLLOWING TERMS REMAIN UNCHANGED (Please check all that apply.)**

- ☐ The balance due as shown on beneficiary's book, which is \_\_\_\_\_
- ☐ The interest rate stated in the original note, which is \_\_\_\_\_
- ☐ The loan term stated in the original note, which is: \_\_\_\_\_

**3E: LOAN MODIFICATION (Please complete all that apply)**

Temporary Modification	Permanent Modification
<b>1. Loan Balance</b> Total loan balance shall be modified to \$ _____ Effective date _____	Total loan balance shall be modified to \$ _____ Effective date _____
<b>2. Interest Rate</b> <b>Period 1</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months <b>Period 2</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months*	<b>Period 1</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months <b>Period 2</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months*
<b>3. Loan Term</b> There are _____ monthly payments remaining as of _____. Begin date _____ End date _____	There are _____ monthly payments remaining as of _____. Begin date _____ End date _____
<b>4. Payment</b> Resulting initial payment \$ _____ Principal & Interest \$ _____ Escrow \$ _____ Total: _____	Resulting initial payment \$ _____ Principal & Interest \$ _____ Escrow \$ _____ Total: _____
<b>5. Fees &amp; Costs</b> The aforementioned loan balance includes fees & costs for temporary and permanent modifications as follows:	
<b>Incurred</b>	<b>Waived</b>
Interest \$ _____	Interest \$ _____
Costs \$ _____	Costs \$ _____
Fees \$ _____	Fees \$ _____
Other \$ _____	Other \$ _____
Total \$ _____	Total \$ _____
Comments:	

\* If additional Periods agreed upon by the parties, please indicate on a separate sheet and attached hereto.



### 3G: DEFICIENCY & TAX LIABILITY

Please be advised that the mediator is not permitted to provide any legal or tax advice to the parties on any issues related to the mediation or the terms of any potential settlement agreement. It is suggested that the parties contact a licensed professional of their choice for legal or tax advice related to this mediation and any potential settlement.

**1. Deficiency:**

☐ The settlement agreement will include a provision waiving any deficiency resulting from recovery by the Trustee/Beneficiary of less than the full amount the Trustee/Beneficiary claims now to be due on the loan.

Comments:

**2. Other deficiency and/or tax liability terms not mentioned above:**

☐ Additional terms, details are as follows:

**3. Is this agreement contingent upon the signing of other documents and/or forms (i.e., updated financial information, tax returns, divorce decree, etc.)?**

☐ If yes, provide a detailed list and/or attach:



**3G: SETTLEMENT/RESOLUTION BEFORE MEDIATION**

**The parties reached a settlement and/or resolution prior to the scheduled mediation.**

- ☐ Copy of signed Settlement/Resolution Agreement attached. (Attach signed agreement)
- ☐ Settlement/Resolution Agreement memorialized at mediation as reflected in the Mediator Statement.

**3H: SIGNATURE OF PARTIES**

IN WITNESS WHEREOF, each of the participants in this mediation has executed this mediation agreement on the date set forth. The parties agree to separately prepare and execute the documents necessary to accomplish the terms of this agreement.

Date: 4-3-18

+ Patricia J. Lucicome

Homeowner (Grantor)

Date: 4-3-18

+ [Signature]

Homeowner (Grantor)

Date: 4-3-18

[Signature]

Homeowner's Attorney/Representative

Date: 4/3/18

To de Visser

Lender (Beneficiary)

Date: 4/3/18

[Signature]

Lender's Attorney/Representative

Date: \_\_\_\_\_

Other (Please specify relationship to Lender or Homeowner)

Date: \_\_\_\_\_

Other (Please specify relationship to Lender or Homeowner)



**PART 4: RECOMMENDATION FOR DISMISSAL OF PETITION**

The parties did not reach a settlement as a result of mediation and I therefore recommend dismissal of the petition, pursuant to NFMR 20(3).

\_\_\_\_\_  
MEDIATOR

**PART 5: CERTIFICATE OF MAILING**

☒ Mailed, pursuant to NRCP 5(b), a true and correct copy of the foregoing document addressed to:

Geof Giles, Esq.  
Law Office of Geof Giles  
527 California Avenue, Ste. 1  
Reno, NV 89509

Shadd Wade, Esq.  
Zieve, Brodnax & Steele  
3753 Howard Hughes Pkwy, Ste. 200  
Las Vegas, NV 89169

Home Means Nevada, Inc.  
3300 West Sahara Avenue, Ste. 480  
Las Vegas, NV 89102

Nathan R. Zeltzer, Esq.  
232 Court Street  
Reno, NV 89501

*Madelyn Shipman*  
\_\_\_\_\_  
MEDIATOR

**CONTINUATION:**

If needed, utilize the space below to further memorialize the mediation or include additional comments. Please identify the section this information related to by using the specific section number (Part 1 through Part 5), as listed above.



# EXHIBIT B

# EXHIBIT B



Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 1

1 THIRD JUDICIAL DISTRICT COURT

2 LYON COUNTY, NEVADA

3 ALBERT ELLIS LINCICOME, JR. )  
4 and VICENTA LINCICOME, ) Case No. 18-cv-01332  
5 ) Dept. No. II  
6 Plaintiffs, )

7 vs. )

8 SABLES, LLC, a Nevada )  
9 limited liability company, )  
10 as Trustee of the Deed of )  
11 Trust, given by Vicenta )  
12 Lincicome and dated )  
13 5/23/2007; FAY SERVICING, )  
14 LLC, a Delaware limited )  
15 liability company and )  
16 subsidiary of Fay )  
17 Financial, LLC; )  
18 PROF-2013-M4 LEGAL TITLE )  
19 TRUST by U.S. BANK, N.A., )  
20 as Legal Title Trustee for )  
21 BANK OF AMERICA, N.A.; )  
22 BRECKENRIDGE PROPERTY FUND )  
23 2016, a Utah limited )  
24 liability company; NEWREZ, )  
25 LLC, d/b/a SHELLPOINT )  
MORTGAGE SERVICING, LLC, )  
substituted in for DOE 1; )  
1900 CAPITAL TRUST II, BY )  
U.S. BANK TRUST NATIONAL )  
ASSOCIATION, substituted in )  
for DOE 2; MCM-2018-NPL2, )  
substituted in for DOE 3; )  
and DOES 4-10, )  
Defendants. )

**CERTIFIED  
COPY**

REMOTE  
VIDEOCONFERENCE  
DEPOSITION

OF

ALBERT ELLIS  
LINCICOME, JR.

(Present Via  
Videoconference)

21 /////

22 Taken on Friday, January 15, 2021  
23 At 3:59 p.m.

24 Taken at All-American Court Reporters  
25 1160 North Town Center Drive, Suite 300  
Las Vegas, Nevada 89144

Reported by: Sarah Safier, CCR No. 808



Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 2

1  
2 BRECKENRIDGE PROPERTY FUND  
3 2016, a Utah limited  
4 liability company,  
5  
6 Counter-Claimant,  
7  
8 vs.  
9  
10 ALBERT ELLIS LINCICOME, JR.,  
11 an individual; VICENTA  
12 LINCICOME, an individual;  
13 and DOE OCCUPANTS 1-5,  
14  
15 Counter-Defendants.  
16  
17  
18  
19  
20  
21  
22  
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24  
25



Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 3

1 REMOTE VIDEOCONFERENCE DEPOSITION OF ALBERT ELLIS  
2 LINCICOME, JR., taken at All-American Court  
3 Reporters, 1160 North Town Center Drive, Suite 300,  
4 Las Vegas, Nevada, on Friday, January 15, 2021, at  
5 3:59 p.m., before Sarah Safier, Certified Court  
6 Reporter, in and for the State of Nevada.  
7 APPEARANCES:  
8 For the Plaintiffs/Counter-Defendants Albert Ellis  
9 Lincicome, Jr. and Vicenta J. Lincicome:  
10 MICHAEL G. MILLWARD, ESQ.  
11 (PRESENT VIA VIDEOCONFERENCE)  
12 Millward Law, Ltd.  
13 1591 Mono Avenue  
14 Minden, Nevada 89423  
15 JUSTIN M. CLOUSER, ESQ.  
16 (PRESENT VIA VIDEOCONFERENCE)  
17 Clouser Hempen Wasick Law Group, Ltd.  
18 1512 US Highway 395 N, Ste. 1  
19 Gardnerville, Nevada 89410  
20 For the Defendants/Cross-Defendant Prof-2013-M4 Legal  
21 Title Trust by U.S. Bank, National Association, as  
22 Legal Title Trustee, Fay Servicing, LLC and  
23 Shellpoint Mortgage Servicing, LLC:  
24 RAMIR M. HERNANDEZ, ESQ.  
25 (PRESENT VIA VIDEOCONFERENCE)  
Wright, Finlay & Zak, LLP  
7785 West Sahara Avenue  
Suite 200  
Las Vegas, Nevada 89117  
For the Defendant Bank of America, N.A.:  
SCOTT R. LACHMAN, ESQ.  
(PRESENT VIA VIDEOCONFERENCE)  
Akerman LLP  
1635 Village Center Circle  
Suite 200  
Las Vegas, Nevada 89134



Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 4

1 APPEARANCES:  
(Continued)

2 For the Defendants/Counter-Claimant/  
3 Counter-Defendant Breckenridge Property Fund 2016:

4 MATTHEW K. SCHRIEVER, ESQ.  
(PRESENT VIA VIDEOCONFERENCE)  
5 Hutchison & Steffen, PLLC  
10080 West Alta Drive  
6 Suite 200  
Las Vegas, Nevada 89145

7  
8 Also Present Via Videoconference:

9 VICENTA J. LINCICOME

10 ERNEST P. WAGNER, ESQ.  
(PRESENT VIA VIDEOCONFERENCE)  
11 Maurice Wutscher, LLP  
The Loop Center Building  
12 105 West Madison Street  
Suite 603  
13 Chicago, Illinois 60602

14 JOCELYN GALVAN, ZOOM TECH  
All-American Court Reporters  
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Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 5

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I N D E X

Witness: ALBERT ELLIS LINCICOME, JR.

	Examination	Further Examination
By Mr. Hernandez	7	
By Mr. Lachman	34	
By Mr. Schriever	53	

E X H I B I T S

Defendant	Page
(Nothing offered)	



Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 6

1 (In an off-the-record discussion held prior to the  
2 commencement of the deposition proceedings, counsel  
3 agreed to waive the court reporter requirements under  
4 Rule 30(b)(4) of the Nevada Rules of Civil  
5 Procedure.)

6 ZOOM TECH: The attorneys participating in  
7 this proceeding acknowledge that the court reporter  
8 is not physically present in the proceeding room with  
9 the deponent or counsel and that she will be  
10 reporting this proceeding remotely.

11 Counsel, if you are in agreement to the  
12 remote deposition, please state your name and consent  
13 to the agreement for the record.

14 Then the court reporter, Sarah Safier, CCR  
15 No. 808, will swear in the deponent remotely.

16 MR. HERNANDEZ: This is Ramir Hernandez. I  
17 give my consent.

18 MR. CLOUSER: Justin Clouser. I give my  
19 consent.

20 MR. SCHRIEVER: Matt Schriever. I give my  
21 consent.

22 MR. MILLWARD: Michael Millward. I consent.

23 MR. LACHMAN: This is Scott Lachman. I  
24 consent.

25 ///



Albert Ellis Lincicome, Jr. ~ January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 7

1 Whereupon --

2 ALBERT ELLIS LINCICOME, JR.

3 being first duly sworn to tell the truth, the whole  
4 truth, and nothing but the truth, was examined and  
5 testified as follows:

6 EXAMINATION

7 BY MR. HERNANDEZ:

8 Q Please state your name for the record.

9 A Yes. My name is Ellis Lincicome. Ellis is  
10 my middle name. My first initial is A, and I am a  
11 junior, so A. Ellis Lincicome, Jr.

12 Q And you are the plaintiff in the matter  
13 before us today, correct?

14 A Yes.

15 Q Mr. Lincicome, did you just witness the  
16 deposition of Vicenta Lincicome just prior to this  
17 deposition beginning in this matter?

18 A Yes, I did.

19 Q Were you present for the entirety of that  
20 deposition?

21 A Yes.

22 Q Did you hear and listen and understand, to  
23 the best of your ability, the testimony of Vicenta  
24 Lincicome in the prior deposition?

25 A Some of the stuff is very confusing to me,



1           A     Yes, I did collect social security.

2           Q     Let me clarify what I mean by income.

3     Income is any accessions to wealth. I'm sorry,  
4     that's the law school definition. I'm sure the other  
5     attorneys are chuckling at that.

6                     Income is any money that you would make.

7     Okay?

8           A     Income is what?

9           Q     Any money that you would make. I'm sorry, I  
10    didn't clarify that. I know you probably thought  
11    income meant a job, but I meant any money that you  
12    made.

13                    So if I define income like that, do you want  
14    to rephrase your answer? Do you remember generating  
15    income in 2018?

16          A     Outside of social security, I had -- my  
17    family, we had inherited a piece of property. And I  
18    get a -- every quarter I get, like, a \$60 check. So  
19    that, I guess, could be considered income, but it  
20    isn't a great amount of money. So it's something you  
21    don't even think about half the time. I can't think  
22    of any other way I was making money.

23          Q     Okay. So is it safe to say that the income  
24    you generated in 2018 was your social security check?

25          A     Yeah.



1 Q And your IRA withdrawals?

2 A Yes.

3 Q Okay. And then a \$60 quarterly check?

4 A Yeah. It's so pitifully small.

5 Q So that's \$15 a month, we could say, right?

6 A Yeah. Big deal.

7 Q \$15 a month plus about \$245 per month from  
8 your IRA?

9 A And there's 240, I think 240-something  
10 dollars, I think, a month --

11 Q We'll say \$240.

12 A -- that I draw monthly, yeah.

13 Q And how much was your social security check?

14 A See, it goes straight in there, so I never  
15 remember. You want the gross amount or the net  
16 amount? The check itself?

17 Q The gross amount.

18 A The gross amount is a little over \$2,000,  
19 \$2,300, \$2,200 -- no. That's what we get, right,  
20 when they take the taxes out -- I think the gross  
21 amount, but our check is only about \$1,700 or \$1,800.

22 Q Do you guys get one check between the two of  
23 you?

24 A No, two separate checks.

25 Q So your check is about \$1,700?



1 A Yes.

2 Q So is it safe to say that in 2018 you were  
3 making about \$2,000 a month in income?

4 A Yeah. That would be close.

5 Q Now, Bet testified to your expenses. Do you  
6 recall that?

7 A She testified that what?

8 Q To your monthly expenses. Do you recall  
9 that?

10 A She said -- she -- yeah. I do recall that,  
11 yes.

12 Q And do you remember -- do you have any  
13 changes to her testimony regarding the expenses you  
14 have per month?

15 A She knows more about it than I do. She's  
16 probably right.

17 Q Okay. Very good. I guess the question that  
18 Matt Schriever asked -- I think it was Matt or it was  
19 Scott -- asked in the last deposition was, and I want  
20 to repeat this question, could you guys have  
21 afforded -- could you and Bet -- let me rephrase  
22 that. Could you and Bet have afforded a \$2,000 per  
23 month monthly mortgage payment in 2018?

24 A Not -- probably not as it is, but we could  
25 have both gone to work again. I doubt that I would



1 find work because of my ailment, but Bet is very  
2 qualified. She could have worked.

3 Q But did Bet try to find work in 2018?

4 A She's been looking on and off for quite a  
5 while.

6 Q So just to clarify for the record, is it a  
7 true statement that you and Bet could not afford to  
8 make a \$2,000 a month payment in 2018?

9 A In 2018? Not as such probably, but --

10 Q Okay. Now, I want to talk about damages.  
11 Are you seeking monetary damages from Fay in this  
12 litigation?

13 A Monetary damages? Are we seeking monetary  
14 damages?

15 Q Yes.

16 A To be quite honest, I haven't given it much  
17 thought. I was kind of waiting to see how things  
18 turned out to finally figure out what damages we  
19 would require.

20 Q Okay. Is that true for all of the  
21 defendants in this case?

22 A All of what?

23 Q The defendants. Is that true for all of the  
24 defendants in this case?

25 A Basically, yes.



1 Q Is that true for Fay?

2 A Fay is a different subject, I think, because  
3 they have no -- personally, I feel they treated us  
4 very badly, and they would deserve to be forced to  
5 pay money, as far as I'm concerned.

6 Q Do you know how much you're asking for?

7 A I hadn't given it any thought, no.

8 Q How about Shellpoint?

9 A I don't know much about Shellpoint. They  
10 came to us later in the game, I guess, so...

11 Q Do you have a monetary amount that you're  
12 seeking against Shellpoint?

13 A I wouldn't know yet, no.

14 Q What about Bank of America? Do you have a  
15 monetary amount that you're seeking from Bank of  
16 America?

17 A I haven't thought about it, but that would  
18 probably be significant.

19 Q What do you mean -- just out of curiosity,  
20 what do you mean by "significant"?

21 A Well, greater than \$100. Let's put it that  
22 way. It's going to be notable.

23 Q Is it greater than \$10,000?

24 A Possibly, yes.

25 Q Greater than \$100,000?



1 EXAMINATION

2 BY MR. LACHMAN:

3 Q Ellis, were you involved with recording the  
4 homestead back in 2008?

5 A Bet did it, but she told me she was going to  
6 do it. I knew when it was happening, and I knew why  
7 she wanted it. She said it helps secure the  
8 property.

9 Q So you know how to record documents with the  
10 county recorder; is that correct?

11 A Well, I wouldn't know how to do that.  
12 That's not something I do. Bet is more inclined to  
13 be doing that kind of thing.

14 Q What was your position with IGT?

15 A My position at IGT? I held many positions.

16 Q How many years did you work for IGT?

17 A 30.

18 Q What sorts of positions did you hold over  
19 those 30 years?

20 A Well, I was a supervisor twice, once in  
21 production and once in what we call -- I have to  
22 think of how they refer to it -- customer --  
23 casino -- well, they had casino services, and then we  
24 had a group that traveled. And that was my  
25 supervisory position was over field support, is what



1           A     I think when we started this lawsuit.

2           Q     After your employment ended with IGT, did  
3     you apply for any jobs?

4           A     Yeah. I looked for quite a while, for about  
5     a year, and the jobs were -- either didn't pay  
6     anything to make it worth my while or I really didn't  
7     want to do them.

8           Q     Counsel previously asked you questions about  
9     damages as to certain defendants. What sort of  
10    damages are you looking for from Bank of America?

11          A     Against Bank of America?

12          Q     Yes.

13          A     Like I said, I haven't got any figures in my  
14    head, so I'd just like to let this kind of roll into  
15    the final stages of it before we think about that.

16          Q     Based on your Complaint, it appears as  
17    though you're suing Bank of America for things that  
18    Bank of America did or did not do in the years 2009  
19    to 2011; is that correct?

20          A     I wouldn't exclude things they did after  
21    that, but, yeah, that's basically it.

22          Q     What things did they do after that that  
23    would cause you to sue Bank of America?

24          A     Well, as far as I'm concerned, in my  
25    opinion, I think they just were very inept, and they



1     were one way she could do that. So she kept on them  
2     about those and any other way she could. I know she  
3     tried very hard. She was in constant contact with  
4     them. It didn't seem to get anywhere.

5           Q     What did you do with the approximate \$2,000  
6     that was supposed to be paid towards the mortgage  
7     when you weren't paying the mortgage?

8           A     Well, as we've stated before, what happened  
9     is the income tax hit us, and we had some other bills  
10    that we have that just piled up on us and forced us  
11    to let our house payment go for a while. There was  
12    no money extra then.

13                And then later on, it was the payments for  
14    putting our daughter and taking care of our  
15    grandson -- our daughter through school and taking  
16    care of our grandson. So we had other issues going  
17    on, one after another.

18           Q     Why are you up to date on the Carson City  
19    mortgage, you were paying on that but not on this  
20    mortgage?

21           A     Because it takes care of itself. The income  
22    we get takes care of it.

23           Q     Carriage Crest is next to Pebble Ridge  
24    Drive, correct?

25           A     I'm sorry?



1 Q And you agreed to a Deed in Lieu of  
2 Foreclosure; is that correct?

3 A What we were looking for once they backed us  
4 into a corner and said there's no other alternatives  
5 was to give us some time to think about what we could  
6 do next. So basically we signed the least  
7 permanent -- I think the other alternative was  
8 something that would be -- they could foreclose at  
9 any time. And so what we did is we did what we had  
10 to do to give us more time.

11 Q How many mortgage payments have you made on  
12 this loan after you stopped making payments in mid  
13 2018 -- 2008?

14 A I'm sorry, what mortgage payments?

15 Q How many monthly mortgage payments have you  
16 made on the loan since stopping payment in 2008?

17 A Oh, lord, I don't remember. I couldn't tell  
18 you that. We tried to make a lot of payments that  
19 they wouldn't take, so...

20 Q So Bank of America allegedly didn't accept  
21 the second payment in October 2009. Did you ever try  
22 making a third payment after that?

23 A It was kind of futile when they wouldn't  
24 accept the second. What would it matter? They made  
25 it mandatory that we pay on the first day of every



1 month. We did the first. When they wouldn't accept  
2 the second, what good would it have been to try to  
3 pay the third?

4 Q You're alleging that Bank of America  
5 breached the 2009 loan modification by not accepting  
6 payment in 2009; is that correct?

7 A Yes.

8 Q This lawsuit was filed many, many years  
9 later, about ten years later. Why did you wait so  
10 long to sue Bank of America?

11 A Well, a number of reasons. We didn't know  
12 what we were doing, and partly because we couldn't  
13 find an attorney that would take the case.

14 Q When did you believe you had a lawsuit  
15 against Bank of America?

16 A When we actually talked to Michael Millward.

17 Q Did you consider bringing an action or a  
18 lawsuit against Bank of America prior to this  
19 lawsuit?

20 A Oh, I considered it. I would have loved to  
21 have done it before that, but I didn't know how to do  
22 it.

23 Q You say you considered it. What year did  
24 you consider it?

25 A All the way through. They treated us



1 Mortgage Lending Division regarding Bank of America's  
2 mortgage servicing activities?

3 A I don't know what the question is. What was  
4 the question?

5 Q Have you ever made a complaint to the  
6 Mortgage Lending Division regarding Bank of America's  
7 servicing activities?

8 A If we did, Bet made it. I can't tell you.

9 Q Do you bank with Bank of America, personal  
10 banking?

11 A We used to. Didn't like them, so we left  
12 and went to another bank.

13 Q The payments, when you stopped making  
14 payments in 2008, did you put money in a suspense  
15 account or an escrow account?

16 A When we stopped making payments?

17 Q Yeah.

18 A No. Like I said, what money would we have  
19 extra to put into an account?

20 Q Have you spoken with Ms. Keady in the past  
21 year or two?

22 A With who?

23 Q With Ms. Keady.

24 A I never spoke to her. I'm not sure that I  
25 did.



1 CERTIFICATE OF REPORTER

STATE OF NEVADA )  
 ) ss:  
COUNTY OF CLARK )

I, Sarah Safier, CCR No. 808, do hereby  
certify: That I reported the remote videoconference  
deposition of ALBERT ELLIS LINCICOME, JR., commencing  
on Friday, January 15, 2021, at 3:59 p.m.

That prior to being deposed, the witness was duly sworn by me to testify to the truth. That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true, and accurate transcription of my said shorthand notes. That prior to the conclusion of the proceedings, pursuant to NRC 30(e), the reading and signing of the transcript was requested by the witness or a party.

I further certify that I am not a relative or employee of counsel of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

IN WITNESS WHEREOF, I have set my hand in my office in the County of Clark, State of Nevada, this 26th day of January, 2021.

Sarah Safier, CCR No. 808



# EXHIBIT C

# EXHIBIT C



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 200

1                               THIRD JUDICIAL DISTRICT COURT  
2                               LYON COUNTY, NEVADA  
3       ALBERT ELLIS LINCICOME, JR.     )  
      and VICENTA LINCICOME,         )     Case No. 18-cv-01332  
4                               )     Dept. No. II  
      Plaintiffs,                     )  
5                               )       
      vs.                             )  
6                               )       
      SABLES, LLC, a Nevada         )  
7       limited liability company,     )  
      as Trustee of the Deed of     )  
8       Trust, given by Vicenta     )  
      Lincicome and dated         )  
9       5/23/2007; FAY SERVICING,   )  
      LLC, a Delaware limited     )  
10      liability company and       )  
      subsidiary of Fay            )  
11      Financial, LLC;             )  
      PROF-2013-M4 LEGAL TITLE     )  
12      TRUST by U.S. BANK, N.A.,   )  
      as Legal Title Trustee for   )  
13      BANK OF AMERICA, N.A.;     )  
      BRECKENRIDGE PROPERTY FUND   )  
14      2016, a Utah limited       )  
      liability company; NEWREZ,   )  
15      LLC, d/b/a SHELLPOINT       )  
      MORTGAGE SERVICING, LLC,     )  
16      substituted in for DOE 1;   )  
      1900 CAPITAL TRUST II, BY    )  
17      U.S. BANK TRUST NATIONAL    )  
      ASSOCIATION, substituted in   )  
18      for DOE 2; MCM-2018-NPL2,   )  
      substituted in for DOE 3;    )  
19      and DOES 4-10,             )  
20                               )       
      Defendants.                     )  
21        /////////  
22                               Taken on Friday, January 15, 2021  
                                  At 1:16 p.m.  
23                               Taken at All-American Court Reporters  
                                  1160 North Town Center Drive, Suite 300  
24                               Las Vegas, Nevada 89144  
25       Reported by: Sarah Safier, CCR No. 808

**CERTIFIED  
COPY**

REMOTE  
VIDEOCONFERENCE  
DEPOSITION

OF  
VICENTA J. LINCICOME  
VOLUME II

(Present Via  
Videoconference)



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 201

1    ///// )  
2    BRECKENRIDGE PROPERTY FUND        ) )  
3    2016, a Utah limited                ) )  
4    liability company,                 ) )  
5               Counter-Claimant,         ) )  
6               vs.                        ) )  
7    ALBERT ELLIS LINCICOME, JR.,        ) )  
8    an individual; VICENTA               ) )  
9    LINCICOME, an individual;            ) )  
10   and DOE OCCUPANTS 1-5,               ) )  
11               Counter-Defendants.         ) )  
12               \_\_\_\_\_  
13   BRECKENRIDGE PROPERTY FUND        ) )  
14   2016, a Utah limited                ) )  
15   liability company,                 ) )  
16               Cross-Claimant,            ) )  
17               vs.                        ) )  
18   PROF-2013-M4 LEGAL TITLE             ) )  
19   TRUST BY U.S. BANK                    ) )  
20   NATIONAL ASSOCIATION, AS             ) )  
21   LEGAL TITLE TRUSTEE,                 ) )  
22               Cross-Defendant.           ) )  
23               \_\_\_\_\_  
24  
25



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 202

1 REMOTE VIDEOCONFERENCE DEPOSITION OF VICENTA J.  
2 LINCICOME, VOLUME II, taken at All-American Court  
3 Reporters, 1160 North Town Center Drive, Suite 300,  
4 Las Vegas, Nevada, on Friday, January 15, 2021, at  
5 1:16 p.m., before Sarah Safier, Certified Court  
6 Reporter, in and for the State of Nevada.  
7 APPEARANCES:  
8 For the Plaintiffs/Counter-Defendants Albert Ellis  
9 Lincicome, Jr. and Vicenta J. Lincicome:  
10 MICHAEL G. MILLWARD, ESQ.  
11 (PRESENT VIA VIDEOCONFERENCE)  
12 Millward Law, Ltd.  
13 1591 Mono Avenue  
14 Minden, Nevada 89423  
15 JUSTIN M. CLOUSER, ESQ.  
16 (PRESENT VIA VIDEOCONFERENCE)  
17 Clouser Hempen Wasick Law Group, Ltd.  
18 1512 US Highway 395 N, Ste. 1  
19 Gardnerville, Nevada 89410  
20 For the Defendants/Cross-Defendant Prof-2013-M4 Legal  
21 Title Trust by U.S. Bank, National Association, as  
22 Legal Title Trustee, Fay Servicing, LLC and  
23 Shellpoint Mortgage Servicing, LLC:  
24 RAMIR M. HERNANDEZ, ESQ.  
25 (PRESENT VIA VIDEOCONFERENCE)  
Wright, Finlay & Zak, LLP  
7785 West Sahara Avenue  
Suite 200  
Las Vegas, Nevada 89117  
For the Defendant Bank of America, N.A.:  
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1635 Village Center Circle  
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Las Vegas, Nevada 89134



Vicenta J. Lincicome - Vol. II - January 15, 2021  
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Page 203

1 APPEARANCES:  
(Continued)

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3 Counter-Defendant Breckenridge Property Fund 2016:

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11 Maurice Wutscher, LLP  
The Loop Center Building  
12 105 West Madison Street  
Suite 603  
13 Chicago, Illinois 60602

14 JOCELYN GALVAN, ZOOM TECH  
All-American Court Reporters

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Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 204

1 I N D E X

2

3 Witness: VICENTA J. LINCICOME

4

Examination Further Examination

5

By Mr. Lachman 206

6

By Mr. Schriever 278

By Mr. Millward 284

7

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9

E X H I B I T S

10

Defendant

Page

11

(Nothing offered)

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Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 205

1 (In an off-the-record discussion held prior to the  
2 commencement of the deposition proceedings, counsel  
3 agreed to waive the court reporter requirements under  
4 Rule 30(b)(4) of the Nevada Rules of Civil  
5 Procedure.)

6 ZOOM TECH: The attorneys participating in  
7 this proceeding acknowledge that the court reporter  
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11 Counsel, if you are in agreement to the  
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14 Then the court reporter, Sarah Safier, CCR  
15 No. 808, will swear in the deponent remotely.

16 MR. HERNANDEZ: This is Ramir Hernandez. I  
17 consent.

18 MR. MILLWARD: Michael Millward. I consent  
19 on behalf of the plaintiff.

20 MR. CLOUSER: Justin Clouser. I consent.

21 MR. LACHMAN: Scott Lachman. I consent.

22 MR. SCHRIEVER: Matt Schriever. I consent.

23 Whereupon --

24 VICENTA J. LINCICOME  
25 being first duly sworn to tell the truth, the whole



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 206

1 truth, and nothing but the truth, was examined and  
2 testified as follows:

3 EXAMINATION

4 BY MR. LACHMAN:

5 Q Good afternoon, Bet. This is --

6 A Good afternoon. Hi.

7 Q Again, this is Scott Lachman from Bank of  
8 America.

9 A I remember you, Scott.

10 Q Oh, good. We're here for your continued  
11 deposition.

12 Do you recall during the last deposition  
13 that the attorney for Fay Servicing and U.S. Bank  
14 provided some ground rules for a deposition?

15 A Ground rules? I believe so.

16 Q Would you mind if I did not give those same  
17 ground rules today?

18 A Okay.

19 Q Is there anything preventing you from  
20 speaking truthfully today?

21 A Nothing.

22 Q Are you on any medication or drugs that  
23 would impair your ability to speak truthfully today?

24 A No, I don't.

25 Q If you need a break at any time, please let



1     that loan number?

2           A     I couldn't -- I don't recall. But  
3     everything was printed when I was told to sign the  
4     documents and mail it immediately.

5           Q     When you corresponded with Bank of America  
6     after signing the Loan Modification Agreement, did  
7     you ever provide Bank of America a copy of the Loan  
8     Modification Agreement?

9           A     I was with impression that the one that I  
10    mailed, they would receive it.

11          Q     And you mailed that via FedEx; is that  
12    correct?

13          A     FedEx, yes, in a self-addressed envelope.  
14    They provided with the envelope with the address and  
15    everything.

16          Q     Did you ever go on FedEx.com to see if the  
17    package was delivered?

18          A     No, I did not.

19          Q     Do you have any -- do you have any  
20    documentation from FedEx that the package with the  
21    Loan Modification Agreement was delivered to the Bank  
22    of America?

23          A     No, I don't have it.

24          Q     Have you ever communicated with Federal  
25    Express regarding the package with the Loan



1 Q You made a first payment?

2 A Yes.

3 Q And that was to -- that was at the Carson  
4 City branch; is that correct?

5 A That's correct.

6 Q And then you tried making a second payment.  
7 Can you tell me about that?

8 A Yes, I did.

9 Q What can you tell me about the interaction  
10 you had with Bank of America regarding the second  
11 payment?

12 A Well, the first payment, I was already  
13 informed that they didn't want to accept it because  
14 our loan was not in the system. So they said, "We  
15 cannot post your payment. Even if you make the  
16 payment, we cannot post your payment because your  
17 loan is not in the system."

18 So I said, "So what do you want me to do  
19 now?" And I said, "I really have to -- I can show  
20 you that the instruction was to make the first  
21 payment. Under the agreement, I have to make the  
22 first payment on the first day of September."

23 And because that was the only way fastest  
24 where I can make the payment, so we went to the bank.  
25 But in October, before -- after they said they will



1 receive the check, but won't post it until they can  
2 find the -- they can find the loan agreement in the  
3 system, they told me to call Bank of America and  
4 request for the payment coupon book, which I did  
5 every day. And every day they said they don't have a  
6 record -- any record of a loan agreement. So they  
7 cannot provide me with a coupon book because they  
8 don't have any information of the loan agreement.

9 Q When you say you called Bank of America  
10 every day, can you give me the approximate dates that  
11 you called Bank of America every day?

12 A Well, I called October 1st because they  
13 wouldn't accept my payment. I called October 1st. I  
14 called every day therein because I was so worried if  
15 they won't accept my payment, because under the  
16 agreement, I have to do it on the very first day of  
17 the month.

18 Q Do you still have your checkbook from 2008?

19 A I don't know. Because in 2008, I don't  
20 remember if we still have it.

21 Q Would you still have your checkbook from  
22 2009?

23 A I don't remember.

24 Q Do you do your banking at a physical bank  
25 location, or do you do it online?



1 A Back in 2011?

2 Q Correct.

3 A Probably could in 2011. My husband wasn't  
4 sick yet with myasthenia gravis.

5 Q So the money that you were not making  
6 payments to Bank of America to, what did you do with  
7 that money? Did you put it in a separate account?

8 A Okay. During that time, our daughter and  
9 grandson were still living with us, and our daughter  
10 really would like to take up nursing. So we have to  
11 help her finish her nursing degree so she could take  
12 care of her son.

13 Q All right.

14 A We took care of our grandson because our  
15 grandson's dad was deceased.

16 Q I'm sorry to hear that.

17 A Nobody else could help him.

18 Q Would you agree that you took the  
19 approximately \$200 a month that was listed in the  
20 Loan Modification Agreement and that money went to  
21 your daughter and your son (sic)?

22 A Probably some -- more, more than \$200.

23 Q Did you say \$200 or \$2,000?

24 A I don't remember.

25 Q All right. Let's turn to Exhibit 7. And,



1           Q     When you say "everything happened," are you  
2     talking about events in 2009 through 2011?

3           A     Everything about not accepting our payment,  
4     about realizing that there was nothing that was  
5     recorded so we can make our payments. And not only  
6     that, after a couple of years, we participated in a  
7     modification.

8                     And then after the third modification, which  
9     was the last and final, they transferred it to Fay  
10    Servicing and they kept on telling us they have  
11    nothing to do with us anymore.

12          Q     Do you blame Bank of America for the  
13    eventual foreclosure sale?

14          A     I blame Bank of America for everything that  
15    happened to us.

16          Q     Okay. If you had to put a percentage on it,  
17    how much fault do you think Bank of America has that  
18    the property was eventually sold at a foreclosure  
19    sale versus other defendants and yourself?

20          A     What percentage of what?

21          Q     If you had to put a percentage on it, how  
22    much fault do you think Bank of America has that the  
23    property was eventually sold at a foreclosure sale  
24    versus other defendants and yourself?

25          A     I don't know, but they have the most fault



1 from the very beginning.

2 Q Do you take any responsibility for  
3 potentially losing the property at a foreclosure  
4 sale?

5 A I don't have any responsibility. My  
6 responsibility was believing in Bank of America.

7 Q All right. Turning to Allegation 15 on  
8 Page 4, this involves the \$80,000 withdrawal from the  
9 401K.

10 A Yes.

11 Q Do you blame Bank of America for withdrawing  
12 \$80,000 from the 401K and any tax penalties that  
13 happened subsequent?

14 A And what was your question again?

15 Q Do you blame Bank of America for withdrawing  
16 \$80,000 from the 401K and any tax penalties  
17 associated with that?

18 A No. If what they said was true, that by  
19 putting \$80,000, we would be ahead of the game.

20 Q How much is in the 401K today?

21 A I'm sorry?

22 Q How much is in the 401K today?

23 A Nothing. I don't know. My husband is so --  
24 because until now, he still has the myasthenia  
25 gravis, and it's not even cured. It is an autoimmune



1 Q Such as what?

2 A Such as getting another job.

3 Q Okay. Since being let go -- was it Eagle  
4 Valley? Is that where you were working?

5 A Correct.

6 Q Since being let go from Eagle Valley, have  
7 you sought alternative employment?

8 A I had four other -- well, not on a fixed  
9 basis, but just on the side.

10 Q Do you have any written documentation of  
11 applications for employment?

12 A Well, in the first place, I was a realtor.

13 Q When were you --

14 A I was already a realtor in 1992, '91.

15 Q Okay. I'm talking about 2015 time frame,  
16 when you lost your job at Eagle Valley. After that  
17 point, did you seek alternative employment?

18 A No.

19 Q After your husband lost his job at IGT, did  
20 he seek alternative employment?

21 A He did.

22 Q Oh, he did? Where did he apply?

23 A Well, he applied for other jobs that back  
24 then, when he was hit with his myasthenia gravis, he  
25 could not perform.



1           Q     All right. Under 1.2, it talks about  
2     payments under the 2009 loan modification were  
3     rejected.

4                     What facts do you have that Bank of America  
5     violated the Homeowners' Bill of Rights?

6           A     They did not accept our payments.

7           Q     Oh, back in 2009; is that correct?

8           A     Yes.

9           Q     Breach of contract, the fifth cause of  
10    action. Looking at Page 19. All of your allegations  
11    against Bank of America for breach of contract stem  
12    from 2009 to 2011; is that correct?

13          A     2009 to 2011. I think after 2015 we  
14    complained when they awarded our modification to Fay  
15    Services.

16          Q     That's not in this cause of action, though,  
17    is it?

18          A     It might be included in the NRS.

19          Q     Are you stating that Bank of America  
20    breached a contract in 2015?

21          A     No.

22          Q     I'm looking at Allegation 163 on Page 20.  
23    It says: "But for defendant Bank of America's  
24    material breach of the 2009 Loan Modification  
25    Agreement, the Lincicomes' property would not have



1 we filed for bankruptcy.

2 Q Oh, okay. So before you filed for  
3 bankruptcy, you couldn't afford the monthly payment?

4 A Yes.

5 Q Looking at the sixth cause of action, breach  
6 of duty of good faith and fair dealing.

7 A You know what, Scott? What was your last  
8 question again, before the bankruptcy?

9 Q I don't even recall that. I'm moving on  
10 with the question.

11 A It just -- you just continued, and my train  
12 of thought was just kind of...

13 Q If you have something to add, go ahead and  
14 add it, Bet.

15 A That's okay. It was about affordability on  
16 the payment of the -- payment of the account.  
17 Because there were times when we filed for  
18 bankruptcy. It was because we were so -- we could  
19 not afford the mortgage. Because that's the reason  
20 why we filed for bankruptcy; it was because we could  
21 not afford the payment.

22 Q You say you can't afford the payment. Are  
23 you saying the payment under the original loan or the  
24 Loan Modification Agreement or both?

25 A No, I don't -- I am so confused with your



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 261

1 Q I'm talking about the bankruptcy. That was  
2 way before Mr. Millward, I believe.

3 A Okay.

4 Q During the bankruptcy --

5 A We were informed by Attorney Johnston.

6 Q All right. What damages are you seeking  
7 against Bank of America?

8 A I'm sorry, Scott. What was it again?

9 Q What damages do you seek against Bank of  
10 America?

11 A Well, we are so deep in debt now.

12 Q That's not answering my question. My  
13 question is: What damages do you seek against Bank  
14 of America in this lawsuit?

15 A Money.

16 Q Okay. I understand money. Is there a  
17 certain monetary value you're seeking damages against  
18 Bank of America for?

19 A Well, this is the part where we have to --  
20 it is -- we have to consult our lawyer.

21 Q All right. Let's turn to Exhibit 15.

22 MR. MILLWARD: Scott, do you mean  
23 Exhibit 15?

24 MR. LACHMAN: Not in the Complaint. The  
25 actual Exhibit 15. This is the statement of current



1 Modification Agreement?

2 A I really don't remember.

3 Q Let's turn to Exhibit 16. This is a  
4 document filed in bankruptcy court as Document 38,  
5 Notice of Mortgage Payment Change. Have you ever  
6 seen this document before?

7 A Yes.

8 Q Do you recall reviewing it on or about  
9 November 2011?

10 A What was your question again?

11 Q Do you recall reviewing this document back  
12 in November 2011?

13 A I probably reviewed this with the lawyer.

14 Q It states towards the bottom of -- or  
15 towards the middle of the page, it states that the  
16 new total amount would be \$2,431.95. Do you see  
17 that?

18 A In the new payment? Under new payment?

19 Q Do you see that?

20 A Do I see that new payment? Yes, I do.

21 Q Okay. Did you make any payments in the  
22 amount of \$2,431.95 after January 1, 2012?

23 A No.

24 Q At this time, did you believe the new  
25 payment took into account the Loan Modification



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 276

1 A I'm sorry, say that again.

2 Q At --

3 A When did I send a copy?

4 Q After you sent the original packet to Bank  
5 of America with the Loan Modification Agreement, Bank  
6 of America allegedly lost this package, after that  
7 time did you provide Bank of America with a copy of  
8 the Loan Modification Agreement?

9 A No. They said if they have a loan  
10 modification, it has to come from their own office.

11 Q Did you request a new Loan Modification  
12 Agreement after that point in time?

13 A No, I did not.

14 Q And then in April 2015, you were terminated  
15 from your job at Eagle Valley; is that correct?

16 A Yes. Yes.

17 Q Turning to Exhibit 1.

18 A Okay.

19 Q Did you read this document prior to signing  
20 it?

21 A Yes.

22 Q Did you specifically read Section 20 on  
23 Page 11 of 13 at Wright Finley Zak 17.

24 A What page is that?

25 Q WFZ 17.



1 MR. HERNANDEZ: The next is Matt. Matt, do  
2 you mind if we take a quick bathroom break?

3 MR. SCHRIEVER: That's fine.

4 MR. HERNANDEZ: Thanks. I appreciate it.

5 (Thereupon, a brief recess was taken.)

6 MR. SCHRIEVER: If we can go back on the  
7 record, then.

8 EXAMINATION

9 BY MR. SCHRIEVER:

10 Q Bet, my name is Matt Schriever, and I am the  
11 attorney for Breckenridge Property Fund who purchased  
12 this property after the foreclosure sale.

13 A Okay.

14 Q Are you able to hear me?

15 A Yes, loud and clear.

16 Q Great. There's a little bit of an echo in  
17 my earpiece when I hear me talk, but I'll work  
18 through that. I only have a few questions for you  
19 today, so it's not going to take me very long.

20 A Okay.

21 Q Are you aware of the ruling by the judge in  
22 this matter on December 31, 2018, that would have  
23 stopped the foreclosure sale if you had posted the  
24 bond with the court in the amount of \$172,610.67?

25 A Was I aware?



1           Q     Yeah. Were you aware that the foreclosure  
2     could have been stopped if you had posted a bond with  
3     the court of approximately \$172,000?

4           A     Yes.

5           Q     Why didn't you post that bond?

6           A     We have no money.

7           Q     Okay. Did you make any efforts to try to  
8     come up with that money or to try to contact the  
9     bonding company to see if they would provide the  
10    funds, the bond for you?

11          A     No, we haven't. We were just -- we had no  
12    money.

13          Q     Okay. So you had no money, and you made no  
14    efforts to try to come up with that bond, correct?

15          A     Correct.

16          Q     Did you contact any family or friends to try  
17    to help you?

18          A     At that time, during the pandemic, nobody  
19    has money, no.

20          Q     Okay. Were you aware that had you posted  
21    that bond, you still would have been required to pay  
22    approximately \$2,100 per month to continue to hold  
23    off on the foreclosure?

24          A     No, I did not.

25          Q     Okay. Would you have been able to afford



1 \$2,100 per month in 2019 for the property?

2 A No, I don't think so.

3 Q You would not have been able to afford that?

4 A No.

5 Q Would you be able to afford \$2,100 per month  
6 now for the property?

7 A No.

8 Q Are you aware that you sued Breckenridge in  
9 this lawsuit?

10 A As we were reading the -- yes.

11 Q Okay. Why have you sued Breckenridge?

12 A Well, because they were going to purchase  
13 the property -- you know what? After that episode  
14 with Attorney Giles, everything -- we just went  
15 black.

16 Anyway, Breckenridge was the one who  
17 purchased the property. Okay. Well, because why did  
18 Breckenridge purchase the property? That was the  
19 point.

20 Q So your point in filing the lawsuit against  
21 Breckenridge was to find out why Breckenridge  
22 purchased the property; is that correct?

23 A No, not really.

24 Q So in your own words, what was the reason  
25 for suing Breckenridge?



1           A     Well, because we were living in the house,  
2     and now somebody is purchasing the property, and we  
3     were not with that agreement that we would sell the  
4     house.

5           Q     Okay. All right. Are you still residing in  
6     the house?

7           A     Yes.

8           Q     Does your husband -- I'm sorry, what was  
9     that?

10          A     I said we were residing in that house ever  
11     since.

12          Q     And you are currently in there as well,  
13     correct?

14          A     Yes. Yes.

15          Q     Does your husband reside at that house?

16          A     Yes.

17          Q     Does anyone else live there?

18          A     No more.

19          Q     I'm sorry, what was that?

20          A     None. Just the two of us.

21          Q     How long has it only been the two of you  
22     that have lived at the house?

23          A     Well, it was on and off for our grandson.  
24     He lived with us and lived with his parents and  
25     sometimes lives with us longer and his friends.



Vicenta J. Lincicome - Vol. II - January 15, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 288

CERTIFICATE OF REPORTER

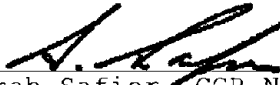
STATE OF NEVADA )  
                  ) ss:  
COUNTY OF CLARK )

I, Sarah Safier, CCR No. 808, do thereby  
certify: That I reported the remote videoconference  
deposition of VICENTA J. LINCICOME, VOLUME II,  
commencing on Friday, January 15, 2021, at 1:16 p.m.

That prior to being deposed, the witness was  
duly sworn by me to testify to the truth. That I  
thereafter transcribed my said shorthand notes into  
typewriting and that the typewritten transcript is a  
complete, true, and accurate transcription of my said  
shorthand notes. That prior to the conclusion of the  
proceedings, pursuant to NRCP 30(e), the reading and  
signing of the transcript was requested by the  
witness or a party.

I further certify that I am not a relative  
or employee of counsel of any of the parties, nor a  
relative or employee of the parties involved in said  
action, nor a person financially interested in the  
action.

IN WITNESS WHEREOF, I have set my hand in my  
office in the County of Clark, State of Nevada, this  
26th day of January, 2021.

  
\_\_\_\_\_  
Sarah Safier, CCR No. 808



# EXHIBIT D

# EXHIBIT D



1 Case No: 18-CV-01332

2 Dept.: II

3  
4  
5  
6 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF LYON

8 \* \* \* \* \*

9 ALBERT ELLIS LINCICOME, JR. and  
10 VICENTA LINCICOME,  
11 Plaintiffs,

12 v.

13 SABLES, LLC, a Nevada limited liability  
14 company, as Trustee of the Deed of Trust  
15 given by Vicenta Lincicome and dated  
16 5/23/2007; FAY SERVICING, LLC, a  
17 Delaware limited liability company and  
18 subsidiary of Fay Financial, LLC; PROF-  
19 2013-M4 LEGAL TITLE TRUST by U.S.  
20 BANK, N.A., as Legal Title Trustee; for  
21 BANK OF AMERICA, N.A.; BRECKENRIDGE  
22 PROPERTY FUND 2016, a Utah limited  
23 liability company; NEWREZ, LLC, d/b/a  
24 SHELLPOINT MORTGAGE SERVICING, LLC,  
25 substituted in for DOE 1; 1900 CAPITAL  
26 TRUST II, BY U.S. BANK, N.A., substituted  
27 in for DOE 2; MCM-2018-NPL2,  
28 substituted in for DOE 3; and DOES 4-10.  
Defendants.

**PLAINTIFFS' RESPONSE TO BANK OF  
AMERICA, N.A.'S FIRST SET OF  
REQUESTS FOR ADMISSION AND  
REQUESTS FOR ADMISSION OF  
GENUINENESS OF DOCUMENTS**

**PROUPOUNDING PARTY:** BANK OF AMERICA, N.A.

**RESPONDING PARTY:** ALBERT ELLIS LINCICOME, JR., AND VICENTA LINCICOME.

COME NOW, Albert Ellis Lincicome, Jr., and Vicenta Lincicome (hereinafter  
"Responding Party"), and hereby responds to Defendant, Bank of America, N.A.'s first set of  
its request for admissions and request for genuineness of documents as follows:



1 These responses are complete so far as is known to Responding Party as of the date  
2 of the signature of this document. Responding Party reserves the right to supplement these  
3 responses as additional information is obtained.

#### 4 **I. PRELIMINARY STATEMENT**

5 The information hereinafter set forth is true and correct to the best of the knowledge  
6 of Responding Party as of this date, and it is subject to correction for inadvertent errors  
7 mistakes, or omissions, if any such errors, mistakes, or omissions exist. These responses  
8 and objections are based upon records and information presently available to Responding  
9 Party.

10 Responding Party reserves the right to introduce at trial any and all documents and  
11 information heretofore or hereafter produced or obtained by the parties in this action or by  
12 any third person: (1) that supports Responding Party's contentions at trial, or (2) in support  
13 or opposition to any motion in this case. To the extent that Responding Party identifies  
14 certain documents or delineates facts contained within any document, Responding Party  
15 does so without prejudice to establish at a later date any additional facts that may be  
16 contained within or discovered as a result of subsequent review of such documents or as a  
17 result of any additional investigation or discovery.

18 Inadvertent identification or production of privileged documents or information by  
19 Responding Party does not constitute waiver of any applicable privilege, nor does production  
20 of any documents or information waive any objections, including irrelevancy to the  
21 admission of such document in evidence.

22 Responding Party makes the standing objection to all requests for admissions where  
23 the requests seek information protected by attorney client privilege and/or the work product  
24 doctrine, including where the request seeks the impressions and opinion of counsel. This  
25 objection is made as to each and every request responded to below, whether specifically  
26 stated or not.



1 **RESPONSE TO REQUEST FOR ADMISSIONS**

2 **REQUEST FOR ADMISSION NO. 1:**

3 Admit that you have no evidence to support your first cause of action in the second amended  
4 complaint for wrongful foreclosure as to BANA.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

6 DENY. Plaintiffs have evidence supporting their first cause of action for wrongful  
7 foreclosure that is attributable to BANA. However, Plaintiffs' first cause of action is  
8 not sought against BANA. See Pl. 2<sup>nd</sup> Amd. Compl. ¶ 92.

9 **REQUEST FOR ADMISSION NO. 2:**

10 Admit that your first cause of action in the second amended complaint for wrongful  
11 foreclosure was not asserted against BANA.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

13 ADMIT. The first cause of action in the second amended Complaint is not asserted  
14 against BANA. See Pl. 2<sup>nd</sup> Amd. Compl. ¶ 92.

15 **REQUEST FOR ADMISSION NO. 3:**

16 Admit that you have no evidence to support your second cause of action in the second  
17 amended complaint for declaratory relief as to BANA.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

19 DENY. Plaintiffs have evidence supporting their second cause of action in the second  
20 amended complaint for declaratory relief as to BANA.

21 **REQUEST FOR ADMISSION NO. 4:**

22 Admit that your second cause of action in the second amended complaint for declaratory  
23 relief was not asserted as to BANA.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

25 DENY. Plaintiffs have evidence supporting their second cause of action for declaratory  
26 relief that is attributable to BANA.  
27  
28



**REQUEST FOR ADMISSION NO. 5:**

Admit that your third cause of action in the second amended complaint for quiet title was not asserted against BANA.

**RESPONSE TO REQUEST FOR ADMISSION NO.5:**

DENY. Plaintiffs quiet title in the second amended complaint was asserted against BANA.

**REQUEST FOR ADMISSION NO. 6:**

Admit that you have no evidence to support your fourth cause of action in the second amended complaint for violation of Homeowner's Bill of Rights as to BANA.

**RESPONSE TO REQUEST FOR ADMISSION NO.6:**

DENY. Plaintiffs have evidence supporting their fourth cause of action for Violation of the Homeowner's Bill of Rights is attributable to BANA.

**REQUEST FOR ADMISSION NO. 7:**

Admit that your fourth cause of action in the second amended complaint for violation of Homeowner's Bill of Rights was not asserted against BANA.

**RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

ADMIT.

**REQUEST FOR ADMISSION NO. 8:**

Admit that you have no evidence to support your fifth cause of action in the second amended complaint for breach of contract.

**RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

DENY. Plaintiffs have evidence to support their fifth cause of action in the second amended complaint for breach of contract.

**REQUEST FOR ADMISSION NO. 9:**

Admit that your fifth cause of action in the second amended complaint for breach of contract refers to events between 2009-2011 only.

**RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

DENY.



**REQUEST FOR ADMISSION NO. 10:**

Admit that the foreclosure would have occurred regardless of whether BANA accepted or rejected the payment of \$2,276.72 on or about October 1, 2009.

**RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

DENY.

**REQUEST FOR ADMISSION NO. 11:**

Admit that the foreclosure would have occurred regardless of whether the loan modification was recorded in 2011.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

DENY.

**REQUEST FOR ADMISSION NO. 12:**

Admit that you did not put monthly loan payments into a separate account after October 1, 2009.

**RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

ADMIT.

**REQUEST FOR ADMISSION NO. 13:**

Admit that you have no evidence to support your sixth cause of action in the second amended complaint for breach of the duty to act in good faith and fair dealing.

**RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

DENY.

**REQUEST FOR ADMISSION NO. 14:**

Admit that you have no evidence to support tenth cause of action in the second amended complaint for special damages- attorney's fees as to BANA.

**RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

DENY.

**REQUEST FOR ADMISSION NO. 15:**

Admit that you have no evidence to support your prayer for relief in the second amended complaint as to BANA.



**RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

DENY.

**REQUEST FOR ADMISSION NO. 16:**

Admit that you defaulted on the 2009 loan modification agreement.

**RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

DENY.

**REQUEST FOR ADMISSION NO. 17:**

Admit that you lack sufficient funds to pay any arrears that you owe on the loan prior to the foreclosure.

**RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

DENY. The Lincicomes position is that no arrearage upon the loan existed prior to the foreclosure.

**REQUEST FOR ADMISSION NO. 18:**

Admit that you disposed and/or shredded of documents relating to the Loan during the course of this litigation.

**RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

DENY.

**REQUEST FOR ADMISSION NO. 19:**

Admit that you are not sure when you learned the loan modification had been recorded by BANA.

**RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

DENY. The Lincicomes admit in their complaint that they learned the 2009 loan modification had been executed by BANA in 2017.

**REQUEST FOR ADMISSION NO. 20:**

Admit that you have made less than 10 payments on your Loan since 2009.

**RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

DENY. On September 1, 2009, the Lincicomes made one payment towards their mortgage loan as modified by the 2009 Loan Modification Agreement. At no



1 time between September 1, 2009 and January 4, 2019, did BANA and its successors  
2 in interests, and their respective agents, implement and apply the terms of the 2009  
3 Loan Modification Agreement to the Lincicomes' mortgage loan. Besides the payment  
4 on September 1, 2009, and with the exception of payments made under trial  
5 modifications, BANA and its successors and assigns have refused all payments  
6 attempted to be made under the terms of the 2009 Loan Modification Agreement.

7 **REQUEST FOR ADMISSION NO. 21:**

8 Admit that you did not know the loan modification agreement was executed by BANA during  
9 your bankruptcy proceedings.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

11 ADMIT. The Lincicomes admit that they had no reason to believe or know that BANA  
12 had received the loan modification agreement, or executed it. The Lincicomes had no  
13 reason to believe that BANA would keep its receipt of the Loan Modification a secret  
14 from them. The Lincicomes admit that they only knew at the time of their Bankruptcy  
15 that BANA's customers service agents were previously unable to find the loan  
16 modification in their computer systems, and that BANA was continuing to investigate.  
17 BANA intentionally left out its execution and recording of the 2009 Loan Modification  
18 from its Motion for Relief from Stay and thereby misrepresented the terms of the loan  
19 to the Bankruptcy Court.

20 **REQUEST FOR ADMISSION NO. 22:**

21 Admit that you presently cannot afford to make a payment of \$2,000.00 per month or more  
22 on the Loan.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

24 DENY.

25 **REQUEST FOR ADMISSION NO. 23:**

26 Admit that you presently cannot afford to make a payment between \$1,000.00 and  
27 \$1,999.99 per month or more on the Loan.  
28



**RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

DENY.

**REQUEST FOR ADMISSION NO. 24:**

Admit that you made a payment under the loan modification agreement in September 2009 that was accepted by BANA.

**RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

ADMIT in part and DENY in Part. It is admitted that the payment was made and intended to apply to the terms of the 2009 Loan Modification Agreement. It is denied that BANA accepted the payment under the terms of the 2009 Loan Modification. The Lincicomes admit that they were informed by BANA's customers service agents that they could not find the loan modification in their computer systems, and that BANA was investigating.

**REQUEST FOR ADMISSION NO. 25:**

Admit that you attempted to make payments under the loan modification agreement from October 2009 until December 2011 and BANA did not accept the payments.

**RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

ADMIT. The Lincicomes admit that they continued to inquire about the 2009 Loan Modification Agreement so that they could make payments thereon. The Lincicomes admit that they were informed at each attempt that BANA's customers service agent could not find the loan modification in their computer systems, and that BANA was investigating.

**REQUEST FOR ADMISSION NO. 26:**

Admit that you declined another loan modification offer from BANA on or about April 2012.

**RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

DENY. BANA denied a request for loan modification by the Lincicomes in June of 2012.



**REQUEST FOR ADMISSION NO. 27:**

Admit that you knew the loan modification agreement was not implemented by BANA on October 29, 2009, when you received the Bank of America Home Loans statement, Disclosure No. 53 of Plaintiff's Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped 766-768.

**RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

ADMIT in part and DENY in part. The Lincicomes admit that the statement does not reflect the terms of the 2009 Loan Modification Agreement. However, the Lincicomes had no reason to believe or know that BANA had received the loan modification agreement. To admit that they knew that the agreement was not implemented by BANA would imply that they knew it had been received and rejected. The Lincicomes had no reason to believe that BANA would keep its receipt of the 2009 Loan Modification Agreement a secret from them or purport any fraud against them. To the extent that Request for Admission No. 27 implies that the Lincicomes knew that the Loan Modification Agreement had been received by BANA and rejected, it is denied. The Lincicomes admit that they only knew at the time that BANA's customers service agents could not find the loan modification in their computer systems, and that BANA was investigating.

**REQUEST FOR ADMISSION NO. 28:**

Admit that you knew the loan modification agreement was not implemented by BANA in December 2011 when you last attempted to make a payment under the loan modification agreement.

**RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

ADMIT in part and DENY in part. The Lincicomes admit that they had no reason to believe or know that BANA had received the loan modification agreement in December of 2011. However, to admit that the Lincicomes knew that the agreement was not implemented by BANA would imply that they knew that BANA had received and rejected the loan modification agreement. The Lincicomes had no reason to believe



1 that BANA would keep its receipt of the Loan Modification a secret from them. To the  
2 extent that Request for Admission No. 28 implies that the Lincicomes knew that the  
3 Loan Modification Agreement had been received by BANA and rejected or not  
4 breached, it is denied. The Lincicomes admit that they only knew at the time that  
5 BANA's customers service agents could not find the loan modification in their  
6 computer systems, and that BANA was investigating.

7 **REQUEST FOR ADMISSION NO. 29:**

8 Admit that you knew the loan modification agreement was not implemented by BANA in April  
9 2012 when you declined another loan modification offer from BANA.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

11 ADMIT in part and DENY in part. The Lincicomes admit that they had no reason to  
12 believe or know that BANA had received or found the 2009 Loan Modification  
13 Agreement. To admit that the Lincicomes knew that the 2009 Loan Modification  
14 Agreement was not implemented by BANA would imply that they knew it had been  
15 received and rejected or breached. The Lincicomes had no reason to believe that  
16 BANA would keep its receipt of the Loan Modification a secret from them. To the  
17 extent that Request for Admission No. 29 implies that the Lincicomes knew that the  
18 Loan Modification Agreement had been received by BANA and rejected, it is denied.  
19 The Lincicomes admit that they only knew at the time that BANA's customer service  
20 agents could not find the loan modification in their computer systems, and that BANA  
21 was investigating. The Lincicomes deny that they declined a modification in April of  
22 2012. It was BANA that denied a request for loan modification by the Lincicomes in  
23 June of 2012.

24 **REQUEST FOR ADMISSION NO. 30:**

25 Admit that you did not know the loan modification agreement was executed by BANA and  
26 recorded on May 4, 2011.



**RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

ADMIT. The Lincicomes admit that BANA did not inform the Lincicomes that it had found or discovered the Loan Modification Agreement let alone executed and recorded the 2009 Loan Modification Agreement in 2011. On May 4, 2011, the Lincicomes knew that the BANA customers service agents that they had worked with could not find the loan modification in their computer systems, and that BANA was investigating.

**REQUEST FOR ADMISSION NO. 31:**

Admit that your claims against BANA are time-barred by applicable statute of limitations.

**RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

DENY. The District Court has ruled in this matter that the Lincicomes claims against BANA are not time barred.

**REQUEST FOR ADMISSION NO. 32:**

Admit that you did not know the loan modification agreement was executed by BANA when you made a complaint against Fay to the Division of Mortgage Lending.

**RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

ADMIT. The Lincicomes admit that the documents referenced in the Complaint from the 2016 Foreclosure Meditation, were only known to the Lincicomes to be dissimilar to the documents that they had originally received from BANA. The Lincicomes did know that the 2009 Loan Modification had been accepted, executed, and recorded at the time the Complaint was written.

**REQUEST FOR ADMISSION NO. 33:**

Admit that you have not sought alternative full-time or part-time employment after being laid off by your respective prior employer.

**RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

ADMIT in part and DENY in part. The Lincicomes deny that Ellis did not seek full-time employment soon after he was no longer employed by his prior employer. The Lincicomes admit that Vicenta did not seek full-time or part-time employment afterward leaving her employment with her prior employer.



**REQUEST FOR ADMISSION NO. 34:**

Admit that you are not seeking any claim or damages against BANA with respect to the 2015 trial loan modification and servicer change to Fay Servicing.

**RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

DENY. Plaintiffs seek damages due to BANA's breach of the 2009 loan modification agreement, including all subsequent actions which demonstrate a breach of the same.

**REQUEST FOR ADMISSION NO. 35:**

Admit that you did not know the loan modification agreement was executed by BANA when or within a month after you received a letter from Allclear ID Breach Response Unit in May 2014.

**RESPONSE TO REQUEST FOR ADMISSION NO. 35:**

ADMIT. Plaintiffs were not aware of BANA's execution of the loan modification agreement after they received the letter from Allclear ID Breach Response Unit. The Lincicomes admit that they only knew at the time that BANA's customer service agents could not find the loan modification in their computer systems, and that BANA was investigating.

**REQUEST FOR ADMISSION NO. 36:**

Admit that you have never obtained a title report with respect to the Property.

**RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

ADMIT in part and DENY in part. Plaintiffs admit that they may have obtained a title report at the time of the purchase of the property in 2007. However, the Lincicomes have not requested or obtained a title report regarding the property since 2007.

**REQUEST FOR ADMISSION NO. 37:**

Admit that your alleged damages against BANA are less than \$15,000.00.

**RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

DENY. Plaintiffs are requesting damages from BANA in the amount exceeding \$15,000.



1 **REQUEST FOR ADMISSION NO. 38:**

2 Admit that you have performed no updates on the property amounting to over \$5,000.00 or  
3 more since 2009.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 38:**

5 ADMIT. Plaintiffs have maintained the property, but they have not been able to afford  
6 to perform any upgrades to the property since 2009.

7 **REQUEST FOR ADMISSION NO. 39:**

8 Admit that you never checked the Lyon County Recorder's website to see if the Loan  
9 modification agreement had been recorded.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 39:**

11 ADMIT. The Plaintiffs did not have reason to believe that BANA would keep secret its  
12 receipt and acceptance of the Loan Modification Agreement and did not believe that  
13 BANA would commit a fraud against them. Accordingly, the Lincicomes had no reason  
14 to check with the Lyon County Recorder to determine whether the agreement had  
15 been recorded.

16 **REQUEST FOR ADMISSION NO. 40:**

17 Admit that you never asked BANA whether the loan modification agreement had been  
18 recorded.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 40:**

20 ADMIT. The Lincicomes admit that BANA's customers service agents were previously  
21 unable to find the loan modification in their computer systems, and that BANA had  
22 stated that it was investigating. The Lincicomes had no reason to believe that BANA  
23 would keep its receipt or acceptance of the Loan Modification Agreement a secret from  
24 them or perpetrate a fraud against them.



**REQUESTS FOR ADMISSION OF GENUINENESS**

**REQUEST FOR ADMISSION OF GENUINENESS NO. 1:**

Admit to the genuineness of the Nevada notice of trustee's sale, Disclosure No. 1 of Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped BANA\_00001-00002.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 1:**

Plaintiffs admit to the genuineness of Request No. 1.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 2:**

Admit to the genuineness of the recorded loan modification agreement, Disclosure No. 2 of Defendant Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped \_00003-00009.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 2:**

Plaintiffs admit to the genuineness of Request No. 2.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 3:**

Admit to the genuineness of the loan modification approval letter, Disclosure No. 3 of Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped BANA\_00010-00013.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 3:**

Plaintiffs admit to the genuineness of Request No. 3.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 4:**

Admit to the genuineness of the loan modification agreement, Disclosure No. 4 of Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped BANA\_00014-00015.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 4:**

Plaintiffs admit to the genuineness of Request No. 4.



**REQUEST FOR ADMISSION OF GENUINENESS NO. 5:**

Admit to the genuineness of the deed of trust, Disclosure No. 5 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00016-00028.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 5:**

Plaintiffs admit to the genuineness of Request No. 5.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 6:**

Admit to the genuineness of the loan payment history, Disclosure No. 6 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00029-00038.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 6:**

Plaintiffs admit to the genuineness of Request No. 6.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 7:**

Admit to the genuineness of the notice of default and election to sell, Disclosure No. 7 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00039-00044.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 7:**

Plaintiffs admit the genuineness of Request No. 7.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 8:**

Admit to the genuineness of the trial payment plan acceptance letter, Disclosure No. 8 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00045.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 8:**

Plaintiffs admit to the genuineness of Request No. 8.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 9:**

Admit to the genuineness of the late payment letter, Disclosure No. 9 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00046-00048.



**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 9:**

Plaintiffs admit to the genuineness of Request No. 9.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 10:**

Admit to the genuineness of the notice of default and election to sell, Disclosure No. 10 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00049-00050.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 10:**

Plaintiffs admit to the genuineness of Request No. 10.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 11:**

Admit to the genuineness of the HPF counseling summary, Disclosure No. 11 of *Defendant Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00051-00059.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 11:**

Plaintiffs admit to the genuineness of Request No. 11.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 12:**

Admit to the genuineness of the annual escrow analysis, Disclosure No. 12 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00060-00061.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 12:**

Plaintiffs admit to the genuineness of Request No. 12.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 13:**

Admit to the genuineness of the adjustable rate note, Disclosure No. 13 of *Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped BANA\_00062-00067.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 13:**

Plaintiffs admit to the genuineness of Request No. 13.



**REQUEST FOR ADMISSION OF GENUINENESS NO. 14:**

Admit to the genuineness of the loan modification denial letter, Disclosure No. 14 of Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped BANA\_00068-00069.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 14:**

Plaintiffs admit to the genuineness of Request No. 14.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 15:**

Admit to the genuineness of the trial period payment plan offer Letter, Disclosure No. 15 of Defendant, Bank of America, N.A.'s Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped BANA\_00070-00081.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 15:**

Plaintiffs admit to the genuineness of Request No. 15.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 16:**

Admit to the genuineness of the Bank of America Home Loans statement, Disclosure No. 53 of Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped 766-768.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 16:**

Plaintiffs admit to the genuineness of Request No. 16.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 17:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome regarding notice of representation of Charles T. Marshall, Disclosure No. 54 of Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1, Bates Stamped 769-770.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 17:**

Plaintiffs admit the genuineness of Request No. 17.



**REQUEST FOR ADMISSION OF GENUINENESS NO. 18:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome regarding home loans, Disclosure No. 55 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 771.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 18:**

Plaintiffs admit to the genuineness of Request No. 18.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 19:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome regarding home loan and Mabuhay Alliance, Inc., Disclosure No. 56 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 772.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 19:**

Plaintiffs admit to the genuineness of Request No. 19.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 20:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome re: request for information, Disclosure No. 57 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 773.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 20:**

Plaintiffs admit to the genuineness of Request No. 20.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 21:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome re: request for information, Disclosure No. 66 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 855.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 21:**

Plaintiffs admit to the genuineness of Request No. 21.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 22:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome re: request for modification, Disclosure No. 67 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 856.



**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 22:**

Plaintiffs admit to the genuineness of Request No. 22.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 23:**

Admit to the genuineness of the letter from Bank of America Home Loans to Vicenta Lincicome re: request for information, Disclosure No. 68 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 857.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 22:**

Plaintiffs admit to the genuineness of Request No. 22.

**REQUEST FOR ADMISSION OF GENUINENESS NO. 24:**

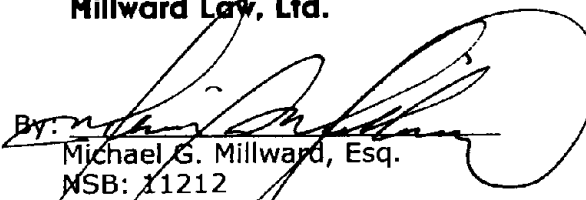
Admit to the genuineness of the complaint to the Nevada Division of Mortgage Lender, Disclosure No. 134 of *Plaintiffs' Initial Disclosure of Witnesses and Documents Pursuant to NRCP 16.1*, Bates Stamped 1157-1163.

**RESPONSE TO REQUEST FOR ADMISSION OF GENUINENESS NO. 24:**

Plaintiffs admit to the genuineness of Request No. 24.

Dated this 12<sup>th</sup> day of February, 2021.

**Millward Law, Ltd.**

By:   
Michael G. Millward, Esq.  
MSB: 11212  
1591 Mono Ave.  
Minden, NV 89423  
(775) 600-2776  
Attorney for Plaintiffs



**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that service of ***PLAINTIFFS' RESPONSE TO BANK OF AMERICA, N.A.'S FIRST SET OF REQUESTS FOR ADMISSION AND REQUESTS FOR ADMISSION OF GENUINENESS OF DOCUMENTS*** was served this \_\_\_\_\_ day of February, 2021 by US Mail First Class to:

Akerman LLP.  
Melanie D. Morgan, Esq.  
Scott R. Lachman, Esq.  
1635 Village Center Circle, Suite 200  
Las Vegas, NV 89134

**Millward Law, Ltd.**

\_\_\_\_\_  
Gina Hinds, Paralegal



# EXHIBIT E

# EXHIBIT E





**Nevada Real Estate Division**

A Division of the Department of Business &amp; Industry



Login

## ONLINE SERVICES

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REQUIRED**

License Lookup

## Search for a License

Criteria							
Note: Hover over any field to display help text.							
License Number		<input type="text"/>	+	<input type="text"/>	-	<input type="text"/>	
Company Name/DBA:		<input type="text"/>					
First Name:		<input type="text" value="vicenta"/>	Last Name:		<input type="text" value="LINCICOME"/>		
City:		<input type="text"/>	State:		<input type="text" value=""/>		Zip: <input type="text" value=""/>
County:		<input type="text" value="Select a State"/>					
<input type="button" value="Search"/>				<input type="button" value="Clear Form"/>			
<b>Current Filters:</b> <b>Last Name:</b> LINCICOME <b>First Name:</b> vicenta							
	<b>Name</b>	<b>License Number</b>	<b>License Type</b>	<b>License Status</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
<a href="#">Detail</a>	VICENTA J LINCICOME	31873	SALESPERSON	CLOSED	CARSON CITY	NV	89706

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# EXHIBIT F

# EXHIBIT F



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 1

1                               THIRD JUDICIAL DISTRICT COURT  
2                               LYON COUNTY, NEVADA  
3       ALBERT ELLIS LINCICOME, JR.     )  
      and VICENTA LINCICOME,         )     Case No. 18-cv-01332  
4   )     Dept. No. II  
      Plaintiffs,                     )  
5   )  
      vs.                               )  
6   )  
      SABLES, LLC, a Nevada         )  
7       limited liability company,     )  
      as Trustee of the Deed of     )  
8       Trust, given by Vicenta       )  
      Lincicome and dated           )  
9       5/23/2007; FAY SERVICING,    )  
      LLC, a Delaware limited       )  
10      liability company and         )  
      subsidiary of Fay             )  
11      Financial, LLC;               )  
      PROF-2013-M4 LEGAL TITLE     )  
12      TRUST by U.S. BANK, N.A.,     )  
      as Legal Title Trustee for     )  
13      BANK OF AMERICA, N.A.;       )  
      BRECKENRIDGE PROPERTY FUND   )  
14      2016, a Utah limited         )  
      liability company; NEWREZ,    )  
15      LLC, d/b/a SHELLPOINT        )  
      MORTGAGE SERVICING, LLC,       )  
16      substituted in for DOE 1;     )  
      1900 CAPITAL TRUST II, BY     )  
17      U.S. BANK TRUST NATIONAL     )  
      ASSOCIATION, substituted in   )  
18      for DOE 2; MCM-2018-NPL2,    )  
      substituted in for DOE 3;     )  
19      and DOES 4-10,                )  
                                      )  
20                      Defendants.     )  
                                      )  
21      /////

                    Taken on Wednesday, January 6, 2021  
                    At 9:12 a.m.

                    Taken at All-American Court Reporters  
                    1160 North Town Center Drive, Suite 300  
                    Las Vegas, Nevada 89144

25      Reported by: Sarah Safier, CCR No. 808

**CERTIFIED  
COPY**

REMOTE  
VIDEOCONFERENCE  
DEPOSITION

OF  
VICENTA J. LINCICOME  
VOLUME I

(Present Via  
Videoconference)



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 2

1    ///// )  
2    BRECKENRIDGE PROPERTY FUND        ) )  
3    2016, a Utah limited                ) )  
4    liability company,                 ) )  
5   ) )  
6    Counter-Claimant,                    ) )  
7   ) )  
8    vs.                                    ) )  
9   ) )  
10   ALBERT ELLIS LINCICOME, JR.,        ) )  
11   an individual; VICENTA                ) )  
12   LINCICOME, an individual;            ) )  
13   and DOE OCCUPANTS 1-5,                ) )  
14   ) )  
15   Counter-Defendants.                    ) )  
16   ) )  
17   BRECKENRIDGE PROPERTY FUND        ) )  
18   2016, a Utah limited                ) )  
19   liability company,                 ) )  
20   ) )  
21   Cross-Claimant,                        ) )  
22   ) )  
23   vs.                                    ) )  
24   ) )  
25   PROF-2013-M4 LEGAL TITLE             ) )  
26   TRUST BY U.S. BANK                    ) )  
27   NATIONAL ASSOCIATION, AS             ) )  
28   LEGAL TITLE TRUSTEE,                 ) )  
29   ) )  
30   Cross-Defendant.                       ) )  
31   ) )



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 3

1 REMOTE VIDEOCONFERENCE DEPOSITION OF VICENTA J.  
2 LINCICOME, VOLUME I, taken at All-American Court  
3 Reporters, 1160 North Town Center Drive, Suite 300,  
4 Las Vegas, Nevada, on Wednesday, January 6, 2021, at  
5 9:12 a.m., before Sarah Safier, Certified Court  
6 Reporter, in and for the State of Nevada.

7 APPEARANCES:

8 For the Plaintiffs/Counter-Defendants Albert Ellis  
9 Lincicome, Jr. and Vicenta J. Lincicome:

10 MICHAEL G. MILLWARD, ESQ.  
11 (PRESENT VIA VIDEOCONFERENCE)  
12 Millward Law, Ltd.  
13 1591 Mono Avenue  
14 Minden, Nevada 89423

15 For the Defendants/Cross-Defendant Prof-2013-M4 Legal  
16 Title Trust by U.S. Bank, National Association, as  
17 Legal Title Trustee, Fay Servicing, LLC and  
18 Shellpoint Mortgage Servicing, LLC:

19 RAMIR M. HERNANDEZ, ESQ.  
20 (PRESENT VIA VIDEOCONFERENCE)  
21 Wright, Finlay & Zak, LLP  
22 7785 West Sahara Avenue  
23 Suite 200  
24 Las Vegas, Nevada 89117

25 For the Defendant Bank of America, N.A.:

SCOTT R. LACHMAN, ESQ.  
(PRESENT VIA VIDEOCONFERENCE)  
Akerman, LLP  
1635 Village Center Circle  
Suite 200  
Las Vegas, Nevada 89134



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 4

1 APPEARANCES:  
(Continued)

2 For the Defendants/Counter-Claimant/  
3 Counter-Defendant Breckenridge Property Fund 2016:

4 MATTHEW K. SCHRIEVER, ESQ.  
(PRESENT VIA VIDEOCONFERENCE)  
5 Hutchison & Steffen, PLLC  
10080 West Alta Drive  
6 Suite 200  
Las Vegas, Nevada 89145

7 CASEY J. NELSON, ESQ.  
(PRESENT VIA VIDEOCONFERENCE)  
8 Wedgewood, LLC  
Office of the General Counsel  
2320 Potosi Street  
9 Suite 130  
10 Las Vegas, Nevada 89146

11 Also Present Via Videoconference:

12 ALBERT ELLIS LINCICOME, JR.  
13 ERNEST P. WAGNER, ESQ.  
14 Maurice Wutscher, LLP  
The Loop Center Building  
15 105 West Madison Street  
Suite 603  
16 Chicago, Illinois 60602

17 JOCELYN GALVAN, ZOOM TECH  
All-American Court Reporters

18  
19  
20  
21  
22  
23  
24  
25



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 5

I N D E X

Witness: VICENTA J. LINCICOME

Examination Further Examination

By Mr. Hernandez 8  
By Mr. Lachman 115

E X H I B I T S

Defendant	Page
1 - Deed of Trust	7
2 - 5/23/07 Adjustable Rate Note and Interest-Only Addendum to Adjustable Rate Promissory Note	7
3 - Notice of Default and Election to Sell Under Deed of Trust	7
4 - United States Bankruptcy Court Voluntary Petition	7
5 - United States Bankruptcy Court Chapter 13 Plan with Determination of Interest Rates and Plan Summary	7
6 - Loan Modification Agreement and Step Rate Loan Modification Addendum to Loan Modification Agreement	7
7 - 4/24/15 Letter/Bank of America to Vicenta Lincicome, re: Mod Proposal	7
8 - 12/15/16 Letter/Fay Servicing to Vicenta Lincicome with attached Modification Agreement	7
9 - Notice of Breach and Default and of Election to Sell the Real Property Under Deed of Trust	7
10 - Mediator's Statement	7



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\*\*\* Remote Videoconference Deposition \*\*\*

Page 6

1	E X H I B I T S	
2	(Continued)	
3	11 - Notice of Trustee's Sale	7
4	12 - Second Amended Complaint	7
5	13 - United States Bankruptcy Court Bankruptcy Petition	7
6	14 - United States Bankruptcy Court Voluntary Petition	7
7	15 - Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income	7
10	16 - Notice of Mortgage Payment Change	7
11	17 - 1/19/18 Letter/Bank of America to Vicenta Lincicome with Attached Home Loan History Statement	7
12	18 - 6/23/12 Letter/Bank of America to Vicenta Lincicome	7
13	19 - Assignment of Mortgage, Assignment of Deed of Trust	7
14	20 - 12/23/11 Bank of America Notice to Vicenta Lincicome	7
15	21 - Affidavit of Vicenta Lincicome	7
16	22 - Lyon County Document Inquiry	7
17	23 - Division of Mortgage Lending Complaint Form	7
18	24 - 5/1/14 Letter/Housing and Urban Development to Vicenta Lincicome	7
19	25 - 1/15/19 Letter/Shellpoint to Vicenta Lincicome	7
20	26 - 7/11/09 Bank of America Notice to Vicenta Lincicome	45
21		
22		
23		
24		
25		



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 7

1 (Defendant's Exhibits 1-25 were  
2 marked for identification.)

3 (In an off-the-record discussion held prior to the  
4 commencement of the deposition proceedings, counsel  
5 agreed to waive the court reporter requirements under  
6 Rule 30(b)(4) of the Nevada Rules of Civil  
7 Procedure.)

8 ZOOM TECH: The attorneys participating in  
9 this proceeding acknowledge that the court reporter  
10 is not physically present in the proceeding room with  
11 the deponent or counsel and that she will be  
12 reporting this proceeding remotely.

13 Counsel, if you are in agreement to the  
14 remote deposition, please state your name and consent  
15 to the agreement for the record.

16 Then the court reporter, Sarah Safier, CCR  
17 No. 808, will swear in the deponent remotely.

18 MR. HERNANDEZ: This is Ramir Hernandez. I  
19 consent.

20 MR. MILLWARD: I consent as well.

21 MR. LACHMAN: This is Scott Lachman. I  
22 consent.

23 MR. SCHRIEVER: This is Matt Schriever, and  
24 I consent as well.

25 ///



1 Whereupon --

2 VICENTA J. LINCICOME

3 being first duly sworn to tell the truth, the whole  
4 truth, and nothing but the truth, was examined and  
5 testified as follows:

6 EXAMINATION

7 BY MR. HERNANDEZ:

8 Q Good morning, Ms. Lincicome. Can you please  
9 state your name for the record.

10 A Vicente -- my full name is Vicente J. -- I  
11 always put the middle initial J, as there is another  
12 name that goes with mine -- J. Lincicome.

13 Q Can you spell Lincicome for the record,  
14 please.

15 A It's L as in Larry, I, India, N, Nancy, C,  
16 Charlie, I, India, C, Charlie, O, Olga, M, Mary, E,  
17 Edgar. Did I repeat -- I say something twice?

18 Q No, I don't think so.

19 A It's Lincicome.

20 Q Thank you, Ms. Lincicome. How would you  
21 like to be called during this deposition?

22 A Call me Bet, please.

23 Q Thank you, Bet. Bet, have you ever had your  
24 deposition taken before?

25 A No.



1 the restroom or anything, just let me know. We'll  
2 pause. This is not a marathon -- it's not a race,  
3 it's a marathon. So we can take pauses if we need  
4 to. Okay?

5 A Okay, sir.

6 Q Okay. What is your current residency?

7 A 70 Riverside Drive, Dayton, Nevada 89403.

8 Q And how long have you lived at that

9 property?

10 A Since 2007.

11 Q Have you lived continuously in that property  
12 since 2007?

13 A Yes, sir.

14 Q Have you lived in any other residence during  
15 that time?

16 A No, sir.

17 Q What is your occupation?

18 A I'm retired. I worked for Eagle Valley  
19 Children's Home as an accountant. And in 2015, the  
20 executive director fired me, and I contested the  
21 firing, but although I won, I never wanted to go back  
22 to work. So I retired in 2015, and I was home since  
23 then.

24 Q What is your current marital status?

25 A I'm married to Ellis Lincicome, Jr.



1           Q     How long have you been married to  
2     Mr. Lincicome?

3           A     20 -- since 1998. I'm sorry. 22 years.

4           Q     Is Mr. Lincicome in the room with you?

5           A     Yes, sir.

6           Q     Okay. I know that that was an innocuous  
7     question, but I ask that you don't consult him for  
8     answering any questions. That one's okay because  
9     it's not a major question, but --

10          A     That's perfectly fine, sir.

11          Q     And I'm not going to ask you the date that  
12     you guys got married, because I don't want to cause  
13     any trouble.

14          A     I can give you the date. It's August 8,  
15     1998, and it was because it was Hot August Night.  
16     And their family is so fond of Hot August Night, so  
17     we have -- everybody was in the wedding.

18          Q     Wonderful.

19                 What's your current income, yours  
20     specifically? And then I'll ask for Mr. Lincicome  
21     combined.

22          A     The income I get is just from social  
23     security, which is \$1,086 per month.

24          Q     Okay. And does Mr. Lincicome get any  
25     income?



1           A     From his social security too. He was laid  
2 off in 2013, so he was retired since then.

3           Q     Go on.

4           A     No, he was retired since then because he  
5 could not work due to his myasthenia gravis illness.

6           Q     What is his monthly income per month?

7           A     His social security is just \$100 higher than  
8 mine, so I could not -- 1,000, maybe 700-something or  
9 800.

10          Q     So what would you estimate is the combined  
11 income for both you and Mr. Lincicome?

12          A     I have -- my husband had 401K, and his  
13 monthly gross distribution and our monthly -- what  
14 was it -- RMA. I'm so sorry. He would know better  
15 because he is getting the RMA every month. It's an  
16 additional \$248 a month that goes to the bank.

17          Q     Again, I'm going to depose Mr. Lincicome  
18 later, so if you don't know the answer to the  
19 question, just say, "I don't know, you can ask  
20 Mr. Lincicome," and I will ask him when it's his  
21 turn.

22          A     Okay. Okay. I'm sorry.

23          Q     As much as it would be nice to do a tag team  
24 effort --

25          A     I thought it would be more accurate with him



1 probably just to doctors' offices and the store,  
2 correct?

3 A Correct.

4 Q Okay. All right. Based on the income that  
5 you're making right now, do you believe that you  
6 could afford a monthly mortgage payment?

7 A I don't know. Maybe I'll go back to work.  
8 It depends on the mortgage payment.

9 Q Okay. Have you thought about going back to  
10 work?

11 A I'm sorry, sir?

12 Q Have you thought about going back to work?

13 A Well, sometimes there are part-time jobs  
14 with the State. And because of my accidents, I  
15 haven't been really -- and the pandemic, I haven't --  
16 I put it on hold.

17 Q So you said you had an accident. Can you  
18 please elaborate what that accident was about?

19 A Oh, I fell. I fell and dislocated my  
20 shoulder. I fell again in the garage and had a gash  
21 on my eyebrow. And then I recently fell on Christmas  
22 day.

23 Q Oh, I'm sorry to hear that. Are you okay?

24 A Yeah. And I have a gash on my face.

25 Q I'm sorry to hear that. Are you doing okay?



1           A     Yes, I am.

2           Q     Okay. Do you feel like you can go back to  
3 work?

4           A     Oh, yeah.

5           Q     Okay. Have you been diagnosed as disabled  
6 by a doctor?

7           A     No.

8           Q     Thank you. Those are my preliminary  
9 questions.

10                   I'm now going to talk about the loan that's  
11 in question here. So if you could pull out  
12 Exhibit 2, please, I would appreciate that.

13                   Do you have it in front of you?

14          A     What?

15          Q     Exhibit 2.

16          A     Exhibit 2, yes.

17          Q     Sorry about that.

18          A     Okay.

19          Q     Let me know when you're there.

20          A     Yes.

21          Q     Before you peruse Exhibit 2, it should be a  
22 document entitled "Adjustment Rate Note"; is that  
23 correct?

24          A     Yes.

25          Q     Do you recognize this document?



1 A I do.

2 Q Can you tell me what this document is?

3 A It is an Adjustable Rate Note.

4 Q Do you know any more about this document?

5 A Yes.

6 Q Can you tell me more about this document?

7 A More?

8 Q Yes, please.

9 A I had a copy of this document at home, and  
10 this is about an Adjustable Rate Note for our loan in  
11 Riverside. And after my husband paid \$80,000 on the  
12 pretext that we would be -- the \$80,000 was a figure  
13 that the mortgage lender came up with so we could be  
14 with Fannie Mae. He said if we pay 20 percent  
15 towards the loan, then that would lower our interest.

16 Q This is the Note that -- go on. I'm sorry.

17 A It shows the year that our loan on this  
18 document was \$381,150, and it matched also the one  
19 sheet that was handled by HUD form.

20 Q So this is the loan -- this is the Note that  
21 you signed to get the loan to purchase your home,  
22 correct?

23 A Yes.

24 Q Okay. And the amount of the loan was  
25 \$381,150; is that correct?



1           A     Yeah.  Yes.

2           Q     And that was the amount you promised to pay  
3 back in the Note, correct?

4           A     Yes, that's correct.

5           Q     And the interest rate listed on the Note,  
6 the initial interest rate listed was 6.875 percent;  
7 is that correct?

8           A     That's correct.

9           Q     Subject to an adjustment, correct?

10          A     Yes.

11          Q     And your initial monthly payment on the Note  
12 was \$2,183.67; is that correct?

13          A     That's correct.

14          Q     Okay.  And then I want to draw your  
15 attention to Page 5 of the Note.  Let me know when  
16 you're there.  To help you, it should have a number  
17 at the bottom that says Lincicome 000065.

18          A     Okay.  I got it.

19          Q     That number in the bottom right corner is  
20 called the Bates stamp number.  And to make things  
21 easier for you, I'll just refer to that number as the  
22 page number so that makes it easier for you to find  
23 documents.  Okay?

24          A     Okay.

25          Q     On Page Lincicome 65, is there a signature



1 on that page?

2 A Yes.

3 Q And is that your signature?

4 A Yes, it is.

5 Q So can you confirm for the record that this  
6 was the Note that you signed on the date specified,  
7 which is -- let me go to Page 1 -- May 23, 2007?

8 A Okay. Yes.

9 Q Okay. Thank you.

10 If you could put that aside for a second,  
11 and please bring out Exhibit 1 now.

12 A Okay. The Deed of Trust.

13 Q Yes. Do you recognize this document?

14 A Yes, I do.

15 Q Is it dated May 23, 2007?

16 A Yes, it is.

17 Q If you can go down, please, to Page WFZ0008.

18 A Yes.

19 Q Is there an amount of the loan -- for the  
20 loan listed on that page?

21 A It says \$381,150.

22 Q Okay. Now, I want to bring you down,  
23 please, to Page -- down there -- Page WFZ 19.

24 A Yes.

25 Q Okay. Is that the signature page for the



1 Deed of Trust?

2 A Yes, it is.

3 Q And is your signature on this page?

4 A Yes, it is.

5 Q So can you confirm to me that this is a copy  
6 of the Deed of Trust that you signed on --

7 A It looks like it. I recognize Carol Costa's  
8 signature.

9 Q Let me finish the question, though. Do you  
10 confirm that this is the Deed of Trust that you  
11 signed on May 23, 2007?

12 A Yes, it is.

13 Q I want to ask you a question. What is the  
14 current status of this loan?

15 A I would like to invoke my -- I don't know.

16 Q Well, let me -- go on.

17 A I would like to invoke my client --  
18 attorney-client privilege, because we work with him  
19 all the time on this.

20 Q No, I understand. But your attorney is not  
21 objecting here, and I'm not asking a question that's  
22 privileged. I want to know what -- unless your  
23 attorney wants to object.

24 MR. HERNANDEZ: Michael, do you want to  
25 object to the question, or can I clarify it?



ALBERT ELLIS LINCICOME, JR. and )  
VICENTA LINCICOME, )  
Appellants, )  
v. )  
SABLES, LLC, A NEVADA LIMITED )  
LIABILITY COMPANY, AS TRUSTEE )  
OF THE DEED OF TRUST GIVEN BY )  
VICENTA LINCICOME AND DATED )  
5/23/2007; FAY SERVICING, LLC, A )  
DELAWARE LIMITED LIABILITY )  
COMPANY AND SUBSIDIARY OF )  
FAY FINANCIAL, LLC; PROF-2013-M4 )  
LEGAL TITLE TRUST BY U.S. BANK, )  
N.A., AS LEGAL TITLE TRUSTEE; )  
BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND )  
2016, A UTAH LIMITED LIABILITY )  
COMPANY; NEWREZ, LLC, D/B/A )  
SHELLPOINT MORTGAGE )  
SERVICING, LLC.; 1900 CAPITAL )  
TRUST II, BY U.S. BANK TRUST )  
NATIONAL ASSOCIATION; AND )  
MCM-2018-NPL2, )  
Respondents. )

NEVADA SUPREME COURT  
CASE NO.: 83261  
  
THIRD JUDICIAL DISTRICT  
COURT CASE NO.: 18-CV-01332

## Docket 83261 Document 2021-37149



**INDEX OF APPENDIX  
VOLUME I**

<b>#</b>	<b><u>Document</u></b>	<b><u>Filed Date</u></b>	<b><u>Page</u></b>
1	Complaint	11-07-2018	AA00001
2	Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00126

**VOLUME II**

2	(Continued) Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00251
3	Affidavit of Counsel	11-07-2018	AA00255
4	Notice of Lis Pendens APN 29-401-17	11-07-2018	AA00257
5	Order After Hearing Concerning Restraining Order and Preliminary Injunction	11-08-2018	AA00259
6	Corrected Order Concerning Restraining Order and Preliminary Injunction	11-14-2018	AA00262
7	Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00265

**VOLUME III**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00501
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**VOLUME IV**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00751
8	Declaration of Fay Servicing, LLC in Response to Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction	11-15-2018	AA00778
9	US Bank Trust's Answer to Complaint	11-29-2018	AA00782



10	Defendant Bank of America, N.A.'s Notice of Motion and Motion to Dismiss Plaintiffs' Complaint	12-21-2018	AA00796
11	Declaration of Non-Monetary Status (Sables)	12-24-2018	AA00805
12	Order After Hearing Concerning Restraining Order and Preliminary Injunction and Setting Aside Order Entered 11-8-18 and Corrected Order 11-14-18.	12-31-2018	AA00809
13	Objection to Declaration of Non-Monetary Status	01-09-2019	AA00817
14	Sables, LLC's Response to Objection to Its Declaration of Non-Monetary Status	01-28-2019	AA00821
15	Sables, LLC's Motion to Set Aside Default	01-28-2019	AA00826
16	Plaintiffs' Motion for Leave to File Amended Complaint to Substitute Parties	03-04-2019	AA00836
17	Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00918
18	Declaration of Ramir M. Hernandez, Esq. in Support of Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00931
19	Defendant Bank of America, N.A.'s Motion to Dismiss Plaintiffs' Complaint	03-22-2019	AA00935
20	Opposition to US Bank's Motion for Rule 11 Sanctions	03-28-2019	AA00944
21	Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA00975

### **VOLUME V**

21	(Continued) Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA01001
22	Response to Declaration of Shadd A. Wade	04-11-2019	AA01078
23	Defendant Bank of America, N.A.'s Reply to Opposition on Motion to Dismiss Plaintiffs' Complaint	04-12-2019	AA01094
24	Reply in Support of Motion for Rule 11 Sanctions Against Plaintiffs	04-12-2019	AA01103
25	Motion to Intervene and Expunge Lis Pendens	05-24-2019	AA01111
26	Order	05-30-2019	AA01122



27	Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims for Relief	06-07-2019	AA01127
28	Opposition to Motion to Intervene	06-10-2019	AA01213
29	Opposition to Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims and Relief	06-19-2019	AA01225
30	Reply in Support of Motion to Intervene and Expunge Lis Pendens	06-19-2019	AA01230
31	Sables, LLC's Opposition to Plaintiffs' Amended Motion to Amend	06-20-2019	AA01235
32	Reply to Breckenridge Property Fund 2016, LLC's Opposition to the Amended Motion for Leave to Amend Complaint	07-09-2019	AA01240
33	Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01244
<b>VOLUME VI</b>			
33	(Continued) Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01251
34	Order Granting Plaintiffs Leave to File Second Amended Complaint	08-28-2019	AA01280
35	Plaintiffs' Motion for Leave to File Second Amended Complaint to Substitute Parties and Add Additional Claims for Relief	09-12-2019	AA01283
36	Order Granting in Part and Denying in Part the Motion to Intervene and Expunge Lis Pendens	09-17-2019	AA01374
37	Order Directing Answer (Supreme Court)	09-25-2019	AA01376
38	Plaintiffs' Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief	09-27-2019	AA01378
39	Ex Parte Motion for Order to Show Cause	10-03-2019	AA01385
40	Intervenor's Counterclaim	10-03-2019	AA01414
41	Order	10-16-2019	AA01447



42	Plaintiffs' Opposition to Breckenridge's Motion for Order to Show Cause Re Writ of Restitution	10-18-2019	AA01445
43	Plaintiffs' Answer to Counterclaim and Counterclaim Against Intervener	10-23-2019	AA01473
44	Order Denying Ex Parte Motion and Setting Hearing	10-24-2019	AA01495
45	Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01498

## VOLUME VII

45	(Continued) Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01501
46	Breckenridge's Answer to the Counterclaim Filed by Albert Ellis Lincicome, Jr. and Vicenta Lincicome	11-18-2019	AA01516
47	Order Concerning Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief.	11-22-2019	AA01521
48	Petitioners' Reply to Responses to Petition for Writ of Mandamus (Supreme Court)	11-27-2019	AA01523
49	Order (Concerning Motion to File Second Amended Complaint)	12-06-2019	AA01544
50	Plaintiffs' Motion for Reconsideration	12-13-2019	AA01546
51	Plaintiffs' Second Amended Complaint	12-20-2019	AA01553
52	Answer to Second Amended Complaint (US Bank, Prof-2013 M4-Legal Title Trust and Fay Servicing)	01-07-2020	AA01697
53	Breckenridge Property Fund 2016, LLC's Answer to Second Amended Complaint	01-08-2020	AA01721
54	Order Denying Petition for Review (Supreme Court)	01-22-2020	AA01726
55	Bank of America, N.A.'s Answer and Affirmative Defenses to Plaintiffs' Second Amended Complaint	01-23-2020	AA01728
56	Order Denying Without Prejudice Ex Parte Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be Granted and Request to Shorten Time to Answer	02-11-2020	AA01748



### **VOLUME VIII**

57	Answer to Second Amended Complaint (Newrez, LLC, d/b/a Shellpoint Mortgage)	03-19-2020	AA01751
58	Breckenridge Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments With Court	03-27-2020	AA01776
59	Plaintiffs' Opposition to Motion for Deposit of Payments With Court	04-13-2020	AA01806
60	Breckenridge Reply in Support of Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments with Court	04-24-2020	AA01839
61	Breckenridge Property Fund 2016, LLC's Reply in Support of Motion for Leave to File Crossclaim Against Prof-2013-M4 Legal Title Trust by U.S. Bank National Association, as Legal Title Trustee	09-11-2020	AA01844
62	Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	10-02-2020	AA01853
63	Answer to Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	11-02-2020	AA01860
64	Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA01869

### **VOLUME IX**

64	(Continued) Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA02001
65	Breckenridge Property Fund 2016 LLC's Motion for Summary Judgment Against Plaintiff	03-18-2021	AA02179
66	(Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02230

### **VOLUME X**

66	(Continued) (Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02251
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## **VOLUME XI**

- |    |  |            |         |
|----|--|------------|---------|
| 66 | (Continued) (Plaintiffs') Motion for Partial Summary Judgment  | 03-19-2021 | AA02501 |
| 67 | Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA02540 |

## **VOLUME XII**

- |    |  |            |         |
|----|--|------------|---------|
| 67 | (Continued) Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02751 |
| 68 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment   | 03-25-2021 | AA02764 |
| 69 | Request for Judicial Notice in Support of Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment and Shellpoint Mortgage Servicing LLC's Motion for Summary Judgment | 03-25-2021 | AA02779 |
| 70 | Shellpoint Mortgage Servicing, LLC's Motion for Summary Judgment   | 03-25-2021 | AA02785 |
| 71 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02796 |

## **VOLUME XIII**

- |    |  |            |         |
|----|--|------------|---------|
| 71 | (Continued) Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA03001 |
| 72 | Bank of America, N.A.'s Errata to Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions   | 04-02-2021 | AA03017 |



73	Bank of America, N.A.'s Opposition to Plaintiffs' Partial Motion for Summary Judgment	04-14-2021	AA03021
74	Plaintiffs' Opposition to US Bank, Fay Servicing, and Shellpoint's Motions for Summary Judgment	04-15-2021	AA03089
75	Plaintiffs' Opposition to BANA's Motion for Summary Judgment	04-15-2021	AA03112
76	Plaintiffs' Opposition to Breckenridge's Motion for Summary Judgment	04-15-2021	AA03127
77	Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03136

#### **VOLUME XIV**

77	(Continued) Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03251
78	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03482

#### **VOLUME XV**

78	(Continued) Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03501
79	Bank of America, N.A.'s Reply Supporting Motion for Summary Judgment	05-05-2021	AA03506
80	Supplement to Plaintiffs' Statement of Undisputed Material Facts	05-06-2021	AA03519
81	Reply to Bank of America, N.A.'s Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03671
82	Reply to US Bank & Fay Servicing, LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03698
83	Shellpoint Mortgage Servicing, LLC's Reply in Support of Motion for Summary Judgment	05-10-2021	AA03720
84	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and	05-10-2021	AA03727



Fay Servicing LLC's Reply in Support of Motion for Summary Judgment

- |    |   |            |         |
|----|---|------------|---------|
| 85 | Breckenridge Property Fund 2016 LLC's Reply in Support of Motion for Summary Judgment Against Plaintiff | 05-10-2021 | AA03737 |
| 86 | Order on Breckenridge Motion for Summary Judgment   | 06-23-2021 | AA03743 |

**VOLUME XVI**

- |    |  |            |         |
|----|--|------------|---------|
| 87 | Order Denying Plaintiffs' Motion for Partial Summary Judgment/Granting Motions for Summary Judgment filed by BANA, Prof-2013 M4 Legal Trust, US Bank and Fay Servicing LLC | 06-23-2021 | AA03751 |
| 88 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03769 |
| 89 | Notice of Entry of Order (Order Denying Plaintiffs Motion for Partial Summary Judgment)  | 07-06-2021 | AA03780 |
| 90 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03801 |
| 91 | Lincicomes' Notice of Appeal   | 07-19-2021 | AA03812 |
| 92 | Case Appeal Statement  | 07-30-2021 | AA03815 |
| 93 | Order Regarding Permanent Writ of Restitution  | 08-20-2021 | AA03823 |
| 94 | Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents  | 09-09-2021 | AA03826 |
| 95 | Plaintiffs' Motion for Stay Pending Appeal   | 09-15-2021 | AA03888 |
| 96 | Opposition to Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents                              | 09-24-2021 | AA03904 |
| 97 | Defendant Breckenridge Property Fund 2016, LLC's Opposition to Plaintiffs' Motion to Stay Pending Appeal   | 10-01-2021 | AA03906 |
| 98 | Request for Transcripts  | 10-04-2021 | AA03974 |
| 99 | Breckenridge Property Fund 2016's Reply in Support of Motion for Entry of Order Granting   | 10-06-2021 | AA03976 |



Permanent Writ of Restitution and Payment of  
Overdue Rents

100 Transcripts of Hearings 10-18-2021 AA03979

**VOLUME XVII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04001

**VOLUME XVIII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04251

101 Order Concerning: Breckenridge Property Fund  
2016, LLC's Motion for Entry of Order Granting  
Permanent Writ of Restitution and Payment of  
Overdue Rents and Plaintiffs' Motion for Stay  
Pending Appeal 11-05-2021 AA04257

102 Lincicomes' Ex Parte Motion for Additional Time to  
Obtain Supersedeas Bond 11-15-021 AA04267

103 Breckenridge Property Fund 2016's Opposition to  
Plaintiffs' Improper Ex Parte Motion for Additional  
Time to Obtain Supersedeas Bond and Request for  
Sanctions 11-16-2021 AA04274

104 Order Denying Ex Parte Motion (for additional time  
for bond) 11-17-2021 AA04301

105 Permanent Writ of Restitution (order permitting  
eviction of Lincicomes from their home) 11-22-2021 AA04304



1 A Yes.

2 Q And you made monthly payments at the  
3 beginning of the loan, correct?

4 A Yes.

5 Q How many months did you make monthly  
6 payments for when you took out the loan?

7 A I think there were eight months of monthly  
8 payments until we were slapped with a penalty from  
9 the IRS.

10 Q We'll get to that in a second. So you made  
11 payments for eight months. And then when was the  
12 next time you made a payment on the loan?

13 A After that payment?

14 Q You stopped making payments after eight  
15 months. When was the last time you made a payment on  
16 the loan?

17 A When we were called -- we made payment on  
18 September -- September 1st. And, in fact, because we  
19 were given a modification by -- in 2009, we were  
20 given a modification by Bank of America to comply so  
21 we would be given a permanent monthly rate. And then  
22 when I made the payment to the bank, the lady at the  
23 bank said they cannot accept my payment because there  
24 was no account showing in the computer.

25 And so I said, "Please, I have worked



1 with" -- is it okay to explain that part?

2 Q Okay. So let me be clear. You made eight  
3 months of payments from 2007 --

4 A I made payments back to Bank of America.

5 Q Let me finish.

6 So you made the monthly payments from 2007  
7 for about eight months. Then you made -- you tried  
8 to make another monthly payment in 2009, correct?

9 A Yes.

10 Q When was the next time that you made a  
11 payment after that?

12 A October.

13 Q Of what year?

14 A Of 2009.

15 Q Then when was -- was that payment accepted?

16 A They wouldn't accept the payment because,  
17 like what they said, our documents were lost and they  
18 are trying very hard to locate it, and if we have a  
19 problem, we have to seek the advice of HUD.

20 Q Okay. Did you bring -- where -- did you  
21 actually physically talk to somebody at Bank of  
22 America?

23 A Yes, I did.

24 Q Where at?

25 A The Bank of America in Carson City.



Vicenta J. Lincicome - Vol. I - January 6, 2021  
\* \* \* Remote Videoconference Deposition \* \* \*

Page 36

1 Q Do you know the address?

2 A It is the big building that is at the corner  
3 of Highway 50 and Carson Street.

4 Q Okay.

5 A Oh, wait a minute. No, I'm sorry. It's  
6 corner of Stewart.

7 Q Stewart and Highway 50?

8 A Yeah.

9 Q Do you remember who you talked to?

10 A Yes. Her name was Crystal. She was very  
11 sympathetic.

12 Q Was that in September of 2009 or October  
13 of 2009?

14 A That was September of 2009. They wouldn't  
15 accept it. I made the payment -- can I refresh my  
16 answer?

17 When I made the payment on September 1st,  
18 because, like, what the girl, the lady from Bank of  
19 America said, "You have to really bring the money on  
20 the very 1st of September." So I went to the bank on  
21 the very 1st of September, and then it was when  
22 Crystal said, "We cannot accept your money because  
23 there is no account in the bank."

24 And so I said, "Please, please, just  
25 receive -- just accept this check because we have no



1 way of showing that we made a payment."

2 We complied with the advice of the bank. So  
3 we made the payment, and I make -- yeah, the check, I  
4 gave the check to Crystal.

5 And so Crystal said, "Okay. I will receive  
6 your check and put it in a suspense account. And  
7 then you have to call Bank of America and ask for the  
8 coupon for the" -- you know, like in the coupon,  
9 because they need a coupon to post my account. So  
10 the coupon would have the account number, would have  
11 the -- I don't know, the payment, the amount of  
12 payment.

13 So, but then when I went there again on  
14 October 1st, none of them would accept the payment at  
15 all. They now verified that my documents -- because  
16 I cannot make the payment because the documents are  
17 lost. And so they said to call the service center of  
18 Bank of America in Sierra Rose in Reno. And so that  
19 was why we started contacting the manager, Barbara  
20 Keady, to make the payments, more payments. And then  
21 she wouldn't accept it. Like, what she said, they're  
22 lost, and they are trying hard to locate the deed --  
23 or the account.

24 Q Okay. Well, thank you for telling me. I  
25 have some follow-up questions to that.



1 the mediation.

2 Q I understand that. That's what you're  
3 claiming. I'm not asking about the WZ ones. I'm  
4 asking about the 759 through 761.

5 A Yes, I had that.

6 Q Let me clarify for the record. Did you  
7 bring 759 through 761 to Bank of America on  
8 September 1st or September 2009?

9 A No, I did not.

10 Q Did you do it when you visited Bank of  
11 America in October of that year?

12 A No, I did not.

13 Q At any time, did you visit a Bank of America  
14 branch where you presented 759 through 761?

15 A No, I did not.

16 Q Did you present any document that resembled  
17 759 to 761 to Bank of America at a branch?

18 A Okay. Sir, can I say this first before I  
19 proceed? When I told them that I have copies of the  
20 Loan Modification Agreement, they said, "We don't  
21 need your copy. We have everything we need."

22 Q Who's "they" and when, and who did you talk  
23 to?

24 A It was -- okay. The first one was the  
25 mortgage officer of Bank of America because when --



1 what was the name of that girl who received the  
2 check? When she said, "Okay. Why don't you go to  
3 that lady?"

4 I said, "Can you record it that I made a  
5 payment?"

6 She said, "Why don't you ask the mortgage --  
7 the mortgage lady?"

8 She was working on the ground floor in the  
9 bank. So I went to her and I said, "Ma'am, can I  
10 just -- I'm requesting that the money that I'm paying  
11 today, can it be just posted and recorded?"

12 She said, "No, we can't, because we have the  
13 same documents that you are going to" --

14 I said, "Can I send you my copies of the  
15 documents?"

16 She said, "No."

17 None of them. For the record, ever since  
18 the beginning, Bank of America would never see any of  
19 my records.

20 Q I understand that's your position. My  
21 question was, did you bring it to Bank of America?

22 A No, I didn't.

23 Q Let me clarify so we have a clean record.

24 At any point, did you bring a copy of the Loan  
25 Modification Agreement to a Bank of America branch to



1 present to them?

2 A No, no.

3 Q Did you ever write a letter to Bank of  
4 America saying, "Here's my Loan Modification  
5 Agreement. Please accept my payments"?

6 A No, I did not.

7 Q Okay. Do you know what a RESPA request is?  
8 Do you know what a RESPA request is, Bet?

9 A Say that again.

10 Q A RESPA request, have you ever heard of  
11 that?

12 A No, I haven't.

13 Q Did you ever send a RESPA request to Bank of  
14 America regarding your Loan Modification Agreement?

15 A No, I haven't.

16 Q Did you ever send Bank of America a RESPA  
17 request regarding your loan?

18 A Okay. Now, what does that RESPA form look  
19 like?

20 Q I'm just asking, did you ever send them a  
21 letter?

22 A I'm so sorry. I haven't.

23 Q Let me clarify. Did you send them any  
24 correspondence regarding the loan?

25 A Yes.



1 Q What correspondence did you send them?

2 A Well, I have sent them a correspondence ever  
3 since 2007 and until -- asking for their help. From  
4 2007 until 2018, I have been incessantly asking for  
5 their help, and everybody who answers me just shrugs  
6 me, ignores me, and, in fact, they even laugh at me.

7 Q Okay. I understand that's your position.

8 So my question is, did you ever send them a  
9 letter with the Loan Modification Agreement telling  
10 them, essentially, "Honor this Loan Modification  
11 Agreement and accept my payment"?

12 A I haven't, but I have been approaching them  
13 face-to-face all the time because I thought having to  
14 face them, having to make a personal face-to-face  
15 would matter better than writing a letter. Because I  
16 have written letters to all departments, to HUD and  
17 to CFPB, but I never get any response.

18 Q Okay. Let me ask you, was this Loan  
19 Modification Agreement recorded in the recorder's  
20 office?

21 A Which one are you talking about?

22 Q So --

23 A That's what it says here, that it was  
24 recorded on 5/25/07.

25 Q I'm sorry, I'm talking about Exhibit 26,



1 Can you please pull Exhibit 4, please.

2 A Okay.

3 Q Do you recognize Exhibit 4?

4 A Yes.

5 Q Is this your bankruptcy petition?

6 A Correct.

7 Q Okay. I want you to go, please, to Page 14  
8 of the petition, which would be Bates stamp No. 789.

9 A Okay.

10 Q Are you there?

11 A Yes.

12 Q At the top of the page, it should say  
13 "Schedule A - Real Property," correct?

14 A Correct.

15 Q And it lists there the residence. On the  
16 first column on the left, it says that -- it lists  
17 the residence at 70 Riverside Drive, Dayton, Nevada,  
18 correct?

19 A Yes.

20 Q And there's an amount of secured claim,  
21 correct?

22 A Correct.

23 Q How much is the amount of the secured claim?

24 A \$381,000.

25 Q Is that number correct?



1           A     Yes.

2           Q     Okay.  If that number is correct, then how  
3     come the amount listed on the Exhibit 26, the loan  
4     mod, how come that has a different amount on there?

5                     And to clarify, on Exhibit 26, the amount of  
6     the loan is listed on Page 759 as \$417,196.58 as the  
7     amount of the loan; is that correct.

8           A     I'm so sorry, sir.  Where could I find that?

9           Q     Okay.  So if you go to Page 759 --

10          A     Uh-huh.

11          Q     -- it lists the amount of the loan as  
12     \$417,196.58; is that correct?

13          A     That's correct.

14          Q     But on the bankruptcy schedules, it lists  
15     the amount of the loan as \$381,000; is that correct?

16          A     Correct.

17          Q     So why are they different numbers?

18          A     I don't have any idea how they calculated  
19     that.

20          Q     So was the bankruptcy, was the Schedule A,  
21     Page 789, is that \$381,000 number incorrect?

22          A     No.  That was correct in the worksheet from  
23     HUD.

24          Q     That's not a HUD worksheet, though, right?  
25     This is your --



1     because --

2           Q     Let me ask you this question: During the  
3     bankruptcy, did you have a bankruptcy trustee?

4           A     Yes.

5           Q     Did you make any payments on the home loan  
6     to the bankruptcy trustee during the bankruptcy?

7           A     Not for the home loan.

8           Q     Did you make any payments -- let me ask the  
9     next question.

10                Did you make any payments to Bank of America  
11     on the loan during the pendency of the bankruptcy?

12           A     No, we did not, because Bank of America,  
13     they didn't appear during the hearing that was called  
14     by the court.

15           Q     That wasn't my question, though. My  
16     question was, did you make any payments to Bank of  
17     America during the bankruptcy?

18           A     No, because they know that we were in  
19     bankruptcy. And then they were advised to attend the  
20     meeting, and they didn't show up. And if they did  
21     attend the meeting, it could have been included, the  
22     payment would have been included in the bankruptcy.  
23     That, I believe.

24           Q     What meeting are you talking about?

25           A     Okay. Before the bankruptcy was approved,



1           A     I'm sorry, what specifically?

2           Q     Do you see where it says "2.11, Class 1,  
3     Secured claims for real estate loans and/or real  
4     property taxes that were current when the petition  
5     was filed"?

6           A     Yes.

7           Q     Does it list the dates and property on that  
8     schedule?

9           A     Yes.

10          Q     I have a couple questions. Is that correct?  
11     Was that property -- was that loan current when the  
12     petition was filed?

13          A     Yes.

14          Q     But you told me that it wasn't earlier,  
15     didn't you?

16          A     Which one did I --

17          Q     I thought you testified earlier -- and if  
18     I'm wrong, correct me. I thought you testified  
19     earlier that at the time you filed the petition, that  
20     you were not current with your loan; is that correct?

21          A     No. I said when we filed the petition, we  
22     wanted that loan included in the payment for the  
23     bankruptcy.

24          Q     But was the loan current when you filed the  
25     petition?



1 A No, it wasn't.

2 Q So why is it listed here in your bankruptcy  
3 plan as being current at the time you filed the  
4 petition?

5 A I really have no idea, sir.

6 Q Is this plan incorrect?

7 A I don't know.

8 Q Okay. Now, you also listed installment  
9 payment there of \$2,325; is that correct?

10 A Supposedly, yeah, that's correct.

11 Q What was the installment payment on your  
12 loan modification? You can pull it back up. It's  
13 Exhibit 26.

14 MR. MILLWARD: Rami, I now have your  
15 Exhibit 26. Let me take it into her.

16 MR. HERNANDEZ: You got it. I appreciate  
17 it.

18 THE WITNESS: Okay.

19 BY MR. HERNANDEZ:

20 Q On Exhibit 26, which is Page No. 759, does  
21 that have a monthly payment on there of \$1,977.29?

22 A 759, there is no writing here.

23 Q Is there a payment listed there of  
24 \$1,977.29?

25 A In 00759?



1 Q You're not aware of that?

2 A No, I was not aware of that.

3 Q Okay. Did you get a bankruptcy discharge on  
4 or around June 15, 2015?

5 A Yes. We were discharged.

6 Q At the time you got the discharge, was the  
7 loan in default?

8 A It was. We haven't paid the loan. And  
9 that's why we requested right away for loan  
10 modification.

11 Q Okay. Then let's get to that. I want you  
12 to pull Exhibit 7.

13 A Okay.

14 Q Do you recognize this document? It begins  
15 with Lincicome 000070 at the bottom.

16 A Yes, I do.

17 Q Okay. What is this document?

18 A It says here from Bank of America, "You're  
19 on your way toward an affordable mortgage payment."

20 Q So does this appear to be a trial  
21 modification proposal?

22 A Yes.

23 Q Okay. Did you agree to this trial  
24 modification?

25 A Yes, I did.



1 Jewel Stephens. She would call me and say, "For your  
2 trial time offer, we would rather that you make  
3 payments through the phone."

4 So I said, "Okay. I will right away. I  
5 will make payments on the phone." And then I made  
6 payments on the phone.

7 And then after the second payment, after the  
8 third payment -- oh, no, no. After the second  
9 payment, approaching the third payment, I called on  
10 the very first -- I think there was a holiday in  
11 between, but I called and I wanted to pay early  
12 because of the holidays. And I remember the guy I  
13 talked to, and he said, "Okay."

14 I said, "Would it matter?"

15 He said, "No. We will post it on the third  
16 month."

17 So I believed him, because he was from Bank  
18 of America. So we made a payment. And then all of a  
19 sudden, he called back and says that your loan has  
20 been transferred.

21 Q Okay. So let me get this straight. You  
22 signed the temporary loan mod, and you made the first  
23 two payments, correct?

24 A Yes, that's correct.

25 Q And you tried to make the third payment, and



1     you couldn't because the loan had transferred to Fay,  
2     correct?

3           A     Yes, that's correct.

4           Q     I know you didn't mention Fay, but I added  
5     that in. It did transfer to Fay, correct?

6           A     Yes, it did, yeah.

7           Q     Now, when it transferred to Fay, Fay offered  
8     you a loan modification?

9           A     No. Fay said, "No. We cannot accept."

10                I said, "I want to make a payment."

11                And she said, "No. We cannot accept your  
12     payment."

13                And I said, "Why?"

14                Because under the loan modification, it  
15     says -- it was provided in the documents when it was  
16     transferred, the servicing was transferred, the  
17     documents from Bank of America said that you will  
18     have no problem paying the same amount, and they will  
19     honor all the provisions in that loan modification.

20                So when I called in and talked to the lady,  
21     Rosalyn Jackson was her name, when I called the lady  
22     and I said, "I want to make the payment," she said,  
23     "We are very sorry, but that is not the payment we  
24     have for you."

25           Q     I'm sorry, Bet. That wasn't my question.



1           Q     When you came to this country, did you go  
2     into the education field?

3           A     No, I did not. I had another degree in  
4     accounting in the Philippines after graduating  
5     bachelor of science in education. That was not  
6     really the course that I really had intended to do,  
7     to take. I wanted to be an engineer, but my father  
8     really didn't want me to be an engineer, so I decided  
9     to just go into accounting.

10          Q     I see. So in terms of your education, you  
11     have a bachelor's in education and then a bachelor's  
12     in accounting, or am I misstating that?

13          A     Yes, I do.

14          Q     And those are both from a university in the  
15     Philippines?

16          A     Yes.

17          Q     Did you take any other educational courses  
18     when you came to America?

19          A     Yes, I did.

20          Q     And what were those?

21          A     I took real estate.

22          Q     Oh, when did you take a real estate class?

23          A     In 1992. I was a realtor for four or six,  
24     five years. I was still working at Eagle Valley. I  
25     was a single mother, so I tried to augment our income



1       so I could afford for her insurance.

2           Q       Were you a real estate salesperson in  
3       Nevada?

4           A       Yes.

5           Q       And approximately how long did you hold that  
6       license?

7           A       For about six or seven years. I put my  
8       license on ice because of the fact that other than my  
9       work at Eagle Valley Children's Home as an accountant  
10      in taking care of Medicaid, we had -- what they  
11      call -- kids that were handicapped.

12                 So other than my accounting job, I was  
13      taking side jobs, and I was taking -- I was selling  
14      houses, I was selling -- I was -- I was doing odd  
15      jobs.

16          Q       An adjunct as in a professor?

17          A       O-D-D, odd jobs. Like, I have a friend who  
18      has a restaurant, so I worked for her as a delivery  
19      person, like, at night.

20          Q       This was back in the '90s, correct?

21          A       Yes, in the '90s.

22          Q       Did you work for a specific brokerage firm?

23          A       Yes.

24          Q       What was that called?

25          A       Myers Realty.



1 Q What's the current status of your real  
2 estate license in Nevada?

3 A I gave it up.

4 Q What year did you give it up?

5 A I informed -- when?

6 Q Yeah. Approximately what year did you give  
7 up your real estate license in Nevada?

8 A I gave it up in 2000.

9 Q Approximately how many homes did you sell in  
10 those approximate six years that you held -- or that  
11 you were active in your licensure?

12 A I could only sell homes -- I could only  
13 entertain clients on weekends, so I probably sold,  
14 like, six homes total, six to eight homes total.

15 Q And were all those homes in the Reno/Carson  
16 City area?

17 A More -- all of them were in Carson City.

18 Q Did you ever sell a house in Lyon County?

19 A No.

20 Q Did you ever help persons find homes as  
21 well?

22 A I'm sorry. Scott, say that again.

23 Q You had mentioned that you sold about six to  
24 eight homes. Did you also help people find homes?

25 A Yeah.



1           Q     About how many homes did you help people  
2     find?

3           A     Yeah, I showed -- I referred them to other  
4     realtors, because I could not do it myself because of  
5     my job. So probably five, to show them where they  
6     could find affordable homes.

7           Q     When you worked as a real estate  
8     salesperson, did you assist with any contract work?

9           A     No.

10          Q     So when someone went to buy a house, how did  
11     you help them navigate those waters?

12          A     When somebody wants to buy a house and I  
13     could not help them because sometimes they want to go  
14     around during the day, I referred them to my broker,  
15     who was Tanya Milligan. My broker was Tanya  
16     Milligan, and her husband's name was Gene Milligan.

17          Q     And you had to take a course to become a  
18     real estate salesperson, correct?

19          A     Yes.

20          Q     Approximately how long was that course?

21          A     Well, I challenged the dean, and I said I  
22     could take two subjects in one sitting because I  
23     was -- I had a way of studying. And he -- I took two  
24     subjects, Real Estate 1 and Real Estate 2, to be able  
25     to get a license.



1 Q And what school did you go to?

2 A I went to WNCC.

3 Q And you passed -- did you pass the Nevada  
4 real estate salesperson's exam on the first try?

5 A Yes, I did. I don't know if that was the  
6 first try. I don't remember. Maybe the second try,  
7 because I had to -- see, during that time, I think  
8 there were conditions. If you pay on one or not make  
9 up the mark on one, you have to go back and retake  
10 it.

11 Q What kinds of things did you learn when you  
12 were in this course?

13 A I learned how to fill out forms and HUD  
14 forms and what were the difference about HUD and, you  
15 know, as far as interest and -- interest and -- what  
16 is this -- interest and the monthly mortgage.

17 Q When you were in this course, did you learn  
18 about mortgages and notes and loans?

19 A You have to learn about that because that  
20 was always the way to sell a house.

21 Q Did you learn about recording documents in  
22 the county recorder's office?

23 A No, not in the recorder's office. That  
24 was -- see, I was just a part-time worker. So I  
25 worked on Saturdays and Sundays and then showing



1 Q Was this back in the '90s?

2 A Yes.

3 Q Why did you give up your real estate  
4 salesperson's license?

5 A Because of the demands of work, and because  
6 of the economy too.

7 Q What years did you practice accounting for  
8 Eagle Valley?

9 A I started in 1999.

10 Q And you retired in 2015?

11 A Yes.

12 Q And what were your positions there?

13 A In 1999, I was a bookkeeper. I was doing  
14 payroll, payroll taxes, other taxes, state taxes.

15 Q After you were a bookkeeper, did you move  
16 into a different role?

17 A When the -- after I was a bookkeeper, there  
18 was a position for an accountant. And so my boss,  
19 was our director, said if I could qualify for that.  
20 And I said I have my diploma from the university in  
21 the Philippines, but, you know, we took a CPA. I  
22 mean, it was an American standard, so American  
23 international standards that we were using. So he  
24 accepted it, and I think he verified it from the  
25 university. And when he verified it, he gave me the



1 filing cabinet or a drawer?

2 A Well, we have totes where we put our files  
3 and keep them in totes.

4 Q What do you mean by tote? Are you talking  
5 about a folder that goes in a filing --

6 A Those plastic totes that you buy at Costco.

7 Q Have you disclosed all of the documents that  
8 are in your tote regarding this property in this  
9 litigation?

10 A Yes, because we really thought -- okay.  
11 Yes.

12 Q When Bank of America was servicing your  
13 loan, how often did they send you correspondence?

14 A I was not aware of -- the only  
15 correspondence that they sent, mostly on a weekly  
16 basis, was when they said they lost the document.  
17 And I keep on asking every week, I have to check if  
18 they found it.

19 Then they keep on answering us that they  
20 haven't found the document and they were still  
21 trying.

22 Q You had once applied for a loan modification  
23 through Fannie Mae; is that correct?

24 A Yes.

25 Q Do you have documents in your home or in



1           A     No, I never did.

2           Q     Did you read this Deed of Trust before  
3 signing it?

4           A     You know what? Sometimes I don't trust  
5 myself anymore.

6           Q     Back in 2007, did you read this Deed of  
7 Trust before signing it?

8           A     I did.

9           Q     Did you seek any legal assistance before  
10 signing it?

11          A     No.

12          Q     Did you seek any tax advice before signing  
13 it?

14          A     No. I was just with my husband. We were  
15 just reading it, and I'm reading it.

16          Q     On WFZ 8, you'll see the \$381,000 amount  
17 towards the top.

18          A     Yes.

19          Q     Were you aware when you signed the Deed of  
20 Trust that you owed a loan amount -- this loan  
21 amount, \$381,000, plus applicable interest and  
22 charges?

23          A     Yes.

24          Q     And you understood as of 2007 that it would  
25 take 30 years to pay off the loan?



1 A Yes.

2 Q How did you intend to pay off the loan once  
3 you and your husband retired?

4 A How? We don't know. It was more like -- it  
5 was just at the moment that we got the house, we were  
6 working and planning on paying it off.

7 Q Was it your intent to pay off the loans  
8 before you retired?

9 A Not really. It was hard.

10 Q You'll see on WFZ 7 it says Sierra Pacific  
11 was the lender and MERS was the beneficiary.

12 Based on this Deed of Trust, how were you  
13 aware that BANA or BAC serviced the loan? When I say  
14 BANA, I mean Bank of America.

15 A It was in the MERS document that it was Bank  
16 of America.

17 Q Did Bank of America send you notices  
18 identifying it was the servicer of your loan?

19 A No.

20 Q So how did you know where to send monthly  
21 payments to?

22 A I went to the bank, straight to the bank to  
23 make payments.

24 Q Straight to the Bank of America, the branch  
25 on William?



1           A     Yes.

2           Q     Why, then, did you stop making payments in  
3     2008?

4           A     2008? I did make payments. I still have  
5     the checks.

6           Q     When did you stop making payments, then?

7           A     After I -- that was after we were slapped  
8     with penalty -- penalties and interest and penalties  
9     by the IRS. I could not afford, or we could not  
10    afford it.

11          Q     How much did you owe the IRS?

12          A     I think it was over \$20,000.

13          Q     Did you pay that money back?

14          A     It was paid in the bankruptcy.

15          Q     So out of that 20 grand, how much did you or  
16    your husband actually pay the IRS?

17          A     I don't know. We paid the trustee every  
18    month. That was determined by the trustee and then  
19    they prorate it.

20          Q     You and your husband were both working in  
21    2008, correct?

22          A     Yes.

23          Q     Approximately what was your combined income  
24    in 2008?

25          A     I don't recall.



1 the application notice was to look at if it was a  
2 proper amount that I would be giving, I would be  
3 paying. And then that was when they cut a check and  
4 give it to the...

5 Q Tell me about this loan from the credit  
6 union. When did you take it out?

7 A I really don't remember. I have the copy of  
8 the check, and then I was also charged penalty by the  
9 IRS for those fees because I was withdrawing the  
10 money, the payment for the loan from my retirement  
11 account.

12 Q So you took out a loan from a credit union.  
13 Which credit union was this?

14 A In Carson City.

15 Q And did you use money from -- the loan from  
16 the credit union to pay the mortgage?

17 A Yes.

18 Q And would this have been in 2008?

19 A Probably.

20 Q So do you agree that you couldn't afford the  
21 mortgage even as of 2008?

22 A I couldn't at that time because of the IRS.  
23 We were in big trouble during that time, because we  
24 didn't really know that the lender was not telling  
25 the truth, that we don't have to be scared taking the



1 payment from your retirement account.

2 Q I'm looking at the Note, specifically  
3 Lincicome 63, Paragraph 7, Section B, Default. Bet,  
4 you agree that you understood you'd be in default if  
5 you did not make monthly payments, correct?

6 A What are you reading again? Page 21?

7 Q At the bottom, it's Lincicome 63. I'm  
8 looking at Paragraph 7, Section B, Default. Do you  
9 see that?

10 A No. Just a minute. I'm looking.

11 Q You'll see at the very bottom, right-hand  
12 corner, it says Lincicome 000063.

13 A Are we on the document?

14 Q I'm looking at Exhibit 2, the Note.

15 A Oh, Exhibit 2. Okay. I'm still on  
16 Exhibit 1.

17 Okay. What page?

18 Q Lincicome 63, specifically Paragraph 7,  
19 Section B. See that?

20 A Yes. Default.

21 Q I know just a minute ago you said you didn't  
22 read the Note when you executed it. Did you happen  
23 to read Paragraph 7?

24 A No.

25 Q Do you agree that you'd be in default if you



1 did not make monthly payments to Bank of America or  
2 any other holder of the loan?

3 A I understand, but we don't have a choice.

4 Q When you say you don't have a choice, what  
5 do you mean by that?

6 A Because of the too much debt in our life.  
7 Because of the IRS and -- the IRS, they didn't only  
8 charge interest and penalties on the \$80,000, but  
9 also on the withdrawal that I did.

10 Q You would agree that you were in default  
11 when you stopped making payments in 2008, correct?

12 MR. MILLWARD: Objection to form. Calls for  
13 a legal conclusion.

14 THE WITNESS: What was it?

15 MR. MILLWARD: You can answer that.

16 THE WITNESS: Oh, did I understand that we  
17 were in default? We understand that we haven't paid,  
18 and that was when I was really reaching out for help  
19 from other agencies, if they can help making a  
20 working payment amount for us.

21 BY MR. LACHMAN:

22 Q Since you stopped making payments in 2008,  
23 how many monthly payments have you and/or your  
24 husband made from 2008 to today?

25 A I'm sorry, I don't remember.



1 Q And when was that?

2 A I don't remember.

3 Q If you received the Notice of Default in  
4 January 2009, would you have been surprised by that?

5 A I would probably ask my husband how to cure  
6 this default.

7 Q You'll see at the top right-hand corner of  
8 the first page of the Notice of Default, you'll see  
9 it's on Page 751, that there's a recordation stamp.  
10 Do you see that?

11 A Yes.

12 Q Have you ever recorded a document either in  
13 Washoe County, Carson City or Lyon County?

14 A Never.

15 Q Would you know how to?

16 A No.

17 Q Have you ever recorded a homestead against  
18 the property?

19 A I have applied for homestead for the house,  
20 for this house.

21 Q And how -- do you recall how you applied for  
22 the homestead?

23 A I went to the court to ask for the form.

24 Q So you went to the court and you filled out  
25 a form called the Declaration of Homestead, do you



1 documents.

2 Q Turning to 806, you'll see "Declaration  
3 concerning debtor's schedules," and you'll see  
4 E-signatures for both yourself and your husband.

5 A Yes.

6 Q Do you recall signing your -- do you recall  
7 signing this page?

8 A I don't remember.

9 Q All right. I'm looking at Statement of  
10 Financial Affairs. It's hard to see the page, but it  
11 looks like 807.

12 A Okay.

13 Q It says last year your income from  
14 employment wages -- when I say last year, I believe  
15 that's referring to 2009 -- was \$123,895, 2008 was  
16 \$125,887. Do you see that?

17 A That was the last year period? I believe  
18 that was joint.

19 Q So that amount is joint between you and your  
20 husband; is that correct?

21 A Yes, yes.

22 Q So before your husband retired in 2013, was  
23 that 123, 125,000 your income during those years?

24 A No.

25 Q So are you saying that your income went up



1 Jewel?

2 A No. She was no longer available.

3 Q Was she no longer employed?

4 A I don't know if she was employed, but  
5 another agent was taking care of the papers.

6 Q At any time after Bank of America allegedly  
7 rejected your payment in October 2009, did you try to  
8 make any other payment through payment processing at  
9 the PO Box in Van Nuys, California?

10 A No.

11 Q Why not?

12 A Because they haven't even posted the  
13 payments that were made. And there was -- okay.  
14 Never mind.

15 Q Instead of paying Bank of America, did you  
16 take approximately \$2,000 a month and put it in an  
17 escrow account or a separate bank account?

18 A Did I? No.

19 Q You or your husband?

20 A No.

21 Q Why not?

22 A The escrow amount was paid through the  
23 bankruptcy court, the escrow amount. Everything --  
24 that \$22,000 that was indicated here were made -- the  
25 judge agreed that they will make the payment. They



CERTIFICATE OF REPORTER

STATE OF NEVADA )  
 ) ss:  
COUNTY OF CLARK )

I, Sarah Safier, CCR No. 808, do hereby  
certify: That I reported the remote videoconference  
deposition of VICENTA J. LINCICOME, VOLUME I,  
commencing on Wednesday, January 6, 2021, at 9:12  
a.m.

That prior to being deposed, the witness was duly sworn by me to testify to the truth. That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true, and accurate transcription of my said shorthand notes. That prior to the conclusion of the proceedings, pursuant to NRC 30(e), the reading and signing of the transcript was requested by the witness or a party.

I further certify that I am not a relative or employee of counsel of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

IN WITNESS WHEREOF, I have set my hand in my  
office in the County of Clark, State of Nevada, this  
13th day of January, 2021.

Sarah Safier, CCR No. 808



# EXHIBIT G

# EXHIBIT G



Official Form 1 (1/08)

United States Bankruptcy Court DISTRICT OF NEVADA				Voluntary Petition	
Name of Debtor (if individual, enter Last, First, Middle): <b>LINCICOME, JR. A. ELLIS</b>			Name of Joint Debtor (Spouse)(Last, First, Middle): <b>LINCICOME, VICENTA J.</b>		
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): <b>NONE</b>			All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names): <b>NONE</b>		
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): <b>2173</b>			Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): <b>9330</b>		
Street Address of Debtor (No. & Street, City, and State): <b>70 RIVERSIDE DRIVE DAYTON NV</b>			Street Address of Joint Debtor (No. & Street, City, and State): <b>70 RIVERSIDE DRIVE DAYTON NV</b>		
County of Residence or of the Principal Place of Business: <b>LYON</b>			County of Residence or of the Principal Place of Business: <b>LYON</b>		
Mailing Address of Debtor (if different from street address): <b>SAME</b>			Mailing Address of Joint Debtor (if different from street address): <b>SAME</b>		
Location of Principal Assets of Business Debtor (if different from street address above): <b>NOT APPLICABLE</b>					
<b>Type of Debtor</b> (Form of organization) (Check <b>one</b> box.) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (if debtor is not one of the above entities, check this box and state type of entity below  		<b>Nature of Business</b> (Check <b>one</b> box.) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other  <b>Tax-Exempt Entity</b> (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).		<b>Chapter of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input checked="" type="checkbox"/> Chapter 13  <b>Nature of Debts</b> (Check one box) <input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose" <input type="checkbox"/> Debts are primarily business debts.	
<b>Filing Fee</b> (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.  <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.		<b>Chapter 11 Debtors:</b> <b>Check one box:</b> <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).  <b>Check if:</b> <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,190,000.  <b>Check all applicable boxes:</b> <input type="checkbox"/> A plan is being filed with this petition <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).			
<b>Statistical/Administrative Information</b> <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY
<b>Estimated Number of Creditors</b> <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> Over 100,000					
<b>Estimated Assets</b> <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input checked="" type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion					
<b>Estimated Liabilities</b> <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input checked="" type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion					



Official Form 1 (1/08)

FORM B1, Page 2

<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): <b>A. ELLIS LINCICOME, JR. and          VICENTA J. LINCICOME</b>	
<b>All Prior Bankruptcy Cases Filed Within Last 8 Years</b> (If more than two, attach additional sheet)			
Location Where Filed:	Case Number:	Date Filed:	
<b>NONE</b>			
Location Where Filed:	Case Number:	Date Filed:	
<b>Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor</b> (If more than one, attach additional sheet)			
Name of Debtor:	Case Number:	Date Filed:	
<b>NONE</b>			
District:	Relationship:	Judge:	
<b>Exhibit A</b> (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under Chapter 11)  <input type="checkbox"/> Exhibit A is attached and made a part of this petition		<b>Exhibit B</b> (To be completed if debtor is an individual whose debts are primarily consumer debts) I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I have delivered to the debtor the notice required by 11 U.S.C. §342(b).  <div style="display: flex; justify-content: space-between;"> <div> <b>X</b>  <u>/s/ Robert G. Johnston</u>            Signature of Attorney for Debtor(s)         </div> <div> <b>4/ 5/2010</b>            Date         </div> </div>	
<b>Exhibit C</b>			
Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? <input type="checkbox"/> Yes, and exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No			
<b>Exhibit D</b>			
(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)  <input checked="" type="checkbox"/> Exhibit D completed and signed by the debtor is attached and made part of this petition. If this is a joint petition: <input checked="" type="checkbox"/> Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.			
<b>Information Regarding the Debtor - Venue</b> (Check any applicable box)			
<input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. <input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
<b>Certification by a Debtor Who Resides as a Tenant of Residential Property</b> (Check all applicable boxes.)			
<input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)			
_____ (Name of landlord that obtained judgment)			
_____ (Address of landlord)			
<input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and <input type="checkbox"/> Debtor has included with this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition. <input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).			



Official Form 1 (1/08)

FORM B1, Page 3

**Voluntary Petition**

(This page must be completed and filed in every case)

Name of Debtor(s):

**A. ELLIS LINCICOME, JR. and  
VICENTA J. LINCICOME****Signatures****Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b)

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

**X /s/ A. ELLIS LINCICOME, JR.**

Signature of Debtor

**X /s/ VICENTA J. LINCICOME**

Signature of Joint Debtor

Telephone Number (if not represented by attorney)

**4/ 5/2010**

Date

**Signature of a Foreign Representative**

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.☐ Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.**X**

(Signature of Foreign Representative)

(Printed name of Foreign Representative)

**4/ 5/2010**

(Date)

**Signature of Attorney\*****X /s/ Robert G. Johnston**

Signature of Attorney for Debtor(s)

**Robert G. Johnston 02256**

Printed Name of Attorney for Debtor(s)

**Kilpatrick, Johnston & Adler**

Firm Name

**412 No. Division Street**

Address

**Carson City NV 89703****(775) 882-6112**

Telephone Number

**4/ 5/2010**

Date

\*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests the relief in accordance with the chapter of title 11, United States Code, specified in this petition.

**X**

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

**4/ 5/2010**

Date

**Signature of Non-Attorney Bankruptcy Petition Preparer**

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social-Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address

**X**

Date

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social-Security number is provided

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual.

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In re **A. ELLIS LINCICOME, JR.**  
**and**  
**VICENTA J. LINCICOME**

Case No.  
Chapter 13

Debtor(s)

**EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH  
CREDIT COUNSELING REQUIREMENT**

**WARNING:** You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

*Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.*

☒ 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 14 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the seven days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now.  
*[Summarize exigent circumstances here.]*

**If your certification is satisfactory to the court, you must still obtain the credit counseling briefing within the first 30 days file your bankruptcy petition and promptly file a certificate from the agency that provided the counseling, together with a copy debt management plan developed through the agency. Failure to fulfill these requirements may result in dismissal of your Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. Your case may dismissed if the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit briefing.**



- ☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement]*  
*[Must be accompanied by a motion for determination by the court.]*
- ☐ Incapacity. (Defined in 11 U.S.C. § 109 (h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);
  - ☐ Disability. (Defined in 11 U.S.C. § 109 (h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);
  - ☐ Active military duty in a military combat zone.
- ☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

**I certify under penalty of perjury that the information provided above is true and correct.**

Signature of Debtor: /s/ A. ELLIS LINCICOME, JR.

Date: 4/ 5/2010



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In re **A. ELLIS LINCICOME, JR.**  
**and**  
**VICENTA J. LINCICOME**

Case No.  
Chapter 13

Debtor(s)

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH  
CREDIT COUNSELING REQUIREMENT

**WARNING:** You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

*Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.*

☒ 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 14 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the seven days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now.  
*[Summarize exigent circumstances here.]*

**If your certification is satisfactory to the court, you must still obtain the credit counseling briefing within the first 30 days file your bankruptcy petition and promptly file a certificate from the agency that provided the counseling, together with a copy debt management plan developed through the agency. Failure to fulfill these requirements may result in dismissal of your Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. Your case may be dismissed if the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit briefing.**



- ☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement]*  
*[Must be accompanied by a motion for determination by the court.]*
- ☐ Incapacity. (Defined in 11 U.S.C. § 109 (h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);
  - ☐ Disability. (Defined in 11 U.S.C. § 109 (h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);
  - ☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

**I certify under penalty of perjury that the information provided above is true and correct.**

Signature of Debtor: /s/ VICENTA J. LINCICOME

Date: 4/ 5/2010



**WARNING: Effective December 1, 2009, the 15-day deadline to file schedules and certain other documents under Bankruptcy Rule 1007(c) is shortened to 14 days. For further information, see note at bottom of page 2**

## UNITED STATES BANKRUPTCY COURT

### NOTICE TO CONSUMER DEBTOR(S) UNDER §342(b) OF THE BANKRUPTCY CODE

In accordance with § 342(b) of the Bankruptcy Code, this notice to individuals with primarily consumer debts: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case.

You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

Notices from the bankruptcy court are sent to the mailing address you list on your bankruptcy petition. In order to ensure that you receive information about events concerning your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address. If you are filing a **joint case** (a single bankruptcy case for two individuals married to each other), and each spouse lists the same mailing address on the bankruptcy petition, you and your spouse will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope, unless you file a statement with the court requesting that each spouse receive a separate copy of all notices.

#### **1. Services Available from Credit Counseling Agencies**

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days **before** the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies. Each debtor in a joint case must complete the briefing.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses. Each debtor in a joint case must complete the course.

#### **2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors**

##### **Chapter 7: Liquidation (\$245 filing fee, \$39 administrative fee, \$15 trustee surcharge: Total fee \$299)**

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, the United States trustee (or bankruptcy administrator), the trustee, or creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are



found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

**Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$39 administrative fee: Total fee \$274)**

Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

**Chapter 11: Reorganization (\$1000 filing fee, \$39 administrative fee: Total fee \$1039)**

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

**Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$39 administrative fee: Total fee \$239)**

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

**3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials**

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

**WARNING:** Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court. The documents and the deadlines for filing them are listed on Form B200, which is posted at [http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).

**Many filing deadlines change on December 1, 2009. Of special note, 12 rules that set 15 days to act are amended to require action within 14 days, including Rule 1007(c), filing the initial case papers; Rule 3015(b), filing a chapter 13 plan; Rule 8009(a), filing appellate briefs; and Rules 1019, 1020, 2015, 2015.1, 2016, 4001, 4002, 6004, and 6007.**



# United States Bankruptcy Court

\_\_\_\_\_ District Of \_\_\_\_\_

In re

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

Chapter \_\_\_\_\_

\_\_\_\_\_  
**Debtor**

## CERTIFICATION OF NOTICE TO CONSUMER DEBTOR(S) UNDER § 342(b) OF THE BANKRUPTCY CODE

### Certification of [Non-Attorney] Bankruptcy Petition Preparer

I, the [non-attorney] bankruptcy petition preparer signing the debtor's petition, hereby certify that I delivered to the debtor the attached notice, as required by § 342(b) of the Bankruptcy Code.

\_\_\_\_\_  
Printed name and title, if any, of Bankruptcy Petition Preparer  
Address:

\_\_\_\_\_  
Social Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

X \_\_\_\_\_

Signature of Bankruptcy Petition Preparer or officer,  
principal, responsible person, or partner whose Social  
Security number is provided above.

### Certification of the Debtor

I (We), the debtor(s), affirm that I (we) have received and read the attached notice, as required by § 342(b) of the Bankruptcy Code.

A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
\_\_\_\_\_  
Printed Name(s) of Debtor(s)

X /s/ A. ELLIS LINCICOME  
\_\_\_\_\_  
Signature of Debtor Date

Case No. (if known) \_\_\_\_\_

X \_\_\_\_\_  
Signature of Joint Debtor (if any)

Date

**Instructions:** Attach a copy of Form B 201A, Notice to Consumer Debtor(s) Under § 342(b) of the Bankruptcy Code.

Use this form to certify that the debtor has received the notice required by 11 U.S.C. § 342(b) **only** if the certification has **NOT** been made on the Voluntary Petition, Official Form B1. Exhibit B on page 2 of Form B1 contains a certification by the debtor's attorney that the attorney has given the notice to the debtor. The Declarations made by debtors and bankruptcy petition preparers on page 3 of Form B1 also include this certification.



# UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA

In re *A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME*

Case No.  
 Chapter 13

/ Debtor

## SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they case under chapter 7, 11, or 13.

NAME OF SCHEDULE	Attached (Yes/No)	No. of Sheets	ASSETS	LIABILITIES	OTHER
A-Real Property	Yes	1	\$ 856,000.00		
B-Personal Property	Yes	4	\$ 338,567.00		
C-Property Claimed as Exempt	Yes	1			
D-Creditors Holding Secured Claims	Yes	2		\$ 829,684.54	
E-Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	Yes	2		\$ 22,520.03	
F-Creditors Holding Unsecured Nonpriority Claims	Yes	3		\$ 40,056.44	
G-Executory Contracts and Unexpired Leases	Yes	1			
H-Codebtors	Yes	1			
I-Current Income of Individual Debtor(s)	Yes	1			\$ 7,380.17
J-Current Expenditures of Individual Debtor(s)	Yes	1			\$ 5,864.89
TOTAL		17	\$ 1,194,567.00	\$ 892,261.01	



# UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA

In re *A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME*

Case No.  
Chapter 13

/ Debtor

## STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11, or 13, you must report all information requested below.

☐ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	\$ 0.00
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E)	\$ 22,520.03
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E) (whether disputed or undisputed)	\$ 0.00
Student Loan Obligations (from Schedule F)	\$ 0.00
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	\$ 0.00
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	\$ 0.00
<b>TOTAL</b>	<b>\$ 22,520.03</b>

State the following:

Average Income (from Schedule I, Line 16)	\$ 7,380.17
Average Expenses (from Schedule J, Line 18)	\$ 5,864.89
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	\$ 10,441.86

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column		\$ 44,684.54
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column	\$ 22,520.03	
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column		\$ 0.00
4. Total from Schedule F		\$ 40,056.44
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)		\$ 84,740.98



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
 Debtor(s)

Case No. \_\_\_\_\_  
 (if known)

## SCHEDULE A-REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether the husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

**Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G-Executory Contracts and Unexpired Leases.**

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband--H Wife--W Joint--J Community--C	Current Value of Debtor's Interest, in Property Without Deducting any Secured Claim or Exemption	Amount of Secured Claim
Residence at 70 Riverside Drive, Dayton, NV		J	\$ 476,000.00	\$ 381,000.00
Rental House at 2763 Carriage Crest Drive, Carson City, NV 89706		J	\$ 280,000.00	\$ 280,000.00
Lot of 4315 Drake Way, Washoe Valley, NV		J	\$ 100,000.00	\$ 100,000.00
<b>TOTAL \$</b>			<b>856,000.00</b>	

No continuation sheets attached

(Report also on Summary of Schedules.)



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
Debtor(s)

Case No. \_\_\_\_\_  
(if known)

## SCHEDULE B-PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "X" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether the husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

**Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G-Executory Contracts and Unexpired Leases.**

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Type of Property	None	Description and Location of Property	Husband--H Wife--W Joint--J Community--C	Current Value of Debtor's Interest, in Property Without Deducting any Secured Claim or Exemption
1. Cash on hand.		<i>Cash</i> <i>Location: In debtor's possession</i>	J	\$ 100.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		<i>Nevada State Bank #7810</i> <i>Location: In debtor's possession</i>	J	\$ 1,000.00
		<i>U.S. Bank #0994</i> <i>Location: In debtor's possession</i>	J	\$ 100.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		<i>Household goods and furnishings and clothing</i> <i>Location: In debtor's possession</i>	J	\$ 9,100.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		<i>Books and art objects \$100</i> <i>Location: In debtor's possession</i>	J	\$ 100.00
		<i>Wedding ring and necklace</i> <i>Location: In debtor's possession</i>	J	\$ 500.00
6. Wearing apparel.	X			
7. Furs and jewelry.	X			
8. Firearms and sports, photographic, and other hobby equipment.		<i>Bicycle and camera</i> <i>Location: In debtor's possession</i>	J	\$ 40.00



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
Debtor(s)

Case No. \_\_\_\_\_  
(if known)

## SCHEDULE B-PERSONAL PROPERTY

(Continuation Sheet)

Type of Property	None	Description and Location of Property	Husband--H Wife--W Joint--J Community--C	Current Value of Debtor's Interest, in Property Without Deducting any Secured Claim or Exemption
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interest in an education IRA as defined in 26 U.S.C. 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		CPI 403B Pension (Sierra Financial Advisors) Location: In debtor's possession	J	\$ 16,000.00
		Fidelity Investments 401K Location: In debtor's possession	J	\$ 285,627.00
		IGT Location: In debtor's possession	J	\$ 1,000.00
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
16. Accounts Receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property.	X			
20. Contingent and non-contingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME,  
Debtor(s)

Case No. \_\_\_\_\_  
(if known)

## SCHEDULE B-PERSONAL PROPERTY

(Continuation Sheet)

Type of Property	None	Description and Location of Property	Husband--H Wife--W Joint--J Community--C	Current Value of Debtor's Interest, in Property Without Deducting any Secured Claim or Exemption
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as described in 11 U.S.C. 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers and other vehicles and accessories.		'05 Toyota RAV4 Location: In debtor's possession	J	\$ 8,000.00
		1999 Ford Ranger Location: In debtor's possession	J	\$ 1,000.00
		2004 Jeep Liberty Location: In daughter's possession	J	\$ 6,000.00
		2004 Toyota Sienna Van Location: In debtor's possession	J	\$ 10,000.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
Debtor(s)Case No. \_\_\_\_\_  
(if known)**SCHEDULE B-PERSONAL PROPERTY**

(Continuation Sheet)

Type of Property	N o n e	Description and Location of Property	Current Value of Debtor's Interest, in Property Without Deducting any Secured Claim or Exemption
35. Other personal property of any kind not already listed. Itemize.	X		
		<b>Total →</b>	<b>\$ 338,567.00</b>



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME,  
Debtor(s)

Case No. \_\_\_\_\_  
(if known)

## SCHEDULE C-PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:

☐ Check if debtor claims a homestead exemption that exceeds \$136,875.

(Check one box)

☐ 11 U.S.C. § 522(b) (2)

☒ 11 U.S.C. § 522(b) (3)

Description of Property	Specify Law Providing each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemptions
Residence at 70 Riverside Drive, Dayton, NV	NRS 21.090(1)(1), 115.010	\$ 476,000.00	\$ 476,000.00
Cash	NRS 21.090(1)(z)	\$ 100.00	\$ 100.00
Nevada State Bank #7810	NRS 21.090(1)(g) NRS 21.090(1)(z)	\$ 750.00 \$ 250.00	\$ 1,000.00
U.S. Bank #0994	NRS 21.090(1)(g) NRS 21.090(1)(z)	\$ 75.00 \$ 25.00	\$ 100.00
Household goods and furnishings and clothing	NRS 21.090(1)(b)	\$ 9,100.00	\$ 9,100.00
Books and art objects \$100	NRS 21.090(1)(a)	\$ 100.00	\$ 100.00
Wedding ring and necklace	NRS 21.090(1)(a)	\$ 500.00	\$ 500.00
Bicycle and camera	NRS 21.090(1)(z)	\$ 40.00	\$ 40.00
CPI 403B Pension (Sierra Financial Advisors)	NRS 21.090(1)(r)	\$ 16,000.00	\$ 16,000.00
Fidelity Investments 401K	NRS 21.090(1)(r)	\$ 285,627.00	\$ 285,627.00
IGT	NRS 21.090(1)(r)	\$ 1,000.00	\$ 1,000.00
'05 Toyota RAV4	NRS 21.090(1)(f)	\$ 8,000.00	\$ 8,000.00
1999 Ford Ranger	NRS 21.090(1)(f)	\$ 1,000.00	\$ 1,000.00



B6D (Official Form 6D) (12/07)

In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
Debtor(s)Case No. \_\_\_\_\_  
(if known)**SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS**

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is the creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H – Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim Without Deducting Value of Collateral" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion, if Any" on the Statistical Summary of Certain

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

Creditor's Name and Mailing Address Including ZIP Code and Account Number (See Instructions Above.)	Co-Debtor H--Husband W--Wife J--Joint C--Community	Date Claim was Incurred, Nature of Lien, and Description and Market Value of Property Subject to Lien	Contingent	Unliquidated	Disputed	Amount of Claim Without Deducting Value of Collateral	Unsecured Portion, if Any
Account No: 4785 Creditor # : 1 BANK OF AMERICA HOME LOANS P. O. BOX 5170 SIMI VALLEY CA 93062-5170	J	7'07 Mortgage Residence at 70 Riverside Drive, Dayton, NV Value: \$ 476,000.00				\$ 381,000.00	\$ 0.00
Account No: Creditor # : 2 GREATER NEVADA MORTGAGE SERVIC 4070 SILVER SAGE CARSON CITY NV 89701	J	'05 Second mortgage Rental House at 2763 Carriage Crest Drive, Carson City, NV Value: \$ 280,000.00				\$ 48,258.38	\$ 19,548.32
Account No: Creditor # : 3 GREATER NEVADA MORTGAGE SERVIC 4070 SILVER SAGE CARSON CITY NV 89701	J	'05 Mortgage Rental House at 2763 Carriage Crest Drive, Carson City, NV Value: \$ 280,000.00				\$ 251,289.94	\$ 0.00

1 continuation sheets attached

**Subtotal \$**  
(Total of this page)  
**Total \$**  
(Use only on last page)

**\$ 680,548.32**  
**\$ 19,548.32**

(Report also on Summary of Schedules.) (If applicable, report also on Statistical Summary of Certain Liabilities and Related Data)



Case No. \_\_\_\_\_  
(if known)

(Continuation Sheet)

Creditor's Name and Mailing Address Including ZIP Code and Account Number (See Instructions Above.)		Date Claim was Incurred, Nature of Lien, and Description and Market Value of Property Subject to Lien	Contingent	Unliquidated	Disputed	Amount of Claim Without Deducting Value of Collateral	Unsecured Portion, If Any
Co-Debtor		H--Husband W--Wife J--Joint C--Community					
Account No: 1072	J '04	Automobile loan				\$ 8,613.35	\$ 2,613.35
Creditor # : 4 GREATER NV CREDIT UNION P. O. BOX 2128 CARSON CITY NV 89702-9965	2004 Jeep Liberty						
	Value: \$ 6,000.00						
Account No: 1072	J '05	Automobile loan				\$ 13,222.88	\$ 5,222.88
Creditor # : 5 GREATER NV CREDIT UNION P. O. BOX 2128 CARSON CITY NV 89702-9965	'05 Toyota RAV4						
	Value: \$ 8,000.00						
Account No:	J '04	Mortgage				\$ 100,000.00	\$ 0.00
Creditor # : 6 TOM KRUSE EVERGREEN NOTE SERVICING 295 HOLCOMB AVENUE #3 RENO NV 89502	Lot at 4315 Drake Way, Washoe Valley, NV						
	Value: \$ 100,000.00						
Account No: 3408	J '09	Property taxes				\$ 2,085.86	\$ 2,085.86
Creditor # : 7 WASHOE COUNTY TREASURER P. O. BOX 30039 RENO NV 89520-	Lot of 4315 Drake Way, Washoe Valley, NV						
	Value: \$ 100,000.00						
Account No: 9001	J '04	Automobile loan				\$ 25,214.13	\$ 15,214.13
Creditor # : 8 WELLS FARGO AUTO FINANCE P. O. BOX 29704 PHOENIX AZ 85038-9704	2004 Toyota Sienna Van						
	Value: \$ 10,000.00						
Account No:							
	Value:						

<b>Subtotal \$</b> (Total of this page)	<b>\$ 149,136.22</b>	<b>\$ 25,136.22</b>
<b>Total \$</b> (Use only on last page)	<b>\$ 829,684.54</b>	<b>\$ 44,684.54</b>

(Report also on Summary of Schedules.)	(If applicable, report also on Statistical Summary of Certain Liabilities and Related Data)
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AA02054



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME,  
Debtor(s)Case No. \_\_\_\_\_  
(if known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts NOT entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

**TYPES OF PRIORITY CLAIMS** (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic Support Obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$10,950\* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$5,400\* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,425\* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7).

☒ **Taxes and Certain Other Debts Owed to Governmental Units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to Maintain the Capital of an Insured Depository Institution**

Claims based on commitments to FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

☐ **Claims for Death or Personal Injury While Debtor Was Intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

\*Amounts are subject to adjustment on April 1, 2010, and every three years thereafter with respect to cases commenced on or after the date of adjustment.



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME,  
Debtor(s)

Case No. \_\_\_\_\_  
(if known)

## SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet)

Type of Priority for Claims Listed on This Sheet: Taxes and Certain Other Debts Owed to Governmental Units

Creditor's Name, Mailing Address Including ZIP Code, and Account Number (See instructions above.)	Co-Debtor	Date Claim was Incurred and Consideration for Claim	Contingent	Unliquidated	Disputed	Amount of Claim	Amount Entitled to Priority	Amount not Entitled to Priority, if any
Account No: Creditor # : 1 IRS 110 CITY PARKWAY STOP 5028LVG LAS VEGAS NV 89106	J	2008 2008 Income Taxes				\$ 6,449.01	\$ 6,449.01	\$ 0.00
Account No: Creditor # : 2 IRS 110 CITY PARKWAY STOP 5028LVG LAS VEGAS NV 89106	J	'07 2007 Income Taxes				\$ 16,071.02	\$ 16,071.02	\$ 0.00
Account No:								
Account No:								
Account No:								
Account No:								
Account No:								
<b>Subtotal \$</b> (Total of this page)						22,520.03	22,520.03	0.00
<b>Total \$</b> (Use only on last page of the completed Schedule E. Report total also on Summary of Schedules)						22,520.03		
<b>Total \$</b> (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and							22,520.03	0.00

Sheet No. 1 of 1 continuation sheets  
attached to Schedule of Creditors Holding Priority Claims



B6F (Official Form 6F) (12/07)

In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
Debtor(s)Case No. \_\_\_\_\_  
(if known)**SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedules. Report this total also on

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

Creditor's Name, Mailing Address including Zip Code, And Account Number (See instructions above.)	Co-Debtor H--Husband W--Wife J--Joint C--Community	Date Claim was Incurred, and Consideration for Claim. If Claim is Subject to Setoff, so State.	Contingent	Unliquidated	Disputed	Amount of Claim
Account No: 0151 Creditor # : 1 CARSON TAHOE HOSPITAL P. O. BOX 2227 CARSON CITY NV 89702-2227	J	'08-'10 Medical Bills				\$ 2,308.65
Account No: 0151 Representing: CARSON TAHOE HOSPITAL		PROFESSIONAL FINANCE COMPANY c/o RICHARD G. HILL 652 FOREST STREET RENO NV 89509				
Account No: 7629 Creditor # : 2 DISCOVER P. O. BOX 3008 NEW ALBANY OH 43054-3008	J	'95-'09 Misc. purchases				\$ 4,439.40
Account No: 7629 Representing: DISCOVER		CAPITAL MANAGEMENT SERVICES, 726 EXCHANGE STREET #700 BUFFALO NY 14210				
2 continuation sheets attached						Subtotal \$
						\$ 6,748.05
						Total \$
(Use only on last page of the completed Schedule F. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related						



B6F (Official Form 6F) (12/07) - Cont.

In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME,  
Debtor(s)Case No. \_\_\_\_\_  
(if known)**SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

Creditor's Name, Mailing Address including Zip Code, And Account Number (See instructions above.)	Co-Debtor	Date Claim was Incurred, and Consideration for Claim. If Claim is Subject to Setoff, so State.	Contingent	Unliquidated	Disputed	Amount of Claim
Account No: 7647 Creditor # : 3 GOTTSCHALKS RETAIL SERVICES P. O. BOX 60147 CITY OF INDUSTRY CA 91716-0147	J	'95-'09 Credit Card Purchases				\$ 2,613.82
Account No: 9171 Creditor # : 4 J.C. PENNEY P. O. BOX 960090 ORLANDO FL 32896-0090	J	'95-'09 Credit Card Purchases				\$ 3,618.84
Account No: 4315 Creditor # : 5 LOWE'S P. O. BOX 530914 ATLANTA GA 30353-0914	J	'95-'09 Misc . purchases				\$ 0.00
Account No: 4315 Representing: LOWE'S		GE MONEY BANK P. O. BOX 530914 ATLANTA GA 30353				
Account No: 0324 Creditor # : 6 MACY'S P. O. BOX 689195 DES MOINES IA 50368-9195	J	'95-'09 Credit Card Purchases				\$ 3,484.10
Account No: Creditor # : 7 MOR WELLS FARGO NATIONAL BANK 800 WALNUT ST. DES MOINES IA 50309	J	'95-'09 Credit Card Purchases				\$ 4,077.61
Sheet No. <u>1</u> of <u>2</u> continuation sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims						Subtotal \$ <u>\$ 13,794.37</u> Total \$ _____

(Use only on last page of the completed Schedule F. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related



B6F (Official Form 6F) (12/07) - Cont.

In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME,

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

Debtor(s)

(if known)

**SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

Creditor's Name, Mailing Address Including Zip Code, And Account Number (See instructions above.)	Co-Debtor	Date Claim was Incurred, and Consideration for Claim. If Claim is Subject to Setoff, so State.	Contingent	Unliquidated	Disputed	Amount of Claim
	H--Husband W--Wife J--Joint C--Community					
Account No:  Creditor # : 8 RC WILEY P. O. BOX 410429 SALT LAKE CITY UT 84141-0429	J	'95-'09 Credit Card Purchases				\$ 2,271.10
Account No: 3841  Creditor # : 9 SEARS MASTERCARD P. O. BOX 6282 SIOUX FALLS SD 57117-6282	J	'95-'09 Credit Card Purchases				\$ 4,312.55
Account No: 4902  Creditor # : 10 SELECT COMFORT GE MONEY BANK P. O. BOX 960061 ORLANDO FL 32896-0061	J	95-'09 Credit Card Purchases				\$ 3,674.27
Account No: 6826  Creditor # : 11 WELLS FARGO CARD SERVICES O. BOX 10347 MOINES IA 50306	J	'95-09 Credit Card Purchases				\$ 9,256.10
Account No: 6826  Representing: WELLS FARGO CARD SERVICES		ALLIANCE ONE P. O. BOX 510987 LIVONIA MI 48151-6987				
Account No:						
Subtotal \$						\$ 19,514.02
Total \$						\$ 40,056.44

Sheet No. 2 of 2 continuation sheets attached to Schedule of  
Creditors Holding Unsecured Nonpriority Claims(Use only on last page of the completed Schedule F. Report also on Summary of  
Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related



- None ☒ b. List all property transferred by the debtor within ten years immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

### 11. Closed financial accounts

- None ☒ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

### 12. Safe deposit boxes

- None ☐ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
Wells Fargo Bank Highway 50 East Carson City, NV 89701	Debtors	Documents	

### 13. Setoffs

- None ☒ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

### 14. Property held for another person

- None ☒ List all property owned by another person that the debtor holds or controls.

### 15. Prior address of debtor

- None ☐ If the debtor has moved within three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
2763 Carriage Crest Carson City, NV 89706	Ellis A. Lincicome, Jr. and Vincenta J. Lincicome	1998-6'07

### 16. Spouses and Former Spouses

- None ☒ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within eight years immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.



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**17. Environmental Information**

None



For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to disposal sites.

"Hazardous Material" means anything defined as hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law:

a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

None



b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

None



c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law, with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

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**18. Nature, location and name of business**

None



a. If the debtor is an individual, list the names, addresses, taxpayer-identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

None



b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.



*[If completed by an individual or individual and spouse]*

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date 4/ 5/2010

Signature /s/ A. ELLIS LINCICOME, JR.  
of Debtor

Date 4/ 5/2010

Signature /s/ VICENTA J. LINCICOME  
of Joint Debtor  
(if any)



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re *A. ELLIS LINCICOME, JR.*  
*and*  
*VICENTA J. LINCICOME*

Case No.  
Chapter 13

**DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR**

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor(s) and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept .....	\$	<u>4,000.00</u>
Prior to the filing of this statement I have received .....	\$	<u>1,000.00</u>
Balance Due .....	\$	<u>3,000.00</u>

2. The source of the compensation paid to me was:

☒ Debtor ☐ Other (specify)

3. The source of compensation to be paid to me is:

☒ Debtor ☐ Other (specify)

4. ☒ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

☐ I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation, is attached.

5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;

b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;

c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearing thereof;

d. Representation of the debtor in adversary proceedings and other contested bankruptcy matters;

e. [Other provisions as needed].

*None*



6. By agreement with the debtor(s), the above-disclosed fee does not include the following services:

*Amending a petition*

*Converting case to Chapter 7*

*Avoiding a judgment lien*

*Responding to a Motion to Lift Stay*

*Responding to a Motion to Dismiss the Case*

*Responding to a complaint objecting to dischargeability of a debt*

### CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

4/ 5/2010

Date

/s/ Robert G. Johnston

Signature of Attorney

Kilpatrick, Johnston & Adler

Name of Law Firm



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re *A. ELLIS LINCICOME, JR.*  
*and*  
*VICENTA J. LINCICOME*

Case No.  
Chapter 13

\_\_\_\_\_/ Debtor  
Attorney for Debtor: *Robert G. Johnston*

**VERIFICATION OF CREDITOR MATRIX**

The above named Debtor(s) hereby verify that the attached list of creditors is true and correct to the  
best of our knowledge.

Date: 4/ 5/2010

/s/ A. ELLIS LINCICOME, JR.  
Debtor

/s/ VICENTA J. LINCICOME  
Joint Debtor



A. ELLIS LINCICOME, JR.  
VICENTA J. LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON NV 89403

ROBERT G. JOHNSTON  
412 NO. DIVISION STREET  
CARSON CITY NV 89703

ALLIANCE ONE  
ACCT#: 6826  
P. O. BOX 510987  
LIVONIA MI 48151-6987

BANK OF AMERICA  
HOME LOANS  
P. O. BOX 5170  
SIMI VALLEY CA 93062-5170

CAPITAL MANAGEMENT SERVICES,  
ACCT#: 7629  
726 EXCHANGE STREET #700  
BUFFALO NY 14210

CARSON TAHOE HOSPITAL  
ACCT#: 0151  
P. O. BOX 2227  
CARSON CITY NV 89702-2227

DEPT. OF EMPLOYMENT, TRAINING  
EMPLOYMENT SECURITY DIVISION  
CONTRIBUTIONS SECTION  
CARSON CITY NV 89711-0250

DEPT. OF MOTOR VEHICLES & PUB  
REGISTRATION DIVISION  
MOTOR CARRIER BUREAU  
CARSON CITY NV 89711-0250



DISCOVER  
ACCT#: 7629  
P. O. BOX 3008  
NEW ALBANY OH 43054-3008

GE MONEY BANK  
ACCT#: 4315  
P. O. BOX 530914  
ATLANTA GA 30353

GOTTSCHALKS  
RETAIL SERVICES  
P. O. BOX 60147  
CITY OF INDUSTRY CA 91716-0147

GREATER NEVADA MORTGAGE SERVIC  
4070 SILVER SAGE  
CARSON CITY NV 89701

GREATER NV CREDIT UNION  
ACCT#: 1072  
P. O. BOX 2128  
CARSON CITY NV 89702-9965

INTERNAL REVENUE SERVICE  
110 CITY PARKWAY  
STOP 5028LVG  
LAS VEGAS NV 89102

IRS  
P.O. BOX 21126  
PHILADELPHIA PA 19114

IRS  
110 CITY PARKWAY  
STOP 5028LVG  
LAS VEGAS NV 89106



J.C. PENNEY  
ACCT#: 9171  
P. O. BOX 960090  
ORLANDO FL 32896-0090

JUSTICE COURT OF CARSON TOWNSHIP  
#09CV024321C  
885 E. MUSSER STREET #2007  
CARSON CITY NV 89701

LOWE'S  
ACCT#: 4315  
P. O. BOX 530914  
ATLANTA GA 30353-0914

MACY'S  
ACCT#: 0324  
P. O. BOX 689195  
DES MOINES IA 50368-9195

MOR  
WELLS FARGO NATIONAL BANK  
800 WALNUT ST.  
DES MOINES IA 50309

PROFESSIONAL FINANCE COMPANY  
C/O RICHARD G. HILL  
652 FOREST STREET  
RENO NV 89509

RC WILEY  
P. O. BOX 410429  
SALT LAKE CITY UT 84141-0429

SEARS MASTERCARD  
ACCT#: 3841  
P. O. BOX 6282  
SIOUX FALLS SD 57117-6282



SELECT COMFORT  
GE MONEY BANK  
P. O. BOX 960061  
ORLANDO FL 32896-0061

TOM KRUSE  
EVERGREEN NOTE SERVICING  
295 HOLCOMB AVENUE #3  
RENO NV 89502

U.S. TRUSTEE  
C. CLIFTON YOUNG FED. BLDG.  
300 BOOTH STREET, ROOM 2129  
RENO NV 89509

WASHOE COUNTY TREASURER  
ACCT#: 3408  
P. O. BOX 30039  
RENO NV 89520-

WELLS FARGO AUTO FINANCE  
ACCT#: 9001  
P. O. BOX 29704  
PHOENIX AZ 85038-9704

WELLS FARGO CARD SERVICES  
ACCT#: 6826  
P. O. BOX 10347  
DES MOINES IA 50306



# EXHIBIT H

# EXHIBIT H



In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME  
Debtor(s)

Case number: \_\_\_\_\_  
(If known)

According to the calculations required by this statement:

- ☐ The applicable commitment period is 3 years.  
☒ The applicable commitment period is 5 years.  
☒ Disposable income is determined under § 1325(b)(3).  
☐ Disposable income is not determined under § 1325(b)(3).  
(Check the boxes as directed in Lines 17 and 23 of this statement.)

## CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME AND CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME

In addition to Schedules I and J, this statement must be completed by every individual Chapter 13 debtor, whether or not filing jointly.  
Joint debtors may complete one statement only.

Part I. REPORT OF INCOME					
1	<b>Marital/filing status.</b> Check the box that applies and complete the balance of this part of this statement as directed. a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 2-10. b. <input checked="" type="checkbox"/> Married. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for lines 2-10.				
	All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six month total by six, and enter the result on the appropriate line.			<b>Column A Debtor's Income</b>	<b>Column B Spouse's Income</b>
2	<b>Gross wages, salary, tips, bonuses, overtime, commissions.</b>			\$4,482.46	\$5,959.40
3	<b>Income from the operation of a business, profession, or farm.</b> Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. <b>Do not include any part of the business expenses entered on Line b as a deduction in Part IV.</b>				
	a.	Gross receipts	\$0.00		
	b.	Ordinary and necessary business expenses	\$0.00		
	c.	Business income	Subtract Line b from Line a	\$0.00	\$0.00
4	<b>Rent and other real property income.</b> Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. <b>Do not include any part of the operating expenses entered on Line b as a deduction in Part IV.</b>				
	a.	Gross receipts	\$0.00		
	b.	Ordinary and necessary operating expenses	\$0.00		
	c.	Rent and other real property income	Subtract Line b from Line a	\$0.00	\$0.00
5	<b>Interest, dividends, and royalties.</b>			\$0.00	\$0.00
6	<b>Pension and retirement income.</b>			\$0.00	\$0.00
7	<b>Any amounts paid by another person or entity, on a regular basis, for the household expenses the debtor or the debtor's dependents, including child support paid for that purpose.</b> Do not include alimony or separate maintenance payments or amounts paid by the debtor's spouse.			\$0.00	\$0.00
8	<b>Unemployment compensation.</b> Enter the amount in the appropriate column(s) of Line 8. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:				
	Unemployment compensation claimed to be a benefit under the Social Security Act		Debtor <u>\$0.00</u>	Spouse <u>\$0.00</u>	\$0.00
					\$0.00



B22C (Official Form 22C) (Chapter 13) (01/08) - Cont.

9	<b>Income from all other sources.</b> Specify source and amount. If necessary, list additional sources on a separate page. Total and enter on Line 9. <b>Do not include alimony or separate maintenance payments paid by your spouse, but include all other payments of alimony or separate maintenance.</b> <b>Do not include</b> any benefits received under the Social Security Act or payments received as a victim of a against humanity, or as a victim of international or domestic terrorism.								
	<table border="1"> <tr> <td>a.</td> <td></td> <td>0</td> </tr> <tr> <td>b.</td> <td></td> <td>0</td> </tr> </table>	a.		0	b.		0		
a.		0							
b.		0							
		\$0.00	\$0.00						
10	<b>Subtotal.</b> Add Lines 2 thru 9 in Column A, and, if Column B is completed, add Lines 2 through 9 in Column B. Enter the total(s).	\$4,482.46	\$5,959.40						
11	<b>Total.</b> If column B has been completed, add Line 10, Column A to Line 10, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 10, Column A.		\$10,441.86						

**Part II. CALCULATION OF § 1325(b)(4) COMMITMENT PERIOD**

12	<b>Enter the amount from Line 11.</b>	\$10,441.86									
13	<b>Marital adjustment.</b> If you are married, but are not filing jointly with your spouse, AND if you contend that calculation of the commitment period under § 1325(b)(4) does not require inclusion of the income of your spouse, enter on Line 13 the amount of the income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of you or your dependents and specify, in the lines below, the basis for excluding this income (such as payment of the spouse's tax liability or the spouse's support of persons other than the debtor or the debtor's dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If the conditions for entering this adjustment do not apply, enter zero.										
	<table border="1"> <tr> <td>a.</td> <td></td> <td>\$0.00</td> </tr> <tr> <td>b.</td> <td></td> <td>\$0.00</td> </tr> <tr> <td>c.</td> <td></td> <td>\$0.00</td> </tr> </table>	a.		\$0.00	b.		\$0.00	c.		\$0.00	\$0.00
a.		\$0.00									
b.		\$0.00									
c.		\$0.00									
14	<b>Subtract Line 13 from Line 12 and enter the result.</b>	\$10,441.86									
15	<b>Annualized current monthly income for § 1325(b)(4).</b> Multiply the amount from Line 14 by the number 12 and enter the result.	\$125,302.32									
16	<b>Applicable median family income.</b> Enter the median family income for applicable state and household size. (This information is available by family size at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: <u>NEVADA</u> b. Enter debtor's household size: <u>3</u>	\$66,813.00									
17	<b>Application of § 1325(b)(4).</b> Check the applicable box and proceed as directed. <input type="checkbox"/> <b>The amount on Line 15 is less than the amount on Line 16.</b> Check the box for "The applicable commitment period is 3 years" at the top of page 1 of this statement and continue with this statement. <input checked="" type="checkbox"/> <b>The amount on Line 15 is not less than the amount on Line 16.</b> Check the box for "The applicable commitment period is 5 years" at the top of page 1 of this statement and continue with this statement.										

**Part III. APPLICATION OF § 1325(b)(3) FOR DETERMINING DISPOSABLE INCOME**

18	<b>Enter the amount from Line 11.</b>	\$10,441.86									
19	<b>Marital adjustment.</b> If you are married, but are not filing jointly with your spouse, enter on Line 19 the total of any income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. Specify in the lines below the basis for excluding the Column B income (such as payment of the spouse's tax liability or the spouse's support of persons other than the debtor or the debtor's dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If the conditions for entering this adjustment do not apply, enter zero.										
	<table border="1"> <tr> <td>a.</td> <td></td> <td>\$0.00</td> </tr> <tr> <td>b.</td> <td></td> <td>\$0.00</td> </tr> <tr> <td>c.</td> <td></td> <td>\$0.00</td> </tr> </table>	a.		\$0.00	b.		\$0.00	c.		\$0.00	\$0.00
a.		\$0.00									
b.		\$0.00									
c.		\$0.00									
20	<b>Current monthly income for § 1325(b)(3).</b> Subtract Line 19 from Line 18 and enter the result.	\$10,441.86									



B22C (Official Form 22C) (Chapter 13) (01/08) - Cont.

3

21	Annualized current monthly income for § 1325(b)(3). Multiply the amount from Line 20 by the number 12 and enter the result.		\$125,302.32																								
22	Applicable median family income. Enter the amount from Line 16.		\$66,813.00																								
23	<p><b>Application of § 1325(b)(3).</b> Check the applicable box and proceed as directed.</p> <p><input checked="" type="checkbox"/> <b>The amount on Line 21 is more than the amount on Line 22.</b> Check the box for "Disposable income is determined under § 1325(b)(3)" at the top of page 1 of this statement and complete the remaining parts of this statement.</p> <p><input type="checkbox"/> <b>The amount on Line 21 is not more than the amount on Line 22.</b> Check the box for "Disposable income is not determined under § 1325(b)(3)" at the top of page 1 of this statement and complete Part VII of this statement. Do not complete Parts IV, V, or VI.</p>																										
<b>Part IV. CALCULATION OF DEDUCTIONS ALLOWED FROM INCOME</b>																											
<b>Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)</b>																											
24A	<b>National Standards: food, apparel and services, housekeeping supplies, personal care, and miscellaneous.</b> Enter in Line 24A the "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable household size. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)		\$1,152.00																								
24B	<b>National Standards: health care.</b> Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.) Enter in Line b1 the number of members of your household who are under 65 years of age, and enter in Line b2 the number of members of your household who are 65 years of age or older. (The total number of household members must be the same as the number stated in Line 16b.) Multiply Line a1 by Line b1 to obtain a total amount for household members under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for household members 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 24B.		\$180.00																								
<table border="1" style="width: 100%;"> <thead> <tr> <th colspan="3">Household members under 65 years of age</th> <th colspan="3">Household members 65 years of age or older</th> </tr> </thead> <tbody> <tr> <td>a1.</td> <td>Allowance per member</td> <td>\$60.00</td> <td>a2.</td> <td>Allowance per member</td> <td>\$144.00</td> </tr> <tr> <td>b1.</td> <td>Number of members</td> <td>3</td> <td>b2.</td> <td>Number of members</td> <td>0</td> </tr> <tr> <td>c1.</td> <td>Subtotal</td> <td>\$180.00</td> <td>c2.</td> <td>Subtotal</td> <td>\$0.00</td> </tr> </tbody> </table>				Household members under 65 years of age			Household members 65 years of age or older			a1.	Allowance per member	\$60.00	a2.	Allowance per member	\$144.00	b1.	Number of members	3	b2.	Number of members	0	c1.	Subtotal	\$180.00	c2.	Subtotal	\$0.00
Household members under 65 years of age			Household members 65 years of age or older																								
a1.	Allowance per member	\$60.00	a2.	Allowance per member	\$144.00																						
b1.	Number of members	3	b2.	Number of members	0																						
c1.	Subtotal	\$180.00	c2.	Subtotal	\$0.00																						
25A	<b>Local Standards: housing and utilities; non-mortgage expenses.</b> Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and household size. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court).		\$467.00																								
25B	<b>Local Standards: housing and utilities; mortgage/rent expense.</b> Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and household size (this information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 47; subtract Line b from Line a and enter the result in Line 25B. <b>Do not enter an amount less than zero.</b>		\$0.00																								
<table border="1" style="width: 100%;"> <tbody> <tr> <td>a.</td> <td>IRS Housing and Utilities Standards; mortgage/rent Expense</td> <td>\$991.00</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47</td> <td>\$2,325.00</td> </tr> <tr> <td>c.</td> <td>Net mortgage/rental expense</td> <td>Subtract Line b from Line a.</td> </tr> </tbody> </table>				a.	IRS Housing and Utilities Standards; mortgage/rent Expense	\$991.00	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47	\$2,325.00	c.	Net mortgage/rental expense	Subtract Line b from Line a.															
a.	IRS Housing and Utilities Standards; mortgage/rent Expense	\$991.00																									
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 47	\$2,325.00																									
c.	Net mortgage/rental expense	Subtract Line b from Line a.																									
26	<b>Local Standards: housing and utilities; adjustment.</b> If you contend that the process set out in Lines 25A and 25B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:		\$0.00																								



B22C (Official Form 22C) (Chapter 13) (01/08) - Cont.

27A	<b>Local Standards: transportation; vehicle operation/public transportation expense.</b> You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation. Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 7. <input type="checkbox"/> 0 <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.  If you checked 0, enter on Line 27A the "Public Transportation" amount from IRS Local Standards: Transportation. If you checked 1 or 2 or more, enter on Line 27A the "Operating Costs" amount from IRS Local Standards: Transportation for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (These amounts are available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)		\$472.00									
27B	<b>Local Standards: transportation; additional public transportation expense.</b> If you pay the operating expenses for a vehicle and also use public transportation, and you contend that you are entitled to an additional deduction for your public transportation expenses, enter on Line 27B the "Public Transportation" amount from IRS Local Standards: Transportation. (This amount is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)		\$0.00									
28	<b>Local Standards: transportation ownership/lease expense; Vehicle 1.</b> Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.) <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.  Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 47; subtract Line b from Line a Line 28. <b>Do not enter an amount less than zero.</b> <table border="1" style="width: 100%;"> <tr> <td>a.</td> <td>IRS Transportation Standards, Ownership Costs</td> <td>\$496.00</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47</td> <td>\$253.16</td> </tr> <tr> <td>c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td>Subtract Line b from Line a.</td> </tr> </table>		a.	IRS Transportation Standards, Ownership Costs	\$496.00	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$253.16	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$242.84
a.	IRS Transportation Standards, Ownership Costs	\$496.00										
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$253.16										
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.										
29	<b>Local Standards: transportation ownership/lease expense; Vehicle 2.</b> Complete this Line only if you checked the "2 or more" Box in Line 28. Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 47; subtract Line b from Line a Line 29. <b>Do not enter an amount less than zero.</b> <table border="1" style="width: 100%;"> <tr> <td>a.</td> <td>IRS Transportation Standards, Ownership Costs</td> <td>\$496.00</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47</td> <td>\$446.97</td> </tr> <tr> <td>c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td>Subtract Line b from Line a.</td> </tr> </table>		a.	IRS Transportation Standards, Ownership Costs	\$496.00	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$446.97	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.	\$49.03
a.	IRS Transportation Standards, Ownership Costs	\$496.00										
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$446.97										
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.										
30	<b>Other Necessary Expenses: taxes.</b> Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. <b>Do not include real estate or sales taxes.</b>		\$1,964.33									
31	<b>Other Necessary Expenses: involuntary deductions for employment.</b> Enter the total average monthly deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. <b>Do not include discretionary amounts, such as voluntary 401(k) contributions.</b>		\$0.00									
32	<b>Other Necessary Expenses: life insurance.</b> Enter total average monthly premiums that you actually pay for term life insurance for yourself. <b>Do not include premiums for insurance on your dependents, for whole life, or for any other form of insurance.</b>		\$0.00									
33	<b>Other Necessary Expenses: court-ordered payments.</b> Enter the total monthly amount that you are required to pay pursuant to the order of a court or administrative agency, such as spousal or child support payments. <b>Do not include payments on past due obligations included in Line 49.</b>		\$0.00									
34	<b>Other Necessary Expenses: education for employment or for a physically or mentally challenged child.</b> Enter the total average monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.		\$0.00									
35	<b>Other Necessary Expenses: childcare.</b> Enter the total average monthly amount that you actually expend on childcare – such as baby-sitting, day care, nursery and preschool. <b>Do not include other educational payments.</b>		\$0.00									



B22C (Official Form 22C) (Chapter 13) (01/08) - Cont.

5

36	<b>Other Necessary Expenses: health care.</b> Enter the total average monthly amount that you actually expend on health care that is required for the health and welfare of yourself or your dependents, that is not reimbursed by insurance or paid by a health savings account, and that is in excess of the amount entered in Line 24B. <b>Do not include payments for health insurance listed or health savings accounts listed in Line 39.</b>	\$0.00
37	<b>Other Necessary Expenses: telecommunication services.</b> Enter the total average monthly amount that you actually pay for telecommunication services other than your basic home telephone and cell phone service—such as pagers, call waiting, caller id, special long distance, or internet service—to the extent necessary for your health that of your dependents. <b>Do not include any amount previously deducted.</b>	\$30.00
38	<b>Total Expenses Allowed under IRS Standards.</b> Enter the total of Lines 24 through 37.	\$4,557.20

**Subpart B: Additional Living Expense Deductions**  
**Note: Do not include any expenses that you have listed in Lines 24-37**

39	<b>Health Insurance, Disability Insurance, and Health Savings Account Expenses.</b> List the monthly expenses in the categories set out in lines a-c below that are reasonably necessary for yourself, your spouse, or your dependents.		\$144.17	
	a.	Health Insurance		\$119.17
	b.	Disability Insurance		\$25.00
	c.	Health Savings Account		\$0.00
	Total and enter on Line 39			
	If you do not actually expend this total amount, state your actual total average monthly expenditures in the space below: \$0.00			
40	<b>Continued contributions to the care of household or family members.</b> Enter the total average actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. <b>Do not include payments listed in Line 34.</b>		\$0.00	
41	<b>Protection against family violence.</b> Enter the total average reasonably necessary monthly expenses that you actually incur to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.		\$0.00	
42	<b>Home energy costs.</b> Enter the average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. <b>You must provide your case trustee with documentation of your actual expenses, and you must demonstrate that the additional amount claimed is reasonable and</b>		\$0.00	
43	<b>Education expenses for dependent children under 18.</b> Enter the total average monthly expenses that you actually incur, not to exceed \$137.50 per child, for attendance at a private or public elementary or secondary school by your dependent children less than 18 years of age. <b>You must provide your case trustee with documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.</b>		\$0.00	
44	<b>Additional food and clothing expense.</b> Enter the total average monthly amount by which your food and clothing expenses exceed the combined allowances for food and clothing (apparel and services) in the IRS National Standards, not to exceed 5% of those combined allowances. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.) <b>You must demonstrate that the additional amount claimed is reasonable and necessary.</b>		\$0.00	
45	<b>Charitable contributions.</b> Enter the amount reasonably necessary for you to expend each month on charitable contributions in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2). <b>Do not include any amount in excess of 15% of your gross monthly income.</b>		\$77.00	
46	<b>Total Additional Expense Deductions under § 707(b).</b> Enter the total of Lines 39 through 45.		\$221.17	

**Subpart C: Deductions for Debt Payment**



B22C (Official Form 22C) (Chapter 13) (01/08) - Cont.

47	<b>Future payments on secured claims.</b> For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, state the Average Monthly Payment, and check whether the payment includes taxes or insurance. The Average Monthly Payment is the total of all amounts scheduled as contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. If necessary, list additional entries on a separate page. Enter the total of the Average Monthly				
	Name of Creditor	Property Securing the Debt	Average Payment	Does payment include taxes or insurance?	
a.	BANK OF AMERICA	Residence at 70 Riverside Drive, Dayt	\$2,325.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
b.	GREATER NV CRED	'05 Toyota RAV4	\$253.16	<input type="checkbox"/> Yes <input type="checkbox"/> No	
c.	WELLS FARGO AUT	2004 Toyota Sienna	\$446.97	<input type="checkbox"/> Yes <input type="checkbox"/> No	
d.			\$0.00	<input type="checkbox"/> Yes <input type="checkbox"/> No	
e.			\$0.00	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	Total: Add Lines a - e				\$3,025.13
48	<b>Other payments on secured claims.</b> If any of the debts listed in Line 47 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 47, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.				
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount		
a.			\$0.00		
b.			\$0.00		
c.			\$0.00		
d.			\$0.00		
e.			\$0.00		
	Total: Add Lines a - e				\$0.00
49	<b>Payments on prepetition priority claims.</b> Enter the total amount, divided by 60, of all priority claims, such as priority tax, child support and alimony claims, for which you were liable at the time of your bankruptcy filing. Do not include current obligations, such as those set out in Line 33.				\$375.33
50	<b>Chapter 13 administrative expenses.</b> Multiply the amount in Line a by the amount in Line b, and enter the resulting administrative expense.				
a.	Projected average monthly Chapter 13 plan payment.		\$1,660.17		
b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at <a href="http://www.usdoj.gov/ust/">www.usdoj.gov/ust/</a> or from the clerk of the bankruptcy court.)		x 0.1		
c.	Average monthly administrative expense of Chapter 13 case		Total: Multiply Lines a and b		\$166.017
51	<b>Total Deductions for Debt Payment.</b> Enter the total of Lines 47 through 50.				\$3,566.48
<b>Subpart D: Total Deductions from Income</b>					
52	<b>Total of all deductions from income.</b> Enter the total of Lines 38, 46, and 51.				\$8,344.85

Part V. DETERMINATION OF DISPOSABLE INCOME UNDER § 1325(b)(2)			
53	<b>Total current monthly income.</b> Enter the amount from Line 20.		\$10,441.86
54	<b>Support income.</b> Enter the monthly average of any child support payments, foster care payments, or disability payments for a dependent child, reported in Part I, that you received in accordance with applicable nonbankruptcy law, to the extent reasonably necessary to be expended for such child.		\$0.00
55	<b>Qualified retirement deductions.</b> Enter the monthly total of (a) all amounts withheld by your employer from wages as contributions for qualified retirement plans, as specified in § 541(b)(7) and (b) all required repayments of loans from retirement plans, as specified in § 362(b)(19).		\$978.19
56	<b>Total of all deductions allowed under § 707(b)(2).</b> Enter the amount from Line 52.		\$8,344.85



57	<p><b>Deduction for special circumstances.</b> If there are special circumstances that justify additional expenses for which there is no reasonable alternative, describe the special circumstances and the resulting expenses in lines a-c below. If necessary, list additional entries on a separate page. Total the expenses and enter the total in Line 57.</p> <p><b>You must provide your case trustee with documentation of these expenses and you must provide a detailed explanation of the special circumstances that make such expenses necessary and</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 65%;">Nature of special circumstances</th> <th style="width: 30%;">Amount of expense</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td></td> <td style="text-align: right;">Total: Add Lines a, b, and c</td> <td></td> </tr> </tbody> </table>		Nature of special circumstances	Amount of expense	a.		\$0.00	b.		\$0.00	c.		\$0.00		Total: Add Lines a, b, and c		\$0.00
	Nature of special circumstances	Amount of expense															
a.		\$0.00															
b.		\$0.00															
c.		\$0.00															
	Total: Add Lines a, b, and c																
58	<p><b>Total adjustments to determine disposable income.</b> Add the amounts on Lines 54, 55, 56, and 57 and enter the result.</p>	\$9,323.04															
59	<p><b>Monthly Disposable Income Under § 1325(b)(2).</b> Subtract Line 58 from Line 53 and enter the result.</p>	\$1,118.82															

**Part VI: ADDITIONAL EXPENSE CLAIMS**

60	<p><b>Other Expenses.</b> List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 65%;">Expense Description</th> <th style="width: 30%;">Monthly Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td></td> <td style="text-align: right;">Total: Add Lines a, b, and c</td> <td style="text-align: right;">\$0.00</td> </tr> </tbody> </table>		Expense Description	Monthly Amount	a.		\$0.00	b.		\$0.00	c.		\$0.00		Total: Add Lines a, b, and c	\$0.00
	Expense Description	Monthly Amount														
a.		\$0.00														
b.		\$0.00														
c.		\$0.00														
	Total: Add Lines a, b, and c	\$0.00														

**Part VII: VERIFICATION**

61	<p>I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this a joint case, both debtors must sign.)</i></p> <p>Date: <u>4-05-2010</u> Signature: <u>/s/ A. ELLIS LINCICOME, JR.</u></p> <p style="text-align: center;">(Debtor)</p> <p>Date: <u>4-05-2010</u> Signature: <u>/s/ VICENTA J. LINCICOME</u></p> <p style="text-align: center;">(Joint Debtor, if any)</p>
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# EXHIBIT I

# EXHIBIT I





610

4785 D2 001 002

29-401-17

I hereby affirm that this document  
submitted for recording does not  
contain a social security number.

/s/ LYNDA KLEIN

FUNDER

Recording Requested By:  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
280 BRINKLEY STREET, SUITE 100  
RENO, NV 89509  
775-826-3700

DOC # 407150

(Not Compared to Original)

05/25/2007

04:34 PM

Official Record

Requested By  
STEWART TITLE OF NEVADA

Lyon County - NV  
Mary C. Milligan - Recorder

Redacted

9436

Loan No:

Redacted

9436

[Space Above This Line For Recording Data]

LINCICOME

CFC-BLUE

## DEED OF TRUST

MIN:

Redacted

Redacted

4785

## DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated MAY 23, 2007 together with all Riders to this document.

(B) "Borrower" is VICENTA LINCICOME, A MARRIED WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is SIERRA PACIFIC MORTGAGE COMPANY, INC.

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA  
Lender's address is 50 IRON POINT CIRCLE, STE 200, FOLSOM, CA 95630

(D) "Trustee" is GREENHEAD INVESTMENTS, INC., A CALIFORNIA CORPORATION

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.1.WFF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 1 of 13 pages)

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

(F) "Note" means the promissory note signed by Borrower and dated **MAY 23, 2007**. The Note states that Borrower owes Lender

**THREE HUNDRED EIGHTY-ONE THOUSAND ONE HUNDRED FIFTY and NO/100-----** Dollars (U.S. \$ **381,150.00** ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **JUNE 1, 2037**.

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

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

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

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

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

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

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

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

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

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

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

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

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

NEVADA-Single Family-Fannie Mac/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW:MERS.NV.CVL-DT.2.WFF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Loan No: <sup>Redacted</sup> **9436**  
Form 3029 1/01  
(page 2 of 13 pages)

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## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY

of

LYON

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A."

which currently has the address of 70 RIVERSIDE DRIVE (Street),  
DAYTON (City), Nevada 89403 (Zip Code) ("Property Address"):

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

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

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

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

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is

Loan No. <sup>Redacted</sup> 9436

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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Form 3029 1/01  
(page 3 of 13 pages)

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not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

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

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

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

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

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



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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts



disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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

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Form 3029 1/01

(page 6 of 13 pages)

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

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

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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



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

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

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

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

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

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

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

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

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

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

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



in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

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

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

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

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

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

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.11.WPF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Loan No:

Redacted

9436

Form 3029 1/01

(page 11 of 13 pages)

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

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

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

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

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

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

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



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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

Loan No: <sup>Redacted</sup> 9436

STATE OF NEVADA, *Carson City*

County ss.

This instrument was acknowledged before me on

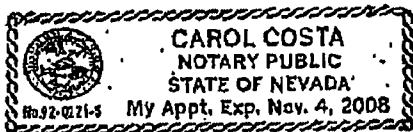
*Vicenta Lincicome*

*May 23 2007*

by

*Carol Costa*

My Commission Expires: *11-4-08*



NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.13.WFF (0101DOCS\DERDS\CVLANV\_MERS.CVL)

Form 3029 1/01  
(page 13 of 15 pages)

WHEN RECORDED MAIL TO:

MIP INSURING DEPARTMENT  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
50 IRON POINT CIRCLE, STE 200  
FOLSOM, CA 95630  
916-932-1700

LINCICOME\_000028

AA02091



# EXHIBIT J

# EXHIBIT J



# ADJUSTABLE RATE NOTE

(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)

We certify this to be a true and exact copy  
of the original document.

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

By

MAY 23, 2007  
[Date]

FOLSOM, CALIFORNIA  
[City] [State]

70 RIVERSIDE DRIVE  
DAYTON, NV 89403  
[Property Address]

## 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 381,150.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

## 2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.875 %. The interest rate I will pay will change in accordance with Section 4 of this Note. The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

## 3. PAYMENTS

### (A) Time and Place of Payments

I will pay principal and interest by making a payment every month. I will make my monthly payment on the first day of each month beginning on JULY 1, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630  
or at a different place if required by the Note Holder.

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This amount may change.

### (C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

## 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

### (A) Change Dates

The interest rate I will pay may change on the first day of JUNE, 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

### (B) The Index

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

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

Redacted  
LOAN NO: 9436

MULTISTATE ADJUSTABLE RATE NOTE-1 Year LIBOR Index (Assumable after Initial Period)-Single Family-Freddie Mac UNIFORM  
INSTRUMENT  
DRAW.0304.MX.CVL.ARM.NOTE.5531.1.WPF (0101DOCS\NOTES\CVL\MXFH5531.ARM)

Form 5531 3/04  
Page 1 of 2  
000062



(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 11.875 % or less than 2.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than TWO percentage points ( 2.000 %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than 11.875 %.

(E) Effective Date of Changes

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

(F) Notice of Changes

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

5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.



**8. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

**(A) UNTIL MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:**

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

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

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

**(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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



AA02096



**INTEREST-ONLY ADDENDUM  
TO ADJUSTABLE RATE PROMISSORY NOTE**

Loan Number: <sup>Redacted</sup> 9436  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Note (the "Note") dated the same date as this Addendum executed by the undersigned and payable to

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender").

THIS ADDENDUM supersedes Sections 3(A), 3(B), 4(C) and 7(A) of the Note. None of the other provisions of the Note are changed by this Addendum.

**3. PAYMENTS**

**(A) Time and Place of Payments**

I will pay interest by making payments every month for the first 120 payments (the "Interest-Only Period") in the amount sufficient to pay interest as it accrues. I will pay principal and interest by making payments every month thereafter for the next 240 payments in an amount sufficient to fully amortize the outstanding principal balance of the Note at the end of the Interest-Only Period over the remaining term of the Note in equal monthly payments.

I will make my monthly payments on the first day of each month beginning on JULY 1, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630  
or at a different place if required by the Note Holder.

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This payment amount is based on the original principal balance of the Note. This payment amount may change.

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.

Loan No: <sup>Redacted</sup> 9436

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE PROMISSORY NOTE - MULTISTATE  
(2/6, 3/6, 5/6 and 7/6 Gmo Hybrid ARM)  
DRAW.MX.CVL.ARM.IO.ADN.M.NOTE.1.WPF (0101DOCSNOTES\CVL\MXIO\_ADN.NTE

FE-3502 (0602)  
CAL 603E-NA  
(page 1 of 2 pages) INCOME\_000066



7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of interest during the Interest-Only Period, 5.000 % of my overdue payment of principal and interest thereafter. I will pay this late charge promptly, but only once on each late payment.

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

*Vicenta Lincicome*  
VICENTA LINCICOME

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

[Sign Original Only]

Loan No: <sup>Redacted</sup> 9436

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE PROMISSORY NOTE - MULTISTATE  
(2/6, 3/6, 5/6 and 7/6 6mo Hybrid ARM)  
DRAW.MX.CVL.ARM.IO.ADN.M.NOTE.2.WPF (010)DOCS\NOTES\CVL\MXIO\_ADN.NTE

FE-3502 (0602)  
CAI-603E-NA  
(paid) LINCICOME\_000067



# EXHIBIT K

# EXHIBIT K



DOC# 480360

08/15/2011

12:25PM

## Official Record

Requested By

FIRST AMERICAN NATIONAL DEFAULT T

Lyon County - NV

Mary C. Milligan - Recorder

Page, 1 of 1

Fee: \$14.00

Recorded By CDL

RPTT: \$0.00



0480360

RECORDING REQUESTED BY.  
 RECONTRUST COMPANY, N A  
 AND WHEN RECORDED MAIL DOCUMENT TO:  
 Bank of America, N.A.  
 400 National way SIMI VALLEY, CA 93065

TS No. 09-0003007

TITLE ORDER#: 3982298

029-401-17

## CORPORATION ASSIGNMENT OF DEED OF TRUST NEVADA

FOR VALUE RECEIVED, THE UNDERSIGNED HEREBY GRANTS, ASSIGNS AND TRANSFER TO  
 BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING,  
 LP FKA COUNTRYWIDE HOME LOANS SERVICING, L.P.

ALL BENEFICIAL INTEREST UNDER THAT CERTAIN DEED OF TRUST DATED 05/23/2007,  
 EXECUTED BY: VICENTA LINCICOME, A MARRIED WOMAN, TRUSTOR: TO GREENHEAD  
 INVESTMENTS, INC, A CALIFORNIA CORPORATION, TRUSTEE AND RECORDED AS  
 INSTRUMENT NO 407150 ON 05/25/2007, OF OFFICIAL RECORDS IN THE COUNTY  
 RECORDER'S OFFICE OF LYON COUNTY, IN THE STATE OF NEVADA.

DESCRIBING THE LAND THEREIN. AS MORE FULLY DESCRIBED IN SAID DEED OF TRUST

TOGETHER WITH THE NOTE OR NOTES THEREIN DESCRIBED OR REFERRED TO, THE  
 MONEY DUE AND TO BECOME DUE THEREON WITH INTEREST, AND ALL RIGHTS  
 ACCRUED OR TO ACCRUE UNDER SAID DEED OF TRUST/MORTGAGE.

DATED: August 08, 2011

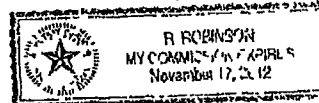
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,  
INC.

State of: Texas  
 County of: Tarrant

BY: Sandra L. Hickey 8-9-11  
 Sandra L. Hickey, Assistant Secretary

On 8-9-11 before me R. Robinson, personally appeared Sandra L Hickey  
Asst. Sec. know to me (or proved to me on the oath of                      or through  
                    ) to be the person whose name is subscribed to the foregoing instrument and  
 acknowledged to me that he/she executed the same for the purposes and consideration therein expressed  
 Witness my hand and official seal

[Signature]  
 Notary Public's Signature





# EXHIBIT L

# EXHIBIT L



DOC# 544042  
11/25/2015 08:47AM**Official Record**Requested By  
DEFAULT SERVICES - AVENUE 365  
Lyon County - NV

Dawna L. Warr - Recorder

Page: 1 of 2 Fee: \$15.00  
Recorded By MFK RPTT: \$0.00

0544042

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**Prepared By:**

PROF-2013-M4 Legal Title Trust, by U.S. Bank  
National Association, as Legal Title Trustee  
60 Livingston Avenue, EP-MN-WS3D, St. Paul, MN  
55107, Attention: Structured Finance Services  
WHEN RECORDED RETURN TO:  
Avenue 365 Lender Services  
401 Plymouth Rd, Ste. 550  
Plymouth Meeting, PA 19462

Parcel # 29-401-17

**ASSIGNMENT OF DEED OF TRUST**

FOR VALUE RECEIVED, the undersigned, BANK OF AMERICA, N.A., S/B/M BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P., located at 1800 Tapo Canyon Road, Simi Valley, California 93063 ("ASSIGNOR/GRANTOR"), hereby grants, conveys, assigns to: PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee, located at 60 Livingston Avenue, EP-MN-WS3D, St. Paul, MN 55107, Attention: Structured Finance Services ("ASSIGNEE/GRANTEE") all beneficial interest under that certain DEED OF TRUST, dated 5/23/2007 and executed by VICENTA LINCICOME, A MARRIED WOMAN, borrower(s) to: Mortgage Electronic Registration Systems, Inc., as nominee for SIERRA PACIFIC MORTGAGE COMPANY, INC., its successors and assigns, as original lender, and certain instrument recorded 5/25/2007, in INSTRUMENT NO. 407150, in the Official Records of LYON County, the State of Nevada, given to secure a certain Promissory Note in the amount of \$381,150.00 covering property located at: 70 RIVERSIDE DRIVE, DAYTON, NEVADA 89403.

TOGETHER with the note or notes therein described and secured thereby, the money due and to become due thereon, with interest, and all rights accrued or to accrue under said Mortgage including the right to have reconveyed, in whole or in part, the real property described therein.





544042

11/25/2015  
2 of 2Dated: November 10<sup>th</sup>, 2015

ASSIGNOR:BANK OF AMERICA, N.A., S/B/M BAC HOME  
LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME  
LOANS SERVICING, L.P. By: Avenue 365 Lender Services,  
LLC, its attorney-in-fact\*

By: 

Name: Steven Travascio

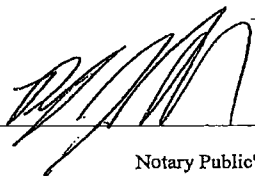
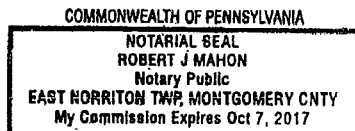
Title: Authorized Signatory

\*Power of Attorney recorded in Maricopa County, Arizona as  
Instrument: 20150617207

State of : Pennsylvania

County of : Montgomery

Before me, Robert J. Mahon, duly commissioned Notary Public, on this day personally appeared Steven  
Travascio, Authorized Signatory for Avenue 365 Lender Services, LLC, attorney-in-fact BANK OF  
AMERICA, N.A., S/B/M BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS  
SERVICING, L.P. known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_)  
to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed  
the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 10<sup>th</sup> day of November, 2015.

Notary Public's Signature

Printed Name: Robert J. Mahon

My Commission Expires: 10.07.2017

Property Address: 70 RIVERSIDE DRIVE, DAYTON, NEVADA 89403

Original Loan Amount:  
\$381,150.00



# EXHIBIT M

# EXHIBIT M



**Bank of America**   
Customer Service Department  
PO Box 31785  
Tampa, FL 33631-3785

C3\_1631\_LNHISTF 20531 04/25/2017


VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON, NV 89403

**Date:** 11/19/2018

**Loan No:** <sup>Redacted</sup> 1785

**Property Address:**

70 RIVERSIDE DRIVE  
DAYTON, NV 89403

 We've enclosed your home loan history statement with transaction details.

As you requested, enclosed is your statement that provides the following:

- Payments we received from you
- Servicing expenses we paid to third parties
- Tax and insurance payments we paid on your behalf
- Late charges assessed and paid

## Questions?

We appreciate the opportunity to serve your home loan needs. For general account information, you can visit us online at [bankofamerica.com](http://bankofamerica.com).

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AA02105



Bank of America



Home Loans

Redacted

Page 3

Loan Number: 4785

Statement Period: 01/1986 - 11/2018

Date Prepared: 11/19/2018

Property Address:  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
<b>Beginning Balance</b>										
07/13/2007	INITIAL TAX DEP	1,226.02	07/2007	381,150.00	.00	1,226.02	.00	.00	.00	.00
08/13/2007	REGULAR PAYMENT	2,479.00	08/2007	381,150.00	2,183.67	295.33	.00	.00	.00	.00
08/13/2007	COUNTY TAX PMT	-582.81	08/2007	381,150.00	.00	1,523.35	.00	.00	.00	.00
09/12/2007	REGULAR PAYMENT	2,479.00	09/2007	381,150.00	2,183.67	295.33	.00	.00	.00	.00
09/25/2007	COUNTY TAX PMT	-582.00	09/2007	381,150.00	.00	1,235.87	.00	.00	.00	.00
10/12/2007	REGULAR PAYMENT	2,479.00	10/2007	381,150.00	2,183.67	295.33	.00	.00	.00	.00
11/13/2007	REGULAR PAYMENT	2,479.00	11/2007	381,150.00	2,183.67	1,244.53	.00	.00	.00	.00
12/14/2007	REGULAR PAYMENT	2,479.00	12/2007	381,150.00	2,183.67	1,539.86	.00	.00	.00	.00
12/20/2007	COUNTY TAX PMT	-582.00	12/2007	381,150.00	.00	957.86	.00	.00	.00	.00
02/07/2008	REGULAR PAYMENT	2,588.18	01/2008	381,150.00	2,183.67	295.33	.00	.00	109.18	.00
02/22/2008	COUNTY TAX PMT	-582.00	01/2008	381,150.00	.00	671.19	.00	.00	.00	.00
04/21/2008	REGULAR PAYMENT	2,479.00	02/2008	381,150.00	2,183.67	295.33	.00	.00	.00	.00
04/21/2008	REGULAR PAYMENT	2,479.00	03/2008	381,150.00	2,183.67	966.52	.00	.00	-109.18	.00
04/21/2008	REGULAR PAYMENT	2,697.36	04/2008	381,150.00	2,183.67	1,261.85	.00	.00	-218.36	.00
05/14/2008	HAZARD INS PMT	-582.00	04/2008	381,150.00	.00	295.33	.00	.00	218.36	.00
06/19/2008	REGULAR PAYMENT	2,479.00	05/2008	381,150.00	2,183.67	1,557.18	.00	.00	-109.18	.00
						-592.00	.00	.00	.00	.00
						965.18	.00	.00	-109.18	.00
						295.33	.00	.00	.00	.00
						1,260.51	.00	.00	-218.36	.00

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Bank of America



Home Loans

Page 4

Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
06/30/2008	PAYMENT REVERSAL	-2,479.00	04/2008	381,150.00	-2,183.67	-295.33	.00	.00	.00	.00
07/01/2008	REGULAR PAYMENT	2,697.36	05/2008	381,150.00	2,183.67	965.18	.00	.00	-108.18	.00
07/31/2008	COUNTY TAX PMT	-601.67	05/2008	381,150.00	.00	-601.67	.00	.00	218.36	.00
09/22/2008	COUNTY TAX PMT	-599.00	05/2008	381,150.00	.00	658.84	.00	.00	.00	.00
12/19/2008	COUNTY TAX PMT	-599.00	05/2008	381,150.00	.00	58.84	.00	.00	.00	.00
02/23/2009	COUNTY TAX PMT	-599.00	05/2008	381,150.00	.00	-599.00	.00	.00	.00	.00
04/27/2009	HAZARD INS PMT	-646.00	05/2008	381,150.00	.00	-538.16	.00	.00	.00	.00
08/12/2009	COUNTY TAX PMT	-590.14	05/2008	381,150.00	.00	-1,138.16	.00	.00	.00	.00
09/28/2009	MISC. POSTING	2,272.62	05/2008	381,150.00	.00	-646.00	.00	.00	.00	.00
09/29/2009	COUNTY TAX PMT	-587.00	05/2008	381,150.00	.00	-1,784.16	.00	.00	.00	.00
12/23/2009	COUNTY TAX PMT	-587.00	05/2008	381,150.00	.00	-2,374.30	.00	.00	.00	.00
02/23/2010	COUNTY TAX PMT	-587.00	05/2008	381,150.00	.00	.00	.00	.00	.00	2,272.62
04/26/2010	HAZARD INS PMT	-720.00	05/2008	381,150.00	.00	-2,374.30	.00	.00	.00	2,272.62
07/28/2010	COUNTY TAX PMT	-562.05	05/2008	381,150.00	.00	-587.00	.00	.00	.00	.00
09/23/2010	COUNTY TAX PMT	-560.00	05/2008	381,150.00	.00	-2,961.30	.00	.00	.00	2,272.62
12/03/2010	COUNTY TAX PMT	-560.00	05/2008	381,150.00	.00	-587.00	.00	.00	.00	.00
02/14/2011	COUNTY TAX PMT	-560.00	05/2008	381,150.00	.00	-3,548.30	.00	.00	.00	2,272.62
04/25/2011	HAZARD INS PMT	-772.00	05/2008	381,150.00	.00	-587.00	.00	.00	.00	.00
						-4,135.30	.00	.00	.00	2,272.62
						-720.00	.00	.00	.00	.00
						-4,855.30	.00	.00	.00	2,272.62
						-562.05	.00	.00	.00	.00
						-5,417.35	.00	.00	.00	2,272.62
						-560.00	.00	.00	.00	.00
						-5,977.35	.00	.00	.00	2,272.62
						-560.00	.00	.00	.00	.00
						-6,537.35	.00	.00	.00	2,272.62
						-7,097.35	.00	.00	.00	.00
						-560.00	.00	.00	.00	.00
						-7,869.35	.00	.00	.00	2,272.62
						-772.00	.00	.00	.00	.00
							.00	.00	.00	.00

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Page 5

Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/13/2011	COUNTY TAX PMT	-545.37	05/2008	381,150.00	.00	-545.37	.00	.00	.00	.00
						-8,414.72				2,272.62
09/08/2011	COUNTY TAX PMT	-542.00	05/2008	381,150.00	.00	-542.00	.00	.00	.00	.00
						-8,956.72				2,272.62
12/07/2011	COUNTY TAX PMT	-542.00	05/2008	381,150.00	.00	-542.00	.00	.00	.00	.00
						-9,498.72				2,272.62
02/01/2012	COUNTY TAX PMT	-542.00	05/2008	381,150.00	.00	-542.00	.00	.00	.00	.00
						-10,040.72				2,272.62
04/20/2012	HAZARD INS PMT	-828.00	05/2008	381,150.00	.00	-828.00	.00	.00	.00	.00
						-10,868.72				2,272.62
07/17/2012	COUNTY TAX PMT	-511.95	05/2008	381,150.00	.00	-511.95	.00	.00	.00	.00
						-11,380.67				2,272.62
09/12/2012	COUNTY TAX PMT	-510.00	05/2008	381,150.00	.00	-510.00	.00	.00	.00	.00
						-11,890.67				2,272.62
12/17/2012	COUNTY TAX PMT	-510.00	05/2008	381,150.00	.00	-510.00	.00	.00	.00	.00
						-12,400.67				2,272.62
02/01/2013	COUNTY TAX PMT	-510.00	05/2008	381,150.00	.00	-510.00	.00	.00	.00	.00
						-12,910.67				2,272.62
02/12/2013	MISC. POSTING	-1,861.16	05/2008	381,150.00	.00	.00	.00	.00	.00	-1,861.16
						-12,910.67				411.46
02/12/2013	MISC. POSTING	1,861.16	05/2008	381,150.00	.00	.00	.00	.00	.00	1,861.16
						-12,910.67				2,272.62
05/02/2013	HAZARD INS PMT	-889.00	05/2008	381,150.00	.00	-889.00	.00	.00	.00	.00
						-13,799.67				2,272.62
05/24/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	.00	.00	.00	.00	-1,341.18
						-13,799.67				931.44
05/24/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	.00	.00	.00	.00	1,341.18
						-13,799.67				2,272.62
05/28/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	.00	.00	.00	.00	-1,341.18
						-13,799.67				931.44
05/28/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	.00	.00	.00	.00	1,341.18
						-13,799.67				2,272.62
05/30/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	.00	.00	.00	.00	-1,341.18
						-13,799.67				931.44
05/30/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	.00	.00	.00	.00	1,341.18
						-13,799.67				2,272.62



Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
05/31/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18 931.44
05/31/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18 2,272.62
06/03/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18 931.44
06/03/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18 2,272.62
06/04/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18 931.44
06/04/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18 2,272.62
06/05/2013	MISC. POSTING	-1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,738.22 534.40
06/05/2013	MISC. POSTING	1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,738.22 2,272.62
06/06/2013	MISC. POSTING	-1,817.62	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,817.62 455.00
06/06/2013	MISC. POSTING	1,817.62	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,817.62 2,272.62
06/12/2013	MISC. POSTING	-1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,738.22 534.40
06/12/2013	MISC. POSTING	1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,738.22 2,272.62
06/13/2013	MISC. POSTING	-1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,738.22 534.40
06/13/2013	MISC. POSTING	1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,738.22 2,272.62
06/17/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18 931.44
06/17/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18 2,272.62
06/18/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18 931.44
06/18/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18 2,272.62



Bank of America



Home Loans

Page 7

Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
06/20/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18
06/20/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	831.44
06/21/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18
06/21/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	2,272.62
06/24/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18
06/24/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	931.44
06/25/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18
06/25/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	2,272.62
06/26/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,341.18
06/26/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	931.44
06/27/2013	MISC. POSTING	-1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,341.18
06/27/2013	MISC. POSTING	1,341.18	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	2,272.62
07/02/2013	MISC. POSTING	-1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,738.22
07/02/2013	MISC. POSTING	1,738.22	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	534.40
07/05/2013	MISC. POSTING	-1,817.62	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,738.22
07/05/2013	MISC. POSTING	1,817.62	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	2,272.62
07/10/2013	MISC. POSTING	-1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,817.62
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	455.00
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,817.62
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	2,272.62
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	-1,808.90
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	463.72
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	1,808.90
07/10/2013	MISC. POSTING	1,808.90	05/2008	381,150.00	.00	-13,799.67	.00	.00	.00	2,272.62

AA02110



Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/23/2013	COUNTY TAX PMT	-435.12	05/2008	381,150.00	.00	-435.12	.00	.00	.00	.00
09/10/2013	COUNTY TAX PMT	-432.00	05/2008	381,150.00	.00	-432.00	.00	.00	.00	2,272.62
11/26/2013	COUNTY TAX PMT	-432.00	05/2008	381,150.00	.00	-432.00	.00	.00	.00	2,272.62
02/06/2014	COUNTY TAX PMT	-432.00	05/2008	381,150.00	.00	-432.00	.00	.00	.00	2,272.62
04/21/2014	HAZARD INS PMT	-961.00	05/2008	381,150.00	.00	-961.00	.00	.00	.00	2,272.62
07/29/2014	COUNTY TAX PMT	-448.13	05/2008	381,150.00	.00	-448.13	.00	.00	.00	2,272.62
09/19/2014	COUNTY TAX PMT	-445.00	05/2008	381,150.00	.00	-445.00	.00	.00	.00	2,272.62
12/15/2014	COUNTY TAX PMT	-445.00	05/2008	381,150.00	.00	-445.00	.00	.00	.00	2,272.62
01/20/2015	MISC. POSTING	-1,026.00	05/2008	381,150.00	.00	-1,026.00	.00	.00	.00	-1,026.00
02/11/2015	COUNTY TAX PMT	-445.00	05/2008	381,150.00	.00	-445.00	.00	.00	.00	1,246.62
04/20/2015	HAZARD INS PMT	-1,161.00	05/2008	381,150.00	.00	-1,161.00	.00	.00	.00	1,246.62
04/21/2015	HAZARD INS PMT	-766.00	05/2008	381,150.00	.00	-766.00	.00	.00	.00	1,246.62
05/28/2015	MISC. POSTING	2,013.78	05/2008	381,150.00	.00	2,013.78	.00	.00	.00	2,013.78
05/29/2015	MISC. POSTING	-2,413.95	05/2008	381,150.00	.00	-2,413.95	.00	.00	.00	3,260.40
05/29/2015	REGULAR PAYMENT	2,413.95	06/2008	381,150.00	2,183.67	230.28	.00	.00	.00	-2,413.95
07/01/2015	MISC. POSTING	2,013.78	06/2008	381,150.00	.00	-19,971.64	.00	.00	.00	846.45
07/02/2015	MISC. POSTING	-2,413.95	06/2008	381,150.00	.00	-19,971.64	.00	.00	.00	2,013.78
07/02/2015	REGULAR PAYMENT	2,413.95	07/2008	381,150.00	2,183.67	-19,741.36	.00	.00	.00	2,860.23



Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/27/2015	COUNTY TAX PMT	-462.75	07/2008	381,150.00	.00	-462.75	.00	.00	.00	.00
						-20,204.11				446.28

Fee Transaction Activity (01/1986 - 11/2018)

Transaction Date	Fee Description	Charges	Payments
06/19/2008	Mortgage Pay Fee-Phone	12.00	.00
06/19/2008	Mortgage Pay Fee-Phone	.00	12.00
06/30/2008	Return Payment Fee	25.00	.00
07/01/2008	Mortgage Pay Fee-Phone	9.00	.00
07/01/2008	Mortgage Pay Fee-Phone	.00	9.00
10/30/2008	Property Inspection	15.00	.00
01/02/2009	Property Inspection	15.00	.00
09/11/2009	Recording Fee	44.00	.00
09/11/2009	Attorney Posting	95.00	.00
09/11/2009	Mailing Fee	45.92	.00
09/11/2009	Title Fee	700.00	.00
09/11/2009	Attorney/Trustee Fee	480.00	.00
09/11/2009	Advertising Cost	231.48	.00
09/18/2009	Attorney Posting	95.00	.00
11/19/2009	Attorney Posting	.00	95.00
01/29/2010	Property Inspection	15.00	.00
02/05/2010	Property Inspection	15.00	.00
03/05/2010	Property Inspection	15.75	.00
03/22/2010	Property Inspection	15.00	.00
05/28/2010	Property Inspection	15.00	.00



Page 10

Transaction Date	Fee Description	Charges	Payments
06/29/2010	Property Inspection	15.00	.00
08/25/2010	Property Inspection	15.00	.00
09/09/2010	Advertising Cost	183.75	.00
09/09/2010	Attorney Posting	95.00	.00
09/09/2010	Mailing Fee	35.44	.00
02/19/2011	Advertising Cost - Adjustment	-183.75	.00
02/19/2011	Mailing Fee - Adjustment	-35.44	.00
02/19/2011	Attorney Posting - Adjustment	-95.00	.00
02/19/2011	Property Inspection - Adjustment	-15.00	.00
02/19/2011	Property Inspection - Adjustment	-15.00	.00
10/10/2011	Property Inspection - Adjustment	-15.00	.00
10/10/2011	Property Inspection - Adjustment	-15.00	.00
10/10/2011	Property Inspection - Adjustment	-15.00	.00
10/10/2011	Property Inspection - Adjustment	-15.00	.00
10/10/2011	Property Inspection - Adjustment	-15.75	.00
10/10/2011	Property Inspection - Adjustment	-15.00	.00
10/10/2011	Property Inspection - Adjustment	-15.00	.00
03/19/2014	Attorney/Trustee Fee - Adjustment	-480.00	.00
03/19/2014	Title Fee - Adjustment	-700.00	.00
03/19/2014	Advertising Cost - Adjustment	-231.48	.00
03/19/2014	Mailing Fee - Adjustment	-45.92	.00
03/19/2014	Attorney Posting - Adjustment	-95.00	.00
03/19/2014	Recording Fee - Adjustment	-44.00	.00
03/19/2014	Return Payment Fee - Adjustment	-25.00	.00
01/06/2015	Bankruptcy Motion for Relief	850.00	.00
01/06/2015	Bankruptcy Filing Fee	176.00	.00
01/20/2015	Bankruptcy Motion for Relief	.00	850.00





Page 11

Transaction Date	Fee Description	Charges	Payments
01/20/2015	Bankruptcy Filing Fee	.00	176.00
01/30/2015	Property Inspection	15.00	.00
08/25/2015	Clear Escrow	19,971.64	.00
04/24/2018	Property Inspection - Adjustment	-15.00	.00
04/24/2018	Clear Escrow - Adjustment	-19,971.64	.00

LINCICOME\_000038

AA02114



# EXHIBIT N

# EXHIBIT N



**DOC# 437084**

01/23/2009

12:15PM

**Official Record**

Requested By

FIRST AMERICAN NATIONAL D

Lyon County - NV

Mary C. Milligan - Recorder

Page: 1 of 2

Fee: \$40.00

Recorded By AT

RPTT: \$0.00

**RECORDING REQUESTED BY:**  
**WHEN RECORDED MAIL TO:**  
**RECONTRUST COMPANY**  
**2380 Performance Dr, TX2-985-07-03**  
**Richardson, TX 75082**  
**Attn: Teresa Walker**  
**TS No. 09-0003007**  
**Title Order No. 3982298**



0437084

**APN No. 029-401-17****NEVADA IMPORTANT NOTICE****NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST**

NOTICE IS HEREBY GIVEN THAT: RECONTRUST COMPANY, N.A., is the duly appointed Trustee under a Deed of Trust dated 05/23/2007, executed by VICENTA LINCICOME, A MARRIED WOMAN as Trustor, to secure certain obligations in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. as beneficiary recorded 05/25/2007, as Instrument No. 407150 (or Book , Page ) of Official Records in the Office of the County Recorder of Lyon County, Nevada. Said obligation including ONE NOTE FOR THE ORIGINAL sum of \$381,150.00. That a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of : FAILURE TO PAY THE INSTALLMENT OF PRINCIPAL, INTEREST AND IMPOUNDS WHICH BECAME DUE ON 06/01/2008 AND ALL SUBSEQUENT INSTALLMENTS OF PRINCIPAL, INTEREST AND IMPOUNDS, TOGETHER WITH ALL LATE CHARGES, PLUS ADVANCES MADE AND COSTS INCURRED BY THE BENEFICIARY, INCLUDING FORECLOSURE FEES AND COSTS AND/OR ATTORNEYS' FEES. IN ADDITION, THE ENTIRE PRINCIPAL AMOUNT WILL BECOME DUE ON 06/01/2037 AS A RESULT OF THE MATURITY OF THE OBLIGATION ON THAT DATE.

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

**NOTICE**

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed Of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, if the default is not cured within 35 days following recording and mailing of this Notice to Trustor or Trustor's successor in interest, the right of reinstatement will terminate and the property may there after be sold. The Trustor may have the right to bring court action to assert the non existence of a default or any other defense of Trustor to acceleration and sale

To determine if reinstatement is possible and the amount, if any, to cure the default, contact:

00754

AA02116





437084

01/23/2009  
2 of 2

Countrywide Home Loans, Inc, c/o RECONTRUST COMPANY, N.A., 2380 Performance Dr,  
TX2-985-07-03, Richardson, TX 75082, PHONE: (800) 281-8219

DATED: January 22, 2009

RECONTRUST COMPANY, N.A., as agent for the  
Beneficiary

By: FIRST AMERICAN TITLE, as Agent

BY: 

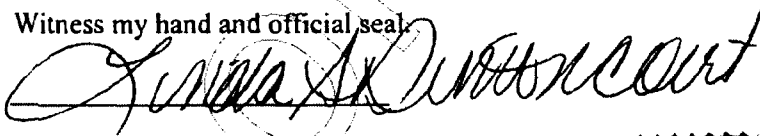
TODD BRACHTENBACH

State of: California

County of: Contra Costa

On 01/22/2009 before me LINDA S. DERONCOURT, notary public, personally  
appeared TODD BRACHTENBACH, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



Form nvnodfax (01/09)

00755

AA02117



# EXHIBIT O

# EXHIBIT O



APN# 029-401-17

**Recording Requested by:**

Name Michael Camaroto

Address 100 Beecham Dr

City/State/Zip Pittsburg PA 15205

**Mail Tax Statements to:**

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

**DOC # 475808**

05/04/2011

01 19 PM

**Official Record**

Requested By  
BAC HOME LOANS SERVICING

Lyon County - NV

Mary C. Milligan - Recorder

Page 1 of 6 Fee \$44.00

Recorded By MFK RPTT



0475808

Loan Modification Agreement

**Title of Document**  
(Required Field)

**FILL IN ALL THAT APPLY**

The Undersigned Hereby Affirms That This Document Submitted For Recording Contains Personal Information As Required By Law\*

Specify Law\* \_\_\_\_\_

Signature \_\_\_\_\_

Specify Law\* \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

\*If there is no applicable State or Federal Law, Personal Information must be removed prior to recording

If this document is a re-record or correction, fill out below

Correcting Document# \_\_\_\_\_

Amending \_\_\_\_\_

Reason for re-record \_\_\_\_\_

(For Re-records, all pages from original document must be included, \$25 Non-conforming Fee Applies)

If legal description is in metes & bounds, indicate where it was obtained:

(Document Title), Book \_\_\_\_\_ Page \_\_\_\_\_ or

Document # \_\_\_\_\_

recorded \_\_\_\_\_ (date) in the

Lyon County Recorder's Office

-OR-

If prepared by a surveyor, provide name and address

\*Personal information means a natural person's first name or first initial and last name in combination with any one or more of the following data elements:

1. Social security number
2. Driver's license number or identification card number
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password

This page added to provide additional information required by NRS 111.312 Sections 1-4  
(\$1.00 Additional Recording Fee Applies)

LINCICOME\_000003

AA02119



WHEN RECORDED MAIL TO  
HOME RETENTION RECORDING DEPARTMENT FROM  
Attn: Patricia Tongles  
BAC Home Loans Servicing LP  
300 Beach Drive, SUITE 104  
Pittsburgh, PA 15225

parcel - 029-401-17

**IN MODIFICATION AGREEMENT**  
(Fixed Interest Rate)

273412  
This Loan Modification Agreement ("Agreement"), made this 11th day of July, 2009, between VICENTA LINCICOME (the "Borrower(s)") and BAC Home Loans Servicing, LP (the "Lender"), amends and supplements (1) the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated the 23rd day of May, 2007 in the amount of \$381,150.00, and (2) the Note secured by the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as the "Property", located at 78 RIVERSIDE DRIVE, DAYTON, NV 89403

The real property described being set forth as follows

SAME AS IN SAID SECURITY INSTRUMENT

In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (Notwithstanding anything to the contrary contained in the Note or Security Instrument)

- 1 As of the 1st day of September, 2009, the amount payable under the Note or Security Instrument (the "Unpaid Principal Balance") is U.S. \$417,198.58, consisting of the amount(s) loaned to the Borrower by the Lender which may include, but not limited to, any past due principal payments, interest, fees and/or costs capitalized to date
- 2 The Borrower promises to pay the Unpaid Principal Balance, plus interest to the order of the Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 4.875% from the 1st day of August, 2009. The Borrower promises to make monthly payments of principal and interest of U.S. \$4,977.29 beginning on the 1st day of September, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on the 1st day of August, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date
- 3 The Borrower will make such payments at Payment Processing PO Box 10219 Van Nuys, CA 91410 or at such other place as the Lender may require
- 4 Nothing in this agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all terms and provisions thereof, as amended by this Agreement
- 5 In consideration of this Modification, Borrower agrees that if any document related to the Security Instrument, Note and/or Modification is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the loan as modified, or is otherwise missing, Borrower(s) will comply with Lender's request to execute, acknowledge, initial and deliver to Lender any documentation Lender deems necessary. If the original promissory note is replaced the Lender hereby indemnifies the Borrower(s) against any loss associated with a demand on the original note. All documents Lender requests of Borrower(s) shall be referred to as "Documents". Borrower agrees to deliver the Documents within ten (10) days after receipt by Borrower(s) of a written request for such replacement

Previous mortgage recorded  
5/25/07 Doc-407158 Assigned  
11/10/2010 Doc-467719

05/04/2011  
002 of 6

475886



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.

The HOPE Team  
CHL Loan #Redact 4785

WDGFDNR 8124 July 11, 2009

LINCICOME\_000004

AA02120



**STEP RATE LOAN MODIFICATION  
ADDENDUM TO LOAN MODIFICATION AGREEMENT**

The Step Rate Loan Modification Agreement Addendum (the "Addendum") is made this July 11, 2009, and is incorporated into and shall be deemed a part of that certain Loan Modification Agreement of even date herewith (the "Agreement") between VICENTA LINCICOME (the "Borrowers") and BAC Home Loans Servicing, LP (the "Lender"), which agreement amends and supplements that certain Mortgage Deed of Trust or Deed to Secure Debt (the "Security Instrument") executed by Borrower in favor of Lender

**THIS ADDENDUM CONTAINS PROVISIONS PROVIDING FOR  
SCHEDULED INTEREST RATE CHANGES**

In consideration of the mutual promises and agreements exchanged and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Agreement, Security Instrument or the promissory note (the "Note"), except as specifically provided for herein)

**1 Scheduled Interest Rate Changes**

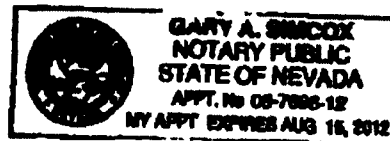
The Agreement provides for an initial interest rate of 4.875% which will be charged from the 1st day of August, 2009

The Interest Rate shall then change on the 1st day of August, 2014 at which time it shall be 5.375%

Thereafter, the interest rate and monthly principal and interest payment shall adjust in accordance with the Note, Adjustable Rate Rider and/or any other loan document that is affixed to or incorporated into the Note and Rider and provides for, implements or relates to any change or adjustment in the interest rate and monthly payment amount under the Note until such time as the principal and interest due under the Note are paid in full. If on August 1, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by the Agreement and this Addendum, the Borrower shall pay these amounts in full on the Maturity Date.

**BORROWER**

*Vicenta Lincicome* Dated *July 31, 2009*  
VICENTA LINCICOME

**Lender****BAC Home Loans Servicing, LP**Dated *Aug 31, 2009*

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan Redacted  
475808

July 11, 2009

LINCICOME\_000005





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05/04/2011  
004 of 6

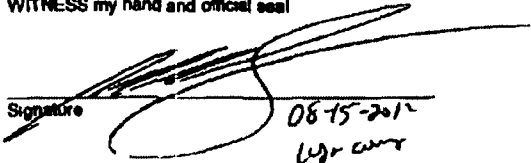
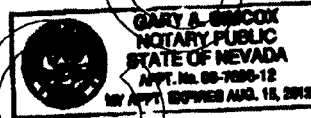
As evidenced by their signatures below, the Borrower and the Lender agree to the foregoing

Vicenta Lincicome Dated July 31, 2009  
VICENTA LINCICOMESTATE OF NevadaCOUNTY OF CesarOn July 31, 2009 before me, Gary S. Smith Notary Public, personally appearedVicenta Lincicome

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature

  
08-15-2012  
WGS

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.

The HOPE Team  
CHL Loan<sup>®</sup> 785

WDGFDNR 8124 July 11, 2009

LINCICOME\_000006

AA02122





475888

05/04/2011  
005 of 6

DO NOT WRITE BELOW THIS LINE

THIS SECTION IS FOR INTERNAL BANK OF AMERICA HOME LOANS SERVICING, LP USE ONLY

BAC Home Loans Servicing, LP  
7105 Corporate Drive  
(PTX-B-36)  
Plano, TX 75024

By \_\_\_\_\_ Dated \_\_\_\_\_

James I Smith

MAR 22 2011

STATE OF

On MAR 22 2011

before me,

COUNTY OF

Broomfield

Notary Public, personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures (s) on the instrument this person(s), or entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Amy L Bogan Signature

AMY L BOGAN

NOTARY PUBLIC, STATE OF COLORADO

My Comm. Expires September 8, 2014

BAC Home Loans Servicing LP is a subsidiary of Bank of America N A

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AA02123





475808

05/04/2011  
006 of 6

LEGAL DESCRIPTION

ALL THAT CERTAIN LOT OR PARCEL OF LAND BEING SITUATE IN GOLD CANYON EST SUBDIVISION, PH 2  
LOT 42 BEING 482 ACRES

PARCEL # 029-401-17

Unofficial Copy

LINCICOME\_000008

AA02124



STEP RATE LOAN MODIFICATION  
ADDENDUM TO LOAN MODIFICATION AGREEMENT

The Step Rate Loan Modification Agreement Addendum (the "Addendum") is made this July 11, 2009, and is incorporated into and shall be deemed a part of that certain Loan Modification Agreement of even date herewith (the "Agreement") between VICENTA LINCICOME (the "Borrowers") and BAC Home Loans Servicing, LP ("the Lender"), which agreement amends and supplements that certain Mortgage, Deed of Trust or Deed to Secure Debt (the "Security Instrument") executed by Borrower in favor of Lender.

THIS ADDENDUM CONTAINS PROVISIONS PROVIDING FOR  
SCHEDULED INTEREST RATE CHANGES

In consideration of the mutual promises and agreements exchanged and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Agreement, Security Instrument or the promissory note (the "Note"), except as specifically provided for herein.):

1. Scheduled Interest Rate Changes.

The Agreement provides for an initial interest rate of 4.875% which will be charged from the 1st day of August, 2009.

The Interest Rate shall then change on the 1st day of August, 2014 at which time it shall be 5.375%.

Thereafter, the interest rate and monthly principal and interest payment shall adjust in accordance with the Note, Adjustable Rate Rider and/or any other loan document that is affixed to or incorporated into the Note and Rider and provides for, implements or relates to any change or adjustment in the interest rate and monthly payment amount under the Note until such time as the principal and interest due under the Note are paid in full. If on August 1, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by the Agreement and this Addendum, the Borrower shall pay these amounts in full on the Maturity Date.

BORROWER:

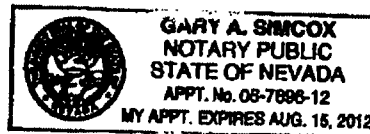
Vicenta Lincicome Dated: July 31, 2009  
VICENTA LINCICOME

Lender:

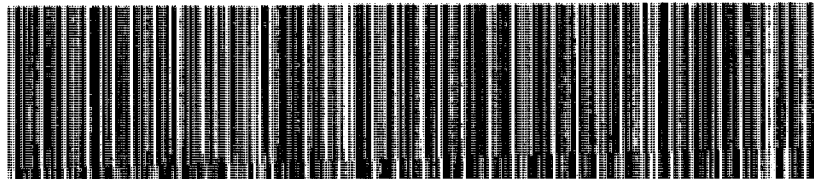
BAC Home Loans Servicing, LP

[Signature]  
08-15-2011  
LPC

Dated: July 31, 2009



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan Redacted 4785

July 11, 2009

LINCICOME\_000009

AA02125



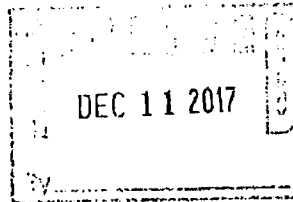
# EXHIBIT P

# EXHIBIT P



1 Code: 1110  
2 Geoffrey Giles, Esq  
3 State Bar #959  
4 527 California Ave  
5 Reno, NV 89509  
6 775.329.4999

7 Attorney for Petitioner



FILED

2017 DEC -1 AM 10:39

TANYA SCEIRINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Victoria Toran* DEPUTY

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THIRD JUDICIAL DISTRICT COURT  
LYON COUNTY, NEVADA

In Re:

VICENTA LINCICOME,  
Petitioner.

Case Number: 17-CV-01346

Department: I

PETITION FOR FORECLOSURE MEDIATION ASSISTANCE

Petitioner VICENTA LINCICOME hereby petitions this Court, pursuant to the terms of Chapter 107 of the Nevada Revised Statutes, to grant her participation in the mediation program for homeowners facing foreclosure. Petitioner states as follows:

1. **Residence.** The home that is under foreclosure proceedings is in Lyon County, in the State of Nevada; 70 Riverside Drive, Dayton, Nevada 89403. Petitioner is the occupant and owner of this home.

2. **APN.** The assessor parcel number (APN) of the home is: 029-401-17

3. **Notice of Default.** Was Recorded on 11/3/17 and is attached hereto.

4. **Mediation Fee.** The required \$250 mediation fee was submitted herewith.

Petitioner hereby requests that this Court allow participation in the foreclosure mediation

///

///



1 ///

2 assistance program.

3 Nov. 28, 2017

4 Date

5 Vicenta Lincicome

6 Homeowner Signature

7 VICENTA LINCICOME

8 Printed Name

**PETITIONER VERIFICATION**

9 STATE OF NEVADA }

10 COUNTY OF WASHOE }

11 VICENTA LINCICOME being first duly sworn under penalty of perjury, deposes  
12 and says: I am the petitioner herein, and I have read the foregoing Amended Petition for  
13 Foreclosure Mediation Assistance and know the contents thereof; that the pleading is true to  
14 the best of my own knowledge.

15 Vicenta Lincicome  
16 VICENTA LINCICOME

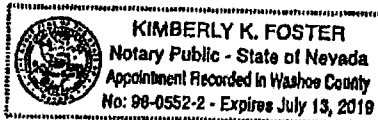
17 Signed and Sworn to (or affirmed) before me on:

18 Date: November 28, 2017 by xx Vicenta Javier Lincicome. xy

19 Kimberly K. Foster  
20 Signature of Notarial Officer

21 STATE OF NEVADA }

22 COUNTY OF WASHOE }



[seal]

23 On this 28th day of November, 2017,  
24 personally appeared before me, a Notary Public, VICENTA LINCICOME, known or proved  
25 to me to be the person who executed the foregoing Petition For Foreclosure Mediation  
26 Assistance, and who acknowledged to me that he/she did so freely and voluntarily and for the  
27 uses and purposes herein stated.

28 ///

///

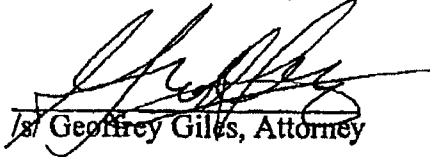
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1  
2  
3 **AFFIRMATION**

4 This document does not contain the social security number of any person.

5  
6   
/s/ Geoffrey Giles, Attorney


7  
8  
9 **CERTIFICATE OF SERVICE**

10 I, Jeanne Giles, hereby certify that on this date 12-1-17, I mailed copies of the  
11 foregoing "PETITION FOR FORECLOSURE MEDIATION ASSISTANCE" certified  
12 mail, return receipt requested, to the following parties at the addresses shown below:

13 **Trustee:**  
14 SABLES LLC  
15 C/O ZIEVE BRODNAX & STEELE  
3753 Howard Hughes Pky, #200  
Las Vegas, NV 89169

16 **Beneficiary:**  
17 FAY SERVICING or US BANK TRUSTEE for PROF-2013-M4 Title Trust  
18 c/o SABLES LLC - ZIEVE BRODNAX & STEELE  
3753 Howard Hughes Pky, #200  
Las Vegas, NV 89169

19 **Other party of interest:**  
20 Home Means Nevada  
21 3300 West Sahara Avenue, Suite (480)  
Las Vegas, Nevada 89102

22  
23  
24   
25 Signed:  
26 Jeanne Giles



**Notice Date:** February 23, 2010

**Account No.:** [REDACTED] 4785

Vicenta Lincicome  
70 Riverside Dr  
Dayton NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent correspondence addressed to BAC Home Loans Servicing, LP.

---

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions and concerns. We will provide a more complete response within twenty (20) business days.

---

**THANK YOU FOR YOUR BUSINESS**

Please accept our sincere apology for the delay.  
Thank you for the opportunity to be of assistance.

This communication is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence. CSDEAY 2887/9927 11/28/2004



**Bank of America** 

**Home Loans**

Po Box: 8170  
Shirley Valley, CA 93065

0005514-0005514 LTR# 001 ----- 766503

**Notice Date:** March 12, 2010

**Account No.:** [REDACTED] 4785

Vicenta Lincicome  
70 Riverside Dr  
Dayton NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent correspondence addressed to BAC Home Loans Servicing, LP.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions and concerns. We will provide a more complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

Please accept our sincere apology for the delay.

Thank you for the opportunity to be of assistance.

This communication is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence. GSDEAY 2687/9827 11/26/2004



**Bank of America**

**Home Loans**

4500- Aron Center Blvd  
Fort Worth, TX 76155



AT1 3-772-24035-0001635-001-1-000-000-000-000  
VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

**Notice Date:** October 19, 2011

**Account No.:** [REDACTED] 4785

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-8807, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence.

CSDEAY 12808 12/16/2010

Shellpoint/Lincicome

001313

AA02132





You're on your way toward an  
affordable mortgage payment.




ROBERT G JOHNSTON  
412 N DIVISION  
CARSON CITY, NV 89703

April 5, 2012

VICENTA LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

Loan Number:  4785

Dear VICENTA LINCICOME:



Thank you for contacting us about your mortgage. Based on a careful review of the information you provided, you are approved to enter into a conditional Trial Period Plan. This is the next step toward qualifying for affordable and sustainable mortgage payments. Please read this letter so that you understand all the steps you need to take to permanently modify your mortgage, starting with your first trial period payment.


**To accept this offer**

Acceptance of the trial offer requires you to make your first trial period payment by no later than 05/01/2012. You must pay the exact amount of your Trial Period Plan payments instead of your normal monthly mortgage payments.

**Send in your monthly Trial Period Plan payments — instead of your normal monthly mortgage payments — as follows:**

Trial Period Plan		
1st payment:	\$2,218.53	by 05/01/12
2nd payment:	\$2,218.53	by 06/01/12
3rd payment:	\$2,218.53	by 07/01/12

**What you need to do next**

- 
- It is important that you carefully review the *Frequently Asked Questions and Additional Trial Period Plan Information and Legal Notices* information attached.
  - Make each of the above payments on time and in the amount shown. Payment coupons are included in this package if you wish to send your payment in the mail, or you can call 1.800.669.6650 and we can deduct your payment directly from your checking account, if applicable. (There are no fees to make your payment by phone during the trial period.)
  - After you make all trial period payments on time, and if you continue to meet all of the eligibility requirements of your modification program, your mortgage will be permanently modified. Please pay the specific amounts shown above because paying a different amount could make you ineligible for a permanent modification. **We must receive each payment on time and in the month in which it is due. If you miss a payment or do not comply with any of the other terms of your trial period, this offer will end and your mortgage loan will not be modified under this offer.** If your last trial period payment is made in the last half of the month it is due, we may extend your Trial Period Plan by an extra month.
  - Once you have successfully made each of the payments above by their due dates, you have submitted two signed copies of your modification agreement, and we have signed the modification agreement, your mortgage will be permanently modified in accordance with the terms of your modification agreement.

Please note that except for the reduction of your monthly mortgage payment amount during the trial period, all other terms and provisions of your existing mortgage loan remain in effect and will not change until your loan is permanently modified.

Shellpoint/Lincicome

005439  
CG\_1910 FMTTPNBVV0E

AA02133



If you are represented by a bankruptcy attorney, please consult with him or her about how a modification will affect your mortgage and your bankruptcy case. Because you are in bankruptcy, any final modification of your mortgage may require Bankruptcy Court approval. Also, if you are in Chapter 13 bankruptcy, you may also be required to amend your bankruptcy plan. Your bankruptcy attorney can assist you with that process.

If you have any questions, please call 1.800.669.6650. **If you cannot afford the Trial Period Plan payments above or if you have decided to leave your home, please call 1.800.669.6650** to discuss other options that may be available to avoid foreclosure.

If you are currently in a bankruptcy proceeding, or have previously obtained a discharge of this debt under applicable bankruptcy law, this notice is for informational purposes only and is not a demand for payment, an attempt to collect a debt or an attempt to impose personal liability for any discharged debt.


We are glad you have been approved for a Trial Period Plan offer. Start today by making your first trial period payment.

Deborah McDow  
Home Loan Team  
Bank of America, N.A.

**Bank of America**  **Home Loans**

Enclosures: (1) Frequently Asked Questions (2) Additional Trial Period Plan Information and Legal Notices (3) Payment Coupons

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector. However, the purpose of this communication is to let you know about your potential eligibility for a loan modification program that may help you bring or keep your loan current through affordable payments.

Mortgages funded and administered by an  Equal Housing Lender.  
♻️ Protect your personal information before recycling this document



THE LAW OFFICES OF CHARLES T. MARSHALL

250 S. Orange Street, Suite 5  
Escondido, CA 92025  
(760) 300-4197

AUTHORIZATION FORM

Date: 11 / 10 / 09

With My/Our signature(s) below, I/We have authorized The Law Offices of Charles T. Marshall, to assist me/us in the Note Modification process with our/my current lender(s). The physical address for The Law Offices of Charles T. Marshall is 250 S Orange Street #5, Escondido, CA 92025 and the phone number is (760) 300-4197.

Borrower's Name(s): VICENTA J. LINCICOME

Property Address: 70 Riverside Dr.

Property City/State/Zip: Dayton, NV 89403

Social Security Number(s): [REDACTED] 9330 --- --- ---

Mortgage Lender: BANK OF AMERICA Loan # [REDACTED] 4785

Mortgage Lender: \_\_\_\_\_ Loan # \_\_\_\_\_

PLEASE BE ADVISED I have retained the services of The Law Offices of Charles T. Marshall, and grant them the right to communicate with my Mortgage Lender concerning my mortgage loan. Any and all correspondence should be directed accordingly at their above referenced address/contact numbers. YOU ARE HEREBY AUTHORIZED TO CEASE ANY AND ALL DIRECT COMMUNICATION WITH ME.

VICENTA J. LINCICOME

Borrower Name (Print)

Vicenta J. Lincicome

Borrower Signature (Sign)

A. ELLIS LINCICOME JR.

Co-Borrower Name (Print)

[Signature]

Co-Borrower Signature



**Bank of America**  
**Home Loans**

4500 Amon Carter Blvd.  
TX2-979-01-16  
Fort Worth, TX 76155

VICENTA LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

8/17/2011

Account No: [REDACTED] 4785

Please be advised that Bank of America is in receipt of your request to review the above referenced loan for a possible loan modification.

Based on our review, we are in need of the following additional information in order to complete this portion of the process. Needed information includes:

- 2 recent and consecutive pay stubs with year to date gross and net earnings, pay period, and employer
- Verification of employment if pay stubs aren't available
- 2010-Tax returns signed and dated with all schedules and all pages
- Signed and dated hardship letter
- **Self employed or 1099**
- Recent utility bill
- Recent quarterly or year to date signed & dated profit and loss statement.
- **Other Income**
- Rental/Boarder income- rental agreements
- Social security- award letter
- Pension/retirement/annuity- award letter
- Family contributions (must live in the property)
- 2 months recent bank statements
- HOA statement if applicable
- 4506-T and RMA Affidavit found at <http://www.makinghomesaffordable.gov/requestmod.shtml>.

Please fax this additional information to (888)274-5824 no later than August 23, 2011. Once we have received all requested documentation we will complete the loan modification review within 10-15 business days. Once the analysis is completed, the information will be forwarded to our bankruptcy servicing department and bankruptcy counsel who will contact you or your attorney (if you are represented by counsel) to discuss the next steps. Please be advised that any modification may require the approval of the bankruptcy court.

Should you want to confirm receipt of the above information, please call (800) 669-5224.

**IMPORTANT NOTICE**

This letter is being furnished **for informational purposes only** and should not be construed as an attempt to collect against you personally. While in the future, your obligation to Bank of America may or may not be discharged by operation of law, Bank of America will retain the ability to enforce its rights against the property securing this loan should there be a default.

If you are presently involved in a Chapter 13 proceeding, please be advised that should this information conflict with any order or requirement of the Court, you are required to obey all orders of the Court. You may disregard this information to the extent it conflicts with any order or requirement of the Court.

Sincerely,

Shellpoint/Lincicome

BK NO COM 007027 TER

AA02136



# EXHIBIT Q

# EXHIBIT Q



0149104 01AT 0.357 \*\*AUTO T5 0 2288 89403-9055  
PO A4 AG 0401---G-2-7- C0000068 IN 1 P49254

VICENTA LINCICOME

70 Riverside Dr  
Dayton NV 89403-9055**INTEREST-ONLY LOAN  
MONTHLY STATEMENT**  
(During the Interest-Only  
Period)**IMPORTANT NOTICE**

If you and BAC Home Loans Servicing, LP have entered into an agreement to address your monthly payments, please make payments in accordance with this agreement.

If you have qualified for an interest rate reduction based upon current active military service, subsequent statements may not reflect the reduced payment amount. Please refer to the notice previously sent to you for the reduced payment amount.

**Your Payment Choices This Month**

The amounts listed below are total payments, including amounts collected for escrow items such as taxes and insurance premiums. You can also pay additional Principal any month in any amount, by specifying "Additional Principal" in the payment coupon.

Payment Information	Total Payment Amount**	Principal/and or Interest Payment	Outstanding Late Charges	Optional Products*
Interest Only Payment ***	\$2,435.43	\$2,183.67	\$218.36	\$0.00

15-Year Amortized Payment Choice This Payment Choice is not available this month.

Amortized Payment Choice This Payment Choice is not available this month.

Please note: Amounts above may change based on payments made, received or returned before or after this statement was created.

\*\*Outstanding late charges up to \$400.00 are reflected in the payment choice amount.

\*\*\* The Amortized & 15-year Amortized Payment Choice (Amortized Payment Choices) amounts are based on the assumption that these payments will always be received on the scheduled due date. You are not required to pay these amounts. The extra amount of Principal included with each of these alternative Amortized Payment Choices will be applied as a partial Prepayment of Principal on the date the payment is received. The interest portion of your payment will be applied as of the scheduled due date. The Amortized Payment is similar to, but not identical to the Interest and Principal payment that you will be required to make after the Interest-Only Period ends. When that happens, your Interest and Principal payments will be applied to your loan as of the scheduled due date. The Amortized Payment Choices will reduce your principal balance and the amount of interest you will pay over the life of this loan. These Amortized Payment Choices are provided to you as an additional service, but by no means are you limited to these choices when it comes to the amount of partial prepayments of principal that you may select on your own. IMPORTANT NOTE: Be sure you review any prepayment penalty provision you may have in your loan. Depending on the amount of any partial Prepayments and when you make them, you may owe a prepayment charge at the time you payoff your loan.

**Your Home Loan Snapshot as of October 29, 2009**

Loan type	30 Yr Conv Jumbo ARM
Principal balance	\$381,150.00
Escrow balance	-\$2,961.30
Interest rate	6.875%

Payment Due Date:	11/01/2009
Past Due Payment Amount	\$42,143.00
Fees Due	\$1,746.40
Partial Payment Balance	\$2,272.62
Late Charge if payment is received after 11/16/2009 (see next page for account activity details)	\$109.18

We may charge you a fee for any payment returned or rejected by your financial institution, subject to applicable law.

00766

AA02138



**Your Home Loan Activity This Month**

Date	Description	Total	Principal	Interest	Additional Principal	Escrow	Late Charges	Optional Products You Requested	Buy-down Assistance	Unapplied
09/28/2009	Misc posting	\$2,272.62								\$2,272.62
09/29/2009	County tax pmt	-587.00				-587.00				
<b>**Ending balance</b>			<b>\$381,150.00</b>							

\*\*\*Please note: The ending principal balance shown above may not be the amount required to pay off your loan. For payoff information, you may use our 24-hour automated information system by calling 1.800.669.5833.

**Escrow account expenses**

We are responsible for the payment of the following escrow items with the exception of the items marked with an asterisk (\*).

The payment of the items marked with an asterisk (\*) is the responsibility of the homeowner.

Description	Payee	Policy number/Tax ID	Frequency	Next due date	Amount due
Homeowners insurance	AAA Fire and Casualty	H05002456680	Annual	05/24/2010	\$646.00
County taxes	Lyon County Treasurer	02940117	Annual	07/01/2010	\$590.14
County taxes	Lyon County Treasurer	02940117	Annual	09/01/2010	\$587.00
County taxes	Lyon County Treasurer	02940117	Annual	12/01/2009	\$599.00
County taxes	Lyon County Treasurer	02940117	Annual	02/01/2010	\$599.00

**TO  
CONTACT  
US**

**CREDIT REPORTING NOTICE**  
We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

For up-to-the-minute information about the account, use our 24-hour automated information system. To ask us about this statement or account information, call **1.866.653.6183** Monday-Friday, 8am to 9pm Eastern Time. Calls may be monitored and/or recorded for service quality purposes. *Se habla español.* 1.800.295.0025.

**Please have the account number available when you call.**

Or write to us at:

The address for general inquiries and all RESPA Qualified Written Requests is: BAC Home Loans Servicing, LP, Attn: Customer Service CA6-919-01-41, PO Box 5170, Simi Valley, CA 93062-5170

Tax Dept CA6-913-LB-01, PO Box 10211, Van Nuys, CA 91410-0211  
Insurance Department, TX2-977-01-03, PO Box 961206, Fort Worth, TX 76161-0206

Payments, Attn: Remittance Processing PO Box 10219, Van Nuys, CA 91410-0219

Overnight deliveries 400 Countrywide Way, CA6-919-02-13, Simi Valley, CA 93065-6298

Our website [www.bankofamerica.com/cwcustomers](http://www.bankofamerica.com/cwcustomers)

Your account information is available in Spanish on the site mentioned above.





**Interest-Only Payment**

The Interest-Only Payment does not include any amount for principal. This means that none of the money you pay goes toward paying back the amount you borrowed, and that the outstanding balance on your loan does not go down. Payments on your loan may increase substantially when the interest only period ends.

Account number

4785

(7)

Vicenta Lincicome  
70 Riverside Drive  
Dayton, NV 89403

Payment due NOV 1, 2009

\$2,544.61

After Nov 16, 2009 late payment \$2,544.61

Please update e-mail information on the reverse side of this coupon.

2288

BAC Home Loans Servicing, LP  
PO Box 10219  
Van Nuys, CA 91410-0219

Additional  
PrincipalAdditional  
Escrow

Check total



4785700000243543000254461

586990058 4785

**15-Year Amortized Payment Choice  
(Principal and Interest) - Based on  
the payment being received by the  
Due Date**

This amount includes the Interest-Only Payment, as well as an estimate of a sufficient amount of principal to pay off your loan (Principal and Interest) in substantially equal payments, based on a 15-year term from the first Interest-Only Payment due date, at the current interest rate, with the assumption that the current interest rate will remain in effect for the remaining term of your loan. Your extra principal payments will be applied to your loan on the date this payment is received.

**This Payment Choice is not available this month.****Amortized Payment Choice  
(Principal and Interest) - Based on  
the payment being received by the  
Due Date**

This amount includes the Interest-Only Payment, as well as an estimate of a sufficient amount of principal to pay off your loan (Principal and Interest) at the maturity date in substantially equal payments, at the current interest rate, with the assumption that the current interest rate will remain in effect for the remaining term of your loan. Your extra principal payments will be applied to your loan on the date this payment is received.

**This Payment Choice is not available this month.**



# EXHIBIT R

# EXHIBIT R



**Bank of America**

Home Loans

P.O. Box 5170  
SIMI VALLEY, CA 93062-5170

**IMPORTANT INFORMATION ENCLOSED**

AT2 1-772-22321-0001215-001-1-000-000-000-000

VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON, NV 89403

Send Correspondence to:  
P.O. Box 5170  
Simi Valley, CA 93062-5170

Business Address:  
450 American Street  
Simi Valley, CA 93065-6285

Notice Date: July 14, 2015

Loan No.: [REDACTED] 4785

Property Address:  
70 Riverside Drive  
Dayton, NV 89403

VICENTA LINCICOME:

The servicing of your home loan will transfer to Fay Servicing on August 01, 2015.

**IMPORTANT INFORMATION ABOUT THE SERVICING OF YOUR HOME LOAN**

On August 01, 2015, the servicing of your above referenced mortgage loan will transfer to Fay Servicing. As of that date, your new servicer, Fay Servicing, will support all of your loan servicing, including billing, payment processing, and customer support. You will no longer receive mortgage statements from Bank of America; instead, your statements will be sent by Fay Servicing.

Enclosed is a **Notice of Servicing Transfer** from **Bank of America** regarding the above referenced loan. No action is required on your part in response to this notice. In addition to the information provided in this letter, this notice will contain important information about the servicing transfer of your loan. Please note this servicing transfer only applies to the loan noted above. Other loans you may have with us will not be affected by this change unless you are notified. Please review this notice and retain it for your records.

In the mortgage lending industry, the transfer or sale of loan servicing to other servicing institutions is a common practice and we'll work closely with Fay Servicing to make the transition as smooth as possible. If you have any questions or concerns regarding this transfer, we're available to answer your questions Monday-Friday 7a.m. to 7p.m. Local Time at 1-800-669-6607.

**WHAT YOU NEED TO KNOW**

If you are currently being considered for a loan modification or other foreclosure avoidance program, your new servicer Fay Servicing is aware of your current status and will have all of your documents. Please contact Fay Servicing to complete the process and determine which programs may best suit your current situation. For more information on working with Fay Servicing, please review the frequently asked questions below.

**ANSWERS TO QUESTIONS YOU MAY HAVE****What will change with my servicing transfer?**

- Your loan number and payment address information will change once your loan has been transferred. Please look for a letter from Fay Servicing within the next few weeks which will outline this important information.
- The transfer of your loan to Fay Servicing does not affect any terms or conditions of your mortgage loan, other than those terms directly related to the servicing of the loan.
- Your monthly payment will not be affected by this transfer.

**Will the quality of my loan service change?**

- We expect that the quality of your loan service will not change. We are transferring servicing on your loan to Fay Servicing, an experienced mortgage servicer who will work with you on your mortgage concerns.

**Where should I make my home loan payments?**

- You should continue to make your monthly payment to Bank of America through July 31, 2015. You will begin making payments to Fay Servicing on August 01, 2015.
- If you do not receive a billing statement from Fay Servicing before the payment is due, write your new loan number on your check and mail it to the payment address shown on the enclosed notice. Please note, if you do not have the new loan number, you may write your old Bank of America loan number on the check.

**What if I have automatic payments set up with Bank of America?**

- Any automatic payments set up with us through the PayPlan programs will be discontinued as of July 31, 2015. Please look for instructions from Fay Servicing or contact them on or after August 01, 2015 to determine what payment options they may offer.

SEE REVERSE SIDE FOR IMPORTANT INFORMATION



**Will I still be able to make my mortgage payment at a Bank of America financial center or through online banking?**

- You will no longer be able to make your payment at a Bank of America financial center for the mortgage loan being transferred.
- If you make payments through Bank of America online banking or any other online banking or bill payment service, you will need to update your loan number and payee information for Fay Servicing on or after August 01, 2015.

**When my loan is transferred, will I still have access to my online loan information through Bank of America?**

- After the transfer is complete, your mortgage account will be moved to Fay Servicing. As a result, you will no longer access your mortgage information through Bank of America. Prior to the transfer, you may choose to download any information currently online to keep for your own records, such as tax documents, mortgage statements, payment history, etc. Fay Servicing will be able to provide you with information about access to your loan account information following the transfer. If you have any other accounts with Bank of America, such as checking, savings or credit card, you will still be able to access those accounts through Bank of America's online banking.

**How will the service transfer affect my other Bank of America accounts?**

- There will be no change to any additional accounts you have with us.
- If you have a Bank of America Advantage, Premium or Preferred checking account, and you're not charged a monthly fee on your account because your mortgage is with us, this will not change with the transfer of your mortgage to another servicer. We'll let you know in writing if this changes in the future.

**What if I am currently participating in a loan modification or other foreclosure avoidance program (e.g., forbearance, short sale, refinance or deed in lieu of foreclosure)?**

- The loan assistance programs that are offered by Fay Servicing are determined by the owner (also known as the investor) or insurer of your loan. Where applicable, Fay Servicing has agreed to evaluate your loan under the same investor or insurer guidelines as Bank of America, N.A..
- We will transfer any supporting documentation you may have submitted to us to Fay Servicing. We encourage you to work with Fay Servicing to complete the process and determine which programs may best suit your current situation.
- You should continue to make your payments to Bank of America, N.A. through July 31, 2015. On or after August 01, 2015, your payments should be made to Fay Servicing unless you are provided additional direction.
- If your loan is pending a decision regarding qualification for these programs, that decision will now be made by Fay Servicing.

**Will my ability to receive financial counseling be impacted by this servicing transfer?**

- If you have previously received an offer for financial counseling in association with a HAMP trial or permanent modification, the transfer of your loan does not impact that offer.
- If you have already set an appointment, please continue to attend your scheduled appointment.
- If you have yet to take advantage of this opportunity, please contact us at your earliest convenience by calling the number provided in your offer letter or by contacting your current Relationship Manager.

**What if I need loan assistance after the transfer?**

- If you experience a hardship and struggle with making your home loan payments after the servicing of your loan has been transferred, please contact Fay Servicing right away to request help. They will determine which program may be right for you based on the applicable investor and insurer guidelines.

**What if I am refinancing my mortgage loan that is being transferred?**

- Your refinance will not be affected by the upcoming loan transfer. If you are working on a refinance through Bank of America Home Loans, your application remains active and we will continue to work with you on your refinance. Please contact the Mortgage Loan Officer or Loan Processor you have been working with if you have any questions.

**What about my optional insurance products with or through Bank of America?**

- If your payments include amounts for any optional insurance products such as credit insurance, accidental death insurance, etc., please read the "Information About Optional Insurance Products" section in the enclosed notice carefully.

**What about my other (non-insurance) optional products with or through Bank of America?**

- If your payments include amounts for any other optional products you have purchased such as home warranty, identity theft protection, etc., we will no longer make payments to the optional product provider on your behalf. As a result, your optional product may be cancelled unless you are able to make alternative arrangements to pay the amounts due. To see if it is possible to establish another payment method and maintain your optional products, you will need to contact your optional product provider.
- Please note, if you have an optional Borrowers Protection or Line Protection Plan®, this plan will cancel when the servicing of your loan is transferred and you will receive a separate communication from us confirming the cancellation of your plan. If you have any questions about an existing Protection Plan® benefit, please contact Protection Plan Services. Your provider contact information may be found on your monthly mortgage statement. If you have more than two optional products, they may not all be listed on your monthly mortgage statement. If you are unsure about how many optional products you have or you have questions about your products, please contact Bank of America.

**WE'RE HERE TO HELP**

Thank you for the opportunity to serve your home loan needs. If you have any questions or need assistance prior to your loan transfer, please call us toll free at 1-800-669-6607, Monday-Friday 7a.m. to 7p.m. Local Time.

Beginning August 01, 2015, Fay Servicing can assist you with any questions related to your home loan and the transfer of servicing. Fay Servicing's customer service number is 1-800-495-7166, 9:00 am to 6:00 pm M-F and 10:00 am to 2:00 pm



**NOTICE OF SERVICING TRANSFER**

You are hereby notified that the servicing of your mortgage loan, that is, the right to collect payments from you, will be assigned, sold or transferred from **Bank of America, N.A.** to **Fay Servicing**, effective August 01, 2015.

The transfer of the servicing of your mortgage loan does not affect any terms or conditions of the mortgage instruments, other than those terms directly related to the servicing of your loan. Except in limited circumstances, federal law requires that your present servicer send you this notice at least 15 calendar days before the effective date of transfer, or at closing. Your new servicer must also send you this notice no later than 15 calendar days after this effective date or at closing.

**YOUR SERVICER PRIOR TO AUGUST 01, 2015:**

Your *present servicer* is **Bank of America, N.A.**. If you have any questions relating to the transfer of servicing from your present servicer, please call **Bank of America, N.A.** Customer Service at 1-800-669-6607, Monday-Friday 7a.m. to 7p.m. Local Time. This is a toll-free number. The address to send written questions to your present servicer relating to the transfer of servicing of your mortgage loan (but not your loan payments) is: Customer Service Correspondence, P.O. Box 5170, Simi Valley, CA 93062-5170.

**YOUR NEW SERVICER ON AND AFTER AUGUST 01, 2015:**

Your *new servicer* will be **Fay Servicing**.

Phone Number for Questions Related to Servicing Transfer

The telephone number of **Fay Servicing** is 1-800-495-7166. If you have any questions relating to the transfer of servicing to your new servicer, please call **Fay Servicing** Customer Service toll-free at 1-800-495-7166, 9:00 am to 6:00 pm M-F and 10:00 am to 2:00 pm Sat Central Standard Time.

Address for Written Questions Related to Servicing Transfer

The address to send written questions related to the transfer of servicing to **Fay Servicing** is:

Fay Servicing  
PO Box 809441

Chicago, IL 60680-9441

Address for Mailed Payments

The address to send payments to **Fay Servicing** is:

Fay Servicing  
PO Box 3187  
Carol Stream, IL 60132-3187

Please include your loan number on all checks, cashier's checks and other payments sent to **Fay Servicing**.

**INFORMATION CONCERNING YOUR LOAN PAYMENTS:**

The date that **Bank of America, N.A.** will stop accepting payments from you is July 31, 2015.

The date that your *new servicer* **Fay Servicing** will start accepting payments from you is August 01, 2015. Send all payments due on or after that date to your *new servicer*.

**INFORMATION ABOUT OPTIONAL INSURANCE PRODUCTS:**

The transfer of servicing may affect the terms of or the continued availability of credit insurance, accidental death insurance or any other type of optional insurance in the following manner: **Bank of America, N.A.** will no longer make payments to the insurance company on your behalf. As a result, your coverage may be cancelled.

To see if it is possible to maintain coverage, you will need to contact your insurance provider to find out if you are still eligible to receive the coverage and/or to arrange another payment method.

**TREATMENT OF PAYMENTS FOR THE 60 DAYS AFTER SERVICING TRANSFER:**

Under federal law, during the 60-day period beginning the effective date of the transfer of the servicing of your mortgage loan, a loan payment received by current servicer on or before its due date may not be treated by the new servicer as late and a late fee may not be imposed on you.



Sat Central Standard Time.



**MILITARY PERSONNEL/SERVICEMEMBERS.** If you or your spouse is a member of the military, please contact us immediately. The federal Servicemembers Civil Relief Act (SCRA) and similar state laws provide significant protections and benefits to eligible military service personnel. However, military service and/or SCRA qualification may not necessarily prevent foreclosure. If your loan is in default, a court may authorize foreclosure. If you are having difficulty making your payments, please call us as soon as you can so we can discuss various home retention options. You can reach our Enterprise Military Benefits Unit at 1.877.345.0693. From outside the U.S., please call us at 1.817.245.4094. Both numbers are available 24 hours a day, 7 days a week. Homeowner counseling is also available at agencies such as Military OneSource at [militaryonesource.mil](http://militaryonesource.mil) or 1.800.342.9647 and Armed Forces Legal Assistance at [legalassistance.law.af.mil](http://legalassistance.law.af.mil), and through HUD-approved housing counseling agencies, which you can find at [hud.gov/offices/hsg/sfh/hcc/hcs.cfm](http://hud.gov/offices/hsg/sfh/hcc/hcs.cfm).

This communication is from Bank of America, N.A., the servicer of your home loan.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector. If you are currently in a bankruptcy proceeding or have previously obtained a discharge of this debt under bankruptcy law, this notice is for informational purposes only and is not an attempt to collect a debt, a demand for payment or an attempt to impose personal liability for a discharged debt.

01021

AA02145



# EXHIBIT S

# EXHIBIT S



Loan Number: <sup>Redacted</sup> 4785

Dear Bank of America:

Please accept this as notification that I intend to accept the Trial Plan Offer dated 06/01/2015. I understand this notice serves only to request suspension of foreclosure activity. To fully accept the Trial Period Plan offer, I must make the first trial payment by the payment on or before due date. I also understand that I may make the payment early, but failure to make the first trial payment by the due date will result in cancellation of the Trial Plan Offer. If the Trial Plan Offer is cancelled my mortgage will not be modified under this offer and foreclosure activity will continue.

This letter is to inform Bank of America, N.A. of my/our intent to accept the Trial Period Plan offer.

*Vicenta Lincicome*

Vicenta Lincicome Signature

*5-6-2015*

Date

#### Reminder about suspending foreclosure

To prevent your loan from starting the foreclosure process or to suspend foreclosure if that process has already begun, you must notify us by 05/08/2015 of your intent to accept this trial offer through one of the following options:

- Sign and return this *Intent to Accept Trial Offer* form using the prepaid envelope provided or mail to the address below
- Contact us at 1.800.669.6650
- Make your first trial payment

**Please Note:** If we do not receive your acceptance to this trial offer by one of the options above by 05/08/2015, we can only accept the first trial payment in certified funds to prevent foreclosure. This payment must still be made by the first payment due date noted below and your remaining trial payments can be paid by check/money order or deducted directly from your checking account, if applicable.

Additionally, if you have a scheduled foreclosure sale date and take the steps to accept this offer (as described above), Bank of America will make every effort to work with the investor on your loan and the foreclosure court to postpone your sale. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale or the investor on your loan may not halt the scheduled sale.

Mail to:  
Bank of America, N.A.  
11802 Ridge Parkway, Ste 100 HRM, Home Retention  
Broomfield, CO 80021



<sup>Redacted</sup> 4785+USC+FNMA-STREAMLINE-SOLICIT-TRIAL+419013

C3\_2658-4  
LINCICOME\_000045

AA02147



# EXHIBIT T

# EXHIBIT T



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MAIN DISTRICT OF NEVADA  
RENO DIVISION**

<b>IN RE:</b> <b>LINCICOME A. ELLIS JR &amp; VICENTA J</b>	§ § § § § § §	<b>CASE NO.10-51219</b>
<b>DEBTOR</b>		
<b>Bank of America, N.A., successor by merger to BAC Home Loans Servicing, L.P.</b>		<b>CHAPTER13</b>
<b>CREDITOR</b>		

**NOTICE OF MORTGAGE PAYMENT CHANGE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Comes now Creditor, Bank of America, N.A., successor by merger to BAC Home Loans Servicing, L.P. and respectfully provides notice of a change of on-going mortgage payment as indicated below.

1. New Payment: \$ 2431.95 Effective January 01, 2012
  - a. Change Reason: Escrow Change
  - b. Principal and Interest: \$ 2183.67
  - c. Escrow: \$ 248.28
  - d. Total Payment: \$ 2431.95
2. Loan Number: xxxxx4785
3. All future payments made on the above account should be made payable to Bank of America, N.A., successor by merger to BAC Home Loans Servicing, L.P. and sent to 7105 Corporate Drive Mail Stop TX2-982-03-03 , Plano, TX 75024-0000.

Dated: November 01, 2011

Respectfully submitted,  
National Bankruptcy Services

/s/ Brad Cloud  
Brad Cloud  
9441 LBJ Freeway Suite 250  
Dallas, TX 75243  
972-643-6600  
972-643-6698 (Telecopier)  
E-mail:notice@bkcyllaw.com  
Authorized Agent for  
Bank of America, N.A., successor by merger to BAC  
Home Loans Servicing, L.P.



**CERTIFICATE OF SERVICE**

I, Brad Cloud, hereby certify that a true and correct copy of the foregoing Notice of Payment Change has been served upon the following parties in interest on (or before) November 08, 2011 via the method listed below:

via electronic notification:

Debtor's Attorney  
ROBERT G JOHNSTON  
412 N Division St  
Carson City, NV 897034168

via pre-paid regular U.S. mail:

Primary Debtor  
LINCICOME A. ELLIS JR & VICENTA J  
70 RIVERSIDE DR  
DAYTON, NV 89403

via electronic notification:

Chapter 13 Trustee  
WILLIAM VANMETER  
P.O. BOX 6630  
RENO, NV 89513

/s/ Brad Cloud

10-51219

Any questions or objections should be directed to and served on  
at the address below:

Creditor: Bank of America, N.A., successor by merger to BAC Home Loans Servicing, L.P.  
Contact: Customer Service  
Address 1: 2380 Performance Dr. Bldg C Mail Stop: RGV-C-32  
Address 2:  
City: Richardson  
State: TX  
Zip: 75082  
Telephone: 1-800-669-5224  
Fax: 972-498-5932  
E-mail: [bankruptcy.administration@bankofamerica.com](mailto:bankruptcy.administration@bankofamerica.com)



**Bank of America**



**Home Loans**

VICENTA LINCICOME

October 27, 2011

70 RIVERSIDE DR

DAYTON

NV 89403

This statement is being furnished for informational purposes only and should not be construed as an attempt to collect against you personally. While in the future, your obligation to Bank of America, N.A., successor by merger to BAC Home Loans Servicing, L.P. may or may not be discharged by operation of law, Bank of America, N.A., successor by merger to BAC Home Loans Servicing, L.P. will retain the ability to enforce its rights against the property securing this loan should there be a default.

If you are presently involved in a Chapter 13 proceeding, please be advised that should this amount conflict with any order or requirement of the Court, you are required to obey all orders of the Court.

**PAYMENT CHANGE NOTIFICATION**

This is to advise you that a recent escrow analysis completed on your loan has resulted in a change to your monthly payment.

**WHAT THIS MEANS**

Due to the change in your escrow payment, your current monthly payment of **\$ 2,437.26** has also changed. Effective **1/1/2012** your new monthly payment amount will be **\$2,431.95**.

Below is a breakdown of the new payment calculations:

“This correspondence is from Bank of America, N.A, successor by merger to BAC Home Loans Servicing, LP”



Bank of America: Pr

New Principal & Interest Payment	\$2,183.67
New Escrow Payment*	\$ 248.28
<b>New Monthly Payment</b>	<b>\$2,431.95</b>

\* If your account is included in a Chapter 13 plan, we have credited the escrow account for the amount included in the proof of claim.

**WHAT YOU NEED TO DO**

If you have any questions, please contact our Customer Service Department at 1-800-669-5224.

Cc: ROBERT G JOHNSTON

412 N DIVISION

CARSON CITY NV 89703-0000

**Account #:** \*\*\*\*4785

**Case #:** 10-51219/NV/

**ID#:** 78510-5121111024

WILLIAM VANMETER

P.O. BOX 6630

RENO, NV 8-9513

THE BRICE LEGAL GROUP

9441 LYNDON B JOHNSON FWY

DALLAS, TX 752430000

“This correspondence is from Bank of America, N.A, successor by merger to BAC Home Loans Servicing, LP”



Bank of America: Pr

This correspondence is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

AA02153



# EXHIBIT U

# EXHIBIT U



*Bruce T. Beesley*

Honorable Bruce T. Beesley  
United States Bankruptcy Judge



Entered on Docket  
January 05, 2015

**TIFFANY & BOSCO, P.A**

Gregory L. Wilde, Esq.

Nevada Bar No. 004417

212 South Jones Boulevard

Las Vegas, Nevada 89107

Telephone: 702 258-8200

Fax: 702 258-8787

[nvbk@tblaw.com](mailto:nvbk@tblaw.com)

Bank of America, N.A.

14-70888

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

A. Ellis Lincicome, Jr. and Vicenta J. Lincicome

Bk Case No.: 10-51219-gwz

Date: December 30, 2014

Time: 10:00am

Chapter 13

Debtors

**ORDER TERMINATING AUTOMATIC STAY**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Automatic Stay in the above-entitled bankruptcy proceedings is terminated as to the Debtor and the Trustee in favor of Secured Creditor Bank of America, N.A., its assignees and/or successors in interest, of the subject property, generally described as 70 Riverside Drive, Dayton, NV 89403.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Movant shall give Debtors at least seven business days' notice of the time, place and date of sale.



1 IT IS FURTHER ORDERED, ADJUDGED and DECREED that Movant is exempt from  
2 further compliance with Fed. Bankr. Rule P. 3002.1.

3 IT IS FURTHER ORDERED, ADJUDGED and DECREED That the Order be binding and  
4 effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of  
5 the United States Code.  
6

7 Submitted by:

8   
9 TIFFANY S. BOSCO, P.A.

10 By: Gregory L. Wilde, Esq.  
11 Gregory L. Wilde, Esq.  
Attorney for Movant

12 APPROVED / DISAPPROVED

13 By: \_\_\_\_\_  
14 Robert G. Johnston  
Attorney for Debtor(s)

15 APPROVED / DISAPPROVED

16 By: \_\_\_\_\_  
17 William A. Van Meter  
18 Chapter 13 Trustee  
19  
20  
21  
22  
23  
24  
25  
26



ALTERNATIVE METHOD re: RULE 9021:

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

☐ The court has waived the requirements set forth in LR 9021(b)(1).

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

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

Debtor's counsel:

☐ approved the form of this order ☐ disapproved the form of this order

☐ waived the right to review the order and/or ☐ failed to respond to the document

☐ appeared at the hearing, waived the right to review the order

☒ matter unopposed, did not appear at the hearing, waived the right to review the order

Trustee:

☐ approved the form of this order ☐ disapproved the form of this order

☐ waived the right to review the order and/or ☐ failed to respond to the document

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

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

Submitted by:

/s/ Gregory L. Wilde, Esq.

Gregory L. Wilde, Esq.

Attorney for Secured Creditor



# EXHIBIT V

# EXHIBIT V



**United States Bankruptcy Court  
District of Nevada**

**Case No. 10-51219-gwz  
Chapter 13**

In re: (Name of Debtor)

A. ELLIS LINCICOME JR.  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

VICENTA J. LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

Social Security No.:

xxx-xx-2173

xxx-xx-9330

**FINAL DECREE**

The estate of the debtor(s) noted below has been fully administered:

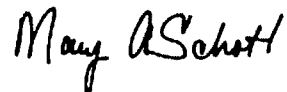
- ☒ A. ELLIS LINCICOME JR.
- ☒ VICENTA J. LINCICOME

IT IS ORDERED THAT WILLIAM A. VAN METER is discharged as trustee of the estate of the above named debtor(s).

The Chapter 13 case of the above named debtor(s) is closed.

Dated: 7/1/15

BY THE COURT



Mary A. Schott  
Clerk of the Bankruptcy Court



# EXHIBIT W

# EXHIBIT W



DOC# 572258

11/03/2017

10:29AM

**Official Record**

Requested By  
SERVICELINK TITLE AGENCY INC.

Lyon County - NV

Dawna L. Warr - Recorder

Page: 1 of 6

Fee: \$288.00

Recorded By BKC

RPTT: \$0.00

APN: 029-401-17

WHEN RECORDED MAIL TO:

Sables, LLC

c/o Zieve Brodnax & Steele

3753 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169



0572258

TS No. : 16-42397

**NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO  
SELL THE REAL PROPERTY UNDER DEED OF TRUST**

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five (5) business day prior to the date set for the sale of your property pursuant to NRS 107.080. No sale date may be set until three months from the date this Notice of Default may be recorded (which date of recordation appears on this notice). This amount is \$265,572.39 as of 10/31/2017 and will increase until your account becomes current.

NOTICE IS HEREBY GIVEN THAT: SABLES, LLC, a Nevada limited liability company is either the original trustee, or the duly appointed substituted Trustee, or acting as agent for the Trustee or the Beneficiary under a under a Deed of Trust dated 5/23/2007, executed by VICENTA LINCICOME, A MARRIED WOMAN, as trustor to secure obligations in favor of Mortgage Electronic Registration Systems, Inc., as nominee for SIERRA PACIFIC MORTGAGE COMPANY, INC. its successors and assigns, as Beneficiary, recorded 5/25/2007, instrument no. 407150 The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011 of Official Records in the office of the County recorder of Lyon, County, Nevada securing, among other obligations including

One note(s) for the Original sum of \$381,150.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by Beneficiary; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The monthly installment which became due on 9/1/2008, along with late charges, and all subsequent monthly installments.

You are responsible to pay all payments and charges due under the terms and conditions of the loan documents which come due subsequent to the date of this notice, including, but not limited to; foreclosure trustee fees and costs, advances and late charges.

Furthermore, as a condition to bring your account in good standing, you must provide the undersigned with written proof that you are not in default on any senior encumbrance and provide proof of insurance.

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AA02161





**T.S. No.: 16-42397**

**Nothing in this Notice of Default should be construed as a waiver of any fees owing to the beneficiary under the Deed of Trust, pursuant to the terms and provisions of the loan documents.**

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered to said duly appointed Trustee a written Declaration of Default and Demand for Sale and has deposited with said duly appointed Trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

### **NOTICE**

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. As to owner occupied property, where reinstatement is possible, the time to reinstate may be extended to 5 days prior to the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

**To determine if reinstatement is possible and the amount, if any, to cure the default, contact:**

PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
c/o Fay Servicing, LLC  
c/o SABLES, LLC, a Nevada limited liability company  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169  
Beneficiary Phone: 800-495-7166  
Trustee Phone: (702) 664-1774

To reach a person with authority to negotiate a loan modification on behalf of the lender:

Lauren Jowers  
800-495-7166

**Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

If you have any questions, you should contact a lawyer or the governmental agency that may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

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

Attached hereto and incorporated herein by reference is the Affidavit of Authority in Support of Notice of Default and Election to Sell pursuant to NRS 107.080.





572258

11/03/2017  
3 of 6**T.S. No.: 16-42397**

You may wish to consult a credit counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with names and addresses of local HUD approved counseling agency by calling their approved Local Housing Counseling Agency toll free number: (800) 569-4287 or you can go to HUD's website: <http://portal.hud.gov>.

Dated: 11/1/2017

SABLES, LLC, a Nevada limited liability company, as Trustee  
Sables, LLC  
c/o Zieve Brodnax & Steele  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
(702) 948-8565

  
\_\_\_\_\_  
Michael Busby, Trustee Sale Officer

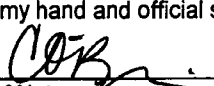
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CALIFORNIA  
County of ORANGE

On 11/1/2017, before me, Christine O'Brien, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature of Notary

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AA02163





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11/03/2017  
4 of 6

### Affidavit of Authority

(Nevada Revised Statute §107.080 as amended effective June 1, 2013)

Re: TS# 16-42397

Borrower Name: VICENTALINCICOME

Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

I, Veronica Talley, am the Foreclosure Specialist at Fay Servicing, LLC, the current servicer for the beneficiary of the deed of trust described in the notice of default and election to sell to which this affidavit is attached ("Deed of Trust"). The following facts are based upon my personal review of documents that are of public record in the State of Nevada and personal knowledge acquired by my personal review of the business records of the beneficiary, which are within my custody and control. The business records of the beneficiary contain entries made in the ordinary course of business at or about the time the events reflected therein occurred.

- 1(a). The full name and business address of the current trustee of record for the Deed of Trust is **Sables LLC, a Nevada Limited Liability Company, 3753 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169**
- 1(b). The full name and business address of the current holder of the Note secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**
- 1(c). The full name and business address of the current beneficiary for the obligation or debt secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**
- 1(d). The full name and business address of the current servicer for the obligation secured by the Deed of Trust is **Fay Servicing, LLC, 440 S. LaSalle St., Suite 2000, Chicago, IL 60605**
2. From my review of the documents of public record and the business records of the current beneficiary and a title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to Chapter 692A of the NRS, the name of each assignee and each recorded assignment of the Deed of Trust.
  - 2(a). Assignee Name: PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
Instrument and Recording Information: Assignment of Deed of Trust recorded on 11/25/2016  
Instrument No. 544042
  - 2(b). Assignee Name: Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP  
FKA Countrywide Home Loans Servicing, LP  
Instrument and Recording Information: Corporation Assignment of Deed of Trust recorded on 08/15/2011  
Instrument No. 480360
  - 2(c). Assignee Name: Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP  
FKA Countrywide Home Loans Servicing, LP  
Instrument and Recording Information: Assignment of Mortgage recorded on 11/10/2010  
Instrument No 467719
3. The current beneficiary under the Deed of Trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the Deed of Trust.
4. From my review of the documents of public record and the business records of the current beneficiary, the current trustee has authority to exercise the power of sale with respect to the property





572258

11/03/2017  
5 of 6

encumbered by the Deed of Trust, pursuant to instruction from the current beneficiary of record and current holder of the note secured by the Deed of Trust.

5. From my review of the documents of public record and the business records of the current beneficiary, the beneficiary, servicer of the obligation, or an attorney of the beneficiary or servicer has sent to VICENTA LINCICOME, a written statement of: (I) the amount of payment required to make good the deficiency in performance of payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement; (II) the amount in default; (III) the principal amount of the obligation or debt secured by the deed of trust; (IV) the amount of accrued interest and late charges; (V) a good faith estimate of all fees imposed in connection with the power of sale; and (VI) contact information for obtaining the most current amounts due and the local or toll-free telephone number that VICENTA LINCICOME may call to receive the most current amounts due and a recitation of the information in this affidavit.

6. The borrower or obligor of the loan secured by the Deed of Trust may call Fay Servicing, LLC at 800-495-7166 to receive the most current amounts due and a recitation of the information contained in this Affidavit.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct and that this Affidavit was executed on October 5, 2016.

By: **Fay Servicing, LLC , its attorney in fact**

**Veronica Talley**

(Print Name)

*Veronica Talley*

(Signature)

**Foreclosure Specialist IV**

(Title)

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

State of Texas

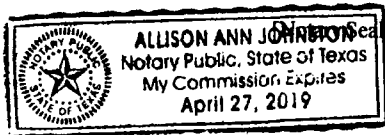
County of Denton

On October 5th 2016 before me, Allison Ann Schuster, Notary Public, personally appeared, Veronica Talley, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature







572258

11/03/2017  
6 of 6

## Declaration of Mortgage Servicer Pursuant to NR 107.510

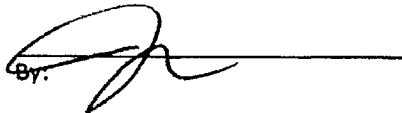
T.S. Number: 16-42397  
Borrower(s): VICENTA LINCICOME  
Mortgage Servicer: Fay Servicing, LLC  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

The undersigned, as an authorized agent or employee of the mortgage servicer named below, declares that:

1. ☒ The mortgage servicer has contacted the borrower pursuant to NRS 107.510 (2), to assess the borrower's financial situation and to explore options for the borrower to avoid a foreclosure sale". Thirty (30) days, or more, have passed since the initial contact was made.
2. ☐ The mortgage servicer has exercised due diligence to contact the borrower pursuant to NRS 107.510 (5), to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure". Thirty (30) days, or more, have passed since these due diligence efforts were satisfied.
3. ☐ No contact was required by the mortgage servicer because the individual(s) did not meet the definition of "borrower" pursuant to NRS 107.410.
4. ☐ During the preceding annual reporting period, the Lender has foreclosed on 100 or fewer real properties located in this state and therefore, pursuant to NRS 107.460, the provisions of NRS 107.400 to 107.560, inclusive, do not apply.
5. ☐ The loan is not a "residential mortgage loan" as defined in NRS 107.450.

I certify that this declaration is accurate, complete and supported by competent and reliable evidence which the mortgage servicer has reviewed to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information.

Dated: 4-5-2016

By: 

Page 1

LINCICOME\_000044

AA02166



# EXHIBIT X

# EXHIBIT X



**Doc #: 587470**

10/12/2018 02:27 PM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: SERVICELINK TITLE AGENCY INC

**Lyon County, NV**

**Dawna L. Warr, Recorder**

Fee: \$38.00 RPTT: \$0.00

Recorded By: mkassebaum

APN No.: 029-401-17

[Recording requested by:]

[When recorded mail to:]

**Sables LLC**

**c/o Zieve Brodnax & Steele**

**9435 West Russell Road, Suite 120**

**Las Vegas, Nevada 89148**

T.S. No. 16-42397

---

## **NOTICE OF TRUSTEE'S SALE**

**YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED 5/23/2007. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.**

A public auction sale to the highest bidder for cash, cashier's check drawn on a state or national bank, check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, or savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state will be held by the duly appointed trustee as shown below, of all right, title, and interest conveyed to and now held by the trustee in the hereinafter described property under and pursuant to a Deed of Trust described below. The sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by the Deed of Trust, with interest and late charges thereon, as provided in the note(s), advances, under the terms of the Deed of Trust, interest thereon, fees, charges and expenses of the Trustee for the total amount (at the time of the initial publication of the Notice of Sale) reasonably estimated to be set forth below. The amount may be greater on the day of sale.

**TRUSTOR: VICENTA LINCICOME, A MARRIED WOMAN**

Duly Appointed Trustee: Sables LLC, a Nevada Limited Liability Company

Recorded 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011 Official Records in the office of the Recorder of Lyon County, Nevada, Described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

**All that certain real property situate in the County of Lyon, State of Nevada, described as follows:**

**Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.**

**EXCEPTING THEREFROM all that portion thereof, lying below the natural ordinary high water line of the Carson River.**

**Date of Sale: 11/9/2018 at 11:00 AM**

LINCICOME\_000001

AA02168



Place of Sale: 31 S. Main Street Yerington, Nevada 89447  
Lyon County Courthouse  
Estimated Sale Amount: \$666,632.22  
Street Address or other common designation of real property: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

A.P.N. No.: 029-401-17

The undersigned Trustee disclaims any liability for any incorrectness of the street address or other common designation, if any, shown above. If no street address or other common designation is shown, directions to the location of the property may be obtained by sending a written request to the beneficiary within 10 days of the date of first publication of this Notice of Sale.

Date: 10/11/2018

Sables LLC, a Nevada Limited Liability Company  
c/o Zieve Brodnax & Steele  
9435 West Russell Road, Suite 120  
Las Vegas, NV 89148  
Phone: (702) 948-8565  
Sale Information: (714) 848-9272 [www.elitepostandpub.com](http://www.elitepostandpub.com)  
For Non-Automated Sale Information, call: (702) 664-1774

  
Michael Busby, Trustee Sale Officer


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

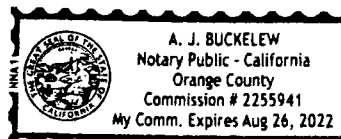
State of CALIFORNIA  
County of ORANGE

On 10/11/2018, before me, A.J. Buckelew Notary Public, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
A.J. Buckelew  
Signature of Notary



THIS FIRM IS ATTEMPTING TO COLLECT A DEBT AND  
ANY INFORMATION WE OBTAIN WILL BE USED FOR THAT PURPOSE.

LINCICOME\_000002

AA02169



# EXHIBIT Y

# EXHIBIT Y



**Doc #: 591393**

01/25/2019 08:21 AM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: FIRST AMERICAN TITLE INSURANCE C

**Lyon County, NV**  
**Margie Kassebaum, Recorder**

Fee: \$38.00 RPTT: \$1,148.55

Recorded By: Inhumildad

A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:  
**Breckenridge Property Fund, 2016, LLC**  
**2320 Potosi St. Ste 130**  
**Las Vegas, NV 89146**

**Recorded As An Accommodation**  
**Only Without Liability**

Forward Tax Statements to  
the address given above

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

**TRUSTEE'S DEED UPON SALE**

Transfer Tax: \$ 1148.55  
The Grantee Herein WAS NOT the Foreclosing Beneficiary.  
The Amount of the Unpaid Debt was \$671,249.37  
The Amount Paid by the Grantee was \$294,000.01  
Said Property is in the City of DAYTON, County of Lyon

SABLES, LLC, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

**Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:  
Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.

**EXCEPTING THEREFROM** all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by VICENTA LINCICOME, A MARRIED WOMAN as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.



**TRUSTEE'S DEED UPON SALE**

T.S. #: 16-42397

Order #: 160069595-NV-VOO

Trustee having complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified return receipt mail, postage pre-paid to each person entitled to notice in compliance with Nevada Revised Statutes 107.080.

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 1/4/2019. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$ \$294,000.01, in lawful money of the United States, in pro per, receipt there of is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, SABLES, LLC, a Nevada limited liability company, as Trustee, has this day, caused its name to be hereunto affixed.

Date: 1/15/2019

SABLES, LLC, a Nevada limited liability company

Geoffrey Neal, Trustee Sale Officer

Geoffrey  
Neal

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

State of CALIFORNIA  
County of ORANGE

On 1/15/2019 before me, the undersigned, J. Develasco Notary Public, personally appeared Geoffrey Neal who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

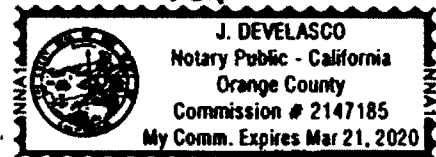
WITNESS my hand and official seal.

Signature

J. Develasco

(Seal)

J. Develasco





# EXHIBIT Z

# EXHIBIT Z



Case No: 18-CV-01332

Dept.: II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,  
Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-M4 LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.; BRECKENRIDGE  
PROPERTY FUND 2016, a Utah limited  
liability company; NEWREZ, LLC, d/b/a  
SHELLPOINT MORTGAGE SERVICING, LLC,  
substituted in for DOE 1; 1900 CAPITAL  
TRUST II, BY U.S. BANK, N.A., substituted  
in for DOE 2; MCM-2018-NPL2,  
substituted in for DOE 3; and DOES 4-10.  
Defendants.

**PLAINTIFFS' RESPONSE TO  
DEFENDANT NEWREZ, LLC D/B/A  
SHELLPOINT MORTGAGE SERVICING,  
LLC'S FIRST SET OF  
INTERROGATORIES TO PLAINTIFFS**

**PROPOUNDING PARTY:** NEWREZ, LLC D/B/A, SHELLPOINT MORTGAGE  
SERVICING (hereinafter "Propounding Party" or "Shellpoint")..

**RESPONDING PARTY:** ALBERT ELLIS LINCICOME, JR., AND VICENTA LINCICOME.



responsive. Plaintiffs reserve the right to supplement this response as communications are discovered.

**INTERROGATORY NO. 18:**

Please describe in detail all communications you have had with Shellpoint regarding the Loan and/or Loan Modification Agreement.

**RESPONSE TO INTERROGATORY NO. 18:**

All communications received by Plaintiffs from Shellpoint have been disclosed. Excepting communications made by counsel in this matter, Plaintiffs have not had any other communications with Shellpoint except for those already disclosed. Plaintiffs further reserve the right to supplement this response as communications are discovered.

**INTERROGATORY NO. 19:**

To the extent not described above, please describe all communications with you and any other individual or entity regarding the Loan and/or the Loan Modification Agreement.

**RESPONSE TO INTERROGATORY NO. 19:**

Plaintiffs object as the request is vague, ambiguous, and unduly burdensome. Plaintiffs also object to this interrogatory to the extent it seeks information protected by the attorney-client privilege.

Notwithstanding the objections, all relevant and non-incidental communications pertaining to the loan modification agreement have disclosed in the facts incorporated in the response to Interrogatory No. 2 and the documents previously disclosed that are referenced in Interrogatory No. 3. Plaintiffs reserve the right to supplement this response as communications are discovered.

**INTERROGATORY NO. 20:**

Please present all facts describing the current status of the Loan. This includes, but is not limited to, your understanding of whether the loan is current. Your monthly obligations, your remaining balance, your interest rate, and the remaining length of the Loan.

//



**RESPONSE TO INTERROGATORY NO. 20:**

Plaintiffs object to this interrogatory to the extent it seeks information protected by the attorney-client privilege and the work product of counsel.

Notwithstanding the objections, Plaintiffs assert that the loan terms applicable to their mortgage are those terms set forth in the 2007 Deed of Trust as modified by the 2009 Loan Modification Agreement. However, Plaintiffs also understand that their mortgage agreement was breached by Bank of America on October 1, 2009, by way of Bank of America's refusal to accept loan payments under the terms of the Loan Modification Agreement. The mortgage loan remains in breach with the principal balance as reflected in the Loan Modification Agreement being uncollectible and unenforceable until the breach is resolved. Plaintiffs reserve the right to supplement this response as facts are discovered or determined to be responsive.

**INTERROGATORY NO. 21:**

State all facts that support your contention in Paragraph 89 of the Second Amended Complaint that "The Trustee's Deed was issued in violation of NRS 107.0805."

**RESPONSE TO INTERROGATORY NO. 21:**

Plaintiffs object to this interrogatory to the extent that it calls for a legal conclusion.

Notwithstanding the objection, the facts supporting the contention that Sables LLC issued the Trustee's Deed in violation of NRS 107.0805 are incorporated herein in the response to Interrogatory no. 2. Moreover, Plaintiffs contention is that Bank of America's breach of the 2009 Loan Modification Agreement prevents enforcement of the mortgage. Plaintiffs contend that on October 1, 2009, Bank of America refused their second mortgage payment following their execution and submission of the Loan Modification Agreement. Plaintiffs further contend that the failure of all subsequent beneficiaries of the 2007 Deed of Trust, as modified by the 2009 Loan Modification Agreement, to uphold and seek to enforce the Loan Modification Agreement's terms prevent the enforcement of 2007 Deed of Trust against Plaintiffs until the breach of



1 **INTERROGATORY NO. 30:**

2 Identify everything you have done to mitigate your alleged damages in this matter.

3 **RESPONSE TO INTERROGATORY NO. 30:**

4 All acts to mitigate Defendants damages in this matter are fully set forth as  
5 incorporated in Plaintiffs' response to Interrogatory No. 2, including the statements  
6 pertaining to the multiple attempts to modify the 2007 Deed of Trust. Plaintiffs  
7 reserve the right to supplement this response as facts are discovered or determined  
8 to be responsive.

9 Dated this 10<sup>th</sup> day of December, 2020.

11 **Millward Law, Ltd.**

12  
13  
14 By: 

Michael G. Millward, Esq.

NSB: 11212

1591 Mono Ave.

Minden, NV 89423

(775) 600-2776

Attorney for Plaintiffs





**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that service of *PLAINTIFFS' RESPONSE TO DEFENDANTS, NEWREZ, LLC D/B/A SHELLPOINT MORTGAGE SERVICING, LLC'S FIRST SET OF INTERROGATORIES TO PLAINTIFFS* was served this 10<sup>th</sup> day of December, 2020 by:

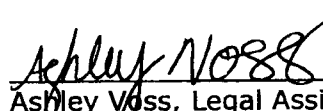
US Mail First Class:

Ramir M. Hernandez, Esq.  
Wright, Finlay, & Zak, LLP  
7785 W Sahara Ave., Suite 200  
Las Vegas NV 89117

Via Email to:

'Ramir M. Hernandez' <rhernandez@wrightlegal.net>

**Millward Law, Ltd.**

  
Ashley Voss, Legal Assistant



FILED

2021 MAR 18 PM 4:01

TANYA SCHIRINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*J. Schirine*

1 John T. Steffen (4390)  
2 Matthew K. Schriever (10745)  
3 Alex R. Velto (14961)  
4 HUTCHISON & STEFFEN, PLLC  
5 10080 West Alta Drive, Suite 200  
6 Las Vegas, NV 89145  
7 Tel (702) 385-2500  
8 Fax (702) 385-2086  
9 mschriever@hutchlegal.com

10 Casey J. Nelson, Esq. (12259)  
11 Wedgewood, LLC  
12 Office of the General Counsel  
13 2320 Potosi Street, Suite 130  
14 Las Vegas, Nevada 89146  
15 Tel (702) 305-9157  
16 Fax (310) 730-5967  
17 caseynelson@wedgewood-inc.com  
18 *Attorney for Defendant, Counterclaimant, and Cross-Plaintiff*  
19 *Breckenridge Property Fund 2016, LLC*

20 **THIRD JUDICIAL DISTRICT COURT**  
21 **LYON COUNTY, NEVADA**

22 ALBERT ELLIS LINCICOME, JR., and  
23 VICENTA LINCICOME,

24 Plaintiff,

25 v.

26 SABLES, LLC, a Nevada limited liability  
27 company, as Trustee of the Deed of Trust given  
28 by Vicenta Lincicome and dated 5/23/2007; FAY  
SERVICING, LLC, a Delaware limited liability  
company and subsidiary of Fay Financial, LLC;  
PROF-2013-MF LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for BANK  
OF AMERICA, N.A.; BRECKENRIDGE  
PROPERTY FUND 2016; NEWREZ LLC dba  
SHELLPOINT MORTGAGE SERVICING,  
LLC; 1900 CAPITAL TRUST II, BY U.S.  
BANK TRUST NATIONAL ASSOCIATION;  
MCM-2018-NPL2 and DOES 1-50.,

Defendants.

AND RELATED MATTERS.

Case No.: 18-CV-01332  
Dept No.: II

**BRECKENRIDGE PROPERTY FUND 2016  
LLC'S MOTION FOR SUMMARY  
JUDGMENT AGAINST PLAINTIFF**

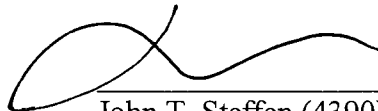


COMES NOW Breckenridge Property Fund 2016, LLC ("Breckenridge"), by and through its attorney of record, Hutchison & Steffen, PLLC and hereby submits this motion to the Court.

This motion is made and based upon the following points and authorities, the pleadings and papers on file, the attached affidavits and exhibits, and any oral argument this court may entertain.

DATED this 14 day of March 2021.

HUTCHISON & STEFFEN, PLLC



John T. Steffen (4390)  
Matthew K. Schriever (10745)  
Alex R. Velto (14961)  
HUTCHISON & STEFFEN, PLLC  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
mschriever@hutchlegal.com

Casey J. Nelson, Esq. (12259)  
Wedgewood, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, Nevada 89146  
caseynelson@wedgewood-inc.com

*Attorney for Defendant, Counterclaimant, and  
Cross-Plaintiff Breckenridge Property Fund 2016,  
LLC*

### **POINTS AND AUTHORITIES**

#### **I. Introduction.**

This case pertains to the foreclosure of real property commonly known as 70 Riverside Drive, Dayton, Nevada 89403 ("Subject Property") that took place on or about January 4, 2019 at which time Breckenridge purchased the Subject Property for \$294,000.01.

Albert Ellis Lincicome, Jr. and Vicenta Lincicome ("Plaintiffs") formerly owned the Subject Property. Plaintiffs brought this lawsuit and argue that the foreclosure sale was improperly conducted



1 but they ignore that the evidence uniformly confirms that they were in default and received actual  
2 notice of the same. No amount of distraction about the loan documents or issues of prior loan  
3 modification can change these facts. There is no dispute that the Plaintiffs were in default at the time of  
4 foreclosure and received both the Notice of Default and the Notice of Sale.

5 Plaintiffs have no viable claims against Breckenridge. The essence of Plaintiffs' Complaint is  
6 that the foreclosing lender did not have the ability to foreclose. Plaintiffs concede that they executed the  
7 note and deed of trust and were in default of their loan obligations. Discovery has proven that the  
8 foreclosure complied with NRS, that the Plaintiffs were in default of the loan obligations and received  
9 both the notice of default and the notice of sale.  
10

11 As a result of the foreclosure sale, Plaintiffs have been divested of any ownership interest in the  
12 Subject Property. Consequently, there are no genuine issues of material fact and Breckenridge is  
13 entitled to summary judgment declaring it is both the title owner of the Subject Property and entitled to  
14 possession.  
15

## 16 **II. Statement of Undisputed Facts.**

17 1. On or about May 23, 2007, Plaintiffs executed a Note and Deed of Trust that was secured  
18 by the Subject Property. *See Exhibit #1.*  
19

20 2. Plaintiffs subsequently defaulted on that loan obligation resulting in a Notice of Default  
21 and Notice of Sale being recorded against the Subject Property. *See Exhibits #2 and #3.*  
22

23 3. On November 7, 2018, Plaintiffs filed a complaint for injunctive relief, contractual  
24 claims, and declaratory relief regarding the scheduled foreclosure sale of the Subject Property.

25 4. On November 8, 2018, Plaintiffs recorded a lis pendens on the Property and also filed  
26 an Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction.  
27  
28



1           5.       On December 31, 2018, the Court entered an order enjoining the foreclosure on the  
2 Subject Property if the Plaintiffs timely posted of a bond in the amount of \$172,610.67 and additional  
3 security in the amount of \$2,105.10 per month thereafter.

4           6.       Plaintiffs failed to post the bond and the Subject Property went to foreclosure sale on or  
5 about January 4, 2019, at which time Breckenridge purchased the Subject Property for \$294,000.01,  
6 relying on the fact that the noticed foreclosure sale was valid because Plaintiff failed to post the requisite  
7 bond. *See Exhibit #4.*

8  
9           7.       On January 25, 2019, the Trustees Deed Upon Sale confirming Breckenridge's  
10 ownership of the Subject Property was recorded. *See Exhibit #5.*

11  
12           8.       On December 20, 2019, Plaintiffs filed their Second Amended Complaint, wherein they  
13 brought claims against Breckenridge for Declaratory Relief and Quiet Title.

14           9.       Breckenridge subsequently filed a Counterclaim against Plaintiffs through which it  
15 claims ownership to the Subject Property, seeks to quiet title in its favor, seeks possession of the  
16 Property, and seeks other monetary damages.

### 17 **III.   Legal Standard.**

18  
19           The purpose of a motion for summary judgment is to obviate trials when they would serve no  
20 useful purpose. *Short v. Hotel Riviera, Inc.*, 79 Nev. 94 (1963). Summary judgment is appropriate where  
21 no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.  
22 NRCP 56(c). The Supreme Court of Nevada abandoned the "slightest doubt" standard and clarified the  
23 applicable standard for summary judgment in *Wood v. Safeway, Inc.*, 121 Nev., Adv. Op. 73 (2005),  
24 adopting the standard articulated by the United States Supreme Court in *Celotex Corp. v. Catrett*, 477  
25 U.S. 317 (1986), by specifically holding:

26  
27                   "[T]he plain language of Rule 56(c) mandates the entry of summary  
28 judgment after adequate time for discovery and upon motion, against a



1 party who fails to make a showing sufficient to establish the existence of  
2 an element essential to that party's case, and on which that party will bear  
3 the burden of proof at trial. In such a situation, there can be no genuine  
4 issue as to any material fact, since a complete failure of proof concerning  
5 an essential element of the non-moving party's case necessarily renders  
6 all other facts immaterial. The moving party is entitled to judgment as a  
7 matter of law because the non-moving party has failed to make a sufficient  
8 showing on an essential element of her case with respect to which she has  
9 the burden of proof." *Id.* at 322. *See also Sanders v. Culinary Workers*  
10 *Union, et al.*, 804 F. Supp. 86, 92 (D. Nev. 1992).

11 All facts and inferences drawn must be viewed in the light most favorable to the responding party  
12 when determining whether a genuine issue of material fact exists for summary judgment purposes.  
13 *Sawyer v. Sugarless Shops, Inc.*, 101 Nev. 265, 267 (1990). The substantive law controls which facts  
14 are material and will preclude summary judgment. *Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (2005).  
15 However, evidence that is merely colorable or not significantly probative is not sufficient to preclude  
16 summary judgment. *Oehler v. Humana, Inc.*, 105 Nev. 348, 351-52 (1989). Nor do conclusory  
17 statements along with general allegations create an issue of material fact. *Michaels v. Sudeck*, 107 Nev.  
18 332, 334 (1991). Furthermore, the non-movant must "by affidavit or otherwise, set forth specific facts  
19 demonstrating the existence of a genuine issue for trial or have summary judgment entered against him."  
20 *Wood*, quoting *Bulbman, Inc. v. Nevada Bell*, 108 Nev. 105, 110 (1992).

#### 21 IV. Legal Argument.

##### 22 A. Breckenridge Is Entitled To An Order Quieting Title In Its Favor.

23 Breckenridge is entitled to an order quieting title to the Subject Property in its favor. NRS 40.010  
24 provides, "An action may be brought by any person against another who claims an estate or interest in  
25 real property, adverse to him, for the purpose of determining such adverse claim."

26 In Nevada, while the "burden of proof [in a quiet title action] rests with the plaintiff to prove good  
27 title in himself," *Breliant v. Preferred Equities Corp.*, 112 Nev. 663, 669 (1996), *abrogated on other*  
28 *grounds by Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570 (2009), "a plaintiff's right to relief



1 [ultimately]...depends on superiority of title,” *W. Sunset 2050 Tr. v. Nationstar Mortg., LLC*, 134 Nev.  
2 352, 354 (2018) (internal quotation marks omitted). And because “[a] plea to quiet title does not require  
3 any particular elements...each party must plead and prove his or her own claim to the property in  
4 question.” *Chapman v. Deutsche Bank Natl Tr. Co.*, 129 Nev. 314, 318 (2013) (internal quotation marks  
5 omitted).

6  
7 Plaintiff’s claims to superior title in this matter are supported by well-founded Nevada law.  
8 Breckenridge was not involved with this matter until it purchased the Subject Property at the foreclosure  
9 sale. Breckenridge took title to the Subject Property pursuant to an NRS 107.080 foreclosure sale. NRS  
10 107.080 provides in pertinent part, “Every sale made under the provisions of this section and other  
11 sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without  
12 equity or right of redemption.”  
13

14 The majority of the allegations in the Second Amended Complaint allegedly occurred prior to  
15 the foreclosure sale. Many of these allegations deal with the servicing and attempted modifications  
16 of the underlying loan by a variety of servicers and beneficiaries. Breckenridge had no role in this  
17 dispute prior to the foreclosure and cannot be responsible for the supposed actions of other entities.  
18 Breckenridge’s first involvement in the matter was when it purchased the Subject Property at the  
19 foreclosure sale. Breckenridge is not a lender, noteholder, or beneficiary of Plaintiffs’ loan obligations.  
20

21 The Plaintiffs have failed to meet their burden or provide any evidence that supports their  
22 allegations the foreclosure sale was not valid. If the Court determines the sale was valid, Breckenridge  
23 is entitled to title to the Subject Property as well as rent for the time in which Plaintiffs have been in  
24 unlawful possession of the Subject Property.  
25

26 Breckenridge took title to the Subject Property pursuant to an NRS 107.080 foreclosure sale.  
27 NRS 107.080 provides in pertinent part:  
28



1           5. Every sale made under the provisions of this section and other sections of this  
2 chapter vests in the purchaser the title of the grantor and any successors in interest  
3 without equity or right of redemption. Except as otherwise provided in subsection  
4 7, *a sale made pursuant to this section must be declared void by any court of*  
5 *competent jurisdiction in the county where the sale took place if:*

6           (a) *The trustee or other person authorized to make the sale does not*  
7 *substantially comply with the provisions of this section;*

8           (b) Except as otherwise provided in subsection 6, an action is commenced in  
9 the county where the sale took place within 30 days after the date on which the  
10 trustee's deed upon sale is recorded pursuant to subsection 10 in the office of the  
11 county recorder of the county in which the property is located; and

12           (c) A notice of lis pendens providing notice of the pendency of the action is  
13 recorded in the office of the county recorder of the county where the sale took  
14 place within 5 days after commencement of the action.

15           Plaintiffs filed this lawsuit in a last-minute effort to stave off foreclosure in an attempt to retain  
16 ownership and possession of the Subject Property. Plaintiffs' allegations of wrongful foreclosure have  
17 not been established by any legal or factual support. Instead, it is clear that the beneficiaries, servicers,  
18 and trustee not only substantially complied with NRS 107 throughout the entire foreclosure process as  
19 required by NRS 107.080(5), but actually strictly complied with those requirements. Accordingly,  
20 Breckenridge is entitled to an order quieting title in its favor pursuant to NRS 111.180(1) which provides:

21           Any purchaser who purchases an estate or interest in any real property in good  
22 faith and for valuable consideration and who does not have actual knowledge,  
23 constructive notice of, or reasonable cause to know that there exists a defect in, or  
24 adverse rights, title or interest to, the real property is a bona fide purchaser.

25           The beneficiaries, servicers, and trustee have complied with the requirements of NRS 107 by  
26 providing undisputed evidence that the Plaintiffs were in default of their loan obligations and that the  
27 Notice of Default and Notice of Sale were properly mailed to the Plaintiffs, facts that Plaintiffs do not  
28 even dispute. Plaintiffs have failed to provide any evidence that the foreclosure sale was defective or  
that they have rights, title, or interest to the Subject Property. Any rights, title, or interest they previously  
had in the Subject Property has been terminated by way of the valid foreclosure sale. Accordingly,  
Breckenridge is entitled to titled ownership because there are no defects in the sale.



1  
2 ***B. Breckenridge Is Entitled To Possession Of The Subject Property.***

3 Breckenridge's counterclaim against the Plaintiffs also requests an order for possession of the  
4 Subject Property. Plaintiffs have been in possession of the Subject Property since Breckenridge  
5 purchased the Subject Property at the foreclosure sale.  
6

7 Over two years ago, Breckenridge served a Three-Day Notice to Quit on the Plaintiffs on January  
8 28, 2019. ***See Exhibit #6.*** However, Plaintiffs have refused to vacate the Subject Property and have  
9 continued in possession of the Subject Property notwithstanding the termination of the tenancy by service  
10 of the aforesaid Three-Day Notice. Plaintiffs' actions are in violation of NRS 40.250-255 and  
11 Breckenridge is entitled to possession of the Subject Property as prescribed in NRS 40.290-420.  
12

13 Plaintiffs are squatting in the Subject Property without Breckenridge's permission. Plaintiffs are  
14 aware that the Subject Property has been foreclosed on as the requisite three-day notice to quit has been  
15 served. However, Plaintiffs continue to occupy the Subject Property without paying fair market rent to  
16 Breckenridge's detriment. Breckenridge demands possession of the Subject Property and does not agree  
17 for the Plaintiffs to continue to occupy the Subject Property.  
18

19 **V. Conclusion.**

20 Breckenridge has claim to superior title over Plaintiffs because the Subject Property was sold  
21 at a valid foreclosure sale and Breckenridge purchased it at that sale. Plaintiffs have failed to provide  
22 any sort of evidence or legal support for their allegations of a wrongful foreclosure. Their case is  
23 based solely on mere allegations and cannot survive a motion for summary judgment. For these  
24 reasons, this Court must grant summary judgment in Breckenridge's favor. This is a case of statutory  
25 construction and purely a legal dispute. There are no ambiguities, the matter is not factually complex,  
26  
27  
28



1 and there are no genuine issues of material fact. Breckenridge is entitled to judgment as a matter of  
2 law and the Court must quiet title and possession of the Subject Property in favor of Breckenridge.

3 Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that the preceding  
4 document filed in this court does not contain the social security number of any person

5 DATED this 18 day of March 2020.

6 HUTCHISON & STEFFEN, PLLC

7 

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18 *Attorneys for Defendant*  
19 *Breckenridge Property Fund 2016 LLC*  
20  
21  
22  
23  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Hutchison & Steffen, and that on the date indicated below, I served a true and correct copy of the **BRECKENRIDGE PROPERTY FUND 2016 LLC'S MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF** via U.S. Mail to the parties designated below.

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Minden, NV 89423  
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*Attorney for Prof-2013-M4 Legal Title Trust by  
US. Bank, National Association as Legal Title  
Trustee; Fay Servicing, LLC, and Shellpoint  
Mortgage Servicing, LLC*

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1635 Village Center Circle, #200  
Las Vegas, NV 89134  
*Attorney for Bank of America*

DATED this 18 day of March 2020.

  
An Employee of HUTCHISON & STEFFEN



## **EXHIBIT LIST**

Exhibit #	Description	Pages
Exhibit "1"	Deed of Trust	20
Exhibit "2"	Notice of Breach and Default and of Election to Sell the Real Property Under Deed of Trust	6
Exhibit "3"	Notice of Trustee's Sale	2
Exhibit "4"	Declaration in Support of Breckenridge Property Fund 2016 LLC's Motion for Summary Judgment Against Plaintiff	3
Exhibit "5"	Trustee's Deed Upon Sale	4



**Exhibit “1”**

**Exhibit “1”**



DOC # 407150

05/25/2007

04 34 PM

Official Record

Requested By  
STEWART TITLE OF NEVADA

Lyon County - NV

Mary C Milligan, Recorder

Page 1 of 20 Fee \$58.00

Recorded By DLW RPTT



Assessor's Parcel Number:  
29-401-17

I hereby affirm that this document  
submitted for recording does not  
contain a social security number

/s/ LYNDA KLEIN  
FUNDER

Recording Requested By  
SIERRA PACIFIC MORTGAGE COMPANY, INC  
280 BRINKBY STREET, SUITE 100  
RENO, NV 89509  
775-826-3700

[Space Above This Line For Recording Data]

Loan No 0000479436

DEED OF TRUST

MIN 1000703-0000479436-5

DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated MAY 23, 2007 together with all Riders to this document.

(B) "Borrower" is VICENTA LINCICOME, A MARRIED WOMAN

Borrower is the trustor under this Security Instrument

(C) "Lender" is SIERRA PACIFIC MORTGAGE COMPANY, INC.

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA  
Lender's address is 50 IRON POINT CIRCLE, STE 200, FOLSOM, CA 95630

(D) "Trustee" is GREENHEAD INVESTMENTS, INC., A CALIFORNIA CORPORATION

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Form 3029 1/01  
(page 1 of 13 pages)

BRECK000031

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

(F) "Note" means the promissory note signed by Borrower and dated MAY 23, 2007. The Note states that Borrower owes Lender

THREE HUNDRED EIGHTY-ONE THOUSAND ONE HUNDRED FIFTY and NO/100 Dollars (US \$ 381,150.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than JUNE 1, 2037.

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

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

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

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

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

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

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

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

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

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

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

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

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

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Loan No: 0000479436

Form 3029 1/01  
(page 2 of 13 pages)

BRECK000032





407150

05/25/2007  
003 of 20

## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note, and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY

of

LYON

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A."

which currently has the address of 70 RIVERSIDE DRIVE [Street],  
DAYTON [City], Nevada 89403 [Zip Code] ("Property Address")

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

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

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

## UNIFORM COVENANTS Borrower and Lender covenant and agree as follows

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is

Loan No: 0000479436

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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(page 3 of 13 pages)

BRECK000033









407150

05/25/2007  
005 of 20

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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement, (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded, or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts

NEVADA—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS NV CVL DT 5 WPF (0101DOCS/DEEDS/CVL/NV\_MERS CVL)

Loan No: 0000479436

Form 3029 1/01  
(page 5 of 13 pages)

BRECK000035

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

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

9 Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to (a) paying any sums secured by a lien which has priority over this Security Instrument, (b) appearing in court, and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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

Loan No: 0000479436

Form 3029 1/01

(page 7 of 13 pages)

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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**Mortgage Insurance** reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

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

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further

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

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

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

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

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

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

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

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS NV CVL DT 8 WPF (0101DOCS\DEEDS\CVL\NV\_MERS CVL)

Loan No: 0000479436

Form 3029 1/01  
(page 8 of 13 pages)

BRECK000038



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

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

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

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

Loan No. 0000479436  
Form 3029 1/01  
(page 9 of 13 pages)





407150

05/25/2007  
010 of 20

acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge

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

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

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

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

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

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

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

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

NEVADA Single Family--Fannie Mac/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS NV CVL DT 10 WPF (0101DOCS\DEEDS\CVL\NV\_MERS CVL)

Loan No: 0000479436

Form 3029 1/01

(page 10 of 13 pages)

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in one or more of the following forms, as selected by Lender (a) cash; (b) money order, (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity, or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

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

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

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

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

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

NEVADA-Single Family-Fannie Mac/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS NV CVL DT 11 WFF (0101DOCS\DEEDS\CVL\NV\_MERS CVL)

Loan No: 0000479436

Form 3029 1/01  
(page 11 of 13 pages)

BRECK000041

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407150

05/25/2007  
012 of 20

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

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

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

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

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

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

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

NEVADA—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS NV CVL DT 12 WPF (0101DOCS\DEEDS\CVL\NV\_MERS CVL)

Loan No: 0000479436

Form 3029 1/01  
(page 12 of 13 pages)

BRECK000042

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407150

05/25/2007  
013 of 20

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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

Loan No: 0000479436

STATE OF NEVADA, *Carson City*

County ss.

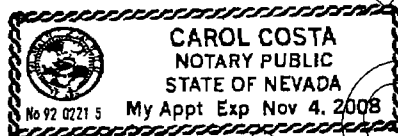
This instrument was acknowledged before me on

*May 23 2007*

, by

*Vicenta Lincicome**Carol Costa*

My Commission Expires

*11-4-08*

NEVADA-Single Family-Fannie Mac/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW MERS NV CVL DT 13 WPT (0101DOCS/DEEDS/CVL/NV\_MERS CVL)

Form 3029 1/01  
(page 13 of 13 pages)

WHEN RECORDED MAIL TO

MIP INSURING DEPARTMENT  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
50 IRON POINT CIRCLE, STE 200  
FOLSOM, CA 95630  
916-932-1700

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**(1 Year LIBOR Index - Rate Caps)**  
**(Assumable after Initial Period)**

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender")

[Property Address]

Form 5131 3/04  
(Page 1 of 4)

AA02204





407150

05/25/2007  
015 of 20

dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than 11.875 % or less than 2.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than TWO percentage points ( 2.000 %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than 11.875 %.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

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

1 UNTIL BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE IN EFFECT AS FOLLOWS.

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family Freddie Mac Uniform Instrument

DRAW 0304 MX CVL ARM RIDER 5131 2 WPE (P:\OPSSHARE\0101\DOCS\RIDERS\CVL\MXFH5131 ARM)

Form 5131 3/04  
(Page 2 of 4)

BRECK000045

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407150

05/25/2007  
016 of 20

Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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

**2 AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS**

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

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

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

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

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family Freddie Mac Uniform Instrument

DRAW 0304 MX CVL ARM RIDER 5131 3 WPF (P WOPSSHAREW0101DOCSRIDERS/CVL/MX/FH5131 ARM)

Form 5131 3/04  
(Page 3 of 4)

BRECK000046



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407150

05/25/2007  
017 of 20

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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

[Sign Original Only]

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family Freddie Mac Uniform Instrument

DRAW 0304 MX CVL ARM RIDER 5131 A WFF P OPSSHARE 0701DOCSRIDERSCVLWDXFH5131 ARM)

Form 5131 3/04  
(Page 4 of 4)

BRECK000047

AA02207



## INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE RIDER

Property Address 70 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY 2007, and is incorporated into and intended to form a part of the Adjustable Rate Rider (the "Rider") dated the same date as this Addendum executed by the undersigned and payable to SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender")

THIS ADDENDUM supersedes Section 4(C) of the Rider. None of the other provisions of the Rider are changed by this Addendum.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.

Loan No: 0000479436

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM - MULTISTATE  
BRAW MX CVL ARM IO ADNDM RIDER 1 WFF (0101DOCS\RIDERS\CVL\MXIO\_ADN RID)


01/01  
603F

(page 1 of 2 pages)

BRECK000048



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

  
\_\_\_\_\_  
VICENTA LINCICOME (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

[Sign Original Only]

Loan No: 0000479436

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM - MULTISTATE  
DRAW MX CVL ARM IO ADNDM RIDER 2 WPF (0101D0C5RIDERS\CVL\MXIO\_ADN RID)

01/01  
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(page 2 of 2 pages)

BRECK000049





407150

05/25/2007  
020 of 20

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Order No: 06041897-JA

The land referred to herein is situated in the State of Nevada,  
County of LYON, described as follows:

LOT 42 AS SHOWN ON THE OFFICIAL MAP OF GOLD CANYON ESTATES,  
PHASE 2, FILE IN THE OFFICE OF THE LYON COUNTY, NEVADA RECORDER,  
ON OCTOBER 20, 2005, AS DOCUMENT NO. 365687.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF, LYING BELOW THE  
NATURAL ORDINARY HIGH WATER LINE OF THE CARSON RIVER.

ASSESSOR'S PARCEL NO. 029-401-17

Unofficial

BRECK000050



**Exhibit “2”**

**Exhibit “2”**



DOC# 572258

11/03/2017

10:29AM

**Official Record**

Requested By  
SERVICELINK TITLE AGENCY INC.

Lyon County - NV

Dawna L. Warr - Recorder

Page: 1 of 6

Fee: \$288.00

Recorded By BKC

RPTT: \$0.00



0572258

APN: 029-401-17

WHEN RECORDED MAIL TO:

Sables, LLC

c/o Zieve Brodnax & Steele

3753 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

TS No. : 16-42397

**NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO  
SELL THE REAL PROPERTY UNDER DEED OF TRUST**

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five (5) business day prior to the date set for the sale of your property pursuant to NRS 107.080. No sale date may be set until three months from the date this Notice of Default may be recorded (which date of recordation appears on this notice). This amount is \$265,572.39 as of 10/31/2017 and will increase until your account becomes current.

NOTICE IS HEREBY GIVEN THAT: **SABLES, LLC**, a Nevada limited liability company is either the original trustee, or the duly appointed substituted Trustee, or acting as agent for the Trustee or the Beneficiary under a under a Deed of Trust dated 5/23/2007, executed by **VICENTA LINCICOME, A MARRIED WOMAN**, as trustor to secure obligations in favor of **Mortgage Electronic Registration Systems, Inc.**, as nominee for **SIERRA PACIFIC MORTGAGE COMPANY, INC.** its successors and assigns, as Beneficiary, recorded 5/25/2007, instrument no. **407150** The subject Deed of Trust was modified by **Loan Modification Agreement** recorded as Instrument **475808** and recorded on 5/4/2011 of Official Records in the office of the County recorder of Lyon, County, Nevada securing, among other obligations including

One note(s) for the Original sum of **\$381,150.00**, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by Beneficiary; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The monthly installment which became due on 9/1/2008, along with late charges, and all subsequent monthly installments.

You are responsible to pay all payments and charges due under the terms and conditions of the loan documents which come due subsequent to the date of this notice, including, but not limited to; foreclosure trustee fees and costs, advances and late charges.

Furthermore, as a condition to bring your account in good standing, you must provide the undersigned with written proof that you are not in default on any senior encumbrance and provide proof of insurance.

BRECK000060





**T.S. No.: 16-42397**

**Nothing in this Notice of Default should be construed as a waiver of any fees owing to the beneficiary under the Deed of Trust, pursuant to the terms and provisions of the loan documents.**

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered to said duly appointed Trustee a written Declaration of Default and Demand for Sale and has deposited with said duly appointed Trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

### **NOTICE**

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. As to owner-occupied property, where reinstatement is possible, the time to reinstate may be extended to 5 days prior to the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

**To determine if reinstatement is possible and the amount, if any, to cure the default, contact:**

PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
c/o Fay Servicing, LLC  
c/o SABLES, LLC, a Nevada limited liability company  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169  
Beneficiary Phone: 800-495-7166  
Trustee Phone: (702) 664-1774

To reach a person with authority to negotiate a loan modification on behalf of the lender:

Lauren Jowers  
800-495-7166

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

If you have any questions, you should contact a lawyer or the governmental agency that may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

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

Attached hereto and incorporated herein by reference is the Affidavit of Authority in Support of Notice of Default and Election to Sell pursuant to NRS 107.080.

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11/03/2017  
3 of 6

T.S. No.: 16-42397

You may wish to consult a credit counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with names and addresses of local HUD approved counseling agency by calling their approved Local Housing Counseling Agency toll free number: (800) 569-4287 or you can go to HUD's website: <http://portal.hud.gov>.

Dated: 11/1/2017

SABLES, LLC, a Nevada limited liability company, as Trustee  
Sables, LLC  
c/o Zieve Brodnax & Steele  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
(702) 948-8565

  
\_\_\_\_\_  
Michael Busby, Trustee Sale Officer


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

State of CALIFORNIA  
County of ORANGE

On 11/1/2017, before me, Christine O'Brien, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature of Notary



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11/03/2017  
4 of 6**Affidavit of Authority**

(Nevada Revised Statute §107.080 as amended effective June 1, 2013)

Re: TS# 16-42397  
Borrower Name: VICENTA LINCICOME  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

I, Veronica Talley, am the Foreclosure Specialist of Fay Servicing, LLC, the current servicer for the beneficiary of the deed of trust described in the notice of default and election to sell to which this affidavit is attached ("Deed of Trust"). The following facts are based upon my personal review of documents that are of public record in the State of Nevada and personal knowledge acquired by my personal review of the business records of the beneficiary, which are within my custody and control. The business records of the beneficiary contain entries made in the ordinary course of business at or about the time the events reflected therein occurred.

- 1(a). The full name and business address of the current trustee of record for the Deed of Trust is **Sables LLC, a Nevada Limited Liability Company, 3753 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169**
- 1(b). The full name and business address of the current holder of the Note secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**
- 1(c). The full name and business address of the current beneficiary for the obligation or debt secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**
- 1(d). The full name and business address of the current servicer for the obligation secured by the Deed of Trust is **Fay Servicing, LLC, 440 S. LaSalle St, Suite 2000, Chicago, IL 60605**
2. From my review of the documents of public record and the business records of the current beneficiary and a title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to Chapter 692A of the NRS, the name of each assignee and each recorded assignment of the Deed of Trust.
- 2(a). Assignee Name: **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee**  
Instrument and Recording Information: **Assignment of Deed of Trust recorded on 11/25/2016 Instrument No. 544042**
- 2(b). Assignee Name: **Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing, LP**  
Instrument and Recording Information: **Corporation Assignment of Deed of Trust recorded on 08/15/2011 Instrument No. 480360**
- 2(c). Assignee Name: **Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing, LP**  
Instrument and Recording Information: **Assignment of Mortgage recorded on 11/10/2010 Instrument No 467719**
3. The current beneficiary under the Deed of Trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the Deed of Trust.
4. From my review of the documents of public record and the business records of the current beneficiary, the current trustee has authority to exercise the power of sale with respect to the property





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11/03/2017  
5 of 6

encumbered by the Deed of Trust, pursuant to instruction from the current beneficiary of record and current holder of the note secured by the Deed of Trust.

5. From my review of the documents of public record and the business records of the current beneficiary, the beneficiary, servicer of the obligation, or an attorney of the beneficiary or servicer has sent to VICENTA LINCICOME, a written statement of: (I) the amount of payment required to make good the deficiency in performance of payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement; (II) the amount in default; (III) the principal amount of the obligation or debt secured by the deed of trust; (IV) the amount of accrued interest and late charges; (V) a good faith estimate of all fees imposed in connection with the power of sale; and (VI) contact information for obtaining the most current amounts due and the local or toll-free telephone number that VICENTA LINCICOME may call to receive the most current amounts due and a recitation of the information in this affidavit.

6. The borrower or obligor of the loan secured by the Deed of Trust may call Fay Servicing, LLC at 800-495-7166 to receive the most current amounts due and a recitation of the information contained in this Affidavit.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct and that this Affidavit was executed on October 5, 2016.

By: **Fay Servicing, LLC, its attorney in fact**

Verónica Talley

(Print Name)

(Signature)

**Foreclosure Specialist IV**

(Title)

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

State of Texas

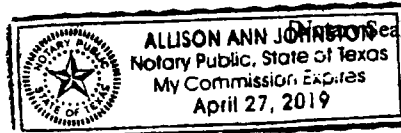
County of Denton

On October 5th 2016 before me, Allison Ann Johnston, Notary Public, personally appeared, Veronica Talley, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature







572258

11/03/2017  
6 of 6

## Declaration of Mortgage Servicer Pursuant to NR 107.510

T.S. Number: 16-42397  
Borrower(s): VICENTA LINCICOME  
Mortgage Servicer: Fay Servicing, LLC  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

The undersigned, as an authorized agent or employee of the mortgage servicer named below, declares that:

1. ☒ The mortgage servicer has contacted the borrower pursuant to NRS 107.510 (2), to assess the borrower's financial situation and to explore options for the borrower to avoid a foreclosure sale. Thirty (30) days, or more, have passed since the initial contact was made.
2. ☐ The mortgage servicer has exercised due diligence to contact the borrower pursuant to NRS 107.510 (5), to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure". Thirty (30) days, or more, have passed since these due diligence efforts were satisfied.
3. ☐ No contact was required by the mortgage servicer because the individual(s) did not meet the definition of "borrower" pursuant to NRS 107.410.
4. ☐ During the preceding annual reporting period, the Lender has foreclosed on 100 or fewer real properties located in this state and therefore, pursuant to NRS 107.460, the provisions of NRS 107.400 to 107.560, inclusive, do not apply.
5. ☐ The loan is not a "residential mortgage loan" as defined in NRS 107.450.

I certify that this declaration is accurate, complete and supported by competent and reliable evidence which the mortgage servicer has reviewed to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information.

Dated: 4-5-2016

By: 

Page 1

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AA02217



**Exhibit “3”**

**Exhibit “3”**



**Doc #: 587470**

10/12/2018 02:27 PM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: SERVICELINK TITLE AGENCY INC

**Lyon County, NV**

**Dawna L. Warr, Recorder**

Fee: \$38.00 RPTT: \$0.00

Recorded By: mkassebaum

APN No.: 029-401-17

[Recording requested by:]

[When recorded mail to:]

**Sables LLC**

**c/o Zieve Brodnax & Steele**

**9435 West Russell Road, Suite 120**

**Las Vegas, Nevada 89148**

T.S. No. 16-42397

## **NOTICE OF TRUSTEE'S SALE**

**YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED 5/23/2007. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.**

A public auction sale to the highest bidder for cash, cashier's check drawn on a state or national bank, check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, or savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state will be held by the duly appointed trustee as shown below, of all right, title, and interest conveyed to and now held by the trustee in the hereinafter described property under and pursuant to a Deed of Trust described below. The sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by the Deed of Trust, with interest and late charges thereon, as provided in the note(s), advances, under the terms of the Deed of Trust, interest thereon, fees, charges and expenses of the Trustee for the total amount (at the time of the initial publication of the Notice of Sale) reasonably estimated to be set forth below. The amount may be greater on the day of sale.

**TRUSTOR: VICENTA LINCICOME, A MARRIED WOMAN**

Duly Appointed Trustee: **Sables LLC, a Nevada Limited Liability Company**

Recorded 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011 Official Records in the office of the Recorder of Lyon County, Nevada, Described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

**All that certain real property situate in the County of Lyon, State of Nevada, described as follows:**

**Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.**

**EXCEPTING THEREFROM all that portion thereof, lying below the natural ordinary high water line of the Carson River.**

**Date of Sale: 11/9/2018 at 11:00 AM**

BRECK000066



Place of Sale: 31 S. Main Street Yerington, Nevada 89447  
Lyon County Courthouse

Estimated Sale Amount: \$666,632.22

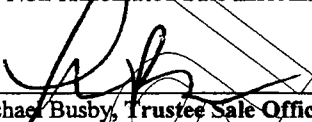
Street Address or other common designation of real property: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

A.P.N. No.: 029-401-17

The undersigned Trustee disclaims any liability for any incorrectness of the street address or other common designation, if any, shown above. If no street address or other common designation is shown, directions to the location of the property may be obtained by sending a written request to the beneficiary within 10 days of the date of first publication of this Notice of Sale.

Date: 10/11/2018

Sables LLC, a Nevada Limited Liability Company  
c/o Zieve Brodnax & Steele  
9435 West Russell Road, Suite 120  
Las Vegas, NV 89148  
Phone: (702) 948-8565  
Sale Information: (714) 848-9272 www.elitepostandpub.com  
For Non-Automated Sale Information, call: (702) 664-1774

  
Michael Busby, Trustee Sale Officer

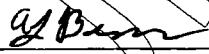
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

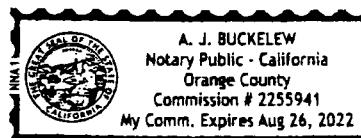
State of CALIFORNIA  
County of ORANGE

On 10/11/2018, before me, A.J. Buckelew Notary Public, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
A.J. Buckelew  
Signature of Notary



THIS FIRM IS ATTEMPTING TO COLLECT A DEBT AND  
ANY INFORMATION WE OBTAIN WILL BE USED FOR THAT PURPOSE.

BRECK000067

AA02220



**Exhibit “4”**

**Exhibit “4”**



1 John T. Steffen (4390)  
2 Matthew K. Schriever (10745)  
3 Alex R. Velto (14961)  
4 HUTCHISON & STEFFEN, PLLC  
5 10080 West Alta Drive, Suite 200  
6 Las Vegas, NV 89145  
7 Tel (702) 385-2500  
8 Fax (702) 385-2086  
9 mschriever@hutchlegal.com

7 Casey J. Nelson, Esq. (12259)  
8 Wedgewood, LLC  
9 Office of the General Counsel  
10 2320 Potosi Street, Suite 130  
11 Las Vegas, Nevada 89146  
12 Tel (702) 305-9157  
13 Fax (310) 730-5967  
14 caseynelson@wedgewood-inc.com  
15 *Attorney for Defendant, Counterclaimant, and Cross-Plaintiff*  
16 *Breckenridge Property Fund 2016, LLC*

13 **THIRD JUDICIAL DISTRICT COURT**  
14 **LYON COUNTY, NEVADA**

14 ALBERT ELLIS LINCICOME, JR., and  
15 VICENTA LINCICOME,

16 Plaintiff,

17 v.

18 SABLES, LLC, a Nevada limited liability  
19 company, as Trustee of the Deed of Trust given  
20 by Vicenta Lincicome and dated 5/23/2007; FAY  
21 SERVICING, LLC, a Delaware limited liability  
22 company and subsidiary of Fay Financial, LLC;  
23 PROF-2013-MF LEGAL TITLE TRUST by U.S.  
24 BANK, N.A., as Legal Title Trustee; for BANK  
25 OF AMERICA, N.A.; BRECKENRIDGE  
26 PROPERTY FUND 2016; NEWREZ LLC dba  
27 SHELLPOINT MORTGAGE SERVICING,  
28 LLC; 1900 CAPITAL TRUST II, BY U.S.  
BANK TRUST NATIONAL ASSOCIATION;  
MCM-2018-NPL2 and DOES 1-50.,

Defendants.

AND RELATED MATTERS.

Case No.: 18-CV-01332  
Dept No.: II

**DECLARATION IN SUPPORT OF  
BRECKENRIDGE PROPERTY FUND 2016  
LLC'S MOTION FOR SUMMARY  
JUDGMENT AGAINST PLAINTIFF**



1 The undersigned, Jason Campbell declares under penalty of perjury that the following assertions  
2 are true:

3 1. I am an authorized agent of Breckenridge Property Fund 2016, LLC ("Breckenridge").

4 2. I am competent to testify to the matters asserted herein, of which I have personal  
5 knowledge, except as to those matters stated upon information and belief. As to those matters stated  
6 upon information and belief, I believe them to be true. I make this declaration in support of  
7 Breckenridge's motion for summary judgment against Plaintiffs.

8  
9 3. On January 4, 2019, Breckenridge purchased real property located at 70 Riverside Drive,  
10 Dayton, Nevada 89403 ("Subject Property") at a foreclosure sale conducted pursuant to NRS 107.  
11 ("Foreclosure Sale").

12 4. Breckenridge was the highest bidder and paid \$294,000.01 to purchase the Subject  
13 Property at the Foreclosure Sale.

14  
15 5. Breckenridge relied on the fact that the noticed Foreclosure Sale was valid because  
16 Plaintiffs failed to post the court-ordered bond.

17 6. Breckenridge had no role in this dispute prior to its purchase of the Subject Property at  
18 the Foreclosure Sale.

19  
20 7. Breckenridge is entitled to an order quieting title in its favor because there were no defects  
21 in the Foreclosure Sale and any rights, title, or interest that Plaintiffs previously had in the Subject  
22 Property has been terminated by way of the Foreclosure Sale

23 8. I declare under penalty of perjury of the laws of the United States and the State of Nevada  
24 that these facts are true to the best of my knowledge and belief.

25  
26 ///

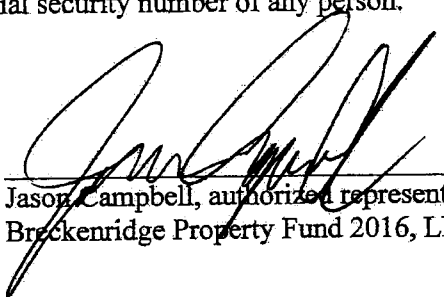
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Affirmation pursuant to NRS 239B.030: The undersigned does hereby affirm that the preceding document filed in this court does not contain the social security number of any person.

  
Jason Campbell, authorized representative of  
Breckenridge Property Fund 2016, LLC



**Exhibit “5”**

**Exhibit “5”**



70 RIVERSIDE DR

A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:  
Breckenridge Property Fund, 2016, LLC  
2320 Potosi St. Ste 130  
Las Vegas, NV 89146

Forward Tax Statements to  
the address given above

Recorded As An Accommodation  
Only Without Liability

**Doc #: 591393**

01/25/2019 08:21 AM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: FIRST AMERICAN TITLE INSURANCE C

Lyon County, NV  
Margie Kassebaum, Recorder

Fee: \$38.00 RPTT: \$1,148.55

Recorded By: Inhumildad

T.S. # 16-42397

Order #: 160069595-NV-VOO

SPACE ABOVE LINE FOR RECORDER'S USE

### TRUSTEE'S DEED UPON SALE

Transfer Tax: \$ 1148.55

The Grantee Herein WAS NOT the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$671,249.37

The Amount Paid by the Grantee was \$294,000.01

Said Property is in the City of DAYTON, County of Lyon

SABLES, LLC, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

**Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:

Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.

EXCEPTING THEREFROM all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by VICENTA LINCICOME, A MARRIED WOMAN as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.

BRECK000025

AA02226



A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:  
Breckenridge Property Fund, 2016, LLC  
2320 Potosi St. Ste 130  
Las Vegas, NV 89146

Recorded As An Accommodation  
Only Without Liability

Forward Tax Statements to  
the address given above

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397  
Order #: 160069595-NV-VOO

### TRUSTEE'S DEED UPON SALE

Transfer Tax: \$ 1148.55  
The Grantee Herein **WAS NOT** the Foreclosing Beneficiary.  
The Amount of the Unpaid Debt was \$671,249.37  
The Amount Paid by the Grantee was \$294,000.01  
Said Property is in the City of DAYTON, County of Lyon

SABLES, LLC, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

#### Breckenridge Property Fund, 2016, LLC

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lyon, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of Lyon, State of Nevada, described as follows:

Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.

**EXCEPTING THEREFROM** all that portion thereof, lying below the natural ordinary high water line of the Carson River.

Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by VICENTA LINCICOME, A MARRIED WOMAN as Trustor, dated 5/23/2007 of the Official Records in the office of the Recorder of Lyon, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011, of official records.

BRECK000026



# TRUSTEE'S DEED UPON SALE

T.S. #: 16-42397

Order #: 160069595-NV-VOO

Trustee having complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified return receipt mail, postage prepaid to each person entitled to notice in compliance with Nevada Revised Statutes 107.080.

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 1/4/2019. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$ \$294,000.01, in lawful money of the United States, in pro per, receipt there of is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, SABLES, LLC, a Nevada limited liability company, as Trustee, has this day, caused its name to be hereunto affixed.

Date: 1/15/2019

SABLES, LLC, a Nevada limited liability company

Geoffrey Neal, Trustee Sale Officer

Geoffrey  
Neal

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

State of CALIFORNIA  
County of ORANGE

On 1/15/2019 before me, the undersigned, J. Develasco Notary Public, personally appeared Geoffrey Neal who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

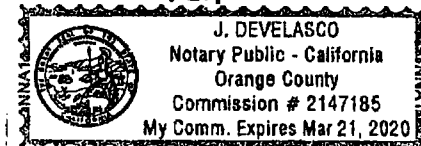
Signature

J. Develasco

(Seal)

J. Develasco

J. Develasco  
#2147185 Expires 3/21/20



BRECK000027



**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

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

- a) 029-401-17  
b) \_\_\_\_\_  
c) \_\_\_\_\_  
d) \_\_\_\_\_

**2. Type of Property:**

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

**FOR RECORDER'S OPTIONAL USE ONLY**

Book: \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

Notes: \_\_\_\_\_

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

\$ \$294,000.01

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

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

**c. Transfer Tax Value:**

\$ \$294,000.01

**d. Real Property Transfer Tax Due**

\$ 1148.55

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

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

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

Signature  Capacity AGENT

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

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

Print Name: Sables, LLC, a Nevada limited liability company  
Address: 3753 Howard Hughes Parkway,  
Suite 200, Las Vegas, NV 89169

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

Print Name: Breckenridge Property Fund,  
2016, LLC  
Address: 2320 Potosi St. Ste 130  
Las Vegas, NV 89146

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

Print Name: First American Escrow #: ACCU  
Address: 1000 W CHARLESTON  
City: LAS VEGAS State: NV Zip: 89135

**AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED**

BRECK000028

AA02229



Case No: 18-CV-01332

Dept.: II

The undersigned affirms that this document does not  
contain personal information, pursuant to NRS 603A.040

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\* \* \* \* \*

ELLIS LINCICOME and VICENTA  
LINCICOME,

Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as Trustee of the Deed of Trust  
given by Vicenta Lincicome and dated  
5/23/2007; FAY SERVICING, LLC, a  
Delaware limited liability company and  
subsidiary of Fay Financial, LLC; PROF-  
2013-M4 LEGAL TITLE TRUST by U.S.  
BANK, N.A., as Legal Title Trustee; for  
BANK OF AMERICA, N.A.; BRECKENRIDGE  
PROPERTY FUND 2016; and DOES 1-50.

Defendants.

**MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

COME NOW, Plaintiffs ELLIS LINCICOME and VICENTA LINCICOME (hereinafter together  
as "Plaintiffs" or "Lincicomes"), by and through their attorney, Michael G. Millward, Esq., of  
Millward Law, Ltd., and hereby move this Honorable Court to enter Partial Summary Judgment  
pertaining to their claims for Bank of America's breach of contract, wrongful foreclosure, and for  
violation of the Homeowners Bill of Rights.

This Motion for Partial Summary Judgment is brought pursuant to NRCP 56 and is  
supported by the Memorandum of Points and Authorities attached hereto, the documents





1 previously admitted as evidence in this Court, the supporting Exhibits attached hereto, and the  
2 pleadings and papers on file herein.

3 Respectfully submitted 18 day of March, 2021

4 **MILLWARD LAW, LTD.**

5  
6 By: 

7 Michael G. Millward, Esq.





1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 In 2007, the Plaintiffs, Vicenta Lincicome and Albert Ellis Lincicome (hereinafter  
4 "Lincicomes" or "Plaintiffs"), purchased their home in Dayton, Nevada. By late 2008, the  
5 Lincicomes had fallen behind on their mortgage payments and in early 2009, Defendant Bank of  
6 America, N.A. (hereinafter "BANA") recorded a notice of default. Thereafter, BANA gave the  
7 Lincicomes the opportunity to modify their 2007 Deed of Trust.

8 The Lincicomes agreed to modify their mortgage and submitted the paperwork to BANA.  
9 On September 1, 2009, the Lincicomes made their first payment on the modified loan.  
10 However, the beneficiary of the deed of trust at the time, BANA, rejected the Lincicomes'  
11 October 1, 2009 payment because BANA did not have a record of the modification. However, in  
12 May of 2011, BANA recorded the modification with the Lyon County Recorder's Office, but failed  
13 to give the Lincicomes notice of the recording. The Lincicomes remained unaware of the  
14 recording of the modification until 2017 when it was disclosed at a foreclosure mediation.  
15

16 Even though it is admitted by all parties to this matter that the modification exists, was  
17 recorded, and that it effectively modified the Lincicomes' mortgage, no lender holding the  
18 modified note has abided by its terms. BANA and all subsequent beneficiaries of the modified  
19 Deed of Trust have instead chose to ignore the effective terms of the agreement they have  
20 sought to enforce by way of foreclosure.  
21

22 There is not a dispute as to the fact that the Lincicomes have not defaulted on the  
23 modified Deed of Trust, and no beneficiary or servicer of the mortgage has sought to enforce  
24 the Deed of Trust upon its terms. Rather, BANA, Fay Servicing, US Bank, and even the Trustee  
25 holding power of sale under the Deed of Trust, have ignored the terms of the 2009 modification  
26 and sought to, and have, foreclosed upon the Lincicomes residence upon the basis that in 2008  
27  
28





1 the Lincicomes defaulted on the 2007 Deed of Trust.

2 There is no factual dispute that the original Deed of Trust was modified by the 2009  
3 modification. There is no dispute that the terms of the 2009 modification have not been applied  
4 to the mortgage by any servicer or by the respective beneficiaries of the mortgage. And there  
5 is no dispute that the Notice of Default recorded in 2017 seeks to foreclose upon the basis that  
6 the Lincicomes defaulted on their loan in 2008.

7 It is undisputed that the Lincicomes' home was foreclosed upon by the enforcement of  
8 terms not applicable to their mortgage. Chapter 107 of the Nevada Revised Statutes simply  
9 does not permit foreclosure upon other terms not contained in the operative documents.  
10

11 The Court should conclude as a matter of law that the Lincicomes were wrongly  
12 foreclosed upon, and their rights under Chapter 107 of the Nevada Revised Statutes, including  
13 the Homeowners' Bill of Rights, were violated.

14 The Lincicomes respectfully request that the Court conclude that the sections of Chapter  
15 107 of the Nevada Revised Statutes require that the foreclosure of the Lincicomes home be set  
16 aside.  
17

## 18 **II. LEGAL STANDARD**

19 "Summary judgment is proper only if no genuine issue of material fact exists 'and the  
20 moving party is entitled to judgment as a matter of law.'" *Foster v. Costco Wholesale Corp.*, 128  
21 Nev. 773, 777, 291 P.3d 150, 153 (2012)(quoting *Cervantes v. Health Plan of Nev.*, 127  
22 Nev.789, 263 P.3d 261, 264 (2011).  
23

24 Rule 56 of the Nevada Rules of Civil Procedure (NRCP) permits entry of summary  
25 judgment where the pleadings, papers and evidence before the court demonstrate that no  
26 genuine issue of material fact exists, and the moving party is entitled to judgment as a matter  
27  
28





of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005); *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002).

In pertinent part, NRCP 56 provides:

- (a) A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

In considering a motion for summary judgment the court shall consider cited materials, but may also consider other materials in the record. NRCP 56(c)(3).

Pursuant to NRCP 56, the burden of proof that no genuine issue of material fact exists lies with the moving party. *Main v. Stewart*, 109 Nev. 721, 726-727, 857 P.2d (1993). "[A] party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact." *Clauson v. Lloyd*, 103 Nev. 432, 435, 743 P.2d 631, 633 (1987) (quoting *Celotex v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986)). However, once the moving party satisfies their burden as required by NRCP 56, the burden shifts to the non-moving party to show the existence of a genuine issue of material fact. *Main*, 109 Nev. at 727.

In deciding the propriety of summary judgment, all evidence favorable to the party against whom summary judgment is sought will be accepted as true. *Potter v. Mutual Benefit Life Ins. Co.*, 93 Nev. 90, 92, 560 P.2d 914 (1977). It is not enough that the non-moving party show some factual dispute; a factual dispute is genuine only when the evidence is such that a rational trier of fact could return a verdict for the non-moving party. *Wood*, 121 Nev. 724 121 P.3d 1026; *Posadas v. City of Reno*, 109 Nev. 448, 453, 851 P.2d 438, 441-42 (1993); *Bulbman*,





1 *Inc. v. Nevada Bell*, 108 Nev. 105, 110,825 P.2d 588, 592 (1992); *Matsushita Elec. Indus. Co.*  
2 *v. Zenith Radio Corp.*, 475 U.S. 574, 586 (U.S. 1986).

3 The substantive law controls which factual disputes are material and will preclude  
4 summary judgment; other factual disputes are irrelevant. *Anderson v. Liberty Lobby, Inc.*, 477  
5 U.S. 242, 248 (1986). Summary Judgment is not a disfavored procedural shortcut, but an  
6 integral part of the rules as a whole. *Celotex*, 477 U.S. at 327. Where the moving party has  
7 supported the motion as required by NRCP 56, and the opposing party cannot set forth specific  
8 facts showing that there is a genuine issue for trial, summary judgment is mandatory.

### 9 **III. UNDISPUTED FACTS**

10 In May of 2007, the Lincicomes purchased their home located at 70 Riverside Drive,  
11 Dayton, Nevada 89403 (hereinafter "Residence" or "Premises") from Riverview Estates, LLC.  
12 (May 7, 2007, Grant Bargain and Sale Deed attached as Exhibit 1).

13 On May 23, 2007, Vicenta Lincicome (hereinafter individually referred to as "Vicenta")  
14 executed a Promissory Note in favor of Sierra Pacific as part of an interest only residential  
15 mortgage loan. (May 23, 2007, Promissory Note attached as Exhibit 2).

16 On that same day, May 23, 2007, Vicenta executed a Deed of Trust (hereinafter "Deed of  
17 Trust") in favor of Mortgage Electronic Registration Systems, Inc. (hereinafter referred to as  
18 "MERS"), a Delaware Corporation, that tracks ownership interests and servicing rights in  
19 mortgage loans and holds title to mortgages solely as nominee for its member-lenders, as the  
20 nominee for Sierra Pacific to secure the mortgage loan. (May 23, 2007, Deed of Trust attached  
21 as Exhibit 3).

22 The Lincicomes were unable to make their June 1, 2008, mortgage payment. (*Notice of*  
23 *Default and Election to Sell Under Deed of Trust*, recorded with the Lyon County Recorder on  
24 January 23, 2009, attached hereto as Exhibit 4).

25 Bank of America (or Recontrust Company, N.A.) recorded a Notice of Default on January  
26 23, 2009 as Document No.437084, accelerating the sum due under the Promissory Note. Ex. 4.

27 On March 11, 2009, the Lyon County Recorder recorded the Lincicomes' Declaration of  
28





1 Homestead. (Declaration of Homestead recorded on March 11, 2009 is attached as Exhibit 5.)

2 On July 11, 2009, the Lincicomes received a notice from BAC Home Loan Servicing  
3 (hereinafter "BANA") indicating that their "loan modification has been approved" and that it  
4 would become "valid" upon signing and returning the documents provided. (BANA "Important  
5 Message About Your Loan" packet dated July 11, 2009, is attached as Exhibit 6").

6 The July 11, 2009 packet required that the modification documents be signed and  
7 returned to BANA by August 10, 2009. Ex. 6.

8 On July 31, 2009, Vicenta Lincicome executed a Loan Modification Agreement  
9 (hereinafter "2009 LMA") before a notary public and sent the documents to BANA in the Fed Ex  
10 Envelope BANA had provided. (The 2009 Loan Modification Agreement executed by Vicenta  
11 Lincicome is attached as Exhibit 7; Affidavit of Vicenta Lincicome attached as Exhibit 8).

12 The loan modification agreement prepared by the "Hope Team" has a CHL loan number of  
13 "162304785" which is also the BANA loan number for the mortgage. (Cf. Ex. 6; Ex. 7).

14 Pursuant to the 2009 LMA, "[t]he Borrower promises to make monthly payments of the  
15 principal and interest of U.S. \$1,977.29 beginning on the 1<sup>st</sup> day of September 2009. . ." (Ex.  
16 7).

17 According to the July 11, 2009 notice, the Lincicomes' "new modified monthly payment  
18 will be \$2,272.62, effective with your September 1, 2009 Payment." (Ex. 6). The loan payment  
19 amount of \$2,272.62 would consist of \$295.33 to be held in escrow and \$1,977.29 for principal  
20 and interest. (Ex. 6).

21 The 2009 LMA extended the maturity date of the original loan to August 1, 2049, and, as  
22 of August 1, 2009, the interest rate applicable to their loan would be reduced from the current  
23 rate of 6.875% to 4.875%. (Cf. Ex. 3; Ex. 6). The 2009 LMA provided that on September 1,  
24 2014, the interest rate would increase to 5.375%. (Ex. 6). Under the 2009 LMA all arrears  
25 were to be capitalized as of September 1, 2009, and the new principal balance owed would be  
26 \$417,196.58 instead of \$381,150.00 (Cf. Ex. 6; Ex. 3).





1 The difference between the interest of the original loan and the 2009 LMA would total a  
2 savings to the Lincicomes of \$7,623.00 per year from 2009 through 2014 ( $\$381,150 \times .06875$   
3 vs.  $\$381,150 \times .04875$ ). (Cf. Ex. 3, p.14; Ex. 7). Additionally, from September 2014 through  
4 September of 2018 the Lincicomes would have saved an additional \$5,717.25 per year on the  
5 original principal balance. *Id.*

6 On September 1, 2009, the Lincicomes travelled to the Bank of America branch located in  
7 Carson City to make their first payment under the 2009 LMA. (Ex. 8). The bank teller assisting  
8 the Lincicomes, "Crystal", was unable to find any record of the 2009 LMA in BANA's system. *Id.*  
9 Crystal accepted payment and provided a receipt indicating that the loan payment was made  
10 upon account no. "162304785." (Receipt for payment of \$2,272.62 provided on BANA mortgage  
11 receipt for account on September 1, 2009 is attached as Exhibit 9).

12 On or about October 1, 2009, Vicenta travelled to the Carson City Bank of America  
13 branch to make the second payment on the 2009 LMA. (Ex. 8). This time the banker, a  
14 middle-aged woman, refused the payment and indicated that there was no record of the  
15 existence of the 2009 LMA in BANA's computer system. *Id.*

16 BANA sent out its October 29, 2009 statement referencing the same loan number that  
17 was provided on the 2009 LMA, indicating the premodified terms of the loan. (October 29, 2009  
18 Loan statement attached as Exhibit 10).

19 From October 1, 2009, to December of 2011, the Lincicomes continued to contact Bank  
20 of America by phone to inquire as to the status of the LMA and make payment. (Ex. 8). A copy  
21 of BANA's response to one of the Lincicomes' requests for information made in February of 2010  
22 is attached as Exhibit 11.

23 In April, the Lincicomes met with HUD Counselor Lucy Powell. (Ex. 8). Ms. Powell assisted  
24 the Lincicomes with the design of an action plan, which included the filing of a Chapter 13  
25 Bankruptcy petition to cure the arrearage with Bank of America that would have accrued since  
26 the 2009 LMA was signed. *Id.*





1 The Lincicomes filed a petition for Chapter 13 Bankruptcy protection before the United  
2 States Bankruptcy Court, District of Nevada, on April 6, 2010, under Case No. 10-51219, and  
3 therein listed Bank of America as a secured creditor.

4 The deadline for Bank of America to file a claim was set by the Bankruptcy Court Clerk to  
5 expire on August 12, 2010. (*Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, &*  
6 *Deadlines* is attached as Exhibit 12).

7 BANA did not file a claim in the Lincicomes' Bankruptcy case. (The Claims Register for  
8 case 10-51219-GWZ is attached as Exhibit 13).

9 On March 22, 2011, BANA Senior Vice President James S. Smith executed the 2009 LMA.  
10 (Ex. 7). Thereafter, on May 4, 2011, BANA caused the 2009 LMA to be recorded with the Lyon  
11 County Recorder's Office as Document No. 475808. (A copy of the recorded 2009 Loan  
12 Modification Agreement is attached as Exhibit 14).

13 On October 19, 2011, BANA sent the Lincicomes correspondence acknowledging that they  
14 had requested information and that a complete response would be provided. (BANA's October  
15 19, 2011 letter attached as Exhibit 15).

16 On or about October 24, 2011, BANA sent the Lincicomes a second correspondence  
17 acknowledging that the Lincicomes had inquired about their modification and that the request  
18 was being forwarded to a specialist. (BANA's October 24, 2011 correspondence is attached as  
19 Exhibit 16).

20 On December 23, 2011, BANA sent the Lincicomes a third correspondence indicating that  
21 it would make a complete response within 20 days. (BANA's December 23, 2011  
22 correspondence is attached as Exhibit 17).

23 BANA did not give the Lincicomes notice that the 2009 LMA had been signed and  
24 recorded. (Ex. 8). The Lincicomes remained unaware of the fact that the LMA had been found,  
25 or that it had been agreed to and fully executed by BANA until 2017. *Id.*





1 On November 26, 2014, Bank of America appeared in the Lincicomes' Bankruptcy case  
2 and filed a *Motion for Relief of Stay* seeking relief from the automatic stay, pursuant to 11  
3 U.S.C. § 362. (BANA's Motion for Relief from Automatic Stay is attached as Exhibit 18).

4 Even though BANA had recorded the fully executed 2009 LMA in 2011, it did not inform  
5 the Bankruptcy Court of the Loan Modification in its motion. *Id.* In fact, BANA misrepresented  
6 to the Bankruptcy Court that the Lincicomes had failed to make payment upon the mortgage  
7 when in fact BANA had refused the Lincicomes' payments and kept the existence of the loan  
8 modification hidden from them. (Ex. 8). BANA falsely asserted that it was entitled to relief  
9 from stay. *Id.* BANA supported these false allegations in its Motion with a copy of the  
10 promissory note given in 2007 and the 2007 Deed of Trust. BANA did not inform the Lincicomes  
11 of the 2009 LMA or the Bankruptcy Court its Motion. *Id.*

12 Upon the false statements made in BANA's Motion, the Bankruptcy Court entered its  
13 Order permitting BANA to proceed against the property. Prior to discharge, but after the Court  
14 had entered its order granting Bank of America's *Motion for Relief of Stay*, the Lincicomes,  
15 believing they would be foreclosed upon, again applied for a loan modification. (Ex. 8).

16 On or about April 24, 2015, Bank of America accepted the loan modification application  
17 and required the Lincicomes to complete three trial modification payments before they could  
18 move forward with modifying their mortgage loan. (April 24, 2015 loan modification notice is  
19 attached as Exhibit 19).

20 The April 24, 2015 loan modification notice provided that upon completion of the trial  
21 payments, the Lincicomes' mortgage would be extended to May 1, 2055, that the interest rate  
22 would be reduced to 4.125%, and that if it is determined that the unpaid balance of the  
23 Lincicomes' mortgage exceeds 115% of the current value of their home, the Lincicomes would  
24 be eligible to have up to 30% of their principal balance deferred and not be subject to interest.  
25 (Ex. 19).

26 The Lincicomes made the first trial payment of \$2,013.78 on May 28, 2015. The second  
27 trial payment was made on July 1, 2015. (Ex. 8). Then on August 1, 2015, while attempting to





1 make the third trial payment, Bank of America informed the Lincicomes that their loan had been  
2 transferred to Fay Servicing, LLC. (Ex. 8).

3 The Lincicomes called Fay Servicing that same day, August 1, 2015, to make payment  
4 and spoke with account manager Rosalind Jackson. *Id.* Ms. Jackson informed the Lincicomes  
5 that Fay Servicing does not honor Bank of America modifications. *Id.*

6 On August 10, 2015, Fay Servicing generated a Mortgage Statement indicating the  
7 amount due on the Lincicomes' account on September 1, 2015, was \$207,599.70, and reflecting  
8 an interest rate of 6.875 % and indicating there were 85 payments that remain due on the  
9 account. (Fay Servicing's August 10, 2015 is attached hereto as Exhibit 20).

10 On November 10, 2015, Bank of America assigned its interest in the Deed of Trust to  
11 PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
12 (hereinafter "US Bank").

13 In 2016, the Lincicomes applied for the Home Affordable Modification Program (HAMP)  
14 modification through Fay Servicing. (Ex. 8) Fay Servicing informed the Lincicomes that they  
15 only qualified for a Home Affordable Foreclosure Alternatives (HAFA) Short Sale. *Id.* The  
16 Lincicomes appealed Fay Servicing's denial of their qualification for HAMP. *Id.*

17 On September 7, 2016, Fay Servicing sent the Lincicomes a response to their appeal of  
18 their denial therein indicating that the Lincicomes did not have sufficient income to qualify for a  
19 modification, and also that they were not qualified for the HAMP Unemployment Program (HAMP  
20 UP) "because the property is not your primary residence." (Fay Servicing's Response to HAMP  
21 Appeal is attached as Exhibit 21).

22 The Lincicomes have continuously used and claimed their home located at 70 Riverside  
23 Dr., Dayton, Nevada, as their residence. (Ex. 8). After being denied, the Lincicomes reached  
24 out to Senator Harry Reid's office for help. *Id.* Shortly thereafter, Fay Servicing offered the  
25 Lincicomes a trial modification at \$2,528.86 per month. *Id.*





1 The Lincicomes completed the three trial payments by December 1, 2016, and then  
2 determined that entering into the modification under the proposed terms would leave them in a  
3 terrible financial position. (Ex 8.)

4 On December 20, 2016, the Lincicomes then elected to enter the State of Nevada  
5 Foreclosure Mediation Program, and Anita Conboy was appointed mediator. On April 17, 2017,  
6 the mediation was terminated with no agreement because Fay Servicing did not bring any  
7 certifications for any of the documents as required by law. (May 18, 2017 correspondence from  
8 the Administrative Office of the Courts is attached as Exhibit 22).

9 On November 3, 2017, Sables, LLC, as Trustee under the Deed of Trust (hereinafter  
10 "Sables" or "Trustee"), recorded its *Notice of Breach and Default and Election to Sell the Real*  
11 *Property under Deed of Trust* (hereinafter "NOD"). (November 3, 2017 Notice of Default is  
12 attached hereto as Exhibit 23). The NOD provides that as of October 31, 2017, \$265,572.39  
13 is owed in arrears. (Ex. 23). Even though the NOD acknowledges that the "subject Deed of  
14 Trust was modified by Loan Modification Agreement recorded as Instrument 475808 . . .  
15 recorded on 5/4/2011 . . . in the office of the County recorder of Lyon County," it also provides  
16 that all monthly installments from "9/1/2008" forward are due. (Ex. 23).

17 The NOD does not reflect the terms of the 2009 LMA, which would have by its own terms  
18 become effective in 2009 with the first installment to be made on 9/1/2009. (*Cf.* Ex. 22; Ex. 7).

19 The NOD included an Affidavit of Authority signed on October 5, 2016, by Veronica  
20 Talley, as a "Foreclosure Specialist IV" (hereinafter "Talley Affidavit"), 13 months prior to the  
21 recording of the NOD, and therein states that Fay Servicing has complied with the requirements  
22 of NRS 107.080. (Ex. 23).

23 The Declaration of the Mortgage Servicer attached to the NOD indicates that pursuant to  
24 the requirements of NRS 107.510 the mortgage servicer contacted the borrower to assess the  
25 borrower's financial situation and to explore options for the borrower to avoid a foreclosure sale  
26 (Ex. 23). The Declaration was signed and dated April 5, 2016, nearly 19 months prior to the  
27 signing of the NOD to which it is attached. (Ex. 23).





1 The Lincicomes elected to seek relief by way of the Nevada Supreme Court Foreclosure  
2 Mediation Program and filed a Petition with the Court on December 1, 2017. (Petition for  
3 Foreclosure Mediation Assistance attached as Exhibit 24).

4 The Lincicomes also completed a Loss Mitigation Application and submitted the same to  
5 Fay Servicing. Fay responded on March 6, 2018, with an offer for the Lincicomes to proceed  
6 with a trial modification which, if accepted, would require the first payment to be made by April  
7 1, 2018. (Fay Servicing's March 6, 2018 Correspondence is attached as Exhibit 25). As an  
8 alternative to a trial modification, Fay Servicing offered on "Attachment B" to its March 6, 2018  
9 letter for the Lincicomes to consider pursuing a Deed-In-Lieu of Foreclosure. (Ex. 25).

10 The Lincicomes attended the second mediation on April 3, 2018, which was conducted by  
11 Madelyn Shipman. (Ex. 8). According to the Mediator's Statement filed with the Third Judicial  
12 District Court under Case 18-CV-0346, the Lincicomes agreed to resolve the mediation by way  
13 of a Mediation Agreement. (Mediator's Statement attached as Exhibit 26). Page 5 of the  
14 Mediator's Statement indicates that the Lincicomes agreed to a Deed in Lieu of Foreclosure  
15 "Pursuant to the Requirements of Page 6 of TTP dated 3/6/2018" (Ex. 26, p.5).

16 Page 6 of Fay Servicing's March 6, 2018 letter, "Attachment B" gives the Lincicomes the  
17 opportunity to avoid foreclosure through Fay Servicing's DIL Program. (Ex. 26) The Mediation  
18 agreement does not provide any other specific terms except for those provided on Page 6 of Fay  
19 Servicing's March 6, 2018 letter. (Ex. 26, pp.5-6).

20 According to the Mediator's Agreement as well as the terms of Attachment B, if a Deed in  
21 Lieu was not in the works by July 4, 2018, a Certificate of Mediation would be issued on July 5,  
22 2018, so that Fay Servicing could exercise the beneficiary's rights in demanding a foreclosure  
23 proceed. (Ex. 26, pp. 2, 5).

24 According to Attachment B of the March 6 letter, the Lincicomes "will have until July 4,  
25 2018 to complete a DIL [(deed in lieu)] for the property." (Ex. 26, p.15). Attachment B also  
26 provides other terms and conditions that the Lincicomes had to meet to qualify for a Deed in  
27 Lieu under Fay Servicing's Deed in Lieu program including the following:





- 1 1. Facilitate an interior BPO of the property;
- 2 2. Establish that they have clear and marketable title to the property;
- 3 3. Continue to maintain the property;
- 4 4. Inform Fay Servicing if relocation assistance is needed for a dependent parent or
- 5 grandparent living upon the premises;
- 6 5. Provide a Dodd-Frank certification at least (7) days prior to the conveyance of the
- 7 property;
- 8 6. Provide a Hardship Affidavit.

9 Under Attachment B, if the Lincicomes are able to meet the terms set forth therein, the  
10 foreclosure will be suspended. (Ex. 26, p.15). If the Lincicomes have met all the conditions and  
11 terms set forth in Attachment B, Fay Servicing would "prepare and record a lien release in full  
12 satisfaction of the mortgage, foregoing all rights to pursue a deficiency." (Ex. 26, p.16).  
13 However, if the Lincicomes fail to accomplish the terms and conditions set forth in Attachment  
14 B, then the "foreclosure proceeding that was suspended . . . may be resumed and the  
15 foreclosure sale may occur." (Ex. 26, p.16).

16 Attachment B also provides that "[t]here is no guarantee that the transaction will be  
17 successful . . . and that in the event that the transaction is unsuccessful, Fay Servicing "may  
18 exercise [their] remedies under the mortgage, including foreclosure." (Ex. 26, p.16).

19 The Lincicomes chose not to pursue participation in Fay Servicing's DIL program. Then  
20 on October 12, 2018, Sables recorded its *Notice of Trustee's Sale* with the Lyon County  
21 Recorder as Document No. 587470. (Sable's October 12, 2018 Notice of Trustee's Sale is  
22 attached as Exhibit 27). The *Notice of Trustee's Sale* provides that the date of sale is  
23 November 9, 2018, at 11:00 AM, at the Lyon County Court House on 31 S. Main Street  
24 Yerington, Nevada 89447.

25 Like the Notice of Default, the Notice of Trustee's Sale also provides that the "Deed of  
26 Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and  
27 recorded on 5/4/2011." (Ex. 27).





1 On November 7, 2018, the Lincicomes filed a *Complaint* for Declaratory Relief and an  
2 *Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction* in  
3 the Third Judicial District Court of the State of Nevada, as Case No. 18-CV-01332.

4 On November 7, 2018, a *Notice of Lis Pendens* was filed in the Third Judicial District  
5 Court Case No. 18-CV-01332 concerning the Lincicomes' home and the same was recorded with  
6 the Lyon County Recorder on November 8, 2018, as Document No. 588549.

7 On November 8, 2018, the Third Judicial District Court entered an *Order* restraining and  
8 enjoining Defendants from foreclosing on the Property.

9 On November 8, 2018, a *Notice of Entry of Order* concerning entry of the Court's  
10 November 8, 2018 *Order* was served on all interested parties by mail and on November 14,  
11 2018, the Third Judicial District Court entered a *Corrected Order* restraining and enjoining  
12 Defendants from foreclosing on the Property.

13 On November 20, 2018, the Court held a hearing on the Lincicomes' *Application for Ex*  
14 *Parte Restraining Order, Preliminary Injunction and Permanent Injunction*. On December 31,  
15 2018, the District Court entered its Order upon the November 20, 2018 hearing.

16 On January 4, 2019, Sables, LLC, sold the Premises at foreclosure sale to Breckenridge  
17 Property Fund (hereinafter "Breckenridge"). On January 25, 2019, a *Trustee's Deed Upon*  
18 *Sale* was recorded in the office of the Lyon County Recorder as Document No. 591393.  
19 (*Trustee's Deed Upon Sale* attached hereto as Exhibit 28).

#### 20 IV. ARGUMENT

21 1. **Plaintiffs are entitled to entry of Summary Judgment against Bank of**  
22 **America for Breach of Contract.**

##### 23 a. **Deed of Trust was modified by the 2009 Modification Agreement.**

24 The Court should find and conclude that the 2009 Modification Agreement was a valid  
25 modification to the 2007 Deed of Trust and governed the terms of the mortgage loan from July  
26 31, 2009 forward.





1 Under Nevada Law, for an enforceable contract, proof of an offer and acceptance,  
2 meeting of the minds, and consideration must be established. *May v. Anderson*, 121 Nev. 668,  
3 672, 119 P.3d 1254, 1257 (2005).

4 BANA has admitted the genuineness of the 2009 LMA that was presented by BANA to  
5 Vicenta Lincicome on July 11, 2009. (BANA Response to Request for Admissions attached as  
6 Exhibit 29, Adm 8, p.11). BANA's July 11, 2009 letter is clearly an offer for the Lincicomes to  
7 modify their mortgage. (Ex. 6; Ex. 7).

8 The 2009 agreement is supported and established by adequate consideration. (Ex. 7).  
9 Both parties make a promise to the other under the agreement. (Ex. 7). Vicenta Lincicome  
10 agreed to begin making payment as set forth in the agreement and BANA agreed to modify  
11 the terms of the mortgage. (Ex. 7). It is not disputed or alleged by any party to this matter  
12 that the 2009 LMA fails for lack of consideration.

13 As to the matter of offer and acceptance, formation was complete upon Vicenta  
14 Lincicome's signature of the Agreement on July 31, 2009. As to the confirmation of BANA  
15 agreement to establish that Vicenta Lincicome had met the terms for entry into the  
16 agreement, Senior Vice President for BANA, James S. Smith, executed the agreement on  
17 March 22, 2011, and had the agreement recorded with the Lyon County Recorder on May 4,  
18 2011. (Ex. 7; Ex. 14). Additionally, BANA has admitted as much in its answer to Plaintiffs'  
19 Request for Admissions (BANA Response to Request for Admissions attached as Exhibit 28,  
20 Ans. 4-14).

21 Additionally, the Notice of Default recorded November 3, 2017, and the Notice of Sale,  
22 dated October 11, 2018, provide that the mortgage loan was modified by the 2009 LMA. (Ex.  
23 22; Ex. 25).

24 The Court should easily conclude that the Loan Modification Agreement is applicable to  
25 the Lincicome mortgage loan and that its terms supersede all contrary and different terms  
26 applicable to the mortgage loan.





1                   **b. BANA Breached the 2009 Loan Modification.**

2                   The Court should conclude that there is no dispute of material fact as to BANA's breach  
3 of the 2009 Loan Modification Agreement.

4                   To establish a claim for breach of contract under Nevada law, a party must show (1)  
5 the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result  
6 of the breach. *Brown v. Kinross Gold U.S.A., Inc.*, 531 F. Supp. 2d 1234, 1240 (D. Nev.  
7 2008)(quoting *Saini v. Int'l Game Tech.*, 434 F.Supp.2d 913, 920–21 (D.Nev.2006)(citing  
8 *Richardson v. Jones*, 1 Nev. 405, 405 (1865)).

9                   A material breach of contract occurs when the "root" or "essence" of the contract is  
10 thwarted. Williston on Contracts § 63:3 (4th ed.).

11                  In this matter, there is no dispute as to formation of the agreement. As to the issue of  
12 breach, BANA has admitted by way of statement and action that it has breached the 2009 LMA.

13                  BANA admits that the 2009 LMA was not subject to trial modification payments. (Ex. 29,  
14 Ans. 16). BANA admits that it received Vicenta Lincicome's September payment of \$2,272.62.  
15 (Ex. 29, Ans. 3).

16                  BANA admits that at no time between July 31, 2009, and July 31, 2015, did it provide  
17 Vicenta Lincicome with any form of written notice that it had received the 2009 LMA. (Ex. 29,  
18 Ans. 13). BANA admits that even after BANA Senior Vice President James S. Smith executed  
19 the 2009 LMA on March 22, 2011, that it did not provide Vicenta Lincicome with any notice that  
20 the Agreement had been executed on BANA's behalf. (Ex. 29, Ans. 14).

21                  Most importantly, BANA admits that between July 31, 2009 and July 31, 2015, it did not  
22 establish a new mortgage account under the terms of the 2009 LMA, that it did not update the  
23 Lincicomes' current mortgage account to include the terms of the 2009 LMA, that it did not  
24 provide Vicenta Lincicome with payment coupons for payments under the 2009 LMA, statements  
25 reflecting the terms of the 2009 LMA, or any other document referencing or setting forth the  
26 terms of the 2009 LMA. (Ex. 29, Ans. 4; Ans. 5; Ans. 6; Ans. 7; Ans. 8; BANA and Fay Servicing  
27 Statements attached as Exhibit 30).



1 In 2015, BANA went so far as to misrepresent to the U.S. Federal Bankruptcy Court for  
2 the District of Nevada that it was entitled to relief from stay for the Lincicomes' non-payment of  
3 the mortgage loan under the terms of the 2007 Deed of Trust. (Ex. 18, p.3.). Additionally,  
4 BANA failed to disclose to the Bankruptcy Court and the Lincicomes that the 2007 Deed of Trust  
5 were modified by the 2009 LMA, and that the document had been executed on BANA's behalf in  
6 2011. (Ex. 18). It is also notable that BANA characterized Vicenta Lincicome's September 2009  
7 payment of \$2,272.62 as a partial payment. (Ex. 18, p.3, ¶ 8).

8 Even though BANA acknowledged Vicenta Lincicome's many requests for information  
9 concerning the 2009 LMA in its written correspondences, it refused to tell her the truth. That for  
10 one reason or another, it was not going to implement or abide by the terms of the 2009 LMA.  
11 Instead of being honest, BANA deceived the Lincicomes and the Federal Bankruptcy Court.

12 The purpose of the 2009 LMA is clear; to alter and amend the 2007 Deed of Trust and to  
13 rectify the Lincicomes' default on that original agreement. (Ex. 6; Ex. 7). Once signed, BANA's  
14 failure to implement the terms of the 2009 LMA is the very essence of thwarting the purpose of  
15 the agreement. Except for a statement of the same by BANA, there can be no clearer material  
16 breach of contract.

17 BANA has set forth no alternative story. BANA has simply denied wrongdoing. The Court  
18 should conclude based upon the foregoing, and based upon the record before the Court, that  
19 BANA's actions and its admissions establish beyond dispute that the 2009 LMA was materially  
20 breached.

21 **c. BANA's Breach Relieved the Lincicomes of their Duties under the**  
22 **Agreement.**

23 The Court should find and conclude that the Lincicomes were relieved of their duty to  
24 make payments under the 2009 Loan Modification, when BANA breached its agreement by  
25 failing to acknowledge the agreement and implement its terms.





1 The Nevada Supreme Court has held that a material breach of one party's promise  
2 discharges the non-breaching party's duty to perform. *Cain v. Price*, 134 Nev. Adv. 26, 415  
3 P.3d 25 (2018)(citing Restatement (Second) of Contracts § 237 (Am. Law Inst. 1981).

4 As well, the Nevada Supreme Court has held that an affirmative tender of performance of  
5 one party is excused where the other party prevents performance. *See Cladianos v. Friedhoff*,  
6 69. Nev. 41, 240 P.2d 208 (1952).

7 It is clear under Nevada Law that the Lincicomes cannot be held to have had a duty to  
8 make payments under the modified mortgage agreement, where BANA was hiding and  
9 misrepresenting the fact that it had received the 2009 LMA and executed the same. (Ex. 29).

10 BANA and its successor in interest have no valid complaint for non-payment under the  
11 law. All parties hereto have admitted the validity of the 2009 LMA. As well, no beneficiary of  
12 the Deed of Trust, nor servicer or agent has provided the Lincicomes with a demand for  
13 payment under the terms of the 2009 LMA, or even offered to reset the loan back to 2009 so  
14 that the Lincicomes could begin making payments as originally agreed.

15 The Lincicomes are not liable for BANA and its successors in interests' failure to  
16 implement the 2009 LMA, and the Court should conclude that the Lincicomes bear no liability for  
17 any payment that would have been made had the Lincicomes been given the opportunity to  
18 enforce the agreement.

19 The Court should easily conclude that the cause of disruption in the Lincicomes' payment  
20 under the 2009 LMA lies solely with BANA and its successors in interest, and that the Lincicomes  
21 are not liable for missed payment under the 2009 LMA, when no beneficiary under the deed of  
22 Trust had implemented the terms of the modification agreement.

23 **d. Lincicome are entitled to Damages.**

24 The Lincicomes request that the Court provide them with the opportunity to present their  
25 evidence of compensatory damages associated with BANA's breach of the 2009 LMA. The  
26 Lincicomes also have consequential and special damages that they are seeking in this matter  
27 including all damages resulting over the history of their mortgage dealings since BANA's breach.





1 As well, as a consequence of BANA's bad acts and failures, the Lincicomes seek attorney's fees  
2 in the form of Special Damages. Even though the entitlement to damages under contract law  
3 may not be in dispute, the evidence associated with the damages sought will require additional  
4 review and proceedings in this matter as the Court finds is appropriate.

5 Therefore, the Lincicomes request that the Court enter Summary Judgment in their favor  
6 under the claim of Breach of Contract against Bank of America. Additionally, the Lincicomes  
7 request that the Court provide the Lincicomes the opportunity to present evidence of the extent  
8 of the damages to be determined as the Court believes is appropriate.

9 **2. Plaintiffs are entitled to entry of Summary Judgment upon their Claim for**  
10 **Wrongful Foreclosure.**

11 The Court should conclude that no issue of material fact exists as to the Lincicomes' claim  
12 for Wrongful Foreclosure and they are entitled to Judgment as a matter of law.

13 Nevada law codified in Chapter 107 clearly lays out the rules that beneficiaries, servicers,  
14 and trustees must follow to legally cause the foreclosure of a residence upon a homeowner in  
15 default.

16 By acquiring the benefits of the Deed of Trust, US Bank, MCM, Capital Trust, Sables, and  
17 their respective agents, including Fay Servicing, assumed the legal duty to comply with the  
18 provisions of Chapter 107 of the Nevada Revised Statutes, including sections NRS 107.080, and  
19 NRS 107.400 through NRS 107.560.

20 Pursuant to NRS 107.080(2), "[t]he power of sale must not be exercised . . . until . . .  
21 the **grantor** . . . has, **for a period of 35 days**, . . . failed to make good the deficiency in  
22 performance or payment." NRS 107.080(2) (emphasis added).

23 It is indisputable in this matter that the 2009 LMA modified the 2007 Deed of Trust, and  
24 thereby altered the original terms of the Lincicomes' mortgage loan. It is also indisputable that  
25 BANA and all subsequent beneficiaries of the modified deed of trust, failed to implement the  
26 terms of the 2009 LMA. No bank statements provided in this matter reflect the terms of the  
27 2009 LMA. (Ex. 30). Likewise, the terms set forth in the *Notice of Default and Election to Sell*





1 *Under Deed of Trust* does not reflect the terms of the 2009 Loan Modification Agreement. (Ex.  
2 23).

3 Under the circumstances, the respective beneficiaries of the Deed of Trust, and their  
4 servicers, were demanding that the Trustee foreclose upon the Lincicomes for nonpayment of a  
5 mortgage contract that had never been implemented, and that the Lincicomes had never been  
6 given the opportunity to make payment upon.

7 To make matters worse, this conclusion was determined by this Court prior to the  
8 Foreclosure (Notice of Entry of Order of the Court's December 31, 2018 Order attached as  
9 Exhibit 31).

10 In the Court's December 31, 2018 Order, it found:

11 . . .  
12 2. That on or about July 11, 2009, Bank of America offered  
13 Vicenta a Loan Modification Agreement (hereinafter "LMA") which  
14 modified and extended the maturity date of the [2007 Deed of Trust  
(referred to as "2007 DOT")] from June 1, 2037, to August 1, 2049  
and further modified the interest rate applicable to the 2007 DOT by  
reducing the same from 6.875% to 4.875%;

15 3. That the LMA provided that on September 1, 2014, the  
16 interest rate applicable to the 2007 DOT would increase from  
4.875% to 5.375%;

17 4. That the LMA capitalized existing arrears of September 1,  
18 2009, and modified the principal balance owed under the 2007 DOT  
from \$381,150 to \$417,196.58;

19 5. That on July 31, 2009, Vicenta accepted Bank of America's  
20 offer to modify the 2007 DOT, and executed the LMA and sent the  
21 document to Bank of America;

22 6. That on September 1, 2009, the Lincicomes made a payment  
23 of \$2,272.62 to Bank of America upon the 2007 DOT as modified by  
the LMA;

24 7. That on September 1, 2009, Bank of America accepted  
25 payment, but was unable to find the modified loan in its system;

26 8. That on October 1, 2009, Bank of America refused payment  
27 from the Lincicomes, because it did not have a record that the 2007  
DOT had been modified by the LMA;





ALBERT ELLIS LINCICOME, JR. and )  
VICENTA LINCICOME, )  
Appellants, )  
v. )  
SABLES, LLC, A NEVADA LIMITED )  
LIABILITY COMPANY, AS TRUSTEE )  
OF THE DEED OF TRUST GIVEN BY )  
VICENTA LINCICOME AND DATED )  
5/23/2007; FAY SERVICING, LLC, A )  
DELAWARE LIMITED LIABILITY )  
COMPANY AND SUBSIDIARY OF )  
FAY FINANCIAL, LLC; PROF-2013-M4 )  
LEGAL TITLE TRUST BY U.S. BANK, )  
N.A., AS LEGAL TITLE TRUSTEE; )  
BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND )  
2016, A UTAH LIMITED LIABILITY )  
COMPANY; NEWREZ, LLC, D/B/A )  
SHELLPOINT MORTGAGE )  
SERVICING, LLC.; 1900 CAPITAL )  
TRUST II, BY U.S. BANK TRUST )  
NATIONAL ASSOCIATION; AND )  
MCM-2018-NPL2, )  
Respondents. )

NEVADA SUPREME COURT  
CASE NO.: 83261  
  
THIRD JUDICIAL DISTRICT  
COURT CASE NO.: 18-CV-01332

## Docket 83261 Document 2021-37149



**INDEX OF APPENDIX  
VOLUME I**

<b>#</b>	<b><u>Document</u></b>	<b><u>Filed Date</u></b>	<b><u>Page</u></b>
1	Complaint	11-07-2018	AA00001
2	Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00126

**VOLUME II**

2	(Continued) Application for Ex Parte Restraining Order Preliminary Injunction and Permanent Injunction	11-07-2018	AA00251
3	Affidavit of Counsel	11-07-2018	AA00255
4	Notice of Lis Pendens APN 29-401-17	11-07-2018	AA00257
5	Order After Hearing Concerning Restraining Order and Preliminary Injunction	11-08-2018	AA00259
6	Corrected Order Concerning Restraining Order and Preliminary Injunction	11-14-2018	AA00262
7	Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00265

**VOLUME III**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00501
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**VOLUME IV**

7	(Continued) Response to Application for Ex Parte Restraining Order, Preliminary Injunction, and Permanent Injunction	11-15-2018	AA00751
8	Declaration of Fay Servicing, LLC in Response to Application for Ex Parte Restraining Order, Preliminary Injunction and Permanent Injunction	11-15-2018	AA00778
9	US Bank Trust's Answer to Complaint	11-29-2018	AA00782



10	Defendant Bank of America, N.A.'s Notice of Motion and Motion to Dismiss Plaintiffs' Complaint	12-21-2018	AA00796
11	Declaration of Non-Monetary Status (Sables)	12-24-2018	AA00805
12	Order After Hearing Concerning Restraining Order and Preliminary Injunction and Setting Aside Order Entered 11-8-18 and Corrected Order 11-14-18.	12-31-2018	AA00809
13	Objection to Declaration of Non-Monetary Status	01-09-2019	AA00817
14	Sables, LLC's Response to Objection to Its Declaration of Non-Monetary Status	01-28-2019	AA00821
15	Sables, LLC's Motion to Set Aside Default	01-28-2019	AA00826
16	Plaintiffs' Motion for Leave to File Amended Complaint to Substitute Parties	03-04-2019	AA00836
17	Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00918
18	Declaration of Ramir M. Hernandez, Esq. in Support of Motion for Rule 11 Sanctions Against Plaintiffs	03-15-2019	AA00931
19	Defendant Bank of America, N.A.'s Motion to Dismiss Plaintiffs' Complaint	03-22-2019	AA00935
20	Opposition to US Bank's Motion for Rule 11 Sanctions	03-28-2019	AA00944
21	Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA00975

### **VOLUME V**

21	(Continued) Opposition to Bank of America's Motion to Dismiss Plaintiff's Complaint	04-04-2019	AA01001
22	Response to Declaration of Shadd A. Wade	04-11-2019	AA01078
23	Defendant Bank of America, N.A.'s Reply to Opposition on Motion to Dismiss Plaintiffs' Complaint	04-12-2019	AA01094
24	Reply in Support of Motion for Rule 11 Sanctions Against Plaintiffs	04-12-2019	AA01103
25	Motion to Intervene and Expunge Lis Pendens	05-24-2019	AA01111
26	Order	05-30-2019	AA01122



27	Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims for Relief	06-07-2019	AA01127
28	Opposition to Motion to Intervene	06-10-2019	AA01213
29	Opposition to Plaintiffs' Amended Motion for Leave to File Amended Complaint to Substitute Parties and Add Additional Claims and Relief	06-19-2019	AA01225
30	Reply in Support of Motion to Intervene and Expunge Lis Pendens	06-19-2019	AA01230
31	Sables, LLC's Opposition to Plaintiffs' Amended Motion to Amend	06-20-2019	AA01235
32	Reply to Breckenridge Property Fund 2016, LLC's Opposition to the Amended Motion for Leave to Amend Complaint	07-09-2019	AA01240
33	Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01244
<b>VOLUME VI</b>			
33	(Continued) Petition for Writ of Mandamus (Supreme Court)	08-1-2019	AA01251
34	Order Granting Plaintiffs Leave to File Second Amended Complaint	08-28-2019	AA01280
35	Plaintiffs' Motion for Leave to File Second Amended Complaint to Substitute Parties and Add Additional Claims for Relief	09-12-2019	AA01283
36	Order Granting in Part and Denying in Part the Motion to Intervene and Expunge Lis Pendens	09-17-2019	AA01374
37	Order Directing Answer (Supreme Court)	09-25-2019	AA01376
38	Plaintiffs' Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief	09-27-2019	AA01378
39	Ex Parte Motion for Order to Show Cause	10-03-2019	AA01385
40	Intervenor's Counterclaim	10-03-2019	AA01414
41	Order	10-16-2019	AA01447



42	Plaintiffs' Opposition to Breckenridge's Motion for Order to Show Cause Re Writ of Restitution	10-18-2019	AA01445
43	Plaintiffs' Answer to Counterclaim and Counterclaim Against Intervener	10-23-2019	AA01473
44	Order Denying Ex Parte Motion and Setting Hearing	10-24-2019	AA01495
45	Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01498

## VOLUME VII

45	(Continued) Sables, LLC's Response to Petition for Writ of Mandamus (Supreme Court)	10-25-2019	AA01501
46	Breckenridge's Answer to the Counterclaim Filed by Albert Ellis Lincicome, Jr. and Vicenta Lincicome	11-18-2019	AA01516
47	Order Concerning Motion for Leave to File Motion for Reconsideration of the Court's August 23, 2019 Order Re Declaratory Relief.	11-22-2019	AA01521
48	Petitioners' Reply to Responses to Petition for Writ of Mandamus (Supreme Court)	11-27-2019	AA01523
49	Order (Concerning Motion to File Second Amended Complaint)	12-06-2019	AA01544
50	Plaintiffs' Motion for Reconsideration	12-13-2019	AA01546
51	Plaintiffs' Second Amended Complaint	12-20-2019	AA01553
52	Answer to Second Amended Complaint (US Bank, Prof-2013 M4-Legal Title Trust and Fay Servicing)	01-07-2020	AA01697
53	Breckenridge Property Fund 2016, LLC's Answer to Second Amended Complaint	01-08-2020	AA01721
54	Order Denying Petition for Review (Supreme Court)	01-22-2020	AA01726
55	Bank of America, N.A.'s Answer and Affirmative Defenses to Plaintiffs' Second Amended Complaint	01-23-2020	AA01728
56	Order Denying Without Prejudice Ex Parte Motion for Order to Show Cause Why a Temporary Writ of Restitution Should Not Be Granted and Request to Shorten Time to Answer	02-11-2020	AA01748



### **VOLUME VIII**

57	Answer to Second Amended Complaint (Newrez, LLC, d/b/a Shellpoint Mortgage)	03-19-2020	AA01751
58	Breckenridge Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments With Court	03-27-2020	AA01776
59	Plaintiffs' Opposition to Motion for Deposit of Payments With Court	04-13-2020	AA01806
60	Breckenridge Reply in Support of Motion for Order Requiring Plaintiff to Deposit Rental and/or Mortgage Payments with Court	04-24-2020	AA01839
61	Breckenridge Property Fund 2016, LLC's Reply in Support of Motion for Leave to File Crossclaim Against Prof-2013-M4 Legal Title Trust by U.S. Bank National Association, as Legal Title Trustee	09-11-2020	AA01844
62	Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	10-02-2020	AA01853
63	Answer to Breckenridge Property Fund 2016, LLC's Crossclaim Against Prof-2013-M4 Legal Title Trust, By U.S. Bank National Association, as Legal Title Trustee	11-02-2020	AA01860
64	Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA01869

### **VOLUME IX**

64	(Continued) Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions	03-17-2021	AA02001
65	Breckenridge Property Fund 2016 LLC's Motion for Summary Judgment Against Plaintiff	03-18-2021	AA02179
66	(Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02230

### **VOLUME X**

66	(Continued) (Plaintiffs') Motion for Partial Summary Judgment	03-19-2021	AA02251
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## **VOLUME XI**

- |    |  |            |         |
|----|--|------------|---------|
| 66 | (Continued) (Plaintiffs') Motion for Partial Summary Judgment  | 03-19-2021 | AA02501 |
| 67 | Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA02540 |

## **VOLUME XII**

- |    |  |            |         |
|----|--|------------|---------|
| 67 | (Continued) Shellpoint Mortgage Servicing, LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02751 |
| 68 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment   | 03-25-2021 | AA02764 |
| 69 | Request for Judicial Notice in Support of Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Motion for Summary Judgment and Shellpoint Mortgage Servicing LLC's Motion for Summary Judgment | 03-25-2021 | AA02779 |
| 70 | Shellpoint Mortgage Servicing, LLC's Motion for Summary Judgment   | 03-25-2021 | AA02785 |
| 71 | Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment   | 03-25-2021 | AA02796 |

## **VOLUME XIII**

- |    |  |            |         |
|----|--|------------|---------|
| 71 | (Continued) Prof-2013-M4 Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's and Fay Servicing LLC's Undisputed Statement of Facts in Support of Motion for Summary Judgment | 03-25-2021 | AA03001 |
| 72 | Bank of America, N.A.'s Errata to Bank of America, N.A.'s Motion for Summary Judgment and Motion for Sanctions   | 04-02-2021 | AA03017 |



73	Bank of America, N.A.'s Opposition to Plaintiffs' Partial Motion for Summary Judgment	04-14-2021	AA03021
74	Plaintiffs' Opposition to US Bank, Fay Servicing, and Shellpoint's Motions for Summary Judgment	04-15-2021	AA03089
75	Plaintiffs' Opposition to BANA's Motion for Summary Judgment	04-15-2021	AA03112
76	Plaintiffs' Opposition to Breckenridge's Motion for Summary Judgment	04-15-2021	AA03127
77	Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03136

#### **VOLUME XIV**

77	(Continued) Plaintiffs' Statement of Undisputed Material Facts	04-15-2021	AA03251
78	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03482

#### **VOLUME XV**

78	(Continued) Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and Fay Servicing LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	04-19-2021	AA03501
79	Bank of America, N.A.'s Reply Supporting Motion for Summary Judgment	05-05-2021	AA03506
80	Supplement to Plaintiffs' Statement of Undisputed Material Facts	05-06-2021	AA03519
81	Reply to Bank of America, N.A.'s Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03671
82	Reply to US Bank & Fay Servicing, LLC's Opposition to Plaintiffs' Motion for Partial Summary Judgment	05-06-2021	AA03698
83	Shellpoint Mortgage Servicing, LLC's Reply in Support of Motion for Summary Judgment	05-10-2021	AA03720
84	Prof-2013 M4-Legal Title Trust, By U.S. Bank, National Association, as Legal Title Trustee's, and	05-10-2021	AA03727



Fay Servicing LLC's Reply in Support of Motion for Summary Judgment

- |    |   |            |         |
|----|---|------------|---------|
| 85 | Breckenridge Property Fund 2016 LLC's Reply in Support of Motion for Summary Judgment Against Plaintiff | 05-10-2021 | AA03737 |
| 86 | Order on Breckenridge Motion for Summary Judgment   | 06-23-2021 | AA03743 |

**VOLUME XVI**

- |    |  |            |         |
|----|--|------------|---------|
| 87 | Order Denying Plaintiffs' Motion for Partial Summary Judgment/Granting Motions for Summary Judgment filed by BANA, Prof-2013 M4 Legal Trust, US Bank and Fay Servicing LLC | 06-23-2021 | AA03751 |
| 88 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03769 |
| 89 | Notice of Entry of Order (Order Denying Plaintiffs Motion for Partial Summary Judgment)  | 07-06-2021 | AA03780 |
| 90 | Notice of Entry of Order (Order on Breckenridge Motion for Summary Judgment)   | 07-06-2021 | AA03801 |
| 91 | Lincicomes' Notice of Appeal   | 07-19-2021 | AA03812 |
| 92 | Case Appeal Statement  | 07-30-2021 | AA03815 |
| 93 | Order Regarding Permanent Writ of Restitution  | 08-20-2021 | AA03823 |
| 94 | Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents  | 09-09-2021 | AA03826 |
| 95 | Plaintiffs' Motion for Stay Pending Appeal   | 09-15-2021 | AA03888 |
| 96 | Opposition to Breckenridge Property Fund 2016's Motion for Entry of Order Granting Permanent Writ of Restitution and Payment of Overdue Rents                              | 09-24-2021 | AA03904 |
| 97 | Defendant Breckenridge Property Fund 2016, LLC's Opposition to Plaintiffs' Motion to Stay Pending Appeal   | 10-01-2021 | AA03906 |
| 98 | Request for Transcripts  | 10-04-2021 | AA03974 |
| 99 | Breckenridge Property Fund 2016's Reply in Support of Motion for Entry of Order Granting   | 10-06-2021 | AA03976 |



Permanent Writ of Restitution and Payment of  
Overdue Rents

100 Transcripts of Hearings 10-18-2021 AA03979

**VOLUME XVII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04001

**VOLUME XVIII**

100 (Continued) Transcripts of Hearings 10-18-2021 AA04251

101 Order Concerning: Breckenridge Property Fund  
2016, LLC's Motion for Entry of Order Granting  
Permanent Writ of Restitution and Payment of  
Overdue Rents and Plaintiffs' Motion for Stay  
Pending Appeal 11-05-2021 AA04257

102 Lincicomes' Ex Parte Motion for Additional Time to  
Obtain Supersedeas Bond 11-15-021 AA04267

103 Breckenridge Property Fund 2016's Opposition to  
Plaintiffs' Improper Ex Parte Motion for Additional  
Time to Obtain Supersedeas Bond and Request for  
Sanctions 11-16-2021 AA04274

104 Order Denying Ex Parte Motion (for additional time  
for bond) 11-17-2021 AA04301

105 Permanent Writ of Restitution (order permitting  
eviction of Lincicomes from their home) 11-22-2021 AA04304



1 9. That the Lincicomes' requests to make payment on the 2007  
2 DOT as modified by the LMA between October 1, 2009 and December  
3 2011, were refused by Bank of America;

4 . . .

5 12. That on May 4, 2011, Bank of America recorded a fully  
6 executed copy of the July 11, 2009 LMA with the office of the Lyon  
7 County Recorder, as Document No. 475808;

8 13. That the Lincicomes were not made aware of the execution  
9 and recording of the LMA until 2017;

10 . . .

11 21. That on November 3, 2017, Sables, LLC, as then acting  
12 Trustee under the 2007 DOT, recorded its Notice of Breach and  
13 Default and of Election to Sell the Real Property under Deed of Trust  
14 (hereinafter "NOD") with the Lyon County Recorder as Document No.  
15 572258;

16 22. That the NOD provides that the "subject Deed of Trust was  
17 modified by Loan Modification Agreement recorded as Instrument  
18 475808 . . . on 5/4/2011;"

19 23. That the NOD provides that all monthly installments from  
20 "9/1/2008" forward are due, instead of 9/1/2009 as required by the  
21 LMA;

22 24. That the NOD provides that the principal balance owed is  
23 \$381,150.00, instead of \$417,196.58 as provided in the LMA;

24 25. That on October 12, 2018, Defendant Sables, LLC, recorded  
25 its Notice of Trustee's Sale with the Lyon County Recorder as  
26 Document No. 587470, providing that the Property would be sold by  
27 public auction on November 9, 2018, at 11:00 AM, at the Lyon  
28 County Court House on 31 S. Main Street, Yerington, Nevada  
89447;

. . .

26 26. The LMA appears to be a valid modification of the 2007 DOT;

27 27. That based on the record before the Court at the hearing  
28 neither Fay Servicing nor Sables has accurately reported the total  
balance owed Vicenta Lincicome under the 2007 DOT as modified by  
the LMA;

29 28. That based on the record before the Court at the hearing  
neither Fay Servicing nor Sables has accurately reported the principal





obligation owed by Vicenta Lincicome under the 2007 DOT as modified under the LMA;

29. That based on the record before the Court at the hearing neither Fay Servicing nor Sables has accurately reported the date through which 2007 DOT as modified under LMA is paid; and

30. That based on the record before the Court at the hearing neither Fay Servicing nor Sables has accurately reported the current interest rate effective under the 2007 DOT as modified under the LMA.

The Court also entered the following conclusions of law that also support the conclusion that Sables' and the other defendants' conduct violated Homeowner's Bill of Rights:

1. The Homeowners Bill of Rights codified under NRS 107.400 through NRS 107.560 is applicable to this foreclosure matter;

2. That Plaintiffs established that irreparable injury would result if Defendant Sables, LLC, was permitted to exercise the power of sale and foreclose on the Plaintiffs' real property located at 70 Riverside Drive, Dayton, Lyon County, Nevada, Assessor Parcel Number 29-401-17;

3. That Plaintiffs have established that they will succeed on their claim that Defendants have violated NRS 107.500(1)(b) for failing to provide accurate information required to be provided prior to the initiation of a foreclosure; and

4. That Plaintiffs have established to the Court's satisfaction that they were likely to succeed on the merits of their claims pertaining to material violations of the Homeowner's Bill of Rights pursuant to NRS 107.400 through NRS 107.560.

Even though the Court had entered its order concluding that not only had Sables and Fay Servicing violated that law, and even though the Court had determined that the 2009 LMA was likely to have modified the original Deed of Trust, the Trustee caused the foreclosure of the Lincicomes' home on January 4, 2019.

Pursuant to NRS 107.080(5)(a)-(c), a foreclosure sale shall be declared void where: (a) the trustee has failed to comply with NRS 107.080, (b) an action was commenced within 30 days after the date on which the trustee's deed upon sale is recorded, and (c) a *lis pendens* is recorded within 5 days of the date of the action.





1 Here, the Trustee failed to comply with NRS 107.080(2) when it determined that the  
2 Lincicomes were in default under the 2007 original Deed of Trust. (Ex. 23). This is established  
3 by the Notice of Default recorded November 3, 2017. (Ex. 23). All terms in the Notice  
4 pertaining to the conclusions that foreclosure is appropriate pertain to non-payment under the  
5 original deed of trust. (Ex. 23). Even though the Notice of Default indicates the mortgage was  
6 modified by the 2009 LMA, no statement as to the modification's terms or payment thereunder  
7 is made by the Trustee. (Ex. 23). In other words, the Trustee failed to realize that the 2009  
8 LMA was breached by BANA for its refusal of payments and by its failure to implement the terms  
9 of the Agreement.

10 US Bank, Sables, and Fay Servicing were put on notice of this fact prior to the foreclosure  
11 sale being conducted. In Plaintiffs' original Complaint, Plaintiffs alleged that BANA "failed to  
12 process the LMA in its system." (Compl., p.12). Plaintiffs also allege that BANA had "not  
13 applied the terms of the LMA to the Lincicomes' mortgage." (Compl., p.5). Plaintiffs also  
14 alleged that they have not received a statement by any financial institution concerning their  
15 home loan from September 2009 forward that accurately reflects the interest rate, principal  
16 balance or last payment date. (Compl. p.11). All of these allegations made in the Complaint  
17 were substantiated with exhibits and admissions from BANA.

18 Under the foregoing, it is undisputed that the 2009 LMA applied to the mortgage, and  
19 that it had not been implemented by BANA, US Bank, or Fay Servicing. Thus, under a strict  
20 application of NRS 107.080(2), the Lincicomes were not in default for nonpayment. To conclude  
21 otherwise would be to insist that the Lincicomes had a duty to make payments under the 2009  
22 LMA when all financial institutions that they had dealt with had exclusively applied the original  
23 loan terms, and treated the loan as if it were in default from September of 2008 forward.

24 Additionally, it is undisputed that the requirements under NRS 107.080(5)(b) and (c)  
25 have been met because this action was commenced prior to the recording of the Trustee's deed  
26 and because the Lincicomes recorded a *lis pendens* pertaining to the property the day after this  
27 action was commenced.





1 Therefore, pursuant to NRS 107.080(5), it must be concluded as a matter of law, that  
2 because the Lincicomes were fed misrepresentations and were deceived by BANA, the  
3 Lincicomes were relieved of their duty to make payments under the 2009 LMA, and the Trustee  
4 was not empowered with the power of sale to conduct the foreclosure sale on January 4, 2019.

5 It must further be concluded that the exercise of the power of sale on January 4, 2019  
6 was wrongful and not allowed pursuant to NRS 107.080(2).

7 Pursuant to NRS 107.080(8), upon an action brought for violation of subsections 2, 3, or  
8 4 of NRS 107.080, the Court **must** award damages of \$5,000 or treble the amount of actual  
9 damages, an injunction enjoining the exercise of the power of sale, and the reasonable  
10 attorney's fees and costs.

11 The Lincicomes respectfully request that the Court determine that no issues of material  
12 fact exist and that the Lincicomes are entitled to the relief set forth in NRS 107.080 as a matter  
13 of law. The Lincicomes further request that they be given the opportunity to establish their  
14 damages under the NRS 107.080(8) at a later date as the Court determines is appropriate.

15 **3. Lincicomes are entitled to Summary Judgment upon Violation of the**  
16 **Homeowners Bill of Rights.**

17 There is no dispute of material fact that the Defendants US Bank and Fay Servicing  
18 violated the Nevada Homeowner's Bill of Right ("HBOR") codified in NRS 107.400 through  
19 107.560 by failing to provide the Lincicomes, as the borrower, with accurate information  
20 pertaining to the mortgage prior to filing the Notice of Default. The Court should conclude as a  
21 matter of law, that the foreclosure upon the Lincicomes' home without correction of the Notice  
22 of Default and the summary of account required by NRS 107.500, was reckless and therefore  
23 warrants an award of damages stated under NRS 107.560(2).

24 Pursuant to the December 31, 2018 Order, the Court had already preliminarily  
25 determined that HBOR was likely violated by the Defendants' inaccuracies of the loan  
26 information provided to the Lincicomes (Ex. 31).





1 Pursuant to NRS 107.560(2) "a borrower may bring a civil action in the district court in  
2 the county in which the property is located to recover his or her actual economic damages  
3 resulting from a material violation of NRS 107.400 to 107.560 . . . If the Court finds that the  
4 material violation was intentional or reckless, or resulted from willful misconduct by a mortgage  
5 servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such person, the  
6 court may award the borrower the greater of treble actual damages or statutory damages of  
7 \$50,000."

8 Pursuant to NRS 107.560(3) "[a] mortgage servicer, mortgagee, beneficiary of deed of  
9 trust or an authorized agent of such a person is not liable for any violation of NRS 107.400 to  
10 NRS 107.560, inclusive, that it has corrected and remedied, or that has been corrected and  
11 remedied on its behalf by a third party, before the recording of the trustee's deed upon sale. . ."

12 Pursuant to NRS 107.500 the mortgage servicer or the beneficiary of the mortgage must  
13 provide the borrower with a summary of the borrowers account which sets forth the total  
14 payment necessary to cure the loan, the date upon which the mortgage loan has been paid, the  
15 last payment by the borrower, and the current interest rate of the borrower.

16 Pursuant to NRS 107.510, such statement must be provided to the borrower prior to the  
17 recording of the notice of default.

18 It is indisputable that the notice of default as well as all prior statements reflect the terms  
19 of the 2007 Deed of Trust and not the 2009 LMA. Under the circumstances, it is a reckless  
20 violation of NRS 107.500 when the actual balance due under a mortgage is unknown to the  
21 borrower, servicer, and the beneficiary of the deed of trust, and yet the beneficiary and the  
22 servicer demand foreclosure to continue.

23 The Lincicomes would like to know when they missed their first payment under the 2009  
24 LMA. It is undisputed in this matter that no mortgage statement provided by any beneficiary or  
25 servicer reflects that the Lincicomes have ever missed a payment under the terms of the 2009  
26 LMA. There are plenty of statements reflecting the terms of the mortgage under the original  
27  
28





1 Deed of Trust, but none exists that establish that the Lincicomes have in any way breached the  
2 terms of the 2009 LMA.

3 It was reckless and proves a disregard for the homeowner and the law for Fay Servicing  
4 and US Bank to cause the foreclosure upon the Lincicomes' home without first establishing the  
5 correct information upon all notices required by NRS 107.500 and under the applicable  
6 provisions of NRS 107 generally.

7 The law makes it clear that had US Bank and Fay Servicing corrected all required  
8 documents under NRS 107.500, no liability would attach to them for their prior material  
9 violations of HBOR. NRS 107.560(3).

10 Therefore, the Court should conclude that no issue of material fact exists that HBOR was  
11 violated for the innacurate reporting of loan information under NRS 107.500. The Court should  
12 further conclude, as a matter of law, that it was reckless for US Bank and Fay Servicing to seek  
13 to foreclose upon the Lincicomes' home without correcting the documents to establish the true  
14 balance, if any, owed by the Lincicomes to reinstate their mortgage. The Court should further  
15 determine that US Bank and Fay Servicing were under a duty prior to the foreclosure of the  
16 Lincicomes' home to correct the required documents amd are liable for the greater of treble  
17 actual damages or statutory damages of \$50,000 for their reckless violations of HBOR as  
18 provided in NRS 107.560(2).

## 19 **V. CONCLUSION**

20 For the reasons stated above, Plaintiffs' respectfully request that the Court grant their  
21 Motion for Summary Judgment as set forth herein above.  
22  
23  
24  
25  
26  
27  
28





1 **AFFIRMATION**

2 The undersigned hereby affirms pursuant to NRS 239B.03 that the foregoing does not  
3 contain the social security number of any person or other personal information as defined by  
4 NRS 603A.040.

5 Dated this 18<sup>th</sup> day of March, 2021.

6  
7 MILLWARD LAW, LTD

8 By 

9 Michael G. Millward, Esq.  
10 NSB# 11212  
11 Attorney for Plaintiffs  
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## INDEX TO EXHIBITS

Exhibit 1	Grant Bargain and Sale Deed	2 pages
Exhibit 2	Note	7 pages
Exhibit 3	Deed of Trust	17 pages
Exhibit 4	Notice of Default and Election to Sell Under Deed of Trust	2 pages
Exhibit 5	Declaration of Homestead	1 page
Exhibit 6	BANA Important Message About Your Loan - Packet dated 2009-07-11	2 pages
Exhibit 7	2009 Loan Modification Agreement	3 pages
Exhibit 8	Affidavit of Vicenta Lincicome	4 pages
Exhibit 9	Receipt from Crystal for payment of Loan Modification Amount	1 page
Exhibit 10	October 29, 2009 Mortgage Statement	1 page
Exhibit 11	BANA Response to Request for Information	1 page
Exhibit 12	Notice of Chapter 13 Bankruptcy	3 pages
Exhibit 13	Claims Register	7 pages
Exhibit 14	Recorded Loan Modification Agreement Doc #475808 2011-05-04	6 pages
Exhibit 15	BANA's October 19, 2011 correspondence regarding a request for information	1 page
Exhibit 16	October 24, 2011 Letter from BANA	1 page
Exhibit 17	December 23, 2011 Correspondence from BANA	1 page
Exhibit 18	BANA's Motion for Relief from Stay	38 pages
Exhibit 19	BANA's 4-24-2015 Notice of Loan Modification	30 pages
Exhibit 20	Fay Servicing's August 10, 2015 Statement	2 pages





1	Exhibit 21	Fay Servicing's September 7, 2016 Denial of HAMP Modification	6 pages
2	Exhibit 22	May 18, 2017 Correspondence from Administrative Office of the Courts	5 pages
3			
4	Exhibit 23	Notice of Default and Election to Sell	6 pages
5	Exhibit 24	Fay Servicing's March 6, 2018 correspondence regarding loss mitigation application	7 pages
6			
7	Exhibit 25	Petition for Foreclosure Mediation Assistance	6 pages
8	Exhibit 26	Mediator's Statement	16 pages
9	Exhibit 27	Sable's Notice of Trustee's Sale	3 pages
10	Exhibit 28	Trustee's Deed Upon Sale	4 pages
11	Exhibit 29	BANA Answers to RFA	41 pages
12			
13	Exhibit 30	BANA Payment History and Statement Fay Servicing Statements	21 pages
14	Exhibit 31	Notice of Entry of the Court's December 31, 2018 Order	11 pages
15			
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# Exhibit 1



## Official Record

Requested By  
STEWART TITLE OF NEVADA

Lyon County - NV

Mary C. Milligan - Recorder

Page 1 of 2 Fee: \$15.00

Recorded By: DLW RPTT: \$1,858.35



0407148

A.P.N. # 29-401-17

R.P.T.T. \$ 1858.35

ESCROW NO. 06041897

RECORDING REQUESTED BY:

STEWART TITLE COMPANY

MAIL TAX STATEMENTS TO:

SAME AS BELOW

WHEN RECORDED MAIL TO:

GRANTEE

70 RIVERSIDE DRIVE

DAYTON, NEVADA 89403

(Space Above for Recorder's Use Only)

## GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That RIVERVIEW ESTATES, LLC., A NEVADA  
LIMITED LIABILITY COMPANYin consideration of \$10.00, the receipt of which is hereby acknowledged, does hereby Grant, Bargain Sell  
and Convey to VICENTA LINCICOME, MARRIED WOMAN AS HER SOLE  
AND SEPARATE PROPERTYand to the heirs and assigns of such Grantee forever, all that real property situated in the  
County of Lyon State of Nevada, bounded and described as:

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

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in  
anywise appertaining, and any reversions, remainders, rents, issues or profits thereof.

DATE: May 07, 2007

RIVERVIEW ESTATES, LLC.,

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

A NEVADA LIMITED LIABILITY COMPANY

(Per NRS 239B.030)

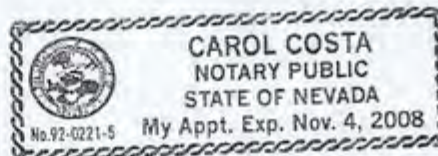
BY:

JAMES F. BAWDEN  
MANAGER

BY:

STATE OF

COUNTY OF

This instrument was acknowledged before me on 5-14-07  
by, JAMES F. BAWDEN

Signature

Notary Public (One Inch Margin on all sides of Document for Recorders Use Only)



EXHIBIT "A"  
LEGAL DESCRIPTION

Order No.: 06041897-JA

The land referred to herein is situated in the State of Nevada,  
County of LYON, described as follows:

LOT 42 AS SHOWN ON THE OFFICIAL MAP OF GOLD CANYON ESTATES,  
PHASE 2, FILE IN THE OFFICE OF THE LYON COUNTY, NEVADA RECORDER,  
ON OCTOBER 20, 2005, AS DOCUMENT NO. 365687.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF, LYING BELOW THE  
NATURAL ORDINARY HIGH WATER LINE OF THE CARSON RIVER.

ASSESSOR'S PARCEL NO. 029-401-17



# Exhibit 2



# EXHIBIT "A"

## ADJUSTABLE RATE NOTE

(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)

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

MAY 23, 2007  
(Date)

FOLSOM, CALIFORNIA  
(City) (State)

70 RIVERSIDE DRIVE  
DAYTON, NV 89403  
(Property Address)

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 381,150.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

### 2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.875 %. The interest rate I will pay will change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

### 3. PAYMENTS

#### (A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the first day of each month beginning on JULY 1, 2007.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This amount may change.

#### (C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (A) Change Dates

The interest rate I will pay may change on the first day of JUNE, 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

#### (B) The Index

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

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



**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250** %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875** % or less than **2.250** %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **TWO** percentage points ( **2.000** %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875** %.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

**5. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

**6. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**7. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of **15** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **5.000** % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.



**8. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

**(A) UNTIL MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:**

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

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

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

**(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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



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

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

*Vicenta Lincicome*  
 VICENTA LINCICOME

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

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 -Borrower

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 -Borrower

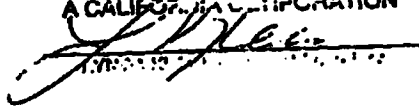
(Seal)  
 -Borrower

[Sign Original Only]



PAY TO THE ORDER OF  
Countrywide Bank, FSB

WITHOUT RECOURSE  
SIERRA PROPERTIES SERVICE CO.  
A CALIFORNIA CORPORATION



PAY TO THE ORDER OF  
COUNTRYWIDE HOME LOANS, INC.  
WITHOUT RECOURSE  
COUNTRYWIDE BANK, FSB

BY Laurie Meder  
LAURIE MEDER  
SENIOR VICE PRESIDENT

PAY TO THE ORDER OF  
WITHOUT RECOURSE  
COUNTRYWIDE HOME LOANS, INC.

BY Michelle Spolander  
MICHELLE SPOLANDER  
EXECUTIVE VICE PRESIDENT



**INTEREST-ONLY ADDENDUM  
TO ADJUSTABLE RATE PROMISSORY NOTE**

Loan Number:  
Property Address: 10 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Note (the "Note") dated the same date as this Addendum executed by the undersigned and payable to  
SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender").

THIS ADDENDUM supersedes Sections 3(A), 3(B), 4(C) and 7(A) of the Note. None of the other provisions of the Note are changed by this Addendum.

**3. PAYMENTS**

**(A) Time and Place of Payments**

I will pay interest by making payments every month for the first 120 payments (the "Interest-Only Period") in the amount sufficient to pay interest as it accrues. I will pay principal and interest by making payments every month thereafter for the next 240 payments in an amount sufficient to fully amortize the outstanding principal balance of the Note at the end of the Interest-Only Period over the remaining term of the Note in equal monthly payments.

I will make my monthly payments on the first day of each month beginning on JULY 1, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This payment amount is based on the original principal balance of the Note. This payment amount may change.

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.



**7. BORROWER'S FAILURE TO PAY AS REQUIRED**

**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of interest during the Interest-Only Period. 5.000 % of my overdue payment of principal and interest thereafter. I will pay this late charge promptly, but only once on each late payment.

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

  
VICENTA LINCICOME

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

(Seal)  
-Borrower

*[Sign Original Only]*



# Exhibit 3



Assessor's Parcel Number:  
29-401-17

I hereby affirm that this document  
submitted for recording does not  
contain a social security number.

/s/ LYNDIA KLEIN  
FUNDER

Recording Requested By:  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
280 BRINKLEY STREET, SUITE 100  
RENO, NV 89509  
775-826-3700

We certify that this is a true copy  
of the original as recorded in  
LYON, Nevada on 6-25-07 4:34 pm  
Document No. 407150

Stewart Title Of Carson City  
By: Carol Cost

Loan No: 0000479436

[Space Above This Line For Recording Data]

## DEED OF TRUST

MIN: 1000703-0000479436-5

### DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated MAY 23, 2007  
together with all Riders to this document.

(B) "Borrower" is VICENTA LINCICOME, A MARRIED WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is SIERRA PACIFIC MORTGAGE COMPANY, INC.

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA  
Lender's address is 50 IRON POINT CIRCLE, STE 200, FOLSOM, CA 95630

(D) "Trustee" is GREENHEAD INVESTMENTS, INC., A CALIFORNIA CORPORATION



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

(F) "Note" means the promissory note signed by Borrower and dated **MAY 23, 2007**  
The Note states that Borrower owes Lender

**THREE HUNDRED EIGHTY-ONE THOUSAND ONE HUNDRED FIFTY and NO/100-----** Dollars  
(U.S. \$ **381,150.00** ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **JUNE 1, 2037**

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

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

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

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

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

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

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

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

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

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

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

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

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



## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY of LYON :  
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]  
LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A."

which currently has the address of 70 RIVERSIDE DRIVE [Street],  
DAYTON [City], Nevada 89403 [Zip Code] ("Property Address"):

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

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

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

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

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is

Loan No: 0000479436

NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.3.WFF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 3 of 13 pages)



not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

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

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

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

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

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



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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts

Loan No: 0000479436

NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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Form 3029 1/01  
(page 5 of 13 pages)



disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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



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

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

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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

Loan No: 0000479436

NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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Form 3029 1/01  
(page 7 of 13 pages)



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

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

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Loan No: 0000479436



acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

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

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

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

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

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

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

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

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

Loan No: 0000479436



in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

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

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

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

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

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

Loan No: 0000479436



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

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

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

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

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

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

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



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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

Loan No: 0000479436

STATE OF NEVADA.

*Carson City*

County ss.

This instrument was acknowledged before me on

*May 23 2007*

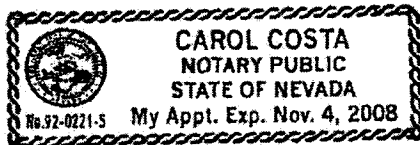
, by

*Vicenta Lincicome*

*Carol Costa*

My Commission Expires:

*11-4-08*



NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.13.WPF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 13 of 13 pages)

WHEN RECORDED MAIL TO:

MIP INSURING DEPARTMENT  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
50 IRON POINT CIRCLE, STE 200  
FOLSOM, CA 95630  
916-932-1700



## ADJUSTABLE RATE RIDER

(1 Year LIBOR Index - Rate Caps)

(Assumable after Initial Period)

THIS ADJUSTABLE RATE RIDER is made this 23rd day of MAY 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure the Borrower's Adjustable Rate Note (the "Note") to

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

70 RIVERSIDE DRIVE  
DAYTON, NV 89403

[Property Address]

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

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

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

The Note provides for an initial interest rate of 6.875 %. The Note provides for changes in the interest rate and the monthly payments, as follows:

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

**(A) Change Dates**

The interest rate I will pay may change on the first day of JUNE 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the one-year London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for one-year U.S.

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family-Freddie Mac Uniform Instrument

DRAW.0304.MX.CVL.ARM.RIDER.5131.1.WPF (P:\OPSSHARE\0101\DOCS\RIDERS\CVL\MXFH5131.ARM)

Form 5131 3/04

(Page 1 of 4)



dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250 %**)  
to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875 %** or less than **2.250 %**. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **TWO** percentage points ( **2.000 %**) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875 %**.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

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

**1. UNTIL BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE IN EFFECT AS FOLLOWS:**

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by

*Loan No: 0000479436*

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family-Freddie Mac Uniform Instrument

DRAW.0304.MX.CVL.ARM.RIDER.5131.2.WPF (P:\OPSS\SHARE\0101\DOCS\RIDERS\CVL\MXFH5131.ARM)

Form 5131 3/04  
(Page 2 of 4)



Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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

**2. AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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

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

*Loan No: 0000479436*

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after 1P)-Single Family-Freddie Mac Uniform Instrument

DRAW.0304.MX.CVL.ARM.RIDER.5131.3.WPF (P:\OPSS\SHARE\0101\DOCS\RIDERS\CVL\MXFH5131.ARM)

Form 5131 3/04  
(Page 3 of 4)



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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

[Sign Original Only]

Loan No: 0000479436

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family-Freddie Mac Uniform Instrument

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Form 5131 3/04  
(Page 4 of 4)



# Exhibit 4



**RECORDING REQUESTED BY:**  
**WHEN RECORDED MAIL TO:**  
**RECONTRUST COMPANY**  
**2380 Performance Dr, TX2-985-07-03**  
**Richardson, TX 75082**  
**Attn: Teresa Walker**  
**TS No. 09-0003007**  
**Title Order No. 3982298**



0437084

**APN No. 029-401-17**

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

NOTICE IS HEREBY GIVEN THAT: RECONTRUST COMPANY, N.A., is the duly appointed Trustee under a Deed of Trust dated 05/23/2007, executed by VICENTA LINCICOME, A MARRIED WOMAN as Trustor, to secure certain obligations in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. as beneficiary recorded 05/25/2007, as Instrument No. 407150 (or Book , Page ) of Official Records in the Office of the County Recorder of Lyon County, Nevada. Said obligation including ONE NOTE FOR THE ORIGINAL sum of \$381,150.00. That a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of: FAILURE TO PAY THE INSTALLMENT OF PRINCIPAL, INTEREST AND IMPOUNDS WHICH BECAME DUE ON 06/01/2008 AND ALL SUBSEQUENT INSTALLMENTS OF PRINCIPAL, INTEREST AND IMPOUNDS, TOGETHER WITH ALL LATE CHARGES, PLUS ADVANCES MADE AND COSTS INCURRED BY THE BENEFICIARY, INCLUDING FORECLOSURE FEES AND COSTS AND/OR ATTORNEYS' FEES. IN ADDITION, THE ENTIRE PRINCIPAL AMOUNT WILL BECOME DUE ON 06/01/2037 AS A RESULT OF THE MATURITY OF THE OBLIGATION ON THAT DATE.

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

**NOTICE**

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed Of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, if the default is not cured within 35 days following recording and mailing of this Notice to Trustor or Trustor's successor in interest, the right of reinstatement will terminate and the property may there after be sold. The Trustor may have the right to bring court action to assert the non existence of a default or any other defense of Trustor to acceleration and sale

To determine if reinstatement is possible and the amount, if any, to cure the default, contact:





437084

01/23/2009  
2 of 2

Countrywide Home Loans, Inc, c/o RECONTRUST COMPANY, N.A., 2380 Performance Dr,  
TX2-985-07-03, Richardson, TX 75082, PHONE: (800) 281-8219

DATED: January 22, 2009

RECONTRUST COMPANY, N.A., as agent for the  
Beneficiary

By: FIRST AMERICAN TITLE, as Agent

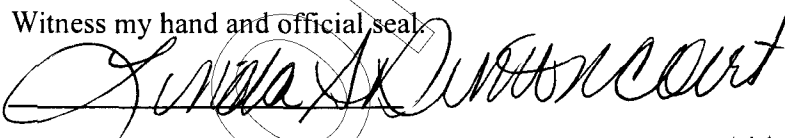
BY: **TODD BRACHTENBACH**

State of: California

County of: Contra Costa

On 01/22/2009 before me ~~LINDA S. DERNONCOURT~~, notary public, personally  
appeared **TODD BRACHTENBACH**, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



Form nvnodfax (01/09)



# Exhibit 5



## Official Record

Requested By  
A ELLIS LINCICOME JR

Lyon County - NV

Mary C Milligan - Recorder

Page 1 of 1 Fee \$14 00  
Recorded By BKS RPTT

0439348

APN 029-401-17

Recording Requested by &amp; Mail to

Name Ellis & Vicenta LincicomeAddress 70 Riverside Dr.City/State/Zip Dayton, NV 89403**DECLARATION OF HOMESTEAD**

(CHECK ONE)

- ☐ Married (filing joint declaration)  
☐ Married (as sole & separate property)  
☐ By Husband (filing for joint benefit of both)  
☒ By Wife (filing for joint benefit of both)  
☐ By Trustee of Trust (Personal Living Trust)  
☐ Single, Widow or Unmarried Person  
☐ Multiple Single Persons  
☐ Single Head of Family  
☐ Other

A. (CHECK ONE)

- ☒ Regular Home Dwelling      ☐ Mobile Home      ☐ Condominium Unit      ☐ Townhouse  
 Name on title of property VICENTA LINCICOME

Do individually and severally certify and declare that the following named person(s) is/are residing on the land premises (or mobile home, condominium unit, townhouse) as follows

70 RIVERSIDE DRIVE, DAYTON, NV 89403located in the City of LYONCounty of LYON

State of Nevada, and more particularly described as follows (set forth legal description &amp; street address)

**Lot 42 as shown on the Official Map of Gold Canyon Estates, Phase 2, File in the Office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.**

B I/we claim the land and premises herein above described, together with the dwelling house thereon, and its appurtenances, or the described mobile home, condominium unit, or townhouse as a Homestead

In Witness, Whereof, I/we have hereunto set my hand/our hands this 18 day of FEBRUARY, 2009

Vicenta J. Lincicome  
(Signature)

A. Ellis Lincicome, Jr.  
(Signature)

VICENTA J. LINCICOME

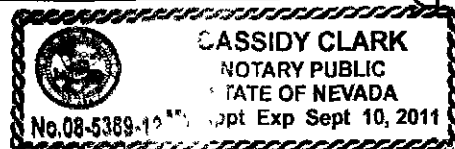
(Please print or type name here)

STATE OF NEVADA

COUNTY OF CARSONThis instrument was acknowledged before me on FEBRUARY 18, 2009By VICENTA J. LINCICOME AND A. ELLIS LINCICOME, JR.

(Person(s) appearing before notary)

Cassidy Clark  
(Signature of Notarial Officer)

**CONSULT AN ATTORNEY IF YOU DOUBT THIS FORM'S FITNESS FOR YOUR PURPOSE**

This form is provided as a courtesy to the taxpayer by Alan Glover, Carson City Clerk-Recorder

The Recorder's Office assumes no liability for the completion of the Homestead Declaration

**NOTE. PLEASE LEAVE 1" MARGIN ON ALL SIDES BLANK**



# Exhibit 6



Attn: Home Retention Division  
BAC Home Loans Servicing, LP  
100 Beecham Drive Suite 104  
Pittsburgh, PA 15205

**Notice Date: July 11, 2009**

**Account No.: 162304785**

VICENTA LINCICOME  
70 Riverside Dr  
Dayton, NV 89403

**Property Address:**  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

**IMPORTANT MESSAGE ABOUT YOUR LOAN**

We are pleased to advise you that your loan modification has been approved. In order for the modification to be valid, the enclosed documents need to be signed and returned.

The following amounts will be added to your current principal balance, resulting in a modified principal balance of \$417,196.58 prior to your first payment date. The amount added to your loan is:

Interest :	\$32,755.05
Fees:	\$55.00
Escrow:	<u>\$3,236.53</u>
Total:	\$36,046.58

Your new modified monthly payment will be \$2,272.62, effective with your September 1, 2009 payment. This payment is subject to change if your escrow account is reanalyzed due to new annual premiums. Your current interest rate is 6.875%. Your new reduced rate of 4.875% will be effective as of the September 1, 2009 payment. As of September 1, 2014 your interest rate will be 5.375% for the remaining term of your loan. Your new maturity date is August 1, 2049, which may have changed from your current maturity date as a result of the modification terms. This agreement will bring the loan current; however, you are still required to pay back the entire unpaid principal by the maturity date for your loan.

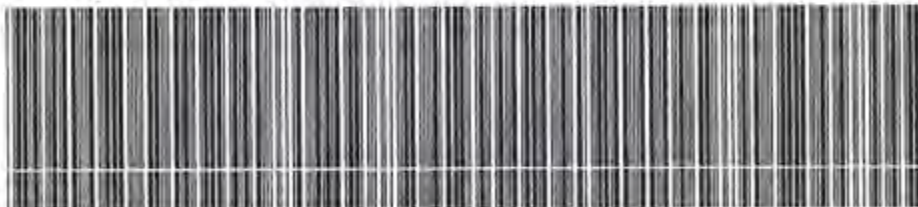
A breakdown of the scheduled interest rate changes is as follows:

Statement Due Date	Interest Rate	Principal & Interest
September 1, 2009	4.875%	\$1,977.29
September 1, 2014	5.375%	\$2,105.10

A breakdown of your payment is as follows:

P&I Payment:	\$1,977.29
Escrow:	<u>\$295.33</u>
Total Payment:	\$2,272.62

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan #: 162304785

WDGCSCOV LMS 8120 July 11, 2009



---

**WHAT YOU SHOULD DO**

Please sign, date and return one (1) complete set of enclosed documents to us in the re-usable Fed-Ex envelope. Please use the return label provided and mail no later than August 10, 2009 to the following address:



BAC Home Loans Servicing, LP Modification 100 Beecham Drive Suite 104 Pittsburgh, PA 15205

**If you have questions, Loan consultants are standing by from 8:00 AM until 5:00 PM CT Monday through Friday, and 8:00 AM until 3:00 PM CT on Saturday except holidays at 1.877.221.0825.**

This offer is contingent upon BAC Home Loans Servicing, LP receiving relief from the Automatic Stay for any bankruptcy in which the property referred to in the Loan Modification Agreement is included at the time of the modification.

If any issues arise between the date of this commitment and the date on which all of the terms and conditions of this letter are finalized, including, but not limited to, deterioration in the condition of the property, lawsuits, liens, additional expenses and defaulted amount, then we may terminate this offer and pursue all collection action, including foreclosure.

This Letter does not stop, waive or postpone the collection actions, or credit reporting actions we have taken or contemplate taking against you and the property. In the event that you do not or cannot fulfill ALL of the terms and conditions of this letter no later than August 10, 2009, we will continue our collections actions without giving you additional notices or response periods.

The following documents have been enclosed:

**Modification Agreement**—Must be signed in the presence of a Notary. The notary acknowledgment must be in recordable form. All parties who own an interest in the property must sign the modification agreement as their name appears.

The following documents may have been included if applicable to your loan:

**California All Purpose Acknowledgment**— This document will only be used if the loan modification agreement is being executed in the state of California. It will be utilized by a notary of the state of California in place of the notary section contained in the Loan Modification Agreement.

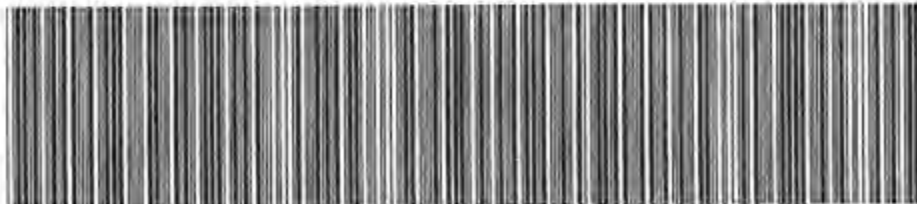
**Bankruptcy Disclosure** — All parties who own an interest in the property must sign the Bankruptcy Disclosure as their name appears.

---

**THANK YOU FOR YOUR BUSINESS****The HOPE Team**

BAC Home Loans Servicing, LP is required by law to inform you that this communication is from a debt collector.

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan #: 162304785

WDGCSCOV LMS 8120 July 11, 2009



**LOAN MODIFICATION AGREEMENT**  
**(Fixed Interest Rate)**

This Loan Modification Agreement ("Agreement"), made this 11th day of July, 2009, between VICENTA LINCICOME (the "Borrower(s)") and BAC Home Loans Servicing, LP (the "Lender"), amends and supplements (1) the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated the 23rd day of May, 2007 in the amount of \$381,150.00, and (2) the Note secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as the "Property", located at: 70 RIVERSIDE DRIVE, DAYTON, NV 89403.

The real property described being set forth as follows:

**SAME AS IN SAID SECURITY INSTRUMENT**

In consideration of the mutual promises and agreements exchanged, the parties herelo agree as follows (Notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. As of the 1st day of September, 2009, the amount payable under the Note or Security Instrument (the "Unpaid Principal Balance") is U.S. \$417,196.58, consisting of the amount(s) loaned to the Borrower by the Lender which may include, but not limited to, any past due principal payments, interest, fees and/or costs capitalized to date.
2. The Borrower promises to pay the Unpaid Principal Balance, plus interest, to the order of the Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 4.875% from the 1st day of August, 2009. The Borrower promises to make monthly payments of principal and interest of U.S. \$1,977.29 beginning on the 1st day of September, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on the 1st day of August, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date.
3. The Borrower will make such payments at Payment Processing PO Box 10219 Van Nuys, CA 91410 or at such other place as the Lender may require.
4. Nothing in this agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all terms and provisions thereof, as amended by this Agreement.
5. In consideration of this Modification, Borrower agrees that if any document related to the Security Instrument, Note and/or Modification is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the loan as modified, or is otherwise missing, Borrower(s) will comply with Lender's request to execute, acknowledge, initial and deliver to Lender any documentation Lender deems necessary. If the original promissory note is replaced the Lender hereby indemnifies the Borrower(s) against any loss associated with a demand on the original note. All documents Lender requests of Borrower(s) shall be referred to as "Documents." Borrower agrees to deliver the Documents within ten (10) days after receipt by Borrower(s) of a written request for such replacement.

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan #: 162304785

WDGFIXNR 8124 July 11, 2009



# Exhibit 7



As evidenced by their signatures below, the Borrower and the Lender agree to the foregoing.

Vicenta Lincicome Dated: July 31, 2009  
VICENTA LINCICOME

STATE OF Nevada

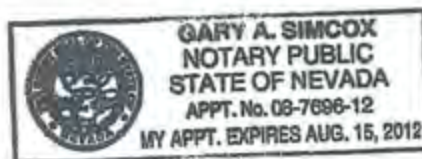
COUNTY OF Cesar

On July 31, 2009 before me, Gary Simcox Notary Public, personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures (s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Signature]  
08-15-2012  
W. J. [Signature]



Bank Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan #: 162304785

WDGFIXNR 8124 July 11, 2009



STEP RATE LOAN MODIFICATION  
ADDENDUM TO LOAN MODIFICATION AGREEMENT

The Step Rate Loan Modification Agreement Addendum (the "Addendum") is made this July 11, 2009, and is incorporated into and shall be deemed a part of that certain Loan Modification Agreement of even date herewith (the "Agreement") between VICENTA LINCICOME (the "Borrowers") and BAC Home Loans Servicing, LP ("the Lender"), which agreement amends and supplements that certain Mortgage, Deed of Trust or Deed to Secure Debt (the "Security Instrument") executed by Borrower in favor of Lender.

THIS ADDENDUM CONTAINS PROVISIONS PROVIDING FOR  
SCHEDULED INTEREST RATE CHANGES

In consideration of the mutual promises and agreements exchanged and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Agreement, Security Instrument or the promissory note (the "Note"), except as specifically provided for herein.):

1. Scheduled Interest Rate Changes.

The Agreement provides for an initial interest rate of 4.875% which will be charged from the 1st day of August, 2009.

The Interest Rate shall then change on the 1st day of August, 2014 at which time it shall be 5.375%.

Thereafter, the interest rate and monthly principal and interest payment shall adjust in accordance with the Note, Adjustable Rate Rider and/or any other loan document that is affixed to or incorporated into the Note and Rider and provides for, implements or relates to any change or adjustment in the interest rate and monthly payment amount under the Note until such time as the principal and interest due under the Note are paid in full. If on August 1, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by the Agreement and this Addendum, the Borrower shall pay these amounts in full on the Maturity Date.

BORROWER:

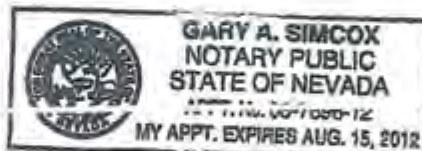
*Vicenta Lincicome* Dated: *July 31, 2009*  
VICENTA LINCICOME

Lender:

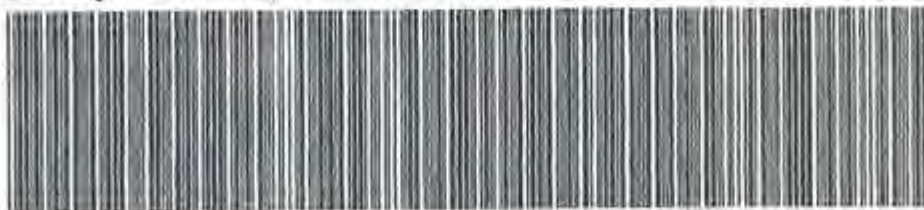
BAC Home Loans Servicing, LP

*[Signature]* OS-15-211  
CLP/AM

Dated: *July 31, 2009*



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan #: 162304785

July 11, 2009



# Exhibit 8



**AFFIDAVIT OF VICENTA LINCICOME**

STATE OF NEVADA            )  
  )ss.  
COUNTY OF DOUGLAS        )

I, Vicenta Lincicome, being first duly sworn, under penalty of perjury, hereby state as follows:

1. In May of 2007, my husband Ellis Lincicome and I purchased a home located at 70 Riverside Drive, Dayton, Nevada 89403. In order to qualify for the loan, Sierra Pacific requested that my husband, Ellis Lincicome (hereinafter referred to as "Ellis"), make a withdrawal of \$80,000 from his 401K retirement plan to be contributed as part of the down payment of the home purchase.

2. On May 23, 2007, I executed a Promissory Note in favor of Sierra Pacific, and also a Deed of Trust in favor of Mortgage Electronic Registration Systems, Inc. (hereinafter referred to as "MERS"), as the nominee for Sierra Pacific to secure the mortgage loan.

3. In or about March of 2008, Ellis and I (hereafter collectively referred to as "we") learned that we had incurred a tax bill of nearly \$20,000 for having taken the \$80,000 distribution from Ellis's 401k. Because of the additional tax burden as well as our other debts and liabilities, we were unable to make our June 1, 2008, mortgage payment.

4. After receiving a Notice of Default in early 2009, we began the process of applying for a mortgage workout with Bank of America. On July 11, 2009, Bank of America sent me a *Loan Modification Agreement* which provided terms extending the maturity date of the loan to August 1, 2049, and, as of August 1, 2009, the interest rate applicable to our loan would be reduced from the current rate of 6.875% to 4.875%. The Loan Modification Agreement provided that on September 1, 2014, the interest rate would increase to 5.375%. Under the Agreement all arrears were to be capitalized as of September 1, 2009.

5. On July 31, 2009, I signed the Loan Modification Agreement and sent it to Bank of America by Federal Express in the reusable Fed-Ex envelope that was provided with the loan modification package.





1           6.     On September 1, 2009, Ellis and I travelled to the Bank of America branch  
2 located in Carson City to make our first payment under the Loan Modification Agreement.  
3 The banker assisting us was a young woman named Crystal. After searching for information  
4 concerning our loan, Crystal could not find any record of the Loan Modification Agreement in  
5 the system. The payment was accepted to be credited against our loan once the Loan  
6 Modification Agreement was entered into Bank of America's system. Crystal asked us to  
7 contact Bank of America customer service and request a coupon book that would reference  
8 the modified loan.

9           7.     Later that day, September 1, 2009, I contacted Bank of America Customer  
10 Service and was told to go to the Customer Assistance Center located on Rose Drive in Reno,  
11 Nevada. We were assisted by Manager Barbara Keady. Ms. Keady informed us that Bank of  
12 America would investigate the status of the Loan Modification Agreement. We showed Ms.  
13 Keady a signed copy of the Loan Modification Agreement.

14           8.     On or about October 1, 2009, I again travelled to the Carson City branch for  
15 Bank of America to make the second payment on the Loan Modification Agreement. This  
16 time the banker, a middle-aged woman, refused the payment and indicated that there was  
17 no record of the existence of the Loan Modification Agreement in Bank of America's  
18 computer system and would not accept the payment. She informed me that she had nothing  
19 to apply the payment to other than the original loan.

20           9.     From October 1, 2009 to December of 2011, we continued to contact Bank of  
21 America by phone to check on the status of the Loan Modification Agreement so that we  
22 could make payments. Each time, Bank of America informed us that the matter was being  
23 investigated.

24           10.    During a phone call with Bank of America that occurred on March 12, 2010, the  
25 customer service agent encouraged me to seek help from the Department of Housing and  
26 Urban Development's (HUD) Financial Guidance Center.

27           11.    In April of 2010, we met with HUD Counselor Lucy Powell, who assisted us with  
28 the design of an action plan, which included the filing of a Chapter 13 Bankruptcy petition to



1 cure the arrearage with Bank of America that would have accrued since the Loan  
2 Modification Agreement was signed, and also to force Bank of America to find and recognize  
3 the Loan Modification Agreement.

4 12. We filed a petition for Chapter 13 Bankruptcy protection before the United  
5 States Bankruptcy Court, District of Nevada, on April 6, 2010, under Case No. 10-51219,  
6 and therein listed Bank of America as a secured creditor.

7 13. On May 4, 2011, unbeknownst to us at the time, Bank of America recorded a  
8 fully executed copy of the July 11, 2009, Loan Modification Agreement with the office of the  
9 Lyon County Recorder, as Document No. 475808. We remained unaware of the fact that the  
10 Loan Modification Agreement had been found and executed by Bank of America until 2017.

11 14. On or about April 24, 2015, Bank of America accepted a loan modification  
12 application from us and required that we complete three trial modification payments before  
13 we could move forward with permanently modifying our mortgage loan.

14 15. The April 24, 2015 loan modification notice provided that upon completion of  
15 the trial payments, our mortgage would be extended to May 1, 2055, that the interest rate  
16 would be reduced to 4.125%, and that if it was determined that the unpaid balance of our  
17 mortgage exceeded 115% of the current value of our home, we would be eligible to have up  
18 to 30% of our principal balance deferred and not be subject to interest.

19 16. We made the first two payments timely. However, on August 1, 2015, while  
20 attempting to make the third trial payment to Bank of America, we were informed that our  
21 loan had been transferred to Fay Servicing. We called Fay Servicing that same day, August  
22 1, 2015, to make payment and spoke with account manager Rosalind Jackson. Ms. Jackson  
23 informed us that Fay Servicing does not honor Bank of America trial modifications.

24 17. We were devastated when neither Bank of America nor Fay Servicing would  
25 accept our payment and that Fay Servicing would not honor Bank of America's April 24,  
26 2015 loan modification offer.

27 //

28 //



1 18. In 2016, we applied for the Home Affordable Modification Program (HAMP)  
2 modification through Fay Servicing. Fay Servicing informed us that we only qualified for a  
3 HAFA Short Sale. We appealed Fay Servicing's denial of our qualification for HAMP.

4 19. On September 7, 2016, Fay Servicing sent us a response to our appeal of our  
5 denial therein indicating that we did not have sufficient income to qualify for a modification,  
6 and also that we were not qualified for the HAMP Unemployment Program (HAMP UP)  
7 "because the property is not your primary residence." We have continuously used and  
8 claimed our home located at 70 Riverside Drive, Dayton, Nevada, as our residence since our  
9 purchase of the Property in 2007.

10 20. After being denied, we reached out to Senator Harry Reid's office for help, and  
11 thereafter, Fay Servicing offered us a trial modification at \$2,528.86 per month. After  
12 completion of the three trial payments, Fay Servicing sent us the final modification  
13 agreement.

14 21. Upon reviewing the agreement, we realized that we could not accept the  
15 modification because it would leave us in a terrible financial position, and would likely result  
16 in a default.

17 22. We have searched our files and records and were not ever provided with a  
18 notice that accurately complies with the requirements of NRS 107.500(1)(b)(1).

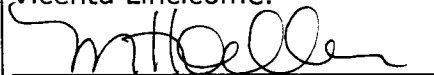
19 23. We believe that because neither Bank of America nor Fay Servicing has applied  
20 the terms of the Loan Modification Agreement, that the amount stated owed is incorrect for  
21 having accrued at a higher interest rate than that reflected in the Agreement.

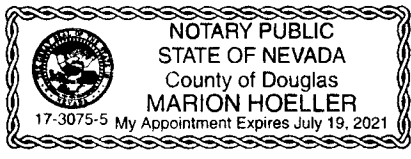
22 Further Affiant sayeth naught.

  
Vicenta Lincicome

23 State of Nevada )  
24 )ss.  
25 County of Douglas )

26 This instrument was sworn to before me on the 6<sup>th</sup> day of November, 2018, by  
27 Vicenta Lincicome.

  
28 Notary Public





# Exhibit 9



Account Number  
Linda Lincicome  
Riverside Drive  
Dayton, NV 89403

Per.  
Crystal

After Sep 16, 2009 late payment **\$2,545.61**  
Please update e-mail information on the reverse side of this coupon.

BAC Home Loans Servicing, LP  
PO Box 10219  
Van Nuys, CA 91410-0219

Additional  
Principal

Additional  
Escrow

Check total



16230478570000024364300025456

⑆586990058⑆ 162304785⑈

2,272.62

*[Handwritten signature]*

**This Payment Choice is not available this month.**

**This Payment Choice is not available this month.**



# Exhibit 10



**Home Loans**

Customer Service  
PO Box 5170  
Simi Valley, CA 93062-5170

Statement date 10/29/2009

**Account Number 162304785**

Property address  
70 Riverside Drive



0149104 01 AT 0.357 \*\*AUTO TS 02288 89403-9055  
PO A4 AG 0401-----G--2-7- C0000068 IN 1 P49254

VICENTA LINCICOME  
70 Riverside Dr  
Dayton NV 89403-9055

**INTEREST-ONLY LOAN**  
**MONTHLY STATEMENT**  
**(During the Interest-Only**  
**Period)**


**IMPORTANT NOTICE**

If you and BAC Home Loans Servicing, LP have entered into an agreement to address your monthly payments, please make payments in accordance with this agreement.

If you have qualified for an interest rate reduction based upon current active military service, subsequent statements may not reflect the reduced payment amount. Please refer to the notice previously sent to you for the reduced payment amount.

**Your Payment Choices This Month**

The amounts listed below are total payments, including amounts collected for escrow items such as taxes and insurance premiums. You can also pay additional Principal any month in any amount, by specifying "Additional Principal" in the payment coupon.

Payment Information	Total Payment Amount**	Principal/and or Interest Payment	Outstanding Late Charges	Optional Products*
Interest Only Payment ***	\$2,435.43	\$2,183.67	\$218.36	\$0.00
15-Year Amortized Payment Choice	This Payment Choice is not available this month.			
Amortized Payment Choice	This Payment Choice is not available this month.			

Please note: Amounts above may change based on payments made, received or returned before or after this statement was created.

\*\*Outstanding late charges up to \$400.00 are reflected in the payment choice amount.

\*\*\* The Amortized & 15-year Amortized Payment Choice (Amortized Payment Choices) amounts are based on the assumption that these payments will always be received on the scheduled due date. You are not required to pay these amounts. The extra amount of Principal included with each of these alternative Amortized Payment Choices will be applied as a partial Prepayment of Principal on the date the payment is received. The interest portion of your payment will be applied as of the scheduled due date. The Amortized Payment is similar to, but not identical to the interest and Principal payment that you will be required to make after the Interest-Only Period ends. When that happens, your Interest and Principal payments will be applied to your loan as of the scheduled due date. The Amortized Payment Choices will reduce your principal balance and the amount of interest you will pay over the life of this loan. These Amortized Payment Choices are provided to you as an additional service, but by no means are you limited to these choices when it comes to the amount of partial prepayments of principal that you may select on your own.

**IMPORTANT NOTE:** Be sure you review any prepayment penalty provision you may have in your loan. Depending on the amount of any partial Prepayments and when you make them, you may owe a prepayment charge at the time you payoff your loan.

**Your Home Loan Snapshot as of October 29, 2009**

Loan type 30 Yr Conv Jumbo ARM  
Principal balance \$381,150.00  
Escrow balance -\$2,961.30  
Interest rate 6.875%

Payment Due Date: 11/01/2009  
Past Due Payment Amount \$42,143.00  
Fees Due \$1,746.40  
Partial Payment Balance \$2,272.62  
Late Charge if payment is received after 11/16/2009 \$109.18  
(see next page for account activity details)

We may charge you a fee for any payment returned or rejected by your financial institution, subject to applicable law.



# Exhibit 11



Notice Date: February 23, 2010

Account No.: 162304785

Vicenta Lincicome  
70 Riverside Dr  
Dayton NV 89403

Property Address:  
70 Riverside Drive  
Dayton, NV 89403

---

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent correspondence addressed to BAC Home Loans Servicing, LP.

---

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions and concerns. We will provide a more complete response within twenty (20) business days.

---

**THANK YOU FOR YOUR BUSINESS**

Please accept our sincere apology for the delay.  
Thank you for the opportunity to be of assistance.

This communication is from BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A.

Please write your account number on all correspondence. CSDEAY 2687/9927 11/26/2004



# Exhibit 12



B9I (Official Form 9I) (Chapter 13 Case) (12/07)

Case Number 10-51219-gwz

## UNITED STATES BANKRUPTCY COURT District of Nevada

**Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines**

The debtor(s) listed below filed a chapter 13 bankruptcy case on 4/6/10. You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice. **RENO CASES ONLY: See [www.reno13.com](http://www.reno13.com) for specific meeting times. Important Notice of Individual Debtors:** Debtors who are individuals must provide government-issued photo identification and proof of social security number at the meeting of creditors. Failure to do so may result in dismissal of their case.

**See Reverse Side For Important Explanations**

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

A. ELLIS LINCICOME JR.  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

VICENTA J. LINCICOME  
70 RIVERSIDE DRIVE  
DAYTON, NV 89403

Case Number:  
10-51219-gwz  
Judge: GREGG W ZIVE

Social Security/Individual Taxpayer ID/Employer Tax ID/Other nos:  
xxx-xx-2173  
xxx-xx-9330

Attorney for Debtor(s) (name and address):  
ROBERT G JOHNSTON  
412 N DIVISION  
CARSON CITY, NV 89703  
Telephone number: (775) 882-6112

Bankruptcy Trustee (name and address):  
WILLIAM A. VAN METER  
POB 6630  
RENO, NV 89513  
Telephone number: (775) 324-2500

**Meeting of Creditors**Date: **May 14, 2010**Time: **12:00 PM**Location: **300 Booth Street, Room 2110, Reno, NV 89509****Deadlines:**Papers must be *received* by the bankruptcy clerk's office by the following deadlines:**Deadline to File a Proof of Claim:**For all creditors (except a governmental unit): **8/12/10**For a governmental unit (except as otherwise provided in Fed. R. Bankr. P. 3002 (c)(1)): **180 days after order for relief entered****Creditor with a Foreign Address:**

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

**Deadline to File a Complaint to Determine Dischargeability of Certain Debts: 7/13/10****Deadline to Object to Exemptions:**Thirty (30) days after the *conclusion* of the meeting of creditors.**Pre-Confirmation Meeting**

Not Applicable

**Hearing on Confirmation of Plan**

Date: **6/4/10** Time: **02:00 PM**  
Location: **300 Booth Street, Reno, NV 89509**  
A written objection must be filed prior to the hearing.

**Chapter 13 Plan**

The Chapter 13 plan, when filed, will be mailed under separate cover and may also be viewed on the U.S. Bankruptcy Court's Pacer system at: [www.nvb.uscourts.gov](http://www.nvb.uscourts.gov).

**Creditors May Not Take Certain Actions:**

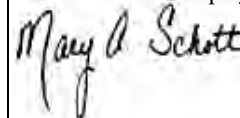
In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

**Address of the Bankruptcy Clerk's Office:**

300 Booth Street  
Reno, NV 89509  
Telephone number: (775)784-5559

**For the Court:**

Clerk of the Bankruptcy Court:



Mary A. Schott

Hours Open: Monday – Friday 9:00 AM – 4:00 PM

Date: 4/7/10



**EXPLANATIONS****B9I (Official Form 9I) (12/07)**

Filing of Chapter 13 Bankruptcy Case	A bankruptcy case under Chapter 13 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts pursuant to a plan. A plan is not effective unless confirmed by the bankruptcy court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan, if not enclosed, will be sent to you later, and if the confirmation hearing is not indicated on the front of this notice, you will be sent notice of the confirmation hearing. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business, if any, unless the court orders otherwise.
<b>Legal Advice</b>	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1301. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date without further notice.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. <b>Filing Deadline for a Creditor with a Foreign Address:</b> The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a)(2) or (4), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of property claimed as exempt, at the bankruptcy clerk's office or at <a href="http://www.nvb.uscourts.gov">www.nvb.uscourts.gov</a> .
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.
Refer to Page 1 for Important Deadlines and Notices	



# Exhibit 13



**United States Bankruptcy Court  
District of Nevada**

**Case No. 10-51219-gwz**

**Chapter 13**

In re: (Name of Debtor)

A. ELLIS LINCICOME JR.

VICENTA J. LINCICOME

Hearing Date: 6/4/10  
Hearing Time: 02:00 PM

**NOTICE OF HEARING ON CONFIRMATION OF CHAPTER 13 PLAN**

**NOTICE IS HEREBY GIVEN** that the debtor has filed a chapter 13 plan. A hearing on confirmation of the plan will be held before a United States Bankruptcy Judge at The C. Clifton Young Federal Building and U.S. Courthouse, 300 Booth Street, Reno, NV 89509 on 6/4/10 at the hour of 02:00 PM. A copy of said plan will be sent by separate notice.

Any objections to the plan shall be made in accordance with Fed. R. Bankr. P. 3015(f) and 9014, and Local Rule 9014. Any objection to confirmation of the plan must be filed and served prior to the confirmation hearing and if no timely objections are filed, the plan may be deemed to be filed in good faith.

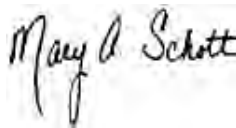
If you object to the plan, you *must* file a **WRITTEN** response with the court. You *must* also serve your written response on the debtor, debtor's attorney, the trustee and U.S. trustee.

If you do not file a written response with the court, or if you do not serve your written response on the persons named above, then:

- \* The court may *refuse to allow you to speak* at the scheduled hearing; and
- \* The court may *rule against you* without formally calling the matter at the hearing.

Dated: 4/7/10

BY THE COURT



Mary A. Schott  
Clerk of the Bankruptcy Court



# District of Nevada Claims Register

[10-51219-gwz A. ELLIS LINCICOME and VICENTA J. LINCICOME](#) Closed 07/01/2015

**Judge:** GREGG W ZIVE

**Chapter:** 13

**Office:** Reno

**Last Date to file claims:**

**Trustee:** WILLIAM A. VAN METER

**Last Date to file (Govt):**

<b>Creditor:</b> (5824499) Wells Fargo Bank, N.A. c/o Wells Fargo Card Services Recovery Department P.O. Box 9210 Des Moines, IA 50306	<b>Claim No: 1</b> <i>Original Filed</i> Date: 04/09/2010 <i>Original Entered</i> Date: 04/09/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> WELLS FARGO CARD SERVICES (tr) <i>Modified:</i>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Amount</td> <td style="width: 15%;">claimed:</td> <td style="width: 15%;">\$7942.42</td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> </tr> <tr> <td>Unsecured</td> <td>claimed:</td> <td>\$7942.42</td> <td></td> <td></td> <td></td> </tr> </table>			Amount	claimed:	\$7942.42				Unsecured	claimed:	\$7942.42			
Amount	claimed:	\$7942.42												
Unsecured	claimed:	\$7942.42												
<b>History:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><a href="#">Details</a></td> <td style="width: 10%;"></td> <td style="width: 10%;"><a href="#">1-1</a></td> <td style="width: 15%;">04/09/2010</td> <td style="width: 55%;">Claim #1 filed by Wells Fargo Bank, N.A., Amount claimed: \$7942.42 (WELLS FARGO CARD SERVICES (tr))</td> </tr> </table>			<a href="#">Details</a>		<a href="#">1-1</a>	04/09/2010	Claim #1 filed by Wells Fargo Bank, N.A., Amount claimed: \$7942.42 (WELLS FARGO CARD SERVICES (tr))							
<a href="#">Details</a>		<a href="#">1-1</a>	04/09/2010	Claim #1 filed by Wells Fargo Bank, N.A., Amount claimed: \$7942.42 (WELLS FARGO CARD SERVICES (tr))										
<b>Description:</b>														
<b>Remarks:</b>														

<b>Creditor:</b> (5828681) Discover Bank Dfs Services LLC PO Box 3025 New Albany, Ohio 43054-3025	<b>Claim No: 2</b> <i>Original Filed</i> Date: 04/12/2010 <i>Original Entered</i> Date: 04/12/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> DISCOVER FINANCIAL SERVICES (rs) <i>Modified:</i>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Amount</td> <td style="width: 15%;">claimed:</td> <td style="width: 15%;">\$4658.51</td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> </tr> <tr> <td>Unsecured</td> <td>claimed:</td> <td>\$4658.51</td> <td></td> <td></td> <td></td> </tr> </table>			Amount	claimed:	\$4658.51				Unsecured	claimed:	\$4658.51			
Amount	claimed:	\$4658.51												
Unsecured	claimed:	\$4658.51												
<b>History:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><a href="#">Details</a></td> <td style="width: 10%;"></td> <td style="width: 10%;"><a href="#">2-1</a></td> <td style="width: 15%;">04/12/2010</td> <td style="width: 55%;">Claim #2 filed by Discover Bank, Amount claimed: \$4658.51 (DISCOVER FINANCIAL SERVICES (rs))</td> </tr> </table>			<a href="#">Details</a>		<a href="#">2-1</a>	04/12/2010	Claim #2 filed by Discover Bank, Amount claimed: \$4658.51 (DISCOVER FINANCIAL SERVICES (rs))							
<a href="#">Details</a>		<a href="#">2-1</a>	04/12/2010	Claim #2 filed by Discover Bank, Amount claimed: \$4658.51 (DISCOVER FINANCIAL SERVICES (rs))										
<b>Description:</b>														
<b>Remarks:</b>														

<b>Creditor:</b> (5842794) Wells Fargo Financial National Bank 4137 121st Street Urbandale, IA 50323	<b>Claim No: 3</b> <i>Original Filed</i> Date: 04/15/2010 <i>Original Entered</i> Date: 04/15/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> WELLS FARGO FINANCIAL (jg) <i>Modified:</i>					
<b>History:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><a href="#">Details</a></td> <td style="width: 10%;"></td> <td style="width: 10%;"><a href="#">3-1</a></td> <td style="width: 15%;">04/15/2010</td> <td style="width: 55%;">Claim #3 filed by Wells Fargo Financial National Bank, Amount claimed: \$4116.61 (WELLS FARGO FINANCIAL (jg))</td> </tr> </table>			<a href="#">Details</a>		<a href="#">3-1</a>	04/15/2010	Claim #3 filed by Wells Fargo Financial National Bank, Amount claimed: \$4116.61 (WELLS FARGO FINANCIAL (jg))
<a href="#">Details</a>		<a href="#">3-1</a>	04/15/2010	Claim #3 filed by Wells Fargo Financial National Bank, Amount claimed: \$4116.61 (WELLS FARGO FINANCIAL (jg))			
<b>Description:</b> (3-1) ITEMS PURCHASED FROM MOR FURNITURE FOR LESS							
<b>Remarks:</b>							



Amount	claimed:	\$4116.61		
Secured	claimed:	\$4116.61		

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**History:**

<a href="#">Details</a>		<a href="#">3-1</a>	04/15/2010	Claim #3 filed by Wells Fargo Financial National Bank, Amount claimed: \$4116.61 (WELLS FARGO FINANCIAL (jg))
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**Description:** (3-1) ITEMS PURCHASED FROM MOR FURNITURE FOR LESS

**Remarks:**

<b>Creditor:</b> (5843109) Department Stores National Bank/Macys Nco Financial Systems, Inc. PO Box 4275 Norcross, GA 30091	<b>Claim No: 4</b> <i>Original Filed</i> <i>Date:</i> 04/15/2010 <i>Original Entered</i> <i>Date:</i> 04/15/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> TRANSWORLD SYSTEMS, INC. (ys) <i>Modified:</i>
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Amount	claimed:	\$3633.66		
Unsecured	claimed:	\$3633.66		

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**History:**

<a href="#">Details</a>		<a href="#">4-1</a>	04/15/2010	Claim #4 filed by Department Stores National Bank/Macys, Amount claimed: \$3633.66 (TRANSWORLD SYSTEMS, INC. (ys))
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**Description:**

**Remarks:**

<b>Creditor:</b> (5814181) GREATER NEVADA MORTGAGE SERVIC 4070 SILVER SAGE CARSON CITY NV 89701	<b>Claim No: 5</b> <i>Original Filed</i> <i>Date:</i> 04/27/2010 <i>Original Entered</i> <i>Date:</i> 04/27/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> GILA CORPORATION (ty) <i>Modified:</i>
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Amount	claimed:	\$251289.94		
Secured	claimed:	\$251289.94		

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**History:**

<a href="#">Details</a>		<a href="#">5-1</a>	04/27/2010	Claim #5 filed by GREATER NEVADA MORTGAGE SERVIC, Amount claimed: \$251289.94 (GILA CORPORATION (ty))
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**Description:** (5-1) MORTGAGE

**Remarks:**

<b>Creditor:</b> (5814181) GREATER NEVADA MORTGAGE SERVIC 4070 SILVER SAGE CARSON CITY NV 89701	<b>Claim No: 6</b> <i>Original Filed</i> <i>Date:</i> 04/27/2010 <i>Original Entered</i> <i>Date:</i> 04/27/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> GILA CORPORATION (ty) <i>Modified:</i>
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**History:**

<a href="#">Details</a>		<a href="#">6-1</a>	04/27/2010	Claim #6 filed by GREATER NEVADA MORTGAGE SERVIC, Amount claimed: \$48258.38 (GILA CORPORATION (ty))
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**Description:** (6-1) MORTGAGE

**Remarks:**



Amount	claimed:	\$48258.38		
Secured	claimed:	\$48258.38		

**History:**

<a href="#">Details</a>	<a href="#">6-1</a>	04/27/2010	Claim #6 filed by GREATER NEVADA MORTGAGE SERVIC, Amount claimed: \$48258.38 (GILA CORPORATION (ty))
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**Description:** (6-1) MORTGAGE

**Remarks:**

<b>Creditor:</b> (5814183) INTERNAL REVENUE SERVICE 110 CITY PARKWAY STOP 5028LVG LAS VEGAS NV 89102	<b>Claim No: 7</b> <i>Original Filed</i> Date: 05/06/2010 <i>Original Entered</i> Date: 05/06/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> IRSPOC2 INTERNAL REVENUE SERVICE <i>Modified:</i>
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Amount	claimed:	\$21473.58		
Secured	claimed:	\$0.00		
Priority	claimed:	\$19784.66		
Unsecured	claimed:	\$1688.92		

**History:**

<a href="#">Details</a>	<a href="#">7-1</a>	05/06/2010	Claim #7 filed by INTERNAL REVENUE SERVICE, Amount claimed: \$21473.58 (INTERNAL REVENUE SERVICE, IRSPOC2)
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**Description:**

**Remarks:**

<b>Creditor:</b> (5919376) RC Willey Financial Services PO Box 65320 Salt Lake City, Utah 84165-0320	<b>Claim No: 8</b> <i>Original Filed</i> Date: 05/06/2010 <i>Original Entered</i> Date: 05/06/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> R.C. WILLEY INC. (ks) <i>Modified:</i>
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Amount	claimed:	\$2484.49		
Secured	claimed:	\$1279.00		
Unsecured	claimed:	\$1205.49		

**History:**

<a href="#">Details</a>	<a href="#">8-1</a>	05/06/2010	Claim #8 filed by RC Willey Financial Services, Amount claimed: \$2484.49 (R.C. WILLEY INC. (ks))
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**Description:**

**Remarks:**

<b>Creditor:</b> (5814195) TOM KRUSE EVERGREEN NOTE SERVICING 295 HOLCOMB AVENUE #3 RENO NV 89502	<b>Claim No: 9</b> <i>Original Filed</i> Date: 05/10/2010 <i>Original Entered</i> Date: 05/10/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> LK Bowser <i>Modified:</i>
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**History:**

<a href="#">Details</a>	<a href="#">9-1</a>	05/10/2010	Claim #9 filed by TOM KRUSE, Amount claimed: \$100000.00 (Bowser, LK)
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**Description:**

**Remarks:**



Amount	claimed:	\$100000.00		
Secured	claimed:	\$100000.00		

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**History:**

<a href="#">Details</a>	<a href="#">9-1</a>	05/10/2010	Claim #9 filed by TOM KRUSE, Amount claimed: \$100000.00 (Bowser, LK)
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**Description:**

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**Remarks:**

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<b>Creditor:</b> (5962310) PRA Receivables Management, LLC As Agent Of Portfolio Recovery Assocs. PO Box 12914 Norfolk VA 23541	<b>Claim No: 10</b> <i>Original Filed</i> Date: 05/19/2010 <i>Original Entered</i> Date: 05/19/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> PRA RECEIVABLES MANAGEMENT, LLC (all) <i>Modified:</i>
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Amount	claimed:	\$3807.99		
Unsecured	claimed:	\$3807.99		

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**History:**

<a href="#">Details</a>	<a href="#">10-1</a>	05/19/2010	Claim #10 filed by PRA Receivables Management, LLC, Amount claimed: \$3807.99 (PRA RECEIVABLES MANAGEMENT, LLC (all))
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**Description:**

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**Remarks:**

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<b>Creditor:</b> (5962310) PRA Receivables Management, LLC As Agent Of Portfolio Recovery Assocs. PO Box 12914 Norfolk VA 23541	<b>Claim No: 11</b> <i>Original Filed</i> Date: 05/26/2010 <i>Original Entered</i> Date: 05/26/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> PRA RECEIVABLES MANAGEMENT, LLC (all) <i>Modified:</i>
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Amount	claimed:	\$2299.93		
Unsecured	claimed:	\$2299.93		

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**History:**

<a href="#">Details</a>	<a href="#">11-1</a>	05/26/2010	Claim #11 filed by PRA Receivables Management, LLC, Amount claimed: \$2299.93 (PRA RECEIVABLES MANAGEMENT, LLC (all))
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**Description:**

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**Remarks:**

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<b>Creditor:</b> (6040733) GE CONSUMER FINANCE FOR GE MONEY BANK DBA SELECT COMFORT/GEMB PO BOX 960061 ORLANDO FL 32896-0661	<b>Claim No: 12</b> <i>Original Filed</i> Date: 06/14/2010 <i>Original Entered</i> Date: 06/14/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> RAMESHWAR SINGH <i>Modified:</i>
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Amount	claimed:	\$3999.09		
Unsecured	claimed:	\$3999.09		

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**History:**

<a href="#">Details</a>	<a href="#">12-1</a>	06/14/2010	Claim #12 filed by GE CONSUMER FINANCE, Amount claimed: \$3999.09 (SINGH, RAMESHWAR)
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**Description:**

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**Remarks:**

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<b>Creditor:</b> (5962310) PRA Receivables Management, LLC As Agent Of Portfolio Recovery Assocs. PO Box 12914 Norfolk VA 23541	<b>Claim No: 13</b> <i>Original Filed</i> Date: 06/23/2010 <i>Original Entered</i> Date: 06/23/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> PRA RECEIVABLES MANAGEMENT, LLC (all) <i>Modified:</i>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Amount</td> <td style="width: 10%;">claimed:</td> <td style="width: 15%;">\$4509.25</td> <td style="width: 10%;"><input type="text"/></td> <td style="width: 10%;"><input type="text"/></td> <td style="width: 10%;"><input type="text"/></td> </tr> <tr> <td>Unsecured</td> <td>claimed:</td> <td>\$4509.25</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>			Amount	claimed:	\$4509.25	<input type="text"/>	<input type="text"/>	<input type="text"/>	Unsecured	claimed:	\$4509.25	<input type="text"/>	<input type="text"/>	<input type="text"/>
Amount	claimed:	\$4509.25	<input type="text"/>	<input type="text"/>	<input type="text"/>									
Unsecured	claimed:	\$4509.25	<input type="text"/>	<input type="text"/>	<input type="text"/>									
<b>History:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><a href="#">Details</a></td> <td style="width: 5%;"><input type="text"/></td> <td style="width: 10%;"><a href="#">13-1</a></td> <td style="width: 15%;">06/23/2010</td> <td style="width: 60%;">Claim #13 filed by PRA Receivables Management, LLC, Amount claimed: \$4509.25 (PRA RECEIVABLES MANAGEMENT, LLC (all))</td> </tr> </table>			<a href="#">Details</a>	<input type="text"/>	<a href="#">13-1</a>	06/23/2010	Claim #13 filed by PRA Receivables Management, LLC, Amount claimed: \$4509.25 (PRA RECEIVABLES MANAGEMENT, LLC (all))							
<a href="#">Details</a>	<input type="text"/>	<a href="#">13-1</a>	06/23/2010	Claim #13 filed by PRA Receivables Management, LLC, Amount claimed: \$4509.25 (PRA RECEIVABLES MANAGEMENT, LLC (all))										
<b>Description:</b>														
<b>Remarks:</b>														

<b>Creditor:</b> (6143100) Wells Fargo PO Box 7648 Boise ID 83707 Attn: Christine Erb	<b>Claim No: 14</b> <i>Original Filed</i> Date: 07/15/2010 <i>Original Entered</i> Date: 07/15/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> WELLS FARGO BANK, N.A. () <i>Modified:</i>																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Amount</td> <td style="width: 10%;">claimed:</td> <td style="width: 15%;">\$28186.78</td> <td style="width: 10%;"><input type="text"/></td> <td style="width: 10%;"><input type="text"/></td> <td style="width: 10%;"><input type="text"/></td> </tr> <tr> <td>Secured</td> <td>claimed:</td> <td>\$14252.00</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Unsecured</td> <td>claimed:</td> <td>\$13934.78</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>			Amount	claimed:	\$28186.78	<input type="text"/>	<input type="text"/>	<input type="text"/>	Secured	claimed:	\$14252.00	<input type="text"/>	<input type="text"/>	<input type="text"/>	Unsecured	claimed:	\$13934.78	<input type="text"/>	<input type="text"/>	<input type="text"/>
Amount	claimed:	\$28186.78	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Secured	claimed:	\$14252.00	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Unsecured	claimed:	\$13934.78	<input type="text"/>	<input type="text"/>	<input type="text"/>															
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<a href="#">Details</a>	<input type="text"/>	<a href="#">14-1</a>	07/15/2010	Claim #14 filed by Wells Fargo, Amount claimed: \$28186.78 (WELLS FARGO BANK, N.A. ())																
<b>Description:</b> (14-1) 04 TOYOTA																				
<b>Remarks:</b>																				

<b>Creditor:</b> (5814182) GREATER NV CREDIT UNION ACCT# 1072 P O BOX 2128 CARSON CITY NV 89702-9965	<b>Claim No: 15</b> <i>Original Filed</i> Date: 07/23/2010 <i>Original Entered</i> Date: 07/23/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> GILA CORPORATION (ty) <i>Modified:</i>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Amount</td> <td style="width: 10%;">claimed:</td> <td style="width: 15%;">\$7499.91</td> <td style="width: 10%;"><input type="text"/></td> <td style="width: 10%;"><input type="text"/></td> <td style="width: 10%;"><input type="text"/></td> </tr> <tr> <td>Secured</td> <td>claimed:</td> <td>\$7499.91</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>			Amount	claimed:	\$7499.91	<input type="text"/>	<input type="text"/>	<input type="text"/>	Secured	claimed:	\$7499.91	<input type="text"/>	<input type="text"/>	<input type="text"/>
Amount	claimed:	\$7499.91	<input type="text"/>	<input type="text"/>	<input type="text"/>									
Secured	claimed:	\$7499.91	<input type="text"/>	<input type="text"/>	<input type="text"/>									
<b>History:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><a href="#">Details</a></td> <td style="width: 5%;"><input type="text"/></td> <td style="width: 10%;"><a href="#">15-1</a></td> <td style="width: 15%;">07/23/2010</td> <td style="width: 60%;">Claim #15 filed by GREATER NV CREDIT UNION, Amount claimed: \$7499.91 (GILA CORPORATION (ty))</td> </tr> </table>			<a href="#">Details</a>	<input type="text"/>	<a href="#">15-1</a>	07/23/2010	Claim #15 filed by GREATER NV CREDIT UNION, Amount claimed: \$7499.91 (GILA CORPORATION (ty))							
<a href="#">Details</a>	<input type="text"/>	<a href="#">15-1</a>	07/23/2010	Claim #15 filed by GREATER NV CREDIT UNION, Amount claimed: \$7499.91 (GILA CORPORATION (ty))										
<b>Description:</b> (15-1) 2004 JEEP LIBERTY														
<b>Remarks:</b>														

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<b>Creditor:</b> (5814182) GREATER NV CREDIT UNION ACCT# 1072 P O BOX 2128 CARSON CITY NV 89702-9965	<b>Claim No: 16</b> <i>Original Filed</i> Date: 07/23/2010 <i>Original Entered</i> Date: 07/23/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> GILA CORPORATION (ty) <i>Modified:</i>
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Amount	claimed:	\$13102.55	<input type="text"/>	<input type="text"/>	<input type="text"/>
Secured	claimed:	\$12551.85	<input type="text"/>	<input type="text"/>	<input type="text"/>
Unsecured	claimed:	\$550.70	<input type="text"/>	<input type="text"/>	<input type="text"/>

**History:**

<a href="#">Details</a>	<input type="text"/>	<a href="#">16-1</a>	07/23/2010	Claim #16 filed by GREATER NV CREDIT UNION, Amount claimed: \$13102.55 (GILA CORPORATION (ty))
-------------------------	----------------------	----------------------	------------	--

**Description:** (16-1) 2005 TOYOTA RAV 4 & UNSECURED

**Remarks:**

<b>Creditor:</b> (8495225) eCAST Settlement Corporation c/o Bass & Associates, P.C. 3936 E Ft. Lowell, Suite 200 Tucson, AZ 85712 <a href="#">Claimant History</a>	<b>Claim No: 17</b> <i>Original Filed</i> Date: 07/24/2010 <i>Original Entered</i> Date: 07/24/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> PATTI BASS (all) <i>Modified:</i>
--	---	--

Amount	claimed:	\$2907.80	<input type="text"/>	<input type="text"/>	<input type="text"/>
Unsecured	claimed:	\$2907.80	<input type="text"/>	<input type="text"/>	<input type="text"/>

**History:**

<a href="#">Details</a>	<input type="text"/>	<a href="#">17-1</a>	07/24/2010	Claim #17 filed by HSBC BANK NEVADA, N.A., Amount claimed: \$2907.80 (BASS (all), PATTI)
<input type="text"/>	<input type="text"/>	<a href="#">43</a>	04/25/2013	Joint Assignment/Transfer of Claim filed by eCAST Settlement Corporation Transfer Agreement 3001 (e) 2 Transferor: <a href="#">HSBC BANK NEVADA, N.A.</a> (Claim No. 17) To eCAST Settlement Corporation. (BASS (all), PATTI)

**Description:**

**Remarks:**

<b>Creditor:</b> (6242875) PROFESSIONAL FINANCE COMPANY, INC. P.O.BOX 1686 GREELEY, CO 80632-1686	<b>Claim No: 18</b> <i>Original Filed</i> Date: 08/13/2010 <i>Original Entered</i> Date: 08/13/2010	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> LK Bowser <i>Modified:</i>
--	---	---

Amount	claimed:	\$764.80	<input type="text"/>	<input type="text"/>	<input type="text"/>
Unsecured	claimed:	\$764.80	<input type="text"/>	<input type="text"/>	<input type="text"/>

**History:**

<a href="#">Details</a>	<input type="text"/>	<a href="#">18-1</a>	08/13/2010	Claim #18 filed by PROFESSIONAL FINANCE COMPANY, INC., Amount claimed: \$764.80 (Bowser, LK)
-------------------------	----------------------	----------------------	------------	--

**Description:**

**Remarks:**

## Claims Register Summary



**Case Name:** A. ELLIS LINCICOME and VICENTA J. LINCICOME

**Case Number:** 10-51219-gwz

**Chapter:** 13

**Date Filed:** 04/06/2010

**Total Number Of Claims:** 18

<b>Total Amount Claimed*</b>	\$510935.69
<b>Total Amount Allowed*</b>	

\*Includes general unsecured claims

**The values are reflective of the data entered. Always refer to claim documents for actual amounts.**

	<b>Claimed</b>	<b>Allowed</b>
<b>Secured</b>	\$439247.69	
<b>Priority</b>	\$19784.66	
<b>Administrative</b>		

---

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
11/03/2018 17:00:05			
<b>PACER Login:</b>	mgmillward:3254495:0	<b>Client Code:</b>	
<b>Description:</b>	Claims Register	<b>Search Criteria:</b>	10-51219-gwz Filed or Entered From: 11/1/2008 Filed or Entered To: 11/5/2018
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.20



# Exhibit 14



APN# 029-901-17

**Recording Requested by:**

Name Michael Camarata

Address 100 Beecham Dr

City/State/Zip Pittsburg PA 15205

**Mail Tax Statements to:**

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Loan Modification Agreement

**Title of Document**  
(Required Field)

**FILL IN ALL THAT APPLY**

The Undersigned Hereby Affirms That This Document Submitted For Recording Contains Personal Information As Required By Law\*

Specify Law\* \_\_\_\_\_

Signature \_\_\_\_\_

Specify Law\* \_\_\_\_\_

Print Name \_\_\_\_\_ Title \_\_\_\_\_

\*If there is no applicable State or Federal Law, Personal Information must be removed prior to recording

If this document is a re-record or correction, fill out below

Correcting Document# \_\_\_\_\_ Amending \_\_\_\_\_

Reason for re-record \_\_\_\_\_

(For Re-records, all pages from original document must be included, \$25 Non-conforming Fee Applies)

If legal description is in metas & bounds, indicate where it was obtained:

\_\_\_\_\_ (Document Title), Book \_\_\_\_\_ Page \_\_\_\_\_ or

Document # \_\_\_\_\_ recorded \_\_\_\_\_ (date) in the

Lyon County Recorder's Office

-OR-

If prepared by a surveyor, provide name and address

\_\_\_\_\_

\_\_\_\_\_

\*Personal information means a natural person's first name or first initial and last name in combination with any one or more of the following data elements:

1. Social security number
2. Driver's license number or identification card number
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password

This page added to provide additional information required by NRS 111.312 Sections 1-4  
(\$1.00 Additional Recording Fee Applies)

**DOC # 475808**

05/04/2011

01 19 PF

**Official Record**

Requested By:  
BAC HOME LOANS SERVICING

Lyon County - NY

Mary C. Milligan - Recorder

Page 1 of 6 Fee \$44.00

Recorded By MFK RPTT



0475808



WHDRECORDMALE  
HOMELANDINFORMATIONDEPARTMENT-REMS  
Attn: Records Manager  
BAC Home Loans Servicing LP  
3770 Peachtree Dunwoody Suite 300  
Roswell, GA 30075

parcel - 029-401-17

**IN MODIFICATION AGREEMENT**  
(Fixed Interest Rate)

273612  
This Loan Modification Agreement ("Agreement"), made this 11th day of July, 2009, between VICENTA LINCICOME (the "Borrower(s)") and BAC Home Loans Servicing, LP (the "Lender"), amends and supplements (1) the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated the 23rd day of May, 2007 in the amount of \$381,150.00, and (2) the Note secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as the "Property", located at 70 RIVERSIDE DRIVE, DAYTON, NV 89403

The real property described being set forth as follows

Previous mortgage recorded  
5/25/07 doc-407150 assigned  
11/10/2010 doc-467719

SAME AS IN SAID SECURITY INSTRUMENT

In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (Notwithstanding anything to the contrary contained in the Note or Security Instrument)

- 1 As of the 1st day of September, 2009, the amount payable under the Note or Security Instrument (the "Unpaid Principal Balance") is U.S. \$417,198.58, consisting of the amount(s) loaned to the Borrower by the Lender which may include, but not limited to, any past due principal payments, interest, fees and/or costs capitalized to date
- 2 The Borrower promises to pay the Unpaid Principal Balance, plus interest, to the order of the Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 4.875% from the 1st day of August, 2009. The Borrower promises to make monthly payments of principal and interest of U.S. \$1,977.29 beginning on the 1st day of September, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on the 1st day of August, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date.
- 3 The Borrower will make such payments at Payment Processing, PO Box 10218, Van Nuys, CA 91410 or at such other place as the Lender may require.
- 4 Nothing in this agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all terms and provisions thereof, as amended by this Agreement.
- 5 In consideration of this Modification, Borrower agrees that if any document related to the Security Instrument, Note and/or Modification is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the loan as modified, or is otherwise missing, Borrower(s) will comply with Lender's request to execute, acknowledge, initial and deliver to Lender any documentation Lender deems necessary. If the original promissory note is replaced the Lender hereby indemnifies the Borrower(s) against any loss associated with a demand on the original note. All documents Lender requests of Borrower(s) shall be referred to as "Documents". Borrower agrees to deliver the Documents within ten (10) days after receipt by Borrower(s) of a written request for such replacement.

05/04/2011  
002 of 6

475888



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan # 162304785

WDGFKNR 8124 July 11, 2009





475808

05/04/2011  
003 of 6

STEP RATE LOAN MODIFICATION  
ADDENDUM TO LOAN MODIFICATION AGREEMENT

The Step Rate Loan Modification Agreement Addendum (the "Addendum") is made this July 11, 2009, and is incorporated into and shall be deemed a part of that certain Loan Modification Agreement of even date herewith (the "Agreement") between VICENTA LINCICOME (the "Borrowers") and BAC Home Loans Servicing, LP ("the Lender"), which agreement amends and supplements that certain Mortgage, Deed of Trust or Deed to Secure Debt (the "Security Instrument") executed by Borrower in favor of Lender

THIS ADDENDUM CONTAINS PROVISIONS PROVIDING FOR  
SCHEDULED INTEREST RATE CHANGES

In consideration of the mutual promises and agreements exchanged and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Agreement, Security Instrument or the promissory note (the "Note"), except as specifically provided for herein )

1 Scheduled Interest Rate Changes

The Agreement provides for an initial interest rate of 4.875% which will be charged from the 1st day of August, 2009

The Interest Rate shall then change on the 1st day of August, 2014 at which time it shall be 5.375%

Thereafter, the interest rate and monthly principal and interest payment shall adjust in accordance with the Note, Adjustable Rate Rider and/or any other loan document that is affixed to or incorporated into the Note and Rider and provides for, implements or relates to any change or adjustment in the interest rate and monthly payment amount under the Note until such time as the principal and interest due under the Note are paid in full. If on August 1, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by the Agreement and this Addendum, the Borrower shall pay these amounts in full on the Maturity Date

BORROWER

*Vicenta Lincicome* Dated *July 31, 2009*  
VICENTA LINCICOME

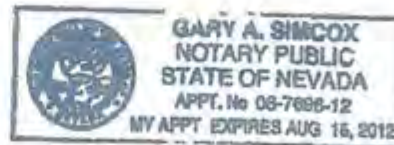
Lender

BAC Home Loans Servicing, LP

*[Signature]*  
05-11-2014  
Lincicome

Dated

*Aug 31, 2009*



BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.



The HOPE Team  
CHL Loan #: 162304785

July 11, 2009

AA02327





475806

05/04/2011  
004 of 6

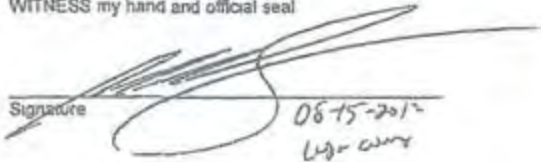
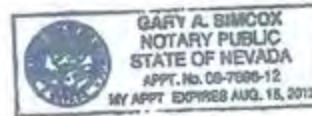
As evidenced by their signatures below, the Borrower and the Lender agree to the foregoing

Vicenta Lincome Dated July 31, 2009  
VICENTA LINCOMESTATE OF NevadaCOUNTY OF ClarkOn July 31, 2009 before me, Gary Simcox Notary Public, personally appearedVicenta Lincome

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature

  
06-15-2012  
Lgr cmy

BAC Home Loans Servicing, LP is a subsidiary of Bank of America, N.A.

The HOPE Team  
CHL Loan # 162304785

WDGFIKNR 8124 July 11, 2009

AA02328





475386

05/04/2011  
005 of 6

DO NOT WRITE BELOW THIS LINE

THIS SECTION IS FOR INTERNAL BANK OF AMERICA HOME LOANS SERVICING, LP USE ONLY

BAC Home Loans Servicing, LP  
7105 Corporate Drive  
(PTX-B-36)  
Piano, TX 75024

By

Dated

James J. SmithMAR 22 2011

STATE OF

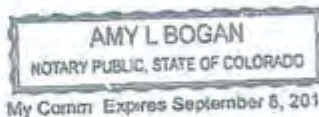
CO  
MAR 22 2011

COUNTY OF

Broomfield  
Amy L. Bogan  
James J. SmithOn MAR 22 2011 before me, Amy L. Bogan Notary Public, personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Amy L. Bogan Signature





475808

05/04/2011  
005 of 5

## LEGAL DESCRIPTION

ALL THAT CERTAIN LOT OR PARCEL OF LAND BEING SITUATE IN GOLD CANYON EST SUBDIVISION, PH 2  
LOT 42 BEING 482 ACRES

PARCEL # 029-401-17

## CERTIFIED COPY OF ORIGINAL

The forgoing instrument is a full, true and correct copy  
of the record on file in the office of the County Recorder  
of Lyon County, State of Nevada. Page count: 6

Witnessed my hand  
this 7<sup>th</sup> day of March 2017

DAWN L. WARR, RECORDER

By: Brenda Cullen, Deputy

All pages must have an impression of an impressed seal in the same area on  
each page

## CERTIFIED COPY OF ORIGINAL

The forgoing instrument is a full, true and correct copy  
of the record on file in the office of the County Recorder  
of Lyon County, State of Nevada. Page count: 6

Witnessed my hand

this 7<sup>th</sup> day of March 2017

DAWN L. WARR, RECORDER

All pages must have an impression of an impressed seal in the same area on  
each page



# Exhibit 15



**Bank of America**



4500- Amon Carter Blvd  
Fort Worth, TX 76155



AT1 3-772-24035-0001336-001-1-000-000-000-000  
VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

**Notice Date:** October 19, 2011

**Account No.:** 162304785

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

---

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

---

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-6607, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

---

This communication is from Bank of America, N.A., the servicer of your home loan.



# Exhibit 16



**Bank of America**



**Home Loans**

Mail Stop, CA6-919-01-41  
P.O. Box 5170  
Simi Valley, CA 93062-5170

**Notice Date:** October 24, 2011

**Account No.:** 162304785

Vicenta Lincicome  
70 Riverside Dr  
Dayton, NV 89403

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

---

**ABOUT YOUR HOME LOAN**

We recently received your request regarding a loan modification on the above referenced loan.

Your request has been forwarded to a specialist in the appropriate department for further research. We appreciate your patience while additional information is gathered in order to respond to your request. We will contact you by telephone or in writing when our review is complete.

---

**THANK YOU FOR YOUR BUSINESS**

If you have any questions, please call us at 1-800-669-6650. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.

Please write your account number on all correspondence.

CSSTFI 13025 03/24/2011

00856

AA02334



# Exhibit 17



Bank of America



400 National Way  
Simi Valley, CA 93065



AT1 4-772-30001-0003973-004-1-000-000-000-000

VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403

CSDEAY 12606 12/16/2010

**Notice Date:** December 23, 2011

**Account No.:** 162304785

**Property Address:**  
70 Riverside Drive  
Dayton, NV 89403

**YOUR REQUEST HAS BEEN RECEIVED**

Thank you for your recent inquiry about your home loan. This letter confirms Bank of America, N.A. has received your correspondence.

**WHAT YOU CAN EXPECT**

We are in the process of obtaining the documentation and information necessary to address your questions. We appreciate your patience as we research your request. You can expect a complete response within twenty (20) business days.

**THANK YOU FOR YOUR BUSINESS**

If you have any additional questions while we research your request, please call us at 1-800-669-6607, Monday-Friday 7a.m. - 7p.m. Local Time. We appreciate the opportunity to serve your home loan needs.

This communication is from Bank of America, N.A., the servicer of your home loan.



# Exhibit 18



A. Ellis Lincicome, Jr. and Vicenta J. Lincicome  
Debtor(s)

10-51219-gwz  
Case No:

Motion #:

Bank of America, N.A.  
MOVANT

Chapter: 13

Certification of Attempt to Resolve the Matter without Court Action:

Moving counsel hereby certifies that pursuant to the requirements of LR 4001(a)(2), an attempt has been made to resolve the matter without court action, but movant has been unable to do so.

Date: November 24, 2014

Signature: [Signature]

Attorney for Movant

PROPERTY INVOLVED IN THIS MOTION: 70 Riverside Drive, Dayton, NV 89403

NOTICE SERVED ON: Debtor(s) ☒ ; Debtor (s) Counsel ☒ ; Trustee ☒

DATE OF SERVICE: 11/10/14

MOVING PARTY'S CONTENTIONS:

The EXTENT and PRIORITY of LIENS: \*

1st Bank of America, N.A. \$567,234.69 †

2nd \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$567,234.69

APPRAISAL or OPINION as to VALUE:

Per attached Schedule "A" - \$476,000.00

TERMS OF MOVANT'S CONTRACT  
WITH THE DEBTOR:\*

Amount of Note: \$381,150.00

Interest Rate: 6.875%

Duration: 30 Year

Payment Per Month: \$2,425.24

Date of Default: May 1, 2013

Amount of Arrearages: \$130,788.87 †‡

Date of Notice of Default: N/A

SPECIAL CIRCUMSTANCES: The undersigned hereby certifies that an attempt has been made to confer with debtor(s) counsel, or with debtor(s) and that more than three (3) business days have expired, and that after sincere effort to do so, counsel has been unable to resolve this matter without court action.

SUBMITTED BY: Greg Wilde

SIGNATURE: [Signature] #10235

DEBTOR'S CONTENTIONS:

The EXTENT and PRIORITY of LIENS:

1<sup>st</sup> \_\_\_\_\_

2<sup>nd</sup> \_\_\_\_\_

3<sup>rd</sup> \_\_\_\_\_

4<sup>th</sup> \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$ \_\_\_\_\_

APPRAISAL or OPINION as to VALUE:

DEBTOR'S OFFER OF "ADEQUATE  
PROTECTION" FOR MOVANT:

SPECIAL CIRCUMSTANCES:

SUBMITTED BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

\* All amounts due to Movant as of November 10, 2014

† The amount of Movant's liens and arrears above do not include \$1,026.00 for fees and costs that have also been incurred by Movant as of the date hereof in connection with seeking the relief requested in the Motion.

‡ Amounts listed are due for post-petition only.



**TIFFANY & BOSCO, P.A.**

Gregory L. Wilde, Esq.

Nevada Bar No. 004417

212 South Jones Boulevard

Las Vegas, Nevada 89107

Telephone: 702 258-8200

Fax: 702 258-8787

Attorney for Movant Bank of America, N.A.

14-70888

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

**A. Ellis Lincicome, Jr. and Vicenta J. Lincicome**

Debtors.

Bk Case No.: 10-51219-gwz

Date: December 30, 2014

Time: 10:00am

Chapter 13

**MOTION FOR RELIEF FROM AUTOMATIC STAY**  
**(REAL PROPERTY)**

Bank of America, N.A., ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor(s) having an address of 70 Riverside Drive, Dayton, NV 89403 (the "Property"). In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor(s) on April 6, 2010.
2. A foreclosure notice of default has not been recorded.
3. A Chapter 13 Plan was confirmed on October 13, 2010.
4. The Debtor(s) have executed and delivered that certain promissory note in the original principal amount of \$381,150.00 (the "Note"). A true and correct copy of the Note is attached hereto as Exhibit "A". Movant, directly, or through an agent, has possession of the Note. Movant is an entity entitled to enforce the Note.



5. Pursuant to that certain Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtor(s) under the Note and the Deed of Trust with respect to the Loan are secured by the Property. A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

6. All rights and remedies under the Deed of Trust have been assigned to the Movant pursuant to that certain assignment of deed of trust. Additionally, all rights and remedies under the Deed of Trust have been assigned to the Movant pursuant to that certain Certificate of Merger. Bank of America, N.A., is successor by Merger to BAC Home Loans Servicing, LP effective July 1, 2011. Prior to that date, Countrywide Home Loans Servicing LP merged with BAC Home Loans Servicing, LP effective April 27, 2009. Attached hereto as Exhibit "C" are the merger documents.

7. Bank of America, N.A. services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor(s) obtain(s) a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

8. As of November 10, 2014, the outstanding Obligations are:

Unpaid Principal Balance	\$381,150.00
Unpaid, Accrued Interest	\$170,972.39
Costs	\$17,384.92
<u>Less:</u> Partial Payments	(\$2,272.62)
Minimum Outstanding Obligations	\$567,234.69

9. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$850.00 in legal fees and \$176.00 in costs. Movant reserves all rights to seek an award or allowance of such fees and costs in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

///



10. The following chart sets forth the number and amount of post-petition payments due pursuant to the terms of the Note that have been missed by the Debtor(s):

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
39	5/1/10	7/1/13	\$2,408.52	\$93,932.28
9	8/1/13	4/1/14	\$2,427.92	\$21,851.28
7	5/1/14	11/1/14	\$2,402.03	\$16,814.21
Less post-petition partial payments:				(\$1,808.90)
				Total: \$130,788.87

11. As of November 10, 2014, the total post-petition arrearage/delinquency is \$130,788.87. This is the amount necessary to cure any post-petition default on or about the date hereof.<sup>1</sup>

12. The fair market value of the Property is \$476,000.00. The basis for such valuation is the Schedules of the Debtor(s). A true and correct copy of the Schedule "A" is attached hereto as Exhibit "D".

13. Upon information and belief, the aggregate amount of encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, is \$567,234.69.

14. Cause exists for relief from the automatic stay for the following reasons:

- (a) Movant's interest in the Property is not adequately protected and the fair market value of the Property is declining and payments are not being made to Movant sufficient to protect Movant's interest against that decline.
- (b) Post confirmation payments required by the confirmed plan have not been made to Movant.

<sup>1</sup> The total of missed post-petition payments for this impounded loan include any missed escrow payments. Such missed escrow payments include amounts assessed for taxes and insurance and any previously assessed escrow shortage amount (if applicable). To avoid duplication, post-petition advances (if any) made for insurance, real estate taxes, or similar charges are not listed separately to the extent such advances would have been paid from the missed escrow payments. As part of the next annual RESPA analysis, the Bank will determine whether the escrow payments assessed to the debtor (including the missed escrow payments) result in a projected escrow shortage or overage. All rights are hereby reserved to assert or request any escrow amounts in accordance with RESPA and the total post-petition arrearage/delinquency is qualified accordingly. In addition, the amounts set forth herein do not include any legal fees or expenses of counsel incurred by Movant in connection with seeking the relief requested in the Motion.



(c) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor(s) have no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. That the 14-day stay described by Bankruptcy Rule 4001(a) (3) be waived.

4. For such other relief as the Court deems proper.

5. That the Movant shall give Debtors at least seven business days' notice of the time, place and date of sale.

6. Movant further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

DATED this 26th day of November, 2014.

TIFFANY & BOSCO, P.A.

By:  #10235  
/s/Gregory L. Wilde, Esq

**GREGORY L. WILDE, ESQ.**

Attorney for Movant  
212 South Jones Boulevard  
Las Vegas, Nevada 89107



**TIFFANY & BOSCO, P.A**

Gregory L. Wilde, Esq.

Nevada Bar No. 004417

212 South Jones Boulevard

Las Vegas, Nevada 89107

Telephone: 702 258-8200

Fax: 702 258-8787

[nvbk@tblaw.com](mailto:nvbk@tblaw.com)

Bank of America, N.A.

14-70888

**UNITED STATES BANKRUPTCY COURT****DISTRICT OF NEVADA**

In Re:

A. Ellis Lincicome, Jr. and Vicenta J. Lincicome

Bk Case No.: 10-51219-gwz

Date: December 30, 2014

Time: 10:00am

Chapter 13

Debtors

**[PROPOSED] ORDER TERMINATING AUTOMATIC STAY**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Automatic Stay in the above-entitled bankruptcy proceedings is terminated as to the Debtor and the Trustee in favor of Secured Creditor Bank of America, N.A., its assignees and/or successors in interest, of the subject property, generally described as 70 Riverside Drive, Dayton, NV 89403.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Movant shall give Debtors at least seven business days' notice of the time, place and date of sale.



1 IT IS FURTHER ORDERED, ADJUDGED and DECREED that Movant is exempt from  
2 further compliance with Fed. Bankr. Rule P. 3002.1.  
3

4 IT IS FURTHER ORDERED, ADJUDGED and DECREED That the Order be binding and  
5 effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of  
6 the United States Code.  
7

8 **Submitted by:**

9 **TIFFANY & BOSCO, P.A**

10 By: /s/Gregory L. Wilde, Esq

11 **Gregory L. Wilde, Esq.**

12 Attorney for Movant

13 **APPROVED / DISAPPROVED**

14 By: \_\_\_\_\_

15 Robert G. Johnston

16 Attorney for Debtor(s)

17 **APPROVED / DISAPPROVED**

18 By: \_\_\_\_\_

19 William A. Van Meter

20 Chapter 13 Trustee  
21  
22  
23  
24  
25  
26



**EXHIBIT "A"****ADJUSTABLE RATE NOTE**(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)

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

MAY 23, 2007  
(Date)FOLSOM, CALIFORNIA  
(City) (State)70 RIVERSIDE DRIVE  
DAYTON, NV 89403  
(Property Address)**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$ 381,150.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

**2. INTEREST**

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.875 %. The interest rate I will pay will change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

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

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the first day of each month beginning on JULY 1, 2007.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This amount may change.

**(C) Monthly Payment Changes**

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

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

The interest rate I will pay may change on the first day of JUNE, 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

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

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



**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250** %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875** % or less than **2.250** %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **TWO** percentage points ( **2.000** %) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875** %.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

**5. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

**6. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**7. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of **15** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **5.000** % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.



**8. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

**(A) UNTIL MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT IS DESCRIBED AS FOLLOWS:**

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

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

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

**(B) AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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



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

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

*Vicenta Lincicome*  
 VICENTA LINCICOME (Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

(Seal)  
 -Borrower

[Sign Original Only]



PAY TO THE ORDER OF  
Countrywide Bank, FSB  
WITHOUT RECOURSE  
SIERRA PACIFIC BANKING CO.  
A CALIFORNIA CORPORATION  
*[Signature]*

PAY TO THE ORDER OF  
COUNTRYWIDE HOME LOANS, INC  
WITHOUT RECOURSE  
COUNTRYWIDE BANK, FSB  
BY *Laurie Meder*  
LAURIE MEDER  
SENIOR VICE PRESIDENT

PAY TO THE ORDER OF  
WITHOUT RECOURSE  
COUNTRYWIDE HOME LOANS, INC  
BY *Michele Sjolander*  
MICHELE SJOLANDER  
EXECUTIVE VICE PRESIDENT



## INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE PROMISSORY NOTE

Loan Number:

Property Address: 10 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23rd day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Note (the "Note") dated the same date as this Addendum executed by the undersigned and payable to  
SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender").

THIS ADDENDUM supersedes Sections 3(A), 3(B), 4(C) and 7(A) of the Note. None of the other provisions of the Note are changed by this Addendum.

### 3. PAYMENTS

#### (A) Time and Place of Payments

I will pay interest by making payments every month for the first 120 payments (the "Interest-Only Period") in the amount sufficient to pay interest as it accrues. I will pay principal and interest by making payments every month thereafter for the next 240 payments in an amount sufficient to fully amortize the outstanding principal balance of the Note at the end of the Interest-Only Period over the remaining term of the Note in equal monthly payments.

I will make my monthly payments on the first day of each month beginning on JULY 1, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2037, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 193 BLUE RAVINE ROAD, SUITE 240  
FOLSOM, CA 95630

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 2,183.67. This payment amount is based on the original principal balance of the Note. This payment amount may change.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.



**7. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of interest during the Interest-Only Period, 5.000 % of my overdue payment of principal and interest thereafter. I will pay this late charge promptly, but only once on each late payment.

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

*Vicenta Lincicome*

VICENTA LINCICOME

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)

-Borrower

*[Sign Original Only]*



# EXHIBIT "C"

## ASSISTANT SECRETARY CERTIFICATE

OF

### BANK OF AMERICA, NATIONAL ASSOCIATION

The undersigned, Devra Lindgren, an Assistant Secretary of Bank of America, National Association (the "Association"), a national banking association organized and existing under the laws of the United States of America and having its principal place of business in the City of Charlotte, County of Mecklenburg, State of North Carolina, does hereby certify that:

1. **Countrywide Document Custody Services** was a division of **Treasury Bank, National Association**.

Effective September 6, 2005, **Treasury Bank, National Association** changed its name to **Countrywide Bank, National Association**.

Effective March 12, 2007, **Countrywide Bank, National Association** converted to a federal savings bank under the title of **Countrywide Bank, FSB**.

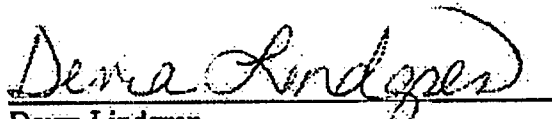
Effective April 27, 2009, **Countrywide Bank, FSB** converted back to a national banking association under the title of **Countrywide Bank, National Association**, and immediately thereafter, merged with and into **Bank of America, National Association**.

2. Effective April 27, 2009, **Countrywide Home Loans Servicing LP** changed its name to **BAC Home Loans Servicing, LP**.

Effective July 1, 2011, **BAC Home Loans Servicing, LP** merged with and into **Bank of America, National Association**.

IN WITNESS WHEREOF, I have hereupon set my hand and affixed the seal of said Association this 23rd day of May, 2012.

[SEAL]

  
Devra Lindgren  
Assistant Secretary



**DOC # 467719**

11/10/2010

12 41 PM

**Official Record**

Requested By  
ORION FINANCIAL GROUP

Lyon County - NV

Mary C. Milligan - Recorder

Page 1 of 2 Fee \$15.00

Recorded By: KFK RPTT



467719



I the undersigned hereby affirm that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

**PREPARED BY & RETURN TO:**

M. E. Wileman  
Orion Financial Group, Inc.  
2860 Exchange Blvd. # 100  
Southlake, TX 76092

**Assignment of Mortgage**

Send Any Notices To Assignee.

For Valuable Consideration, the undersigned, **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC. G4318** Miller Road, Flint, MI 48507 (Assignor) by these presents does assign and set over, without recourse, to **BAC HOME LOANS SERVICING LP FKA COUNTRYWIDE HOME LOANS SERVICING LP 1757 TAPO CANYON ROAD, SIMI VALLEY, CA 93063** (Assignee) the described mortgage, together with certain note(s) described with all interest, all liens, any rights due or to become due thereon, executed by **VICENTA LINCIOCOME, A MARRIED WOMAN** to **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC.** Said mortgage Dated: 5/23/2007 is recorded in the State of NV, County of Lyon on 5/25/2007, Record # 407150 AMOUNT: \$ 381,150.00 Property Address: 70 RIVERSIDE DRIVE, DAYTON, NV 89403

IN WITNESS WHEREOF, the undersigned corporation has caused this instrument to be executed by its proper officer. Executed on: 10-22-2010

**MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC.**

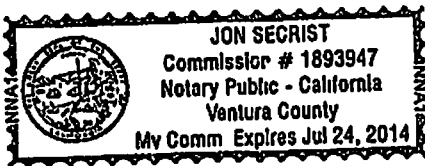
By:

**Nicholas Glavatsky**  
Certifying Officer



State of California, County of Ventura

On 10-22-2010, before me, the undersigned, Nichole Clavadetscher, who acknowledged that he/she is Certifying Officer of/ for MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC. and that he/she executed the foregoing instrument and that such execution was done as the free act and deed of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") SOLELY AS NOMINEE FOR SIERRA PACIFIC MORTGAGE COMPANY, INC. SIERRA PACIFIC MORTGAGE COMPANY, INC..



Jon Secrist  
Notary public, Jon Secrist  
My commission expires: 7-24-2014

MAIL TAX BILL TO:

VICENTA LINCIOCOME, A MARRIED WOMAN Property Address: 70 RIVERSIDE DRIVE, DAYTON, NV 89403



# EXHIBIT "B"

I hereby affirm that this document submitted for recording does not contain a social security number.

/s/ LYNDA KLEIN  
FUNDER

Recording Requested By:  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
280 BRINKBY STREET, SUITE 100  
RENO, NV 89509

DOC # 407150

05/25/2007

04:34 PM

Official Record

Requested By  
STEWART TITLE OF NEVADA

Lyon County - NV

Mary C. Milligan - Recorder

Page 1 of 20 Fee: \$58.00

Recorded By: DLW RPTT:



0407150

[Space Above This Line For Recording Data]

## DEED OF TRUST

MIN:

### DEFINITIONS

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

(A) "Security Instrument" means this document, which is dated MAY 23, 2007 together with all Riders to this document.

(B) "Borrower" is VICENTA LINCICOME, A MARRIED WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is SIERRA PACIFIC MORTGAGE COMPANY, INC.

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA  
Lender's address is 50 IRON POINT CIRCLE, STE 200, FOLSOM, CA 95630

(D) "Trustee" is GREENHEAD INVESTMENTS, INC., A CALIFORNIA CORPORATION



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

(F) "Note" means the promissory note signed by Borrower and dated **MAY 23, 2007**.  
The Note states that Borrower owes Lender

**THREE HUNDRED EIGHTY-ONE THOUSAND ONE HUNDRED FIFTY and NO/100-----** Dollars  
(U.S. \$ **381,150.00** ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **JUNE 1, 2037**

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

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

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

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

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

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

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

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

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

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

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

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

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



**TRANSFER OF RIGHTS IN THE PROPERTY**

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY of LYON :  
 [Type of Recording Jurisdiction] [Name of Recording Jurisdiction]  
**LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A."**

which currently has the address of 70 RIVERSIDE DRIVE [Street],  
 DAYTON [City], Nevada 89403 [Zip Code] ("Property Address"):

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

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

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

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

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

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is



not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

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

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

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

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

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



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

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

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

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

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts



disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

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

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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



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

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

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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



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

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

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

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

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

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

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

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

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

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

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



in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

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

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

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

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

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



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

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

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

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

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

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

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



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

*Vicenta Lincicome* (Seal)  
VICENTA LINCICOME -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

STATE OF NEVADA,

*Carson City*

County ss.

This instrument was acknowledged before me on

*May 23 2007*

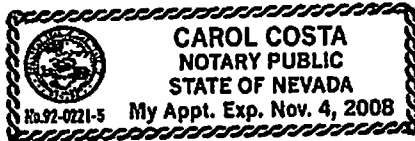
, by

*Vicenta Lincicome*

*Carol Costa*

My Commission Expires:

*11-4-08*



NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
DRAW.MERS.NV.CVL.DT.13.WPF (0101DOCS\DEEDS\CVL\NV\_MERS.CVL)

Form 3029 1/01  
(page 13 of 13 pages)

WHEN RECORDED MAIL TO:

MIP INSURING DEPARTMENT  
SIERRA PACIFIC MORTGAGE COMPANY, INC.  
50 IRON POINT CIRCLE, STE 200  
FOLSOM, CA 95630



## **ADJUSTABLE RATE RIDER**

**(1 Year LIBOR Index - Rate Caps)  
(Assumable after Initial Period)**

THIS ADJUSTABLE RATE RIDER is made this 23rd day of MAY, 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure the Borrower's Adjustable Rate Note (the "Note") to

SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

70 RIVERSIDE DRIVE  
DAYTON, NV 89403

[Property Address]

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

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

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

The Note provides for an initial interest rate of 6.875 %. The Note provides for changes in the interest rate and the monthly payments, as follows:

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

**(A) Change Dates**

The interest rate I will pay may change on the first day of JUNE 2017, and may change on that day every 12th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the one-year London Interbank Offered Rate ("LIBOR") which is the average of interbank offered rates for one-year U.S.

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family-Freddie Mac Uniform Instrument

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Form 5131 3/04  
(Page 1 of 4)



dollar-denominated deposits in the London market, as published in *The Wall Street Journal*. The most recent Index figure available as of the date 45 days before each Change Date is called the "Current Index."

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding

**TWO AND ONE QUARTER** percentage points ( **2.250 %**) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **11.875 %** or less than **2.250 %**. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **TWO** percentage points ( **2.000 %**) from the rate of interest I have been paying for the preceding 12 months. My interest rate will never be greater than **11.875 %**.

**(E) Effective Date of Changes**

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

**(F) Notice of Changes**

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

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

**1. UNTIL BORROWER'S INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION A ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL BE IN EFFECT AS FOLLOWS:**

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

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by



Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

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

**2. AFTER MY INITIAL INTEREST RATE CHANGES UNDER THE TERMS STATED IN SECTION 4 ABOVE, UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT DESCRIBED IN SECTION 11(A) ABOVE SHALL THEN CEASE TO BE IN EFFECT, AND UNIFORM COVENANT 18 OF THE SECURITY INSTRUMENT SHALL INSTEAD BE DESCRIBED AS FOLLOWS:**

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

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

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

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



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

  
VICENTA LINCICOME (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

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(Seal)  
-Borrower

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(Seal)  
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(Seal)  
-Borrower

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(Seal)  
-Borrower

*[Sign Original Only]*

MULTISTATE ADJUSTABLE RATE RIDER-1 Year LIBOR Index (Assumable after IP)-Single Family-Freddie Mae Uniform Instrument

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Form 5131 3/04  
(Page 4 of 4)



## INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE RIDER

Property Address: 70 RIVERSIDE DRIVE  
DAYTON, NV 89403

THIS ADDENDUM is made this 23<sup>rd</sup> day of MAY, 2007, and is incorporated into and intended to form a part of the Adjustable Rate Rider (the "Rider") dated the same date as this Addendum executed by the undersigned and payable to SIERRA PACIFIC MORTGAGE COMPANY, INC., A CALIFORNIA CORPORATION (the "Lender")

THIS ADDENDUM supersedes Section 4(C) of the Rider. None of the other provisions of the Rider are changed by this Addendum.

#### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

##### (C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding TWO AND ONE QUARTER percentage points ( 2.250 %) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D), this rounded amount will be my new interest rate until the next Change Date.

During the Interest-Only Period, the Note Holder will then determine the amount of the monthly payment that would be sufficient to repay accrued interest. This will be the amount of my monthly payment until the earlier of the next Change Date or the end of the Interest-Only Period unless I make a voluntary prepayment of principal during such period. If I make a voluntary prepayment of principal during the Interest-Only Period, my payment amount for subsequent payments will be reduced to the amount necessary to pay interest at the then current interest rate on the lower principal balance. At the end of the Interest-Only Period and on each Change Date thereafter, the Note Holder will determine the amount of the monthly payment that would be sufficient to repay in full the unpaid principal that I am expected to owe at the end of the Interest-Only Period or Change Date, as applicable, in equal monthly payments over the remaining term of the Note. The result of this calculation will be the new amount of my monthly payment. After the end of the Interest-Only Period, my payment amount will not be reduced due to voluntary prepayments.

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM - MULTISTATE  
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(page 1 of 2 pages)



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

  
\_\_\_\_\_  
VICENTA LINCICOME (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

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(Seal)  
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-Borrower

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(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

*[Sign Original Only]*

INTEREST ONLY ADDENDUM TO ADJUSTABLE RATE RIDER 5/1 LIBOR ARM – MULTISTATE  
DRAW.MX.CVL.ARM.IO.ADNDM.RIDER.2.WPF (0101DOCS\RIDERS\CVL\MXIO\_ADN.RID)

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(page 2 of 2 pages)



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The land referred to herein is situated in the State of Nevada,  
County of LYON, described as follows:

LOT 42 AS SHOWN ON THE OFFICIAL MAP OF GOLD CANYON ESTATES,  
PHASE 2, FILE IN THE OFFICE OF THE LYON COUNTY, NEVADA RECORDER,  
ON OCTOBER 20, 2005, AS DOCUMENT NO. 365687.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF, LYING BELOW THE  
NATURAL ORDINARY HIGH WATER LINE OF THE CARSON RIVER.



**EXHIBIT "D"**In re A. ELLIS LINCICOME, JR. and VICENTA J. LINCICOME

Debtor(s)

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

(if known)

**SCHEDULE A-REAL PROPERTY**

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether the husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G-Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband-H Wife-W Joint-J Community-C	Current Value of Debtor's Interest, In Property Without Deducting any Secured Claim or Exemption	Amount of Secured Claim
Residence at 70 Riverside Drive, Dayton, NV		J	\$ 476,000.00	\$ 381,000.00
Rental House at 2763 Carriage Crest Drive, Carson City, NV 89706		J	\$ 280,000.00	\$ 280,000.00
Lot of 4315 Drake Way, Washoe Valley, NV		J	\$ 100,000.00	\$ 100,000.00
<b>TOTAL \$</b>			<b>856,000.00</b>	

No continuation sheets attached

(Report also on Summary of Schedules.)



# Exhibit 19



April 24, 2015

Vicenta Lincicome  
70 Riverside Drive  
Dayton, NV 89403

**Loan Number: 162304785**

**You're on your way toward an affordable mortgage payment.**

**To accept our offer, make your first trial period payment or contact us by 05/08/2015.**

Dear Vicenta Lincicome:

Based on a careful review of your loan, we are offering you an opportunity to enter into a Trial Period Plan for a loan modification. This is the first step toward qualifying for more affordable mortgage payments or more manageable terms. It is important that you read this letter in its entirety so that you fully understand the actions you need to take to successfully complete the Trial Period Plan.

**The proposed modification terms**

If you successfully complete the Trial Period Plan by making the required payments, you will receive a modification with an interest rate of 4.125%, which will be fixed from the date the modification is effective. If we determine that the unpaid balance of your mortgage is more than 115% of the current value of your home, you will be eligible to have up to 30% of your principal balance deferred, and the deferred amount will not be subject to any interest rate charges. The deferred principal amount will be due and payable at the earlier of 1) the end of the term of the modified mortgage, 2) any sale or transfer of your interest in the property or 3) a refinance of your mortgage loan.

**To stop the foreclosure process (suspension of foreclosure)**

To prevent your loan from starting the foreclosure process or to suspend foreclosure if that process has already begun, you must notify us by 05/08/2015 of your intent to accept this trial offer through one of the following options:

- Contact us at 1.800.669.6650
- Sign and return the enclosed *Intent to Accept Trial Offer* form using the prepaid envelope provided
- Make your first trial payment by 05/08/2015, which is earlier than the scheduled due date described below

However, if you do not respond by 05/08/2015, we will continue with the foreclosure process, and a foreclosure sale may occur.

**Please Note:** If we do not receive your acceptance to this trial offer by one of the options above by 05/08/2015, we can only accept the first trial payment in certified funds to prevent foreclosure. This payment must still be made by the first payment due date and your remaining trial payments can be paid by check/money order or deducted directly from your checking account, if applicable.

Additionally, if you have a scheduled foreclosure sale date and take the required steps to accept this offer, Bank of America will make every effort to postpone the sale. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale or the investor on your loan may not halt the scheduled sale. **Do not ignore any foreclosure notices.**

This offer will be revoked if a foreclosure sale occurs, even if the sale occurs prior to the first trial period payment due date set forth below.



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016704-008-0

IMPORTANT INFORMATION ENCLOSED

**TIME SENSITIVE**  
Please open immediately.

**Bank of America**



ORIGIN ID:WHHA (303) 996-8937  
BANK OF AMERICA, N.A.  
11802 RIDGE PARKWAY, STE 100 HRM  
HOME RETENTION  
BROOMFIELD, CO 80021  
UNITED STATES US

SHIP DATE: 24APR15  
ACTWGT: 1.0 LB  
CAD: 347677/FXRS1306

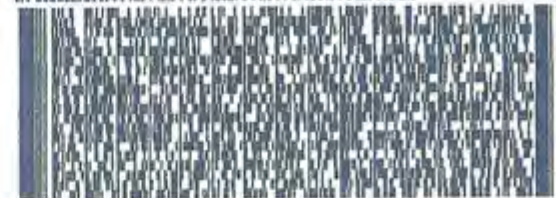
BILL THIRD PARTY

TO **VICENTA LINCICOME**

**70 RIVERSIDE DR**

**DAYTON NV 89403**

(303) 996-8937 REF: 419013-419013  
INV:  
PO:URFNMASTREVN FDR 04232015 028DEPT:



**FedEx**  
Express



518C28FC54089

J12111403170108



TRK#  
0201

**6325 3989 9323** MON - 27 APR AM  
STANDARD OVERNIGHT  
RES

**SA CSNA**

**89403**  
NV-US RNO



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**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

From: (303) 996-8937      Origin ID: WHHA  
URFNMASTREVN\_FDR\_04232015\_0284  
Vicenta Lincicome  
Bank of America, N.A. - Home Retent  
11802 Ridge Parkway, Ste 100 HRM  
Broomfield, CO 80021



J13111403170326

**SHIP TO**(303) 996-8937  
**Bank of America, N.A.**

**BILL THIRD PARTY**

**11802 Ridge Parkway, Ste 100 HRM  
Home Retention  
Broomfield, CO 80021**

Ship Date: 23APR15  
ActWgt: 1.0 LB  
CAD: 347677/FXRS1306

Delivery Address Bar Code



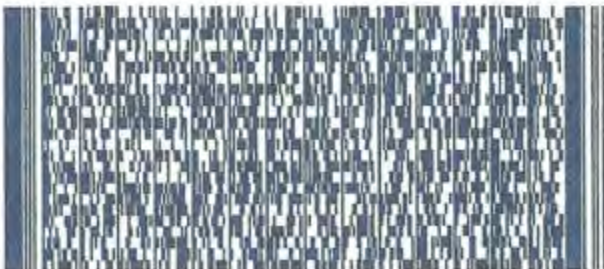
Ref #      419013-419013

RMA #:  
Return Reason:

**RETURNS MON-FRI  
STANDARD OVERNIGHT**

TRK#      **6325 3989 9334**  
0221

**80021**  
CO-US



518C2/8FC5/4089

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## How to accept this offer

To accept this offer, you must complete the following steps

- **Step #1:** Review carefully the enclosed *Frequently Asked Questions and Additional Trial Period Plan Information and Legal Notices*.
- **Step #2:** Notify us by 05/08/2015 of your intent to accept this trial offer via one of the methods noted above.
- **Step #3:** Make new monthly Trial Period Plan payments shown below in place of your normal monthly mortgage payment. The payments represented below each include the escrow amount of \$258.29.

	Payment Amount	Payment Date
1st Trial payment:	\$2,013.78	06/01/2015
2nd Trial payment:	\$2,013.78	07/01/2015
3rd Trial payment:	\$2,013.78	08/01/2015

## What you need to know

We must receive each payment on time but no later than the last day of the month in which it is due. If you miss a payment or do not comply with any of the other terms of your Trial Period Plan, this offer will end and your loan will not be modified under this program. Failure to comply with the Trial Period Plan may also impact your ability to obtain another modification. Making a payment greater than your trial payments or making payments ahead of the above schedule may indicate that you do not need assistance and can also prevent you from qualifying for a permanent modification. If your last trial period payment is made in the last half of the month it is due, we may extend your Trial Period Plan by an extra month.

Your trial payment includes an escrow for property taxes, hazard insurance and other escrowed expenses. If the cost of your homeowners insurance, property tax assessment or other escrowed expenses increases, your new monthly payment will increase as well. Please see the enclosed Frequently Asked Questions for more information.

Payment coupons are included in this package if you wish to send your payment in the mail, or you can also call us at 1.800.888.6650 and we will help you reach our payment processing department. The payment may be able to be deducted directly from your checking account, if applicable. There are no fees to make your payment by phone during your trial period.

Below is a summary of your projected loan terms following the completion of your Trial Period Plan. You will be provided the specific terms of loan modification when you have completed your Trial Period Plan.

Projected Loan Terms After Modification*	
Interest Rate	4.125%
Maturity Date	05/01/2055
Monthly Principal and Interest Payment	\$1,755.49
Monthly Payment Amount**	\$2,013.78
*Projected loan terms are estimates and subject to change.	
**This includes the escrow amount of \$258.29	

- On your final due date, you will have to pay a remaining amount due in a lump sum final payment of approximately \$176,713.70 on that date, or when you transfer an interest in, refinance, or sell your home. This is an estimate only and is subject to change.



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- If you have a scheduled foreclosure sale date and take the required steps to accept this offer, Bank of America will make every effort to postpone the sale. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale or the investor on your loan may not halt the scheduled sale. **Do not ignore any foreclosure notices.**
- After you make all trial period payments on time, and if you continue to meet all of the eligibility requirements of your modification program, we will send you a modification agreement that you will need to sign and return along with your first modified monthly payment. Then your loan will be permanently modified.
- Upon successful completion of the Trial Period Plan and conversion to permanent mortgage loan modification, you will have the ability to prepay the mortgage loan without restrictions or penalties.
- If your mortgage loan becomes delinquent after it is permanently modified, you may not be eligible for another mortgage loan modification.
- If you return a complete Borrower Response Package that we previously sent to you no later than 07/11/2015, we may be able to offer you additional modification options with a lower principal and interest payment than we estimate you would receive for the proposed modification described above.

Please note that except for the change of your monthly mortgage payment amount during the trial period, all other terms and provisions of your existing mortgage loan remain in effect and will not change until your loan is permanently modified.

If you are unable to pay the monthly payment listed above, you may have two options to avoid foreclosure – a short sale or a Mortgage Release™. You can still avoid foreclosure, but you must contact us to learn about your options.

If you have any questions, please call 1.800.669.6650, Monday through Thursday 8 a.m.-12 a.m., Friday 8 a.m. 10 p.m., Saturday 8 a.m.-5 p.m. and Sunday 3 p.m.-12 a.m. Eastern. If you cannot afford the Trial Period Plan payments above or if you have decided to leave your home, please call 1.800.669.6650 to discuss other options that may be available to avoid foreclosure.

**We are glad you have been approved for a Trial Period Plan offer. We hope you can start today by making your first trial period payment.**

Jewel Stephens  
Home Loan Team  
Bank of America, N.A.

**Enclosures: (1) Frequently Asked Questions (2) Additional Trial Period Plan Information and Legal Notices (3) Payment Coupons (4) Intent to Accept Trial Offer form (5) Important Disclosures (6) Prepaid envelope (7) Payment envelopes**

In order to expedite your review for loan assistance, Bank of America, N.A. is working with a third-party company, Walled Lake Credit Bureau, LLC. Federal law requires that we communicate to you that Bank of America is a debt collector and also that Walled Lake Credit Bureau, LLC is a licensed debt collector. However, the purpose of the communication is to let you know about your potential eligibility for a loan assistance program that may help you bring or keep your loan current through more affordable payments. Please see the enclosed insert for important disclosures from Walled Lake Credit Bureau, LLC.

If you are currently in a bankruptcy proceeding, or have previously obtained a discharge of this debt under applicable bankruptcy law, this notice is for informational purposes only and is not an attempt to collect the debt, a demand for payment, or an attempt to impose personal liability for that debt. You are not obligated to discuss your home loan with us or enter into a loan modification or other loan assistance program. You should consult with your bankruptcy attorney or other advisor about your legal rights and options. Please read the enclosed Frequently Asked Questions for more information.

Notices of error, requests for information and qualified written requests (QWR, as defined in RESPA) must be sent to:

Bank of America  
Attn: Notice of Error & Request for Information  
P.O. Box 942019  
Simi Valley, CA 93094-2019



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**MILITARY PERSONNEL/SERVICEMEMBERS:** If you or your spouse is a member of the military, please contact us immediately. The federal Servicemembers Civil Relief Act (SCRA) and comparable state laws afford significant protections and benefits to eligible military service personnel. Please note, however, that military service and/or SCRA qualification may not necessarily prevent foreclosure. If your loan is in default, a court order approval may be obtained for foreclosure to proceed. If you are having difficulty making your payments, please contact the Enterprise Military Benefits Unit at your earliest convenience by calling 1.877.345.0693. If you are calling from outside the U.S. please contact us at 1.817.245.4094. Both numbers are open 24 hours a day, 7 days a week to discuss the various home retention options that may be available. Homeowner counseling is also available at agencies such as Military OneSource at [militaryonesource.mil](http://militaryonesource.mil) or 1.800.342.9647 and Armed Forces Legal Assistance at [legalassistance.law.af.mil](http://legalassistance.law.af.mil), and through HUD-certified housing counselors at [hud.gov/offices/hsg/stn/hcc/hcs.cfm](http://hud.gov/offices/hsg/stn/hcc/hcs.cfm).

Mortgages funded and administered by an  Equal Housing Lender.

♻️ Protect your personal information before recycling this document.



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## Frequently Asked Questions

### Q. What else should I know about this offer?

- If you accept this Trial Period Plan as required above, and make your new trial period payments timely, we will not conduct a foreclosure sale.
- You will not be charged any fees for this Trial Period Plan or final modification.
- If your loan is permanently modified, we will waive all unpaid late charges.
- We will continue to report the status of your loan to credit reporting agencies as well as your entry into a Trial Period Plan in accordance with the requirements of the Fair Credit Reporting Act and the Consumer Data Industry Association. In addition, your loan will be reported as paying under a partial or modified payment plan during the trial period. **Credit reporting agencies generally consider entering into a plan with reduced payments as an increased credit risk. As a result, entering into a Trial Period Plan may adversely affect your credit score, particularly if you have a good credit score.** For more information about your credit score, go to [ffc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm](http://ffc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm).
- You may be required to attend credit counseling.

### Q. Why is there a trial period?

The trial period offers you immediate payment relief. Making all of your payments during this trial period will demonstrate that you can afford the modified payments and that they work within your budget. Note: This is only a temporary Trial Period Plan. Your existing loan requirements remain in effect and unchanged during the trial period and you will continue to receive monthly statements that will show the payment amount based on your original home loan agreement. However, please pay only the new trial period payment amount each month instead of your original payment amount. Please pay the specific trial amounts shown above because paying a different amount could cause you to be ineligible for a permanent modification.

### Q. When are my trial period payments due?

Your payment amount and the day each month your payment is due during the Trial Period Plan are shown in the *To accept this offer* section of this package under the heading *Trial Period Plan*.

### Q. How was my new payment in the trial period determined?

Your trial period payment is based upon a variety of factors including the current value of your property, the amount you owe on your loan and amounts past due. The owner of your loan (also known as the investor) uses this information to provide the most affordable terms for you. Your trial period payments include escrow amounts to cover your property taxes, insurance premiums and other permissible escrow fees based on our current escrow analysis. Your total modified monthly payment will likely change over time, if your property taxes and insurance premiums change.

The modified payment should be sufficient to pay the principal and interest as well as property taxes, insurance premiums and other permissible escrow fees based on our recent analysis of these costs. Your modified monthly payment may change if your property taxes and insurance premiums change. If you did not have an escrow account before, you may be required to set one up as part of the modification.

### Q. When will I know if my loan can be modified permanently and how will the modified loan balance be determined?

If your loan continues to meet all of the modification program eligibility requirements, and you make all of your trial period payments on time, you will receive a modification agreement detailing the terms of the modified loan. Remember, however, that if you pay an amount that is greater or less than your new trial period payment during the trial period you may not qualify for a permanent loan modification. Any difference between the amount of the trial period payments and your regular home loan payments will be added to the balance of your loan along with any other past due amounts as permitted by your loan documents. While this will increase the total amount that you owe, it should not significantly change the amount of your modified mortgage payment.



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**Q. What happens to my trial period payments if I do not comply with the terms of the Trial Period Plan?**

Your trial period payments will be applied to your existing loan according to the terms of your loan documents.

**Q. Will my interest rate and principal and interest payment be fixed after my loan is permanently modified?**

If your loan is modified as describe above under *The proposed modification terms*, your interest rate and monthly principal and interest payment will be fixed for the life of your loan. However, if you return a complete Borrower Response Package that we previously sent to you no later than 07/11/2015, we may be able to offer you an alternative modification option with a lower principal and interest payment than we estimate you would receive for the proposed modification described above. Regardless of modification program, your new monthly payment will also include an escrow for your property taxes, hazard insurance and other escrowed expenses. If the cost of your homeowners insurance, property tax assessment or other escrowed expenses increases, your monthly payment will increase as well. Your future monthly payments will reflect these changes.

**Q. What happens if I am unable to make payments during the trial period?**

If you do not make the specified trial period payments in full in the month when they are due, you will not qualify for a permanent modification and will not be allowed to enter into a permanent Loan Modification Agreement. If that occurs, we will look at other options to resolve your mortgage's past-due status (such as a short sale or deed in lieu of foreclosure). If an alternative solution cannot be found, we will need to begin foreclosure proceedings.

**Q. Are there incentives that I may qualify for if I am current with my new payments?**

No. Borrower incentive compensation is not available for this program.



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### **Additional Trial Period Plan Information and Legal Notices**

The terms of this offer are accepted and the terms of your Trial Period Plan are effective on the day you make your first trial period payment, provided you have paid it on or before the last calendar day of the month. By accepting this offer you acknowledge and agree that:

**We will not proceed to foreclosure sale during the trial period, provided you are complying with the terms of the Trial Period Plan:**

- Any pending foreclosure action or proceeding that has been suspended may be resumed if you fail to comply with the terms of the plan or do not qualify for a permanent modification.
- You agree that we will hold the trial period payments in an account until sufficient funds are in the account to pay your oldest delinquent monthly payment. You also agree that we will not pay you interest on the amounts held in the account. If any money is left in this account at the end of the Trial Period Plan and you qualify for a loan modification, those funds will be deducted from amounts that would otherwise be added to your modified principal balance.
- Our acceptance and posting of your payment during the trial period will not be deemed a waiver of the acceleration of your loan (or foreclosure actions) and related activities, and shall not constitute a cure of your default under your loan unless such payments are sufficient to completely cure your entire default under your loan.

**If your monthly payment did not include escrows for taxes and insurance, you are now required to do so:**

- You agree that any prior waiver that allowed you to pay directly for taxes and insurance is revoked. You agree to establish an escrow account and to pay required escrows into that account.

**During the trial period, we may accept and post your trial period payments to your account and it will not affect foreclosure proceedings that have already been started:**

- You agree that we may hold the trial period payments in an account until sufficient funds are in the account to pay your oldest delinquent monthly payment. You also agree that we will not pay you interest on the amounts held in the account. Any amounts remaining at the end of the trial period will be applied to any outstanding amounts that you owe at the end of the trial period reducing the amount that will otherwise be added to the principal balance of your modified loan.
- The servicer's acceptance and posting of your new payment during the trial period will not be deemed a waiver of the acceleration of your loan or foreclosure action and related activities, and shall not constitute a cure of your default under your loan unless such payments are sufficient to completely cure your entire default under your loan.

**Your current loan documents remain in effect; however, you may make the trial period payment instead of the payment required under your loan documents:**

- You agree that all terms and provisions of your current mortgage note and mortgage security instrument remain in full force and effect and you will comply with those terms; and that nothing in the Trial Period Plan shall be understood or construed to be a satisfaction or release in whole or in part of the obligations contained in the loan documents.

**The Trial Period Plan notice will be rescinded if an error is detected:**

- You agree that if an error in the terms of the Trial Period Plan or your eligibility is detected after issuance of the Trial Period Plan notice, the Trial Period Plan will be void and of no legal effect upon notice to you of such error. You understand that a corrected Trial Period Plan will be provided to you if it is determined that you remain eligible for a loan modification after correction of the error.



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If you previously received a Chapter 7 bankruptcy discharge, but did not reaffirm the mortgage debt under applicable law:

- You agree that you were discharged in a Chapter 7 bankruptcy proceeding subsequent to the execution of the Loan Documents. Based on this representation, Lender agrees that you will not have personal liability on the debt pursuant to this Trial Period Plan.



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### **Trial Period Mortgage Payment Coupons**

Your trial period payments are due in the exact amounts listed on the coupons and according to the dates listed on the cover page. The amount of \$2,013.78 will be due on 06/01/2015, 07/01/2015, and 08/01/2015.

Please note that these payments should be sent instead of -- not in addition to -- your regular monthly mortgage payment. You should also continue making payments in the amount of \$2,013.78 until you receive confirmation from us in writing regarding your permanent modification.

*If you are currently in a bankruptcy proceeding, or have previously obtained a discharge of this debt under applicable bankruptcy law, this notice is for information purposes only and not an attempt to impose personal liability for the debt.*

***Please detach and include with your second month's trial period modified mortgage payment:***

Vicenta Lincicome  
70 Riverside Drive  
Dayton, NV 89403

Loan Number: 162304785

I have enclosed my trial period mortgage payment of \$2,013.78.

**Send your payment to:**

Bank of America, N.A.  
Payment Processing  
P.O. Box 660833  
Dallas, TX 75266-0833

***Please detach and include with your first month's trial period modified mortgage payment (If you have already made your first month's trial period payment please disregard this coupon.):***

Vicenta Lincicome  
70 Riverside Drive  
Dayton, NV 89403

Loan Number: 162304785

I have enclosed my trial period mortgage payment of \$2,013.78.

**Send your payment to:**

Bank of America, N.A.  
Payment Processing  
P.O. Box 660833  
Dallas, TX 75266-0833



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*Please detach and include with your third month's trial period modified mortgage payment:*

Vicenta Lincicome  
70 Riverside Drive  
Dayton, NV 89403

Loan Number: 162304785

I have enclosed my trial period mortgage payment of \$2,013.78.

Send your payment to:

Bank of America, N.A.  
Payment Processing  
P.O. Box 660833  
Dallas, TX 75266-0833

*Payment Enclosed*



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Loan Number: 162304785

Dear Bank of America:

Please accept this as notification that I intend to accept the Trial Plan Offer dated 06/01/2015. I understand this notice serves only to request suspension of foreclosure activity. To fully accept the Trial Period Plan offer, I must make the first trial payment by the payment on or before due date. I also understand that I may make the payment early, but failure to make the first trial payment by the due date will result in cancellation of the Trial Plan Offer. If the Trial Plan Offer is cancelled my mortgage will not be modified under this offer and foreclosure activity will continue.

This letter is to inform Bank of America, N.A. of my/our intent to accept the Trial Period Plan offer.

Vicenta Lincicone  
Vicenta Lincicone Signature

5-8-2015  
Date

#### Reminder about suspending foreclosure

To prevent your loan from starting the foreclosure process or to suspend foreclosure if that process has already begun, you must notify us by 05/08/2015 of your intent to accept this trial offer through one of the following options:

- Sign and return this *Intent to Accept Trial Offer* form using the prepaid envelope provided or mail to the address below
- Contact us at 1.800.669.6650
- Make your first trial payment

**Please Note:** If we do not receive your acceptance to this trial offer by one of the options above by 05/08/2015, we can only accept the first trial payment in certified funds to prevent foreclosure. This payment must still be made by the first payment due date noted below and your remaining trial payments can be paid by check/money order or deducted directly from your checking account, if applicable.

Additionally, if you have a scheduled foreclosure sale date and take the steps to accept this offer (as described above), Bank of America will make every effort to work with the investor on your loan and the foreclosure court to postpone your sale. However, in some cases, the court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the sale or the investor on your loan may not halt the scheduled sale.

Mail to:  
Bank of America, N.A.  
11802 Ridge Parkway, Ste 100 HRM, Home Retention  
Broomfield, CO 80021



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April 24, 2015

Walled Lake Credit Bureau, LLC (d/b/a Walled Lake, LLC in certain states) ("Walled Lake") is a debt collector. Therefore, the following disclosures are required under various state and Federal laws. However, we would like to reassure you that Walled Lake has been retained to assist Bank of America, N.A. with its efforts to reach customers who may be eligible for a loan modification. The true purpose of this letter is to obtain a more affordable payment for you.

**IMPORTANT DISCLOSURES**

This communication is from a debt collector attempting to collect a debt. Any information you provide Walled Lake will be used for that purpose. Walled Lake has a mailing address of 11802 Ridge Parkway, Ste 100 HRM, Broomfield, CO 80021 and its regular hours of operation are 9:00 a.m. - 5:00 p.m. (ET) Monday through Friday and 9:00 a.m. - 4:00 p.m. (ET) on Saturday. Walled Lake is a third-party debt collection and home retention services company that has been duly authorized by Bank of America, N.A. to contact their borrowers and assist them with a loan modification. For further information, contact Bank of America, N.A. at 1.800.669.6650.

**NEVADA RESIDENTS:** Please take note that the debt collector is registered to do business as Walled Lake, LLC in Nevada.

**DISCLAIMER AND DECLARATION OF NON-AFFILIATION**

Walled Lake and Bank of America, N.A. are separate, non-affiliated entities and are not related to each other in any way beyond the scope of this program.

Rev. 03/04/2015

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Printed 08/01/15 @ 11:47:23 AM

Press ENTER to Continue



Amount entered is less than the minimum allowable payment.  
Payments cannot be more than \$50 below the Normal Payment  
Amount. Please re-enter amount and/or Payment Type(s).

OK

Bank of America

AUG 01 2015

CO/CC 0336 0008259  
TLR 029 FRB3210  
ABA052001633

VICENTA J LINCICOME  
A ELLIS LINCICOME JR.  
70 RIVERSIDE DR  
DAYTON, NV 89403

1088

90-78/1211

*Aug. 1, 2015*  
DATE

PAY TO THE  
ORDER OF

*Bank of America*

*1000 Thousand Thirteen & 78/100* \$ *2,013.78*  
DOLLARS



BANK OF AMERICA

Carson City Office  
2976 NORTH CARSON ST.  
CARSON CITY, NV 89706  
1-800-438-3263

*Loan # 16234785 Vicente J. Lincicome*  
FOR

⑆ 121100782⑆ 028276287⑆ 01088



CO/CC 0336 0008259  
TLR 029 FRB3210  
ABA052001633



# Exhibit 20



If you have questions or concerns about your statement, please contact us at 1-800-495-7166 between the hours of 9 a.m. - 9 p.m. CT Monday through Thursday, 9 a.m. - 5 p.m. CT Friday, and 10 a.m. - 4 p.m. CT Saturday.



3-775-02666-0025084-006-1-000-100-000-000

VICENTA LINCICOME  
70 RIVERSIDE DR  
DAYTON NV 89403-9055

Account Number	114477
Payment Due Date	09/01/2015
Amount Due	<b>\$207,599.70</b>
<i>If payment is received after 09/16/2015, \$109.18 late fee will be charged.</i>	

Property Address:  
70 RIVERSIDE DR  
DAYTON NV 89403

Account Information		Explanation of Amount Due	
Outstanding Principal	\$381,150.00	Principal	\$0.00
Deferred Balance	\$0.00	Interest	\$2,183.67
Current Interest Rate	6.875%	Escrow (for Taxes & Insurance)	\$230.28
Next Interest Rate Change	06/01/2017	<b>Regular Monthly Payment</b>	<b>\$2,413.95</b>
Prepayment Penalty	No	Overdue Payments	\$205,185.75
Escrow Balance	(\$20,204.11)	Total Fees Charged	\$0.00
Partial Payments are not applied to your mortgage, but instead are held in a separate unapplied account. If you pay the balance of a partial payment, the unapplied funds will then be added to your mortgage. Adverse credit reporting, late charges and property inspections may occur as a result of the delinquency.		<b>Total Amount Due</b>	<b>\$207,599.70</b>
Past Payments Breakdown			
		Paid Year to Date	
Principal	\$0.00	\$0.00	
Interest	\$0.00	\$0.00	
Escrow (for Taxes & Insurance)	\$0.00	\$0.00	
Suspense (Unapplied Funds)	\$446.28	\$0.00	
Fees	\$0.00	\$0.00	
<b>Total</b>	<b>\$446.28</b>	<b>\$0.00</b>	

### Delinquency Notice

**You are late on your monthly payments.** Failure to bring the account current may result in additional fees or expenses, and in certain instances, you may risk foreclosure. The amount needed to cure the delinquency is \$207,599.70. If you are unable to pay this amount, please call your account manager to explore your options.

As of August 10, 2015, you are 2565 days delinquent on your mortgage loan.

- Payment Due: 03/01/2015 Unpaid balance of \$2,413.95
- Payment Due: 04/01/2015 Unpaid balance of \$2,413.95
- Payment Due: 05/01/2015 Unpaid balance of \$2,413.95
- Payment Due: 06/01/2015 Unpaid balance of \$2,413.95
- Payment Due: 07/01/2015 Unpaid balance of \$2,413.95
- Payment Due: 08/01/2015 Unpaid balance of \$2,413.95

Total **\$207,599.70** - You must pay this amount to bring your loan current.

If you are experiencing financial difficulty, see back for information about home ownership counseling.

DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT

# FAY SERVICING

VICENTA LINCICOME

Account Number	Due Date	Regular Payment	Past Due	Payments Due	Other Amounts
114477	09/01/2015	\$2,413.95	\$205,185.75	85	\$0.00

Amount Due	
<b>Due By 09/01/2015:</b>	<b>\$207,599.70</b>
<i>If payment is received after 09/16/2015, \$109.18 late fee will be charged.</i>	
Additional Principal	\$
Additional Escrow	\$
<b>Total Amount Enclosed</b>	<b>\$</b>

# FAY SERVICING

P.O. Box 3187  
Carol Stream, IL 60132-3187



## Important Information To Help Us Serve You Better

### Payments Online

[www.fayservicing.com](http://www.fayservicing.com)

### Payments via Overnight or Express Mail

Fay Servicing  
Attn: Payment Processing  
440 S. LaSalle, Suite 2000  
Chicago, IL 60605

Payments cannot be made in person at this location

### Correspondence

Fay Servicing  
P.O. Box 809441  
Chicago, IL 60680-9441

**Remember to include your name and account number on all payment remittances and written correspondence.**

### Payments by Phone

Fay Servicing's Pay-by-phone option makes it possible to make your loan payment by using your touchtone telephone. This service is available to you 24 hours a day, 7 days a week. Simply call the toll-free number below to perform real-time, confidential mortgage payment transactions. And you can call as often as you like, there's no charge for the call or transaction.

### Payments Online

Fay Servicing Online Mortgage Payment, free with your online account, can save you time and money with the click of a mouse. Pay your mortgage online and skip paper checks and stamps. Set up your payment in minutes. (Return each month to make your payments, or set up automated recurring payments for convenience.)

### MoneyGram Express Payment

MoneyGram ExpressPayment ensures same-day delivery of your payment to Fay Servicing. Visit your local MoneyGram Agent. Call 1-800-926-9400 to locate the one nearest you. Complete the ExpressPayment form, providing your name and Fay Servicing loan number. The Fay Servicing Receive Code is 15055. All ExpressPayment transactions require cash. The agent will charge a fee for this service. Fay Servicing does not charge a fee for this service.

### Activity Since Your Last Statement (07/10/2015 - 08/10/2015)

Date	Description	Charges	Payments
08/06/15	CORP ADVANCE ADJUST	\$998.63	
08/06/15	FUNDS APPLIED		\$446.28

*Qualified Written Requests must be submitted to Fay Servicing, LLC, 901 S. 2nd St., Suite 201, Springfield, Illinois 62704.*

HUD-approved housing counselors are available at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm> or by calling 1-800-569-4287.

#### Notice of Error or Information Request:

If you believe there has been an error with the account or you require additional information, you may send a written Notice of Error or Information Request. All Notices of Error or Information Requests must be sent in writing to the address listed below, as this is our exclusive address under Federal Law for these matters. If you send your correspondence to any other address, it may not be processed in accordance with Federal law. Please submit to Fay Servicing, LLC, 901 S.2nd St., Suite 201, Springfield, Illinois 62704-7909.

Fay Servicing is a debt collector, and information you provide to us will be used for that purpose. To the extent your original obligation was discharged, or is subject to an automatic stay under the United States Bankruptcy Code, this is being provided for informational purposes only and does not constitute an attempt to collect a debt or impose personal liability. Our office hours are Monday-Thursday 9 a.m. - 9 p.m. Friday 9 a.m. - 5 p.m., and Saturday 10 a.m. - 4 p.m. CST. Call today: 1-800-495-7166. NMLS ID#88244. NC residents: Fay Servicing, LLC, NC Permit Number 112302, 440 S. LaSalle St., Suite 2000, Chicago, IL 60605-6011.

Be sure to check box on reverse. Please print.

Account Number: \_\_\_\_\_

Borrower: \_\_\_\_\_ Co-borrower: \_\_\_\_\_

Street: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

Borrower email: \_\_\_\_\_ Co-borrower e-mail: \_\_\_\_\_

Borrower signature: \_\_\_\_\_ Co-borrower signature: \_\_\_\_\_

01028

AA02409



# Exhibit 21



# FAY SERVICING

September 7, 2016

Vicenta Linciome  
70 Riverside Dr  
Dayton, NV 89403

RE: Account Number: 0000114477  
Property Address: 70 Riverside Dr, Dayton, NV 89403

Dear Ms. Linciome:

We are in receipt of your correspondence dated August 19, 2016, regarding the above-referenced account and property. In your letter, you appealed the results shown on the Evaluation Letter dated July 22, 2016. Further, you stated a trial modification agreement approved by a previous servicer has not been honored.

Please note that we affirm the results of the Evaluation Letters dated July 22, 2016. Based on the information and documentation provided in your Loss Mitigation Package ("LMP"), we calculated the household earns gross monthly of \$4,308.60 and net monthly income of \$3,953.70. Further, the total monthly debt expense excluding the mortgage payment is \$2,629.43.

Based on the above calculations, the file was found eligible for a potential Home Affordable Foreclosure Alternatives ("HAFA") Short Sale. We are unable to extend assistance through the Home Affordable Modification Program ("HAMP") Tier 1 and Fay Servicing Modification as your income is insufficient to achieve a payment that would qualify under program requirements. Assistance under HAMP Tier 2 was also not extended as the post-modification Debt-to-Income ("DTI") ratio of 58.10% is outside the acceptable range of 25%-55%.

Moreover, the Evaluation Letter indicated that your file was denied for the HAMP Unemployment Program ("UP") because the property is not your primary residence. However, be advised that the file is still not eligible for HAMP UP because documentation proving unemployment was not provided.

Lastly, the account service transferred from Bank of America, N.A. to Fay Servicing, LLC ("Fay") on August 01, 2015. Prior, Bank of America, N.A. approved the loan for a trial payment plan and you had remitted the first two trial payments of \$2,013.78 each to said servicer. Thus, the final trial payment due on August 01, 2015 needed to be remitted to Fay as we had acquired your loan on August 01, 2015; however, the payment was never remitted, and as such, the trial payment plan was broken.

We trust the information provided has addressed the concerns outlined in your correspondence. Should you have any further questions, please feel free to contact your Account Manager, Anton Rose, at 312-291-3751.

Sincerely,

Compliance Department  
Fay Servicing, LLC



# Exhibit 22



Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET  
Director and  
State Court Administrator



JOHN MCCORMICK  
Assistant Court Administrator  
Judicial Programs and Services

RICHARD A. STEFANI  
Deputy Director  
Information Technology

Vicenta Lincicome  
70 Riverside Dr  
Dayton, NV 89403  
APN: 029-401-17

May 18, 2017

**IMPORTANT NOTICE**

Enclosed please find a copy of the Mediator Statement detailing the outcome of your recent mediation. Pursuant to NRS 107.086, the State of Nevada Foreclosure Mediation Program (FMP)

- ☒ **WILL NOT ISSUE** a Certificate of Foreclosure  
☐ **WILL ISSUE** a Certificate of Foreclosure **on or about**

for the property located at: **70 Riverside Dr, Dayton, NV 89403**

A Certificate allows the beneficiary to proceed with foreclosure. If you participated in mediation, you have the right to file a Petition for Judicial Review (PJR) within 30 days of receiving the Mediator's Statement (NRS 107; FMP Rule 21) with the District Court in the county where the Notice of Default was properly recorded. The District Court Clerk in your jurisdiction can provide further information about the PJR process. In addition, information about the PJR process can be found at <http://foreclosure.nvcourts.gov>.

If you waived participation in mediation, or failed to respond to the Notice of Default, other legal remedies may be available to you. Legal aid and consumer counseling resources are available to eligible homeowners and can be found at <http://www.homeagainnevada.gov> or by calling Home Again Nevada at 1-855-457-4638.

Additional copies of these documents can be obtained, upon written request of the parties. There is a cost of \$1 per page for all copies. If you have questions about this letter, please contact the FMP at (702) 486-9380 in southern Nevada, (775) 687-9816 in northern Nevada, or (888) 421-3004 in rural Nevada.

Sincerely,

A handwritten signature in cursive script that reads "Lilliette Brooks".

Lilliette Brooks

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Regional Justice Center ♦ 200 Lewis Avenue, 17<sup>th</sup> floor ♦ Las Vegas, Nevada 89101



**STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM**

**FMP MAILING CERTIFICATION**

**APN: 029-401-17**

I hereby certify that I served this Mediator Statement by Email on the 18 day of May, 2017, or by U.S. Mail, first class postage prepaid, on the 19 day of May, 2017 by serving true and correct copies, addressed from the Foreclosure Mediation Program to the following:

**Homeowner (Grantor)**

Vicenta Lincicome  
70 Riverside Dr  
Dayton, NV 89403

**Lender (Person With Authority)**

Ryan Bradford Esq.  
3753 Howard Hughes Pkwy #200  
Las Vegas, NV 89169  
rbradford@zbslaw.com

**Homeowner (Grantor)**

A Ellis Lincicome Jr.  
70 Riverside Dr  
Dayton, NV 89403

**Trustee**

Sables LLC- LV  
3753 Howard Hughes Pkwy, Suite 200  
Las Vegas, NV 89169  
RBradford@zbslaw.com

**Lender (Person With Authority)**

U.S. Bank, N.A. as legal Title Trustee  
c/o Fay Servicing PROF-2013-M4 Legal Title  
Trust  
440 S LaSalle St Suite 2000  
Chicago, IL 60605

**Trustee's Attorney/Representative**

Robert Christopher Herman Esq.  
24 Canyon Drive  
Carson City, NV 89703  
herman.rc@gmail.com

*Lilliette Brooks*

Lilliette Brooks  
Certificate/Mediation Unit Manager



Subj. # 112639  
2017 Doc # 8354

STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # \_\_\_\_\_  
APN 029-401-17  
TS# 16-42397  
County Lyon

Homeowner Last Name Lincicome, Jr. Homeowner First Name Ellis  
Co-owner Last Name Lincicome Co-owner First Name Vincenta  
Property Street Address 70 Riverside Dr.  
Property City Dayton State NV Zip Code 89403

INSTRUCTIONS

- If no mediation is held: Please ensure the following are completed:
  - PART 2A: SUMMARY
  - PART 2F: MEDIATOR CERTIFICATION and
  - PART 4: MAILING CERTIFICATION
- If a mediation is held and no agreement is reached: please ensure the following are completed:
  - PART 1: SIGN-IN SHEET
  - PART 2A: SUMMARY
  - PART 2B: DISPOSITION
  - PART 2C: HOMEOWNER PARTICIPATION (if applicable)
  - PART 2D: LENDER PARTICIPATION (if applicable)
  - PART 2E: RECOMMENDATIONS FOR SANCTIONS (if applicable)
  - PART 2F: MEDIATOR CERTIFICATION and
  - PART 4: MAILING CERTIFICATION
- If an agreement is reached by the parties: please ensure all applicable parts of this form are completed, including all sections indicated directly above, as well as PART 3: AGREEMENT (Sections A-G).
- Return completed Mediator Statement and Agreement within 10 days to 200 Lewis Avenue, 17th Floor, Las Vegas, NV 89101



**PART 2A: SUMMARY** (In this section in its entirety (PART 2A-G) the mediator will document the applicable outcomes of the mediation. All appropriate boxes should be checked in this section.)

- ☒ A Document Conference was held on 4/13/17. (Attach Completed Document List)
- ☒ A Foreclosure Mediation was held on 4/19/17.
- ☐ A Foreclosure Mediation was not held (Check All That Apply):
- ☐ Homeowner requested to withdraw from mediation
  - ☐ Homeowner in active bankruptcy
  - ☐ Non-eligible property
- ☐ Parties resolved prior to mediation (Complete Part 3: AGREEMENT SECTION G)

**PART 2B: DISPOSITION (MEDIATOR MUST CHECK ONE BOX BELOW)**

- ☒ The parties were unable to agree to a loan modification or make other arrangements and the mediation is terminated.
- ☐ The parties resolved this matter. If marked, also complete PART 3: MEDIATION AGREEMENT.



STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # \_\_\_\_\_  
APN 029-401-17  
TS# 16-42397  
County Lyon

**PART 2C: HOMEOWNER (GRANTOR) PARTICIPATION**

- ☐ Homeowner (Grantor) failed to attend the mediation.
- ☐ Homeowner (Grantor) failed to exchange required documents.

**COMMENTS**

**PART 2D: BENEFICIARY (LENDER) PARTICIPATION**

*If any item is checked below, the mediator may recommend sanctions.  
(Determine specific sanction recommendations with particularity in Part 2E).*

- ☐ Beneficiary (Lender), and/or its Representative, failed to attend the mediation. (NRS 107.086(6); FMP Rule 12(1)(a))
- ☐ Beneficiary (Lender), and/or its Representative, failed to demonstrate authority, or provide access to a person with authority, to negotiate a loan modification. (NRS 107.086(5); FMP Rule 12(1)(a))
- ☐ Beneficiary (Lender), and/or its Representative, failed to participate in good faith. (NRS 107.086(6))

Beneficiary (Lender), and/or its Representative, failed to bring to mediation each document required. (NRS 107.086(5); FMP Rule 13(7)) (Check All Missing or Incomplete Documents).

- ☐ An original or certified copy of the mortgage note, or judicial order pursuant to NRS 104.3309.
- ☒ A certification with an original signature of each endorsement and/or assignment of the mortgage note, or judicial order pursuant to NRS 104.3309.
- ☐ An original or certified copy of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- ☒ A certification with an original signature of each assignment of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- ☐ Appraisal or Broker Price Opinion (BPO) in accordance with NRS 645.2515 dated not more than 60 days prior to the date of the scheduled mediation.
- ☐ Short Sale document in accordance with FMP Rules.



STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # \_\_\_\_\_  
APN 029-401-17  
TS# 16-42397  
County Lyon

**PART 2E: SPECIFIC RECOMMENDATION(S) FOR SANCTIONS** (In this section mediators must state with particularity the lender's (beneficiary's) conduct and specific reason(s) for recommending sanctions.)

Lender failed to bring any certifications for any of the documents to the mediation.



# Exhibit 23



APN: 029-401-17

WHEN RECORDED MAIL TO:

**Sables, LLC**

c/o Zieve Brodnax & Steele

3753 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

11/03/2017 10:29AM  
**Official Record**  
Requested By  
SERVICELINK TITLE AGENCY INC.  
**Lyon County - NV**  
**Dawna L. Warr - Recorder**  
Page: 1 of 6 Fee: \$288.00  
Recorded By BKC RPTT: \$0.00



0572258

TS No. : 16-42397

## **NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO SELL THE REAL PROPERTY UNDER DEED OF TRUST**

**IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION**, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five (5) business day prior to the date set for the sale of your property pursuant to NRS 107.080. No sale date may be set until three months from the date this Notice of Default may be recorded (which date of recordation appears on this notice). This amount is \$265,572.39 as of 10/31/2017 and will increase until your account becomes current.

**NOTICE IS HEREBY GIVEN THAT: SABLES, LLC**, a Nevada limited liability company is either the original trustee, or the duly appointed substituted Trustee, or acting as agent for the Trustee or the Beneficiary under a under a Deed of Trust dated 5/23/2007, executed by **VICENTA LINCICOME, A MARRIED WOMAN**, as trustor to secure obligations in favor of **Mortgage Electronic Registration Systems, Inc.**, as nominee for **SIERRA PACIFIC MORTGAGE COMPANY, INC.** its successors and assigns, as Beneficiary, recorded 5/25/2007, instrument no. 407150 The subject Deed of Trust was modified by **Loan Modification Agreement** recorded as Instrument 475808 and recorded on 5/4/2011 of Official Records in the office of the County recorder of **Lyon, County, Nevada** securing, among other obligations including

One note(s) for the Original sum of **\$381,150.00**, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by Beneficiary; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

**The monthly installment which became due on 9/1/2008, along with late charges, and all subsequent monthly installments.**

**You are responsible to pay all payments and charges due under the terms and conditions of the loan documents which come due subsequent to the date of this notice, including, but not limited to; foreclosure trustee fees and costs, advances and late charges.**

**Furthermore, as a condition to bring your account in good standing, you must provide the undersigned with written proof that you are not in default on any senior encumbrance and provide proof of insurance.**



**T.S. No.: 16-42397**

**Nothing in this Notice of Default should be construed as a waiver of any fees owing to the beneficiary under the Deed of Trust, pursuant to the terms and provisions of the loan documents.**

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered to said duly appointed Trustee a written Declaration of Default and Demand for Sale and has deposited with said duly appointed Trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

### **NOTICE**

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. As to owner occupied property, where reinstatement is possible, the time to reinstate may be extended to 5 days prior to the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

**To determine if reinstatement is possible and the amount, if any, to cure the default, contact:**

PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
c/o Fay Servicing, LLC  
c/o SABLES, LLC, a Nevada limited liability company  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169  
Beneficiary Phone: 800-495-7166  
Trustee Phone: (702) 664-1774

To reach a person with authority to negotiate a loan modification on behalf of the lender:

Lauren Jowers  
800-495-7166

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

If you have any questions, you should contact a lawyer or the governmental agency that may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

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

Attached hereto and incorporated herein by reference is the Affidavit of Authority in Support of Notice of Default and Election to Sell pursuant to NRS 107.080.



**T.S. No.: 16-42397**

You may wish to consult a credit counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with names and addresses of local HUD approved counseling agency by calling their approved Local Housing Counseling Agency toll free number: (800) 569-4287 or you can go to HUD's website: <http://portal.hud.gov>.

Dated: 11/1/2017

SABLES, LLC, a Nevada limited liability company, as Trustee  
Sables, LLC  
c/o Zieve Brodnax & Steele  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
(702) 948-8565



Michael Busby, Trustee Sale Officer

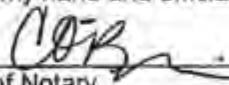
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CALIFORNIA  
County of ORANGE

On 11/1/2017, before me, Christine O'Brien, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
Signature of Notary





## Affidavit of Authority

(Nevada Revised Statute §107.080 as amended effective June 1, 2013)

Re: TS# 16-42397  
Borrower Name: VICENTA LINCICOME  
Property Address: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

I, Verónica Talley, am the Foreclosure Specialist for Way Servicing, LLC, the current servicer for the beneficiary of the deed of trust described in the notice of default and election to sell to which this affidavit is attached ("Deed of Trust"). The following facts are based upon my personal review of documents that are of public record in the State of Nevada and personal knowledge acquired by my personal review of the business records of the beneficiary, which are within my custody and control. The business records of the beneficiary contain entries made in the ordinary course of business at or about the time the events reflected therein occurred.

- 1(a). The full name and business address of the current trustee of record for the Deed of Trust is **Sables LLC, a Nevada Limited Liability Company, 3753 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169**
- 1(b). The full name and business address of the current holder of the Note secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**
- 1(c). The full name and business address of the current beneficiary for the obligation or debt secured by the Deed of Trust is **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee 60 Livingston Ave EP-MN-WS3D St. Paul MN 55107, Attn: Structured Finance Services – PROF**
- 1(d). The full name and business address of the current servicer for the obligation secured by the Deed of Trust is **Fay Servicing, LLC, 440 S. LaSalle St., Suite 2000, Chicago, IL 60605**
2. From my review of the documents of public record and the business records of the current beneficiary and a title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to Chapter 692A of the NRS, the name of each assignee and each recorded assignment of the Deed of Trust.
- 2(a). Assignee Name: **PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee**  
Instrument and Recording Information: **Assignment of Deed of Trust recorded on 11/25/2016 Instrument No. 544042**
- 2(b). Assignee Name: **Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing, LP**  
Instrument and Recording Information: **Corporation Assignment of Deed of Trust recorded on 08/15/2011 Instrument No. 480360**
- 2(c). Assignee Name: **Bank of America, N.A. Successor by Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing, LP**  
Instrument and Recording Information: **Assignment of Mortgage recorded on 11/10/2010 Instrument No 467719**
3. The current beneficiary under the Deed of Trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the Deed of Trust.
4. From my review of the documents of public record and the business records of the current beneficiary, the current trustee has authority to exercise the power of sale with respect to the property



encumbered by the Deed of Trust, pursuant to instruction from the current beneficiary of record and current holder of the note secured by the Deed of Trust.

5. From my review of the documents of public record and the business records of the current beneficiary, the beneficiary, servicer of the obligation, or an attorney of the beneficiary or servicer has sent to VICENTA LINCICOME, a written statement of: (I) the amount of payment required to make good the deficiency in performance of payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement; (II) the amount in default; (III) the principal amount of the obligation or debt secured by the deed of trust; (IV) the amount of accrued interest and late charges; (V) a good faith estimate of all fees imposed in connection with the power of sale; and (VI) contact information for obtaining the most current amounts due and the local or toll-free telephone number that VICENTA LINCICOME may call to receive the most current amounts due and a recitation of the information in this affidavit.

6. The borrower or obligor of the loan secured by the Deed of Trust may call Fay Servicing, LLC at 800-495-7166 to receive the most current amounts due and a recitation of the information contained in this Affidavit.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct and that this Affidavit was executed on October 5, 2016.

By: **Fay Servicing, LLC, its attorney in fact**

**Verónica Talley**

(Print Name)

*Veronica Talley*

(Signature)

**Foreclosure Specialist IV**

(Title)

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

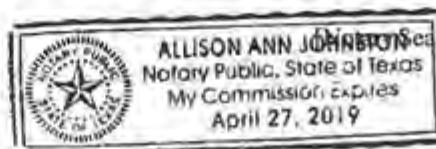
State of Texas

County of Denton

On October 5th 2016 before me, Allison Ann Johnston, Notary Public, personally appeared, Veronica Talley, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
*Allison Ann Johnston*  
Signature





## Declaration of Mortgage Servicer Pursuant to NR 107.510

T.S. Number: 16-42397  
 Borrower(s): VICENTA LINCICOME  
 Mortgage Servicer: Fay Servicing, LLC  
 Property Address: 70 RIVERSIDE DRIVE  
 DAYTON, Nevada 89403

The undersigned, as an authorized agent or employee of the mortgage servicer named below, declares that:

1. ☒ The mortgage servicer has contacted the borrower pursuant to NRS 107.510 (2), to "assess the borrower's financial situation and to explore options for the borrower to avoid a foreclosure sale". Thirty (30) days, or more, have passed since the initial contact was made.
2. ☐ The mortgage servicer has exercised due diligence to contact the borrower pursuant to NRS 107.510 (5), to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure". Thirty (30) days, or more, have passed since these due diligence efforts were satisfied.
3. ☐ No contact was required by the mortgage servicer because the individual(s) did not meet the definition of "borrower" pursuant to NRS 107.410.
4. ☐ During the preceding annual reporting period, the Lender has foreclosed on 100 or fewer real properties located in this state and therefore, pursuant to NRS 107.460, the provisions of NRS 107.400 to 107.560, inclusive, do not apply.
5. ☐ The loan is not a "residential mortgage loan" as defined in NRS 107.450.

I certify that this declaration is accurate, complete and supported by competent and reliable evidence which the mortgage servicer has reviewed to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information.

Dated: 4-5-2016

By: 



# Exhibit 24





March 6, 2018

VICENTA LINCICOME

70 RIVERSIDE DR  
RENO, NV 89403

Account Number: 114477

Property Address: 70 RIVERSIDE DR  
DAYTON, NEVADA 89403

Dear Homeowner(s):

Thank you for contacting us about your mortgage. Based on a careful review of the information you provided to us, we are offering you an opportunity to enter into a Trial Period Plan under the Fay Servicing Modification Program. This is the first step toward qualifying for more affordable mortgage payments or more manageable terms. It is important that you read this information in its entirety so that you completely understand the actions you need to take to successfully complete the Trial Period Plan to permanently modify your mortgage.

If you do not intend to retain the Property, you are also eligible to pursue a Fay Servicing Deed-in-Lieu. See Attachment B for details.

**To Accept This Trial Period Plan Offer**

You must contact us at (800) 495-7166 or in writing at Fay Servicing, LLC, 440 S. LaSalle St., Ste. 2000, Chicago, IL 60605, ATTN: Loss Mitigation, no later than March 20, 2018 to indicate your intent to accept this offer. In addition, you must make your first Trial Period Plan payment by April 1, 2018.

**TIME IS OF THE ESSENCE**

If you fail to make the first Trial Period Plan payment by April 1, 2018 and we do not receive the payment by the last day of the month in which it is due, this offer will be revoked and we may refer your loan to foreclosure, or if your loan has been referred to foreclosure, foreclosure proceedings may continue and a foreclosure sale may occur.

**Make Trial Period Payments**

To successfully complete the Trial Period Plan, you must make the Trial Period Plan payments below.

Payment Due	Payment Amount
April 1, 2018	\$2,462.30
May 1, 2018	\$2,462.30
June 1, 2018	\$2,462.30

Please send your Trial Period Plan payments to:

Fay Servicing, LLC  
3000 Kellway Drive., Ste. 150  
Carrollton, TX 75006  
ATTN: Loss Mitigation

If you have questions regarding this notice please contact us at (800) 495-7166, or contact your Account Manager, ANTON ROSE, directly at 3122913751.

For a complete list of programs for which you were reviewed for eligibility or were not reviewed for due to a more appropriate option being offered, see Attachment A.



### Next Steps

- It is important that you thoroughly review the Additional Trial Period Plan Information and Legal Notices attached.

### This trial offer is contingent on the following:

- Your having provided accurate and complete information.
- You must ensure the title to your property is without other encumbrances that prohibit a modification and title must otherwise be clear and marketable, as applicable. For example, if there is another lien on your property, the lienholder must agree to subordinate the lien.
- We must receive each payment in the month in which it is due.
- Once you have successfully made each of the payments above by their due dates, you have submitted two signed copies of your modification agreement, and we have signed the modification agreement, your mortgage will be permanently modified in accordance with the terms of your modification agreement.
- If you miss a payment or do not fulfill any other terms of your Trial Period Plan, this offer will end and your mortgage loan will not be modified. Additionally, we reserve the right to revoke this offer or terminate the plan following your acceptance if we learn of information that would make you ineligible for the Trial Period Plan.

Approximate Terms of the Modification

Interest Rate:	5.750%	Interest Bearing Balance:	\$385,250.00
Principal & Interest:	\$2,182.71	Principal Forbearance:	\$271,198.83
Taxes & Insurance:	\$270.57	Principal Forgiveness:	\$ .00
Escrow Shortage:	\$9.02	Amortization Term:	391
PITI:	\$2,462.30	Maturity Term:	391
Mod Effective Date:	7/1/2018	Potential Balloon:	\$ .00

- If you feel you cannot afford the Trial Period Plan payments shown above but want to remain in your home, or if you have decided to leave your home, please contact us at (800) 495-7166 to discuss alternatives to foreclosure.
- Please note that except for your monthly mortgage payment amount during the Trial Period Plan, the terms of your existing note and all mortgage requirements remain in effect and unchanged during the Trial Period Plan.

### Additional Trial Period Plan Information and Legal Notices

**Any pending foreclosure action or proceedings will remain suspended during the trial period, provided you are complying with the terms of the trial period plan:**

- Any pending foreclosure action or proceeding that has been suspended may be resumed if you fail to comply with the terms of the plan or no longer qualify for a permanent loan modification.
- You agree that we will hold the Trial Period Plan payments in an account until sufficient funds are in the account to pay your oldest delinquent monthly payment. You also agree that we will not pay you interest on the amounts held in the account. If any money is left in this account at the end of the Trial Period Plan and you qualify for a permanent loan modification, those funds will be deducted from amounts that would otherwise be added to your modified principal balance.
- Our acceptance and posting of your payment during the Trial Period Plan will not be deemed a waiver of the acceleration of your loan and related activities, including the right to resume or continue foreclosure if you fail to comply with the terms of the plan, and shall not constitute a cure of your mortgage default unless such payments are sufficient to completely cure the default.

### If your monthly payment did not include escrows for taxes and insurance, you may now be required to do so:

- You agree that any prior waiver that allowed you to pay directly for taxes and insurance is revoked. You agree that we may establish an escrow account and that you will pay required escrows into that account, unless prohibited by applicable law.
- If you have received a chapter 7 bankruptcy discharge, we agree that, due to the discharge you received in a Chapter 7 bankruptcy proceeding subsequent to the execution of your loan documents, you will not have personal liability on the debt pursuant to this Trial Period Plan.



Your current loan documents remain in effect; however, you may make the Trial Period Plan payment instead of the payment required under your loan documents:

- You agree that all terms and provisions of your current mortgage note and mortgage security instrument remain in full force and effect and you will comply with those terms; and that nothing in the Trial Period Plan shall be understood or construed to be a satisfaction or release in whole or in part of the obligations contained in the loan documents.
- We will continue to report the delinquency status of your loan to credit reporting agencies as well as your entry into a Trial Period Plan in accordance with the requirements of the Fair Credit Reporting Act and the Consumer Data Industry Association requirements. Credit scoring companies generally may consider the entry into a plan with reduced payments as an increased credit risk. As a result, entering into a Trial Period Plan may adversely affect your credit score, particularly if you are current on your mortgage or otherwise have a good credit score.



## Additional Information and Legal Notices

### Federally Declared Disaster Area:

If you are in a Federally Declared Disaster Area, you may have up to 120 days after the disaster area was designated by the federal government to appeal the decision that your loan is not eligible for the program(s). If you believe that you may be in a Federally Declared Disaster Area, please call us at (800) 495-7166.

### Federal ECOA Notice:

Fay Servicing, LLC is required by law to inform you that the Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applications on the basis of race, color, religion, national origin; sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Bureau of Consumer Financial Protection, 1700 G Street N.W., Washington, DC 20552.

Our credit decision was based in whole or in part on Information compiled from reports obtained from one or more of the three consumer reporting agencies listed below. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. These reporting agencies played no part in our decision and are unable to supply specific reasons we have denied credit to you. You have a right to receive a free copy of your report from these reporting agencies, if you request it no later than 60 days after you receive this notice. In addition, if you find that information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the applicable reporting agency by contacting that agency at the number provided below:

**Equifax:** PO Box 740241 Atlanta, GA 30374-0242 (800) 685-1111  
**Experian:** PO Box 9701 Allen, TX 75013-9701 (888) 397-3742  
**TransUnion:** PO Box 2000 Chester, PA 19022-2000 (800) 916-8800

### Homeownership Counseling Services:

Homeownership counseling is available through a variety of nonprofit organizations experienced in homeownership counseling and approved by the Secretary of Housing and Urban Development (HUD). A listing of such organizations may be obtained by calling the HOPE Hotline Number: (888) 995-HOPE. This hotline can help with questions about the program and offers access to free HUD-certified counseling services in a variety of languages.

### Right to Appeal

You have the right to appeal our decision. If you would like to appeal, you must contact us in writing at the address provided below, no later than 30 days from the date of this notice, and state that you are requesting an appeal of our decision. You must include in the appeal your name, property address, and mortgage loan number. You may also specify the reasons for your appeal, and provide any supporting documentation. Your right to appeal expires 30 days from the date of this notice. Any appeal requests or documentation received after 30 days from the date of this notice may not be considered.

Fay Servicing, LLC, 440 S. LaSalle St., Ste. 2000, Chicago, IL 60605  
ATTN: Appeals

If you elect to appeal, we will provide you a written notice of our appeal decision within 30 calendar days of receiving your appeal. Our appeal decision is final, and not subject to further appeal.

If you elect to appeal, you do not have to accept this offer until resolution of the appeal. If we determine on appeal that you are eligible for another loss mitigation program, we will send you an offer for that program. In that case, you will be given 14 calendar days from the date of the appeal decision to choose to accept the current offer or indicate your intent to accept the new offer.

If you wait to make your past due payments until after receiving our appeal decision, your loan will become more delinquent. Any unpaid interest, and other unpaid amounts, such as escrows for taxes and insurance, will continue to accrue on your mortgage loan during the appeal, and will be added to the total amount due to bring your loan current.



## **Attachment A**

Based on our review of your financial circumstances, the following are programs for which you were reviewed for eligibility or were not reviewed for due to a more appropriate option being offered. You may obtain additional documentation supporting the denial decision upon written request to the Fay Servicing.

### **Repayment Plan:**

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### **Deferment (Limited):**

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### **Fay Servicing Modification:**

You were approved for this program.

### **Deferment (Large Amount):**

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### **Fay Servicing Short Sale:**

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### **Fay Servicing Deed-in-Lieu:**

You were deemed eligible for this program.

Space Below Intentionally left Blank



## Attachment B

Based on a review of the information you provided, you have been determined conditionally eligible to participate in the deed-in-lieu of foreclosure (DIL) program. With a DIL, you voluntarily transfer ownership of the Property to the owner of your loan to satisfy your mortgage debt.

### To Participate in the Deed-in-Lieu Program

You must contact us at (800) 495-7166 or in writing at the address provided below by no later than 3/20/2018 to indicate your intent to pursue a DIL. If you contact us by 3/20/2018 to indicate your intent to pursue a DIL, we will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the next legal action in the foreclosure proceedings. If you do not respond by 3/20/2018, please be advised that any pending foreclosure action or proceedings may be resumed and a foreclosure sale may occur.

Mail:  
Fay Servicing, LLC  
440 South LaSalle St., Ste. 2000  
Chicago, IL 60605  
ATTN: Loss Mitigation

If you contact us by 3/20/2018 to indicate your intent to pursue a DIL, you will have until 7/4/2018 to complete a DIL for the Property. During that time, if you meet the requirements defined in the Deed-in-Lieu Program Requirements section below, Fay Servicing, LLC will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the foreclosure action or proceedings. If you have not completed a DIL for the Property by 7/4/2018, or you otherwise fail to meet the requirements of the DIL program as described in this notice, please be advised that any pending foreclosure action or proceedings may continue and a foreclosure sale may occur.

### Deed-in-Lieu Program Requirements

1. **Facilitate an Interior BPO of the Property.** If an interior BPO of the Property has not yet been completed or was completed more than 90 days ago, you must cooperate with our vendor to complete an interior BPO of the Property within 14 days of the date you provide timely notice of your intent to pursue a DIL, so we may establish the Property's condition and value.
1. **Clear Title.** You must be able to provide the owner of your loan with clear and marketable title to the Property. If you have other loans, judgments, or liens secured by the Property, you must pay them in full or negotiate with the lien holders to release the liens within 30 days after we inform you that liens or encumbrances have been identified through a title report.
2. **Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses of your Property until you convey it to the owner of your loan, including utilities, assessments, association dues, and costs for interior and exterior maintenance. Additionally, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses, we may require that they be applied to reduce the mortgage debt.
3. **Relocation Assistance.** If you or a tenant (or your legal dependent, parent, or grandparent who is living in the property rent free) occupy the Property as a principal residence and you wish to receive (or have your tenant receive) relocation assistance, you must inform us, in writing, of your request. Please send us an email indicating that you will request relocation assistance to the following email address – [assetdisposition@fayservicing.com](mailto:assetdisposition@fayservicing.com). Alternatively, you may send a signed, hard copy of your request to the following address: Fay Servicing, LLC, 440 S. LaSalle, Ste. 2000, Chicago, IL 60605 ATTN: Asset Disposition. You will be required to certify under penalty of perjury at closing that the Property is occupied as a principal residence by either yourself or a tenant.

To receive relocation assistance, the occupant must be required to vacate as a condition of the DIL transaction. In addition, you must provide: (i) evidence that the Property is your/their principal residence, which in the case of a tenant may include information concerning the tenant, a copy of the lease agreement or other evidence of occupancy; and (ii) a certification signed by each occupant that will receive relocation assistance attesting to the occupant's compliance with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Certification). We will provide you with a Dodd-Frank Certification Form(s). If you fail to deliver the Dodd-Frank Certification at least seven (7) days prior to the



- conveyance of the Property, the relocation assistance will not be paid. Upon your compliance with the requirements of the DIL program, we will disburse the relocation assistance in the timeframe set forth in your Deed-in-Lieu Agreement. Only one payment per household is provided for the relocation assistance, regardless of the number of occupants.
4. **Suspension of Foreclosure.** Provided you continue to meet all of the terms and conditions of the DIL program, we will continue to suspend any pending foreclosure action or proceedings until 7/4/2018. If you have not completed a DIL for the Property by 7/4/2018, or you otherwise fail to meet the requirements of the DIL program, please be advised that any foreclosure action or proceeding that was suspended following our receipt of your request may be resumed and a foreclosure sale may occur.
  5. **Satisfaction and Release of Liability.** Provided you meet all of the terms and conditions of the DIL program, upon conveyance of your Property to the owner of the loan by general warranty deed or the equivalent in the state where the Property is located, we will prepare and record a lien release in full satisfaction of the mortgage, foregoing all rights to pursue a deficiency.
  6. **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the DIL transaction are subject to the written approval of the mortgage insurer or guarantor, if applicable.
  7. **Hardship Affidavit.** If you have not already, you must complete, sign, and return a Hardship Affidavit Form when you submit your signed Deed-in-Lieu Agreement for the Property. The Hardship Affidavit Form is your official certification of the financial hardship you have experienced and your compliance with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. (Please contact your Account Manager if you need assistance with the Hardship Affidavit Form.)
  8. **Termination of Our Responsibilities.** We may terminate our responsibilities as described in this notice at any time if:
    - a. Your financial situation improves significantly, you qualify for a loan modification, you bring the account current, or you pay off the mortgage in full;
    - b. You fail to act in good faith with the terms of the DIL program;
    - c. A significant change occurs to the Property's condition or value;
    - d. There is evidence of fraud or misrepresentation;
    - e. You file for bankruptcy and the Bankruptcy Court declines to approve the DIL transaction;
    - f. Litigation is initiated or threatened that could affect title to the Property or interfere with a valid DIL transaction;
    - g. You fail to return a Hardship Affidavit Form signed by all borrowers; or
    - h. You or your tenant, if applicable, fail to make the Property available for inspection or leave the Property in broom-swept condition.
  9. **Settlement of a Debt.** The proposed DIL transaction represents our attempt to reach a settlement of the delinquent mortgage. There is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, we may exercise our remedies under the mortgage, including foreclosure.
  10. **Possible Income Tax Considerations.** The difference between the remaining amount of principal you owe and the current market value of the Property must be reported to the Internal Revenue Service (IRS) on Form 1099C as debt forgiveness. In some cases, debt forgiveness could be taxes as income. The amount we pay you for relocation assistance, if applicable, may also be reported as income. We suggest that you contact the IRS or your tax preparer to determine if you may have any tax liability.
  11. **Credit Bureau Reporting.** We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over, or responsibility for, the impact of this report on your credit score. To learn more about the potential impact of a deed-in-lieu on your credit, you may want to visit the FTC website – [www.ftc.gov](http://www.ftc.gov) Consumer Information – Credit Scores.

If you have any questions about this notice, please contact us at (800) 495-7166. Our office hours are Monday – Thursday 8am – 9pm, Friday 8:30am – 5pm, and Saturday 10am – 4pm, CST.

Sincerely,

Fay Servicing, LLC



# Exhibit 25



1 Code: 1110  
2 Geoffrey Giles, Esq  
3 State Bar #959  
4 527 California Ave  
5 Reno, NV 89509  
6 775.329.4999

7 Attorney for Petitioner

FILED

2017 DEC -1 AM 10:39

TANYA SCEIRINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

*Victoria Toral* DEPUTY

THIRD JUDICIAL DISTRICT COURT

LYON COUNTY, NEVADA

9 In Re:

10 VICENTA LINCICOME,

Case Number: 17-CV-01346

11 Petitioner.

Department: I

12  
13  
14 PETITION FOR FORECLOSURE MEDIATION ASSISTANCE

15 Petitioner VICENTA LINCICOME hereby petitions this Court, pursuant to the terms  
16 of Chapter 107 of the Nevada Revised Statutes, to grant her participation in the mediation  
17 program for homeowners facing foreclosure. Petitioner states as follows:

18  
19 1. **Residence.** The home that is under foreclosure proceedings is in Lyon County, in  
20 the State of Nevada; 70 Riverside Drive, Dayton, Nevada 89403. Petitioner is the occupant  
21 and owner of this home.

22 2. **APN.** The assessor parcel number (APN) of the home is: 029-401-17

23 3. **Notice of Default.** Was Recorded on 11/3/17 and is attached hereto.

24 4. **Mediation Fee.** The required \$250 mediation fee was submitted herewith.

25 Petitioner hereby requests that this Court allow participation in the foreclosure mediation

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assistance program.

*Nov. 28, 2017*

Date

*Vicenta Lincicome*

Homeowner Signature

VICENTA LINCICOME

Printed Name

**PETITIONER VERIFICATION**

STATE OF NEVADA }

COUNTY OF WASHOE }

VICENTA LINCICOME being first duly sworn under penalty of perjury, deposes and says: I am the petitioner herein, and I have read the foregoing Amended Petition for Foreclosure Mediation Assistance and know the contents thereof; that the pleading is true to the best of my own knowledge.

*Vicenta Lincicome*  
VICENTA LINCICOME

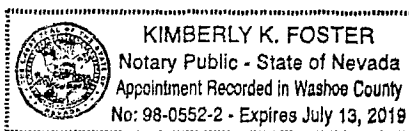
Signed and Sworn to (or affirmed) before me on:

Date: *November 28, 2017* by *xx Vicenta Javier Lincicome.* *xy*

*Kimberly K. Foster*  
Signature of notarial officer

STATE OF NEVADA }

COUNTY OF WASHOE }



[seal]

On this *28<sup>th</sup>* day of *November*, 2017, personally appeared before me, a Notary Public, *VICENTA LINCICOME*, known or proved to me to be the person who executed the foregoing Petition For Foreclosure Mediation Assistance, and who acknowledged to me that *he*/she did so freely and voluntarily and for the uses and purposes herein stated.

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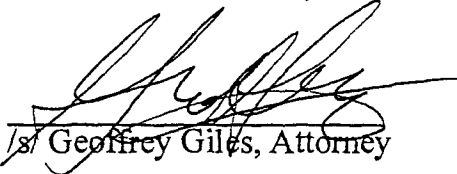
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**AFFIRMATION**

This document does not contain the social security number of any person.

  
/s/ Geoffrey Giles, Attorney

**CERTIFICATE OF SERVICE**

I, Jeanne Giles, hereby certify that on this date 12-1-17, I mailed copies of the foregoing **"PETITION FOR FORECLOSURE MEDIATION ASSISTANCE"** certified mail, return receipt requested, to the following parties at the addresses shown below:

**Trustee:**

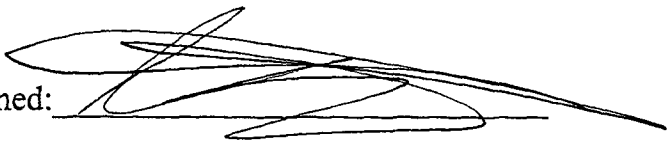
SABLES LLC  
C/O ZIEVE BRODNAX & STEELE  
3753 Howard Huges Pky, #200  
Las Vegas, NV 89169

**Beneficiary:**

FAY SERVICING or US BANK TRUSTEE for PROF-2013-M4 Title Trust  
c/o SABLES LLC - ZIEVE BRODNAX & STEELE  
3753 Howard Huges Pky, #200  
Las Vegas, NV 89169

**Other party of interest:**

Home Means Nevada  
3300 West Sahara Avenue, Suite (480)  
Las Vegas, Nevada 89102

Signed: 

Jeanne Giles



DOC# 572258

11/03/2017

10:29AM

Official Record

Requested By

SERVICELINK TITLE AGENCY, INC.

Lyon County - NV

Dawna L. Warr - Recorder

Page: 1 of 5

Fee: \$288.00

Recorded By BKC

RPT: 10.00



0572258

APN: 029-401-17

WHEN RECORDED MAIL TO:

Sables, LLC

c/o Zieve Brodnax & Steele

3753 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

TS No. : 16-42397

## NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO SELL THE REAL PROPERTY UNDER DEED OF TRUST

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five (5) business day prior to the date set for the sale of your property pursuant to NRS 107.080. No sale date may be set until three months from the date this Notice of Default may be recorded (which date of recordation appears on this notice). This amount is \$265,572.33 as of 10/31/2017 and will increase until your account becomes current.

NOTICE IS HEREBY GIVEN THAT: SABLES, LLC, a Nevada limited liability company is either the original trustee, or the duly appointed substituted Trustee, or acting as agent for the Trustee or the Beneficiary under a under a Deed of Trust dated 5/23/2007, executed by VICENTA LINCICOME, A MARRIED WOMAN, as trustor to secure obligations in favor of Mortgage Electronic Registration Systems, Inc., as nominee for SIERRA PACIFIC MORTGAGE COMPANY, INC. its successors and assigns, as Beneficiary, recorded 5/25/2007, instrument no. 407150 The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011 of Official Records in the office of the County recorder of Lyon, County, Nevada securing, among other obligations including

One note(s) for the Original sum of \$381,150.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by Beneficiary; that a breach of and default in the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The monthly installment which became due on 9/1/2008, along with late charges, and all subsequent monthly installments.

You are responsible to pay all payments and charges due under the terms and conditions of the loan documents which come due subsequent to the date of this notice, including, but not limited to; foreclosure trustee fees and costs, advances and late charges.

Furthermore, as a condition to bring your account in good standing, you must provide the undersigned with written proof that you are not in default on any senior encumbrance and provide proof of insurance.





572258

11/03/2017  
2 of 6**T.S. No.: 16-42397**

Nothing in this Notice of Default should be construed as a waiver of any fees owing to the beneficiary under the Deed of Trust, pursuant to the terms and provisions of the loan documents.

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered to said duly appointed Trustee a written Declaration of Default and Demand for Sale and has deposited with said duly appointed Trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

### NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. As to owner occupied property, where reinstatement is possible, the time to reinstate may be extended to 5 days prior to the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

To determine if reinstatement is possible and the amount, if any, to cure the default, contact:

PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee  
c/o Fay Servicing, LLC  
c/o SABLES, LLC, a Nevada limited liability company  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169  
Beneficiary Phone: 800-495-7166  
Trustee Phone: (702) 664-1774

To reach a person with authority to negotiate a loan modification on behalf of the lender:

Lauren Jowers  
800-495-7166

Property Address: 70 RIVERSIDE DRIVE, DAYTON, Nevada 89403

If you have any questions, you should contact a lawyer or the governmental agency that may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

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

Attached hereto and incorporated herein by reference is the Affidavit of Authority in Support of Notice of Default and Election to Sell pursuant to NRS 107.080.





572258

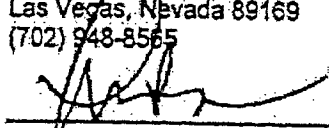
11/03/2017  
3 of 6

T.S. No.: 16-42397

You may wish to consult a credit counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with names and addresses of local HUD approved counseling agency by calling their approved Local Housing Counseling Agency toll free number (800) 569-4287 or you can go to HUD's website: <http://portal.hud.gov>.

Dated: 11/1/2017

SABLES, LLC, a Nevada limited liability company, as Trustee  
Sables, LLC  
c/o Zieve Brodnax & Steele  
3753 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
(702) 948-8565

  
Michael Busby, Trustee Sale Officer

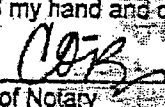
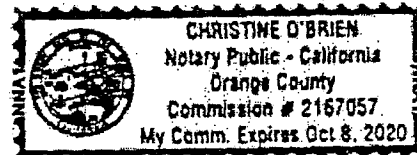
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CALIFORNIA  
County of ORANGE

On 11/1/2017, before me, Christine O'Brien, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal:

  
Signature of Notary



# Exhibit 26



Mediator's Name: Madelyn Shipman  
Mediator's Bar Number: 408  
Mediator's Firm Name: Madelyn Shipman  
Mediator's Address: 5650 Mount Rose Hwy  
Reno, NV 89511  
Mediator's Telephone: 775-849-1763

Heid  
4-5-18

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

VINCENTA LINCICOME, an Individual,

Petitioner,

Case No. 18-CV-01346

vs.

PROF-2013-M4 LEGAL TITLE TRUST, BY U.S.  
BANK NATIONAL ASSOCIATION, AS LEGAL  
TITLE TRUSTEE,

Respondent.  
/

MEDIATOR'S STATEMENT

Homeowner Last Name: LINCICOME

Homeowner First Name: VINCENTA

Property Street Address:

70 RIVERSIDE DRIVE

Property City: DAYTON

State: NEVADA

Zip Code 89403



Part 1 : SIGN-IN SHEET		Date: <u>4/3/2018</u>	
<b>Mediator:</b>	Name: <u>MADELYN SHIPMAN</u> Print Contact Info: <u>Shipmanheikka@gmail.com</u> Email Participated: <input checked="" type="checkbox"/> In Person <input type="checkbox"/> By Telephone		
<b>Homeowner(s)/ Grantor:</b>	Name: <u>X VICENTA J. LINCICOME</u> Print Contact Info: <u>elisabet9@sbcglobal.net</u> Email Participated: <input checked="" type="checkbox"/> In Person <input type="checkbox"/> By Telephone		
<b>Homeowner(s)/ Grantor:</b>	Name: <u>X A. ELLIS LINCICOME JR.</u> Print Contact Info: <u>same</u> Email Participated: <input checked="" type="checkbox"/> In Person <input type="checkbox"/> By Telephone		
<b>Homeowner Atty. Or Rep:</b> <u>959</u> NV Bar/NRS 645F License #	Name: <u>GEOFF GILLES</u> Print Contact Info: <u>gedgiles@gmail.com</u> Email Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone		
<b>Beneficiary (Person with Authority):</b>	Name: <u>TODD VISSER</u> Print Contact Info: <u>312-508-4226</u> Email Participated: <input type="checkbox"/> In Person <input checked="" type="checkbox"/> By Telephone		
<b>Lender Atty. or Rep:</b> <u>5173</u> NV Bar/NRS 645F License #	Name: <u>Nathan Zeltzer</u> Print Contact Info: <u>nathan@zlaw.com</u> Email Participated: <input checked="" type="checkbox"/> In Person <input type="checkbox"/> By Telephone		
<b>Other:</b>	Name: _____ Print Contact Info: _____ Email Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone		

If needed, a separate sheet may be utilized for additional attendees.

The attending parties are signing this sheet only to memorialize their presence at the mediation. If an agreement is reached, the parties will be request by the mediator to execute the agreement section of this Mediator Statement, which will outline the basic terms agreed upon at mediation. The mediator may be compelled to testify in any subsequent proceedings regarding the contents of an agreement.



**Part 2A: SUMMARY**

(In this section in its entirety (Part 2A-G) the mediator will document the applicable outcomes of the mediation. All appropriate boxes should be checked in this section.)

☐ A Document Conference was held on WAIVED. (Attach Completed Document List)

☒ A Foreclosure Mediation was held on APRIL 3, 2018.

☐ A Foreclosure Mediation was **not** held (Check All That Apply):

☐ Homeowner requested to withdraw from mediation

☐ Homeowner in active bankruptcy

☐ Non-eligible property

☐ Parties resolved prior to mediation (Complete Part 3: AGREEMENT SECTION G)

**Part 2B: DISPOSITION**

(Mediator must check one box below)

☐ The parties were unable to agree to a loan modification or make other arrangements and the mediation is terminated.

☒ The parties resolved this matter. If marked, also complete Part 3: Mediation Agreement.

**Part 2C: HOMEOWNER (GRANTOR) PARTICIPATION**

☐ Homeowner (Grantor) failed to attend the mediation.

☐ Homeowner (Grantor) failed to exchange required documents.

**COMMENTS**



**Part 2D: BENEFICIARY (LENDER) PARTICIPATION**

*If any item is checked below, the mediator may recommend sanctions. (Determine specific sanction recommendations with particularity in Part 2E).*

- ☐ Beneficiary (Lender), and/or its Representative, failed to attend the mediation. NFM 11(1)(a).
- ☐ Beneficiary (Lender), and/or its Representative, failed to demonstrate authority, or provide access to a person with authority, to negotiate a loan modification. NFM 11 (1)(a).
- ☐ Beneficiary (Lender), and/or its Representative, failed to participate in good faith.

Beneficiary (Lender), and/or its Representative, failed to bring to mediation each document required. NFM 12 (7). (Check all missing or incomplete documents).

- ☐ An original or certified copy of the mortgage note, or judicial order pursuant to NRS 104.3309.
- ☐ A certification with an original signature of each endorsement and/or assignment of the mortgage note, or judicial order pursuant to NRS 104.3309.
- ☐ An original or certified copy of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- ☐ A certification with an original signature of each assignment of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- ☐ Appraisal or Broker Price Opinion (BPO) in accordance with NRS 645.2515 dated not more than 60 days prior to the date of the scheduled mediation.
- ☐ Short Sale document in accordance with the Nevada Foreclosure Mediation Rules.

**Part 2E: SPECIFIC RECOMMENDATION(S) FOR SANCTIONS**

(In this section mediators must state with particularity the participant's conduct and specific reason(s) for recommending sanctions.)

**Part 2F: MEDIATOR'S CERTIFICATION**

The Mediator hereby certifies, under the penalty of perjury, that the foregoing is a true and accurate record of the proceedings as required by the Nevada Mediation Foreclosure Rules.

Date: 4/3/2018

Madelyn Shipman  
MEDIATOR



All documents and discussions presented during the mediation are confidential except in an action for Judicial Review as set forth in the applicable State of Nevada Foreclosure Mediation Rules and NRS Chapter 107.

**Part 3: AGREEMENT (Sections A-G)**

This section outlines the detailed agreement between the grantor and the beneficiary. The mediator will complete all section that apply.

**THE PARTIES AGREED TO THE FOLLOWING**

(Please Choose Either A or B and check all that apply):

3A. RETAIN THE HOME	3B. RELINQUISH THE HOME
<input type="checkbox"/> 1. Reinstatement	<input checked="" type="checkbox"/> 1. Deed in Lieu of Foreclosure
<input type="checkbox"/> 2. Repayment Plan	<input type="checkbox"/> 2. Voluntary Surrender
<input type="checkbox"/> 3. Extension	<input type="checkbox"/> 3. Cash for Keys \$ _____
<input type="checkbox"/> 4. ARM to Fixed Rate	<input type="checkbox"/> 4. Gov't Program: _____
<input type="checkbox"/> 5. Amortization Extended	<input type="checkbox"/> 5. Other Forbearance
<input type="checkbox"/> 6. Interest Rate Reduction	<input type="checkbox"/> 6. Short Sale
<input type="checkbox"/> 7. Principal Forbearance	Estimated Short Sale Value: _____
<input type="checkbox"/> 8. Other Forbearance	Listed By Date: _____
<input type="checkbox"/> 9. Principal Reduction	Listing Period: From _____ to _____
<input type="checkbox"/> 10. Refinance	Listing Price: _____
<input type="checkbox"/> 11. Temporary Modification	Beneficiary Offer Acceptance By
Expiration Date: _____	Date: _____
<input type="checkbox"/> 12. Permanent Modification	Maximum Escrow Period: _____
<input type="checkbox"/> 13. Short payoff \$ _____	<input type="checkbox"/> 7. Waiver of Deficiency <input type="checkbox"/> Yes <input type="checkbox"/> No
When: _____	<input type="checkbox"/> 8. Vacate Date: _____
Conditions: _____	<input checked="" type="checkbox"/> 9. Certificate Date: <u>7/6/2018</u>
<input type="checkbox"/> 14. Gov't Program: _____	Comments: <u>PURSUANT TO DIL REQUIREMENTS ON P. 6 OF TTP DATED 3/6/2018 - ATTACHED HERETO.</u>

**3C. DETAILS**

- |  |
|--|
| <input type="checkbox"/> Beneficiary will report the loan as paid in current status effective as of: _____ |
| <input type="checkbox"/> Treatment of arrearages: _____  |
| <input type="checkbox"/> Waiver of Fees and Penalties: _____   |
| <input type="checkbox"/> Rescind Notice of Default effective as of: _____                                  |



**3D. THE FOLLOWING TERMS REMAIN UNCHANGED** (Please check all that apply.)

- ☐ The balance due as shown on beneficiary's book, which is \_\_\_\_\_
- ☐ The interest rate stated in the original note, which is \_\_\_\_\_
- ☐ The loan term stated in the original note, which is: \_\_\_\_\_

**3E: LOAN MODIFICATION** (Please complete all that apply)

Temporary Modification	Permanent Modification
<b>1. Loan Balance</b> Total loan balance shall be modified to \$ _____ Effective date _____	Total loan balance shall be modified to \$ _____ Effective date _____
<b>2. Interest Rate</b> <b>Period 1</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months <b>Period 2</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months*	<b>Period 1</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months <b>Period 2</b> a. Interest rate will be temporarily modified to _____ % b. Effective as of _____ c. For the Period of _____ months*
<b>3. Loan Term</b> There are _____ monthly payments remaining as of _____. Begin date _____ End date _____	There are _____ monthly payments remaining as of _____. Begin date _____ End date _____
<b>4. Payment</b> Resulting initial payment \$ _____ Principal & Interest \$ _____ Escrow \$ _____ Total: _____	Resulting initial payment \$ _____ Principal & Interest \$ _____ Escrow \$ _____ Total: _____
<b>5. Fees &amp; Costs</b> The aforementioned loan balance includes fees & costs for temporary and permanent modifications as follows:	
Incurred	Waived
Interest \$ _____	Interest \$ _____
Costs \$ _____	Costs \$ _____
Fees \$ _____	Fees \$ _____
Other \$ _____	Other \$ _____
Total \$ _____	Total \$ _____
Comments:	

\* If additional Periods agreed upon by the parties, please indicate on a separate sheet and attached hereto.



### 3G: DEFICIENCY & TAX LIABILITY

Please be advised that the mediator is not permitted to provide any legal or tax advice to the parties on any issues related to the mediation or the terms of any potential settlement agreement. It is suggested that the parties contact a licensed professional of their choice for legal or tax advice related to this mediation and any potential settlement.

#### 1. Deficiency:

☐ The settlement agreement will include a provision waiving any deficiency resulting from recovery by the Trustee/Beneficiary of less than the full amount the Trustee/Beneficiary claims now to be due on the loan.

Comments:

#### 2. Other deficiency and/or tax liability terms not mentioned above:

☐ Additional terms, details are as follows:

#### 3. Is this agreement contingent upon the signing of other documents and/or forms (i.e., updated financial information, tax returns, divorce decree, etc.)?

☐ If yes, provide a detailed list and/or attach:



**3G: SETTLEMENT/RESOLUTION BEFORE MEDIATION**

**The parties reached a settlement and/or resolution prior to the scheduled mediation.**

- ☐ Copy of signed Settlement/Resolution Agreement attached. (Attach signed agreement)
- ☐ Settlement/Resolution Agreement memorialized at mediation as reflected in the Mediator Statement.

**3H: SIGNATURE OF PARTIES**

IN WITNESS WHEREOF, each of the participants in this mediation has executed this mediation agreement on the date set forth. The parties agree to separately prepare and execute the documents necessary to accomplish the terms of this agreement.

Date: 4-3-18

+ Sherata J. Lucicome  
Homeowner (Grantor)

Date: 4-3-18

+ [Signature]  
Homeowner (Grantor)

Date: 4-3-18

[Signature]  
Homeowner's Attorney/Representative

Date: 4/3/18

To de Visser  
Lender (Beneficiary)

Date: 4/3/18

[Signature]  
Lender's Attorney/Representative

Date: \_\_\_\_\_

Other (Please specify relationship to Lender or Homeowner)

Date: \_\_\_\_\_

Other (Please specify relationship to Lender or Homeowner)



**PART 4: RECOMMENDATION FOR DISMISSAL OF PETITION**

The parties did not reach a settlement as a result of mediation and I therefore recommend dismissal of the petition, pursuant to NFMR 20(3).

\_\_\_\_\_  
MEDIATOR

**PART 5: CERTIFICATE OF MAILING**

☒ Mailed, pursuant to NRCP 5(b), a true and correct copy of the foregoing document addressed to:

Geof Giles, Esq.  
Law Office of Geof Giles  
527 California Avenue, Ste. 1  
Reno, NV 89509

Shadd Wade, Esq.  
Zieve, Brodnax & Steele  
3753 Howard Hughes Pkwy, Ste. 200  
Las Vegas, NV 89169

Home Means Nevada, Inc.  
3300 West Sahara Avenue, Ste. 480  
Las Vegas, NV 89102

Nathan R. Zeltzer, Esq.  
232 Court Street  
Reno, NV 89501

  
\_\_\_\_\_  
MEDIATOR

**CONTINUATION:**

If needed, utilize the space below to further memorialize the mediation or include additional comments. Please identify the section this information related to by using the specific section number (Part 1 through Part 5), as listed above.





March 6, 2018

VICENTA LINCICOME

70 RIVERSIDE DR  
RENO, NV 89403

Account Number: 114477  
Property Address: 70 RIVERSIDE DR  
DAYTON, NEVADA 89403

Dear Homeowner(s):

Thank you for contacting us about your mortgage. Based on a careful review of the information you provided to us, we are offering you an opportunity to enter into a Trial Period Plan under the Fay Servicing Modification Program. This is the first step toward qualifying for more affordable mortgage payments or more manageable terms. It is important that you read this information in its entirety so that you completely understand the actions you need to take to successfully complete the Trial Period Plan to permanently modify your mortgage.

If you do not intend to retain the Property, you are also eligible to pursue a Fay Servicing Deed-in-Lieu. See Attachment B for details.

**To Accept This Trial Period Plan Offer**

You must contact us at (800) 495-7166 or in writing at Fay Servicing, LLC, 440 S. LaSalle St., Ste. 2000, Chicago, IL 60605, ATTN: Loss Mitigation, no later than March 20, 2018 to indicate your intent to accept this offer. In addition, you must make your first Trial Period Plan payment by April 1, 2018.

**TIME IS OF THE ESSENCE**

If you fail to make the first Trial Period Plan payment by April 1, 2018 and we do not receive the payment by the last day of the month in which it is due, this offer will be revoked and we may refer your loan to foreclosure, or if your loan has been referred to foreclosure, foreclosure proceedings may continue and a foreclosure sale may occur.

**Make Trial Period Payments**

To successfully complete the Trial Period Plan, you must make the Trial Period Plan payments below.

Payment Due	Payment Amount
April 1, 2018	\$2,462.30
May 1, 2018	\$2,462.30
June 1, 2018	\$2,462.30

Please send your Trial Period Plan payments to:

Fay Servicing, LLC  
3000 Kellway Drive., Ste. 150  
Carrollton, TX 75006  
ATTN: Loss Mitigation

If you have questions regarding this notice please contact us at (800) 495-7166, or contact your Account Manager, ANTON ROSE, directly at 3122913751.

For a complete list of programs for which you were reviewed for eligibility or were not reviewed for due to a more appropriate option being offered, see Attachment A.



### Next Steps

- It is important that you thoroughly review the Additional Trial Period Plan Information and Legal Notices attached.

### This trial offer is contingent on the following:

- Your having provided accurate and complete information.
- You must ensure the title to your property is without other encumbrances that prohibit a modification and title must otherwise be clear and marketable, as applicable. For example, if there is another lien on your property, the lienholder must agree to subordinate the lien.
- We must receive each payment in the month in which it is due.
- Once you have successfully made each of the payments above by their due dates, you have submitted two signed copies of your modification agreement, and we have signed the modification agreement, your mortgage will be permanently modified in accordance with the terms of your modification agreement.
- If you miss a payment or do not fulfill any other terms of your Trial Period Plan, this offer will end and your mortgage loan will not be modified. Additionally, we reserve the right to revoke this offer or terminate the plan following your acceptance if we learn of information that would make you ineligible for the Trial Period Plan.

Approximate Terms of the Modification

Interest Rate:	5.750%	Interest Bearing Balance:	\$385,250.00
Principal & Interest:	\$2,182.71	Principal Forbearance:	\$271,198.83
Taxes & Insurance:	\$270.57	Principal Forgiveness:	\$ .00
Escrow Shortage:	\$9.02	Amortization Term:	391
PITI:	\$2,462.30	Maturity Term:	391
Mod Effective Date:	7/1/2018	Potential Balloon:	\$ .00

- If you feel you cannot afford the Trial Period Plan payments shown above but want to remain in your home, or if you have decided to leave your home, please contact us at (800) 495-7166 to discuss alternatives to foreclosure.
- Please note that except for your monthly mortgage payment amount during the Trial Period Plan, the terms of your existing note and all mortgage requirements remain in effect and unchanged during the Trial Period Plan.

### Additional Trial Period Plan Information and Legal Notices

Any pending foreclosure action or proceedings will remain suspended during the trial period, provided you are complying with the terms of the trial period plan:

- Any pending foreclosure action or proceeding that has been suspended may be resumed if you fail to comply with the terms of the plan or no longer qualify for a permanent loan modification.
- You agree that we will hold the Trial Period Plan payments in an account until sufficient funds are in the account to pay your oldest delinquent monthly payment. You also agree that we will not pay you interest on the amounts held in the account. If any money is left in this account at the end of the Trial Period Plan and you qualify for a permanent loan modification, those funds will be deducted from amounts that would otherwise be added to your modified principal balance.
- Our acceptance and posting of your payment during the Trial Period Plan will not be deemed a waiver of the acceleration of your loan and related activities, including the right to resume or continue foreclosure if you fail to comply with the terms of the plan, and shall not constitute a cure of your mortgage default unless such payments are sufficient to completely cure the default.

If your monthly payment did not include escrows for taxes and insurance, you may now be required to do so:

- You agree that any prior waiver that allowed you to pay directly for taxes and insurance is revoked. You agree that we may establish an escrow account and that you will pay required escrows into that account, unless prohibited by applicable law.
- If you have received a Chapter 7 bankruptcy discharge, we agree that, due to the discharge you received in a Chapter 7 bankruptcy proceeding subsequent to the execution of your loan documents, you will not have personal liability on the debt pursuant to this Trial Period Plan.



**Your current loan documents remain in effect; however, you may make the Trial Period Plan payment instead of the payment required under your loan documents:**

- You agree that all terms and provisions of your current mortgage note and mortgage security instrument remain in full force and effect and you will comply with those terms; and that nothing in the Trial Period Plan shall be understood or construed to be a satisfaction or release in whole or in part of the obligations contained in the loan documents.
- We will continue to report the delinquency status of your loan to credit reporting agencies as well as your entry into a Trial Period Plan in accordance with the requirements of the Fair Credit Reporting Act and the Consumer Data Industry Association requirements. Credit scoring companies generally may consider the entry into a plan with reduced payments as an increased credit risk. As a result, entering into a Trial Period Plan may adversely affect your credit score, particularly if you are current on your mortgage or otherwise have a good credit score.



## Additional Information and Legal Notices

### Federally Declared Disaster Area:

If you are in a Federally Declared Disaster Area, you may have up to 120 days after the disaster area was designated by the federal government to appeal the decision that your loan is not eligible for the program(s). If you believe that you may be in a Federally Declared Disaster Area, please call us at (800) 495-7166.

### Federal ECOA Notice:

Fay Servicing, LLC is required by law to inform you that the Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applications on the basis of race, color, religion, national origin; sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Bureau of Consumer Financial Protection, 1700 G Street N.W., Washington, DC 20552.

Our credit decision was based in whole or in part on information compiled from reports obtained from one or more of the three consumer reporting agencies listed below. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. These reporting agencies played no part in our decision and are unable to supply specific reasons we have denied credit to you. You have a right to receive a free copy of your report from these reporting agencies, if you request it no later than 60 days after you receive this notice. In addition, if you find that information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the applicable reporting agency by contacting that agency at the number provided below:

<b>Equifax:</b>	PO Box 740241 Atlanta, GA 30374-0242 (800) 685-1111
<b>Experian:</b>	PO Box 9701 Allen, TX 75013-9701 (888) 397-3742
<b>TransUnion:</b>	PO Box 2000 Chester, PA 19022-2000 (800) 916-8800

### Homeownership Counseling Services:

Homeownership counseling is available through a variety of nonprofit organizations experienced in homeownership counseling and approved by the Secretary of Housing and Urban Development (HUD). A listing of such organizations may be obtained by calling the HOPE Hotline Number: (888) 995-HOPE. This hotline can help with questions about the program and offers access to free HUD-certified counseling services in a variety of languages.

### Right to Appeal

You have the right to appeal our decision. If you would like to appeal, you must contact us in writing at the address provided below, no later than 30 days from the date of this notice, and state that you are requesting an appeal of our decision. You must include in the appeal your name, property address, and mortgage loan number. You may also specify the reasons for your appeal, and provide any supporting documentation. Your right to appeal expires 30 days from the date of this notice. Any appeal requests or documentation received after 30 days from the date of this notice may not be considered.

Fay Servicing, LLC, 440 S. LaSalle St., Ste. 2000, Chicago, IL 60605  
ATTN: Appeals

If you elect to appeal, we will provide you a written notice of our appeal decision within 30 calendar days of receiving your appeal. Our appeal decision is final, and not subject to further appeal.

If you elect to appeal, you do not have to accept this offer until resolution of the appeal. If we determine on appeal that you are eligible for another loss mitigation program, we will send you an offer for that program. In that case, you will be given 14 calendar days from the date of the appeal decision to choose to accept the current offer or indicate your intent to accept the new offer.

If you wait to make your past due payments until after receiving our appeal decision, your loan will become more delinquent. Any unpaid interest, and other unpaid amounts, such as escrows for taxes and insurance, will continue to accrue on your mortgage loan during the appeal, and will be added to the total amount due to bring your loan current.



## Attachment A

Based on our review of your financial circumstances, the following are programs for which you were reviewed for eligibility or were not reviewed for due to a more appropriate option being offered. You may obtain additional documentation supporting the denial decision upon written request to the Fay Servicing.

### Repayment Plan:

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### Deferment (Limited):

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### Fay Servicing Modification:

You were approved for this program.

### Deferment (Large Amount):

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### Fay Servicing Short Sale:

The Investor that owns the mortgage does not participate in this program. The investor for your loan is PROF-2013-M4 Legal Title Trust, by U.S. Bank National Association, as Legal Title Trustee.

### Fay Servicing Deed-in-Lieu:

You were deemed eligible for this program.

Space Below Intentionally left Blank



## Attachment B

Based on a review of the information you provided, you have been determined conditionally eligible to participate in the deed-in-lieu of foreclosure (DIL) program. With a DIL, you voluntarily transfer ownership of the Property to the owner of your loan to satisfy your mortgage debt.

### To Participate in the Deed-in-Lieu Program

You must contact us at (800) 495-7166 or in writing at the address provided below by no later than 3/20/2018 to indicate your intent to pursue a DIL. If you contact us by 3/20/2018 to indicate your intent to pursue a DIL, we will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the next legal action in the foreclosure proceedings. If you do not respond by 3/20/2018, please be advised that any pending foreclosure action or proceedings may be resumed and a foreclosure sale may occur.

Mail:

Fay Servicing, LLC  
440 South LaSalle St., Ste. 2000  
Chicago, IL 60605  
ATTN: Loss Mitigation

If you contact us by 3/20/2018 to indicate your intent to pursue a DIL, you will have until 7/4/2018 to complete a DIL for the Property. During that time, if you meet the requirements defined in the Deed-in-Lieu Program Requirements section below, Fay Servicing, LLC will not refer your loan to foreclosure, or if your loan has been referred to foreclosure, we will suspend the foreclosure action or proceedings. If you have not completed a DIL for the Property by 7/4/2018, or you otherwise fail to meet the requirements of the DIL program as described in this notice, please be advised that any pending foreclosure action or proceedings may continue and a foreclosure sale may occur.

### Deed-in-Lieu Program Requirements

1. Facilitate an Interior BPO of the Property. If an interior BPO of the Property has not yet been completed or was completed more than 90 days ago, you must cooperate with our vendor to complete an interior BPO of the Property within 14 days of the date you provide timely notice of your intent to pursue a DIL, so we may establish the Property's condition and value.
1. Clear Title. You must be able to provide the owner of your loan with clear and marketable title to the Property. If you have other loans, judgments, or liens secured by the Property, you must pay them in full or negotiate with the lien holders to release the liens within 30 days after we inform you that liens or encumbrances have been identified through a title report.
2. Property Maintenance and Expenses. You are responsible for all property maintenance and expenses of your Property until you convey it to the owner of your loan, including utilities, assessments, association dues, and costs for interior and exterior maintenance. Additionally, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses, we may require that they be applied to reduce the mortgage debt.
3. Relocation Assistance. If you or a tenant (or your legal dependent, parent, or grandparent who is living in the property rent free) occupy the Property as a principal residence and you wish to receive (or have your tenant receive) relocation assistance, you must inform us, in writing, of your request. Please send us an email indicating that you will request relocation assistance to the following email address – [assetdisposition@fayservicing.com](mailto:assetdisposition@fayservicing.com). Alternatively, you may send a signed, hard copy of your request to the following address: Fay Servicing, LLC, 440 S. LaSalle, Ste. 2000, Chicago, IL 60605 ATTN: Asset Disposition. You will be required to certify under penalty of perjury at closing that the Property is occupied as a principal residence by either yourself or a tenant.

To receive relocation assistance, the occupant must be required to vacate as a condition of the DIL transaction. In addition, you must provide: (i) evidence that the Property is your/their principal residence, which in the case of a tenant may include information concerning the tenant, a copy of the lease agreement or other evidence of occupancy; and (ii) a certification signed by each occupant that will receive relocation assistance attesting to the occupant's compliance with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Certification). We will provide you with a Dodd-Frank Certification Form(s). If you fail to deliver the Dodd-Frank Certification at least seven (7) days prior to the



conveyance of the Property, the relocation assistance will not be paid. Upon your compliance with the requirements of the DIL program, we will disburse the relocation assistance in the timeframe set forth in your Deed-in-Lieu Agreement. Only one payment per household is provided for the relocation assistance, regardless of the number of occupants.

4. **Suspension of Foreclosure.** Provided you continue to meet all of the terms and conditions of the DIL program, we will continue to suspend any pending foreclosure action or proceedings until 7/4/2018. If you have not completed a DIL for the Property by 7/4/2018, or you otherwise fail to meet the requirements of the DIL program, please be advised that any foreclosure action or proceeding that was suspended following our receipt of your request may be resumed and a foreclosure sale may occur.
5. **Satisfaction and Release of Liability.** Provided you meet all of the terms and conditions of the DIL program, upon conveyance of your Property to the owner of the loan by general warranty deed or the equivalent in the state where the Property is located, we will prepare and record a lien release in full satisfaction of the mortgage, foregoing all rights to pursue a deficiency.
6. **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the DIL transaction are subject to the written approval of the mortgage insurer or guarantor, if applicable.
7. **Hardship Affidavit.** If you have not already, you must complete, sign, and return a Hardship Affidavit Form when you submit your signed Deed-in-Lieu Agreement for the Property. The Hardship Affidavit Form is your official certification of the financial hardship you have experienced and your compliance with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. (Please contact your Account Manager if you need assistance with the Hardship Affidavit Form.)
8. **Termination of Our Responsibilities.** We may terminate our responsibilities as described in this notice at any time if:
  - a. Your financial situation improves significantly, you qualify for a loan modification, you bring the account current, or you pay off the mortgage in full;
  - b. You fail to act in good faith with the terms of the DIL program;
  - c. A significant change occurs to the Property's condition or value;
  - d. There is evidence of fraud or misrepresentation;
  - e. You file for bankruptcy and the Bankruptcy Court declines to approve the DIL transaction;
  - f. Litigation is initiated or threatened that could affect title to the Property or interfere with a valid DIL transaction;
  - g. You fail to return a Hardship Affidavit Form signed by all borrowers; or
  - h. You or your tenant, if applicable, fail to make the Property available for inspection or leave the Property in broom-swept condition.
9. **Settlement of a Debt.** The proposed DIL transaction represents our attempt to reach a settlement of the delinquent mortgage. There is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, we may exercise our remedies under the mortgage, including foreclosure.
10. **Possible Income Tax Considerations.** The difference between the remaining amount of principal you owe and the current market value of the Property must be reported to the Internal Revenue Service (IRS) on Form 1099C as debt forgiveness. In some cases, debt forgiveness could be taxes as income. The amount we pay you for relocation assistance, if applicable, may also be reported as income. We suggest that you contact the IRS or your tax preparer to determine if you may have any tax liability.
11. **Credit Bureau Reporting.** We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over, or responsibility for, the impact of this report on your credit score. To learn more about the potential impact of a deed-in-lieu on your credit, you may want to visit the FTC website – [www.ftc.gov](http://www.ftc.gov) Consumer Information – Credit Scores.

If you have any questions about this notice, please contact us at (800) 495-7166. Our office hours are Monday – Thursday 8am – 9pm, Friday 8:30am – 5pm, and Saturday 10am – 4pm, CST.

Sincerely,

Fay Servicing, LLC



# Exhibit 27



APN No.: 029-401-17

[Recording requested by:]

[When recorded mail to:]

**Sables LLC**

**c/o Zieve Brodnax & Steele**

**9435 West Russell Road, Suite 120**

**Las Vegas, Nevada 89148**

T.S. No. 16-42397

---

## **NOTICE OF TRUSTEE'S SALE**

**YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED 5/23/2007. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.**

A public auction sale to the highest bidder for cash, cashier's check drawn on a state or national bank, check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, or savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state will be held by the duly appointed trustee as shown below, of all right, title, and interest conveyed to and now held by the trustee in the hereinafter described property under and pursuant to a Deed of Trust described below. The sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by the Deed of Trust, with interest and late charges thereon, as provided in the note(s), advances, under the terms of the Deed of Trust, interest thereon, fees, charges and expenses of the Trustee for the total amount (at the time of the initial publication of the Notice of Sale) reasonably estimated to be set forth below. The amount may be greater on the day of sale.

**TRUSTOR: VICENTA LINCICOME, A MARRIED WOMAN**

**Duly Appointed Trustee: Sables LLC, a Nevada Limited Liability Company**

**Recorded 5/25/2007, as Instrument No. 407150, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument 475808 and recorded on 5/4/2011 Official Records in the office of the Recorder of Lyon County, Nevada, Described as follows:**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

**All that certain real property situate in the County of Lyon, State of Nevada, described as follows:**

**Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.**

**EXCEPTING THEREFROM all that portion thereof, lying below the natural ordinary high water line of the Carson River.**

**Date of Sale: 11/9/2018 at 11:00 AM**



Place of Sale: 31 S. Main Street Yerington, Nevada 89447  
Lyon County Courthouse  
Estimated Sale Amount: \$666,632.22  
Street Address or other common designation of real property: 70 RIVERSIDE DRIVE  
DAYTON, Nevada 89403

A.P.N. No.: 029-401-17

The undersigned Trustee disclaims any liability for any incorrectness of the street address or other common designation, if any, shown above. If no street address or other common designation is shown, directions to the location of the property may be obtained by sending a written request to the beneficiary within 10 days of the date of first publication of this Notice of Sale.

Date: 10/11/2018

Sables LLC, a Nevada Limited Liability Company  
c/o Zieve Brodnax & Steele  
9435 West Russell Road, Suite 120  
Las Vegas, NV 89148  
Phone: (702) 948-8565  
Sale Information: (714) 848-9272 [www.elitepostandpub.com](http://www.elitepostandpub.com)  
For Non-Automated Sale Information, call: (702) 664-1774

  
Michael Busby, Trustee Sale Officer

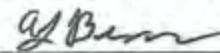
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

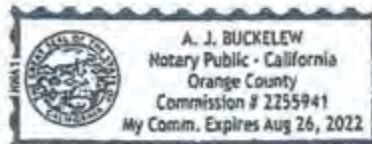
State of CALIFORNIA  
County of ORANGE

On 10/11/2018, before me, A.J. Buckelew Notary Public, personally appeared Michael Busby who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
A.J. Buckelew  
Signature of Notary



THIS FIRM IS ATTEMPTING TO COLLECT A DEBT AND  
ANY INFORMATION WE OBTAIN WILL BE USED FOR THAT PURPOSE.



## **NOTICE TO TENANTS OF THE PROPERTY**

*Foreclosure proceedings against this property have started, and a notice of sale of the property and the highest bidder has been issued.*

*You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any tenants may also be subject to eviction proceedings.*

*Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.*

*After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.*

*Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to surrender.*

*If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.*

*If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.*

*Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:*

- (1) Delivering a copy to you personally in the presence of a witness, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;*
- (2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business and to the place where the leased property is situated, if different; or*
- (3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property and mailing a copy to you at the place where the leased property is situated.*

*If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.*

*Under the Justice Court Rules of Civil Procedure:*

- (1) You will be given at least 10 days to answer a summons and complaint;*
- (2) If you do not file an answer, an order evicting you by default may be obtained against you;*
- (3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and*
- (4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.*



# Exhibit 28



70 RIVERSIDE DR

**Doc #: 591393**

01/25/2019 08:21 AM Page: 1 of 2

**OFFICIAL RECORD**

Requested By: FIRST AMERICAN TITLE INSURANCE C

**Lyon County, NV**

**Margie Kassebaum, Recorder**

Fee: \$38.00 RPTT: \$1,148.55

Recorded By: Inhumildad

A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:

**Breckenridge Property Fund, 2016, LLC**

**2320 Potosi St. Ste 130**

**Las Vegas, NV 89146**

**Recorded As An Accommodation**

**Forward Tax Statements to  
the address given above**

**Only Without Liability**

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

**TRUSTEE'S DEED UPON SALE**

Transfer Tax: \$ 1148.55

The Grantee Herein **WAS NOT** the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was **\$671,249.37**

The Amount Paid by the Grantee was **\$294,000.01**

Said Property is in the City of **DAYTON**, County of **Lyon**

**SABLES, LLC**, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby **GRANT** and **CONVEY** to

**Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of **Lyon**, State of **Nevada**, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

All that certain real property situate in the County of **Lyon**, State of **Nevada**, described as follows:

**Lot 42** as shown on the official map of **GOLD CANYON ESTATES, PHASE 2**, filed in the office of the **Lyon** County, Nevada Recorder, on **October 20, 2005**, as Document No. **365687**.

**EXCEPTING THEREFROM** all that portion thereof, lying below the natural ordinary high water line of the **Carson River**.

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by **VICENTA LINCICOME, A MARRIED WOMAN** as Trustor, dated **5/23/2007** of the Official Records in the office of the Recorder of **Lyon**, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on **5/25/2007**, as Instrument No. **407150**, The subject Deed of Trust was modified by Loan Modification Agreement recorded as Instrument **475808** and recorded on **5/4/2011**, of official records.



A.P.N.: 029-401-17

RECORDING REQUESTED BY:

AND WHEN RECORDED TO:

**Breckenridge Property Fund, 2016, LLC**  
2320 Potosi St. Ste 130  
Las Vegas, NV 89146

**Recorded As An Accommodation**

**Forward Tax Statements to**      **Only Without Liability**  
**the address given above**

SPACE ABOVE LINE FOR RECORDER'S USE

T.S. # 16-42397

Order #: 160069595-NV-VOO

### **TRUSTEE'S DEED UPON SALE**

Transfer Tax: \$ 1148.55

The Grantee Herein **WAS NOT** the Foreclosing Beneficiary.

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The Amount Paid by the Grantee was **\$294,000.01**

Said Property is in the City of **DAYTON**, County of **Lyon**

**SABLES, LLC**, a Nevada limited liability company, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby **GRANT** and **CONVEY** to

#### **Breckenridge Property Fund, 2016, LLC**

(herein called Grantee) but without covenant or warranty, expressed or implied, all rights, title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of **Lyon**, State of Nevada, described as follows:

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LYON, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:**

**All that certain real property situate in the County of Lyon, State of Nevada, described as follows:**

**Lot 42 as shown on the official map of GOLD CANYON ESTATES, PHASE 2, filed in the office of the Lyon County, Nevada Recorder, on October 20, 2005, as Document No. 365687.**

**EXCEPTING THEREFROM all that portion thereof, lying below the natural ordinary high water line of the Carson River.**

Property Address: **70 RIVERSIDE DRIVE, DAYTON, Nevada 89403**

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by **VICENTA LINCICOME, A MARRIED WOMAN** as Trustor, dated **5/23/2007** of the Official Records in the office of the Recorder of **Lyon**, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on **5/25/2007**, as Instrument No. **407150**, **The subject Deed of Trust was modified by Loan Modification Agreement** recorded as Instrument **475808** and recorded on **5/4/2011**, of official records.



# TRUSTEE'S DEED UPON SALE

T.S. #: 16-42397

Order #: 160069595-NV-VOO

Trustee having complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified return receipt mail, postage pre-paid to each person entitled to notice in compliance with Nevada Revised Statutes 107.080.

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 1/4/2019. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$ \$294,000.01, in lawful money of the United States, in pro per, receipt there of is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, SABLES, LLC, a Nevada limited liability company, as Trustee, has this day, caused its name to be hereunto affixed.

Date: 1/15/2019

SABLES, LLC, a Nevada limited liability company

Geoffrey Neal, Trustee Sale Officer

Geoffrey  
Neal

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

State of CALIFORNIA  
County of ORANGE

On 1/15/2019 before me, the undersigned, J. Develasco Notary Public, personally appeared Geoffrey Neal who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

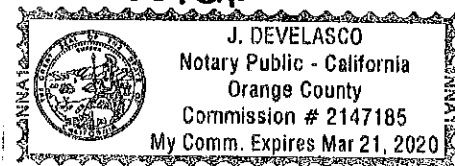
WITNESS my hand and official seal.

Signature

J. Develasco

(Seal)

J. Develasco





**STATE OF NEVADA  
DECLARATION OF VALUE FORM**

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

a) 029-401-17

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

**2. Type of Property:**

- a) ☐ Vacant Land  
c) ☐ Condo/Twnhse  
e) ☐ Apt. Bldg  
g) ☐ Agricultural  
Other \_\_\_\_\_

- b) ☒ Single Fam. Res.  
d) ☐ 2-4 Plex  
f) ☐ Comm'l/Ind'l  
h) ☐ Mobile Home

**FOR RECORDER'S OPTIONAL USE ONLY**

Book: \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

Notes: \_\_\_\_\_

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

\$ 294,000.01

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

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

**c. Transfer Tax Value:**

\$ 294,000.01

**d. Real Property Transfer Tax Due**

\$ 1148.56

**4. If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section \_\_\_\_\_

b. Explain Reason for Exemption: \_\_\_\_\_

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

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

Signature \_\_\_\_\_

Capacity AGENT

Signature \_\_\_\_\_

Capacity AGENT

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

Print Name: Sables, LLC, a Nevada limited liability company  
Address: 3753 Howard Hughes Parkway,  
Suite 200, Las Vegas, NV 89169

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

Print Name: Breckenridge Property Fund,  
2016, LLC  
Address: 2320 Potosi St. Ste 130  
Las Vegas, NV 89146

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

Print Name: First American Escrow #: ACCU  
Address: 1000 W Charleston  
City: Las Vegas State: NV Zip: 89135

**AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED**



# Exhibit 29



MELANIE D. MORGAN, ESQ.  
Nevada Bar No. 8215  
SCOTT R. LACHMAN, ESQ.  
Nevada Bar No. 12016  
AKERMAN LLP  
1635 Village Center Circle, Ste. 200  
Las Vegas, Nevada 89134  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: melanie.morgan@akerman.com  
Email: scott.lachman@akerman.com

*Attorneys for Bank of America, N.A.*

**THIRD JUDICIAL DISTRICT COURT**

**LYON COUNTY, NEVADA**

ALBERT ELLIS LINCICOME, JR. and  
VICENTA LINCICOME,

Plaintiffs,

v.

SABLES, LLC, a Nevada limited liability  
company, as trustee of the deed of trust give by  
Vicenta Lincicome and dated 5/23/2007; FAY  
SERVICING, LLC, a Delaware limited  
liability company and subsidiary of Fay  
Financial, LLC; PROF-2013 M4 LEGAL  
TITLE TRUST by U.S. BANK, N.A., as Legal  
Title Trustee; for BANK OF AMERICA, N.A.  
and DOES 1-50,

Defendants.

Case No. 18-cv-01332  
Dept. No.: II

**BANK OF AMERICA, N.A.'S  
RESPONSE TO PLAINTIFF'S  
REQUEST FOR ADMISSIONS**

Defendant Bank of America, N.A. (BANA), pursuant to NRCP 26 and 36, submits the  
foregoing objections and responses to the first request for admissions, served by plaintiffs Albert  
Lincicome and Vincenta Lincicome as follows:

**PRELIMINARY STATEMENT**

These responses and objections are prepared based upon documents and information presently  
available to BANA. This may include hearsay and other forms of evidence, which are neither reliable  
nor admissible in evidence. These responses and objections are not intended to be, and should not be  
interpreted as, a waiver of any objection to the admissibility of any such information on the grounds  
of privilege, work-product doctrine, hearsay, relevance or any other objection.



1 BANA has not yet completed discovery or trial preparation of this action with respect to each  
2 and every claim. The responses below provide the information currently known or believed by  
3 defendant as a result of discovery and investigation completed to date. BANA reserves the right to  
4 produce or rely upon additional documents or facts subsequently recalled or discovered and to assert  
5 additional objections and privileges as may be deemed necessary.

6 These responses are given without prejudice to BANA's right to produce at trial subsequently  
7 discovered information omitted from these responses provided herein as a result of BANA's good  
8 faith mistake or oversight.

9 BANA objects to each request to the extent it calls for information protected by the  
10 attorney/client privilege, work product doctrine or any other applicable privilege. BANA also objects  
11 to each request on the grounds they seek information that is neither relevant nor proportional to the  
12 needs of the case. BANA further objects to the number of requests served on it by plaintiffs as  
13 voluminous, excessive, and harassing.

14 BANA incorporates all of the foregoing objections into each response below.

15 **REQUEST FOR ADMISSIONS**

16 **REQUEST FOR ADMISSION NO. 1:**

17 Admit that on September 1, 2009, BANA received the sum \$2,272.62. from  
18 Vicenta Lincicome.

19 **RESPONSE:**

20 BANA objects to this request to the extent it seeks information protected by attorney/client  
21 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
22 further objects to this request as vague and overly broad as there is no account referenced by this  
23 request. Subject to and without waiving said objection, BANA denies this request.

24 ...

25 ...

26 ...

27 ...

28 ...



**REQUEST FOR ADMISSION NO. 2:**

Admit that BANA employed an individual named Crystal at its location on 600 E. William St, Carson City, Nevada as of September 1, 2009.

**RESPONSE:**

BANA objects to this request to the extent it seeks information protected by the work product doctrine, attorney-client privilege, or any other privilege, protection or immunity applicable under governing law. BANA objects to this request as overbroad as it seeks the disclosure of BANA's employee's personal information, which would unduly invade the privacy rights of persons not a party to this litigation or to whom BANA has a duty of confidentiality. Subject to and without waiving said objection, BANA denies this request.

**REQUEST FOR ADMISSION NO. 3:**

Admit that on September 28, 2009, BANA posted Vicenta Lincicome's payment of \$2,272.62 to Mortgage Account No. 162304185.

**RESPONSE:**

BANA objects to this request to the extent it seeks information protected by attorney/client privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. Subject to and without waiving said objection, BANA admits this request to the best of its information and belief.

**REQUEST FOR ADMISSION NO. 4:**

Admit that at no time prior to November 10, 2015, were the loan terms associated with BANA Mortgage Account No. 162304185 updated to reflect the terms set forth in the 2009 LMA.

**RESPONSE:**

BANA objects to this request to the extent it seeks information protected by attorney/client privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA further objects to this request as vague and overly broad as "loan terms" is not defined. BANA also objects that the request is overly broad in time and scope. BANA further objects to this request because the loan was service released on July 31, 2015 and BANA has no way of knowing what



1 occurred after that date. Subject to and without waiving said objection, BANA admits this request to  
2 the best of its information and belief.

3 **REQUEST FOR ADMISSION NO. 5:**

4 Admit that BANA did not establish a new mortgage account reflecting payment, principal  
5 balance, and interest terms set forth in the 2009 LMA prior to November 10, 2015.

6 **RESPONSE:**

7 BANA objects to this request to the extent that it seeks information protected by  
8 attorney/client privilege and/or the work product doctrine, as it seeks the impressions and opinion of  
9 counsel. BANA also objects that the request is overly broad in time and scope. BANA further objects  
10 to this request because the loan was service released on July 31, 2015 and BANA has no way of  
11 knowing what occurred after that date. Subject to and without waiving said objection, BANA admits  
12 this request to the best of its information and belief.

13 **REQUEST FOR ADMISSION NO. 6:**

14 Admit that between July 31, 2009 and November 10, 2015, BANA did not provide Vicenta  
15 Lincicome with payment coupons for payments to be made under the terms of the 2009 LMA.

16 **RESPONSE:**

17 BANA objects to this request to the extent it seeks information protected by attorney/client  
18 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
19 also objects that the request is overly broad in time and scope. BANA further objects to this request  
20 because the loan was service released on July 31, 2015 and BANA has no way of knowing what  
21 occurred after that date. Subject to and without waiving said objection, BANA admits this request to  
22 the best of its information and belief.

23 ...

24 ...

25 ...

26 ...

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1 **REQUEST FOR ADMISSION NO. 7:**

2 Admit that between July 31, 2009 and November 10, 2015, BANA did not send or provide  
3 Vicenta Lincicome with statement reflecting the principal balance or interest rate as modified by or  
4 reflected in the 2009 LMA.

5 **RESPONSE:**

6 BANA objects to this request to the extent that it seeks information protected by  
7 attorney/client privilege and/or the work product doctrine, as it seeks the impressions and opinion of  
8 counsel. BANA also objects that the request is overly broad in time and scope. BANA further objects  
9 to this request because the loan was service released on July 31, 2015 and BANA has no way of  
10 knowing what occurred after that date. Subject to and without waiving said objection, BANA admits  
11 this request to the best of its information and belief.

12 **REQUEST FOR ADMISSION NO. 8:**

13 Admit that no financial statement provided to Vicente Lincicome by BANA between July 31,  
14 2009 and November 10, 2015 directly references the 2009 LMA or any of the terms set forth or found  
15 in the 2009 LMA.

16 **RESPONSE:**

17 BANA objects to this request to the extent it seeks information protected by attorney/client  
18 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
19 also objects to this request as vague and overly broad as "financial statement" is not defined.  
20 Moreover, BANA objects that the request is overly broad in time and scope. BANA further objects  
21 to this request because the loan was service released on July 31, 2015 and BANA has no way of  
22 knowing what occurred after that date. Subject to and without waiving said objection, BANA admits  
23 this request to the best of its information and belief.

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**REQUEST FOR ADMISSION NO. 9:**

Admit that Barbara Keady of Reno Nevada was employed by BANA at its location on Rose Drive in Reno or some other location in the Reno or Sparks Nevada during the month of September 2009.

**RESPONSE:**

BANA objects to this request to the extent it seeks information protected by the work product doctrine, attorney-client privilege, or any other privilege, protection or immunity applicable under governing law. BANA objects to this request as overbroad as it seeks the disclosure of BANA's employee's personal information, which would unduly invade the privacy rights of persons not a party to this litigation or to whom BANA has a duty of confidentiality. Subject to and without waiving said objection, BANA admits this request to the best of its information and belief.

**REQUEST FOR ADMISSION NO. 10:**

Admit that James S. Smith was a Senior Vice President of BANA, and or BAC Home Loans Servicing, LP, or some other entity associated with BANA on or about March 22, 2011.

**RESPONSE:**

BANA objects to this request to the extent it seeks information protected by the work product doctrine, attorney-client privilege, or any other privilege, protection or immunity applicable under governing law. BANA objects to this request as overbroad as it seeks the disclosure of BANA's employee's personal information, which would unduly invade the privacy rights of persons not a party to this litigation or to whom BANA has a duty of confidentiality. Subject to and without waiving said objection, BANA admits this request to the best of its information and belief.

**REQUEST FOR ADMISSION NO. 11:**

Admit that James S. Smith had authority to execute the 2009 LMA on behalf of BANA on March 22, 2011.

**RESPONSE:**

BANA objects to this request to the extent it seeks information protected by the work product doctrine, attorney-client privilege, or any other privilege, protection or immunity applicable under governing law. BANA objects to this request as overbroad as it seeks the disclosure of BANA's



1 employees' personal information, which would unduly invade the privacy rights of persons not a party  
2 to this litigation or to whom BANA has a duty of confidentiality. Subject to and without waiving  
3 said objection, BANA admits this request to the best of its information and belief.

4 **REQUEST FOR ADMISSION NO. 12:**

5 Admit that BANA did not provide Vicenta Lincicome with any form of written notice by U.S.  
6 Mail, or other delivery prior to November 10, 2015, which in anyway indicated that the 2009 LMA  
7 was rejected, or otherwise in default for any reason including non-payment.

8 **RESPONSE:**

9 BANA objects to this request to the extent it seeks information protected by attorney/client  
10 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
11 also objects that the request is overly broad in time and scope. BANA further objects to this request  
12 because the loan was service released on July 31, 2015 and BANA has no way of knowing what  
13 occurred after that date. Subject to and without waiving said objection, BANA denies this request.

14 **REQUEST FOR ADMISSION NO. 13:**

15 Admit that between July 31, 2009 and November 10, 2015, BANA did not provide Vicenta  
16 Lincicome with any form of written notice stating or otherwise indicating that the 2009 LMA  
17 executed by Vicenta Lincicome on July 31, 2009, was received by BANA.

18 **RESPONSE:**

19 BANA objects to this request to the extent it seeks information protected by attorney/client  
20 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
21 also objects that the request is overly broad in time and scope. BANA further objects to this request  
22 because the loan was service released on July 31, 2015 and BANA has no way of knowing what  
23 occurred after that date. Subject to and without waiving said objection, BANA admits this request to  
24 the best of its information and belief.

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1 **REQUEST FOR ADMISSION NO. 14:**

2 Admit that at no time after March 22, 2011, did BANA provide Vicenta Lincicome with a  
3 notice, statement, or other communication, whether by U.S. Mail or other form of delivery, that  
4 therein indicated that BANA's Senior Vice President James S. Smith had executed the 2009 LMA.

5 **RESPONSE:**

6 BANA objects to this request to the extent it seeks information protected by attorney/client  
7 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
8 further objects to this request because the loan was service released on July 31, 2015 and BANA has  
9 no way of knowing what occurred after that date. Subject to and without waiving said objection,  
10 BANA admits this request to the best of its information and belief.

11 **REQUEST FOR ADMISSION NO. 15:**

12 Admit that, prior to Vicenta Lincicome's execution of the 2009 LMA, with the exception of  
13 the 2007 DOT and the corresponding promissory note, BANA and Vicenta Lincicome were not  
14 parties to any other agreements including a trial modification agreement.

15 **RESPONSE:**

16 BANA objects to this request to the extent it seeks information protected by attorney/client  
17 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. BANA  
18 further objects to this request because the loan was service released on July 31, 2015 and BANA has  
19 no way of knowing what occurred after that date. Subject to and without waiving said objection,  
20 BANA admits this request to the best of its information and belief.

21 **REQUEST FOR ADMISSION NO. 16:**

22 Admit that neither-the 2009 LMA, nor any other agreement between BANA and Vicenta  
23 Lincicome executed in 2009, required that contingent trial modification payments be made prior to  
24 the 2009 LMA becoming effective.

25 **RESPONSE:**

26 BANA objects to this request to the extent it seeks information protected by attorney/client  
27 privilege and/or the work product doctrine, as it seeks the impressions and opinion of counsel. Subject  
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1 to and without waiving said objection, BANA admits this request to the best of its information  
2 and belief.

3 **REQUEST FOR ADMISSION OF GENUINENESS OF DOCUMENTS**

4 Pursuant to NRCP 36(a)(2), the documents detailed in each of the below requests has been  
5 previously furnished by plaintiffs in their initial disclosures of witnesses and documents.

6 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 1:**

7 Admit to the genuineness of the grant, bargain, sale deed document No. 407149, disclosure  
8 No. 42 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
9 stamped 727-728.

10 **RESPONSE:**

11 Admitted.

12 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 2:**

13 Admit to the genuineness of the grant, bargain, sale deed, document No. 407148, disclosure  
14 No. 43 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
15 stamped 729-730.

16 **RESPONSE:**

17 Admitted.

18 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 3:**

19 Admit to the genuineness of the deed of trust, document No. 407150, disclosure No. 44 of  
20 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped  
21 731-749.

22 **RESPONSE:**

23 Admitted.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 4:**

Admit to the genuineness of the owner occupancy verification card signed by Vicenta Lincicome, disclosure No. 45 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCp 16.1, bates stamped 750-750.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 5:**

Admit to the genuineness of the notice of default and election to sell under deed of trust, document no. 437084, disclosure No. 46 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCp 16.1, bates stamped 751-753.

**RESPONSE:**

Admitted.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 6:**

Admit to the genuineness of the Nevada important notice, notice of default and election to sell under deed of trust, document no. 437084, disclosure No. 47 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCp 16.1, bates stamped 754-755.

**RESPONSE:**

Admitted.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 7:**

Admit to the genuineness of the declaration of homestead, document no. 439348, No. 48 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCp 16.1, bates stamped 756-756.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 8:**

2 Admit to the genuineness of the "unrecorded BAC Homes Loans Servicing, LP Loan  
3 Modification Agreement," disclosure No. 51 of plaintiffs' initial disclosures of witnesses and  
4 documents pursuant to NRCP 16.1, bates stamped 762-764.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 9:**

8 Admit to the genuineness of the "Receipt for \$2,272.62 BAC Home Loans Servicing,"  
9 disclosure No. 52 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
10 bates stamped 765-765.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 10:**

14 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
15 Lincicome Regarding Notice of Representation of Charles T. Marshall," disclosure No. 54 of  
16 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 769-  
17 770.

18 **RESPONSE:**

19 Admitted.

20 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 11:**

21 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
22 Lincicome Regarding Home Loans," disclosure No. 55 of plaintiffs' initial disclosures of witnesses  
23 and documents pursuant to NRCP 16.1, bates stamped 771-771.

24 **RESPONSE:**

25 Admitted.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 12:**

2 Admit to the genuineness of the "Letter from Bank of America Home. Loans to Vicenta  
3 Lincicome Regarding Home Loan and Mabuhay Alliance, Inc.," disclosure No. 56 of plaintiffs' initial  
4 disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 772-772.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 13:**

8 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
9 Lincicome Regarding Request for Information," disclosure No. 57 of plaintiffs' initial disclosures of  
10 witnesses and documents pursuant to NRCP 16.1, bates stamped 773-773.

11 **RESPONSE:**

12 Admitted.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 14:**

14 Admit to the genuineness of the stipulation for order authorizing transfer of real property,  
15 disclosure No. 60 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
16 bates stamped 820-829.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 15:**

20 Admit to the genuineness of the "BAC Home Loans Servicing List of Signing Officers  
21 Attached to Assignment of Deed of Trust and Note," disclosure No. 63 of plaintiffs' initial disclosures  
22 of witnesses and documents pursuant to NRCP 16.1, bates stamped 843-847.

23 **RESPONSE:**

24 Admitted.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 16:**

2 Admit to the genuineness of corporation assignment of deed of trust Nevada, document no.  
3 480360, disclosure No. 65 of plaintiffs' initial disclosures of witnesses and documents pursuant to  
4 NRCP 16.1, bates stamped 854-854.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 17:**

8 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
9 Lincicome Re: Receipt of Request for Information," disclosure No. 66 of plaintiffs' initial disclosures  
10 of witnesses and documents pursuant to NRCP 16.1, bates stamped 855-855.

11 **RESPONSE:**

12 Admitted.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 18:**

14 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
15 Lincicome Re: Request for Modification," disclosure No. 67 of plaintiffs' initial disclosures of  
16 witnesses and documents pursuant to NRCP 16.1, bates stamped 856-856.

17 **RESPONSE:**

18 Admitted.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 19:**

20 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
21 Lincicome Re: Request for Information," disclosure No. 68 of plaintiffs' initial disclosures of  
22 witnesses and documents pursuant to NRCP 16.1, bates stamped 857-857.

23 **RESPONSE:**

24 Admitted.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 20:**

Admit to the genuineness of the "Notice of Independent Foreclosure Review of Bank of America, N.A.," disclosure No. 69 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 858-864.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 21:**

Admit to the genuineness of the housing action plan financial guidance center, disclosure No. 70 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 865-865.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 22:**

Admit to the genuineness of the notice of mortgage payment change, disclosure No. 71 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 866-872.

**RESPONSE:**

Admitted.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 23:**

Admit to the genuineness of the "Independent Foreclosure Review with Check for \$400.00 Regarding Bank of America N.A.'s Performance Lapses," disclosure No. 72 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 873-874.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 24:**

2 Admit to the genuineness of the notice of mortgage payment change, disclosure No. 73 of  
3 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 875-  
4 882.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 25:**

8 Admit to the genuineness of the "Department of Housing and Urban Development Notice and  
9 Data Breach," disclosure No. 74 of plaintiffs' initial disclosures of witnesses and documents pursuant  
10 to NRCP 16.1, bates stamped 883-889.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 26:**

14 Admit to the genuineness of the notice of mortgage payment change, disclosure No. 75 of  
15 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 890-  
16 896.

17 **RESPONSE:**

18 Admitted.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 27:**

20 Admit to the genuineness of the "Bank of America Home Loans February 2015 Statement,"  
21 disclosure No. 78 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
22 bates stamped 939-946.

23 **RESPONSE:**

24 Admitted.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 28:**

2 Admit to the genuineness of the "Bank of America Home Loans March 2015 Statement,"  
3 disclosure no. 79 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
4 bates stamped 947-948.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 29:**

8 Admit to the genuineness of the "Bank of America Home Loans April 2015 Statement,"  
9 disclosure No. 82 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
10 bates stamped 954-961.

11 **RESPONSE:**

12 Admitted.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 30:**

14 Admit to the genuineness of the "Letter from Bank of America Home Loans to Vicenta  
15 Lincicome Re: Loan Modification Trial Payments," disclosure No. 83 of plaintiffs' initial disclosures  
16 of witnesses and documents pursuant to NRCP 16.1, bates stamped 962-991.

17 **RESPONSE:**

18 Admitted.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 31:**

20 Admit to the genuineness of the "Bank of America Home Loans June 2015 Statement,"  
21 disclosure No. 84 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
22 bates stamped 992-999.

23 **RESPONSE:**

24 Admitted.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 32:**

2 Admit to the genuineness of the "Bank of America Home Loans July 2015 Statement,"  
3 disclosure No. 88 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1,  
4 bates stamped 1010-1017.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 33:**

8 Admit to the genuineness of "Bank of America Home Loans Notice of Transfer of Servicing  
9 of Loan to Fay Servicing," disclosure No. 89 of plaintiffs' initial disclosures of witnesses and  
10 documents pursuant to NRCP 16.1, bates stamped 1018-1021.

11 **RESPONSE:**

12 Admitted.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 34:**

14 Admit to the genuineness of the notice of sale of ownership of mortgage loan from Fay  
15 Servicing, disclosure No. 90 of plaintiffs' initial disclosures of witnesses and documents pursuant to  
16 NRCP 16.1, bates stamped 1022-1023.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 35:**

20 Admit to the genuineness of the "Evidence of 3rd Modification Payment Rejection by Bank  
21 of America N.A. on 08-01-2015," disclosure No. 91 of plaintiffs' initial disclosures of witnesses and  
22 documents pursuant to NRCP 16.1, bates stamped 1024-1024.

23 **RESPONSE:**

24 Admitted.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 36:**

2 Admit to the genuineness of the "Fay Servicing Mortgage August 2015 Statement," disclosure  
3 No. 92 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
4 stamped 1026-1028.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 37:**

8 Admit to the genuineness of the "Notice of Servicing Transfer from Fay Servicing," disclosure  
9 No. 93 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
10 stamped 1026-1042.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 38:**

14 Admit to the genuineness of the "Correspondence from Rosalind Jackson from Fay Servicing  
15 Regarding Transfer of Servicing," disclosure No. 94 of plaintiffs' initial disclosures of witnesses and  
16 documents pursuant to NRCP 16.1, bates stamped 1043-1044.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 39:**

20 Admit to the genuineness of the "Bank of America Home Loans Annual Escrow Account  
21 disclosure Statement," disclosure No. 95 of plaintiffs' initial disclosures of witnesses and documents  
22 pursuant to NRCP 16.1, bates stamped 1045-1046.

23 **RESPONSE:**

24 Admitted.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 40:**

Admit to the genuineness of the "Fay Servicing Mortgage September 2015 Statement," disclosure No. 96 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1047-1049.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 41:**

Admit to the genuineness of the request for notice under NRS 116.31163(2) and/or 116.31168 document no. 541340, disclosure No. 97 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1050-1052.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 42:**

Admit to the genuineness of the "Fay Servicing Mortgage October 2015 Statement," disclosure No. 98 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1053-1055.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 43:**

Admit to the genuineness of the "Fay Servicing Mortgage November 2015 Statement," disclosure No. 99 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1056-1058.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 44:**

2 Admit to the genuineness of the assignment of deed trust, disclosure No. 100 of plaintiffs'  
3 initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1059-1060.

4 **RESPONSE:**

5 Admitted.

6 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 45:**

7 Admit to the genuineness of the "Fay Servicing Mortgage December 2015 Statement",  
8 disclosure No. 101 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
9 16.1, bates stamped 1061-1063.

10 **RESPONSE:**

11 BANA is without sufficient information to admit or deny the genuineness of this document.

12 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 46:**

13 Admit to the genuineness of the "Fay Servicing Mortgage January 2016 Statement,"  
14 disclosure No. 102 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
15 16.1, bates stamped 1064-1066.

16 **RESPONSE:**

17 BANA is without sufficient information to admit or deny the genuineness of this document.

18 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 47:**

19 Admit to the genuineness of the "Fay Servicing Mortgage February 2016 Statement,"  
20 disclosure No. 103 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
21 16.1, bates stamped 1067-1068.

22 **RESPONSE:**

23 BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 48:**

2 Admit to the genuineness of the "Fay Servicing Mortgage March 2016 Statement," disclosure  
3 No. 104 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
4 stamped 1069-1071.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 49:**

8 Admit to the genuineness of the declaration of mortgage servicer, disclosure No. 105 of  
9 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1072-  
10 1072.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 50:**

14 Admit to the genuineness of the "Fay Servicing Mortgage April 2016 Statement," disclosure  
15 No. 106 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
16 stamped 1073-1074.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 51:**

20 Admit to the genuineness of the "Fay Servicing Mortgage May 2016 Statement," disclosure  
21 No. 107 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
22 stamped 1075-1077.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 52:**

Admit to the genuineness of the "Fay Servicing Mortgage June 2016 Statement," disclosure No. 108 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1078-1080.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 53:**

Admit to the genuineness of the "Fay Servicing Mortgage July 2016 Statement," disclosure No. 109 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1081-1082.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 54:**

Admit to the genuineness of the "Fay Servicing Mortgage August 2016 Statement," disclosure No. 110 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1083-1084.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 55:**

Admit to the genuineness of the "Correspondence from Vicenta Lincicome to Fay Servicing LLC, Regarding Denial of HAMP-UP Program," disclosure No. 111 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1085-1086.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 56:**

Admit to the genuineness of "Fay Servicing Denial Letter," disclosure No. 112 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1087-1092.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 57:**

Admit to the genuineness of the "Fay Servicing Mortgage September 2016 Statement," disclosure No. 113 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1093-1094.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 58:**

Admit to the genuineness of the "Proof of First Payment of Trial Modification to Fay Servicing", disclosure No. 114 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1095-1102.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 59:**

Admit to the genuineness of affidavit of authority, disclosure No. 115 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1103-1104.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 60:**

Admit to the genuineness of the "Fay Servicing Mortgage October 2016 Statement," disclosure No. 116 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1105-1106.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.



**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 61:**

Admit to the genuineness of the "Fay Servicing Mortgage November 2016 Statement," disclosure No. 117 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1107-1108.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 62:**

Admit to the genuineness of the "Proof of Third Payment of Trial Modification to Fay Servicing," disclosure No. 118 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1109-1112.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 63:**

Admit to the genuineness of the "Proof of Second Payment of Trial Modification to Fay Servicing," disclosure No. 119 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1113-1117.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 64:**

Admit to the genuineness of the "Fay Servicing Mortgage December 2016 Statement," disclosure No. 120 of plaintiffs' initial disclosures of witnesses and documents Pursuant to NRCP 16.1, bates stamped 1118-1119.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 65:**

2 Admit to the genuineness of the "Modification Agreement presented by Fay Servicing,"  
3 disclosure No. 121 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
4 16.1, bates stamped 1120-1126.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 66:**

8 Admit to the genuineness of the "Mediation Letter from Anita Conboy", disclosure No. 122  
9 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped  
10 1127-1131.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 67:**

14 Admit to the genuineness of the "Fay Servicing Mortgage January 2017 Statement,"  
15 disclosure No. 123 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
16 16.1, bates stamped 1132-1133.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 68:**

20 Admit to the genuineness of the "Office of the Controller of the Currency Correcting  
21 Foreclosure Practices," disclosure No. 124 of plaintiffs' initial disclosures of witnesses and documents  
22 pursuant to NRCP 16.1, bates stamped 1134-1135.

23 **RESPONSE:**

24 Admitted.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 69:**

2 Admit to the genuineness of the "Fay Servicing Mortgage February 2017 Statement,"  
3 disclosure No. 125 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
4 16.1, bates stamped 1136-1137.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 70:**

8 Admit to the genuineness of the "Fay Servicing Mortgage March 2017 Statement," disclosure  
9 No. 126 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
10 stamped 1138-1139.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 71:**

14 Admit to the genuineness of the "Fay Servicing Mortgage April 2017 Statement," disclosure  
15 No. 127 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
16 stamped 1140-1141.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 72:**

20 Admit to the genuineness of the "Fay Servicing Mortgage May 2017 Statement," disclosure  
21 No. 128 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
22 stamped 1142-1141.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 73:**

2 Admit to the genuineness of the "Notice Regarding Mediation Statement and Agreement  
3 Denial of Certificate," disclosure No. 129 of plaintiffs' initial disclosures of witnesses and documents  
4 pursuant to NRCP 16.1, bates stamped 1144-1148.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 74:**

8 Admit to the genuineness of the "Fay Servicing Mortgage June 2017 Statement," disclosure  
9 No. 130 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
10 stamped 1149-1150.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 75:**

14 Admit to the genuineness of the "Fay Servicing Mortgage July 2017 Statement," disclosure  
15 No. 131 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
16 stamped 1151-1152.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 76:**

20 Admit to the genuineness of the "Fay Servicing Mortgage August 2017 Statement," disclosure  
21 No. 132 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
22 stamped 1153-1154.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 77:**

2 Admit to the genuineness of the "Fay Servicing Mortgage September 2017 Statement,"  
3 disclosure No. 133 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRC  
4 16.1, bates stamped 1155-1156.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 78:**

8 Admit to the genuineness of the "Vicenta Lincicome's Complaint to Nevada Division of  
9 Mortgage Lending," disclosure No 134 of plaintiffs' initial disclosures of witnesses and documents  
10 pursuant to NRC 16.1, bates stamped 1157-1163.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 79:**

14 Admit to the genuineness of the "Fay Servicing Mortgage October 2017 Statement,"  
15 disclosure No. 135 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRC  
16 16.1, bates stamped 1164-1165.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 80:**

20 Admit to the genuineness of the "Letter from Fay Servicing to Vicenta Lincicome Regarding  
21 Complaint," disclosure No. 136 of plaintiffs' initial disclosures of witnesses and documents pursuant  
22 to NRC 16.1, bates stamped 1166-1167.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 81:**

2 Admit to the genuineness of the "Letter from Fay Servicing to Andrea Golyer regarding the  
3 Division of Banking Complaint by Vicenta Lincicome," disclosure No. 137 of plaintiffs' initial  
4 disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1168-1169.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 82:**

8 Admit to the genuineness of "Notice of Attempt to Collect a Debt by Sables, LLC.," disclosure  
9 No. 139 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
10 stamped 1176-1189.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 83:**

14 Admit to the genuineness of the "Fay Servicing Mortgage November 2017 Statement,"  
15 disclosure No. 140 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
16 16.1, bates stamped 1190-1191.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 84:**

20 Admit to the genuineness of the "Letter from Andrea Golyer with Division. of Banking to  
21 Vicenta Lincicome Regarding Complaint Against Fay Servicing, LLC.," disclosure No. 141 of  
22 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1192-  
23 1192.

24 **RESPONSE:**

25 BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 85:**

2 Admit to the genuineness of the petition for foreclosure mediation assistance, disclosure No.  
3 143 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
4 stamped 1195-1200.

5 **RESPONSE:**

6 Admitted.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 86:**

8 Admit to the genuineness of the "Fay Servicing Mortgage December 2017 Statement,"  
9 disclosure No. 144 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
10 16.1, bates stamped 1201-1202.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 87:**

14 Admit to the genuineness of the "Fay Servicing Mortgage January 2018 Statement,"  
15 disclosure No. 145 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
16 16.1, bates stamped 1203-1204.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 88:**

20 Admit to the genuineness of the "Fay Servicing Mortgage February 2018 Statement,"  
21 disclosure No. 146 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP  
22 16.1, bates stamped 1205-1206.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 89:**

2 Admit to the genuineness of the residential broker price opinion, disclosure No. 147 of  
3 plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1207-  
4 1216,

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 90:**

8 Admit to the genuineness of the affidavit of certification of documents and assignment of  
9 mortgage note, disclosure No. 148 of plaintiffs' initial disclosures of witnesses and documents  
10 pursuant to NRCP 16.1, bates stamped 1217-1218.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 91:**

14 Admit to the genuineness of the "Letter from Fay Servicing to Vicenta Lincicome Re: Loss  
15 Mitigation Package," disclosure No. 150 of plaintiffs' initial disclosures of witnesses and documents  
16 pursuant to NRCP 16.1, bates stamped 1221-1222.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 92:**

20 Admit to the genuineness of the "Fay Servicing Offer of Trial Payment Regarding Trial Period  
21 Plan Modification," disclosure No. 151 of plaintiffs' initial disclosures of witnesses and documents  
22 pursuant to NRCP 16.1, bates stamped 1223-1229.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 93:**

Admit to the genuineness of the "Fay Servicing Mortgage March 2018 Statement," disclosure No. 152 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1230-1231.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 94:**

Admit to the genuineness of the "Letter from Shadd Wade of Zieve, Brodnax & Steele, LLP. on behalf of US Bank Re: Mediation," disclosure No. 153 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1232-1232.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 94:**

Admit to the genuineness of the mediator's statement, disclosure No. 154 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1233-1248.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 95:**

Admit to the genuineness of the "Fay Servicing Mortgage April 2018 Statement," disclosure No. 155 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1249-1250.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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1 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 96:**

2 Admit to the genuineness of the "Fay Servicing Mortgage May 2018 Statement," disclosure  
3 No. 156 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates  
4 stamped 1251-1252.

5 **RESPONSE:**

6 BANA is without sufficient information to admit or deny the genuineness of this document.

7 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 97:**

8 Admit to the genuineness of the "Letter from Vicenta Lincicome to Office of President of Fay  
9 Servicing," disclosure No. 157 of plaintiffs' initial disclosures of witnesses and documents pursuant  
10 to NRCP 16.1, bates stamped 1253-1255.

11 **RESPONSE:**

12 BANA is without sufficient information to admit or deny the genuineness of this document.

13 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 98:**

14 Admit to the genuineness of the "Letter from Vicenta Lincicome to U.S. Representative Mark  
15 Amodei," disclosure No. 158 of plaintiffs' initial disclosures of witnesses and documents pursuant to  
16 NRCP 16.1, bates stamped 1256-1258.

17 **RESPONSE:**

18 BANA is without sufficient information to admit or deny the genuineness of this document.

19 **REQUEST FOR GENUINENESS OF DOCUMENTS NO. 99:**

20 Admit to the genuineness of the "Letter from Vicenta Lincicome to Senator Catherine Cortez  
21 Masto," disclosure No. 159 of plaintiffs' initial disclosures of witnesses and documents pursuant to  
22 NRCP 16.1, bates stamped 1259-1261.

23 **RESPONSE:**

24 BANA is without sufficient information to admit or deny the genuineness of this document.

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**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 100:**

Admit to the genuineness of the "Fay Servicing Mortgage June 2018 Statement," disclosure No. 160 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1262-1263.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 101:**

Admit to the genuineness of the "Fay Servicing's Response to Complaint to Consumer Financial Protection Bureau," disclosure No. 161 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1264-1265.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 102:**

Admit to the genuineness of the "Fay Servicing Mortgage July 2018 Statement," disclosure No. 162 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1266-1267.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

**REQUEST FOR GENUINENESS OF DOCUMENTS NO. 103:**

Admit to the genuineness of the "Fay Servicing Mortgage August 2018 Statement," disclosure No. 163 of plaintiffs' initial disclosures of witnesses and documents pursuant to NRCP 16.1, bates stamped 1268-1269.

**RESPONSE:**

BANA is without sufficient information to admit or deny the genuineness of this document.

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