

**ORIGINAL**

**FILE ON DEMAND  
FOR THE RECORD**

✓  
FILED  
U.S. DISTRICT COURT  
CLARK COUNTY, NEVADA  
2013 AUG -2 A 11:20  
Perla Hernandez  
c/o 9975 Peace Way # 2050  
Las Vegas, Nevada [89147]

Pro Se

**UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF NEVADA**

2:13-cv-01365-GMN-CWH

Perla Hernandez

**Plaintiff(s),**

**vs.**

**BANK OF AMERICA,  
RECONTRUST COMPANY  
Defendant(s).**

**VERIFIED ACTION-AT-LAW TO  
QUIET TITLE**

**A TRIAL BY JURY DEMANDED**

**Plaintiff Declares:**

**JURISDICTION AND VENUE**

The subject private land is in Clark County and therefore falls under this Honorable Court's jurisdiction.

Real Estate is governed by State Law and therefore this Court has priority Jurisdiction.

1 The Plaintiff lives in Clark County and the Defendant has done extensive  
2 business in Clark County.

3 BANK OF AMERICA, RECONTRUST COMPANY, the unknown defendants,  
4 identified as DOES 1 - 20 inclusively, are all defendants in this **VERIFIED**  
5 **ACTION-AT-LAW TO QUIET TITLE**.

6 **PARTIES**

7 Perla Hernandez is the plaintiff in this **VERIFIED ACTION-AT-LAW TO**  
8 **QUIET TITLE**. The Plaintiff is the legal title holder of the subject private land  
9 located in this county.

10 The Defendant, with offices at 400 NATIONAL WAY SIMI VALLEY  
11 CALIFORNIA, 93065, is the current servicer of the alleged Promissory Note.

12 The defendants herein named as "all persons unknown, claiming any legal or  
13 equitable right, title, estate, lien, or interest in the private land described in this Action  
14 adverse to plaintiff's title, or any cloud on plaintiff's title thereto" (hereinafter  
15 sometimes referred to as "the unknown defendants") are unknown to plaintiff.

16 Plaintiff is ignorant to the true names and capacities of defendants sued herein  
17 as DOES 1 - 20, and therefore sues these defendants by such fictitious names.  
18 Plaintiff will amend this ACTION-AT-LAW to allege their true names and capacities  
19 when ascertained. Plaintiff is informed and believes, and thereon alleges that each of  
20 these fictitiously named defendants, claim some right, title, estate, lien, or interest in  
21 the hereinafter described private land adverse to plaintiff's title; and their claims, and  
22 each of them, constitute a cloud on plaintiff's title to the subject private land.

23 **SEVENTH-AMENDMENT TRIAL BY JURY IS DEMANDED**

24 It is the lawful intent of the Plaintiff herein to invoke the American Law of the  
25 Land and its Common-Law Jurisdiction - Court of Record (on the record), where a  
26 Seventh-Amendment, constitutionally valid, Common-Law Trial BY Jury of Peers  
27

1 will Judge BOTH the Law and the Fact, as the last in the historic American System  
2 of Checks and Balances as originally provided by the American Founding Fathers to  
3 judge against bad laws. An Administrative-Law advisory Jury Trial, is thus hereby  
4 rejected. If this Honorable Court is not able to provide such a Seventh-Amendment  
5 constitutionally valid Common-Law Trial BY Jury the Plaintiff(s) herein respectfully  
6 demand(s) that the instant ACTION-AT-LAW be transferred to such a Seventh  
7 Amendment, Common-Law, constitutionally valid Court of Record.

8 **ACTION-AT-LAW TO QUIET TITLE REGARDING**

9 Loan Number: 90424192  
10 Instrument Number: 20050302- 0000420  
11 Street location: 9975 Peace way # 2050  
12 Las Vegas, Nevada  
13 Legal Description: ( See Exhibit "A")

14 **DECLARATION OF FACTS**

15 Plaintiff, Perla Hernandez, is the sole owner of certain private land, namely:  
16 and more commonly known as 9975 Peace way # 2050 Las Vegas, Nevada

17 The basis of plaintiff's title is a Deed from COUNTRYWIDE HOME LOANS,  
18 INC, who was an Assign of All Original Land Patent Rights, Title, and Interest held  
19 by the BUREAU OF LAND MANAGEMENT granting the above-described interest  
20 in the subject private land in Allodium to March 03, 2005 dated, by DEED OF  
21 TRUST, recorded as Document No. 0009042419202005 February 28, 2005(See  
22 Exhibits C) and recorded in the Official Records Las Vegas, Clark County Nevada  
23 State.

24 Plaintiff was possessed of the above-described private land, within *seven and 7*  
25 *months* from of the commencement of this ACTION-AT-LAW.

26 Plaintiff is now seeking to quiet title against any claims of Country wide Home  
27 Loans INC, Bank of America, Recontrust Company, and all others as there may be, as  
28 Plaintiff is in lawful possession of documentation that clearly indicates that the

1 subject loan was paid in full as a matter of well-settled American Law and  
2 Jurisprudence.

3 Now defendant(s) Countywide Home Loans Bank of America, Recontrust Company  
4 has/have instituted a Foreclosure proceeding based on fraudulent court documents in  
5 which they claim to have a security interest when it can be proved that they do not.  
6 Attached is documentation (see **Exhibit**) that none of the named Defendants are a true  
7 HOLDER-IN-DUE-COURSE of the Original, lawfully endorsed, Promissory Note  
8 AND Trust Deed, or Mortgage.

9  
10 **GOOD-FAITH OFFERS TO PAY IGNORED**

11 **See EXHIBITS attached**

12 By Certified Mail No.: 7010 3090 0000 5821 8839 dated January 14, 2013 , Plaintiff  
13 made his/her original GOOD-FAITH OFFER TO PAY THE ENTIRE AMOUNT  
14 DUE, which was neither accepted nor rejected according to the mandates of well-  
15 settled American Law and Jurisprudence, which caused the alleged Loan to be  
16 completely and totally Discharged.

17 By Certified Mail No.: 7010 3090 0000 5821 8914 dated January 30, 2013, Plaintiff  
18 presented his/her original NOTICE OF DEFAULT AND OPPORTUNITY TO CURE  
19 WITH ANOTHER GOOD-FAITH OFFER TO PAY THE ENTIRE AMOUNT DUE,  
20 this time requesting a Verified Accounting, and to know where to personally bring the  
21 legal tender cash in order to trade it for and to retrieve the original lawfully endorsed  
22 Promissory Note and Trust Deed or Mortgage in order to complete the original  
23 contracted transaction. This communication was also neither accepted nor rejected  
24 according to the mandates of well-settled American Law and Jurisprudence, which  
25 again caused any part of the alleged Loan that was reinstated by the subject NOTICE  
26 OF DEFAULT AND OPPORTUNITY TO CURE, to be completely and totally  
27 Discharged AGAIN.

1 By Certified Mail No.: 7010 3090 0000 5821 9201 dated February 15, 2013 ,  
2 Plaintiff presented his/her original NOTICE OF DEFAULT AND OPPORTUNITY  
3 TO CURE WITH ANOTHER GOOD-FAITH OFFER TO PAY THE ENTIRE  
4 AMOUND DUE, this time requesting a Verified Accounting, and to know where to  
5 personally bring the legal tender cash in order to trade it for and to retrieve the  
6 original lawfully endorsed Promissory Note and Trust Deed or Mortgage in order to  
7 complete the original contracted transaction. This communication was also neither  
8 accepted nor rejected according to the mandates of well-settled American Law and  
9 Jurisprudence, which again caused any part of the alleged Loan that was reinstated by  
10 the subject NOTICE OF DEFAULT AND OPPORTUNITY TO CURE, to be  
11 completely and totally Discharged AGAIN.

12 By Certified Mail No.: 7008 3230 0000 2153 9399 dated February 25, 2013,  
13 Plaintiff presented his/her original NOTICE OF DEFAULT AND OPPORTUNITY  
14 TO CURE WITH ANOTHER GOOD-FAITH OFFER TO PAY THE ENTIRE  
15 AMOUND DUE, this time requesting a Verified Accounting, and to know where to  
16 personally bring the legal tender cash in order to trade it for and to retrieve the  
17 original lawfully endorsed Promissory Note and Trust Deed or Mortgage in order to  
18 complete the original contracted transaction. This communication was also neither  
19 accepted nor rejected according to the mandates of well-settled American Law and  
20 Jurisprudence, which again caused any part of the alleged Loan that was reinstated by  
21 the subject NOTICE OF DEFAULT AND OPPORTUNITY TO CURE, to be  
22 completely and totally Discharged AGAIN.

23 By Certified Mail No.: 7008 3230 0000 3111 5277 dated March 13, 2013, Plaintiff  
24 presented his/her original NOTICE OF DEFAULT AND OPPORTUNITY TO CURE  
25 WITH ANOTHER GOOD-FAITH OFFER TO PAY THE ENTIRE AMOUND DUE,  
26 this time requesting a Verified Accounting, and to know where to personally bring the  
27 legal tender cash in order to trade it for and to retrieve the original lawfully endorsed  
28 Promissory Note and Trust Deed or Mortgage in order to complete the original

1 contracted transaction. This communication was also neither accepted nor rejected  
2 according to the mandates of well-settled American Law and Jurisprudence, which  
3 again caused any part of the alleged Loan that was reinstated by the subject NOTICE  
4 OF DEFAULT AND OPPEERTUNITY TO CURE, to be completely and totally  
5 Discharged AGAIN.

6  
7 **REQUEST FOR JUDICIAL NOTICE**

8 Plaintiff moves this Honorable Court to take Mandatory Judicial Notice of the  
9 following:

10 **FEDERAL RULES OF CIVIL PROCEDURE RULE 201 (D)**

11 The United States Supreme Court, in Haines v Kerner 404 U.S. 519  
12 (1972), said that, all Pro Se litigants must be afforded the opportunity  
13 to present their evidence and that the Court should look to the  
14 substance of the complaint rather than the form.

15 In Platsky v CIA, 953 F.2d 26 (2nd Cir. 1991), the Circuit Court of  
16 Appeals proclaimed that, the District Court should have explained to  
17 the litigant proceeding without a lawyer, the correct form to the  
18 plaintiff so that he could have amended his pleadings accordingly.  
19 Plaintiff respectfully reserves the right to amend this ACTION-AT-  
20 LAW.

21 Under the Federal Rules of Evidence 1002 and 1003 governing the  
22 admissibility of duplicates, any photocopies brought in as evidence are  
23 considered to be forgeries. It is unfair to admit a photocopy in the  
24 place of an original as it is possible that there is information contained  
25 within the original that is not in a photocopy, specifically the only  
26 legally binding chain of title to the Promissory Note.

27 Under Uniform Commercial Code - ARTICLE 3 -§3-308, all signatures  
28 presented that are not on an original format (with the original wet ink  
signature) [are] hereby denied and [are] inadmissible.

29 **MEMORANDUM OF LAW REGARDING AFFIDAVITS**

30 TRUSLOW v. WOODRUFF 60 Cal Rptr 304, "When no facts are filed in  
31 opposition..., trial court is entitled to accept as true the facts alleged in

1 movant's *affidavits* if such facts are within affiant's personal  
2 knowledge and are ones to which they could competently testify.  
West's Ana Code.Civ. Proc, section 437c.

3 LEO F. PIAZZA PAVING CO. v. FOUNDATION. ETC. Cal.Rptr. 265,  
4 "...failure to file an affidavit cannot be remedied by resort to pleadings;  
5 adverse party must file affidavit in opposition showing sufficient facts  
6 to substantiate their allegations." (Emphasis added)

7 LELTER v. SELTZER, 80 Cal.rptr. 686, "Where party against whom  
8 motion for summary judgment is made files no counter affidavit, trial  
9 court is entitled to accept as true allegations of movant's affidavit and  
10 must assume that other party either cannot dispute truth of statements  
11 in such document or cannot controvert them." (Emphasis added).

### 12 FEDERAL RULES OF EVIDENCE

13 (FRE) § 902 1(B) EVIDENCE THAT IS SELF-AUTHENTICATING  
14 The following items of evidence are self-authenticating; they require no  
15 extrinsic evidence of authenticity in order to be admitted: (1) Domestic  
16 Public Documents That Are Sealed and Signed. A document that  
17 bears:... (B) a signature purporting to be an execution or attestation.

### 18 STATUS OF PRO SE LITIGANT

19 The Court shall take judicial notice of the fact that Counterclaimant is  
20 without counsel, is not schooled in the law and legal procedures, and is  
21 not licensed to practice law. Therefore his pleadings must be read and  
22 construed liberally. *Haines v. Kerner*, 404 US at 520 (1980); *Birl v.*  
23 *Estelle*, 660 F.2d 592 (1981). Further the court has a responsibility and  
24 legal duty to protect any and all of the accused constitutional and  
25 statutory rights. *United States v. Lee*, 106 US 196,220 [1882] Also:  
26 *Platsky v. CIA*; *Anastasoff v. U.S.*

27 Allegations such as those asserted by petitioner, however inartfully  
28 pleaded, are sufficient... which we hold to less stringent standards than  
formal pleadings drafted by lawyers." *Fortney v. U.S.*, C.A.9 (Nev.)  
1995, 59 F.3d 117. "The United States Supreme Court, in *Haines v*  
*Kerner* 404 U.S. 519 (1972) stated that all litigants defending  
themselves must be afforded the opportunity to present their evidence  
and that the Court should look to the substance of the complaint rather

1 than the form, and that a minimal amount of evidence is necessary to  
2 support contention of lack of good faith."

3 "Henceforth the writ which is called Praeipie shall not be served on  
4 any one for any holding so as to cause a free man to lose his court."  
5 Magna Carta, Article 34 Praeipie - An original writ drawn up in the  
6 alternative commanding the defendant to do the thing required. An  
7 order to show cause.

8 An act of the court shall prejudice no man. Jenkins' Eight Centuries of  
9 Reports, 118; Brooms Legal Maxims, Lond. ed. 115; 1 Strange's  
10 Reports, 126; 1 Smith's Leading Cases, 245-255; 12 English Common  
11 Bench Reports by Manning, Granger, & Scott, 415T

### 12 CAUSES OF ACTION

- 13 1) Action to resolve disputed interests in private land.
- 14 2) The Title is clouded.
- 15 3) The Plaintiff believes and alleges that there is significant controversy and  
16 clouding of the title to the subject private land and Mortgage.
- 17 4) Plaintiff(s) motion(s) this Honorable Court to enter a judgment for a Quiet  
18 Title Action in favor of Plaintiff(s).
- 19 5) The Plaintiff(s) motion(s) this Honorable Court to Order all parties with an  
20 alleged legal claim to stipulate and provide Proof of Claim against the above-  
21 mentioned Trust Deed or Mortgage, or else release their alleged claim.

### 22 REQUEST FOR RELIEF

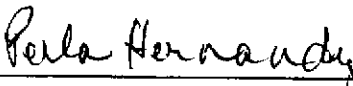
23 WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter a  
24 judgment ordering the following remedies:

- 25 1) Declare the subject Trust Deed or Mortgage to be null and void;
- 26 2) Declare the subject Promissory Note to be declared fully discharged;
- 27 3) For a declaration and determination that Plaintiff(s) is/are the rightful  
28 holder(s), owner(s) in Alodium of title to the subject private land and that



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3 Defendants, herein, and each of them, be declared to have absolutely no estate,  
4 right, title, interest, use or control in said private land adverse to the plaintiff;

- 5 4) For prohibitive relief that defendants be enjoined from making any further  
6 claim to the subject private land and house adverse to plaintiff, by any legal  
7 action, foreclosure, or otherwise;  
8 5) For costs of suit herein occurred; and  
9 6) Granting any such other relief as this Honorable Court deems necessary and  
10 appropriate.  
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16 Perla Hernandez, Pro Se Plaintiff  
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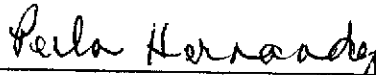
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3 VERIFICATION  
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5 I, the undersigned, attest and declare that:

6 I am the plaintiff in the foregoing document entitled, **VERIFIED ACTION-AT-**  
7 **LAW TO QUIET TITLE.**  
8

9 I have read and know the contents thereof and certify that the matters stated therein  
10 are facts of my own knowledge, except as to those matters, which are therein stated  
11 upon my information or belief, and as to those matters I believe them to be correct.

12 I declare under the penalty of perjury of the Laws of Nevada, that the foregoing is  
13 correct and complete to the best of my knowledge, information and belief, and that  
14 this verification is executed in Las Vegas, Nevada in which this document was signed  
15 and is dated this First day of the eight month, in the year two thousand and thirteen.  
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18 Perla Hernandez, Pro Se Plaintiff  
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**PROOF OF SERVICE TO AGENT AUTHORIZED FOR SERVICE**

**BY REGISTERED MAIL**

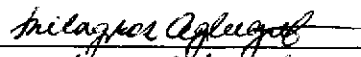
NevadaState, Clark County,

I, the undersigned, herein attest and declare that I am over the age of eighteen years and not a party to the within entitled action. I hereby declare under the penalty of perjury, that I served the foregoing document entitled, **VERIFIED ACTION-AT-LAW TO QUIET TITLE**, by placing a copy in the United States Postal Service, by Registered Mail, return receipt requested addressed as follows:

**Bank of America  
400 National Way  
Simi Valley, California 93065**

**Recontrust Company  
2380 Performance Drive  
Richardson, Texas 75082**

I declare under the penalty of perjury of the Laws of Nevada State and these United States of America, that the foregoing is correct and complete to the best of my knowledge, information and belief, and that this declaration is executed in Las Vegas and is dated this First day of the eight month, in the year two thousand and thirteen.

  
\_\_\_\_\_  
Milagros Aguirre  
c/o 8700 Summer Ridge Dr.  
Las Vegas, Nevada 89134

1  
2 Executed by the voluntary act of my own hand in Las Vegas Township, in the  
3 Nevada Republic, and dated this First day of the eight month, in the year two  
4 thousand and thirteen, Anno Domini, in the Two-Hundred and seven year of the  
5 Independence of America.  
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**EXHIBIT "A"**

## **EXHIBIT "A"**

### **PARCEL ONE (1) – UNIT:**

LIVING UNIT 2050, IN BUILDING 8 AND GARAGE STYLE 3-G AS SHOWN ON THE FINAL MAP OF **CHATEAU NOUVEAU CONDOMINIUMS UNIT 1**, A CONDOMINIUM SUBDIVISION AND COMMON INTEREST COMMUNITY, ON FILE IN BOOK 120 OF PLATS, PAGE 29, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (HEREINAFTER THE "PLAT").

### **PARCEL TWO (2) – COMMON ELEMENTS:**

1/280 INTEREST AS A TENANT-IN-COMMON IN THE COMMON ELEMENTS SHOWN ON THE PLAT, IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR **CHATEAU NOUVEAU CONDOMINIUMS** RECORDED NOVEMBER 8, 2004, IN BOOK 20041108 AS DOCUMENT NO. 0003529 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (HEREINAFTER THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL ONE (1) ABOVE), NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS, USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN, AND SUBJECT TO THE DECLARATION.

### **PARCEL THREE (3) – LIMITED COMMON ELEMENTS:**

THE EXCLUSIVE RIGHT TO USE, POSSESS AND OCCUPY THE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS, ALLOCATED TO PARCELS ONE (1) AND TWO (2) IN THE DECLARATION.

**PARCEL FOUR (4) – APPURTENANT EASEMENTS:**

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS, USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS ONE (1), TWO (2) AND THREE (3) ABOVE.

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**EXHIBIT "B"**



**Perla Hernandez  
9975 Peaceway # 2050  
Las Vegas, Nevada 89147**

**NOTICE OF DEFAULT AND OPPORTUNITY TO CURE  
WITH NEW GOOD-FAITH OFFER TO PAY  
THE TOTAL AMOUNT DUE**

January 14, 2013

To all related lenders, servicers, and trustees  
c/o the President and CEO of:  
Bank of America N.A.  
400 National Way  
Simi Valley California 93065

**NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT  
NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL**

RE: Loan/Account No. # **090424192**

To all related lenders, servicers, and trustees, c/o the President and CEO of Bank of America N.A.:

I, the undersigned, Perla Hernandez, some time ago, made a good-faith OFFER TO PAY THE TOTAL AMOUNT DUE in the form of an Electronic Funds Transfer (EFT) Instrument. It is well documented that your officers, agents, or employees failed, refused, or neglected to either accept it, or reject it, according to well-settled Uniform Commercial Code (UCC) and American Jurisprudence procedures.

Under the American laws of Presentment, I am hereby presenting you with my DUE PROCESS NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.

Due to the large amount of cash involved, and the need for accuracy, this new Good-Faith OFFER TO PAY THE TOTAL AMOUNT DUE, is lawfully made with the reasonable condition of your Presentment to the undersigned, of an itemized and Verified PAYOFF STATEMENT, including any and all, principal, interest, taxes, insurance, late fees, penalties, escrow fees, and/or other charges actually due and

**OFFER TO PAY THE TOTAL AMOUNT DUE**

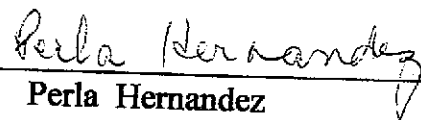
payable on a future date set certain.

I also need the actual street address wherein I can bring the total amount of cash due, to exchange for my original Trust Deed or Mortgage and Promissory Note in order to lawfully complete and finalize this transaction.

If this final transaction is to be held at a third-party escrow company, I will also need to know their name, address, and phone number to be able to fulfill my part of the obligation in this good-faith final transaction.

I am also requesting that this material information be presented to me within a reasonable ten (10) days as time is of the essence.

Sincerely,

  
Perla Hernandez

**OFFER TO PAY THE TOTAL AMOUNT DUE**



Quick Tools

Find

Ship a Package

Send Mail

Manage Your Mail

Shop

Business Solutions

## Track & Confirm

**YOUR LABEL NUMBER**

70103090000058218839

**SERVICE**

First-Class Mail®

**STATUS OF YOUR ITEM**

Delivered

**DATE & TIME**

January 16, 2013, 7:46 am

**LOCATION**

SIMI VALLEY, CA 93065

**FEATURES**Expected Delivery By:  
January 16, 2013  
Certified Mail™

Arrival at Unit

January 16, 2013, 7:11 am

SIMI VALLEY, CA 93065

Depart USPS Sort  
Facility

January 16, 2013

GOLETA, CA 93199

Processed through  
USPS Sort Facility

January 15, 2013, 10:38 pm

GOLETA, CA 93199

Dispatched to Sort  
Facility

January 14, 2013, 6:46 pm

LAS VEGAS, NV 89134

Acceptance

January 14, 2013, 3:32 pm

LAS VEGAS, NV 89134

**Check on Another Item**

What's your label (or receipt) number?

[View Details](#)**LEGAL**[Privacy Policy](#)[Terms of Use](#)[FOIA](#)[No FEAR Act EEO Data](#)**ON USPS.COM**[Government Services](#)[Buy Stamps & Shop](#)[Print a Label with Postage](#)[Customer Service](#)[Delivering Solutions to the Last Mile](#)[Site Index](#)**ON ABOUT.USPS.COM**[About USPS Home](#)[Newsroom](#)[Mail Service Updates](#)[Forms & Publications](#)[Careers](#)**OTHER USPS SITES**[Business Customer Gateway](#)[Postal Inspectors](#)[Inspector General](#)[Postal Explorer](#)

**Perla Hernandez**  
**c/o 9975 Peace way # 2050**  
**Las Vegas, Nevada[89147]**

**NEW NOTICE OF DEFAULT AND OPPORTUNITY TO**  
**CURE, WITH NEW GOOD-FAITH OFFER TO PAY**  
**THE TOTAL AMOUNT DUE**

January 30, 2013

"NOD2"

To: All Related Lenders, Servicers and Trustees

C/O the President and CEO of  
Bank of America  
400 National Way  
Simi Valley , CA 93065

RE: Loan/Account No. **090424192** for 9975 Peace way # 2050 Las Vegas, Nevada [89147]

**NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT**  
**NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL**

To all related lenders, servicers, and trustees, c/o the President and CEO of Bank of America:

I, the undersigned, Perla Hernandez hereby again, makes another good-faith OFFER TO PAY THE TOTAL AMOUNT DUE.

"Pursuant to 12 USC 2605(e) Section 6 of RESPA (Real Estate Settlement Procedures Act) this OFFER TO PAY is to be considered as a QUALIFIED WRITTEN REQUEST (QWR)"

Under the American laws of Presentment, I am hereby presenting you with my DUE PROCESS NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.

Due to the large amount of cash involved, and the need for accuracy, this new Good-Faith OFFER TO PAY THE TOTAL AMOUNT DUE, is lawfully made with the

OFFER TO PAY THE TOTAL AMOUNT DUE - "First\_name\_" "Middle\_name" "Last\_name" "suffix"

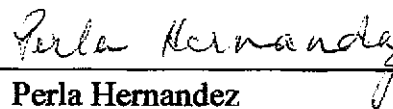
reasonable condition of your Presentment to the undersigned, of an itemized and Verified PAYOFF STATEMENT, including any and all, principal, interest, taxes, insurance, late fees, penalties, escrow fees, and/or other charges actually due and payable on a future date set certain.

Again, I also need the actual street address wherein I can bring the total amount of cash due, to exchange for my original Trust Deed or Mortgage and Promissory Note in order to lawfully complete and finalize this transaction.

Again, if this final transaction is to be held at a third-party escrow company, I will also need to know their name, address, and phone number to be able to fulfill my part of the obligation in this good-faith final transaction.

Again, I am also requesting that this material information be presented to me within a reasonable ten (10) days as **TIME IS OF THE ESSENCE**.

Sincerely,

  
Perla Hernandez



Search USPS.com or Track Packages

Quick Tools  
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USPS MAIL UPDATE

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
70103090000058218914	First-Class Mail®	Delivered	February 1, 2013, 8:45 am	SIMI VALLEY, CA 93065	Expected Delivery By: February 1, 2013 Certified Mail™
		Arrival at Unit	February 1, 2013, 7:36 am	SIMI VALLEY, CA 93065	
		Depart USPS Sort Facility	February 1, 2013	GOLETA, CA 93199	
		Processed through USPS Sort Facility	February 1, 2013, 12:20 am	GOLETA, CA 93199	
		Processed at USPS Origin Sort Facility	January 31, 2013, 8:31 pm	GOLETA, CA 93199	
		Dispatched to Sort Facility	January 30, 2013, 6:02 pm	LAS VEGAS, NV 89134	
		Acceptance	January 30, 2013, 4:15 pm	LAS VEGAS, NV 89134	

## Check on Another Item

What's your label (or receipt) number?

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**Perla Hernandez**  
**c/o 9975 Peace way # 2050**  
**Las Vegas, Nevada [89147]**

**NOTICE OF DEFAULT AND OPPORTUNITY TO CURE**  
**WITH NEW GOOD-FAITH OFFER TO PAY**  
**THE TOTAL AMOUNT DUE**

February 15, 2013

"NOD3"

To: All Related Lenders, Servicers and Trustees

c/o the President and CEO of  
Bank of America  
400 National Way  
Simi Valley, CA 93965

RE: Loan/Account No. **090424192** for 9975 Peace way # 2050; Las Vegas, Nevada 89147

**NOTICE TO PRINCIPAL IS NOTICE TO AGENT.**  
**NOTICE TO AGENT IS NOTICE TO PRINCIPAL.**

To all related lenders, servicers and trustees, c/o Bank of America

I, the undersigned, Perla Hernandez, hereby again, makes another good-faith  
OFFER TO PAY THE TOTAL AMOUNT DUE.

Under the American laws of Presentment, I am hereby presenting you with my  
DUE PROCESS NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.

Due to the large amount of cash involved, and the need for accuracy, this new  
Good-Faith OFFER TO PAY THE TOTAL AMOUNT DUE, is lawfully made with the  
reasonable condition of your Presentment to the undersigned, of an itemized and Verified  
PAYOFF STATEMENT, including any and all, principal, interest, taxes, insurance, late

OFFER TO PAY THE TOTAL AMOUNT DUE - Perla Hernandez

fees, penalties, escrow fees, and/or other charges actually due and payable on a future date set certain.

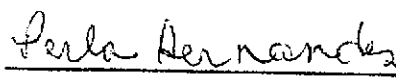
Again, I also sincerely believe that I have a right to see court admissible evidence that would prove that all Trust Deed and Promissory Note transfers from the original lender to the last purchaser were lawfully endorsed as required by law, rendering the last purchaser as the "holder in due course," and not merely a "holder," and thus has lawful standing to foreclose.

Again, I also need the actual street address wherein I can bring the total amount of cash due, to exchange for my original Trust Deed or Mortgage and Promissory Note in order to lawfully complete and finalize this transaction.

Again, if this final transaction is to be held at a third-party escrow company, I will also need to know their name, address, and phone number to be able to fulfill my part of the obligation in this good-faith final transaction.

Again, I am also requesting that this material information be presented to me within a reasonable ten (10) days as **TIME IS OF THE ESSENCE**.

Sincerely,



Perla Hernandez



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Change of Address

Find

## Track &amp; Confirm

VIEW EMAIL UPDATES

PRINT DETAILS

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
70103090000058219201	First-Class Mail®	Delivered	February 19, 2013, 8:29 am	SIMI VALLEY, CA 93065	Expected Delivery By: February 19, 2013 Certified Mail™
		Arrival at Unit	February 19, 2013, 7:48 am	SIMI VALLEY, CA 93065	
		Processed at USPS Origin Sort Facility	February 17, 2013, 5:10 am	GOLETA, CA 93199	
		Depart USPS Sort Facility	February 16, 2013	GOLETA, CA 93199	
		Processed at USPS Origin Sort Facility	February 16, 2013, 9:20 pm	GOLETA, CA 93199	
		Dispatched to Sort Facility	February 15, 2013, 6:07 pm	LAS VEGAS, NV 89146	
		Acceptance	February 15, 2013, 2:27 pm	LAS VEGAS, NV 89146	

## Check on Another Item

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**Perla Hernandez**  
**c/o 9975 Peace way # 2050**  
**Las Vegas, Nevada[89147]**

**NOTICE OF DEFAULT AND OPPORTUNITY TO CURE**  
**WITH NEW GOOD-FAITH OFFER TO PAY**  
**THE TOTAL AMOUNT DUE**

"NOD3"

February 25, 2013

To: All Related Lenders, Servicers and Trustees  
Bank of America  
Brian Moynihan  
President/CEO  
400 National Way  
Simi Valley, CA 93065

RE: Loan/Account No. 090424192 for 9975 Peace way # 2050 Las Vegas, Nevada 89147

**NOTICE TO PRINCIPAL IS NOTICE TO AGENT**  
**NOTICE TO AGENT IS NOTICE TO PRINCIPAL**

To all related lenders, servicers and trustees, c/o Brian Moynihan, President and CEO of Bank of America:

I, the undersigned, Perla Hernandez, hereby again, makes another good-faith OFFER TO PAY THE TOTAL AMOUNT DUE.

Under the American laws of Presentment, I am hereby presenting you with my DUE PROCESS NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.

Due to the large amount of cash involved, and the need for accuracy, this new Good-Faith OFFER TO PAY THE TOTAL AMOUNT DUE, is lawfully made with the reasonable condition of your Presentment to the undersigned, of an itemized and Verified PAYOFF STATEMENT, including any and all, principal, interest, taxes, insurance, late fees, penalties, escrow fees, and/or other charges actually due and payable on a future date set certain.

OFFER TO PAY THE TOTAL AMOUNT DUE - Perla Hernandez

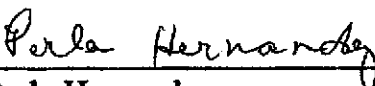
Again, I also sincerely believe that I have a right to see court admissible evidence that would prove that all Trust Deed and Promissory Note transfers from the original lender to the last purchaser were lawfully endorsed as required by law, rendering the last purchaser as the "holder in due course," and not merely a "holder," and thus has lawful standing to foreclose.

Again, I also need the actual street address wherein I can bring the total amount of cash due, to exchange for my original Trust Deed or Mortgage and Promissory Note in order to lawfully complete and finalize this transaction.

Again, if this final transaction is to be held at a third-party escrow company, I will also need to know their name, address, and phone number to be able to fulfill my part of the obligation in this good-faith final transaction.

Again, I am also requesting that this material information be presented to me within a reasonable ten (10) days as **TIME IS OF THE ESSENCE**.

Sincerely,

  
\_\_\_\_\_  
Perla Hernandez



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Create a Label  
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## Track & Confirm

70083230000021539399



YOUR LABEL NUMBER

SERVICE

STATUS OF YOUR ITEM

DATE & TIME

LOCATION

FEATURES

70083230000021539399

1

Delivered

February 28, 2013, 8:14 am

SIMI VALLEY, CA 93065

Certified Mail™

Arrival at Unit

February 28, 2013, 7:45 am

SIMI VALLEY, CA 93065

Processed through  
USPS Sort Facility

February 28, 2013, 12:09 am

GOLETA, CA 93199

Depart USPS Sort  
Facility

February 27, 2013

GOLETA, CA 93199

Processed through  
USPS Sort Facility

February 27, 2013, 7:15 pm

GOLETA, CA 93199

### Check on Another Item

What's your label (or receipt) number?

70083230000021539399



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**Perla Hernandez**  
c/o 9975 Peace way # 2050  
Las Vegas, Nevada[89147]

**NOTICE OF DEFAULT AND OPPORTUNITY TO CURE**  
**WITH NEW GOOD-FAITH OFFER TO PAY**  
**THE TOTAL AMOUNT DUE**

"NOD4"

March 13, 2013

To: All Related Lenders, Servicers and Trustees

Bank of America, N.A.  
Bryan Moynihan ( President/ CEO)  
400 National Way  
Simi Valley, California 93065

RE: Loan/Account No. 090424192, for 9975 Peace way # 2050 Las Vegas, Nevada [89147]

**NOTICE TO PRINCIPAL IS NOTICE TO AGENT.**  
**NOTICE TO AGENT IS NOTICE TO PRINCIPAL.**

To all related lenders, servicers and trustees, c/o President / CEO Bryan Moynihan of Bank of America

I, the undersigned, Perla Hernandez J, hereby again, makes yet another good-faith OFFER TO PAY THE TOTAL AMOUNT DUE.

Under the American laws of Presentment, I am hereby presenting you with my DUE PROCESS NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.

Due to the large amount of cash involved, and the need for accuracy, this new Good-Faith OFFER TO PAY THE TOTAL AMOUNT DUE, is lawfully made with the reasonable condition of your Presentment to the undersigned, of an itemized and Verified PAYOFF STATEMENT, including any and all, principal, interest, taxes, insurance, late fees, penalties, escrow fees, and/or other charges actually due and

OFFER TO PAY THE TOTAL AMOUNT DUE - Perla Hernandez

payable on a future date set certain.

Again, I also sincerely believe that I have a right to see court admissible evidence that would prove that all Trust Deed or Mortgage, and Promissory Note transfers from the original lender to the last purchaser were lawfully endorsed as required by law, rendering the last purchaser as the "holder in due course," and not merely a "holder," and thus has lawful standing to foreclose.

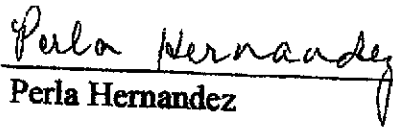
I also sincerely believe that I am entitled to see admissible evidence that will prove all document endorsements were not signed by people who were actually known as Robo-signers.

Again, I also need the actual street address wherein I can bring the total amount of cash due, to exchange for my original Trust Deed or Mortgage and Promissory Note in order to lawfully complete and finalize this transaction.

Again, if this final transaction is to be held at a third-party escrow company, I will also need to know their name, address, and phone number to be able to fulfill my part of the obligation in this good-faith final transaction.

Again, I am also requesting that this material information be presented to me within a reasonable ten (10) days as **TIME IS OF THE ESSENCE**.

Sincerely,

  
Perla Hernandez

Copy: Attached "EXHIBIT A"

OFFER TO PAY THE TOTAL AMOUNT DUE - Perla Hernandez

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# Track & Confirm

Unit 15MAN, 93065-903

70120470000031115277

**YOUR LABEL NUMBER**

70120470000031115277

**SERVICE**

First-Class Mail®

**STATUS OF YOUR ITEM**

Delivered

**DATE & TIME**

March 15, 2013, 8:21 am

**LOCATION**

SIMI VALLEY, CA 93065

**FEATURES**Expected Delivery By:  
March 15, 2013  
Certified Mail™  
Return Receipt

Arrival at Unit

March 15, 2013, 7:48 am

SIMI VALLEY, CA 93065

Processed through  
USPS Sort Facility

March 14, 2013, 10:57 pm

GOLETA, CA 93199

Depart USPS Sort  
Facility

March 14, 2013

GOLETA, CA 93199

Depart USPS Sort  
Facility

March 14, 2013

LAS VEGAS, NV 89199

Processed at USPS  
Origin Sort Facility

March 13, 2013, 9:42 pm

LAS VEGAS, NV 89199

Dispatched to Sort  
Facility

March 13, 2013, 6:19 pm

LAS VEGAS, NV 89101

Acceptance

March 13, 2013, 4:47 pm

LAS VEGAS, NV 89101

**Check on Another Item**

What's your label (or receipt) number?

70120470000031115277

70120470000031115277

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Copy: Attached "EXHIBIT A"

**1. BANK OF AMERICA**  
**BRYAN MOYNIHAN**  
**400 National Way**  
**Simi Valley , California 93065**

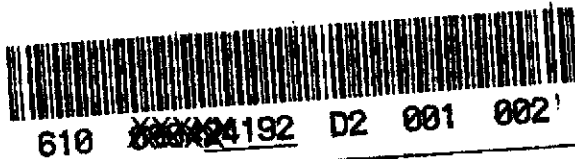
**2. Recontrust Company**  
**Wanda Brumfield**  
**2380 Performance Drive,**  
**Richardson, TX 75082**



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**EXHIBIT "C"**

Assessor's Parcel Number:  
16319313074  
After Recording Return To:



Prepared By:  
TWILA MCMEEKIN  
~~Recording Requested By:~~  
I. Sandler

COUNTRYWIDE HOME LOANS, INC.

5613 DTC PARKWAY, SUITE 700  
GREENWOOD VILLAGE  
CO 80111

ESC#04-12-2089-KJL [Space Above This Line For Recording Data]

HERNANDEZ  
[Escrow/Closing #]

0009042419202005  
[Doc ID #]

## DEED OF TRUST

MIN 1000157-0004874481-3

### 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 FEBRUARY 28, 2005 , together with all Riders to this document.

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

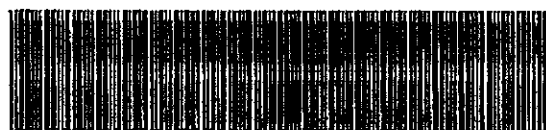
VMP -6A(NV) (0307) CHL (07/03)(d)

Page 1 of 16

Initials: *JS*

VMP Mortgage Solutions - (800)521-7291

Form 3029 1/01



20050302-0000420

Fee: \$40.00  
N/C Fee: \$0.00

03/02/2005 09:00:00  
T20050037948

Requestor:  
NEVADA TITLE COMPANY

Frances Deane BGN  
Clark County Recorder Pgs: 27

(B) "Borrower" is  
PERLA A HERNANDEZ, AN UNMARRIED WOMAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is  
COUNTRYWIDE HOME LOANS, INC.

Lender is a  
CORPORATION

organized and existing under the laws of NEW YORK  
P.O. Box 10219

Lender's address is

Van Nuys, CA 91410-0219

(D) "Trustee" is  
NEVADA TITLE

2500 NORTH BUFFALO DRIVE STE 150

LAS VEGAS, NV 89128

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

(F) "Note" means the promissory note signed by Borrower and dated FEBRUARY 28, 2005

The Note states that Borrower owes Lender

TWO HUNDRED THREE THOUSAND EIGHT HUNDRED FORTY ONE and 00/100

Dollars (U.S. \$ 203,841.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than MARCH 01, 2035

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

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

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

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

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

Initials: pa

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

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

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

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

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

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

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

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

#### TRANSFER OF RIGHTS IN THE PROPERTY

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

DOC ID #: 0009042419202005

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

[Type of Recording Jurisdiction]

CLARK

[Name of Recording Jurisdiction]

SEE LEGAL DESCRIPTION

which currently has the address of

9975 PEACEWAY #2050, LAS VEGAS

[Street/City]

Nevada 89147 ("Property Address"):

[Zip Code]

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

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

Initials: *file*

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

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

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

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

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

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

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

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

Initials: 

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Initials: YB

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

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

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

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

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

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

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

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

Initials: *JS*

DOC ID #: 0009042419202005

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

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

Perla A. Hernandez (Seal)  
PERLA A. HERNANDEZ -Borrower

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

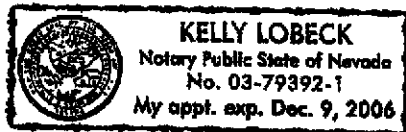
\_\_\_\_\_ (Seal)  
-Borrower

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



STATE OF NEVADA  
COUNTY OF Clark

This instrument was acknowledged before me on February 28, 2005 by  
Perla A. Hernandez



Kelly Lobeck

Mail Tax Statements To:  
TAX DEPARTMENT SV3-24

450 American Street  
Simi Valley CA, 93065

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**Brief in support of Complaint**

**Authorities OFFER TO PAY.**

**LEGAL TENDER**

All commercial instruments such as promissory notes, credit agreements, bills of exchange and checks are defined as legal tender, or money, by the statutes such as 12 USC1813(1)(1), UCC §1-201(24), §3-104, §8-102(9), §§9-102(9), (11), (12)(B), (49),(64). These statutes define a promissory note or security to be negotiable (sellable) because it is a financial asset. This is necessary because contracts requiring lawful money are illegal pursuant to Title 31 USC §5118(d) (2). All debts today are discharged by promises to pay in the future. All Federal Reserve notes are registered securities and promises to pay in the future. They are secured by liens on promissory notes of collateral owned by real people.

The statutes do not provide the Federal Reserve Corporation a monopoly on promissory notes, as debt collectors insist. Real people create promissory notes that are usually sold to the FED in exchange for their promissory notes. The FED uses the promises of the people's collateral to secure their notes. If people want their commercial instruments to be legal tender, they must be secured by a maritime lien on your prepaid trust account recorded at the county and registered on a UCC1. It then becomes a registered security and a financial asset that can be negotiated. One should be aware that debt collectors only deal with fictions of law, such as corporations or "persons". Therefore, one should have a Bailee/Bailor contract filed on a UCC1 and create all documents as the Bailee, signed by the Bailor. The Bailor is never allowed to appear in their jurisdiction.

When quoting UCC statutes, the courts require them to be quoted with state or federal statute designation. UCC codes are UN statutes, but are codified in every local jurisdiction..

The counterclaim is based on several defenses:

The contract should be rescinded because the creditor does not provide full disclosure, or the contract is extremely deceptive and unconscionable, In re: Pearl Maxwell, 281 B.R. 101

The Truth in Lending Act, Regulation Z, 12 CFR §226.23, says that the security agreement signed with a lender can be rescinded if they have not provided the proper disclosures. Although home mortgages are exempt from some rescissions, this option becomes available if they foreclose and they stated the incorrect amount of the debt, or used the wrong form. The original debt was actually zero because the borrower's financial asset was exchanged for the FED's promissory notes in an even exchange.

The Fair Debt Collection Practices Act 15 U.S.C. §§1601, 1692, 1693, provides remedies for deceptive or unconscionable contracts and allows payment in any legal tender. The contract was deceptive and unconscionable if the actual debt was zero.

Real Estate Settlement Procedures Act 12 U.S.C., §2605, et seq. Provides remedies for deceptive communications from the lender.

UCC §2-302 provides a remedy for unconscionable contracts.

1 Promissory Notes and other commercial instruments are legal tender and financial assets to the  
2 originator and a liability to the lender. If a security interest in the note is perfected, by recording  
3 it on a lien as a registered security, the maker or originator becomes an entitlement holder in the  
4 asset. But the debt collector does not understand that they have this liability because most people  
5 are unaware of it.

6 The corporation's records should be requested in discovery. They will show that the corporation  
7 has an offsetting liability to the debtor pursuant to FAS 95, GAAP and Thrift Finance Reports  
8 (TFR). These records include:

9 FR 2046 balance sheet,  
10 1099-OID report,  
11 S-3/A registration statement,  
12 424-B5 prospectus and  
13 RC-S & RC-B Call Schedules

14 The corporation never registers the commercial instrument because they know it's a financial  
15 asset to the debtor. So the debtor must register it to establish a security interest in the financial  
16 asset and take the position of a secured creditor. So it should be listed on a maritime lien against  
17 the prepaid trust account and filed with the county recorder and put on a UCC1.

18 §8-102(13), §9-203, §9-505, §9-312.

19 46 USC §§31321, 31343, 46 CFR 67.250, §9-102(52), §9-317, §9-322

20 One should file a claim for set off or recoupment to have the assets cancel out the liabilities  
21 according to:

22 FAS 140, §3-305, §3-601, §8-105, §9-404

23 If a lender sells an unregistered note that is a security, it is a violation of state law and provides a  
24 right to rescission of the contract

25 The prepaid trust account is held by the Alien Property Custodian, who is also the Secretary of  
26 Treasury of Puerto Rico.

27 UCC §1-201(24), §3-104, §3-306, §3-105,

28 UCC §§8-102 (7), (9), (15), (17), §8-501, §8-503, §8-511

UCC §§9-102(9), (11), (12)(B), (49), (64)

12 USC 1813(l)(1)